

Minutes for the Meeting of the Benchers Held Friday, June 23, 2023, In-Person and via Zoom Dakota Dunes, Whitecap

Present:

Andrea Argue, K.C., Suzanne Jeanson, Idowu Adetogun, Keith Amyotte, Jonathan Bodvarson, Sonia Eggerman, James Fyfe, K.C., Laura Klemmer, Nolan Kondratoff, Lynda Kushnir Pekrul, William Lane, Foluke Laosebikan, K.C., Jeff Lee, K.C., James Morrison, K.C., Tiffany Paulsen, K.C., Martin Phillipson, Adam Touet, Christopher Triggs, Rochelle Wempe and Julie Ann Wriston

In attendance:

Tim Brown, K.C., Tim Huber, Kara-Dawn Jordan, K.C., Andrea Johnston, Christine Johnston, Kiran Mand, Valerie Payne, Michelle Owolagba, Pamela Harmon, CPA, CA, Stephanie Kievits, CPA, CA, Pamela Kovacs, Paul Westgate, Chinye Talabi, Alan Kilpatrick and Ken Fox

The meeting was called to order at 9:02 am.

1. Approval of the Agenda

1.1 Apologies for Absence

Erin Kleisinger, K.C. and James Korpan, K.C. sent their regrets.

1.2 Confirmation of Agenda

Moved by Julie Ann Wriston, seconded by Martin Phillipson, to approve the Agenda as written. The motion carried.

1.3 Bencher Conflict of Interest Disclosures

None.

1.4 Committee Reports and Documents Which Are Not Available to the Public

Documents and Reports related to the following items were not available to the public.

- i. Bencher afternoon session to be held *in-camera* on Thursday, June 22, 2023
- ii. Appointments

- iii. Informational Items – Operational reports, Committee Reports and reports from Representatives on outside organizations

2. Decision Items

2.1 Appointments

- i. King's Counsel Selection Committee

The Committee consists of the past President, a member Bencher, a Public Representative Bencher and a member-at-large.

We received interest from 1 member Bencher (James Fyfe, K.C.) and 1 Public Representative Bencher (Julie Ann Wriston) and they are acclaimed.

Three applications were received for the member-at-large position. The Nominations Committee made a recommendation to the Benchers to appoint Patricia Warsaba, K.C.

Moved by Will Lane, seconded by Foluke Laosebikan, K.C., that Patricia Warsaba, K.C. be selected as the member-at-large on the King's Counsel Selection Committee for 2023. The motion carried.

- ii. College of Law Endowment Fund

The first term for the Law Society's current appointee will expire on December 31, 2023.

The Nominations Committee made a recommendation to the Benchers to re-appoint Ahmed Malik for a second 2-year term on the College of Law Endowment Fund.

Moved by Will Lane, seconded by Nolan Kondratoff, that Ahmed Malik be re-appointed for a second 2-year term on the College of Law Endowment Fund from January 1, 2024 to December 31, 2025. The motion carried.

- iii. Public Legal Education Association of Saskatchewan (PLEA)

The first term for the Law Society's current appointee will expire on December 31, 2023.

The Nominations Committee made a recommendation to the Benchers to re-appoint Davida Bentham for a second 2-year term to the PLEA Board.

Moved by Will Lane, seconded by Foluke Laosebikan, K.C., that Davida Bentham be re-appointed for a second 2-year term on the PLEA Board from January 1, 2024 to December 31, 2025. The motion carried.

iv. PREP Appeal Hearing Committee

The term for the existing 5 members of this Committee will expire on June 30, 2023. The Nominations Committee made a recommendation to appoint all candidates who expressed interest to the PREP Appeal Hearing Committee.

Moved by Will Lane, seconded by Suzanne Jeanson, that Ronni Nordal, K.C., Scott Moffat, K.C. and Foluke Laosebikan, K.C. be re-appointed, and Rochelle Wempe and Tiffany Paulsen, K.C. be appointed to the PREP Appeal Hearing Committee for a 3-year term from July 1, 2023 to June 30, 2026. The motion carried.

v. Practitioner Staff Appeals Tribunal

The Practitioner Staff Appeals Tribunal hears appeals from medical practitioners who have been aggrieved by a decision of the Saskatchewan Health Authority. The Minister of Health may appoint two lawyer candidates to a three-year term on the Tribunal. As part of this process, the Law Society is entitled to nominate candidates (three per position) to the Minister of Health for consideration. Currently, there is one lawyer vacancy.

The Nominations Committee made a recommendation to the Benchers for nominees to be considered by the Minister of Health.

Moved by Will Lane, seconded by Adam Touet, that all 3 applicants, being Jason Peszko, Valerie Watson, K.C. and Ronni Nordal, K.C., be put forward for consideration to the Saskatchewan Health Authority to serve a 3-year term on the Practitioner Staff Appeals Tribunal. The motion carried.

2.2 Regulation

i. Part 15 - Accounting, Part 16 - Reporting Requirements and Part 23 - Withdrawal from Practice

The Trust Safety Committee, in consultation with the Firm Regulation Committee, recommended changes to the trust accounting Rules to establish a uniform annual reporting period for all firms.

A uniform annual reporting period (year-end) for all firms supports the objectives of proactive firm regulation, and in particular, streamlining the reporting process and requirements. It forms part of the larger trust safety model which includes risk-based assessment criteria to determine eligibility of a lawyer/firm to maintain a trust account, as well as an education component to ensure ongoing competency. A shift to a uniform year-end for all firms allows for a more timely and complete review by Administration of annual reporting and identification of risks for compliance audit selection in accordance with the risk-based approach to the trust safety program. The change will also facilitate future data collection and trend reporting.

A memo containing redlined Rule amendments was provided for review.

Moved by James Morrison, K.C., seconded by Foluke Laosebikan, K.C., to approve amendments to the trust accounting Rules Part 15 - Accounting, Part 16 - Reporting Requirements and Part 23 - Withdrawal from Practice, to establish a uniform annual reporting period for all firms, as written in the memo dated May 1, 2023. The motion carried.

A motion to grant second reading on the same day was presented by Jeff Lee, K.C. seconded by Adam Touet. The motion carried.

On second reading, moved by Will Lane, seconded by Julie Ann Wriston, to approve amendments to the trust accounting Rules Part 15 - Accounting, Part 16 - Reporting Requirements and Part 23 - Withdrawal from Practice, to establish a uniform annual reporting period for all firms, as written in the memo dated May 1, 2023. The motion carried.

3. Discussion Items

3.1 Society Governance

i. Standing Reports

a. President's Report

Andrea Argue, K.C. reported on a busy June which included the following:

- Attendance at Law Society of British Columbia meetings with Tim Brown, K.C. in Whistler. The meeting focused on learning about AI at a time when this technology is developing quickly. Additionally, the Attorney General for British Columbia attended to speak about the move to a single regulator in that province.
- Attendance at the Law Society of Alberta's Jasper retreat. Harry Cayton and Crispin Passmore were in attendance speaking about regulatory reform.
- Attendance at the CBA joint Executive meeting with Pamela Kovacs, Suzanne Jeanson and Tim Brown, K.C. The meeting gave the Law Society an opportunity to bring the CBA Executive up to date on our Future of Legal Services work and answer questions regarding the Limited Licensing Pilot.
- Attendance at the King's Bench Bar Judicial Counsel meeting with Suzanne Jeanson and Tim Brown, K.C. The meeting focused on discussion of mutual issues and the potential for collaboration.

b. Executive Director's Report

A written report was provided by Tim Brown, K.C.

c. Federation Council Report

There was no report for this Convocation.

ii. Financial Reporting

a. Financial Statements

Financial statements for the 5 months ended May 31, 2023 were provided for review, along with a memo from Pamela Harmon, CPA, CA.

Administration is forecasting a surplus in the general fund at year end of approximately \$229,000, as compared to the budgeted deficit of approximately \$65,000. This is due to improvements in the market, as well as reduced CPD and personnel expenses.

b. Investment Reports

A snapshot of the TDAM investment portfolio as at May 31, 2023 was provided for review.

The TDAM Quarterly Investment Report for the 1st quarter of the year, January 1 to March 31, 2023, was also provided for review.

In terms of investments, the market is recovering more slowly than expected, but is recovering. The transition to our new investment asset mix is largely complete, with only the move into private debt outstanding, which is expected to be complete by year end.

iii. 2023 Workplan

An updated and streamlined workplan will be developed following adoption of a new Strategic Plan.

iv. Convocation Scheduling 2024

The Executive Committee considered scheduling Convocation dates for 2024 and proposed that the Benchers consider whether to change from 6 in-person Convocations per year, to 4 full in-person Convocations per year, with issue specific virtual meetings as needed.

Discussion:

- It was noted that any change that will allow us to accomplish the same level of work in a more efficient manner should be supported.
- This change will also create efficiencies for Benchers, with time being a significant barrier to persons running for Bencher as per the results of the Bencher Election Survey.

There was general support for changing the Convocation schedule as proposed for 2024.

4. Informational Items

4.1 Strategic Initiatives

i. Expanded Approach to Competency (Goal 1)

a. Firm Regulation

We have recently surpassed the midway point of the three-year rollout of the Assessment Tool with 185 firms having completed or currently engaged in the assessment process. The vast majority of firms appear to engage positively with the assessment process. As a result, Administration has been able to identify several areas of overlap in need for resources and supports for both sole and multi-lawyer firms.

The Firm Culture Principles were integrated in the Assessment Tool on February 6, 2023 and all DRs were notified of the launch. There was a significant increase of views on the DR Hub after February 6, 2023, when compared to the initial launch of the Hub on February 1, 2021 to February 5, 2023. Notably, 17% of the unique page views on the DR Hub occurred after the dissemination of the communication (three-month period) compared to 83% during the two years prior to the integration.

The most recent group consisting of small firms with 5-7 members, having completed the Assessment Tool, were the first group to complete it with the integrated Firm Culture Principles. The average rating reported by firms for Principle 6 – Equity, Diversity, and Inclusion was “4” and the average rating of Principle 7 – Access to Justice was “3”, suggesting that many firms have already included some of the principles within their practices. It is significant to note that Administration has not received any queries or comments from DRs related to the Firm Culture Principles, other than thoughtful feedback noted in both the Areas of Priority and Areas of Excellence.

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

Administration has finalized a Summary Report from the Women in Law Virtual Roundtable and shared with partners including the Canadian Bar Association, CREATE Justice and the International Association of Women Judges (SK). A communication has also been prepared highlighting important data related to discrimination and harassment to accompany the related notice of changes to the *Code of Conduct*.

iii. Increased Access to Legal Services (Goal 5) and Future of Legal Services Initiative

a. Limited Licensing Pilot

Administration has responded to an inquiry from the Court of King's Bench in relation to status of the Pilot and authorizations for those who might be appearing.

The Pilot remains active and the Future of Legal Services Committee has recently met to consider new applications. Current data on the pilot is as follows:

APPLICANTS	PARTICIPANTS - APPROVED	PARTICIPANTS - NOT APPROVED	PARTICIPANTS - REMOVED	APPLICATIONS PENDING REVIEW
29	26	2 (1 pending reconsideration)	1	0
CLIENT INQUIRIES	CLIENTS SERVED	CLIENT GEOGRAPHIC LOCATIONS	CONSUMER REVIEW – POSITIVE	CONSUMER REVIEW – CONCERNS
10,590 (in some contexts a high volume of inquiry but not all clients elect or are candidates for services e.g. property tax assessment area)	2,913	300+ outside of Regina and Saskatoon	21	3

It was noted that more consumer reviews are being received and the majority have been positive, but a few people have expressed concerns. The Future of Legal Services Committee has adopted a two-stage process to understand concerns and take appropriate action. This has consisted of contacting the Pilot participant and reviewing issues raised, inviting their perspective, as well as follow-up with the person expressing concerns to arrive at a common understanding. To date, no one has been removed from the Pilot as a result of expressed concerns.

The information gathered during the Pilot will be helpful in developing a complaints process linked to a Code of Conduct, a draft of which has been reviewed by the Committee and is continuing to be refined with expert assistance.

Additionally, work has started on the development of Rules to support a formal licensing system. An expert has been hired and has prepared an annotated draft outline. Work will continue over the summer months to develop formal Rules that will be brought forward in the fall for review and decision.

Finally, outreach continues, which has included communication online and in ReSource and the provincial Access to Justice Network newsletter, as well as engagement with Bar Associations and the Canadian Bar Association, with a view to ensuring that stakeholders understand the Pilot and transition to a formal licensing framework. Engagement with Government will also continue to align timelines for formalization in 2024.

b. Exemptions

Consultation is continuing with stakeholders regarding two exemptions from unauthorized practice. A survey related to mediation and family law early dispute resolution will be circulated shortly to stakeholders and findings will be considered by the Future of Legal Services Committee at upcoming meetings.

4.2 Truth and Reconciliation through Treaty Implementation (TRTI)

The Law Society Community of Practice comprised of Board and staff members has continued to work with the Office of the Treaty Commissioner to develop an action plan for the Truth and Reconciliation through Treaty Implementation recommendations.

The April 19th meeting focused on reviewing priorities and key items for implementation, as well as considering communications and evaluation for enabling strategies. The May 10th meeting involved a smaller working group focusing on editing, organization and alignment of action areas with the Law Society's Strategic Plan. The full Community of Practice met on June 7th to review and validate the action plan, which was successfully achieved, with some minor amendments anticipated in the final plan. Five areas of focus have been identified as follows:

1. Policy Review and Reform
2. Capacity Building
3. Service Accessibility
4. Collaboration and Engagement
5. Communication

The final Action Plan will be brought before the Benchers for review in the fall.

The Office of the Treaty Commissioner also presented the Law Society with original artwork by artist Kevin Pee-ace from the Yellow Quill First Nation with the inscription *"The Office of the Treaty Commissioner celebrates the Law Society of Saskatchewan for walking the Truth and Reconciliation through Treaty Implementation journey as our first partner to develop its Action Planning process."*

4.3 Statement on Commitment to Reconciliation

The Law Society of Saskatchewan has exchanged with the Justice Secretariat at the Federation of Sovereign Indigenous Nations in relation to the Statement and will

continue to communicate with them and identify common priorities, as possible. We have engaged with the OTC regarding steps taken to date and received guidance that we likely do not need to go through a more formalized process prior to release of the Statement. As reported previously, we have also engaged with MNS in relation to the Statement.

In terms of next steps, work is being done to identify translators and prepare for implementation of the communications plan. It is anticipated that we will align release of both the Statement and the TRTI Action Plan in the fall following full review of the Action Plan by the Board.

4.4 Information Items

An information package was included in the Agenda.

5. New Business

Tim Huber provided a short presentation on the work that has been done to improve accessibility and analysis of discipline related data.

6. Consent Agenda

6.1 Approval of the Bencher Minutes

The following Bencher Minutes were provided for approval:

- a. Minutes from the Bencher meeting held April 28, 2023; and
- b. Minutes from the *CLOSED* Bencher meeting held April 28, 2023.
- c. Minutes from the *CLOSED* Bencher meeting held April 27, 2023.

Moved by Tiffany Paulsen, K.C. seconded by Foluke Laosebikan, K.C., that the Open and *Closed* Minutes of the Bencher meetings held April 28, 2023 and the *Closed* Minutes of the Bencher meeting held April 27, 2023 be approved as written. The motion carried.

6.2 Terms of Reference

The Competency Committee recommended amendments to the Terms of Reference to accurately reflect reporting practices and to delete the “Role of Contracted Practice Advisors” section. Practice Advisors can be asked to attend a Committee meeting as needed, but the information currently included in that section of the Terms of Reference is more appropriately included in the contract between the Law Society and the Practice Advisors. The Competency Committee Terms of Reference were attached for review, redlined to highlight the proposed changes.

Moved by Rochelle Wempe, seconded by Julie Ann Wriston, that the Competency Committee’s Terms of Reference be approved as written. The motion carried.

7. Meeting Finalization

7.1 Review Actions to be Taken

7.2 Confirm Items under 1.4

7.3 Meeting Evaluation

A June Convocation survey was released.

7.4 Next Meetings

September Convocation will be held September 21 and 22, 2023 at the Hotel Saskatchewan in Regina.

7.5 Motion to Adjourn

Will Lane moved to adjourn the meeting. Jonathan Bodvarson seconded. The meeting adjourned at 9:52 am.

TIMOTHY J. BROWN, K.C.
Executive Director