

# MINUTES

## Benchers

Date:	Thursday, December 14, 2023	
Time:	12:30 pm	
Location:	Law Society Offices and via Videoconference	
Present:	Wayne Onchulenko, President Gerri Wiebe, Vice President Sacha Paul, Past President Miriam Browne, Officer-at-Large Kathrine Basarab Susan Boulter Mason Broadfoot Kyle Dear Serena Ehrmantraut Blair Filyk Mason Geddes Sharyne Hamm	Kameron Hutchinson Tehani Jainarine Dr. Richard Jochelson Mathieu Lafreniere Christopher Lange Brian McLeod Kenneth Mandzuik Christian Monnin Carmen Nedohin Joëlle Pastora Sala Kelli Potter
Regrets:	Teresa Jaenen	Leah Unruh
Guests:	Pamela Dupuis	Lynda Troup
Staff Present:	Leah Kosokowsky Rennie Stonyk Sandra Alleyne Noelia Bernardo Pat Bourbonnais Tana Christianson	Colleen Malone Deirdre O'Reilly Richard Porcher Sean Rivera Karen Sawatsky Alissa Schacter

Eileen Derksen  
Joan Holmstrom  
Kathy Levacque

Darcia Senft  
Simon Young

## 1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT

Mr. Onchulenko, President, called the meeting to order at 12:35 pm and welcomed guests, benchers, new bencher Kathrine Basarab, and staff to the meeting. Treaty territory 1 was acknowledged with gratitude.

## 2.0 PRESENTATION

### 2.1 BDO Canada

Ms Dupuis reviewed with benchers an Audit Planning Report which provided a detailed outline of the procedures and processes which will be undertaken by BDO Canada in completing the annual audit of the Law Society for the period April 1, 2023 to March 31, 2024. Mr. Onchulenko was asked to confirm whether he was aware of any instances of fraud or risks of fraud which may have occurred during the audit period. He confirmed that he was not aware of any instances where fraud or risks of fraud had occurred.

Ms Dupuis was excused from the meeting at 12:50 pm.

## 3.0 IN MEMORIAM

Benchers observed a moment of silence for Dunlop Harry Kells and Bernarr Ivan Klapman.

## 4.0 CONSENT AGENDA

### 4.1 Minutes of November 2, 2023 Meeting

Benchers considered and approved the minutes of the benchers' meeting held on November 2, 2023.

### 4.2 Final Approval of Rule Amendments re: Client Identification and Verification and Inactive Status and Non-Practising Fees

Benchers considered and approved the amendments to Part 2 - Division 8 – Members, Division 8.1 – Professional Development, Division 9 – Fees and Assessments, Part 5 – Division 1 – Admissions, and Part 5 - Division 12 – Client Identification and Verification in both English and French as presented.

Motion: That the consent agenda items be approved as presented.

MOVED: Mr. Paul  
Seconded: Ms Boulter  
Carried.

## 5.0 EXECUTIVE REPORTS

### 5.1 President's Report

Benchers received for information Mr. Onchulenko's report dated December 7, 2023.

### 5.2 Chief Executive Officer's Report

Benchers received for information Ms Kosokowsky's report dated December 7, 2023. Ms Kosokowsky advised that staff auditor-inspector, Sandra Alleyne had been hired to replace Ms Malone as Chief Financial Officer and that a search has commenced to fill the auditor-inspector vacancy.

### **5.3 Strategic Plan Progress Report**

Benchers received for information the Strategic Plan Progress Report covering the period January 2022 to December 2023.

## **6.0 DISCUSSION/DECISION**

### **6.1 Proposed Rule Amendments – Election and Nomination Process**

Benchers considered a memorandum prepared by Ms Stonyk, dated December 5, 2023, which set out for their approval proposed minor housekeeping amendments relating to the bencher nomination and election processes.

Benchers were asked to provide direction regarding more substantive amendments to the rules relating to electoral boundaries, removal of benchers and the filling of bencher vacancies. Benchers directed that a review of the existing electoral boundaries be undertaken given that it had been a significant period of time since this had last been done. In conducting this review, factors such as population, demographics, and principal office versus primary workplace ought to be considered. Benchers were advised that the Executive Committee would consider whether a special committee ought to be struck to complete this analysis or if this work could be undertaken by staff.

Benchers were advised that amendments to the Rules relating to the removal of benchers were being reviewed by staff as certain provisions were now outdated. As provisions within the Bencher Code of Conduct are tied to those same rules, proposed amendments to both the Rules and the Bencher Code would be presented for their consideration at the same time.

Benchers were reminded that at their November meeting, they had directed that the rules relating to the filling of bencher vacancies be further reviewed to clarify the practice and authority given to benchers in the filling of bencher vacancies. Benchers were reminded that the rules in their current form are broadly drafted to provide them with flexibility to decide when and how bencher vacancies are to be filled. This allows benchers to take into consideration a variety of factors, such as timing, results of previous elections, etc., when contemplating the filling of a vacancy. Benchers were asked to consider whether they wished to leave the rules in their present form or add a new rule which expressly permits a vacancy to remain unfilled when arising in close proximity to an election. Benchers might also elect

to leave the rules in their present form but adopt a formal bencher policy which would provide more specific procedural direction for the filling of bencher vacancies.

There was general agreement that it was important that benchers continue to have flexibility when deciding when and how a vacancy ought to be filled as there are often unique factors which will inform a decision on how best to proceed. Benchers indicated that they were not satisfied with leaving the existing rules in place nor were they satisfied with the wording of the proposed new rule as neither option provided the clarity or authority they were seeking. It was agreed that a new rule would be drafted which clearly provides benchers with discretion in the filling of vacancies but also outlines the factors which will be contemplated in exercising that discretion.

Motion: That the draft housekeeping amendments to the Rules be approved in principle as presented.

MOVED: Mr. Mandzuik  
Seconded: Mr. Filyk  
Carried.

Ms Hamm joined the meeting at 1:10 pm.

## **6.2 Committee Vacancies and Appointments**

Benchers were asked to endorse the recommendations of the Executive Committee regarding committee appointments as set out in the memorandum dated December 4, 2023.

Motion: That Ms Basarab be appointed to serve on the Discipline Committee, the Equity Committee and the Practice and Ethics Committee; that David Gisser, KC, be appointed to the Discipline Committee; and that Mr. Paul be appointed as Law Society representative for the E.J. McMurray Scholarship Fund.

MOVED: Ms Nedohin  
Seconded: Mr. Hutchinson  
Carried.

## 7.0 MISCELLANEOUS BUSINESS

### 7.1 FLSC Model Code Committee Consultation – Reconciliation Amendments to Model Code

Bencher considered a memorandum prepared by Ms Kosokowsky, dated December 7, 2023, which summarized an extensive set of proposed amendments to the Federation of Law Societies' *Model Code of Professional Conduct* in response to Call to Action 27 of the report of the Truth and Reconciliation Commission. The FLSC Model Code Committee has extended an invitation to law societies to provide feedback regarding the draft amendments by May 31, 2024. Bencher agreed that the proposed deadline to respond would not provide sufficient time for the Law Society to conduct a full and thoughtful review of the proposed amendments and directed Ms Kosokowsky to share these concerns with the Committee. Bencher also agreed that a special committee, comprised of benchers and other persons with expertise on the subject matter, ought to be struck to conduct the review and prepare a draft response for benchers to consider. Such a review might also include a broader consultation with Manitoba's legal profession. Bencher were advised that information regarding the membership of the special committee would be provided in due course.

### 7.2 Western Entry to Practice Competency Profile Update

Bencher considered Ms Stonyk's memorandum, dated December 4, 2023, which provided an update on the development of a western entry to practice competency profile. Bencher were encouraged to participate in a survey which had been circulated to the profession to obtain feedback on the draft competencies.

### 7.3 Update on Wellbeing Initiatives

Bencher considered a memorandum prepared by Ms Stonyk, dated December 4, 2023, which reported on the recent activities which have taken place in the area of wellbeing and also on the activities which are being planned for the future. Bencher also considered a report prepared by Manitoba Blue Cross on the Employee Assistance Program for the period May 1, 2023 to October 31, 2023. Bencher noted that the data indicated that women predominately avail themselves of the services offered under the program. It was suggested that a campaign or outreach strategy be developed to encourage broader member participation.

#### **7.4 FLSC Council Report**

Benchers considered Ms Troup's report, dated December 11, 2023, which provided a detailed report on the meeting of the Federation Council held virtually on December 11, 2023.

Mr. Monnin excused himself from the meeting at 2:25 pm.

## **8.0 MONITORING REPORTS**

### **8.1 Professional Liability Claims Fund**

Benchers considered a monitoring report prepared by Ms Kosokowsky and Ms Christianson, dated December 7, 2023, which provided a detailed report on operations within the Society's Insurance Department and the Professional Liability Claims Fund.

### **8.2 Communications**

Benchers considered a monitoring report prepared by Ms O'Reilly and Ms Kosokowsky, dated December 6, 2023, which provided a detailed report on recent strategies which have been implemented by the Law Society to improve communications and engagement with the profession, the public and stakeholders.

It was recommended that the website be audited to ensure that it meets the access and compliance standards articulated within *The Accessibility for Manitobans Act*.

## **9.0 FOR INFORMATION**

Benchers considered the materials provided for information.

There being no further business, Mr. Onchulenko adjourned the meeting at 2:45 pm.