



AGENDA

Benchers

Date: Thursday, February 3, 2022

Time: 12:30 p.m.

Location: Via Videoconference and Teleconference

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT					
	The President will welcome benchers, guests and staff to the meeting.				
2.0 IN MEMORIAM					
	Raymond Walter Kuszelewski , who passed away on January 11, 2022. Mr. Kuszelewski received his call to the Bar in Manitoba on September 23, 2013. He joined Legal Aid Manitoba, serving as counsel in Thompson for one year, and then practised for an additional year as a sole practitioner. In 2015, Mr. Kuszelewski relocated to Nova Scotia where he continued to practice up to the date of his death.				

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
3.0 CONSENT AGENDA					
The Consent Agenda matters are proposed to be dealt with by unanimous consent and without debate. Benchers may seek clarification or ask questions without removing a matter from the consent agenda. Any Bencher may request that a consent agenda item be moved to the regular agenda by notifying the President or Chief Executive Officer prior to the meeting.					
3.1	Minutes of December 16, 2021 Meeting	5		Attached	Approval
3.2	Complaints Investigation Committee Report			Attached	Information
3.3	Discipline Committee Reports			Attached	Information
4.0 EXECUTIVE REPORTS					
4.1	President's Report	5	Grant Driedger	Attached	Briefing
4.2	CEO Report	10	Leah Kosokowsky	Attached	Briefing
5.0 DISCUSSION/DECISION					
5.1	Admissions and Education Committee re: FLSC Draft Competency Profile - Request for Input	15	Paul Grower/ Leah Kosokowsky	Attached	Discussion/ Decision
5.2	Trust Safety Program Guideline Amendments	10	Leah Kosokowsky	Attached	Discussion/ Decision
5.3	Election and Appointment Year - Appointment of Nominating Committee	5	Grant Driedger/ Leah Kosokowsky	Attached	Discussion/ Decision

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
6.0 MISCELLANEOUS BUSINESS					
6.1	2022/2023 Bencher Expense Budget	5	Grant Driedger	Attached	Discussion/ Decision
6.2	2022/2023 Budget	10	Leah Kosokowsky	Attached	Briefing
6.3	CPLED Strategic Plan	5	Leah Kosokowsky	Attached	Briefing
7.0 MONITORING REPORTS					
7.1	The Manitoba Law Library	10	Leah Kosokowsky/ Karen Sawatzky	Attached	Briefing
8.0 COMMITTEE REPORTS					
8.1	Access to Justice Steering Committee	10	Gerri Wiebe/ Brian McLeod		Briefing
8.2	Indigenous Advisory Committee	10	Jessica Saunders		Briefing
8.3	President's Special Committee on Regulating Legal Entities	10	Christian Monnin		Briefing
9.0 FOR INFORMATION					
9.1	Reimbursement Fund Claims Committee Report			Attached	Information
9.2	FLSC E-Briefing - December 2021			Attached	Information
9.3	Media Reports			Attached	Information



MEMORANDUM

To: Benchers
From: Admissions and Education Committee
Date: January 25, 2022
Re: **Draft Competency Profile – Request for Input**

INTRODUCTION

As most of you will be aware, individuals applying for admission to a Canadian law society must either hold a law degree earned from a Canadian law school or a Certificate of Qualification issued by the Federation of Law Societies' National Committee on Accreditation (the NCA). The Federation of Law Societies' NCA Assessment Modernization Committee has created a draft competency profile for individuals entering bar admissions programs and for those entering practice. The Federation is seeking feedback from all Canadian law societies on the draft.

At the December 16, 2021 bencher meeting, you referred the matter to the Admissions and Education Committee. The Committee reviewed the draft competency profile at its meeting on January 18, 2022 and this memorandum reflects the feedback resulting from those discussions.

WHAT IS A COMPETENCY PROFILE?

Increasingly, both internationally and in Canada, many professions are adopting a competency-based approach to defining the skills and knowledge required for practice. The adoption of competency-based frameworks has been driven by the push for increased mobility between professions and between jurisdictions.

Competencies are defined as the skills and underpinning knowledge required to perform the work functions of a profession or occupation. In professions like law, there is also a need to hold (or at least consistently exhibit) certain attitudes and values (i.e. judgment) and so these are included within any competency profile or framework. The competencies are described as standards, or a list of the skills and knowledge required to perform the tasks. Most competencies will be applied to more than one task, for example a competency in writing in a clear, logical and concise fashion will be used in drafting a contract, in preparing a letter, or preparing a submission to the court.

Source: p. 35, Program Review of the National Committee on Accreditation for the Federation of Law Societies prepared by Cambridge Professional Development in May 2017

BACKGROUND

There are two streams of applicants for admission into law societies as articling students and ultimately as lawyers: graduates of Canadian universities that confer an accredited Canadian common law degree, and persons trained in law or working as lawyers outside of Canada or in the civil system in Quebec.

Canadian Law School Programs and Graduates

Since 2015, Canadian common law programs must meet a National Requirement in order for their graduates to be admitted to a law society in Canada. The National Requirement specifies the competencies and skills that graduates must have attained and the academic program and learning resources that the law school must have in place. Currently, there are 12 Canadian law schools with approved programs and two with preliminary approval.

The National Requirement is periodically reviewed to ensure it is current and relevant. The next review will begin shortly and is scheduled to conclude by the end of 2022.

Foreign Educated Applicants

Individuals who complete their legal training in a jurisdiction outside of Canada have their education assessed by the National Committee on Accreditation established by the Federation of Law Societies (NCA), which then determines what further examination and/or education the applicant must successfully complete to obtain their Certificate of Qualification. The aim is for such individuals to have substantive knowledge equivalent to graduates of a Canadian common law program.

National Competency Profile

With the advent of lawyer mobility, the Federation of Law Societies undertook an initiative to develop national admissions standards that would apply at the stage when individuals seek to enter practice. It was intended that these standards would be used by all Canadian law societies to ensure that every lawyer admitted to practice law in Canada possesses an acceptable standard of entry level competence sufficient to practice safely and effectively in any other Canadian jurisdiction. In 2013, law societies adopted the National Competency Profile which sets out the competencies required of new lawyers and Quebec notaries. The next step contemplated at that time was to develop a national assessment system to assess the competencies in the National Competency Profile. However, due to a lack of consensus among law societies regarding this aspect of the work, it did not move forward.

NCA ASSESSMENT MODERNIZATION

The number of candidates who enter the practice of law through the NCA program has increased significantly over the last decade. In recent years, concerns have been raised that some NCA applicants do not possess the competencies necessary for success in the bar admission programs or in legal practice. As a result, the Federation undertook a comprehensive review of the NCA program. The final report was issued in May 2017 and included 28 recommendations across all

areas of the program, one of which called for the development of competency-based benchmarks for bar admission and entry to legal practice and a competency-based assessment system for NCA applicants.

In December 2017, a committee was established to develop recommendations for a move to competency-based assessments for NCA applicants. One component of the committee's work was to consider how to reconcile the national requirement and the national competency profile. In late 2020, the Federation initiated a project to create a competency profile with benchmarks identifying the level of competence expected at two points in the legal education and licensing process:

- Entry into the bar admission process after completing a Canadian common law degree program or obtaining a Certificate of Qualification from the NCA; and
- Entry to practice, upon being called to the Bar.

A draft competency profile has been prepared and has been circulated to Canada's law societies for review and feedback. **Attachment A** to this memorandum is a November 26, 2021 memo from Federation Chief Executive Officer, Jonathan Herman, which includes a report and the proposed competency profile. The Federation requests law societies to review the profile and respond to questions posed by the committee within the report.

Notably, the Federation is not only seeking feedback from Canadian law societies, but also from a series of focus groups and other justice system stakeholders, including the legal academy. Accordingly, while it would be tempting to provide the perspective from other Manitoba stakeholders and to wordsmith the competency profile itself, we have attempted to focus on the most important issues from the Society' perspective in response to the questions posed.

QUESTIONS

For greater clarity, we have reproduced herein the questions that are posed in Attachment A. As you will note, the questions are divided into four separate sections, the first dealing with the competency domains, the second addressing the Level 1 Competencies, the third focusing on the Level 2 Competencies and the fourth inviting additional suggestions.

COMPETENCY DOMAINS

1. Taken together, how well do the 11 domains describe the major building blocks for success in legal practice?
2. Is the name of each competency domain clear and understandable? Does it adequately convey the competencies contained within it?

LEVEL 1 COMPETENCIES

Competencies in Level 1 are expectations for graduates of Canadian Common Law degree programs and holders of a Certificate of Qualification. Consider the new CCLD graduate or the holder of a CQ whose knowledge has been deemed equivalent to that of the CCLD graduate the NCA process.

1. Is each competency statement clear? How can we improve the language so the meaning and intent is more easily understood?
2. Is each competency a reasonable expectation for new graduates and CQ holders? Indicate any competency you believe is NOT a reasonable expectation at Level 1 and why.

Would the competency be more appropriately placed in Level 2 or might it not belong at all? Keep in mind that the document is intended to be forward looking.

3. How well do the Level 1 competencies cover the building blocks for successful mastery of your province's bar admission program? Make note of anything that appears to be missing.

LEVEL 2 COMPETENCIES

Competencies placed in Level 2 are expectations for lawyers newly called to the Bar. When reviewing level 2, consider lawyers newly called to the Bar in Manitoba.

1. Is each competency statement clear? How can we improve the language so the meaning and intent is more easily understood?
2. Is each competency a reasonable expectation for newly admitted lawyers in Manitoba? Indicate any competency you believe is NOT a reasonable expectation at Level 2 and why.

Is it something acquired during legal education, something acquired later on in practice, or not needed at all?

3. How well do the Level 2 competencies describe what the public expect from a lawyer in Manitoba? Make note of anything that appears to be missing from the public expectation perspective.

ADDITIONAL SUGGESTIONS

1. Make any additional suggestions you have to improve the competency profile.

Notably, the Admissions and Education Committee reviewed not only the Federation's draft competency profile, but also compared it to the existing National Requirement and CPLED competency framework. In each section, we have provided the committee's assessment and feedback to the questions posed and our recommended response to each question.

SECTION 1: COMPETENCY DOMAINS

1. **Taken together, how well do the 11 domains describe the major building blocks for success in legal practice?**

The committee generally agrees that the 11 domains describe the major building blocks for success in legal practice. However, the committee recommends that two additional domains be added, namely Problem Solving and Analytical Skills as well as Client Relationship Management. Although some competencies related to these two areas are found within the 11 domains listed, in the committee's view these areas are equally important in and of themselves and such importance is highlighted when they are set out as separate domains rather than being subsumed within other domains.

Problem Solving and Analytical Skills

The Society has experienced that some NCA candidates struggle with the ability to apply knowledge and techniques which may arise from a simplistic interpretation of the word 'apply' as used in an exam question or exercise. For example, NCA candidates have frequently struggled with the Legal Research, Interviewing and Advising as well as the Negotiation modules in Legacy CPLED. Although not universal, many candidates could identify the techniques taught and asked to be applied in the modules and follow the techniques when completing the modules (i.e. follow a prescribed formula), but did not demonstrate an inherent deeper thought process found in utilizing analytical and problem solving skills. It is proposed that by separating out a distinct Domain, there will be a greater understanding of required competencies and a better application of same.

Client Relationship Management

In addition, the Society's experience as a regulator and insurance provider has demonstrated that complaints and claims can arise simply from a lawyer's inadequate skills in competently managing the relationship with a client. A separate domain to emphasize the importance of skills in this area is warranted.

The proposed additional domains, inclusive of suggested competency statements, are included in section 4 where the Federation invites additional suggestions to improve the competency profile.

2. **Is the name of each competency domain clear and understandable? Does it adequately convey the competencies contained within it?**

Greater clarity can be brought to Domain 4 - *Oral and Written Communication* by setting out specifically the intent of the expectation, namely, language proficiency. Accordingly, the committee recommends that the name of this domain be changed to *Communication and Language Proficiency*.

The committee also recommends that Domain 8 - *Legal Research* not be confined to only research of law as that is only one kind of search that lawyers find themselves doing. It is recommended that

the Domain Name be broadened to *Legal Research and Information Gathering* to emphasize the importance of identifying and using other information that may be required to complete a matter.

SECTION 2: LEVEL 1 COMPETENCIES

Competencies in Level 1 are expectations for graduates of Canadian Common Law degree programs and holders of a Certificate of Qualification. These apply to a new CCLD graduate or the holder of a CQ whose knowledge has been deemed equivalent to that of a CCLD graduate.

1. Is each competency statement clear?

While the committee found the majority of the competency statements in Level 1 to be clear, we found the following statements to be unclear in their intended purpose:

Domain 7 (Practice Management) - #4: Describe the importance of supervision in legal practice.

In our view, the statement ought to clarify if the reference is to the supervision of support staff, of junior lawyers, or both.

Domain 9 (Legal Writing and Drafting) - #9: Identify the basic types and elements of common litigation and solicitor documents.

Domain 9 (Legal Writing and Drafting) - #10: Identify the principles of law applicable to the purpose, form and language of a legal document.

In the committee's view, the intent of both statements is unclear. Perhaps they can be clarified or perhaps they ought not to be in Level 1. With respect to statement #10, the language appears to be overly broad in its application to CCLD graduates and CQ holders.

Domain 10 (Advocacy and Litigation) - #4: Describe the role that information gathering, case analysis and planning play in advocacy.

Domain 10 (Advocacy and Litigation) - #5: Describe the role that witnesses, legal research, experts, or specialized licensees may play in advocacy.

In the committee's view, both statements lack clarity. For example, what is meant by "specialized licensees"?

Domain 11 (Negotiation and Dispute Resolution) - #3: Distinguish legal issues that can and cannot be negotiated and settled.

Committee members found this competency statement to be similarly unclear. What is the intent? If it is to identify the issues that cannot be negotiated and settled in a particular fact scenario, that ought to be stated.

How can we improve the language so the meaning and intent is more easily understood?

Domain 4 (Oral and Written Communications) - #1: Demonstrate competence in oral and written French or English.

The committee recommends that the words “demonstrate competence” be replaced with a more meaningful descriptor of “communicate articulately and fluently”.

Domain 9 (Legal Writing and Drafting) - #1: Use appropriate and logical organizational structure to support a legal argument.

To add clarity, the committee recommends the removal of the words ‘to support a legal argument’ as all legal writing and drafting, not just arguments, ought to follow an appropriate and logical organizational structure.

Domain 11 (Negotiation and Dispute Resolution) - #5: Describe the range of litigious and non-litigious mechanisms for resolving disputes, including arbitration, mediation and conciliation, and their appropriateness to different fact patterns

Domain 11 (Negotiation and Dispute Resolution) - #6: Identify appropriate forum(s) for the resolution of disputes, including consideration of alternative dispute resolution

Domain 11 (Negotiation and Dispute Resolution) - #7: Identify general legal issues that are appropriate for mediation, including determining when alternative dispute resolution is mandatory or appropriate.

Competency statements 5, 6 and 7 might make more sense if combined as: describe the litigious and non-litigious means of resolving disputes such as court, arbitration, mediation, conciliation, and negotiation and describe their appropriateness for differing scenarios. The committee recommends that the proposed language be adopted.

2. Is each competency a reasonable expectation for new graduates and CQ holders? Indicate any competency you believe is NOT a reasonable expectation at Level 1 and why.

Would the competency be more appropriately placed in Level 2 or might it not belong at all? Keep in mind that the document is intended to be forward looking.

Domain 4 (Oral and Written Communications) - #2 Demonstrate inclusivity when communicating in diverse contexts and with equity-seeking groups.

Domain 4 (Oral and Written Communications) - #3 Listen actively and interpret verbal and non-verbal cues in communications

Domain 4 (Oral and Written Communications) - #4 Select appropriate method and medium of communications for intended audiences and legal contexts, including virtual platforms.

The committee questioned whether there would be an opportunity for these skills to be developed before articling and recommends that they be placed in Level 2.

Domain 7 (Practice Management) - #5 Describe basic elements of effective teamwork and working on a team project.

The committee questioned how this statement is relevant to competent lawyering and would recommend that it be removed from the competency profile. While there was an acknowledgment that teamwork is an essential competency for many employees, the key is to ensure that the underlying core competencies are included (i.e. effective communication, civility and professionalism). The committee is satisfied that these core competencies are included and addressed throughout the document.

Domain 6 (Case Matter Management, Domain 7 (Practice Management) and Proposed New Domain (Client Relationship Management)

The committee discussed generally the Level 1 competencies listed under these domains and questioned whether these were appropriately placed. That is, while law schools teach the basic concepts articulated in these domains, unless a student were to complete an elective clinical course, they would not have the opportunity to develop these skills. Furthermore, the PREP program does provide the opportunity to develop these very skills.

In light of the proposed addition of a client relationship management domain, the committee was also of the view that some of the competency statements ought to be re-allocated within the three domains and other competency statements ought to be added. Accordingly, the committee recommends that the language be modified for all three domains as set out in **Attachment B**.

Domain 9 (Legal Writing and Drafting) - #7 Draft appropriate legal document in consideration of the parties, forum and a given set of facts

Domain 9 (Legal Writing and Drafting) - #8 Describe the meaning and uses of various precedent clauses (e.g. jurisdictional clauses, fore majeure) for a given fact pattern.

Domain 9 (Legal Writing and Drafting) - #10 Identify the principles of law applicable to the purpose, form and language of a legal document.

The committee questioned whether there would be an opportunity before articling for these skills to be developed and they may be more appropriate in Level 2.

3. How well do the Level 1 competencies cover the building blocks for successful mastery of your province's bar admission program? Make note of anything that appears to be missing.

The committee is generally of the view that the Level 1 competencies cover the building blocks; however, we identified certain competencies in Level 2 that ought to be moved to Level 1 and we also recommend some additions.

Domain 1 (Substantive Legal Knowledge) The committee identified that knowledge of legal history is an important competency that informs a lawyers' approach to a myriad of issues. Accordingly, the committee recommends that an additional competency statement be added which reflects the need for graduates to have knowledge of legal history.

Domain 2 (Legal Ethics and Professional Responsibility) - #3 Demonstrate integrity and trustworthiness as illustrated by the Code of Conduct.

Domain 2 (Legal Ethics and Professional Responsibility) - #4 Describe the impact of lack of integrity on lawyer, client(s) and/or the profession

In the committee's view, both of these Level 2 competencies ought to be demonstrated by law graduates as they enter the bar admission program.

Domain 5 (Interviewing) - The committee recommends that two competency statements be added, namely:

- *identify the goal(s) of an interview*
- *exercise active listening*

Domain 8 (Legal Research) - The committee recommends that the following competency statement ought to be added:

- *identify when there is a need for further information and possible sources to obtain such information*

Domain 10 (Advocacy and Litigation) - #2 Evaluate strengths and weaknesses in a client's matter.

Domain 10 (Advocacy and Litigation) - #3 Develop a theory of the case.

In the committee's view, these two Level 2 competencies should be demonstrated by graduates and perhaps, they should be moved to Level 1.

SECTION 3: LEVEL 2 COMPETENCIES

Competencies placed in Level 2 are expectations for lawyers newly called to the Bar. These apply to lawyers newly called to the Bar in Manitoba.

1. **Is each competency statement clear? How can we improve the language so the meaning and intent is more easily understood?**

Domain 6 (Case Matter Management) - #2: Establish an effective lawyer-client relationship under supervision.

The committee found this statement to be unclear and would seek clarification of what is intended by “under supervision.”

Domain 7 (Practice Management) - #8: Explain the basic requirements related to receiving, banking and dispensing trust account funds.

While this competency statement is clear, the committee is of the view that the competency ought to be broader and would recommend a statement such as “demonstrate knowledge of procedural, accounting and ethical rules relating to billing and collection including the handling of trust funds.”

Domain 7 (Practice Management) - #9: Describe the basic requirements related to identification and verification of clients.

Similarly, this competency is narrow and the committee recommends that it be expanded to include an understanding of the purpose of client identification and verification, such as describe the risks of failing to identify or verify a client’s identity.

2. **Is each competency a reasonable expectation for newly admitted lawyers in Manitoba? Indicate any competency you believe is NOT a reasonable expectation at Level 2 and why.**

Is it something acquired during legal education, something acquired later on in practice, or not needed at all?

See comments under Level 1 for items that ought to be moved from Level 2 to Level 1.

3. **How well do the Level 2 competencies describe what the public expect from a lawyer in Manitoba? Make note of anything that appears to be missing from the public expectation perspective.**

The committee reviewed the CPLED competency framework and noted that it sets out competencies that are not included in the Federation’s draft competency profile. Committee members agreed that the draft competency profile was lacking as a result and recommend the addition of the competency statements that follow.

Domain 5 (Interviewing)

- use a structured interview technique taking notes throughout
- identify deficiencies in information provided and explore or follow up as required
- accurately summarize information obtained
- consider context and intended use when selecting form of interview: in person; via phone; via correspondence; in presence of others

Domain 6 (Case Matter Management)

- identify the costs, benefits and risks associated with varying strategies
- identify steps to execute a strategy and assign a timeline and resources

Domain 7 (Practice Management)

- take personal responsibility for quality of all work produced directly or through delegation
- identify, evaluate and measure the probability and severity of risks to practice and take appropriate action
- understand the value of regularly reviewing and assessing office systems, procedures and technologies and making changes as required
- understand importance of keeping apprised of emerging technologies and adapting practices as required
- understand the importance of data security and implement steps to address risks of breaches
- prioritize personal and work demands in consideration of deadlines and available resources

Domain 8 (Legal Research)

- conduct and interpret any necessary corporate, title or other relevant searches

Domain 9 (Legal Writing and Drafting)

- draft documents for a variety of purposes such as letters to clients, letters to opposing parties, documents for court and documents for parties which create rights and obligations

Domain 10 (Advocacy and Litigation)

- navigate the court process efficiently and effectively in accordance with applicable court rules and procedures
- deal with all court officials and staff courteously and civilly
- identify evidence for a hearing and place it before the court in an appropriate fashion
- understand and abide by applicable disclosure obligations
- comply with all relevant formalities (e.g. attire, forms of address)
- appropriately conclude matter by drafting and filing any documents which may be required

Domain 11 (Negotiation and Dispute Resolution)

- develop a negotiation plan detailing the client’s objectives and limits and possible options for resolution given the opposing party’s situation
- identify deficiencies in information which if known could impact a negotiation and explore obtaining the information

SECTION 4: ADDITIONAL SUGGESTIONS

1. Make any additional suggestions you have to improve the competency profile.

As noted above, the committee is recommending that two additional domains be added to the competency profile. Below are the proposed domains along with the competency statements.

Problem Solving and Analytical Skills	
Level 1	Level 2
-identify issues, relevant facts and applicable legal principles -distinguish case law -evaluate and interpret applicable law in the context of a set of facts and identify options/outcomes/arguments in relation to issues identified	-identify client’s goals and objectives -develop a range of practical options or strategies to meet a client’s goals and objectives -identify the advantages and disadvantages of pursuing available options -evaluate the likelihood of various outcomes

-identify alternate legal arguments	
Client Relationship Management	
Level 1	Level 2
<ul style="list-style-type: none"> -describe the essential elements of the solicitor-client relationship, including the obligations for keeping client information confidential -identify duties owed to clients -identify when a client relationship may arise -identify who is and who is not a client 	<ul style="list-style-type: none"> -explain the importance of a retainer agreement or retainer letter and implement use of same -use client centric approach to advise client and obtain instructions -take steps to help client to understand the scope of the particular retainer -explain the basic scope and limitations of the role of legal advisor in the context of a client matter, including responsibility to client -advise clients of advantages and disadvantages of pursuing identified options or strategy, using terms the client can understand -keep client informed on matter as time passes, regardless of progress in the matter -identify issues concerning capacity and act accordingly -identify conflict issues and act appropriately in response -discuss fees -develop effective strategies for managing client relationships, including establishing and maintaining client confidence and managing client expectations

RECOMMENDATION

The Admissions and Education Committee recommends that you approve the responses to the Federation’s questions as set out in this memorandum. If approved, the Law Society will prepare and provide a response to the Federation shortly after this bencher meeting.



MEMORANDUM

To: Benchers

From: Leah Kosokowsky

Date: January 25, 2022

Re: Draft Competency Profile – Update from the Federation of Law Societies of Canada

As you will have seen from the memo from the Admissions and Education Committee, extensive work has been undertaken to assess the draft competency profile and to make recommendations to the Federation of Law Societies of Canada with respect to the contents of same.

After completing this work, we received notice from the Federation on January 24, 2022 that early feedback received from stakeholders has caused them to conclude that there may be merit in making changes to the organization and structure of the document. In their communication, they advised that feedback that has already been provided by law societies will be thoroughly considered and there will be an opportunity to weigh in further after the changes are made.

Further inquiries with Deborah Wolfe, the Executive Director of the National Committee on Accreditation, and the project lead, revealed that they have received responses from the Canadian Association of Law Teachers and from the Canadian Council of Law Deans that raise concerns about the lack of meaningful consultation in the development process. Accordingly, they are proposing to engage further with the legal academy with a view to reconsidering the overall approach to the competency profile. In fact, an early meeting is scheduled with representatives from the Canadian Association of Law Teachers and they have called a meeting of the Advisory Group in the next several weeks.

Ms Wolfe indicated that the Law Society of Manitoba's feedback to the current draft profile would still be very valuable and has encouraged us to deliver same to the Federation notwithstanding the change in approach.

*Federation of Law Societies
of Canada*



*Fédération des ordres professionnels
de juristes du Canada*

MEMORANDUM

FROM: Jonathan G. Herman, CEO
TO: Law Society CEOs
DATE: November 26, 2021
SUBJECT: Draft Competency Profile – Request for Input

INTRODUCTION

1. I am writing to you with an update on the Federation’s project to move to competency-based assessment for the National Committee on Accreditation (“NCA”) candidates. I am also seeking your input on an important component of this project.

BACKGROUND

2. As you are aware, the Federation undertook a comprehensive review of the mandate, structure, policies and activities of the NCA to address concerns about the ability of NCA applicants to succeed in bar admission programs and in legal practice. The review resulted in a recommendation to move to a competency-based assessment system. At its December 2017 meeting, the Federation Council considered options for addressing the recommendation, including whether a competency-based assessment system should apply only to NCA applicants or to all candidates for licensing. That discussion resulted in a consensus that a committee should be established to develop recommendations for a competency-based assessment system for NCA applicants and in March 2018 Council approved the creation of the NCA Assessment Modernization Committee (“NCA AMC”).

3. The NCA AMC is chaired by Jill Perry, Vice President of the Federation. It includes the following key leaders and staff from the law societies, and representatives of the legal academy:

- Priya Bhatia, Executive Director, Professional Development and Competence, Law Society of Ontario
- Pinder Cheema, Federation Council Member nominated by the Law Society of British Columbia
- Adam Dodek, former Dean of Law, University of Ottawa, and Member of the NCA
- Cori Ghitter, Deputy Executive Director, Law Society of Alberta
- Lesley Small, Manager of Member Services & Credentials, Law Society of British Columbia
- Meghan Thomas, Director, Professional Graduate and International Programs, Osgoode Hall Law School

- Lynda Troup, Federation Council member nominated by the Law Society of Manitoba

4. The NCA AMC is supported by Frederica Wilson, Executive Director Policy and Public Affairs and Deputy Chief Executive Officer, and Deborah Wolfe, Executive Director National Committee on Accreditation and Law School Programs. Project management support is provided by Lynn Villeneuve, Deputy Director, National Committee on Accreditation.

5. The mandate of the NCA AMC is to make recommendations to Council for the development and implementation of a competency-based assessment system for candidates applying to the NCA. In developing its recommendations, the Committee is to have regard to applicable fair access to regulated professions legislation and is also to consider the implications for the National Requirement (the standard that graduates of all Canadian common law programs must meet to be eligible for entry into the bar admission programs of the common law jurisdictions) and the National Competency Profile (developed more than a decade ago as part of the National Admission Standards project), including how to reconcile those two documents.

COMPETENCY PROFILE

6. A clear profile of the competencies required at the point of entry to the bar admission process and at point of licensing, is an essential component of a competency-based assessment system. Consultants were retained in the summer of 2020 to assist with the development of a competency profile under the supervision of the NCA AMC. In addition to its role in modernizing the NCA assessment process, this work is critical to the upcoming review of the [National Requirement](#). Although Council opted to move forward with the development of competency-based assessment for NCA candidates only, it was understood that that NCA candidates and Canadian law school graduates must be required to demonstrate the same competencies, both as a matter of general fairness and to ensure that the NCA complies with the legislated requirements under provincial fair access legislation. A full review of the National Requirement must be completed in 2022. Work on that project, which will include consideration of the competencies that students must have upon graduation from Canadian common law programs, will start shortly.

7. As a first step in developing a competency profile, a volunteer task force of 13 lawyers with diverse perspectives worked with consultants acting under the supervision of the NCA AMC over the spring and summer of 2021 to develop draft competency statements for Level 1 (entry to bar admission) and to develop and refine the competency statements for Level 2 (entry to practice).

8. To ensure that the competency profile accurately reflects the competencies required at bar admission and licensing, feedback on the draft competency statements is being sought from the law societies and, by way of a series of focus groups, from other justice system stakeholders, including the legal academy. This feedback will be used to refine and finalize the draft statements. Broad input will then be sought from practising lawyers and academics through a validation survey.

9. The draft competency profile is attached for your review, together with instructions for providing your feedback. We ask that you submit your comments and suggestions by **January**



31, 2022. Please contact Deborah Wolfe with any questions or to discuss the draft in greater detail.

10. Developing a competency-based assessment system for NCA applicants is a strategic priority for the Federation. A competency-based system will be an important step in ensuring that NCA applicants are better prepared for success, both in law society admission programs and in practice. The involvement of the law societies in this initiative is essential to the success of this project, so we look forward to receiving your feedback.





Federation of Law Societies of Canada

Draft Competency Profile Review with Law Societies

Introduction.....	2
Structure of the Competency Profile	3
Questions for Consideration by Independent Reviewers	4
Draft Competency Profile.....	6

FOR CONSULTATION

Introduction

Background

In late 2020, the Federation of Law Societies of Canada (“the Federation”) initiated a project to create a competency profile with benchmarks identifying the level of competence expected at two points in the legal education and licensing process: entry to a bar admissions program (after completing a Canadian Common Law degree program or obtaining a Certificate of Qualification (CQ)¹) and at entry to practice (upon call to the Bar). A Competency Development Task Force created an initial draft of the competency profile. We are now undertaking consultation with stakeholder groups to gain feedback regarding the draft profile.

Intended Uses

This Competency Profile is intended to support multiple Federation initiatives, including:

- updating the NCA process by which the Federation evaluates the education and professional experience of individuals who have obtained their credentials outside of Canada, and
- informing future updates to the National Requirement.

Guiding Principles

The following principles guided the creation of the draft Competency Profile.

- The profile provides a comprehensive description of the knowledge, skills, attributes, judgments and values expected to be in place after completing a Canadian Common Law degree program or CQ (articulated in the Profile as Level 1) and upon call to the Bar (articulated in the Profile as Level 2).
- The profile is forward-thinking, capturing both existing and emerging areas of competence.
- The profile includes cognitive skills (e.g., research, legal analysis, critical thinking), soft skills (e.g., relationship building, cultural competence), values and attitudes (e.g., integrity, professionalism), as well as substantive legal knowledge generally applicable in practice at the two points described above.

Resources for Development

The following resources were drawn upon in developing the Competency Profile:

- Federation of Law Societies of Canada National Entry-to-Practice Competency Profile for Lawyers and Quebec Notaries ([FLSC NCP](#))
- Federation of Law Societies of Canada National Requirement ([FLSC NR](#))
- CPLED PREP Competency Framework ([CPLED](#))
- IAALS Foundations for Practice ([IAALS](#))
- Provincial competency profiles and competency-related documents such as articling checklists

¹ A Certificate of Qualification is granted after completing the NCA requirements. Completing the NCA requirements verifies that a candidate’s knowledge of Canadian law is similar to the knowledge of someone who obtained their law degree through an approved Canadian common law program.

Structure of the Competency Profile

The Competency Profile is structured around 11 competency domains that represent building blocks for success in legal practice.

1. Substantive Legal Knowledge
2. Legal Ethics and Professional Responsibility
3. Intercultural Competence
4. Oral and Written Communications
5. Interviewing
6. Case Matter Management
7. Practice Management
8. Legal Research
9. Legal Writing and Drafting
10. Advocacy and Litigation
11. Negotiation and Dispute Resolution

The Competency Profile articulates competency benchmarks at two points. Level 1 is the point of entry to a provincial or territorial bar admission program, that is, after the individual has completed a Canadian common law degree program or has been granted a Certificate of Qualification. Level 1 competency statements appear in the left column in the competency profile. Level 2 is the point of call to the bar in a province or territory. Level 2 competency statements appear in in the right column.

The **sample** below, from *Competency Domain 6 – Case Matter Management*, outlines the competency profile structure.

LEVEL 1 - The prospective entrant to a provincial or territorial bar admission program who holds a Canadian common law degree or a CQ is able to...	LEVEL 2 - The individual upon call to the Bar is able to...
COMPETENCY DOMAIN 6: CASE MATTER MANAGEMENT	
<ol style="list-style-type: none"> 1. Describe a basic theory, strategy, and viable options based on a fact pattern 2. Identify requirements to establish a solicitor-client relationship, for example, appropriate client identification, instructions, conflict checks and retainer 3. Describe ways that legal services are paid for 4. Describe how a legal matter progresses to completion 5. ... 	<ol style="list-style-type: none"> 1. Consider client’s circumstances (for example, diversity, age, language, disability, socioeconomic, and cultural context) in all aspects of matter 2. Establish an effective lawyer-client relationship under supervision 3. Develop effective strategies for managing client relationships, including establishing and maintaining client confidence and managing client expectations 4. ...

This sample illustrates some important points about the structure of the competency profile.

- The competencies statements are intended to articulate benchmarks for performance expected at two points.
- Competencies demonstrated at Level 1 are assumed to still be in place at Level 2. Accordingly, they are not restated.
- Some Level 2 competency statements represent more advanced demonstrations of Level 1 competencies. Others are new competencies unique to Level 2.
- There is no expectation that every Level 1 competency will have a parallel Level 2 competency, although in some instances this is the case.

Questions for Consideration by Reviewers

We provide a set of questions for you to consider as you evaluate the competency profile (which appears beginning on the next page). Make your responses directly in this document. Tracking has been enabled to record your feedback. Return the edited version to our research partners at patricia.muenzen@act.org by November 30, 2021.

Regarding the Competency Domains

1. Taken together, how well do the 11 domains describe the major building blocks for success in legal practice?
2. Is the name of each competency domain clear and understandable? Does it adequately convey the competencies contained within it?

Regarding Level 1 and Level 2 Competencies

Competencies placed in Level 1 (left column) are expectations for graduates of Canadian Common Law degree programs and holders of a Certificate of Qualification (CQ). Competencies placed in Level 2 (right column) are expectations for lawyers newly called to the Bar.

When reviewing Level 1, consider the new CCLD graduate or the holder of a CQ whose knowledge has been deemed equivalent to that of the CCLD graduate via the NCA process.

1. Is each competency statement clear? How can we improve the language, so the meaning and intent is more easily understood?
2. Is each competency a reasonable expectation for new graduates and CQ holders? Indicate any competency you believe is NOT a reasonable expectation at Level 1 and why. Would the competency be more appropriately placed in Level 2 or might it not belong at all? Keep in mind that the document is intended to be forward looking.
3. How well do the Level 1 competencies cover the building blocks for successful mastery of your province's/territory's bar admission program? Make note of anything that appears to be missing.

When reviewing Level 2, consider lawyers newly called to the Bar in your province or territory.

1. Is each competency statement clear? How can we improve the language, so the meaning and intent is more easily understood?
2. Is each competency a reasonable expectation for newly admitted lawyers in your province or territory? Indicate any competency you believe is NOT a reasonable expectation at Level 2 and why. Is it something acquired during legal education, something acquired later on in practice, or not needed at all?
3. How well do the Level 2 competencies describe what the public expect from a lawyer in your province/territory? Make note of anything that appears to be missing from the public expectation perspective.

Additional Suggestions

3. Make any additional suggestions you have to improve the competency profile.

Lastly, please provide your name and contact information in case follow up is required:

Name:

Email:

Draft Competency Profile

LEVEL 1 - The prospective entrant to a provincial or territorial bar admission program who holds a Canadian common law degree or a CQ is able to...	LEVEL 2 - The individual upon call to the Bar is able to...
DOMAIN 1. SUBSTANTIVE LEGAL KNOWLEDGE	
<ol style="list-style-type: none"> 1. Apply knowledge of the following foundational principles of the Canadian legal system to specific fact patterns: <ol style="list-style-type: none"> a. Key principles of common law and equity, such as precedence and stare decisis b. Canadian Legislative and regulatory system c. Canadian judicial system including non-court dispute resolution systems d. Principles of statutory interpretation e. Sources and juridical nature of law including the Constitution of Canada, legislation, court decisions, the Civil Code of Quebec, international law, and oral traditions 2. Apply knowledge of the following foundational principles of Canadian substantive law to specific fact patterns: <ol style="list-style-type: none"> a. Canadian Constitutional law, including the Canadian Charter of Rights and Freedoms, federalism and the distribution of legislative powers b. Canadian Criminal Law and procedure c. The rights, legal interests, and governing systems of Indigenous Peoples; the unique historical and ongoing challenges facing Indigenous Peoples and communities; the history of Indigenous–Crown relations; Treaties and Aboriginal Rights; the United Nations Declaration on the Rights of Indigenous Peoples; and Indigenous law d. Canadian Administrative Law and procedure e. Evidence f. Contracts g. Torts h. Property law 	<ol style="list-style-type: none"> 1. Judiciously apply knowledge of the following foundational principles of the Canadian legal system to a given client matter: <ol style="list-style-type: none"> a. Key principles of common law and equity, such as precedence and stare decisis b. Canadian Legislative and regulatory system c. Canadian judicial system including non-court dispute resolution systems d. Principles of statutory interpretation e. Sources and juridical nature of law including the Constitution of Canada, legislation, court decisions, the Civil Code of Quebec, international law, and oral traditions 2. Judiciously apply knowledge of the following foundational principles of the Canadian legal system to a given client matter: <ol style="list-style-type: none"> a. Canadian Constitutional law, including the Canadian Charter of Rights and Freedoms, federalism and the distribution of legislative powers b. Canadian Criminal Law and procedure c. The rights, legal interests, and governing systems of Indigenous Peoples; the unique historical and ongoing challenges facing Indigenous Peoples and communities; the history of Indigenous–Crown relations; Treaties and Aboriginal Rights; the United Nations Declaration on the Rights of Indigenous Peoples; and Indigenous law d. Canadian Administrative Law and procedure e. Evidence f. Contracts g. Torts h. Property law i. Family law j. Wills and estates

LEVEL 1 - The prospective entrant to a provincial or territorial bar admission program who holds a Canadian common law degree or a CQ is able to...	LEVEL 2 - The individual upon call to the Bar is able to...
	<ol style="list-style-type: none"> 3. Apply relevant Rules of Procedure in litigation and alternative dispute resolution 4. Apply relevant procedures applicable to transactions including commercial, real estate, and wills and estates
DOMAIN 2. LEGAL ETHICS AND PROFESSIONAL RESPONSIBILITY	
<ol style="list-style-type: none"> 1. Apply legislation, regulations, rules of professional conduct, common law, and principles of ethics and professionalism relevant to solve ethical problems in the practice of law in Canada. 2. Explain the fiduciary nature of the lawyer-client relationship 3. Explain the special responsibility as a member of the legal profession to respect the requirements of human rights laws in force in Canada. 4. Explain the importance of professionalism, including civility and integrity, in dealing with clients, other counsel, judges, court staff, justice stakeholders, and members of the public 5. Explain a lawyer's duties owed to clients, other legal professionals, the public, law societies, and the administration of justice 6. Explain legal consequences of unethical conduct and professional incompetence 7. Identify the roles played by lawyers, the legal profession, and the legal system in securing access to justice 8. Apply critical thinking to ethical issues that may be encountered in legal practice 	<ol style="list-style-type: none"> 1. Describe the principles and major categories of the rules of professional conduct 2. Identify when to consult with colleagues, mentors, or relevant resources when uncertain how to address an ethical issue 3. Demonstrate integrity and trustworthiness as illustrated by the Code of Conduct 4. Describe the impact of lack of integrity on lawyer, client(s), and/or the profession 5. Demonstrate an understanding of the personal behaviour will have an impact on public confidence in the administration of justice and the legal profession 6. Analyze commonly occurring ethical issues arising in practice to make informed and reasoned decisions 7. Implement policies and procedures to ensure client confidentiality in compliance with the Code of Conduct 8. Take effective action to avoid a potential conflict or, where a conflict has already arisen, deal with it in accordance with law and professional ethical standards 9. Demonstrate professional courtesy, honesty, candour, and civility in all dealings with clients, colleagues, the courts, and others 10. Distinguish clear professional boundaries in the context of specific situations (e.g., client relationships, personal knowledge of colleagues and judges) 11. Modify behaviour based on the formalities and norms of a range of professional situations 12. Recognize when tasks or matters fall outside own competence and identify and approach appropriate sources of assistance or referral

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DOMAIN 3. INTERCULTURAL COMPETENCE	
<ol style="list-style-type: none"> 1. Demonstrate self-reflection, including awareness of implicit bias and personal values 2. Recognize how cultural differences may impact interactions between individuals from diverse cultural groups 3. Explain concepts of interculturally-competent exchange, including conflict resolution, human rights focus, and anti-racism 4. Describe the history of Indigenous-settler relations and impact on indigenous peoples, communities, and nations 5. Explain the importance of the Truth and Reconciliation Commission's Calls to Action, including the legacy of residential schools, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations 	<ol style="list-style-type: none"> 1. Apply principles of intercultural awareness, sensitivity, and understanding 2. Apply knowledge of concepts of intersectionality, human rights, and anti-racism to address differences and mitigate conflicts 3. Acknowledging own biases, adapt and practice skills to fit the cultural context of co-workers, managers, and clients 4. Engage with clients, colleagues, other members of the bar, and the public in a manner that promotes equity, celebrates diversity, and fosters inclusion 5. Apply the principles addressed by the Truth and Reconciliation Commission's Calls to Action and UNDRIP, Treaties, Aboriginal rights, and Indigenous laws, including the impact of residential schools and the history of Aboriginal–Crown relations in practice
DOMAIN 4. ORAL AND WRITTEN COMMUNICATIONS	
<ol style="list-style-type: none"> 1. Demonstrate competence in oral and written French or English 2. Demonstrate inclusivity when communicating in diverse contexts and with equity-seeking groups 3. Listen actively and interpret verbal and non-verbal cues in communications 4. Select appropriate method and medium of communication for intended audiences and legal contexts, including virtual platforms 5. Use correct grammar, spelling, and syntax 6. Use Canadian legal terminology accurately 7. Use language suitable to the purpose of the communication and the intended audience 8. Express concepts with precision, clarity, logic, and brevity 9. Demonstrate professionalism, courtesy, and civility in all forms of verbal and non-verbal communications 	<ol style="list-style-type: none"> 1. Adapt communications appropriately to different contexts and audiences 2. Listen attentively and respectfully in the practice of law 3. Use language and tone consistent with the formality of the legal context 4. Use appropriate and logical organization and structure for communications in a legal context 5. Use virtual communication platforms appropriately and effectively
DOMAIN 5. INTERVIEWING	
<ol style="list-style-type: none"> 1. Identify the importance of planning to the conduct of interviews 2. Plan for and outline possible questions to meet the objectives of an interview 	<ol style="list-style-type: none"> 1. Tailors questions to the specific factual and legal context when conducting an interview

LEVEL 1 - The prospective entrant to a provincial or territorial bar admission program who holds a Canadian common law degree or a CQ is able to...	LEVEL 2 - The individual upon call to the Bar is able to...
<ul style="list-style-type: none"> 3. Explain the importance of careful note taking and accurately documenting interviews 4. Demonstrate questioning techniques applicable to an interview scenario 	<ul style="list-style-type: none"> 2. Accurately document the information provided by the interviewee for future reference
DOMAIN 6. CASE MATTER MANAGEMENT	
<ul style="list-style-type: none"> 1. Describe a basic theory, strategy, and viable options based on a fact pattern 2. Identify requirements to establish a solicitor-client relationship, for example, appropriate client identification, instructions, conflicts checks, and retainer 3. Describe ways that legal services are paid for 4. Describe how a legal matter progresses to completion 5. Describe the importance of file organization and management 6. Identify the necessity for and ongoing obligation to communicate consistently, clearly, and accurately with clients regarding their matter 7. Explain the basic scope and limitations of the role of legal advisor in the context of a client matter, including responsibility to client 8. Explain when it is necessary to seek assistance, expertise, and/or educational resources 9. Explain the importance of completing work in timely manner, including meeting deadlines 10. Explain the importance of taking action when deadlines cannot be met 11. Describe how files should be managed when mistakes and errors are made 12. Explain the importance of prioritizing urgent matters and managing one's time 	<ul style="list-style-type: none"> 1. Consider client's circumstances (for example, diversity, age, language, disability, socioeconomic, and cultural context) in all aspects of matter 2. Establish an effective lawyer-client relationship under supervision 3. Develop effective strategies for managing client relationships, including establishing and maintaining client confidence and managing client expectations 4. Develop legal strategy, viable options, and practical recommendations based on fact pattern 5. Advise client about the advantages and disadvantages of pursuing each option or strategy, using terms the client can understand 6. Assimilate and act on client instructions within boundaries of the law and integrate feedback from verbal and non-verbal communications 7. Conduct simple matter from start to finish 8. Implement strategies to keep clients apprised of progress in their matters. 9. Recognize limitations in own ability to handle a matter (or some aspect of it) and explain methods to ensure client is appropriately served 10. Implement strategies for prioritizing and managing tasks and tracking deadlines 11. Implement strategies to manage client file when deadlines cannot be met
DOMAIN 7. PRACTICE MANAGEMENT	
<ul style="list-style-type: none"> 1. Describe appropriate workplace behaviours, including adherence to professional behaviour, comportsment, and human rights 2. Describe workplace behaviours that promote equity, diversity, and inclusion in the practice of law 3. Describe the essential elements of the solicitor-client relationship, including the obligations for keeping client information confidential 4. Describe importance of supervision in legal practice 	<ul style="list-style-type: none"> 1. Demonstrate appropriate workplace behaviours, including promoting equity, diversity, and inclusion 2. Analyze case, project, or workload needs for a given matter 3. Develop appropriate work plans for a variety of matters 4. Delegate routine tasks while providing appropriate supervision 5. Evaluate work to ensure it is accurate and internally consistent 6. Describe systems and processes for maintaining client files

LEVEL 1 - The prospective entrant to a provincial or territorial bar admission program who holds a Canadian common law degree or a CQ is able to...	LEVEL 2 - The individual upon call to the Bar is able to...
<ul style="list-style-type: none"> 5. Describe basic elements of effective teamwork and working on a team project 6. Describe types of basic technological competence associated with legal practice (e.g., email, case management, legal research, timekeeping, file management). 7. Describe the benefits and risks associated with relevant technology, including use of social media, email, virtual meetings. 8. Recognize the importance of health and well-being in the practice of law 	<ul style="list-style-type: none"> 7. Implement processes to document all aspects of client files clearly and accurately 8. Explain the basic requirements related to receiving, banking, and dispensing trust account funds 9. Describe the basic requirements related to identification and verification of clients 10. Demonstrate basic skills in effective use of office technology (e.g., equipment, software, databases) 11. Evaluate available technology to increase efficiency and provide cost effective services 12. Implement a plan to maintain balance between professional obligations and personal life 13. Identify available resources (e.g., lawyer’s assistance programs) and seek help or treatment for personal problems that might interfere with ability to serve clients
DOMAIN 8. LEGAL RESEARCH	
<ul style="list-style-type: none"> 1. Develop a research plan that includes a list of resources, key words, and a list of issues 2. Identify legal issues for a given fact pattern 3. Distill relevant facts for a basic legal issue 4. Select appropriate primary and secondary sources for legal research 5. Research and summarize applicable statutes, regulations, and procedures for a typical legal problem 6. Apply reasoning and argument to a legal issue, based on case analysis and statutory interpretation using a structured approach, for example, IRAC method, in order to reach a conclusion 7. Clearly and accurately document research process and findings for a given set of facts 8. Correctly cite sources and attribute research findings 	<ul style="list-style-type: none"> 1. Identify when due diligence research may be required 2. Identify relevant facts, legal issues and informational gaps or discrepancies for a matter 3. Interpret and apply common law, statutes, regulations, rules, procedural matters, policy, analytics, and theory for a legal question 4. Effectively use techniques of legal reasoning and argument (case analysis and statutory interpretation) 5. Draw reasonable conclusions from research conducted, considering the legal issues and the relevant facts of a matter 6. Clearly and accurately report research process and findings for a legal question in practice

LEVEL 1 - The prospective entrant to a provincial or territorial bar admission program who holds a Canadian common law degree or a CQ is able to...	LEVEL 2 - The individual upon call to the Bar is able to...
DOMAIN 9. LEGAL WRITING AND DRAFTING	
<ol style="list-style-type: none"> 1. Use appropriate and logical organizational structure to support a legal argument 2. Describe relevant legal concepts in a way the intended audience can easily understand 3. Draw conclusion(s) factually and logically connected to research for a given set of facts, and support the conclusion(s) in writing 4. Explain relevant legal theories accurately and coherently 5. Apply persuasive or informative writing style as appropriate to context and purpose of communication 6. Use Canadian legal terminology in writing 7. Draft appropriate legal document in consideration of the parties, forum, and a given set of facts 8. Describe the meaning and uses of various precedent clauses (e.g. jurisdictional clauses, force majeure) for a given fact pattern 9. Identify the basic types and elements of common litigation and solicitor documents 10. Identify the principles of law applicable to the purpose, form, and language of a legal document 	<ol style="list-style-type: none"> 1. Draft accurate and legally enforceable documents that address legal, factual, and practical issues relevant to a matter 2. Explain the applicable law and legal options in a way the intended audience can easily understand 3. Determine the relevance and apply precedent clauses or documents to a specific case 4. Draw conclusion(s) factually and logically connected to research for a legal question, and support the conclusion(s) in writing
DOMAIN 10. ADVOCACY AND LITIGATION	
<ol style="list-style-type: none"> 1. Describe the goal and objective of resolving legal matters through advocacy 2. Correctly distinguish between litigation and alternative dispute resolution mechanisms, such as negotiation, arbitration, or mediation 3. Identify the relevant issues of a case to be resolved through advocacy 4. Describe the role that information gathering, case analysis and planning play in advocacy 5. Describe the role that witnesses, legal research, experts, or specialized licensees may play in advocacy 6. Describe the importance of preparing clients and witnesses to participate in advocacy 	<ol style="list-style-type: none"> 1. Advocate in a manner appropriate to the legal and factual context 2. Evaluate strengths and weaknesses in a client's matter 3. Develop a theory of the case 4. Present written and oral legal argument in a clear, logical, succinct, and persuasive way 5. Apply appropriate strategies for managing witnesses 6. Gather, review, and present evidence in support of a client's matter

LEVEL 1 - The prospective entrant to a provincial or territorial bar admission program who holds a Canadian common law degree or a CQ is able to...	LEVEL 2 - The individual upon call to the Bar is able to...
<ol style="list-style-type: none"> 7. Explain the purpose of direct examination, cross-examination, and re-examination in advocacy 8. Identify types and forms of evidence to be used in a given advocacy pattern 9. Cite legal authority to a given adversarial fact pattern 10. Present an organized argument or submission in an advocacy scenario 	
DOMAIN 11. NEGOTIATION AND DISPUTE RESOLUTION	
<ol style="list-style-type: none"> 1. Identify the importance that negotiation plays in the conduct of a legal matter 2. Identify strategies and tactics for negotiation that are relevant to a given fact pattern 3. Distinguish legal issues that can and cannot be negotiated and settled 4. Explain the importance and potential consequences of negotiating or failing to negotiate for a given fact pattern 5. Describe the range of litigious and non-litigious mechanisms for resolving disputes, including arbitration, mediation and conciliation, and their appropriateness to different fact patterns 6. Identify appropriate forum(s) for the resolution of disputes, including consideration of alternative dispute resolution 7. Identify general legal issues that are appropriate for mediation, including determining when alternative dispute resolution is mandatory or appropriate 8. Explain the advantages and disadvantages of available alternative dispute resolution options and remedies 9. Explain the importance of obtaining instructions concerning dispute resolution 10. Identify strategies and tactics to be used during dispute resolution that are relevant to a given fact pattern 11. Explain the importance of documenting the resolution of issues 	<ol style="list-style-type: none"> 1. Identify all parties' positions, interests, objectives, and options 2. Analyze advantages and disadvantages of different dispute resolution options for a client's matter 3. Effectively prepare client for the dispute resolution process 4. Select dispute resolution mechanism most responsive to client goals and objectives, and the factual and legal context 5. Act consistently with clients' instructions and represent their interests in the dispute resolution process 6. Conduct dispute resolution process pursuant to client's instructions and in consideration of the client's goals and objectives 7. Confirm and document the outcomes of the dispute resolution process

Domain 6 – Case Matter Management	
Level 1	Level 2
<ol style="list-style-type: none"> 1. identify legal and non-legal remedies applicable to a fact pattern and how each might be pursued 2. describe, in a general way, the process by which various matters go through the court system 3. identify a client’s goal(s) and the path to try to achieve same when reviewing a simple fact pattern or case law 4. identify steps required to complete tasks and set work timelines according to deadlines and available resources 5. describe, in a general way, the work of a solicitor 6. describe, in a general way, the work of a litigator 	<ol style="list-style-type: none"> 1. describe how a legal matter progresses to completion (from level 1) 2. develop legal strategy, viable options and practical recommendations based on a fact pattern/client matter (from level 2) 3. identify the costs, benefits and risks associated with varying strategies 4. consider client’s circumstances (for example, diversity, age, language, disability, socioeconomic, and cultural context) in all aspects of matter (from level 2) 5. identify steps to execute a strategy and assign a timeline and resources 6. describe the importance of file organization and management (from level 1) 7. assimilate and act on client instructions within boundaries of the law and integrate feedback from verbal and non-verbal communications (from level 2) 8. conduct simple matter from start to finish (from level 2) 9. implement strategies to keep clients apprised of progress in their matters. (from level 2) 10. recognize limitations in own ability to handle a matter (or some aspect of it) and explain methods to ensure client is appropriately served (from level 2) 11. explain the importance of completing work in timely manner, including meeting deadlines and implement strategies for prioritizing and managing tasks and tracking deadlines (combo from level 1 and 2) 12. explain the importance of taking action when deadlines cannot be met and implement strategies to manage client file (combo from level 1 and 2) <p>(moved previous 2, 3 and 5 to CRM)</p>
Domain 7 – Practice Management	
Level 1	Level 2
<ol style="list-style-type: none"> 1. describe appropriate workplace behaviours, including adherence to professional behaviour, comportsment, and human rights (from level 1) 2. describe workplace behaviours that promote equity, diversity, and inclusion in the practice of law (level 1) 	<ol style="list-style-type: none"> 1. demonstrate appropriate workplace behaviours, including promoting equity, diversity, and inclusion (from level 2) 2. analyze case, project, or workload needs for a given matter (level 2) (this matches 3rd item in case mgmt.)

<p>3. explain the importance of civility and demonstrate civility</p> <p>4. use basic legal office technologies such as email, word processing, electronic research</p> <p>5. safely use electronic forms of communication to avoid risks of phishing, malware and similar threats</p> <p>6. manage time and resources to meet deadlines</p> <p>7. recognize the importance of health and well-being in the practice of law</p>	<p>3. develop appropriate work plans for a variety of matters (from level 2)</p> <p>4. delegate routine tasks while providing appropriate supervision (from level 2)</p> <p>5. evaluate work to ensure it is accurate and internally consistent (from level 2)</p> <p>6. describe systems and processes for maintaining client files (from level 2)</p> <p>7. describe the benefits and risks associated with relevant technology, including use of social media, email, virtual meetings. (from level 1)</p> <p>8. implement processes to document all aspects of client files clearly and accurately (from level 2)</p> <p>9. demonstrate knowledge of procedural, accounting and ethical rules relating to billing and collection including the handling of trust funds (from level 2 as amended)</p> <p>10. describe the basic requirements related to identification and verification of clients and the risks of failing to identify or verify a client's identity (from level 2 as amended)</p> <p>11. demonstrate basic skills in effective use of office technology (e.g. timekeeping, document management, software, databases) (from level 2 with some additions from level 1 e.g. timekeeping)</p> <p>12. evaluate available technology to increase efficiency and provide cost effective services (from level 2 – in retrospect, this seems higher than immediately upon call)</p> <p>13. implement a plan to maintain balance between professional obligations and personal life (from level 2)</p> <p>14. identify available resources (e.g. lawyer's assistance programs) and seek help or treatment for personal problems that might interfere with ability to serve clients (from level 2)</p> <p>15. take personal responsibility for quality of all work produced directly or thorough delegation</p> <p>16. identify, evaluate and measure the probability and severity of risks to practice and take appropriate action</p> <p>17. understand the value of regularly reviewing and assessing office systems, procedures and technologies and make changes as required</p> <p>18. understand importance of keeping apprised of emerging technologies and adapting practices as required</p>
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	<p>19. understand the importance of data security and implement steps to address risks of breaches</p> <p>20. prioritize personal and work demands in consideration of deadlines and available resources</p> <p>21. explain when it is necessary to seek assistance, expertise, and/or educational resources (<i>ties in with 10th item in case mgmt. level 2</i>)</p> <p>22. describe how files should be managed when mistakes and errors are made</p> <p>23. explain the importance of prioritizing urgent matters and managing one’s time</p>
Client Relationship Management	
Level 1	Level 2
<p>1. describe the essential elements of the solicitor-client relationship, including the obligations for keeping client information confidential (from PM level 1)</p> <p>2. identify duties owed to clients</p> <p>3. identify when a client relationship may arise</p> <p>4. identify who is and is not a client</p>	<p>1. explain the importance of a retainer agreement or retainer letter and implement use of same</p> <p>2. use client centric approach to identify client’s goals and objectives</p> <p>3. use client centric approach to advise client and obtain instructions</p> <p>4. take steps to help client to understand the scope of the particular retainer</p> <p>5. advise clients about the advantages and disadvantages of pursuing identified options or strategy, using terms the client can understand</p> <p>6. keep client informed on matter as time passes, regardless of progress in the matter</p> <p>7. identify issues concerning capacity and act accordingly</p> <p>8. identify conflict issues and act appropriately in response</p> <p>9. understand duty of confidentiality and concept of privileged communications</p> <p>10. discuss fees</p> <p>11. develop effective strategies for managing client relationships, including establishing and maintaining client confidence and managing client expectations (<i>this is from case matter mgmt. level 2</i>)</p>



MEMORANDUM

To: Benchers

From: Leah Kosokowsky

Date: January 24, 2022

Re: Trust Safety Program Guideline

The trust safety program has been operational since April 1, 2019. In keeping with the underlying principle that it is a privilege to operate a trust account and not a right, the Society has, from time to time, denied a lawyer's application to become a trust account supervisor or has revoked the person's status as a trust account supervisor. When a denial or revocation decision is made, the person affected is advised of their right to appeal that decision to the Trust Safety Appeals Committee. Appeals are conducted in accordance with the Guideline that is approved by the benchers.

Two recent events have caused us to return the Guidelines to you with some proposed amendments. First, as we foresaw in the recent Audit Monitoring Report, we have shifted the decision-making and decision-writing responsibility from the Director of Audit to the Director of Regulation. Secondly, we have received our first appeal, causing us to review some of the wording in the Guideline.

1. CEO/Delegate

In the introductory paragraph to the Appeal Process (Appendix B of the Guideline), reference is made to the chief executive officer, and includes the director of audit as the designate of the chief executive officer. Reference to the director of audit is both unnecessary and unnecessarily restrictive, given that Law Society Rule 1-1 defines "chief executive officer" as the chief executive officer or an employee to whom the chief executive officer has delegated any of her powers, duties or functions.

Accordingly, we are recommending that reference to a delegate be removed.

2. Expedited Hearing

When a trust account supervisor's status is revoked by the Law Society, the individual is advised that the related trust account must be closed within 60 days. In those circumstances, the individual is entitled to request an expedited hearing of their appeal. As currently drafted, the Notice of Appeal does not include a provision whereby the appellant can request an expedited hearing.

Accordingly, we recommend that the Notice of Appeal be amended to include such a provision.

3. Inclusive Language

Given that the Guideline is under review, we also amended the language to make it more inclusive to transgendered and non-binary individuals. The substance of the Guideline is not otherwise changed.

Recommendation: The benchers approve of the amended Trust Safety Program Guideline, the Appeal Process and the Notice of Appeal as set out in the attached document.

ATC.



Introduction

1. The Law Society of Manitoba is committed to its mandate to protect the public which includes protecting clients' money that is entrusted to lawyers.
2. The ability of practising lawyers to handle trust monies is a privilege reserved to the legal profession and it is just that – a privilege and not a right.
3. Effective April 1, 2019:
 - (a) all practising lawyers/firms who wish to open a trust account must first [apply](#) to the Law Society for approval to operate a trust account and then must meet the requirements set out by the Law Society.
 - (b) all practising lawyers/firms who already have been operating a trust account must apply to the Law Society for approval to continue to operate a trust account.
4. This guideline is intended to provide information to the profession regarding the approval criteria as well as the approval and revocation processes.
5. This guideline should be read in conjunction with *The Legal Profession Act* and the Law Society Rules.

Trust Account Supervisor

6. Every trust account must be operated under the direction and control of a trust account supervisor. A trust account supervisor is a practising (Manitoba) lawyer who has been approved by the Law Society to operate a trust account and who has successfully completed the on-line trust accounting education program.
7. To be approved as a trust account supervisor, the applicant must demonstrate a history of compliance with the Law Society Rules and the Code of Professional Conduct.¹ The applicant must also demonstrate an ability and commitment to comply with the Law Society Rules and the Code of Professional Conduct in the future and a willingness to actively assess the risks to trust safety on an ongoing basis.

Possible Results of Approval Process

8. Upon receipt of a written application, an applicant will receive written notification from the Law Society that the application has been approved, conditionally approved or denied.
9. An approved or conditionally approved applicant can proceed with the trust accounting education program, which consists of the [Trust Accounting Fundamentals](#) education program and the related examination. If unsuccessful in the education program, the applicant will not become a trust account supervisor and will

¹ See Appendix A for factors considered in the approval process.

not be able to open a trust account. If successful, the applicant becomes a qualified trust account supervisor and can thereafter open a trust account.

10. A denied or conditionally approved applicant will receive written reasons for the decision and notification of a right of appeal.²
11. A conditionally approved applicant that successfully completes the trust accounting education program will have six months to demonstrate competence and compliance with the trust accounting rules and requirements, which shall include periodic review and/or audit of the applicant's records by Law Society inspector/auditors at the cost of the applicant.
12. At the conclusion of six months, a conditionally approved applicant will be reassessed and become either approved or denied to be a trust account supervisor. If denied, ~~he/she~~ the individual will receive written reasons and notice of a right of appeal.

Appeal Process

13. Where an application to be a trust account supervisor is denied, approved with conditions or where a trust account supervisor's status is revoked, the individual can initiate an appeal by submitting a *Trust Safety Program Notice of Appeal* to the assistant to the Trust Safety Appeal Committee within 14 days of receipt of the reasons for decision².
14. The decision of the Trust Safety Appeal Committee is final.

Designated Trust Account Supervisor

15. A practising Manitoba lawyer can apply to be a trust account supervisor for another member's trust account (a designated trust account supervisor) and may be approved to do so if the proposed designated trust account supervisor otherwise meets the approval criteria and successfully completes the trust accounting education program.
16. The required level of supervision of the trust account operation by the designated trust account supervisor will be determined by the Law Society and will depend upon the particular circumstances.
17. Where a designated trust account supervisor has been approved and qualified to operate another member's trust account:
 - (a) measures will have to be taken to preserve and protect client confidentiality and solicitor and client privilege;
 - (b) when the firm or lawyer is retained, clients will need to be notified that a designated trust account supervisor is in place from outside the firm but that person will be required to preserve and protect the client's confidentiality; and
 - (c) conflicts checks will have to be conducted at the outset.

² See Appendix B *Trust Safety Program Appeal Process* and Appendix C *Trust Safety Program Notice of Appeal*.

Continued Compliance

18. Trust account supervisors are responsible for:

- (a) the controls in relation to the operation of all law firm trust accounts and general accounts;
- (b) the accuracy of the law firm's reporting requirements;
- (c) the timeliness and accuracy of the law firm's record keeping requirements; and
- (d) any of (a), (b) or (c) that has been delegated to another person.

Refer to [Trust Accounting Fundamentals](#) course for additional information.

19. Trust account supervisors may be required to participate in annual continual professional development in order to remain current on trust accounting issues, for which credit will be given toward the annual continuing professional development requirements.

Revocation

20. If a trust account supervisor demonstrates either a significant departure from or repeated non-compliance with his/her professional responsibilities, the Law Society will provide the following notice to the trust account supervisor:

- (a) all trust accounts must be closed within 60 days unless a new trust account supervisor is approved and qualified within the 60 days;
- (b) unless and until a new trust account supervisor is approved and qualified, the firm is unable to take on any new matters where the firm will be required to handle trust funds;
- (c) if a new trust account supervisor is not in place and if, at the conclusion of 60 days the trust account has not been closed, the Law Society will take custody of the trust account and attend to the closing of the trust account. All associated costs will be charged to the trust account supervisor and the firm.

21. If the trust account supervisor fails to complete any required annual professional development programming without reasonable excuse, ~~he/she may have his/her status~~ the individual's status as a trust account supervisor may be revoked in the same manner as described herein.

22. If the trust account supervisor makes an assignment in bankruptcy, a proposal to creditors or is petitioned into bankruptcy, ~~he/she may have his/her status revoked~~ the individual's trust account supervisor status may be revoked in the same manner as described herein.

23. Revocation does not affect the authority of the complaints investigation committee to take any action under Rule 5-74, including the ability to impose an interim suspension or impose conditions or restrictions on a member's practice, where appropriate.

24. Revocation can also be appealed.³

³ See Appendix B *Trust Safety Program Appeal Process*.

When deciding whether to grant approval to an applicant to become a trust account supervisor, the chief executive officer or delegate will take into account the following factors:

Trust Accounting History

1. In the last five years, has the applicant been associated with a firm where there has been non-compliance with:
 - (a) the Law Society Rules regarding the handling of trust funds;
 - (b) the rules regarding recordkeeping in respect of trust ledgers, books of original entry, receipts or monthly trust reconciliations;
 - (c) the deadlines for filing accounting records or forms (~~Annual Trust Account Reports~~).

Conduct/Competence History

2. Does the applicant have a troublesome and/or lengthy history of complaints?
3. Has the applicant been charged with conduct unbecoming a lawyer, incompetence or professional misconduct?
4. Has the applicant been formally disciplined for conduct unbecoming a lawyer, incompetence or professional misconduct?
5. Has the applicant accepted a formal caution from the complaints investigation committee?
6. Has the applicant been the subject of a practice review that was ordered by the complaints investigation committee?
7. Is the applicant subject to an undertaking, conditions or restrictions by the Law Society?

Governability

8. Does the applicant have a history of failing to respond to the Law Society, including the audit department?
9. In the last five years has the applicant been delinquent/late in:
 - (a) paying practising fees?
 - (b) remitting professional liability insurance contribution?
 - (c) paying insurance deductibles, fines or costs?
 - (d) completing mandatory continuing professional development?

10. Does the applicant owe any money to the Law Society?

Other

11. Has the applicant made a consumer proposal, assignment in bankruptcy or been petitioned into bankruptcy?

12. Is the applicant an undischarged bankrupt?

13. ~~Does the applicant have~~ Are there any outstanding civil judgments against ~~him/her~~ the applicant?

14. Has the applicant been convicted of an offence under a federal statute or are there outstanding charges of such nature against the applicant?

15. Has the applicant been found to be unsuitable to be a principal?

The following guidelines will govern appeals of trust safety decisions made by the chief executive officer under Law Society Rule 5-42.2(2). ~~In these guidelines, reference to the chief executive officer includes the director of audit as the designate of the chief executive officer.~~

Initiation of Appeal

1. An appeal will be initiated by submitting a Notice of Appeal in the required form to the assistant to the Trust Safety Appeal Committee within 14 days of the appellant's receipt of the chief executive officer's decision.
2. If an existing trust account is affected by the decision of the chief executive officer, the appellant may request in writing that the appeal be heard on an expedited basis.
3. The appellant may be represented by counsel.
4. The completed Notice of Appeal will be provided to counsel for the Law Society and to the chairperson of the Trust Safety Appeal Committee.

Information/Record

5. Upon receiving the Notice of Appeal, the chief executive officer will prepare and provide to the parties a record of materials considered by the chief executive officer when making the decision under appeal, with the exception of solicitor and client privileged information.
6. In the case of an expedited appeal, the record will be provided to the parties within seven days of the chief executive officer's receipt of the Notice of Appeal.
7. No additional materials will be considered by the appeal panel except with the consent of all parties or with leave of the panel and then only in exceptional circumstances as the appeal panel may determine.

Appointment of the Appeal Panel

8. The chairperson of the Trust Safety Appeal Committee will appoint three members of the committee to serve on the appeal panel and will appoint one member to act as chair of the appeal panel.
9. The appellant and counsel for the Law Society will be advised of the proposed composition of the appeal panel to determine if either party has an objection based on conflict of interest or bias.

Appeal Format

10. The appeal panel will consider an appeal based solely on written submissions unless the appellant requests an oral hearing or the chairperson of the Trust Safety Appeal Committee directs an oral hearing.

Setting the Appeal Date

11. For appeals based solely on written submissions, the appeal date will be fixed by the chair of the appeal panel. The appellant and counsel for the Law Society will be advised of the appeal date so that they may submit written materials within the time prescribed by the guidelines.
12. If the appeal is to be considered by way of an oral hearing, once the parties agree upon a date for the hearing, the chair of the Trust Safety Appeal Committee will fix the appeal date and members of the Committee will be canvassed for their availability.
13. In the case of an expedited appeal, the chair of the Trust Safety Appeal Committee will set the appeal to be heard within 14 days of the delivery of the record to the parties.

Written Materials

14. In the case of a standard appeal:

- (a) At least 21 days before the appeal date, the appellant must provide to the assistant to the Trust Safety Appeal Committee five copies of written argument and authorities upon which he/she the appellant is relying.
- (b) Counsel for the Law Society will be provided with one copy of the appellant's materials.
- (c) At least seven days before the appeal date, counsel for the Law Society must provide to the assistant to the Trust Safety Appeal Committee five copies of written argument and authorities upon which he/she counsel is relying.
- (d) The appellant will be provided with one copy of the written materials submitted by counsel for the Law Society.

15. In the case of an expedited appeal:

- (a) At least 3 days before the appeal date, both parties must provide to the assistant to the Trust Safety Appeal Committee five copies of written argument and authorities upon which they are relying.
- (b) Within one day of receipt of the written argument and authorities, the assistant to the Trust Safety Appeal Committee will provide each party with one copy of the other party's materials.

16. Prior to the appeal date, the appeal panel will be provided with copies of the record along with the written argument and authorities submitted by the parties.

17. No further written materials may be submitted without leave of the appeal panel.

Oral Hearings

18. Witnesses, including the appellant may be called during oral hearings only with leave of the appeal panel and only in exceptional circumstances as may be determined by the appeal panel. The testimony of an appellant or witness at an oral hearing must be taken under oath unless the chairperson of the panel waives the requirement.

19. Oral hearings will be transcribed and each party will bear its own costs of obtaining a transcript, if required.

Decision of the Appeal Panel

20. The appeal panel may dismiss the appeal, make any decision to the chief executive officer could have made, or allow the appeal with or without conditions.
21. The appeal panel must provide written reasons for its decision.
22. In the case of a standard appeal, the appeal panel should provide its written reasons within 30 days of the conclusion of the hearing.
23. In the case of an expedited appeal, the appeal panel must deliver its decision within seven days of the conclusion of the hearing and should provide written reasons for its decision within 14 days of the conclusion of the hearing date.



NOTICE OF APPEAL
TO
THE TRUST SAFETY APPEAL COMMITTEE

In the Matter of:

Appellant,

And in the Matter of:

A Decision of

[insert the CEO or delegate]

Dated

1. Take notice that the appellant is appealing the decision to [approve with conditions, deny or revoke] the appellant's status as a Trust Account Supervisor.
2. The grounds for appeal are:

[Set out the basis for your appeal. Indicate whether your grounds relate to new information that was not previously provided to the chief executive officer and if so, please provide a description of the new information.]

3. The appeal panel will consider an appeal based solely on written materials unless the appellant requests an oral hearing or the Chairperson of the Trust Safety Appeal Committee directs an oral hearing.

___ I request an oral hearing.

___ I am not requesting an oral hearing.

4. I am asking the appeal panel to:

5. When an existing trust account is affected by the decision:

___ I request an expedited hearing.

___ I am not requesting an expedited hearing.

Date

Signature/Counsel



MEMORANDUM

To: Benchers

From: Executive Committee

Date: January 25, 2022

**Re: Election and Appointment Year
- Appointment of Nominating Committee**

The 2022 bencher election and appointment process will soon be underway. Under Rennie's able direction, Law Society staff are busy readying the processes and procedures to ensure a smooth, transparent and accountable election process.

As you will recall, the bencher table is made up of 12 elected benchers, of which eight are from the City of Winnipeg electoral district and one bencher is elected from each of the Western, Northern, Eastern and Dauphin-Central electoral districts.

The bencher table also is comprised of four appointed lawyer benchers and six lay benchers and is rounded out with the Dean of the Faculty of Law, the bar admission student bencher and the immediate past president of the Society.

If you are an appointed bencher, you will have received an email from Pat Bourbonnais, in accordance with the Appointed Bencher Policies, requesting that you declare by January 31, 2022 your intention to seek re-appointment.

For the appointed lawyer benchers, please note that you are eligible to run for election even if you have declared your intention to seek re-appointment and we encourage you to consider running for election. If you are successful, the Society will have additional appointment options to consider and if you are not successful, you are not precluded from applying for an appointed bencher position.

In the most recent issue of the [*Communiqué*](#), we have placed a notice of the upcoming election and appointment process and we have encouraged all members to consider joining the governing body. We are also grateful to Ken Mandzuik, Kelli Potter and Susan Boulter who provided testimonials regarding their experiences as a bencher.

We have also encouraged those who may be interested to speak with an existing bencher and, in particular, members of our executive. In addition to the above, the Society used our twitter account to invite interested members to consider joining the bencher table.

Of course, in addition to the bencher election, we will also elect our new executive. Typically, the executive election occurs at the April bencher meeting. This year, however, we do not have a meeting in April and, therefore, the election will take place at the March 24, 2022 bencher meeting. Two matters arise from that fact.

First, the benchers are required to establish the Nominating Committee at the February 3rd meeting. Secondly, the benchers are being asked to suspend the application of Law Society Rule 2-54 to allow for the executive election to occur at the March 24, 2022 meeting.

Nominating Committee

Pursuant to Law Society Rule 2-51, the Nominating Committee is to be comprised of:

- The president
- The vice-president
- The past president
- Two lay benchers
- Two lawyer benchers, one of whom must be from outside of the City of Winnipeg.

In addition to the executive members, the Executive nominate Ashley Joyce and Kyle Dear to be the lawyer bencher members of the Nominating Committee and nominate Susan Boulter and Miriam Browne to sit as the lay bencher members of the Nominating Committee. Each of these individuals has agreed to serve.

Recommendation: The Executive Committee recommends that you appoint a Nominating Committee consisting of Grant Driedger, Sacha Paul, Lynda Troup (chairperson), Susan Boulter, Miriam Browne, Ashely Joyce and Kyle Dear.

Recommendation: Given that the next two bencher meetings are scheduled for March 24, 2022 and May 19, 2022, the Executive Committee recommends that you suspend the application of Law Society Rule 2-54 that stipulates that the Nominating Committee will propose candidates for the positions of president and vice-president at a meeting held in April.

Join Your Governing Body

Are you interested in providing leadership and input into the Law Society's work to protect the public interest?

Are there initiatives about which you are particularly passionate? Lawyer Health and Wellness? Equity, Diversity and Inclusion?

Are you feeling isolated in your practice and looking for an opportunity to network with and learn from lawyers and public representatives from all different areas of practice and experience?

After nearly two years of uncertainty caused by the pandemic, the practice of law is undergoing significant change and there are many challenges and learning opportunities ahead.

The Law Society bench election and appointment processes will take place in May 2022, and we encourage you to consider running for election or applying for appointment as you will find the experience to be engaging and rewarding.



Here are what some current benchers have to say about their experience:

One of the things that I've enjoyed most about being a bencher is learning from and working with colleagues and staff who are committed to ensuring that the Law Society grows and evolves as an organization to reflect the changing needs, values and priorities of lawyers and the public.



Kelli Potter
Appointed Bencher

Serving as a bencher has been a great experience - not only to see how the sausage is made, but also because it's been so reassuring to see multiple viewpoints and positions considered before decisions big or small are made. Everyone should seriously consider getting involved.



Ken Mandzuik
Elected Bencher

I have been a lay (non-lawyer) bencher for several years and it has been a rewarding and fascinating experience. Public representatives provide an important perspective on matters before the Law Society. I know we are contributing to a more transparent, equitable and inclusive profession.



Susan Boulter
Lay Bencher

As a self-regulated profession, the bencher table is comprised of 12 elected lawyers, four appointed lawyers and six appointed public representatives. To be eligible for election or appointment, a member of the Law Society must be a practising lawyer on the 1st Monday in March. Each bencher sits for a two year term, for a maximum of four terms (eight years). To learn more, see our website on how to [Become a Bencher](#).

If you have any questions about becoming a bencher, please contact any one of the following:

Leah Kosokowsky, Chief Executive Officer 204-926-2030

lkosokowsky@lawsociety.mb.ca

Grant Driedger, President 1-204-346-5112

gdriedger@snj.ca

Lynda Troup, Past President 204-934-2337

lkt@tdslaw.com



MEMORANDUM

To: Benchers

From: Leah Kosokowsky

Date: January 31, 2022

Re: Bencher Expense Budget

Attached for your approval you will find the bencher expense budget for the 2022-2023 year.

Whereas last year we budgeted for fewer in person meetings and events, we are optimistic that the public health regulations and requirements will allow for more in person bencher meetings and events as well as travel for Federation business. With that said, our experience through the pandemic has demonstrated that much of our committee work can be accomplished efficiently and effectively over the Zoom platform and therefore, we have budgeted for fewer in person committee meetings.

We have budgeted \$5,000 for a separate "Catering/other reception". This represents the Society's cost of hosting the joint MBA/bencher holiday reception held in December of each year.

The increase in the budget for Honoraria reflects an increase in the number of lay benchers/public representatives receiving an honoraria, including the public representatives on the Indigenous Advisory Committee.

The Course/conference expenditure of \$11,000 reflects mainly the cost of purchasing the Law Society of Alberta's tribunal training program which will be used to deliver training for the Discipline Committee as well as other Law Society appeal committees. This expenditure was approved by the benchers following receipt of the Complaints and Discipline monitoring report in May 2021 with the direction that it be included in this year's budget.

You will note that there is no longer a budget item for a General Consulting expense, as last year's expense related to the cost of the facilitator for the strategic planning sessions.

ATC.

Law Society of Manitoba
 Bencher Expense Budget
 April 1, 2022 to March 31, 2023

FINAL

	Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
Allowances - Pres/Vice	\$ 75,000	\$ 80,000	\$ 77,500
Committee meetings catering	\$ 723	\$ 4,000	\$ 3,000
Meetings catering	\$ 2,103	\$ 3,000	\$ 12,000
Strategic planning catering	\$ -	\$ 7,500	\$ -
Other receptions catering/functions	\$ 600	\$ 3,000	\$ 5,000
President reception	\$ -	\$ 10,000	\$ 10,000
Gifts	\$ 920	\$ 1,000	\$ 1,000
Honoraria	\$ 22,600	\$ 25,000	\$ 30,000
Miscellaneous	\$ -	\$ 100	\$ 1,000
Courier	\$ 165	\$ -	\$ -
Office supplies	\$ -	\$ 200	\$ -
Notifications	\$ 3,730	\$ 4,000	\$ 5,000
Course/conference fee	\$ -	\$ 2,000	\$ 11,000
General consulting	\$ 29,592	\$ 25,000	\$ -
Speaker fee	\$ -	\$ 1,500	\$ 1,000
Rent space	\$ -	\$ 300	\$ 1,000
CPP	\$ 4,073	\$ 3,980	\$ 4,020
MB payroll tax	\$ 1,613	\$ 1,720	\$ 1,670
Tech services	\$ -	\$ 750	\$ -
Conferencing	\$ -	\$ 200	\$ -
Bencher/committee travel	\$ 205	\$ 15,000	\$ 29,600
President/Vice travel	\$ -	\$ 13,000	\$ 30,500
Presenter travel	\$ -	\$ 1,000	\$ 1,000
Total expenses	\$ 141,324	\$ 202,250	\$ 224,290



MEMORANDUM

To: Benchers

From: Leah Kosokowsky

Date: January 25, 2022

Re: 2022 - 2023 Budget

INTRODUCTION

Attached to this memo you will find the Law Society of Manitoba budget for the period April 1, 2022 to March 31, 2023. In accordance with the Governance Policies, the Chief Executive Officer is to present to you a budget that is within the twelve Executive Limitations that have been established by the benchers. Although it is not necessary that you formally approve the budget, it is important for you to be satisfied that the budget falls within those Executive Limitations.

FOUR FUNDS

As you are aware, the Law Society operates under the umbrella of four separate purpose funds:

1. The General Fund – The purpose of this Fund is to account for the general operations of the Society, including accounting, admissions and membership, benchers, complaints resolution, discipline, information technology and general administration.
2. The Reimbursement Fund – This Fund exists for the benefit of clients who suffer losses from the theft of their assets (usually money) by lawyers. The operations of the audit department are recorded within this Fund.
3. The Professional Liability Claims Fund - This Fund provides insurance coverage to all practising Manitoba lawyers.

4. The Education and Competence Fund – The purpose of this Fund is to support lawyers by providing the knowledge and skills for them to become and remain competent to serve the public.

EXECUTIVE LIMITATIONS

The Executive Limitations relating to the budget initially were adopted in December 1995, and most recently amended in February 2018. They require that the Chief Executive Officer prepare a budget that meets the following criteria.

1. The budget contains sufficient information and credible projections, and attributes costs associated with each fund.
2. The planned expenditures do not exceed the anticipated revenue or available equity in each of the funds.
3. It includes a budget related to Bencher activity.
4. The budget restricts the combined increase in the General Fund and the Education and Competence Fund levy to less than 10% in any year and 33 1/3% over five years.
5. For the General Fund, the ending reserve must be at least 20% of the budgeted expenditures.
6. In the General Fund, for any fee or other assessment over \$100 (other than practising), the annual increase is not more than 25% in any year.
7. For the Reimbursement Fund, the ending reserve must be more than the aggregate group deductible as set under the Society's Trust Protection Indemnification Policy, which is currently \$500,000.
8. The Reimbursement Fund provides for insurance to at least \$10,000,000 limit of liability.
9. In the Professional Liability Claims Fund, the fee set is at least the amount recommended by our actuary.
10. In the Professional Liability Claims Fund, the assessment is dependent upon the claims experience of the Program as a whole and the claims history of the individual lawyer.

11. For the Education and Competence Fund, the ending reserve is greater than 20% of the budgeted expenditures.
12. The budget attributes to each fund of the Law society all costs reasonably associated with that fund.

The budget presented to you does, in fact, meet each of the limitations set.

Every year the budgeting process faces its difficulties. This year, the main challenge is to predict normal operations as we approach the end of a second year of operating during a pandemic. We have also seen an increase in the number and complexity of insurance claims and are budgeting for a number of proactive initiatives to further our mandate to protect the public interest in the delivery of legal services. As you will note, although we have provided for an increase in practising fees of \$170, we have budgeted for small deficits in three of the four funds.

INCOME

The most significant sources of income for the Society are an annual grant received from the Manitoba Law Foundation, investment income and the annual practising fees charged to our members.

Pursuant to s. 90 of *The Legal Profession Act*, the Society receives an annual grant from the Manitoba Law Foundation which is calculated at 16.67% of the interest earned on lawyers' pooled trust accounts. Interest earned can be quite variable. For example, the grant exceeded \$1.3 million two years ago, while the current year's grant was \$357,801 and it is projected to be \$375,000 for the 2022- 2023 fiscal year. This revenue is allocated to the Reimbursement Fund and the Education and Competence Fund, in equal amounts.

Budgeting for the expected level of investment income for the upcoming year is also challenging, particularly in these unprecedented times. For the 2021-2022 year, we budgeted the RBC investment income at \$650,000 and, effective December 31, 2021, the budgeted amount was surpassed. We are expecting to end the year with over \$1 million of investment income and we have budgeted \$1 million in investment income for the 2022-2023 year.

In accordance with the advice received from our external auditors, the investments are held in the Reimbursement Fund and the Professional Liability Claims Fund as they are the insurance related funds, with 1.84% of the entire investment portfolio allocated to the Reimbursement Fund and the remaining 98.16% allocated to the Professional Liability Claims Fund. The investment income and expenses are allocated to each of the funds based on its percentage ownership of the entire

portfolio. Income earned on RBC investments is left in the portfolio. That is, the income earned does not generate cash to help pay for the fund's expenses.

When setting the annual budget, our goal is to not increase the practising fees charged to our members if at all possible. However, a reduction in other revenue along with the requirement to fund our initiatives has resulted in an increase in the practising fee of \$170 per member. The practising fee is allocated to the General Fund, the Reimbursement Fund and the Education and Competence Fund. In this budget, the \$2,845 practising fee is allocated with \$2,130 in the General Fund, \$540 in the Reimbursement Fund, and \$175 in the Education and Competence Fund. The allocation of the practising fee may change from year to year as the demands or expenses of each fund change.

As you may recall, last year members were permitted to pay their fees in three instalments, rather than the usual two instalments, to alleviate any anticipated financial pressure arising from the pandemic. With some indications that the pandemic will subside over the next many months, we have budgeted for a return to our previous practice of permitting the remittance to be made by one payment in full or by two installments.

SALARIES

Salaries and benefits typically account for roughly half of total annual expenditures. In 2020, we deferred increases in salaries for a period of six months and the salary adjustments that were made in October 2020, remained in effect for a period of 18 months, to March 31, 2022. Given the ongoing financial challenges, we have budgeted for a modest increase in salaries for the 2022-2023 year. We have also seen some significant staff changes:

- In December 2020, Ronald Rarama was hired in a new IT position;
- In January 2021, Clayton McKnight was hired to replace Trevor Oleniuk;
- In January 2021, Mike Morier was hired to replace Leslie Supnet;
- In May 2021, Natasha Brown was hired as the new Access to Justice Coordinator;
- In May 2021, we hired a summer student, Rhiannon Swan;
- In June 2021, Rennie Stonyk was hired to replace me as Director of Regulation;
- In June 2021, Ashley Korsunsky was hired to replace Susan Billinkoff;
- Effective February 22, 2022, Lori Borkowsky will join the Audit Department, replacing Deborah Metcalfe;
- Effective February 28, 2022, Sharon Kravetsky will become the new Resource Coordinator, replacing Vivian Hilder; and
- Effective March 1, 2022, William Barnstead will join the Insurance Department as an additional claims counsel.

Within the last year, we also saw the retirement of Dana Earley (May 1, 2021), Susan Billinkoff (June 1, 2021) and Deborah Metcalfe (January 1, 2022).

GENERAL FUND

In the General fund, you will find a reference to “Interfund admin charges” and in each of the other funds you will find a corresponding expense called ‘Grant to General fund’. These transfers reflect the administrative resources from the General Fund that are used by the other funds, such as CEO time, accounting and IT support, use of the leased premises as but a few examples. This year the amount of the interfund transfers remained the same as last year for the Reimbursement Fund and the Professional Liability Claims Fund. However, the charge to the Education and Competence Fund was reduced by \$100,000 given that resources are no longer being used to deliver the bar admission program.

PROFESSIONAL LIABILITY CLAIMS FUND

The manner in which the insurance levy is set and the timing thereof both affect the ability to accurately budget in the insurance fund at this early date. That is, the insurance levy is determined by an extensive review conducted by an external actuary, which is completed in May. As noted in Executive Limitation #9, the insurance levy cannot be less than the amount recommended by the actuary. In addition, the Canadian Lawyers Insurance Association (CLIA) also sets the amount of mandatory insurance in May and, of course, it is challenging to predict the number and amount of reimbursement and negligence claims that will be made over the next year. Accordingly, we have left unchanged the annual insurance levy at \$1,500 per member plus an additional \$45 per member for cyber insurance. Of the \$1,500, we are assuming that the Society will remit \$300 per member to CLIA for the mandatory insurance, leaving the Society with \$1,200 per member for operational expenses.

CPLED LOAN AND SUBSIDY

As you know, since June 2020 the PREP bar admission program has been delivered by CPLED through a centralized business model. To fund CPLED’s initial development of the PREP program, the Society loaned \$600,000 to CPLED along with additional contributions from the law societies of Alberta and Saskatchewan. Repayment of the loan, with interest, began this fall, with the first interest payment having been waived by all three jurisdictions.

Given that the delivery of PREP is more costly than the Society's previous bar admission program and with tuition fees of \$6,100 per student, the benchers decided that the Society would provide a \$2,600 subsidy toward the tuition cost for each student who articling in Manitoba. With an estimated 120 Manitoba articling students participating in PREP, the annual cost to the Society is budgeted at \$312,000. This expense has been moved from the Education and Competence Fund to the General Fund because the Society no longer has a role in delivering the program and is merely providing financial support for those who are enrolled. As we noted when we delivered last year's budget to you, the move to a centralized model for CPLED has had a considerable impact on the Society's finances. In the previous model, tuition fees charged by the Society to each student provided the necessary funding to deliver the program. Under the new model, the Society does not deliver any aspect of the program and no income is generated as a result, yet the Society subsidizes the tuition for Manitoba articling students. However, as reported to you elsewhere, a strategic objective for CPLED is to expand into other Canadian jurisdictions and at least one other jurisdiction is having a group of students engage in the program on a pilot basis. Were the program to expand to other jurisdictions, the increased revenue could reduce the tuition fees for all students, thereby reducing the need for a subsidy.

INITIATIVES

The budget includes expenses related to several new or continuing initiatives/programs that are focused on improving the competence of the profession and raising the public's awareness of the Society's public protection mandate. These include funding for:

- The Manitoba Law Library - \$525,000
- CLEA - \$67,000
- Access to Justice Coordinator (fully funded by the Manitoba Law Foundation for 2 years)
- Peer Support Program (Law(yer) Strong)- \$72,000 (part to be paid this year)
- Development of Indigenous cultural awareness program - \$35,000
- Indigenous Advisory Committee - \$20,000
- Mental health diversion program- \$5,000
- Mental Health First Aid training - \$5,000
- Anti-money laundering training - \$5,000
- Model policies for the profession - \$5,000
- Outreach to high schools/Indigenous communities - \$1,000
- Firm self-assessment tool platform - \$10,000
- Continuing Professional Development resources, speakers and programs
- Building connections events (Indigenous students and NCA students)

SUMMARY

With the increase in practising fees of \$170 per member, we have budgeted for the following surplus/(deficits):

General Fund	\$ (286,912)
Reimbursement Fund	(66,188)
Professional Liability Claims Fund	224,472
Education and Competence Fund	<u>(45,760)</u>
Total	<u>\$ (174,388)</u>

Notwithstanding the deficit budget, the Society is in a good position this year to draw down on past surpluses. While in the previous year we budgeted for a combined loss of \$1,063,605, the financial performance is expected to be better than anticipated due to the fact that many of the anticipated expenses were not incurred, such as bencher and staff travel and in person meetings and functions (the Call to the Bar Ceremony, the President's reception, strategic planning). In addition, although we anticipated a terrible year for claims in both the Reimbursement Fund and the Professional Liability Claims Fund, we were able to recoup many of the damages and defence costs made. CLIA was not only able to reduce the mandatory insurance premium, when we had anticipate a large increase, but also provided a surplus rebate approaching \$500,000. As a result, we expect to end the year March 31, 2022 with a net income of close to \$2 million.

I am both comfortable that this budget reflects how we expect this year to proceed and what next year may have in store for the Society.

ATC.

Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2022 to March 31, 2023

FINAL

Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
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Income

Administration fees

Admin fee, MB Library	\$ 20,000	\$ 20,000	\$ 20,000
Instalment payment fee	\$ 54,590	\$ 59,000	\$ 50,000
Late payment penalty	\$ 13,730	\$ 6,000	\$ 8,000
Refund fee	\$ 15,400	\$ 16,000	\$ 15,500

Total administration fees	\$ 103,720	\$ 101,000	\$ 93,500
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Annual Fee

Non-practising	\$ 31,300	\$ 30,000	\$ 30,000
Practising full	\$ 4,215,840	\$ 4,081,000	\$ 4,579,500

Total annual fee	\$ 4,247,140	\$ 4,111,000	\$ 4,609,500
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Application fees

Application fee, other	\$ 1,700	\$ 1,000	\$ 1,500
Application to article	\$ 12,800	\$ 13,000	\$ 13,000
Exemption from articling	\$ 1,400	\$ 1,400	\$ 1,400
Law student registration	\$ 3,420	\$ 2,800	\$ 3,400
Resumption of active practise	\$ 8,550	\$ 7,500	\$ 7,800
Transfer to MB Bar	\$ 6,000	\$ 6,000	\$ 6,000

Total application fees	\$ 33,870	\$ 31,700	\$ 33,100
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Call fee

PREP	\$ 73,200	\$ 66,000	\$ 72,000
Transfers	\$ 13,800	\$ 12,000	\$ 13,200

Total call fee	\$ 87,000	\$ 78,000	\$ 85,200
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Contribution, leasehold allowance

Capital items	\$ 82,081	\$ 109,620	\$ 72,900
Expense items	\$ 12,982	\$ 14,080	\$ 13,080

Total contribution, leasehold	\$ 95,063	\$ 123,700	\$ 85,980
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Costs recovered - discipline

\$ 40,562	\$ 50,000	\$ 45,000
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Grants

Employment	\$ 3,332	\$ 3,000	\$ 3,500
MB Law Foundation Access	\$ 98,067	\$ 134,000	\$ 130,760
Retrain MB	\$ 2,000	\$ -	\$ 3,000

Total grants	\$ 103,399	\$ 137,000	\$ 137,260
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Interest income	\$ 22,848	\$ 30,000	\$ 25,000
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Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2022 to March 31, 2023

FINAL

	Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
Other income			
Certificate of standing	\$ 9,800	\$ 10,000	\$ 10,000
Fast track revenue	\$ 27,600	\$ 27,500	\$ 27,500
Insurance claim proceeds	\$ 1,276	\$ -	\$ -
Law corporation fees	\$ 90,100	\$ 81,000	\$ 88,500
Locker rental revenue	\$ 10,200	\$ 10,500	\$ 10,500
Miscellaneous revenue	\$ 2,194	\$ 1,000	\$ 1,000
Section 51 revenue	\$ 47,184	\$ 47,184	\$ 42,923
Total other income	\$ 188,354	\$ 177,184	\$ 180,423
Total Income	\$ 4,921,956	\$ 4,839,584	\$ 5,294,963
Expense			
Allowances - Pres/Vice	\$ 75,000	\$ 80,000	\$ 77,500
Building operation/maintenance			
Building insurance	\$ 15,775	\$ 15,250	\$ 16,000
Janitorial services	\$ 18,051	\$ 27,200	\$ 25,800
Janitorial supplies	\$ 755	\$ 1,200	\$ 1,200
Maintenance	\$ 5,754	\$ 5,000	\$ 5,000
Total building operation/maintenance	\$ 40,335	\$ 48,650	\$ 48,000
Catering/functions			
50 Year lunch	\$ -	\$ 1,000	\$ -
Call ceremony	\$ 909	\$ 12,000	\$ 12,000
Coffee/water/pop/milk	\$ 3,222	\$ 4,000	\$ 4,000
Committee meetings	\$ 723	\$ 4,000	\$ 3,000
Meetings	\$ 2,103	\$ 5,000	\$ 14,300
Strategic planning	\$ -	\$ 7,500	\$ -
Other receptions	\$ 1,500	\$ 5,000	\$ 15,000
President's reception	\$ -	\$ 10,000	\$ 10,000
Staff functions	\$ 4,566	\$ 5,700	\$ 7,500
Total catering/functions	\$ 13,023	\$ 54,200	\$ 65,800
Counsel -prosecution & investigation	\$ 8,000	\$ 10,000	\$ 3,000
Custodial expenses			
Custodian fees	\$ 50,117	\$ 60,000	\$ 51,160
File storage costs	\$ 8,551	\$ 5,000	\$ 10,800
Total custodial expenses	\$ 58,668	\$ 65,000	\$ 61,960

Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2022 to March 31, 2023

FINAL

	Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
Depreciation expense			
Hardware	\$ 21,894	\$ 49,500	\$ 5,300
Furniture/equipment	\$ 7,477	\$ 8,880	\$ 7,500
Leasehold improvement	\$ 65,436	\$ 65,600	\$ 65,460
Software	\$ -	\$ 21,840	\$ -
Total depreciation expense	\$ 94,807	\$ 145,820	\$ 78,260
Grants/prizes			
CANLII grant	\$ 90,895	\$ 90,600	\$ 91,000
CLEA grant	\$ 67,000	\$ 67,000	\$ 67,000
FLSC annual levy	\$ 55,232	\$ 55,000	\$ 55,000
Forgiveable loan	\$ 16,698	\$ -	\$ 18,000
Gifts	\$ 2,609	\$ 7,500	\$ 4,000
MB Library grant	\$ 525,000	\$ 525,000	\$ 525,000
Misc grants/donations	\$ 1,500	\$ 3,700	\$ 2,500
PREP subsidy	\$ -	\$ -	\$ 312,000
Prizes	\$ 4,500	\$ 4,500	\$ 4,500
Staff recognition	\$ 440	\$ 2,500	\$ 2,500
Total grants/prizes	\$ 763,874	\$ 755,800	\$ 1,081,500
Honoraria	\$ 22,600	\$ 33,000	\$ 30,000
Initiatives			
Access to justice	\$ 117,561	\$ -	\$ 144,275
Outreach to high schools	\$ -	\$ -	\$ 500
Outreach to indigenous community	\$ -	\$ -	\$ 500
Cultural Awareness, The Path	\$ -	\$ -	\$ 35,000
Total initiatives	\$ 117,561	\$ -	\$ 180,275
Interfund admin charges			
Education and Competence	\$ (200,000)	\$ (200,000)	\$ (100,000)
Professional Liability Claims	\$ (475,000)	\$ (475,000)	\$ (475,000)
Reimbursement	\$ (300,000)	\$ (300,000)	\$ (300,000)
Total interfund admin charges	\$ (975,000)	\$ (975,000)	\$ (875,000)
Miscellaneous expense	\$ 319	\$ 500	\$ 1,500
Office and sundry			
Courier	\$ 3,826	\$ 5,000	\$ 4,000
Office furniture/equipment	\$ 500	\$ 3,000	\$ 2,000
Office supplies	\$ 10,836	\$ 18,000	\$ 13,000
Photocopying expense	\$ 21,790	\$ 18,000	\$ 22,000
Postage/fax	\$ 4,370	\$ 8,000	\$ 6,000
Total office and sundry	\$ 41,322	\$ 52,000	\$ 47,000

Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2022 to March 31, 2023

FINAL

	Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
Other services			
Court reporters	\$ 8,460	\$ 13,000	\$ 10,000
Filing fees	\$ 2,367	\$ 2,500	\$ 2,500
Notifications	\$ 6,251	\$ 8,000	\$ 8,000
Serving of documents	\$ 874	\$ 1,500	\$ 1,500
Total other services	\$ 17,952	\$ 25,000	\$ 22,000
Professional development			
Course/conference fees	\$ 9,243	\$ 10,000	\$ 18,800
Membership fees	\$ 5,250	\$ 7,500	\$ 5,000
Total professional development	\$ 14,493	\$ 17,500	\$ 23,800
Professional fees			
Complaints commissioner	\$ 6,500	\$ 12,500	\$ 8,000
Contract services	\$ 565	\$ 4,000	\$ 1,000
Discipline chair	\$ 20,000	\$ 22,000	\$ 20,000
External audit	\$ 36,064	\$ 37,000	\$ 55,000
General legal/consulting	\$ 43,520	\$ 35,000	\$ 17,700
Indigenous advisor	\$ 20,000	\$ 5,000	\$ 20,000
Mental health diversion	\$ 30,000	\$ 26,500	\$ 5,000
Pension advisor	\$ 22,525	\$ 20,000	\$ 34,000
Practice audits	\$ -	\$ 25,000	\$ -
Speaker fee	\$ 420	\$ 3,000	\$ 4,250
Systems consulting	\$ -	\$ 2,000	\$ 5,000
Total professional fees	\$ 179,594	\$ 192,000	\$ 169,950
Publications			
Books/subscriptions	\$ 10,394	\$ 10,500	\$ 10,500
LSM regulations	\$ 843	\$ 3,000	\$ 1,000
Outside printing	\$ -	\$ 1,000	\$ -
Total publications	\$ 11,237	\$ 14,500	\$ 11,500
Rent space			
Additional rent	\$ 206,530	\$ 235,000	\$ 207,000
Basic rent	\$ 268,747	\$ 270,000	\$ 270,000
Management fee	\$ 13,437	\$ 14,110	\$ 13,800
Parking	\$ 1,000	\$ -	\$ 1,000
Outside rent	\$ -	\$ 500	\$ 3,000
Total rent	\$ 489,714	\$ 519,610	\$ 494,800
Salaries and benefits			
CPP exp	\$ 94,536	\$ 86,500	\$ 98,110
EI exp	\$ 29,965	\$ 28,325	\$ 30,105
Group insurance	\$ 261,060	\$ 236,000	\$ 268,360
MB payroll tax	\$ 59,688	\$ 61,725	\$ 62,850
Pension - current service	\$ 466,966	\$ 492,125	\$ 570,285
Salaries	\$ 2,664,021	\$ 2,767,925	\$ 2,853,230
Total salaries and benefits	\$ 3,576,236	\$ 3,672,600	\$ 3,882,940

Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2022 to March 31, 2023

FINAL

	Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
Service fees			
Banking fees	\$ 90	\$ 500	\$ 200
Bill payment fees	\$ 912	\$ -	\$ 1,200
CAFT fees	\$ 755	\$ 600	\$ 900
Credit card fees	\$ 605	\$ 600	\$ 700
Payworks	\$ 3,551	\$ 3,600	\$ 3,900
Total service fees	\$ 5,913	\$ 5,300	\$ 6,900
Technology			
Hardware	\$ 4,566	\$ 10,000	\$ 16,000
Software	\$ 8,708	\$ 5,000	\$ 13,290
Tech services	\$ 25,047	\$ 28,000	\$ 26,370
Total technology	\$ 38,321	\$ 43,000	\$ 55,660
Telecommunications			
Conferencing	\$ -	\$ 500	\$ -
Telephone	\$ 9,862	\$ 11,000	\$ 9,180
Total telecommunications	\$ 9,862	\$ 11,500	\$ 9,180
Travel			
Access travel	\$ -	\$ 10,000	\$ -
Bencher/committee travel	\$ 305	\$ 15,000	\$ 29,600
President/Vice travel	\$ -	\$ 13,000	\$ 30,500
Presenters travel	\$ -	\$ 3,000	\$ 3,000
Staff travel	\$ 100	\$ 20,000	\$ 42,250
Total travel	\$ 405	\$ 61,000	\$ 105,350
Total Expense	\$ 4,604,236	\$ 4,831,980	\$ 5,581,875
Net Income	\$ 317,720	\$ 7,604	\$ (286,912)
Fund Equity, beginning of year	\$ 11,345,089	\$ 11,345,089	\$ 11,662,809
Fund Equity, end of year	\$ 11,662,809	\$ 11,352,693	\$ 11,375,897

Executive limitation

203.80%

(> 20%, fund equity end of year/total expenses)

Law Society of Manitoba
 Reimbursement Fund (RF) Budget
 April 1, 2022 to March 31, 2023

FINAL

	Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
Income			
Practising fees	\$ 1,259,485	\$ 1,219,000	\$ 1,161,000
Manitoba Law Foundation	\$ 178,901	\$ 167,692	\$ 187,500
Investment - RBC	\$ 22,816	\$ 11,440	\$ 18,400
Total Income	\$ 1,461,202	\$ 1,398,132	\$ 1,366,900
Expense			
Damages, net of recoveries	\$ (89,107)	\$ 550,000	\$ 50,000
Administration fees	\$ 116	\$ 10,000	\$ 30,000
Lawyers trust protection premium	\$ 222,766	\$ 210,000	\$ 230,000
Lawyers trust retro assessment	\$ 260,438	\$ 260,438	\$ 260,438
Grant to General Fund (GF)	\$ 300,000	\$ 300,000	\$ 300,000
Miscellaneous	\$ 250	\$ 350	\$ 350
Courier	\$ 354	\$ 1,000	\$ 1,000
Office furniture/equipment	\$ 1,175	\$ -	\$ 500
Office supplies	\$ 386	\$ 300	\$ 300
Photocopying	\$ 486	\$ 700	\$ 550
Filing fee	\$ 30	\$ -	\$ -
Course/conference fee	\$ 618	\$ 1,700	\$ 1,700
Membership fees	\$ 4,360	\$ 5,000	\$ 5,000
Contract services	\$ 60	\$ -	\$ -
Investment management expense	\$ 1,745	\$ 2,000	\$ 2,000
Parking expense	\$ 4,420	\$ 4,800	\$ 4,800
CPP exp	\$ 13,529	\$ 14,130	\$ 15,720
El exp	\$ 4,411	\$ 4,750	\$ 5,020
MB payroll tax	\$ 9,427	\$ 9,600	\$ 9,385
Pension - current service	\$ 96,048	\$ 102,000	\$ 80,795
Salaries	\$ 419,581	\$ 437,000	\$ 425,030
Hardware	\$ 500	\$ 2,500	\$ 5,000
Software	\$ 200	\$ 500	\$ 500
Tech services	\$ 142	\$ 625	\$ -
Staff travel	\$ 851	\$ 5,000	\$ 5,000
Total Expense	\$ 1,252,786	\$ 1,922,393	\$ 1,433,088
Net Income (Loss)	\$ 208,416	\$ (524,261)	\$ (66,188)
Fund equity, beginning of year	\$ 2,294,679	\$ 2,294,679	\$ 2,503,095
Fund equity, end of year	\$ 2,503,095	\$ 1,770,418	\$ 2,436,907

Law Society of Manitoba
Professional Liability Claims Fund (PLCF) Budget
April 1, 2022 to March 31, 2023

FINAL

Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
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Income

Insurance levy, CLIA portion	\$ 313,025	\$ 791,580	\$ 428,280
Insurance levy, LSM portion	\$ 2,280,050	\$ 2,297,920	\$ 2,151,720
Insurance levy	\$ 2,593,075	\$ 3,089,500	\$ 2,580,000
CLIA surplus rebate	\$ 477,789	\$ -	\$ -
Costs recovered - deductibles	\$ 72,401	\$ 100,000	\$ 75,000
Cyber insurance	\$ 81,760	\$ 69,800	\$ 79,200
Interest income	\$ 560	\$ -	\$ 600
Investment - RBC	\$ 1,216,695	\$ 624,195	\$ 981,600
Total Income	\$ 4,442,280	\$ 3,883,495	\$ 3,716,400

Expense

Damages/repairs	\$ 165,231	\$ 1,000,000	\$ 500,000
Administration fees	\$ 3,126	\$ 10,000	\$ 5,000
Defence costs	\$ 564,043	\$ 770,000	\$ 900,000
Cyber insurance	\$ 78,132	\$ 70,000	\$ 78,615
Directors and officers insurance	\$ 23,918	\$ 23,000	\$ 25,000
Excess insurance	\$ 16,109	\$ 14,500	\$ 16,500
Lawyer assistance	\$ 82,945	\$ 66,000	\$ 84,000
Mandatory premiums	\$ 301,108	\$ 803,000	\$ 433,775
CLIA, RST collected on fees	\$ (27,635)	\$ (60,300)	\$ (35,524)
CLIA, RST paid on premiums	\$ 26,263	\$ 61,110	\$ 35,867
Peer support	\$ 32,000	\$ -	\$ 40,000
Mental health first aid	\$ -	\$ -	\$ 5,000
Money laundering course	\$ -	\$ -	\$ 5,000
Grant to General Fund (GF)	\$ 475,000	\$ 475,000	\$ 475,000
Miscellaneous	\$ 200	\$ 400	\$ 200
Courier	\$ 535	\$ 1,000	\$ 1,000
Office supplies	\$ 162	\$ 300	\$ 300
Photocopying	\$ 2,567	\$ 3,000	\$ 3,000
Filing fee	\$ 90	\$ 100	\$ 100
Course/conference fee	\$ -	\$ 500	\$ 500
Membership fees	\$ 263	\$ 500	\$ 400
Actuarial fees	\$ 27,825	\$ 29,000	\$ 29,000
General legal consulting	\$ 535	\$ -	\$ -
Investment management expense	\$ 92,041	\$ 96,000	\$ 94,000
Practice advisor	\$ 30,000	\$ 32,000	\$ 32,000
Systems consulting	\$ 8,511	\$ 5,000	\$ 50,000

Law Society of Manitoba
Professional Liability Claims Fund (PLCF) Budget
April 1, 2022 to March 31, 2023

FINAL

	Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
CPP exp	\$ 15,750	\$ 16,000	\$ 20,220
El exp	\$ 5,251	\$ 5,500	\$ 6,460
MB payroll tax	\$ 10,003	\$ 10,325	\$ 12,390
Pension - current service	\$ 95,743	\$ 95,400	\$ 97,410
Salaries	\$ 458,385	\$ 473,000	\$ 567,815
Hardware	\$ 1,070	\$ 3,000	\$ 3,000
Software	\$ 2,061	\$ 2,000	\$ 2,000
Tech services	\$ 100	\$ 600	\$ 600
Conferencing	\$ 103	\$ 300	\$ 300
Staff travel	\$ -	\$ -	\$ 3,000
Total Expense	\$ 2,491,435	\$ 4,006,235	\$ 3,491,928
Net Income (Loss)	\$ 1,950,845	\$ (122,740)	\$ 224,472
Fund Equity, beginning of year	\$ 12,884,824	\$ 12,884,824	\$ 14,835,669
Fund Equity, end of year	\$ 14,835,669	\$ 12,762,084	\$ 15,060,141

Executive limitation - Fee not less than recommended by actuary

Law Society of Manitoba
 Education and Competence Fund (ECF) Budget
 April 1, 2022 to March 31, 2023

FINAL

Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
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Income

Practising fees	\$ 383,318	\$ 371,000	\$ 376,250
CPD program revenue	\$ 330,000	\$ 425,000	\$ 400,000
PREP recovery	\$ 15,000	\$ 5,000	\$ -
Manitoba Law Foundation	\$ 178,901	\$ 167,692	\$ 187,500
Investment - RBC	\$ -	\$ 14,365	\$ -
Miscellaneous revenue	\$ 1,325	\$ 500	\$ 500
Total Income	\$ 908,544	\$ 983,557	\$ 964,250

Expense

Coffee/water/pop/milk	\$ -	\$ 500	\$ 500
Meetings catering	\$ 100	\$ 500	\$ 2,500
Program catering	\$ -	\$ 25,000	\$ 30,000
Gifts	\$ 500	\$ 2,000	\$ 4,000
Grant to General Fund (GF)	\$ 200,000	\$ 200,000	\$ 100,000
Miscellaneous	\$ 55	\$ 400	\$ 300
Courier	\$ 750	\$ 1,000	\$ 1,000
Office furniture/equipment	\$ 500	\$ 1,500	\$ 1,500
Office supplies	\$ 940	\$ 2,000	\$ 2,000
Photocopying expense	\$ 6,050	\$ 6,200	\$ 6,200
PREP subsidy	\$ 339,550	\$ 312,000	\$ -
Course/conference fee	\$ 1,079	\$ 3,500	\$ 5,000
Membership fees	\$ 2,062	\$ 4,500	\$ 2,475
Contract services	\$ 12,288	\$ 18,000	\$ 3,000
CPLED - training principals	\$ -	\$ 16,000	\$ -
Investment management expense	\$ -	\$ 2,320	\$ -
Program speaker fee	\$ 9,554	\$ 10,000	\$ 20,000
Profit sharing	\$ 150	\$ -	\$ -
Outside printing	\$ -	\$ 1,000	\$ -
Program printing	\$ 725	\$ 2,500	\$ 1,500
Rent - space	\$ -	\$ 3,000	\$ 5,000
CPP exp	\$ 21,213	\$ 20,440	\$ 24,295
EI exp	\$ 7,095	\$ 7,260	\$ 7,765
MB payroll tax	\$ 13,886	\$ 13,350	\$ 13,680
Pension - current service	\$ 107,909	\$ 99,750	\$ 105,530
Salaries	\$ 636,614	\$ 608,845	\$ 626,885

Law Society of Manitoba
 Education and Competence Fund (ECF) Budget
 April 1, 2022 to March 31, 2023

FINAL

	Projected April 1, 2021 to March 31, 2022	Budget April 1, 2021 to March 31, 2022	Budget April 1, 2022 to March 31, 2023
Credit card fees	\$ 10,058	\$ 20,000	\$ 12,000
Paypal fee	\$ 923	\$ 1,000	\$ 1,000
AV services	\$ -	\$ 5,000	\$ 5,000
Hardware	\$ 1,522	\$ 3,000	\$ 3,000
Software	\$ 2,781	\$ 2,700	\$ 3,000
Tech services	\$ 4,011	\$ 5,500	\$ 4,880
Conferencing	\$ 50	\$ 500	\$ -
Presenters' travel	\$ -	\$ 5,000	\$ 8,000
Staff travel	\$ -	\$ 3,500	\$ 10,000
Total Expense	\$ 1,380,365	\$ 1,407,765	\$ 1,010,010
Net Income (Loss)	\$ (471,821)	\$ (424,208)	\$ (45,760)
Fund Equity, beginning of year	\$ 1,815,051	\$ 1,815,051	\$ 1,343,230
Fund Equity, end of year	\$ 1,343,230	\$ 1,390,843	\$ 1,297,470
Executive limitation (> 20%, fund equity end of year/total expenses)			<u>92.17%</u>



MEMORANDUM

To: Benchers

From: Leah Kosokowsky

Date: January 25, 2022

Re: CPLED Strategic Plan

CPLED 2.0, as we have come to know it, is a relatively new organization with its first PREP program having been launched in June 2020. Through surveys, focus groups and user groups, CPLED has received extensive feedback regarding the PREP program and has responded with improvements in all aspects of the organization since its inception. CPLED remains committed to continuous improvement as it evolves.

As many of you will recall, Kris Dangerfield and I are board members of CPLED. Over the last year, the board engaged in its first strategic planning process. The 2021 - 2023 Strategic Plan was recently finalized and I am pleased to introduce to you an [Executive Summary](#) of the plan, in which you will note that the immediate goal is for CPLED to be smoothly offering multiple versions of PREP with appropriate staffing and a steady flow of revenue. Building upon the success of the initial goal, the longer term goal is to expand CPLED into other Canadian jurisdictions. The long range goal for CPLED (i.e. ten years) is for it to be the go-to organization for the development and delivery of legal training.



MONITORING REPORT

To: Benchers

From: Leah Kosokowsky and Karen Sawatzky

Date: January 26, 2022

Re: Manitoba Law Library

INTRODUCTION

The Manitoba Law Library (also known as The Great Library) has been serving lawyers and members of the public for decades and, in the last five years, evolved from a brick and mortar space with shelves upon shelves of books to a meaningful and accessible provider of electronic resources.

In October 2016, the benchers grappled with the question of whether the Law Society ought to consider discontinuing the library's operations in the face of declining usage and increasing expenditures. The benchers directed the Society to continue with the development of a resources centre with a focus more on the management of legal information and less on bricks and mortar. In a December 2017 monitoring report, we reported to you on the status of that initiative. We were very pleased to report that with the hiring of Karen Sawatzky as the Director of Legal Resources in January 2017, we saw a decrease in office expenditures, the elimination of duplicated resources, a reduction in print publication resources, and a renegotiation of contracts with on-line services providers, such as LexisNexis and Thomson Reuters. We also negotiated desktop access through the Members Portal to a large selection of legal databases, such as HeinOnline, Rangefindr and vLex.

In summary, we were able to report that Karen and her staff had successfully transitioned the Manitoba Law Library into a legal information resources hub. In this report, we will outline the operations of the Manitoba Law Library since 2017, with particular regard for the impact of the pandemic on operations and the challenge of increasing awareness of this amazing resource within the profession.

ENDS AND STRATEGIC OBJECTIVES

In addition to generally providing you with a knowledge base that will be helpful to your work as benchers, the purpose of a monitoring report is to assist you to:

- (a) Judge if we are meeting the ends that you have established;
- (b) Consider whether the ends need modification;
- (c) Judge if we comply with the executive limitations and whether they need modification.

In the Ends established in the Governance Policies, the following relate to the operations of the Manitoba Law Library:

- Lawyers provide legal services competently after the call to the Bar and are ethical and of good moral character in the practice of their profession.
- Legal services are reasonably available to the public at a reasonable cost.

The Manitoba Law Library also supports the strategic plan that you recently approved, in the areas of competence and increased access to justice for Manitobans.

STAFF

The Manitoba Law Library consists of three staff members. Karen Sawatzky is the Director (.8) and George Roy is the Legal Information Professional (1.0). George is currently on parental leave and John Bryans is filling his position during George's leave. In addition, Johanna Altasin is the library assistant/receptionist (.6). The library assistant is a casual position.

All staff members aim to be prompt, thorough and courteous, and provide instructions to members on how to access resources directly if they so wish. In return, the staff receive many compliments and expressions of gratitude from members.

SPACE - LICENSE AGREEMENT

As most of you will know, the library is located on the third floor of the Law Courts Building. The Manitoba Law Library has a licence agreement with the Government of Manitoba to use the Great Library space, pursuant to which we are entitled to use of the space at no cost and we are required to maintain the judges' libraries loose-leaf collections. The library collection is also shared with the judges.

The license allows the Government to relocate the library to suitable premises in reasonably close proximity to the current library and the Manitoba Law Library has the right to close the Great Library and terminate the agreement at any time.

The current licence expires on March 31, 2022 and in accordance with the terms of the agreement, we have provided notice of our intention to renew the licence for either a three or five year term.

USE BY THE PROFESSION

Despite the move toward on-line resources, having the library located within the Law Courts Building continued to be beneficial as lawyers would often drop in between court appearances or when they required a quiet place to work. Furthermore, it is often the case that the library is the only purchaser of many of the resources relied upon by lawyers.

With that said, the pandemic has proven that the physical library does not serve the profession as it once did. Since March 2020, the Law Courts Building has been closed to most visitors for extended periods of time and lawyers have found new and preferable ways to work remotely. Entrance records for the last few months of 2021 range from 40 to 90 visits per month, with roughly half of those being unique visitors. Numbers for 2020 and 2021 are underreported due both to staff working remotely and the library being closed to visitors for parts of those years. Once the Law Courts Building re-opens to the public on a permanent basis, we will assess whether the foot traffic will return to pre-pandemic levels.

As a result of the closures as well as staff working remotely, the library staff responded by providing material digitally as much as possible while remaining within budget.

In the following tables, you will note that there has been a reasonable amount of usage of the on-line resources, although there is room for growth. Some of the fluctuations in usage are due to staff working remotely and the impact on the tracking of their reference work. Other fluctuations, for example, website page hits, are more puzzling and may be worth closer examination over the long term.

STATISTICS

Online Resources

Great Lexpectations

Hits

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2019				416	1,023	1,230	1,348	1,146	1,897	1,838	1,298	1,235	11,431
2020	1,947	2,866	2,675	2,794	3,489	2,462	2,494	2,472	2,923	2,519	2,661	2,347	31,649
2021	1,996	2,410	2,110	1,832	1,948	1,766	1,274	1,135	1,766	2,007	2,009	1,848	22,101

Average Hits Daily

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Overall
2019				30	33	41	43	37	63	59	43	40	44
2020	63	99	86	93	113	82	80	80	97	81	89	76	86
2021	64	86	68	61	63	59	41	37	59	65	67	60	61

Heinonline

Month	Hits	Articles	Visits	Page Views	Searches
2021-01-01	15296	1536	112	2894	514
2021-02-01	5019	531	124	668	492
2021-03-01	4682	522	108	562	384
2021-04-01	5768	528	105	886	610
2021-05-01	5125	630	102	599	228
2021-06-01	2751	359	70	318	157
2021-07-01	2692	257	87	316	235
2021-08-01	1894	230	73	160	163
2021-09-01	5557	511	80	880	327
2021-10-01	6092	523	91	1119	216
2021-11-01	4868	613	113	578	309
2021-12-01	4454	455	55	875	129

Rangefindr

	Unique Sessions	Searches per session	Estimated total searches
2021/04/01 - 2021/08/30	479 (79.8/month)	3.8	1820.2 (303.2/month)

vLex 2021

Month	1	2	3	4	5	6	7	8	9	10	11	12	Total
Documents	32	215	177	86	40	127	39	136	253	189	280	112	1574
Downloads	66	297	279	130	77	216	62	190	519	310	440	212	2586
Searches	97	245	292	165	98	137	69	252	478	322	419	130	2574
Sessions	227	86	75	663	48	47	31	121	183	331	235	111	2047

Emond's Criminal Law Series
No Stats Available

Library / Print Statistics

Summary

Year	2019	2020	2021
Items Reshelled	833	214	568
Reference			
Print			
Queries	457	229	195
Time	3610	2320	2210
Electronic			
Queries	231	140	134
Time	3840	2200	2515
Print and Electronic			
Queries	107	67	84
Time	3580	2926	3760
Total Reference	795	436	413
Total Time	10760	7446	8485
Source of Question			
Telephone	175	158	254
E-mail	279	294	348
In person	617	316	256
Fax	1	0	0
Total Questions	1072	768	858
Training			
Client Instruction			
Lawyer (Time)	400	577	598
Lawyer (# of)	93	73	85

General Public & Self Reps (Time)	196	125	0
General Public & Self Reps (# of)	22	9	0
Assistant (Time)	80	10	20
Assistant (# of)	10	1	1
Total Time	676	712	618
Total Clients Helped	125	83	86
Staff Development			
Karen	485	661	60
Allysa	720		
Adam	150		
George	145	930	1080
Total Time	1395	1591	1080
Visitors			
Lawyers	3841	1404	466
Self Reps	82	23	5
Assistants	258	84	72
General Public (onlookers)	435	72	28
Law Library Hub		94	2
Total Visitors	4616	1435	571
Tour Groups	103	297	3
Tech Support (in minutes)			
Karen	90	15	0
Allysa	285		
Adam	110		
George	315	530	2050
Total Time	770	660	2050
Loose-Leaf Updating (in minutes)			
Queen's Bench	0	0	0
Provincial Court	1150	1235	1950
Great Library	1845	1235	2705
Total Time	2995	2425	4655

INCREASED COMMUNICATIONS AND ENGAGEMENT

Karen and her staff have worked diligently to increase the profession's awareness of the library's resources and services, through a variety of means.

Website

The home page of the website, lawlibrary.ca, is a blog, and therefore the content is constantly refreshing. Members can subscribe to the blog to get new content to their email address as frequently as it is published. The staff typically create two to three posts per week. Most content is library-specific, such as new books and the contents of newly published journals.

Presentations/Education

Karen has jumped at every opportunity to reach members directly through presentations offered by various organizations, such as the MBA sub-sections, Robson Hall's Advanced Legal Research class, the Law Society Education Department, and the incoming PREP classes. She also arranged for training to be delivered by some legal research database vendors. All of the above-noted programs could be credited toward the members' continuing professional development requirements.

For two different Advanced Legal Research classes, Karen prepared a legal research problem for the students, based upon real cases in criminal law and in wills and estates. For the criminal law matter, the students were divided into groups with each having different resources at their disposal. One group was required to use print resources only; another was confined to free electronic resources; and the third group was allowed to use subscription databases like Westlaw and Quicklaw. The students were given an hour to devise a strategy and were graded on how well they developed a plan.

For the wills and estates matter, the students were provided with two cases from another Canadian jurisdiction and were asked whether those decisions would be decided the same way in Manitoba. The students were asked to read the cases before they came to the library and then they received print and electronic resources to create a legal memorandum.

The library staff also assist both NCA and PREP students who are looking for material that is recommended in their programs.

With these efforts, these future lawyers will have become very familiar with the Manitoba Law Library and the resources it offers.

Publications

The Manitoba Law Library contributes articles regularly to *Communiqué* and to the MBA Legal Research Section's monthly newsletter.

In this year's Annual Member Report, we have included the option for members to subscribe to ELex, the library's monthly newsletter.

OTHER SERVICES

The Manitoba Law Library also collaborates with the Education Department here at the Law Society by providing lists of additional resources for written materials and by assisting presenters to locate cases and/or citations for resources relied upon.

Since 2021, with the retirement of our former clerk, Dana Earley, the complaints, discipline and insurance departments rely upon the library staff for timely document retrieval from court files. This service is provided on a cost recovery basis.

In 2020, the Manitoba law Library entered into an agreement with the Minister of Justice to provide legal research services on a fee for service basis. The services include ordering books on behalf of judges, providing training on the use of subscription databases such as Westlaw, advising new judges on the available resources and arranging for database access. For the 2020-2021 fiscal year, the library billed \$1,110 for this service.

ACCESS TO JUSTICE

As you will recall, The Hub pilot project was originally located in the Great Library space. This access to justice initiative, which launched in 2020, offered in person appointments to self-represented individuals with ongoing family law matters. Law students, under the supervision of a practising lawyer, provided legal information, advice and assistance to individuals seeking help. Due to the pandemic, the services moved to a virtual delivery platform after only a few short weeks of operation and the library developed a page on the Manitoba Law Library website directing members of the public to an array of available resources (lawlibrary.ca/hub).

We have identified the development of this webpage as an area of potential growth. That is, while the Hub currently assists individuals with family law matters, the web page might be expanded to refer individuals to resources to assist with many different kinds of legal matters. It is our intention to explore this further.

FINANCES

Historically, the Manitoba Law Library received a discretionary grant from the Manitoba Law Foundation, consistent with the Foundation's statutory mandate to encourage and promote legal education, legal research and the development and maintenance of libraries. We have not received such a grant since 2014/15 although applications were made by the library in 2015 and 2016.

Benchers will recall that the Manitoba Law Foundation responded favourably to the Law Society's application for a grant to fund the Hub pilot project. However, due to the impact of the pandemic on the Hub's operations, the expenses (and corresponding funding) have been minimal to date.

Accordingly, with the exception of the Hub grant, since April 2015, the Manitoba Law library has been funded entirely by a grant from the Law Society. The amount of this grant has been reduced over the years, while services have improved and expanded. In the December 2017 monitoring report, we reported that the annual grant from the Society was \$610,000. The annual grant for the April 2, 2021 to March 31, 2022 fiscal year is \$525,000. We expect it to remain the same for the next fiscal year.

The Library also is significantly indebted to the Society for historical outlays that the Society made on behalf of the library, both operational and capital. At the time that we reported to you in December 2017, the debt remained at \$1.2 million, representing a decline over a few years. As previously reported to you, however, the Society's external auditors required the Society to write down this debt by \$350,000 as they questioned the ability of the library to repay it. The Society has continued to do so and as of today, the outstanding debt has been reduced to \$491,518.

Over the past five years Karen has made a concerted effort to reduce expenses through targeted purchasing of resources and careful examination of charges. The library also shares resource with the University of Manitoba and the Manitoba Courts' collection, thereby expanding the collection. For example, the library was able to order a section from a very expensive text through InterLibrary Loan (ILL) at no cost to a member. The member responded with extreme gratitude, saying that this effort by library staff had helped him to justify his practising fees.

As a result of the above-noted efforts, even with decreased funding from the Society, the Library has been able to support itself while making additional payments and eroding the debt.

Attached are the audited financial statements for the Manitoba Law Library for the year ended March 31, 2021.

ATC.

Financial Statements of

THE MANITOBA LAW LIBRARY INC.

March 31, 2021

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors of the Manitoba Law Library Inc.

Opinion

We have audited the financial statements of the Manitoba Law Library Inc. (the "Organization"), which comprise the statement of financial position as at March 31, 2021, and the statements of operations and changes in net assets and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies (collectively referred to as the "financial statements").

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Manitoba Law Library Inc. as at March 31, 2021, and the results of its operations and its cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations ("ASNPO").

Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards ("Canadian GAAS"). Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. We are independent of the Organization in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Responsibilities of Management and Those Charged with Governance of the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with ASNPO, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Organization's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Organization or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Organization's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian GAAS will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian GAAS, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Organization's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Organization's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Organization to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Deloitte LLP

Chartered Professional Accountants

June 17, 2021
Winnipeg, Manitoba

TABLE OF CONTENTS

	<u>Page</u>
Statement of Operations and Changes in Net Assets	1
Statement of Financial Position	2
Statement of Cash Flows	3
Notes to the Financial Statements	4 - 5

THE MANITOBA LAW LIBRARY INC.
Statement of Operations and Changes in Net Assets
For the Year Ended March 31, 2021

	<u>2021</u>	<u>2020</u>
REVENUE		
Grant from Law Society of Manitoba	\$ 550,000	\$ 550,000
Grant from Manitoba Law Foundation	2,703	15,646
Amortization of deferred contributions (Note 5)	9,017	9,017
Other grants	-	3,178
Miscellaneous income	2,077	1,156
Interest Income	191	716
	<u>563,988</u>	<u>579,713</u>
EXPENSES		
Administration	20,000	20,000
Automated information systems	137,880	134,593
Depreciation	9,017	9,017
HUB	2,703	15,646
Miscellaneous	93	420
Office and sundry	4,984	4,744
Professional development	758	1,817
Professional services	4,694	4,611
Publications and binding	56,372	47,399
Salaries and benefits	145,350	182,706
Technology	749	3,054
Telephone	2,123	1,650
Travel	258	2,395
	<u>384,981</u>	<u>428,052</u>
EXCESS OF REVENUE OVER EXPENSES	179,007	151,661
DEFICIENCY, BEGINNING OF YEAR	(732,107)	(883,768)
DEFICIENCY, END OF YEAR	\$ (553,100)	\$ (732,107)

THE MANITOBA LAW LIBRARY INC.
Statement of Financial Position
March 31, 2021

	<u>2021</u>	<u>2020</u>
ASSETS		
CURRENT		
Cash	\$ 11,027	\$ 121,775
Accounts receivable	1,731	3,707
Prepaid expenses	30,903	8,558
	<u>43,661</u>	<u>134,040</u>
CAPITAL ASSETS (Note 4)	4,509	13,526
	<u>\$ 48,170</u>	<u>\$ 147,566</u>
LIABILITIES		
CURRENT		
Accounts payable and accrued liabilities	\$ 27,926	\$ 13,542
Due to Law Society of Manitoba	568,835	852,605
Deferred contributions (Note 5)	4,509	-
	<u>601,270</u>	<u>866,147</u>
DEFERRED CONTRIBUTIONS (Note 5)	-	13,526
	<u>601,270</u>	<u>879,673</u>
DEFICIENCY		
Deficiency	(553,100)	(732,107)
	<u>\$ 48,170</u>	<u>\$ 147,566</u>

APPROVED BY THE BOARD

..... Director

..... Director

THE MANITOBA LAW LIBRARY INC.**Statement of Cash Flows**

For the Year Ended March 31, 2021

	<u>2021</u>	<u>2020</u>
OPERATING ACTIVITIES		
Excess of revenue over expenses	\$ 179,007	\$ 151,661
Items not affecting cash:		
Amortization of deferred contributions	(9,017)	(9,017)
Depreciation	9,017	9,017
Net change in non-cash working capital	(5,985)	19,804
	<u>173,022</u>	<u>171,465</u>
FINANCING ACTIVITY		
Decrease in due to Law Society of Manitoba	(283,770)	(105,631)
(DECREASE) INCREASE IN CASH	(110,748)	65,834
CASH, BEGINNING OF YEAR	121,775	55,941
CASH, END OF YEAR	\$ 11,027	\$ 121,775

THE MANITOBA LAW LIBRARY INC.
Notes to the Financial Statements
March 31, 2021

1. PURPOSE OF THE ORGANIZATION

Since 1985, the Government of Manitoba operated the Law Libraries pursuant to a Memorandum of Agreement with the Law Society of Manitoba. Effective April 1, 1999, the Government and the Society agreed that it would be in their mutual interest to terminate the Agreement. The Manitoba Law Library Inc. (the "Library") was incorporated under the laws of the Province of Manitoba on November 9, 1998 without share capital to operate and maintain the Law Libraries and the Government transferred the assets of the Law Libraries to the Corporation.

2. BASIS OF PRESENTATION

These financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the payment of liabilities in the ordinary course of business. Should the organization be unable to continue as a going concern, it may be unable to realize the carrying value of its assets and to meet its liabilities as they become due.

The organization's ability to continue as a going concern is dependent upon continued receipt of funding from the Law Society of Manitoba sufficient to meet current and future obligations. Although there are no assurances that its plan will be realized, management believes the organization will be able to obtain the necessary revenues to continue operations into the future. These financial statements do not reflect the adjustments or reclassification of assets and liabilities which would be necessary if the organization were unable to continue its operations.

3. SIGNIFICANT ACCOUNTING POLICIES

The financial statements were prepared in accordance with Canadian accounting standards for not-for-profit organizations and include the following significant accounting policies:

a) Financial instruments

The Library initially measures its financial assets and financial liabilities at fair value. It subsequently measures all its financial assets and financial liabilities at amortized cost.

The financial assets subsequently measured at amortized cost include cash, accounts receivable, grants receivable and prepaid expenses. The financial liabilities measured at amortized cost include accounts payable and accrued liabilities and due to Law Society of Manitoba.

b) Revenue recognition

The Library recognizes grant revenue in the year the revenue is received. Contributions received for the purchase of capital assets are deferred and amortized into revenue at a rate corresponding with the depreciation rate of the related capital asset.

THE MANITOBA LAW LIBRARY INC.
Notes to the Financial Statements
March 31, 2021

3. SIGNIFICANT ACCOUNTING POLICIES (continued)

c) Capital assets

Capital assets are recorded at costs less accumulated depreciation. Depreciation is based on the estimated useful life of the asset using a straight-line basis using the following rates.

Software 3 years

4. CAPITAL ASSETS

	<u>2021</u>			<u>2020</u>
	<u>Cost</u>	<u>Accumulated Depreciation</u>	<u>Net Book Value</u>	<u>Net Book Value</u>
Software	\$ 27,052	\$ 22,543	\$ 4,509	\$ 13,526

5. DEFERRED CONTRIBUTIONS

	<u>2021</u>	<u>2020</u>
Balance, beginning of year	\$ 13,526	\$ 22,543
Amortization of deferred contributions	(9,017)	(9,017)
Balance, end of year	\$ 4,509	\$ 13,526



MEMORANDUM

To: Benchers

From: Leah Kosokowsky

Date: January 25, 2022

Re: Reimbursement Fund Claims Committee

Since last reporting to you, the Reimbursement Committee met on two occasions to consider four additional applications for compensation arising out of the conduct of Paul Hesse. Three claims were denied and a fourth claim was allowed, in part, in the sum of \$50,000.00.

As a result, the total compensation that has been approved by the Reimbursement Committee for Paul Hesse claimants is \$3,638,870.

One claimant, whose claim for compensation was denied by the committee at a meeting in October 2021, has requested the ability to make a further submission to the committee. The committee has invited the claimant's counsel to provide a written submission by the end of February 2022 for the committee's consideration.

There are two other potential claimants who were referenced in the misappropriation charges of the citation who have yet to return completed declarations. Other than those two, we believe we will receive no further claims against Paul Hesse.