

# **Minutes for the Meeting of the Benchers Held Friday, April 30, 2021, via *Teams***

## **Present:**

Foluke Laosebikan, Q.C., James Korpan, Q.C., Gerald Tegart, Q.C., Andrea Argue, Jeff Baldwin, Leslie Belloc-Pinder, Q.C., Jill Drennan, Monte Gorchinski, Glenn Hepp, Suzanne Jeanson, Nolan Kondratoff, Lynda Kushnir Pekrul, William Lane, Kaitlynn McArthur, Scott Moffat, John Morrall, James Morrison, Q.C., Barbara Mysko, Crystal Norbeck, Martin Phillipson, Ian Wagner and Craig Zawada, Q.C.

## **In attendance:**

Tim Brown, Q.C., Tim Huber, Valerie Payne, Andrea Johnston, Christine Johnston, Jody Martin, Jenna Bailey, Kara-Dawn Jordan, Paul Westgate, Jakaeden Frizzell, Julie Sobowale, Pamela Harmon, CPA, CA, Stephanie Kievits, CPA, CA, Pamela Kovacs, Sydney Young and Liz Lynchuk, recording secretary

Riva Farrell Racette and Erin Kleisinger, Q.C., Federation Council.

Brad Hunter, Q.C., SLIA Counsel, was in attendance at the beginning of the meeting to present the Insurance Levy recommendation.

The meeting was called to order at 10:03 am.

## **1. Approval of the Agenda**

Item 3.1(i), Future of Legal Services Task Team, was included as a decision item; however, is a discussion item. It can remain in its current location.

Item 5.2(ii), Strategic Planning Cycle, was originally an informational item; however, there was no opportunity for feedback after the session so it will be dealt with as a discussion item.

Moved by Barbara Mysko, seconded by John Morrall, to approve the Agenda. The motion carried.

### **1.1 Apologies for Absence**

None.

### **1.2 Confirmation of Agenda**

### **1.3 Bencher Conflict of Interest Disclosures**

None.

### **1.4 Agenda Items, Committee Reports and Documents Which Are Not Open to the Public**

- i. Discovery Period Consultation Update and Notice Forms
- ii. Appointments
- iii. Hearing Administrator Position

## **2. Consent Agenda**

The Consent Agenda includes items which are not considered controversial and will collectively be enacted by one motion.

The items included on the consent Agenda are set out in 2.1 below:

### **2.1 Approval of the Bencher Minutes**

The following Bencher Minutes are provided for approval:

- a. Minutes from the Bencher meeting held February 26, 2021;
- b. *In-Camera* Minutes from the Bencher meeting held February 26, 2021.

Moved by Craig Zawada, Q.C., seconded by James Korpan, Q.C. that the Bencher Minutes of the meeting held February 26, 2021, as well as the *In Camera* Bencher Minutes of the meeting held February 26, 2021, be approved as written. The motion carried.

## **3. Decision Items**

### **3.1 Strategic Initiatives**

- i. Future of Legal Services Task Team  
(Increased Access to legal Services – Goal 5)
  - a. Discovery Period Consultation Update and Notice Forms  
(*In-Camera*)

This portion of the meeting was held *in-camera*.

### **3.2 Appointments**

The two following appointments were brought before the Nominations Committee on April 14, 2021.

i. Legislative Assembly of Saskatchewan Audit Committee

The Standing Committee on Public Accounts has advised that the term of our current representative, Jason Majid, is expiring.

Moved by Scott Moffat, seconded by Jeff Baldwin, that Jason Majid be re-appointed a further term to the Legislative Assembly of Saskatchewan Audit Committee for the duration of the twenty-ninth legislature, which may not exceed five years. The motion carried.

ii. Senate of the University of Saskatchewan

The term for our current representative, Max Bilson, ends June 30, 2021.

Moved by James Morrison, Q.C., seconded by Will Lane, that Max Bilson be re-appointed for a second 3-year term on the Senate of the University of Saskatchewan, effective July 1, 2021 – June 30, 2024. The motion carried.

### 3.3 Regulation

i. Rule Amendments

a. Part 6 – Committees, Rule 601(1)

At February Convocation, the Benchers passed a motion to approve the creation of a new Nominations Committee pursuant to Rule 601(2). The Law Society Rules require amendment to incorporate the new Committee, as follows:

#### **PART 6- Committees**

##### **Establishment**

**601(1)** The following Committees are established:

- (a) the Executive Committee;
- (b) the Competency Committee,
- (c) the Discipline Policy Committee;
- (d) the Ethics Committee;
- (e) the Insurance Committee;
- (f) the Audit Committee;
- (g) the Conduct Investigation Committee;
- (h) the Governance Committee; ~~and~~
- (i) the Equity and Access Committee; ~~and~~
- (j) the Nominations Committee.

(2) The Benchers may establish any other Committee for the better governance of the Society.

Moved by Ian Wagner, seconded by Crystal Norbeck, to amend Part 6 Committees, Establishment, Rule 601(1), to add the Nominations Committee as a standing Committee of the Law Society of Saskatchewan. The motion carried.

A motion to grant second reading on the same day was presented by James Korpan, Q.C., seconded by John Morrison, Q.C. The motion carried.

Moved by Ian Wagner seconded by Suzanne Jeanson, to amend Part 6 Committees, Establishment, Rule 601(1), to add the Nominations Committee as a standing Committee of the Law Society of Saskatchewan. The motion carried.

b. Part 7 – Membership and Practice Privileges, Rules 701 and 743

Regarding Rule 701, amendment to the definition of “Hearing Panel” was made to add another instance whereby the Executive Director could direct the Chair of the Competency Committee to strike a Hearing Panel to hear an application pursuant to Rules 731 to 741; subrule 729(5)(d) was added. Amendment to the definition of “license to practise” was made to correct a reference to a clause in *The Legal Profession Act, 1990*.

Amendments to Rule 743 were to correct subrule reference errors.

Moved by Will Lane, seconded by Glenn Hepp, that amendments to Part 7, Membership Practice and Privileges, be made as follows:

- Rule 701, definitions, to amend the definition of *Hearing Panel* by adding reference to subrule 729(5)(d);
- Rule 701, definitions, to amend the definition of *license to practise* by correcting clause 2(1)(g.1) of the *Legal Profession Act, 1990* to read 2(1)(g.2);
- Rule 743(2) to change subrule (2) to read subrule (1); and
- Rule 743(3) to change subrule (3) to read subrule (2).

The motion carried.

A motion to grant second reading on the same day was presented by Jeff Baldwin, seconded by Andrea Argue. The motion carried.

Moved by Scott Moffat, seconded by Kaitlynn McArthur, that amendments to Part 7, Membership Practice and Privileges, be made as follows:

- Rule 701, definitions, to amend the definition of *Hearing Panel* by adding reference to subrule 729(5)(d);
- Rule 701, definitions, to amend the definition of *license to practise* by correcting clause 2(1)(g.1) of the *Legal Profession Act, 1990* to read 2(1)(g.2);
- Rule 743(2) to change subrule (2) to read subrule (1); and
- Rule 743(3) to change subrule (3) to read subrule (2).

The motion carried.

## ii. Insurance Levy

The Benchers were asked to consider the proposed Insurance Levy for the year beginning July 1, 2021.

Brad Hunter, Q.C., Insurance Counsel, provided an overview of the Insurance Committee's recommendation.

Following discussion, it was moved by Ian Wagner, seconded by Scott Moffat, that the Benchers approve and set the 2021 – 2022 Insurance Levy at the rate of \$926, unchanged from the previous year. The motion carried.

## 4. Discussion Items

### 4.1 Society Governance

#### i. Operational Reporting

##### a. President's Report

President Laosebikan, Q.C. reported that following February Convocation, the Executive met with Minister Gordan Wyant, Q.C. to talk about issues of mutual concern. Tim Brown, Q.C. expressed appreciation for their good relationship and the Ministry's fast response to remote signing of documents.

In March, she attended the ABA TechShow, which was a worthwhile conference and very encouraging in our world of rapidly changing technology.

She also attended a townhall put on jointly by the CBA and the Federal Anti-Racism Secretariat. The townhall discussion on discrimination and racism brought together legal and social justice professionals and one of the strong issues that came out of it was that data collection is lacking. It provided the opportunity for Foluke to share the Society's annual renewal stats, as well as the information it is collecting through the EDI member survey.

b. Executive Director's Report – a written report was provided

Tim Brown, Q.C. reported that a request came from the Federation regarding a member well-being study that will be done across the country with all law societies and bars in conjunction with the University of Sherbrooke. Several staff completed a pre-validating questionnaire and although they are not looking for additional volunteers, if anyone is interested in doing the survey, please contact Andrea Johnston for the link.

c. Federation Council Report – a written report was provided

Erin Kleisinger, Q.C. was pleased to be included in the Thursday afternoon session on the issues of wellness and mental health in the legal profession and applauded the Society for pursuing this important topic. Others have held conferences on this subject, discussing regulatory tools to assist members in order to have a healthy and competent bar, which is in the public interest. Erin is also on the National Well-Being Steering Committee and encouraged anyone to contact her if they would like to participate in the survey.

ii. Financial Reporting

a. Financial Statements

Financial statements for the period ended March 31, 2021 were provided for review and discussion.

Tim Brown, Q.C. reported that the Society is on track. Revenues are slightly up compared to budget and we have spent slightly less than budgeted.

b. Investment Reports

A summary of the TD Asset Management Investments held at March 31, 2021 was provided for review and discussion.

On the investment side, there was a slight downturn in the market that was within normal market fluctuations. Overall, we are on track.

We will be extending an RFP for an independent review of our investments and our investment policy. Since we utilize the same investment manager as SLIA, we will do the review in conjunction with SLIA.

### iii. Bencher Code of Conduct

A memo from Kara-Dawn Jordan, as well as a *draft* Bencher Code of Conduct, was provided for review and discussion.

At this stage, we are not looking for approval of the *draft* Code. The Governance Committee is looking for *feedback* in relation to the conduct standards themselves. The issue of non-compliance and how that will be addressed is something that still requires consideration at the Committee level.

The *draft* Code focuses primarily on the conduct of Benchers regarding the committee work they do, as well as their behaviour at the Bencher table. However, Representatives who serve outside committees on behalf of the Law Society will also be expected to comply with the Bencher Code of Conduct. Consideration can also be given to how the Code would apply to the Hearing Administrator position. It is important for everyone involved to understand what the expectations are and we may need to alter the language to ensure it is clear.

### iv. Strategic Planning Cycle – Thursday Afternoon Session

The issues of wellness and mental health have been identified as noticeable gaps in our Strategic Plan.

The goal is to develop programming that addresses wellness, making it more acceptable to reach out for assistance and having professionals with the appropriate expertise in place to provide assistance.

The Benchers agreed that wellness and mental health are not just a lawyer issue because it extends to protection of the public. Prosecuting lawyers without addressing the underlying issues fails to solve the problem and does not promote the common good.

There was unanimous agreement that Administration begin work on drafting the language for the Strategic Plan and begin development of potential tactics identified at yesterday's session for further discussion at the Bencher table.

## 5. Informational Items

### 5.1 Strategic Initiatives

- i. Expanded Approach to Competency (Goal 1)
  - a. Reduction in Minimum Articling Term

The option to reduce the articling term from 12 months to a minimum of 8 months was extended further from March 31, 2021 to September 30, 2021.

This is only a temporary measure intended for firms who will be unable or unwilling to take on an articling student without the reduced term, due to hardships or constraints resulting from COVID-19. The purpose is not intended to ease the articling requirement burden for students, but rather to help firms follow through on their commitments to articling students and hopefully create additional articling positions.

b. Number of Articling Students per Principal

The Competency Committee also approved a temporary waiver of Rule 704(4) to grant Administration the discretion to allow members to act as a principal to two students-at-law at the same time. The Committee was comfortable with this measure, as it will be temporary in nature and has been tested by other law societies across the country.

The temporary waiver will act as a pandemic impact measure to create additional articling positions. While it will not assist those principals/firms who do not have the work or incoming revenue to support an articling student, it will allow those less affected by the pandemic to take a second student. Any principal interested in taking a second student will be required to provide supporting information on how they plan to appropriately accommodate and supervise two students.

c. Firm Regulation

At their meeting on April 20<sup>th</sup>, the Firm Regulation Committee received a demonstration of the online Assessment Tool and supporting resources, as well as a preview of the new DR Hub in the member's section of the website. Administration has started the process of distributing the links for the online Assessment Tool to firms participating in the initial launch. Once this initial group is engaged, Administration will conduct further outreach with firms to seek out additional participants with an initial focus on sole practitioners.

ii. Trusted and Transparent Regulation (Goal 2)

a. Communications

i. A report from Julie Sobowale was attached.



- ii. Law Society Podcasts - A podcast highlighting the Law Society's COVID-19 response will be published in May.

- b. Annotated Code of Conduct

The Annotated *Code of Professional Conduct* is posted to the Law Society website, along with a copy of the Consolidated *Code*. A communication was sent to the members on April 8, 2021.

An email from Brent Cotter, Q.C. lauding the Law Society for the creation of these annotations was attached for information.

- c. Hearing Administrator Position

The Alberta training program is currently undergoing review for adaptation to the needs of the Law Society of Saskatchewan.

- iii. Innovative and Flexible Leader of an Engaged and Forward Thinking Membership (Goal 3)

Further updates will be provided at June Convocation.

- iv. Increased Equity, Diversity and Inclusion in the Law Society and Legal Service Provision (Goal 4)

- a. Member Wide EDI Survey

Following the soft-launch, the EDI Member Survey was finalized for member-wide distribution and a communication was released to the membership on April 15, 2021, with a link to an [informational video](#). A blog post promoting the survey will also be released in advance of distribution to the membership, scheduled for April 22, 2021.

- v. Increased Access to Legal Services (Goal 5)

- a. Legal Information Guidelines

The Guidelines are available online with a form for feedback and are being disseminated and presented by Administration to stakeholders. This included presentation at the Saskatchewan Access to Legal Information (SALI) Virtual Conference on March 31, 2021 to 112 registered attendees and inclusion in the Saskatchewan Access to Justice Network Newsletter on April 1, 2021.

Opportunities to exchange further with stakeholders on these Guidelines will continue to be identified, including through outreach with SALI, the Trusted Intermediaries Legal Information Network, the Self-Represented

Litigants Network, the Legal Coaching and Unbundling Project and through public-focused communications.

*b.* Consultation and Legal Needs Assessment

The Administration worked with CREATE Justice on a plan for a Saskatchewan Legal Needs Assessment, as there is some intersection between our consultation goals and an understanding of legal needs in the province. A report for Phase 1 of the Legal Needs Assessment (comprehensive scan and evaluation of existing data on legal needs/gaps in Saskatchewan) is expected in Q2. To date, an excel file listing government related data sources has been received.

The Law Society also continues to advance discussion with Statistics Canada regarding a Saskatchewan-specific report from the [Canadian Legal Problems Survey](#), anticipated for release in early 2022. There are two main options for a Saskatchewan-specific report through Memorandum of Understanding or Letter of Agreement with Statistics Canada:

- A. *Simplified Report*: available several weeks beyond the December 2021 deadline for the full study with replicated tables/charts specific to Saskatchewan vis-à-vis national averages. While not a formal report published on the Stats Canada website which necessitates certain requirements, the report is verified, with footnotes, usable for quotes, citation, and publication locally.
- B. *Complete Report*: available several months beyond the December 2021 deadline for the full study with a peer-reviewed narrative and data that provides more in-depth analysis and is translated and published officially on the Stats Canada website.

Administration has identified Law Society funds for the *Simplified Report* and is investigating with other justice stakeholders if there is interest in co-funding the *Complete Report*.

## 5.2 Society Governance

*i.* Execution of Strategy

*a.* Action Plan Progress Update

The workplan has been moved to a workplan spreadsheet and populates an interactive workplan dashboard. Benchers are asked to review and provide feedback.

### 5.3 Committee Reports

- a. Audit – a meeting is being scheduled for May 10<sup>th</sup> at 1:00 pm with the Benchers and the external auditor, Virtus Group, to obtain approval of the draft audited financial statements for presentation at the AGM on June 24<sup>th</sup>.
- b. Competency – all items are covered in the Agenda.
- c. Conduct Investigation – a meeting is scheduled May 13, 2021.
- d. Discipline Policy – a meeting is being scheduled prior to June Convocation.
- e. Equity and Access – The Committee met on March 17, 2021 to review its Terms of Reference, consider an annual workplan and discuss finalization of the EDI Member Survey. The Committee will meet again on April 26, 2021 to discuss candidate diversity for the 2021 election and the development of an internal EDI focussed session.
- f. Ethics – the Committee met on April 29, 2021 to consider three matters.
- g. Executive – no report.
- h. Firm Regulation – the Committee met on April 20, 2021.
- i. Governance – the Committee met April 13, 2021 to discuss development of a *Bencher Code of Conduct*, the cross-over between Governance Committee responsibilities and potential responsibilities of the Nominations Committee, as well as limitations regarding running for Law Society office during second term as a Bencher.
- j. Insurance – the Committee held a meeting on April 16, 2021 to discuss the 2021 insurance levy.
- k. Trust Safety – as the Committee did not have any decision items to consider prior to Convocation, a formal meeting was not held. However, the Committee held an “online meeting” to allow the Committee to receive an operational update which included a review of Remote Audit procedures prepared by LSS Auditors. The Committee was invited to submit any questions or comments to Administration staff.
- l. Truth and Reconciliation Advisory Group – efforts to schedule the next meeting are underway.
- m. Future of Legal Services Committee – the Committee met April 15, 2021.
- n. Nominations Committee – the Committee met April 14, 2021 to consider appointment recommendations and discuss process further. The Committee determined that it would beta test a Nominations Committee Report intended to enhance transparency in relation to recommendations and the process used in each case.

### 5.4 Other Informational Items

- a. National Discipline Standards – Annual Report provided by Valerie Payne
- b. PLEA Report January 2021 – Report provided by Maya Scott

**6. Meeting Finalization**

- 6.1 Review Actions to be Taken**
- 6.2 Confirm Items under 1.4**
- 6.3 Meeting Evaluation**
- 6.4 Next Meeting – Friday, June 25, 2021**  
(AGM on Thursday, June 24<sup>th</sup> over the lunch hour)
- 6.5 Motion to Adjourn**

Moved by Ian Wagner, seconded by James Korpan, Q.C., to adjourn the meeting at 11:47 am. The Benchers went *in-camera* with the Executive Director.

**7. Bencher *In-Camera* Session with Executive Director****8. Bencher *In-Camera* Session without Executive Director**

**Timothy J. Brown, Q.C.**  
**Executive Director**