



# AGENDA

## Benchers

Date: Thursday, September 10, 2020

Time: 12:30 pm

Location: In Person and Via Videoconference and Teleconference

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
<b>1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT</b>					
	The President will welcome benchers and guests to the meeting.				
<b>2.0 IN MEMORIAM</b>					
	<p><b>Lawrence Ramsay Crane, Q.C.</b>, who passed away on June 30, 2020 at the age of 84. Mr. Crane received his call to the Bar on June 26, 1968. He practised with the firm known today as MLT Aikins for his entire career, retiring in January 2011. Mr. Crane was appointed Queen's Counsel in 1990. He resided in British Columbia at the time of his death.</p> <p><b>Abraham Louis Simkin, Q.C.</b>, who passed away on July 22, 2020 at the age of 98. Mr. Simkin received his call to the Bar on December 17, 1947. He began his career practising as a partner with Cantor Matas Simkin. He remained with the firm until his retirement in 1993, at which</p>				

time the firm was known as The Simkin Group. Mr. Simkin was appointed Queen's Counsel in 1971.

**William Glenn McFetridge**, who passed away on July 31, 2020 at the age of 70. Mr. McFetridge received his call to the Bar on June 25, 1976. He began his career practising as an associate with Walsh Micay & Co. In 1979 Mr. McFetridge joined Justice Manitoba - Public Prosecutions where he served as a Crown Attorney. He later transferred to the Legal Services Branch of Justice Manitoba where he served as General Counsel until his retirement in 2019.

**Gordon Edward Hannon**, who passed away on August 16, 2020 at the age of 59. Mr. Hannon received his call to the Bar on June 27, 1985. He served as a Crown Attorney with Justice Manitoba - Public Prosecutions until 2016, and then transferred to the Legal Services Branch of Justice Manitoba where he worked up to the date of his death.

ITEM	TOPIC	TIME (min)	SPEAKER		ACTION
<p><b>3.0 CONSENT AGENDA</b></p> <p>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.</p>					
3.1	Minutes of June 25, 2020 Meeting	5		Attached	Approval
<p><b>4.0 EXECUTIVE REPORTS</b></p>					
4.1	President's Report	5	Lynda Troup	Attached	Briefing
4.2	CEO Report	10	Kris Dangerfield	Attached	Briefing
4.3	Strategic Planning	20	Kris Dangerfield	Attached	Briefing
<p><b>5.0 DISCUSSION/DECISION</b></p>					
5.1	Proposed Rule Amendments - Calls to the Bar	20	Leah Kosokowsky	Attached	Discussion/ Decision
5.2	Honoraria and Expense Policies for Executive Members and Lay Benchers	20	Kris Dangerfield	Attached	Discussion/ Decision

ITEM	TOPIC	TIME (min)	SPEAKER		ACTION
5.3	Awards	20	Kris Dangerfield	Attached	Discussion/ Decision
5.4	National Discipline Standards 2019 Implementation Report	10	Leah Kosokowsky	Attached	Briefing
5.5	FLSC Council Member	10	Kris Dangerfield	Attached	Discussion/ Decision
<b>6.0 COMMITTEE REPORTS</b>					
6.1	Complaints Investigation Committee	5	Christian Monnin	Attached	Briefing
<b>7.0 MISCELLANEOUS BUSINESS</b>					
7.1	<i>In Camera</i> Discussion	30	Lynda Troup		Briefing
<b>8.0 FOR INFORMATION</b>					
8.1	College of Paramedics of Manitoba - Volunteer Opportunities			Attached	Information
8.2	FLSC E-Briefing July 2020			Attached	Information
8.3	Media Reports			Attached	Information



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# MEMORANDUM

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**TO:** Benchers

**FROM:** Kris Dangerfield

**DATE:** September 3, 2020

**RE:** **Strategic Planning**

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As you know we are not gathered in Clear Lake to engage in the full scale strategic planning session that we had previously deferred from April 2020 in light of the pandemic. In discussions with the Executive we concluded that so much of the value in strategic planning comes out of the in person discussions that take place both in and out of the focused sessions. It is unfortunate, but as with everything we have to be nimble and move forward with an alternate plan. We expect that we will proceed with strategic planning in 2021, as early as April and perhaps as late as our annual Clear Lake meeting.

This doesn't mean that the work of the Law Society will come to a screeching halt without the benefit of a shiny new strategic plan. Although our current strategic plan had a life span of three years that was to come to an end in April 2020, there is much work that remains to be done. In some instances work that was done as contemplated by the strategic plan was completed (e.g. the development of the Trust Safety program, the development of the new PREP program, the retention of an Equity Officer to further the Law Society's work on equity and diversity-related issues, the retention of a Communications officer to lead work to improve stakeholder confidence and the development of LSM branding and website). In other instances the work done in relation to specific goals (for example to remove regulatory barriers to prevent the delivery of legal services) has led to changes in circumstances that will require still further work to be done. For example, the Reports of Special Committees led to the Province's introduction of Bill 28. This will require the Law Society to develop a framework for the introduction of classes of limited practitioners and consideration of the nature of any further exemptions from the unauthorized practice provisions of the *Legal Profession Act*. Still other initiatives were identified in the plan but the work in developing those initiatives is still underway (it was after all an ambitious strategic plan!) and will require

further attention in 2020-2021 (e.g. practice audits, law firm self-assessments and a mental health diversion program).

In preparation for the strategic planning session, we asked that you complete a survey over the summer. Our facilitator, Scott Ferguson, has taken the results of those survey responses and prepared the first draft of a report that will go to you in advance of the strategic planning session and allow you to frame your thinking on what ought to be the Law Society's important strategic priorities. For today's purposes however, we are providing you only with the Executive Overview of that report to give you a general sense of the benchers' and management's reaction to the Environmental Scan that was shared with you. In the Overview, Scott has provided us with a potential way forward for the short term, given the deferral of the full strategic planning process and suggests three steps that can be taken prior to the formal strategic planning session.

1. Given the assessment in the Executive Overview, identification of any important or urgent steps that the Law Society ought to take that shouldn't "wait" for the development of the next strategic plan in the spring.
2. Identification of any initiatives under the four pillars of the current strategic plan (updated versions of which are attached) that ought to be stopped, scaled back or significantly improved.
3. Collection of issues to be considered for discussion at the Law Society's 2021 strategic planning session.

You will want to have a discussion about the extent to which either the benchers or staff ought to address these steps in advance of the formal strategic planning session.

Atc.

## REGULATING IN THE PUBLIC INTEREST

### EXECUTIVE OVERVIEW

#### CONTEXT AND PURPOSE

As part of its 2020 Strategic Planning Process, the Law Society of Manitoba:

- Provided benchers and members of management with an Environmental Scan, and
- Solicited their reaction to it and their insights via a Strategic Planning Survey.

This is the Facilitator’s Report on the results and implications of the survey.

#### FORMAT OF EXISTING STRATEGIC PLAN

To assist readers to assess progress and implications, this document adopts the format of the Aim, Strategic Ends and Four Pillars of the existing Strategic Plan.

#### THE LAW SOCIETY SERVES THE PUBLIC INTEREST WELL

½ to 2/3rds of respondents believe that the Law Society is doing “a good job” in fulfilling its Strategic Aim to serve the public interest.

1/5<sup>th</sup> to 1/3<sup>rd</sup> provide the Law Society with an even higher rating – “Very Well/Excellent”.

Management provides the highest ratings. Lay benchers provide the lowest.

In serving the public interest, respondents believe that the law Society is on the right track. The biggest challenge will be pivoting to continue to serve well and even better among astonishing changes in the world around us. For example, this survey took place in the midst of the COVID-19 pandemic and the related recession and during society’s heightened focus on EDI, especially regarding Black Lives Matter following the death of George Floyd.

#### THE LAW SOCIETY PERFORMS BETTER ON SOME STRATEGIC ENDS THAN ON OTHERS

Among the Law Society’s Strategic Ends, respondents place the Law Society in three categories:

##### “Very Good”

- Law Society’s and legal profession’s independence
- Thorough investigation and disposition of complaints
- Fair investigation and disposition of complaints
- Protecting the public from financial loss due to lawyers’ transgressions.

**“Good”**

- Competence of lawyers
- Timely investigation and disposition of complaints
- Transparency
- Overall, a public well-served.

**“Less Than Adequate”**

- All qualified persons have an equal opportunity to participate in the legal profession
- Legal services are reasonably available to the public
- The public can access legal services at a reasonable cost.

**FOR THE MOST PART, THE FOUR PILLARS ARE BEING ADDRESSED WELL**

When asked, “What’s **most important** for the Law Society’s Strategic Plan to address?”, responses ranged widely and broadly “across the pillars”, which could lead to one of two conclusions:

- “Everything needs fixing”, or
- “We are doing well on all fronts”.

The encouraging feedback, above, regarding the Strategic Aim and Four Pillars, suggests the latter.

**THERE ARE TWO PILLARS TO SIGNIFICANTLY IMPROVE**

The issues that stood out for particular improvement are:

- Access to Justice, and
- Equity, Diversity and Inclusion.

Responses indicate that these are not areas of Law Society “failure”. Respondents cited very few LMS “weaknesses”.

Rather, the need for, and challenge of, improvement may be because of factors such as:

- The long-standing nature of these issues:
  - The Truth and Reconciliation Commission occurred relatively recently in our history and raises issues that have been decades or centuries in the making
  - Cultural diversity and justice issues are similarly long-standing
- Complexity – that EDI requires changes of attitude and action by society as a whole
- Society’s sensitivity about these issues has been growing rapidly, particularly in recent years, and especially recently with respect to Black Lives Matter.

## **THERE ARE THREE SIGNIFICANT ADJUSTMENTS TO CONSIDER**

In its efforts to further fulfill its Strategic Aim and advance the Four Pillars, respondents' input suggests that the Law Society will have to adjust, perhaps significantly, in three areas.

### **AFTERMATH OF COVID-19**

Respondents identify implications that range among:

- Concerning
- Encouraging, and
- Completely unknown.

Such implications will affect:

- The public's need for legal services
- The provision of legal services
- The required competencies of lawyers
- The regulation of lawyers
- The justice system.

The Law Society faces a significant challenge to interpret the implications of the pandemic and provide leadership in addressing them.

### **RAPID EXECUTION**

Respondents differ as to the appetite and ability of the legal profession, the justice system and the Law Society to anticipate, adjust to and lead in change. However, their input suggests that there is potential for improvement, particularly as the pandemic accelerates change even more rapidly than technological advances.

Suggestions to become more nimble address a wide range of aspects including the education, and continuing education, of lawyers, the diversity of the Law Society and of the profession, improved access to justice and the organization and governance of the Law Society itself.

There is also a pattern where some respondents view an aspect of change as a threat while others view it as an opportunity. Expansion of alternative service providers is an example. A wholesome discussion of issues as "opportunities" vs. "threats" might be a fascinating, worthy and beneficial aspect of a future strategic retreat.

### **MAKE THE BEST USE OF RESOURCES**

Respondents point out that the Law Society is a relatively small organization with limited resources. A clear message is, "We can't do everything". Accordingly, as this Strategic Planning process continues, avoid an attempt to "do everything", over-tax volunteers and staff or spread resources "too thin". Apply strategic thinking to focus effort and other resources to where they will do the most good to fulfill the Law Society's Strategic Aim.



### **DEVELOPING METRICS**

Respondents suggest the need for clearer metrics to track performance and focus effort, guide systematic implementation and guide the best use of resources.

A caution, though. Dr. W. Edwards Deming, the US statistician who guided Japan's post-war economic turnaround, famously observed, "*Not everything that is important can be measured ... not everything that can be measured is important.*"

To prevent "reinventing the wheel", this appears to be an ideal initiative to conduct in collaboration with other Law Societies and with other regulators with whom Law Societies have a lot in common.

### **A POTENTIAL WAY FORWARD**

Due to the present risk from the pandemic, the Law Society has postponed its scheduled Strategic Planning Retreat from September 2020. It will likely occur in early spring 2021 under the Law Society's next CEO.

In the meantime, the Law Society can take three steps to advance its Strategic Aim:

1. Consider the overall assessment that this Executive Overview provides and identify any important and urgent steps the Law Society should take that do not require guidance from a formal Strategic Plan
2. Consider the survey's input for each pillar and identify what should be stopped, scaled back, started or significantly improved, and
3. Develop a list of issues that next year's retreat should debate and resolve to provide necessary strategic guidance to the Law Society's focus and activities.

# The Law Society of Manitoba Strategic Plan 2017 - 2020

September 2020



## Mission Statement

The aim of the Law Society is a public well-served by a competent, honourable and independent legal profession.

### Competence

**Regulate proactively to protect the public interest by ensuring that legal services are delivered by competent and ethical lawyers.**

- Implement a "Cradle to Grave" approach by assessing and addressing the competence of lawyers at all stages of practice.
- Proactively assist lawyers and law firms to mitigate risk.
- Proactively ensure that lawyers are fit to practice by addressing members' capacity issues.
- Safeguard client property.

Benchers approve an incremental approach to the regulation of entities and the use of self-assessments November 2018

Registration of law firms commences April 1, 2019

On-line Trust Safety module commences delivery April 1, 2019 with trust account supervisors approved by October 1, 2019

Benchers approve adoption of a practice review/audit program to assist lawyers in meeting competency standards in their practices May 2019

Practice and Ethics Committee issues Report on Practice Audit/Reviews May 2019

Consideration of health and wellness issues by benchers September 2019; FLSC Conference on Health and Wellness in St. John's Newfoundland October 2019

President's Special Committee on Delivering Legal Services begins work November 2019

Rules on Anti-Money Laundering and Terrorist Financing approved October 31, 2019 and implemented January 1, 2020

Continuing Professional Development programming delivered September to December 2019; Best Practice resources and checklists developed and shared with the Benchers and the profession

CPLED 2.0 pilot project commences in Alberta August 2019

Cont'd

### Access to Justice

**Demonstrate leadership in the advancement, promotion and facilitation of increased access to justice for all Manitobans.**

- Explore giving up the profession's monopoly over the delivery of legal services.
- Increase and improve collaboration with the Courts and other justice system stakeholders to advance, promote and increase access to justice.
- Promote the unbundling of legal services as a way to increase access to justice.

Participation in National Access Committee Summit April 2019

Benchers approve Report from the President's Special Committee on the Delivery of Legal Services to permit legal services to be delivered by providers who are unregulated, persons acting under the supervision of a lawyer, persons with a limited license and legal entities, including associations of lawyers and non-lawyers such as Civil Society Organizations May 2019; Report shared with Department of Justice

June 2018 the Law Society seeks amendments to the *Legal Profession Act*

Report on Hub Project proposal shared with stakeholders November 2019. Funding secured through Manitoba Law Foundation

Law Library Hub commences delivery of services in February 2020. (Currently on hold due to COVID)

Application for Manitoba Law Foundation to fund Access to Justice Coordinator in January 2020 (Currently on hold due to COVID)

March 2020 the Province of Manitoba issues Bill 28 to amend the *Legal Profession Act* to create a class of limited practitioners and permit the benchers to expand the exemptions under the *Act* from unauthorized practice

May 2020 President's Special Committee on Regulating Legal Entities presents report to benchers. Recommendations include further work on the expansion of exemptions from the unauthorized practice provisions and development of infrastructure to support delivery of legal services through Civil Society Organizations (CSOs)

President's Special Committee on Health and Wellness presents recommendations to benchers in April 2020 for a diversion program and other initiatives to support health and wellness in the profession. Recommendations approved with work to continue in 2020/2021

PREP Pilot project commences in Manitoba January 30, 2020

Report to benchers on survey results on the articling experience September 2019. Report shared with Equity Committee

Meeting of national counterparts in St. John's, Newfoundland to discuss updates on entity regulation initiatives October 2019

Law Society endorses national study on health and wellness in the legal profession facilitated by the Federation of Law Societies of Canada

PREP commences delivery in four CPLED provinces June 2020

## Stakeholder Confidence

**Build public and stakeholder confidence in the Law Society as the regulator of the legal profession.**

- Communicate effectively with the public and other stakeholders about the Law Society's mandate as a regulator to protect the public interest.
- Increase the Law Society's engagement with and education of the public.
- Increase the Law Society's engagement with the profession.

Engagement with profession through surveys on articling May 2019

Engagement with profession through annual attendance at Welcoming Ceremony at Faculty of Law and sponsorship of reception September

Engagement with profession through development of survey on part-time practising fees; Draft survey shared with Equity Committee October 2019 with formal survey to be circulated to the profession September 2020

Engagement with profession through bi-annual 50 Year Lunch

Nominating Committee consideration of issues around increasing engagement of the profession in the electoral/appointment process December 2019

New branding of LSM implemented through new signage installed on LSM premises, introduction of new logo through the Communiqué December 2019

Website unveiled January 2020

Information Session on Becoming a Bencher held February 2020

## Equity, Diversity and Inclusion

**Promote and improve principles of equity, diversity and inclusion in the regulation of the legal profession and in the delivery of legal services.**

- Demonstrate commitment to equity, diversity and inclusion.
- Promote, support and facilitate equity, diversity and inclusion within the legal profession.
- Address the Calls to Action of the Truth and Reconciliation Committee.

Equity Committee focusing on cultural competency, equity and diversity initiatives for profession, benchers and staff

Equity Committee develops Roadmap for Increasing Cultural Competency

Expansion of gender categories in Annual Member Report April 2019

Annual Co-Host SOGIC Pride Reception

Benchers and Equity Committee consider issues relating to part-time practising fees;

Engagement with Indigenous community in relation to Indian Day Schools Settlement Agreement August/September 2019

Sponsor reception for sacred eagle feather gifting ceremony September 2019

Engagement with Indigenous Bar November 2019

Engagement with Indigenous articling and law students through Building Connections event January 2020

Nominating Committee Report to Benchers February 2020 recommending diversity in appointed benchers



**The Law Society of Manitoba  
2017-2020  
Strategic Plan**

**-and-**

**Action Plan**

**September 2020 Update**

## Strategic Objective 1: Competence

Regulate proactively to protect the public interest by ensuring that legal services are delivered by competent and ethical lawyers.

### Desired Outcomes:

- Lawyers are competent upon being called to the Bar
- Lawyers are competent throughout all stages of practice
- Practice standards are enhanced
- Lawyers who have mental health issues are treated fairly and equitably
- Client property is safeguarded

### Strategy 1.1

We will implement a “Cradle to Grave” approach by assessing and addressing the competence of lawyers at all stages of practice.

Actions	Priority Level	Steps	Timeline	
<b>Activity 1.1.1</b>  <b>CPLED Program -</b> Develop and deliver a renewed CPLED program that is a high quality, pre-call education and assessment program in collaboration with our CPLED partners in Alberta and Saskatchewan	Immediate	Step 1: Identify a consultant to review CPLED and identify transition plan for next version of CPLED	May 2016	✓
		Step 2: Receive and consider report from The Learning Group outlining groundwork for new version of CPLED (CPLED 2.0)	September 2016	✓
		Step 3: Retain Executive Search Company	March 2017	✓
		Step 4: Interview for new CPLED CEO	Summer - 2017	✓
		Step 5: Hire new CEO	September 2017 (March 2018)	✓

Actions	Priority Level	Steps	Timeline	
		<p>Step 6: Work with new CEO and CPLED Partners to develop new education and assessment program</p> <p>Step 7: Consider how to more effectively integrate articling with the CPLED program</p>	<p>2017 – 2020</p> <p>Ongoing;</p>	<p>✓</p> <p>2021?</p>
<p><b>Status Comments:</b></p> <p><b>CPLED</b></p> <p>The development of CPLED 2.0 is essentially complete. Dr. Kara Mitchelmore was hired as the new CEO of CPLED in March 2018. She engaged in broad ranging consultations with stakeholders from the partner provinces and from across Canada. In September 2018 the benchers approved a capital investment of \$600,000 to fund the development of CPLED. The funding was structured as a loan and CPLED has entered into several service agreements with the Law Society of Manitoba with respect to the use of LSM resources. A pilot project ran in Manitoba commencing in January 2020 and those students will complete their Capstone Assessments in October 2020. As of June 2020 the full PREP program is being delivered in Manitoba, Saskatchewan, Alberta, Saskatchewan and Nova Scotia.</p> <p><b>Articling</b></p> <p>In May 2019 we participated in a survey developed by the Law Society of Alberta to assess the current state of articling. Students, young lawyers, principals and mentors were asked questions intended to explore the strengths and weaknesses of the current program, the level of support that new lawyers receive, the perceived value of the program, how well it prepares individuals for entry level practice, and how to improve the training. This survey will provide excellent data if the benchers wish to explore changes to the articling program as part of the next strategic plan. In the interim concerning information about discrimination and harassment during recruitment and articling was identified. Those concerns have been referred to the Equity Committee for consideration of how best to address those issues. Staff also identified and are utilizing opportunities to improve communications with young students and lawyers about existing resources to assist them.</p>				
<p><b>Activity 1.1.2</b></p> <p><b>Practice Audits -</b> Develop plans and procedures for implementation of practice audits</p>	<p>Intermediate</p>	<p>Step 1: Conduct environmental scan to identify other regulatory programs that implement practice audits (e.g. LSUC)</p> <p>Step 2: Identify whether LSM has necessary legislative authority to direct practice audits</p> <p>Step 3: Conduct Risk Analysis and determine categories of membership who are most at risk for complaints and claims</p>	<p>2018 - 2019</p> <p>March 2019 to present Preliminary Analysis</p>	<p>✓</p> <p>✓</p> <p>✓</p>

Actions	Priority Level	Steps	Timeline	
		<p>Step 4: Consider whether all members should be subject to random practice audits</p> <p>Step 5: Consider nature of audits (scope; extent)</p> <p>Step 6: Determine who will conduct audits and address budgetary issues</p> <p>Step 7. Report and make recommendations to Benchers</p> <p>Step 8: Create regulatory infrastructure and rules as may be required for implementation</p>	<p>March 2019 to present</p> <p>March 2019 to present</p> <p>March 2019 to present</p> <p>April 2019</p> <p>April 2019 to present</p>	

**Status Comments:**

An environmental scan of other regulatory programs was completed. In April 2019 the Practice and Ethics Committee made recommendations to the benchers to develop and implement a practice audit program. Staff have continued to work on the development of a practice audit program that would integrate a range of Law Society resources to support competent practice. At your October meeting you will be asked to consider some different models for a practice audit program.

<p><b>Activity 1.1.3</b></p> <p><b>Law Schools -</b> Consider and actively explore opportunities to deepen relationships and collaborate with law schools to provide “practice-ready” skills</p>	<p>Long-Term</p>	<p>Step 1: Continue to liaise with Prairie Law School Deans</p> <p>Step 2: Identify ways to collaborate on providing skills-based learning</p>	<p>ongoing</p> <p>ongoing</p>	
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**Status Comments:**

In the course of her engagement with stakeholders, Dr. Mitchelmore met with Law Deans from across the prairies to share information on PREP with Faculty and students. She has visited the University of Manitoba Faculty of Law on several occasions.

In January 2020 the Law Society submitted a request to the Manitoba Law Foundation under its Special Grants Initiative. The Law Society sought funding for a dedicated Access Coordinator to lead the work of the Access to Justice Steering Committee and collaborate with the Faculty of Law to engage law students in access initiatives. Decisions by the MLF with respect to funding were put on hold until the Fall 2020 in light of COVID-19.

In February 2020 the Law Library Hub was opened. The Law Society collaborated with the Faculty of Law to provide students in the Family Law externship course with the opportunity to provide legal information and assistance to members of the public at the Law Courts through the Law Library Hub. This initiative was put

<b>Actions</b>	<b>Priority Level</b>	<b>Steps</b>	<b>Timeline</b>	
on hold in March 2020 given the impact of COVID-19 which prevented both access to the court house and the availability of law students to service the Hub.				



## Strategy 1.2

We will proactively assist lawyers and law firms to mitigate risk.

Actions	Priority Level	Steps	Timeline	
<b>Activity 1.2.1</b>  <b>Entity Regulation -</b> Proactively assist law firms (entities) to mitigate risk by enhancing practice standards relating to specified management principles and by increasing practice supports	Immediate	Step 1: Develop Entity Practice Management Assessment Tool	2016 - 2017	✓
		Step 2: Conduct Pilot Project	July – August 2017	✓
		Step 3: Review assessments completed and returned	September 2017	✓
		Step 4: Create survey (in collaboration with Prairie Law Societies) to assess self-assessment tool	Fall 2017	✓
		Step 5: Send out survey to all participants and receive results	October - November, 2017	✓
		Step 6: Analyze feedback and report to Benchers with recommendations for implementation	February 2018	✓
		Step 7: Create regulatory infrastructure and rules for implementation of entity regulation	April 2018	✓
		Step 8: Review and assess resources available to firms and lawyers to help meet expected standards in the delivery of legal services	2018 to present	✓
		Step 9: Assess and address resource requirements to supplement existing resources	2018 to present	✓

### Status Comments:

A working group was struck in 2018 to work with our counterparts in Alberta and Saskatchewan to develop a framework for the regulation of legal entities.

In November 2018 the benchers approved the incremental approach to the regulation of entities and the use of self- assessments.

In June 2018 the benchers approved a recommendation to begin the registration process by identifying a responsible lawyer for ensuring compliance with Law Society Rules.

In September 2018 the benchers approved the rules to require the registration of law firms effective April 1, 2019.

Commencing in April 2019 all law firms were required to register with the Law Society and designate a responsible lawyer to receive communications from the Law Society.

Work has continued on the development of an online law firm practice management assessment tool that will support lawyer competence and law firm management. That tool is being revised following feedback received and a work book is being developed. Consideration is being given as to the manner in which the tool, work book and related resources could be utilized in association with a practice audit.

<p><b>Activity 1.2.2</b></p> <p><b>Small Firms –</b> Create a Small Firm Practice Management course and provide appropriate resources for lawyers who want to practice as sole practitioners</p>	<p>Immediate</p>	<p>Step 1: Conduct environmental scan of Law Practice Management Programs</p> <p>Step 2: Obtain authorization to adapt B.C Small Firm Practice Management Course</p> <p>Step 3: Begin adaptation and development of resources for Manitoba lawyers</p> <p>Step 4: Consider framework for requiring sole practitioners and others to complete Small Firm Practice Management Course</p> <p>Step 5: Create infrastructure and rules as may be required for implementation</p>	<p>September 2015 – February 2016</p> <p>May 2017</p> <p>June – present</p> <p>February 2018</p> <p>May 2018 to present</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
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**Status Comments:**

In February 2018 a proposal for a "Law Firm Management" course was presented to the benchers. The trust accounting module was the first completed module with a delivery date of April 1, 2019. All law firms were required to have a trust account supervisor in place who had successfully completed the module.

A series of other chapters were to be developed on subject matters such as Retainers, Conflicts, File Retention and Disposal and Coverage During Absence. The benchers approved a model where the course would be available as eligible CPD activity with credit hours attached to encourage member participation. It was to be posted on the Law Society website and available to lawyers, students and law firm employees at no cost. Participation was to be voluntary, but promoted in a manner to encourage participation as a resource for law firms (not limited to small firms). The benchers would then revisit the issue of whether some or all of the course should be mandatory for some or all members.

Since February 2018 a significant amount of work has been done on the resources. At present only the trust accounting module has an assessment component. Consideration is being given as to the manner in which

the course may be utilized as a resource in association with law firms conducting self-assessments and in association with practice audits.

**Strategy 1.3**

We will proactively ensure that lawyers are fit to practice by addressing members’ capacity issues.

Actions	Priority Level	Steps	Timeline	
<p><b>Activity 1.3.1</b></p> <p>Develop a diversion program outside of the complaints/discipline stream for members who suffer from mental health issues or addictions that may affect legal practices</p>	<p>Long-Term</p>	<p>Step 1: Conduct an environmental scan and consider responses of other regulators</p>	<p>2018 – 2019</p>	<p>✓</p>
		<p>Step 2: Consider opportunities for additional mental health supports and resources</p>	<p>2019-2020</p>	<p>✓</p>
		<p>Step 3: Recommend framework for diversion program to Benchers</p>	<p>April 2020</p>	<p>✓</p>
		<p>Step 4: Create infrastructure and rules as may be required for implementation</p>	<p>Ongoing</p>	
<p><b>Status Comments:</b></p> <p>Staff completed an environmental scan to determine the response of other regulators and presented that information to the President’s Special Committee on Health and Wellness struck in 2019-2020. The Committee was tasked with considering not only a diversion program but also with looking more broadly at health and wellness in the legal profession and considering what steps might be taken by the Law Society. A series of recommendations were approved by the benchers in April 2020 which require staff to develop and bring back to the benchers a comprehensive plan for the implementation of a Diversion Program. The Committee also identified short, medium and long-term initiatives to support wellness in the legal profession. This work will continue through 2020-2021 under the oversight of the President’s Special Committee on Health and Wellness.</p> <p>The Law Society endorsed the participation by the Federation of Law Societies in the National Well-Being Study on the well-being of legal professionals in Canada. The results of this initiative will inform the work of the Health and Wellness Committee and ultimately create some potential for national collaboration in this area.</p>				

## Strategy 1.4

We will safeguard client property.

Actions	Priority Level	Steps	Timeline	
<b>Activity 1.4.1</b>  Develop and implement "Trust Safety Program" to prevent carelessness and inadvertent loss of trust funds caused by poor record keeping	Immediate	Step 1: Consider environmental scan of trust compliance program in place in Alberta and other jurisdictions	2016 - 2017	✓
		Step 2: Consider components of trust compliance program appropriate for Manitoba context including application process and eligibility	2017	✓
		Step 3: Develop framework for training and approval of trust account supervisors and appeal process	2017 - 2018	✓
		Step 4: Consider and develop framework for revocation of approval of trust account supervisors and appeal process	2017-2018	✓
		Step 5: Report to Benchers with recommendations for implementation	February 2018	✓
		Step 6: Create regulatory infrastructure and rules as may be required for implementation	April 2018	✓
		Step 7: Develop educational program for the profession outlining new trust safety requirements.	June 2018	✓
		Step 8: Commence program implementation	October 2018 to April 2019	✓

**Status Comments:**

In February 2017 the benchers approved a proposed Trust Safety Program in principle and requested that staff return with a proposal for rule amendments and a budget to fund the Program.

In June 2018 recommendations were made to the benchers for the Trust Safety Program to proceed to full implementation in 2018-2019. The benchers approved the Program which incorporated on-line education and an application, approval, revocation and appeal process.

Actions	Priority Level	Steps	Timeline	
<p>In September 2018 the benchers approved the rules that support the Trust Safety Program. Effective April 1, 2019 all law firms and lawyers who operate a trust account are required to have a lawyer approved as a trust account supervisor.</p> <p>From September 2018 to April 2019 a significant amount of work was completed to develop the infrastructure necessary to implement the program and provide for the education, assessment and approval of trust account supervisors for every law firm with a trust account.</p> <p>Continuing Professional Development programming was delivered in December 2018 and January 2019 to promote the Trust Safety Program.</p> <p>By October 2019 all trust account supervisors were required to successfully complete the on-line education program.</p> <p><b>Other Initiatives:</b></p> <p><b>Anti-Money Laundering</b></p> <p>Staff played an integral role in developing and monitoring Model Rule Amendments in relation to Anti-Money Laundering and Terrorist Financing - Developing Education and Best Practices.</p> <p>The benchers approved rule amendments in October 2019 to change the Know your Client Rules and Client ID Rules to conform with Model Rules.</p> <p>Continuing Professional Development programming was delivered from September to December 2019 to educate the profession about the risks of money laundering and the impact of the new rules.</p> <p>New Anti-Money Laundering rules came into effect January 1, 2020. Resources were created and provided directly to the profession and via the Law Society website.</p>				

## **Strategic Objective 2: Access to Justice**

**Demonstrate leadership in the advancement, promotion and facilitation of increased access to justice for all Manitobans.**

### **Desired Outcomes:**

- Manitobans will have access to the required complement of appropriately trained lawyers and legal service providers to meet their legal needs
- The Law Society will advance, promote and facilitate the delivery of quality, innovative, accessible and affordable legal services including pro bono services
- The Law Society plays an active role regarding access to justice issues and ways to increase access

### **Strategy 2.1**

We will explore giving up the profession’s monopoly over the delivery of legal services.

<b>Actions</b>	<b>Priority Level</b>	<b>Steps</b>	<b>Timeline</b>	
<b>Activity 2.1.1</b>  Remove regulatory barriers that prevent legal services from being reasonably available at a reasonable cost	Immediate	Step 1: Create President’s Special Committee on Alternate Legal Service Providers	June 2017	✓
		Step 2: Conduct research and do environmental scan in order to identify and analyze trends and developments relating to expanded models for delivery of legal services	August - September 2017	2017 - 2018
		Step 3: Explore with Special Committee issues and options for Benchers to consider	September 2017 – March 2018	2017- 2018
		Step 4: Consider viability of collaboration with community colleges to develop “paralegal program” or alternate provider of legal services program	2018	
		Step 5: Report to Benchers with recommendations	April 2018	✓

Actions	Priority Level	Steps	Timeline	
<p><b>Status Comments:</b></p> <p>A detailed report from the President’s Special Committee on Alternate Legal Service Providers was presented to the benchers in April 2018. That report recommended that the Law Society seek legislative amendments that would permit the benchers to authorize further exceptions to the unauthorized practice provisions and permit the provision of prescribed legal services by persons either under the supervision of a lawyer or with a limited license. The Report was approved by the benchers and then shared with the Minister of Justice. A meeting was held with the Executive of the Law Society and the Minister on June 14, 2018.</p> <p>In May 2018 a President's Special Committee on the Delivery of Legal Services was struck to further consider the issues arising from the Report of the President's Special Committee on Alternate Legal Service Providers. It developed a framework for consultation with stakeholders, initially in the area of family law. The Committee presented a Report to the benchers in May 2019 recommending that the Law Society engage with stakeholders in the justice system in the area of family law, develop policies for the delivery of legal services by permitted legal service providers, permit the delivery of legal services through Civil Society Organizations and further explore the development of a regulatory framework for Alternative Business Structures. The Report was approved by the benchers. Engagement with stakeholders was put on hold due to two significant developments: (1) The Family Law modernization Act and Project; and (2) New Court of Queen’s Bench Family Law Rules.</p> <p>In March 2020 the Province of Manitoba issued Bill 28 proposing to amend the <i>Legal Profession Act</i> to create a class of limited practitioners to provide a narrow scope of services to the public in low risk areas. The proposed amendments also permit the Law Society to expand a list of exemptions in the existing legislation for services that do not constitute unauthorized practice.</p> <p>Ongoing engagement with stakeholders in the justice system and the profession continues. The Pitblado Lectures were held in November 2018 and the theme was Reimagining Justice: Trust, Truths and Transformation(s). The LSM/MBA Joint Meeting was held in December 2018 with a focus on access to justice. Those in attendance heard Four Big Pitches to Support Access to Justice.</p>				
<p><b>Activity 2.1.2</b></p> <p>Plan and schedule a follow up strategic planning session for A2J Steering Committee</p>	<p>Intermediate</p>	<p>Step 1: Review existing A2J strategic planning session goals; evaluate alignment of goals with Terms of Reference; create status report for Steering Committee</p> <p>Step 2: Conduct strategic planning exercise with Committee</p> <p>Step 3: Report to Benchers with recommendations</p>	<p>October 2017</p> <p>November 2017</p> <p>April 2018</p>	<p>Meeting Feb 5, 2018</p> <p>Feb 5, 2018</p>
<p><b>Status Comments:</b></p> <p>The Access to Justice Steering Committee met in February 2018 and determined to focus its efforts on developing a pilot project with stakeholders to focus on the enhanced provision of legal information and advice through the Manitoba Law Library.</p>				



Actions	Priority Level	Steps	Timeline	
<p>The Access to Justice Steering Committee met in January 2019 to receive a report on the proposed Law Library Hub.</p> <p>Strategic planning took place in November 2019 at which time the Committee discussed the expansion of its Terms of Reference.</p> <p>An application was submitted in October 2018 to the Manitoba Law Foundation for funding a Law Library Hub in collaboration with other stakeholders to establish a pilot project to deliver legal information and resources via the Great Library. The application was approved and funding in the amount of \$100,000 was provided to the Law Society for this initiative. A project manager was hired, students were accessed, work space was set up in the Great Library and work was begun. With COVID-19 the project was put on hold in March 2020.</p> <p>In January 2020, following consultation with the Access to Justice Steering Committee, the Law Society submitted a request to the Manitoba Law Foundation under its Special Grants Initiative. The Law Society sought funding for a dedicated Access Coordinator to lead the work of the Access to Justice Steering Committee and collaborate with the Faculty of Law to engage law students in access initiatives.</p>				

## Strategy 2.2

We will increase and improve collaboration with the Courts and other justice system stakeholders to advance, promote and increase access to justice.

Actions	Priority Level	Steps	Timeline	
<p><b>Activity 2.2.1</b></p> <p>Promote and facilitate collaboration among Stakeholders relating to issues of common concern</p>	Intermediate	<p>Step 1: Facilitate meetings of access stakeholders to exchange information and ideas about access</p> <p>Step 2: With input from stakeholders, identify some common issues and invite participation from stakeholders to form smaller working groups to address those issues and propose possible solutions</p>	<p>Ongoing (twice yearly)</p> <p>By January 2018</p>	✓
<p><b>Status Comments:</b></p> <p>See Activity 2.1.2.</p> <p>Meetings were held with the Minister of Justice in June 2018 and January 2019 to discuss a range of issues, including access to justice. Ongoing consultation with the Office of the Minister of Justice has led to the appointment of the Deputy Minister of Justice to the Access to Justice Steering Committee for 2020-2021.</p> <p>Two Manitoba representatives from the Access to Justice Steering Committee were appointed to the National Access to Justice Committee in March 2020.</p>				
<p><b>Activity 2.2.2</b></p> <p>Review LSM Forgivable Loans Program and use it more effectively to increase access</p>	Intermediate	<p>Step 1: Program is revised in accordance with Benchers' resolutions</p> <p>Step 2: Amend information on Society website and Faculty of Law materials</p> <p>Step 3: Consider how to promote program more effectively and broadly (e.g. notices in Community Colleges, all Universities, rural high schools)</p>	<p>September 2017</p> <p>Fall 2017</p> <p>In progress</p>	<p>✓</p> <p>2021?</p>
<p><b>Status Comments:</b></p> <p>The Access to Justice Steering Committee met in November 2019 and engaged in a policy discussion on the Forgivable Loans Program. The Committee determined that further consideration ought to be given to changing the parameters of the program.</p> <p>Staff completed a review of internal resources and changed some of the application forms and marketing materials to reflect the changes recommended by the benchers to the Forgivable Loan program to:</p> <ul style="list-style-type: none"> <li>Remove the requirement that applicants must come from an under-serviced community and are applying to the Faculty of Law because of the program;</li> </ul>				

Actions	Priority Level	Steps	Timeline	
<ul style="list-style-type: none"> <li>Expand eligibility to include students enrolled in second and third year law;</li> <li>Remove the requirement that applicants come from or demonstrate a commitment to an under-served community in Manitoba;</li> <li>Reduce the post-call practice commitment from five years to three; and</li> <li>Add a new criterion which encourages students from rural communities to apply.</li> </ul> <p>The program may be brought back to the Admissions and Education Department in 2020-2021 to assess whether the program in its current form promotes access to justice.</p>				
<p><b>Activity 2.2.3</b></p> <p>Advance, promote and facilitate an increase in the provision of legal resources and information to the profession and to the public</p>	<p>Intermediate</p>	<p>Step 1: Collaborate with stakeholders (e.g. CLEA) to share legal resources with the public via the Manitoba Law Library Inc.</p> <p>Step 2: Obtain status update on stakeholder survey conducted by Public Education and Information Working Group.</p> <p>Step 3: Meet with certain stakeholders to consider creation of information portal (no wrong door approach)</p> <p>Step 4: Explore funding sources to create development of information portal</p>	<p>August 2017</p> <p>Fall 2017</p> <p>January 2018</p> <p>October 2018 to December 2018</p>	<p>✓</p>
<p><b>Status Comments:</b></p> <p>The Law Society extended an invitation to representatives from CLEA, The Legal Help Centre, the Department of Justice, and the Law School to meet and explore opportunities to develop a concept for providing legal information and assistance. (See Activity 2.1.2)</p> <p>An application was submitted in October 2018 to the Manitoba Law Foundation for funding a Law Library Hub in collaboration with other stakeholders to establish a pilot project to deliver legal information and resources via the Great Library. The application was approved and funding in the amount of \$100,000 was provided to the Law Society for this initiative. A project manager was hired, students were accessed, work space was set up in the Great Library and work was begun. With COVID-19 the project was put on hold in March 2020.</p>				

### Strategy 2.3

We will promote the unbundling of legal services as a way to increase access to justice.

Actions	Priority Level	Steps	Timeline	
<b>Activity 2.3.1</b>  Create Continuing Professional Development programs to educate lawyers about how to engage in provision of unbundled legal services	Long-Term	Step 1: Continue to provide CPD and resources on the benefits of unbundling – especially in the area of family law  Step 2: Communicate resources through website, Manitoba Law Library Inc. and Communique.	2017-2020  2017-2020	✓  ✓
<b>Status Comments:</b>  A component of the Law Firm Practice Management Course incorporates a segment on unbundling of legal services in the module on retainers and is published on our website.				

# Strategic Objective 3: Equity, Diversity, and Inclusion

Promote and improve equity, diversity and inclusion in the regulation of the legal profession and in the delivery of legal services.

**Desired Outcomes:**

- The legal profession is equitable, diverse, and inclusive
- Lawyers are culturally competent in the delivery of legal services
- Benchers are culturally competent

**Strategy 3.1**

The Law Society will demonstrate commitment to equity, diversity and inclusion.

Actions	Priority Level	Steps	Timeline	
<p><b>Activity 3.1.1</b></p> <p>Explore whether the Society’s operational policies and processes demonstrate commitment to equity, diversity and inclusion</p>	Intermediate	<p>Step 1: Amend Governance Policy End. No. 8 in accordance with Bencher decision</p> <p>Step 2: Conduct a review of Society’s operations (policies and processes)</p>	<p>October 2017</p> <p>2018 – 2019 ongoing</p>	✓

**Status Comments:**

Changes have been made to the Annual Member Report and student registration to reflect the Law Society's commitment to equity, diversity and inclusion. In particular, there has been an expansion of gender categories in the Report:

- (a) On the student registration form, the honorific Mx was added as an option in addition to Mr., Mrs. and Ms.. The prefix Mx is used by those who wish to avoid specifying their gender or by those who prefer not to identify themselves as male or female;
- (b) In the Annual Member Report, the gender categories of "non-binary" and "other" have been added;
- (c) The "Lawyer Demographics" section of the Annual Member Report has been reviewed and revised. A category has been added to allow members to self-identify as Indigenous.

An internal group was struck to work toward compliance with *The Accessibility for Manitobans Act*. The Law Society has educated staff and adopted an Accessibility Policy which is posted on the Law Society website.

The Law Society's ability to develop and deliver programming in French was enhanced through the hiring of fluently bilingual Competence Counsel.



## Strategy 3.2

We will promote, support and facilitate equity, diversity and inclusion within the legal profession.

Actions	Priority Level	Steps	Timeline	
<p><b>Activity 3.2.1</b></p> <p>Educate the profession in understanding and addressing issues relating to equity, diversity, and inclusion</p>	Intermediate	<p>Step 1: Consider increasing educational opportunities to promote equity, diversity, and inclusion within the profession</p> <p>Step 2: Develop appropriate resources</p> <p>Step 3: Create and deliver CPD programs to provide education and resources to members relating to the issues</p>	<p>2018 - 2019</p> <p>2018 - 2019</p> <p>Ongoing</p>	
<p><b>Status Comments:</b></p> <p>The Law Society has provided CPD programming and training on institutionalized racism, unconscious bias and "soft" discrimination in the professional world.</p> <p>The Competence and Education Department delivered programming on "Women Thriving in the Law With a Grit and Growth Mindset", featuring a panel of diverse women.</p> <p>Law Society staff attended a presentation of the video "But I Was Wearing a Suit".</p> <p>The Competence and Education Department is developing an online course with the Manitoba League for Persons with Disabilities to educate the profession about the standards and policies that all private and non-profit organizations need to be in compliance with under <i>The Accessibility for Manitobans Act</i>.</p> <p>The Law Society has partnered with the MBA and the Indigenous Students Association to provide mentoring opportunities for Indigenous law students.</p> <p>The Law Society has hosted networking events with the Indigenous Law Students Association in 2019 and 2020 to bring students and employers together.</p> <p>The Law Society hosted a reception with internationally trained lawyers in 2019.</p> <p>The Law Society annually supports the Pride Reception with SOGIC.</p>				
<p><b>Activity 3.2.2</b></p> <p>Develop current model polices and resources designed to assist profession to become more equitable, diverse and inclusive</p>	Intermediate	<p>Step 1: Secure continued delivery of Equity Ombudsperson services to the profession</p>	<p>Summer – early Fall 2017</p>	<p>Dec. 1, 2017 (Equity Officer)</p>

Actions	Priority Level	Steps	Timeline	
		<p>Step 2: Develop model to deliver services both internally and externally</p> <p>Step 3: Create current model policies and supplement existing resources for members</p> <p>Step 4: Monitor Federation of Law Societies Model Code Standing Committee's work on cultural competence as an ethical obligation</p>	<p>Summer early Fall 2017</p> <p>2018 - 2020 ongoing</p> <p>ongoing</p>	✓

**Status Comments:**

Information on the role of and services provided by the Equity Officer has been added to the CPLED Handbook and arrangements have been made to have the Equity Officer present to both law and CPLED students on an annual basis.

Cultural competency training is being incorporated into the new PREP program.



### Strategy 3.3

We will address the Calls to Action of the Truth and Reconciliation Committee.

Actions	Priority Level	Steps	Timeline	
<b>Activity 3.3.1</b>  Increase cultural competency in the delivery of legal services	Immediate	Step 1: Consider recommendations of 2017 Equity Committee and continue its work to implement specific Calls to Action.	2017 - 2018	ongoing
		Step 2: Monitor work of the Federation of Law Societies TRC Calls to Action Advisory Committee	Ongoing (FLSC Report issued June 2020)	ongoing
		Step 3: A roadmap was developed to assist members of the profession to become culturally competent in the delivery of legal services (plan to include short and long-term goals)	2017 - 2018 (2018-2019)	✓
		Step 4: Assess and address any resource requirements associated with implementing the roadmap or targeted plan	2018 - 2019	
		Step 5: Address whether changes need to be made to Rules (e.g. if there is going to be a requirement to take certain CPD programs) and make any required changes	2018 – 2019	
		Step 6: Implement the plan	Ongoing	

**Status Comments:**

See Activity 3.2.1.

See Activity 3.1.2 regarding the Exit Survey

The Equity Committee continues to explore a range of responses to the TRC recommendations and will continue its work in 2020. This includes consulting with Indigenous members to seek input on additional opportunities for providing education and support.

The Competence and Education Department developed an Elder Law education session at Turtle Lodge in September 2018 on Indigenous laws.

CPLED/Articling Students will be able to self-identify as Indigenous so they can be identified for the purposes of targeted programs.

Actions	Priority Level	Steps	Timeline	
<p>The Equity Committee has developed a roadmap to assist the Law Society in responding to the Calls to Action, including the need to increase cultural competency in the delivery of legal services. The Roadmap was presented to the benchers in February 2019.</p> <p>There has been an enhanced provision of information and resources for the profession on cultural competency via the Communiqué.</p>				
<p><b>Activity 3.3.2</b></p> <p>Increase cultural competency among the Benchers and staff</p>	<p>Immediate</p>	<p>Step 1: Identify training opportunities and resources</p> <p>Step 2: Consider framework to provide annual training to Benchers and staff to assist them in becoming more culturally competent in their regulatory work.</p> <p>Step 3: Conduct blanket exercise with Law Society staff</p>	<p>2017-2018</p> <p>2017-2018</p> <p>October 2017</p>	<p>Sept 2018 Bencher meeting</p> <p>✓</p>
<p><b>Status Comments:</b></p> <p>Senior staff attended programs at the Canadian Museum for Human Rights Museum (CMHR) in 2018 to explore opportunities to partner with CMHR on programming to support cultural competency, including understanding and education on Indigenous Rights, Laws and Traditions.</p> <p>In September 2018 the benchers and staff received training to improve diversity and inclusion through better understanding of institutionalized racism, unconscious bias and "soft" discrimination in the professional world. Additional training was provided to the profession and to Law Society staff in February 2019.</p> <p>Equity Committee is focusing on cultural competency, equity and diversity initiatives for profession, benchers and staff.</p>				

# Strategic Objective 4: Stakeholder Confidence

**Build public and stakeholder confidence in the Law Society as the regulator of the legal profession.**

**Desired Outcomes:**

- The public, the profession, government and other stakeholders trust the Law Society to be proactive, fair, transparent, accountable and innovative in regulating the profession in the public interest
- The public and other stakeholders understand the role of the Law Society and the value of an independent and independently regulated profession
- The Law Society experiences greater engagement with the public, the profession and other stakeholders

**Strategy 4.1**

We will communicate effectively with the public and other stakeholders about the Law Society’s mandate as a regulator to protect the public interest.

Actions	Priority Level	Steps	Timeline	Status
<p><b>Activity 4.1.1</b></p> <p>Develop a comprehensive communications plan to strengthen our relationships with all stakeholders</p>	<p>Intermediate</p>	<p>Step 1: Establish President’s Special Committee on Communications</p> <p>Step 2: Analyze issues and consider solutions and opportunities to address communications challenges;</p> <p>Step 3: Develop key messages and processes, including social media, to enhance communications with the public, the profession, government, and other stakeholders to build a better understanding of the Law Society</p> <p>Step 4: Report to the Benchers with recommendations</p>	<p>June 2017</p> <p>September 2017 – February 2018</p> <p>March 2018</p> <p>April 2018</p>	<p>✓</p> <p>ongoing</p> <p>✓</p> <p>✓</p>

Actions	Priority Level	Steps	Timeline	Status
<p><b>Status Comments:</b></p> <p>A Communications Officer was hired and commenced her role effective January 1, 2019. Her immediate priorities were the development of the new LSM Website and a comprehensive communications plan involving social media.</p> <p>In collaboration with Graphic Designers, a consistent design and brand for the LSM was identified and incorporated into all LSM communications effective January 2019.</p> <p>Ongoing external communications have taken place through scheduled meetings with the Minister of Justice in June 2018 and January 2019.</p> <p>Continued engagement with the MBA through events such as the Annual Joint Meeting in December, the CBA Mid-Winter Meeting, Manitoba Law Day and the Western Bar meeting held at Clear Lake in September.</p> <p>Enhanced communications from the Great Library to the profession (Elex and Great Lexpectations). Delivery of legal research training at no cost to the profession.</p>				
<p><b>Activity 4.1.2</b></p> <p>Create new website for The Law Society of Manitoba</p>	<p>Intermediate</p>	<p>Step 1: Assess functionality and form of website with input from Law Society staff</p> <p>Step 2: Engage in consultation with website developer regarding structure and reorganization</p> <p>Step 3: Content review and revision using plain language</p> <p>Step 4: Develop online payment platform</p> <p>Step 5: Introduce new website</p>	<p>Spring 2017</p> <p>Spring 2017</p> <p>Fall 2017</p> <p>Spring 2020</p> <p>December 2019</p>	<p>✓</p> <p>✓</p> <p>ongoing</p> <p>✓</p> <p>✓</p>
<p><b>Status Comments:</b></p> <p>The new Law Society of Manitoba logo and website was unveiled in December 2019.</p>				

## Strategy 4.2

We will increase the Law Society's engagement with and education of the public.

Actions	Priority Level	Steps	Timeline	Status
<p><b>Activity 4.2.1</b></p> <p>Determine what the public thinks of and wants from the Society</p>	<p>Long-Term</p>	<p>Step 1: Conduct survey to obtain information</p> <p>Step 2: Arrange Focus Groups or Town Halls</p> <p>Step 3: Participate in relevant Community meetings or debates or similar forums</p> <p>Step 4: Identify needs and develop a plan to respond to those needs</p> <p>Step 5: Report to Benchers</p>	<p>2019 - 2020</p>	<p>2021?</p>
<p><b>Status Comments:</b></p> <p>This activity was identified as a long-term priority that will be addressed in 2019-2020.</p>				
<p><b>Activity 4.2.2</b></p> <p>Manage the expectations of the public</p>	<p>Long-Term</p>	<p>Step 1: Increase available resources to educate the public</p> <p>Step 2: Make resources widely available</p>	<p>2019 - 2020</p>	<p>2021?</p>
<p><b>Status Comments:</b></p> <p>These are long-term initiatives and will be developed further once appropriate resources are put in place.</p> <p>The Communications Committee concluded that there was little value in convening focus groups or town halls.</p> <p>Developed a For the Public section on the website</p>				

### Strategy 4.3

We will increase the Law Society’s engagement with the profession.

Actions	Priority Level	Steps	Timeline	Status
<p><b>Activity 4.3.1</b></p> <p>Determine what the profession thinks of and wants from the Society</p>	<p>Long-Term</p>	<p>Step 1: Conduct survey to obtain information</p> <p>Step 2: Arrange Focus Groups, debates, forums or otherwise actively seek feedback on issues under consideration</p> <p>Step 3: Identify needs and develop a plan to respond to those needs</p> <p>Step 4: Report to Benchers</p>	<p>2019 - 2020</p> <p>2019 - 2020</p>	<p>2021?</p>
<p><b>Status Comments:</b></p> <p>The Communications Committee concluded that there would be value in conducting a survey of the profession. This was determined to be a long-term initiative and so that will not take place until 2019-2020.</p>				



## MEMORANDUM

**To:** **Benchers**  
**From:** **Leah Kosokowsky**  
**Date:** **September 3, 2020**  
**Re:** **Proposed Rule Amendment – Calls to the Bar**

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### INTRODUCTION

Pursuant to Law Society Rule 5-13(1), once an individual otherwise meets the requirements to practise law in Manitoba, that person is required to participate in the following two formalities before he/she can practise:

- (a) at a sitting of the Court of Queen’s Bench, the applicant must be presented to the Court by a bencher or the chief executive officer at a date and time determined by the chief executive officer; and
- (b) the applicant must sign the rolls (hard copy books maintained at the Law Courts Building and at the Law Society offices).

### MASS CALL TO THE BAR

Due to the COVID-19 pandemic and the restrictions on large gatherings, the June 2020 mass Call to the Bar ceremony was postponed indefinitely. In order to permit members of the Class of 2020 to be called to the Bar without first having to attend to the formalities, you approved of rule amendments in April 2020, pursuant to which the candidates received conditional practising certificates. The condition imposed was that the lawyer would attend at a future date and time set by the chief executive officer to be presented to the Court of Queen’s Bench and to sign the rolls.

The mass Call to the Bar ceremony has been tentatively rescheduled for October 2, 2020. However, we are now nearly six months into the pandemic and, while there has been some easing of the restrictions on gatherings, the future remains uncertain, particularly in light of the recent increase in active COVID-19 cases in Manitoba. It is possible that the tentative date will be postponed yet again or that it will be held either remotely or in smaller cohorts of students.

## PAPER CALLS

Benchers who were sitting in 2019 will recall that you were asked to consider the possibility of allowing for a “paper” or administrative call to the Bar for individuals who reside and practise in another Canadian jurisdiction but who obtain a Manitoba practising certificate because they have exceeded the number of days that they are able to practise temporarily in Manitoba under the National Mobility Agreement. The minutes of the April 2019 benchers meeting reflect that you were of the view that:

- Paper calls should be available in Manitoba for lawyers who have already been called in another Canadian jurisdiction, but who are required to attend at the Law Society offices to swear the oaths and sign the roll books before being eligible to commence active practice in Manitoba. The requirement to attend a formal call ceremony and be presented to the court could be waived.
- Articling students who met all of the requirements to be called to the Bar at least four weeks prior to the Mass Call ceremony or well ahead of the next individual call date should be permitted to obtain a paper call and be eligible to commence active practice immediately thereafter. They would be required to attend a call ceremony and be presented to the Court at a future date.

Part of your rationale for endorsing paper calls was that to require lawyers who are practising law in Manitoba with a Manitoba call but who maintain their office and practice in another Canadian jurisdiction to travel to Manitoba only for the purpose of signing the rolls and taking the oaths may be overly burdensome. Given the impact of COVID-19, this is particularly so if they are travelling from a province where they may have to self-isolate for 14 days.

In the circumstances, we are proposing that the Benchers consider giving the chief executive officer the broad discretion to waive or vary the formalities in exceptional circumstances. This would apply equally to the Class of 2020 should that become necessary and to lawyers who maintain their primary office in another jurisdiction.

## LEGISLATIVE AUTHORITY

As currently drafted, the Rules say:

- 5-13(1) *Following the approval of an application for call to the bar:*
- (a) *the applicant must be presented to the Court of Queen's Bench by a bencher or the chief executive officer at a date and time determined by the chief executive officer;*
  - (b) *the presentation must take place at a sitting of the Court of Queen's Bench; and*
  - (c) *the applicant must sign the rolls.*



5-14 *The chief executive officer may refuse to issue a practising certificate to an applicant for call to the bar or may impose conditions or restrictions on the practising certificate of the applicant.*

If you are inclined to provide the recommended discretion to the chief executive officer, you may add a new sub-rule to 5-13 to read:

5-13(2) *In exceptional circumstances, the chief executive officer may waive or vary the formal requirements of 5-13(1).*

### NEXT STEPS

If you resolve to amend the rule, we will have it translated into French and return to you for final approval at the next benchers meeting.

LCK



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# MEMORANDUM

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**TO:** Benchers

**FROM:** Kris Dangerfield

**DATE:** August 31, 2020

**RE: **Honoraria and Expense Policies  
for Executive Members and Lay Benchers****

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It has been some time since the Law Society revisited the question of honoraria for executive members and lay benchers of the Law Society. In fact it has been over a decade. Given that, we thought it an opportune time to consider whether the current rates of compensation continue to be appropriate.

## **Current Compensation**

In Manitoba the president is currently paid \$30,000 and the vice-president receives \$15,000 per annum. That is increased by \$5,000 in the case of the president and \$2,500 in the case of the VP if the incumbent resides outside of Winnipeg. (Prior to 2011, the rates were \$25,000 and \$12,500 respectively). In addition, travel expenses are paid in accordance with the attached Operations Policy for travel expenses. No other members of the executive (past-president and lay bencher executive member at large) or lawyer benchers (whether elected or appointed) receive compensation for their contributions.

Lay benchers are compensated at the rate of \$100 per meeting attendance (increased in 2009 from \$75 per meeting). That includes seven bencher meetings and various committee meetings over the course of the year. With respect to discipline matters, lay benchers receive \$100 for each of the first two days of a hearing and \$500 for each day thereafter.

Lawyer benchers and lawyer volunteers receive no compensation for attendance at meetings other than discipline inquires. In that instance they receive no allowance for the first two days of a hearing and \$500 per day commencing on the third day.

All benchers are reimbursed for their permissible expenses associated with attending to Law Society business.

## **Executive Members**

What is it that a president and vice-president do for all that money over the course of a year?

In most cases, the individuals who are elected to serve in those roles have served as benchers for a number of years and throughout their tenure have had an opportunity to sit on most Law Society committees and to chair many of those committees. The eight standing committees are Admissions and Education, Complaints Investigation, Discipline, Equity, Nominating, Practice and Ethics, Professional Liability Claims Fund and Reimbursement Claims Fund. In addition, we usually have two president's special committees appointed annually and other ad hoc committees occasionally.

By serving in those various capacities, the individuals become familiar with all aspects of the Law Society's operations and governance and have a chance to hone their leadership skills. The time commitment is substantial. Some of the responsibilities include:

- Providing strategic leadership
- Chairing benchers' meetings as well as the Annual General Meeting
- Attending Executive Officers' meetings to ensure that as leaders they are informed on matters of local and national interest
- Frequent and regular communication with the CEO
- Speaking publicly on behalf of the benchers (in accordance with the governance policies)
- Sitting as an ex officio member of all Law Society committees
- Sitting as the Law Society representative on selection committees for Judges, Justices and Masters of the Court
- Addressing the candidates and the Court at the annual mass Call to the Bar Ceremony (a special sitting of the Court of Queen's Bench)
- Bringing greetings on behalf of the Law Society at the swearings-in of Provincial Court Judges, Court of Queen's Bench and Court of Appeal Justices and Masters of the Court of Queen's Bench
- Attending twice yearly meetings of the Federation of Law Societies to consider matters of national interest
- As required, participating in Federation conference calls to address issues on behalf of the Law Society (in conjunction with the CEO)
- Participating in national working groups as required
- Attending and speaking at annual meetings with the Manitoba Bar Association
- On the invitation of other law societies, attending and addressing their benchers

- Participating in orientation of first year law students at Robson Hall
- Preparing written reports several times yearly for the Communiqué so as to inform the profession of the president's activities and Law Society initiatives
- Preparing written reports for benchers meetings

The above is simply a list of activities. Implicit within each of those activities is the overarching obligation of the executive to exercise judgment and to use their experience as benchers to lead the Law Society on both the local and national stage. Given the pandemic, some of these activities (in particular travel-related) have been cancelled or postponed, but many will continue to be delivered remotely. (I think you can read into that “hence a little less fun and a lot more Zoom”.)

### **What is Going on Across the Country?**

Attached you will find a table setting out the honoraria that are paid to the presidents and vice-presidents of law societies across the country. The range of honoraria paid by law societies is broad, ranging from as low as no honorarium at all (Nunavut, Prince Edward Island, Northwest Territories and Yukon) to a high of \$235,575 per annum (the Barreau du Quebec). Before any of you consider picking up and moving to Quebec, please note that comparing the rates is a bit like comparing apples and oranges. In some jurisdictions (for example, Ontario and Quebec), the role is essentially a full time position and the honoraria is commensurate with that. In others, although not a full time position, it is generally expected that the president of a law society will spend a significant number of hours per year doing Law Society work. Indeed in Alberta benchers themselves typically spend approximately 600 hours per year and the president spends approximately 1,200 hours per year.

The law societies that are most comparable to Manitoba in size and budgets (and relative level of time commitment) would be Saskatchewan, New Brunswick and Nova Scotia with a low of \$30,000, a high of \$60,000 and a median of \$40,000. In those four jurisdictions the vice-president is paid from a low of no honorarium to a high of \$30,000 with a median of \$15,000.

With respect to lay benchers, some law societies pay no honoraria (NWT and PEI), some are paid by the government (Yukon and Alberta) and it appears that some have a sliding scale depending on the length of a meeting (Newfoundland). The highest rate appears to be the rate set in the Yukon of \$200 per meeting.

You will also see in the chart the rates of remuneration paid by CPAs across the country to both executive members and public representatives.

## **What is Happening in Other Professions?**

I have spoken with the President and CEO of CPA Manitoba, Geeta Tucker who advises that they have an executive ladder with two vice-chairs and a chair. She thought that the estimate of 300 to 400 hours in a presidential year was reasonably comparable to the time commitment of the president of that organization. Compensation is paid only to the chair which she advises is set at \$20,000 per annum.

Public representatives are paid \$2,000 per annum for their service on the CPA Manitoba board. All board members are compensated for their actual travel expenses.

## **What is an Appropriate Level of Compensation?**

The challenge is to fix an amount that reflects at least in part the fact that the president and vice-president commit a significantly increased amount of time to the Law Society for a two year period and inevitably that has an impact on their income.

I did an informal survey of the members of the “past president’s club” who have served while I have been in the role of CEO. Not one of them kept track of the time that they spent while serving as either VP or president, although two agreed that a good estimate of the time spent as president was somewhere between 300 to 400 hours. Several said that they did it because they enjoyed it and thought it was important. Another said “for me it was all about the lunches” (if you can guess who that was, you will be the winner of a coveted LSM trinket). Sadly, in these days of COVID we aren’t even providing those.

If you were to estimate an average lawyer’s billing of \$300 per hour, that would reflect a potential loss of billings in the range of \$90,000 to \$120,000 in a presidential year. However, there has never been an expectation that the honoraria paid to Law Society volunteers would effectively compensate them at market rates.

## **Financial Implications of Increased Honoraria**

In the 2020/2021 budget we allocated \$45,000 for the allowances for the president and vice-president. We allocated another \$10,000 for honoraria for lay benchers, which breaks down to an average of \$1,667 per person per year. That does not include the other \$8,000 that was budgeted for lay benchers and public representatives who sit on hearing panels.

Given the impact of the pandemic there have been some considerable cost savings that could be allocated to address any shortfalls in the 2020/2021 budget arising from an increase in honoraria. For example, the food costs of strategic planning at Clear Lake (\$5,000),

bencher and committee travel (\$25,000), president and vice-president travel (\$18,000) and staff travel (\$50,000) would collectively make up any modest increases in honoraria paid to volunteers. These cost savings are, of course, a one time expense in this budget year and will be built back in for 2021/2022.

Some questions for you to consider:

- Do you wish to increase the honoraria payable to the president and vice-president?
- If so, are you comfortable with a modest increase that would compensate the president and vice-president at the median to higher end of the range for law societies of comparable size (\$40,000 to \$50,000 for president and \$20,000 to \$25,000 for VP)?
- Do you wish to retain a supplement for those who reside outside of Winnipeg (recognizing the additional time commitment to travel to and from events for those from outside of Winnipeg)?
- Do you wish to increase the honoraria for lay benchers?
- If so, are you comfortable with a modest increase that would compensate lay benchers at a rate of \$150 per meeting? Alternatively, would you wish to consider a fixed compensation level of \$2,500 to \$3,000 per person per annum? (This would eliminate some administration associated with receiving and paying out meeting expense claims).
- Should any increases come into effect for the 2020/2021 fiscal year?

Atc.



## OPERATIONS POLICY #1

<b>NAME OF POLICY</b>	<b>Travel Expenses</b>		
<b>APPLICABLE SECTIONS OF <i>THE LEGAL PROFESSION ACT</i> AND RULES</b>	<b>Not Applicable</b>		
<b>Approved by the CEO August 30, 2016</b>	<b>Effective August 30, 2016</b>	<b>Reviewed</b>	<b>Revised</b>

The Law Society recognizes that staff and volunteers incur travel expenses in the course of conducting Law Society business. Those expenses are to be reimbursed in accordance with the following principles:

- Staff travel is required to conduct Society business;
- Benchers may be asked to travel to attend meetings and events on behalf of the Society;
- The Chief Executive Officer must budget for travel;
- Travel must be approved by the Chief Executive Officer within budgeted limits;
- Staff and Executive Officers will be issued credit cards and will be required to provide receipts for expenses (inclusive of GST) to the Chief Financial Officer in a timely way;
- Staff and volunteers will be reimbursed for reasonable travel expenses (excluding normal travel to and from the office).

## **Travel Costs**

### **Bencher and Executive Officers' Travel**

1. Benchers will be reimbursed for reasonable expenses relating to their attendance at Bencher and other required meetings as follows:
  - (a) the cost of a hotel for the number of nights necessary for attendance at the meeting;
  - (b) for use of a personal vehicle, mileage at the rate approved by the Society;
  - (c) economy airfare;
  - (d) reasonable meal expenses;
  - (e) parking and taxi expenses.
  
2. For Federation meetings the Society will pay for the President, Vice President and their spouse/guest, and for the Chief Executive Officer for the following expenses:
  - (a) the cost of a hotel for the number of nights necessary for attendance at the meeting;
  - (b) for use of a personal vehicle, mileage at the rate approved by the Society;
  - (c) economy airfare;
  - (d) reasonable meal expenses;
  - (e) parking and taxi expenses.
  
3. The CEO may approve attendance at Federation meetings by other Benchers or staff where attendance is appropriate.

### **Staff Travel**

4. Staff members will be reimbursed for reasonable expenses incurred while on business for the Society or engaging in professional development approved by the Society as follows:
  - (a) the cost of a hotel for the number of nights necessary for attendance at the meeting;
  - (b) for use of a personal vehicle, mileage at the rate approved by the Society;
  - (c) economy airfare;
  - (d) reasonable meal expenses;
  - (e) parking and taxi expenses.



**Professional Development Expenses**

5. Staff will be permitted by the Chief Executive Officer to attend professional development programming where the content of the programming will increase their capacity to perform their role and will be of long term benefit to the Society.
6. Where such programming is approved and budgeted for, the staff member will be reimbursed for expenses in accordance with this policy.
7. Where the staff member has been issued a Law Society credit card, it shall be used for travel expenses, except in circumstances where it is not accepted or there are minor out-of-pocket expenses.

**HONORARIUM and EXPENSE POLICIES**  
( March 2020)

<b>LAW SOCIETY Honorariums</b>				
Province	President	First Vice-President	Second Vice-President	Comments
<b>Alberta</b>	\$83,000	--	--	Adjusted annually to CPI. Have never adjusted for location. Alberta government pays lay benchers.
<b>British Columbia</b>	\$96,000	\$36,000	\$36,000	
<b>Chambre de Notaires</b>	\$180,000 base salary + 10% RRSP + "severance pay" based on the number of completed terms (starting April 1, 2019). President must exercise his function exclusively and on a full-time basis.	\$16,000 + attendance fees for all committees (not the board) meetings. VP is not a full-time position.	--	Usual reimbursement of acceptable expenses + if its place of business is more than 400 kilometers from the meeting place, there is an additional allowance of \$250.
<b>Manitoba</b>	\$30,000 ( <i>increased by \$5,000 if outside of Winnipeg</i> )	\$15,000 ( <i>increased by \$2,500 if outside of Winnipeg</i> ).	-	We also have an expense policy which covers off all reasonable travel expenses. We will likely review our levels as well as it has been some years since we did so. Lay benchers receive \$100 per meeting.
<b>New Brunswick</b>	\$35,000 ( <i>if located outside Fredericton</i> ). \$30,000 ( <i>if located in Fredericton</i> ).	--	--	Public representatives receive \$100 per meeting.
<b>Newfoundland &amp; Labrador</b>	\$30,000	\$15,000	--	Reasonable travel expenses paid for out-of-town attendees -- but no honoraria, except for lay representatives. Public representatives receive: \$125 per full day \$75 per half day \$50 per meeting two hours or less \$125 prep time
<b>Northern Territory</b>	-	-	-	Do not pay any honorariums.
<b>Nova Scotia</b>	\$60,000	\$30,000	\$15,000	
<b>Nunavut</b>	-	-	-	
<b>Ontario</b>	\$195,000	-	-	

<b>Prince Edward Island</b>	-	-	-	Do not pay any honorariums, just travel expenses.
<b>Quebec</b>	\$235,575	\$25,000	\$25,000	
<b>Saskatchewan</b>	\$40,000	\$15,000	-	<p>Honoraria are paid to the President and Vice-President. The honoraria paid to the President and Vice-President was increased in 2015.</p> <p>The payment of the Presidential Honorarium is not intended to cover expenses or the annual President's dinner. Reasonable expenses as described in section (i) above may be claimed by the President. Reimbursement for the cost of the President's Dinner is capped at \$10,000. The President's honorarium shall be indexed in accordance with the consumer price index to January of each year. The honorarium shall be further reviewed by the Benchers every two years to determine whether a further increase is warranted, taking into consideration factors such as: time spent carrying out and travelling for Presidential duties, amounts paid to Presidents in other jurisdictions in Canada, and any other relevant circumstances.</p> <p>The Vice-President's honorarium has been established at 37.5% of the President's honorarium. The Vice-President's honorarium shall be indexed in accordance with the consumer price index to January 1 of each year. The honorarium shall be further reviewed by the Benchers every two years to determine whether a further increase is warranted, taking into consideration factors such as: time spent carrying out and travelling for Vice-Presidential duties, amounts paid to Vice-Presidents in other jurisdictions in Canada, and any other relevant circumstances.</p>
<b>Yukon</b>	-	-	-	Do not pay any honorariums. Public Representatives are now remunerated by the Yukon Government \$200 per meeting by regulation under the new <i>Legal Profession Act, 2017</i>

<b>CPA Remuneration of Volunteers</b>				
<b>Province</b>	<b>Non-Executive Board Members</b>	<b>Executive Board Members</b>	<b>Committee Chairs/Members</b>	<b>Lay/Public Representatives</b>
<b>British Columbia</b>	Public Representatives are remunerated \$200 for meetings under four hours and \$400 for meetings over four hours	Board Chair remuneration is set in our Board Governance Policy at 50% of the compensation of the Auditor General of BC. As of April 1, 2016, the Auditor General remuneration is \$273,406 and 50% amounts to \$136,703	N/A	Public Representatives are remunerated \$200 for meetings under four hours and \$400 for meetings over four hours
<b>Manitoba</b>	No	Chair only \$20,000/year	No	Board public representatives only \$2,000/year
<b>New Brunswick</b>	No	No	No, with the exception of the Inspection Committee -- they are remunerated as follows: \$350/day for in-person meetings \$250/half-day for in-person meetings	Yes, Public Representatives are remunerated as follows: \$350/day for in-person meeting \$250/half day for in-person meeting \$100 for Conference Calls  The Committee Members will be paid for: <ul style="list-style-type: none"> <li>travel time (actual hours) at the rate of \$50 per hour (plus applicable taxes if you are a HST registrant);</li> </ul> other travel expenses, such as meals and kms, as per the travel policy.
<b>Newfoundland</b>	No	No	No	\$125/day \$75/half-day \$50 for meetings two hours or less \$125 Preparation time
<b>Prince Edward Island</b>	No	No	No	No
<b>Quebec</b>	Yes	No	Yes	Yes
<b>Saskatchewan</b>	No – they are only reimbursed for travel and living expenses.	Yes – the outgoing Chair receives an honorarium following the completion of his term. According to the CPA SK Rules, this honorarium is fixed by the Board. Currently the honorarium is set by the Board at \$20,000 and is to be confirmed annually. However, an	No - they are only reimbursed for travel and living expenses.	Public appointees to the CPA SK Board and public representatives appointed to volunteer committees receive the same remuneration which is the following: <ul style="list-style-type: none"> <li>\$500 per meeting in duration greater than six hours</li> <li>\$300 per meeting in duration less than six hours</li> <li>\$50 per hour for shorter meetings i.e. conference calls</li> </ul>

		exception was made in May 2016 for our first outgoing CPA SK Chair. He received a \$30,000 honorarium to recognize the length of his term (over year and a half due to our proclamation date) and the significant time commitment.		According to the CPA SK Rules, this honorarium is fixed by the Board.
<b>Doctors Nova Scotia – Honoraria and Expenses</b>				
<b>President</b>	<b>Chair of the Board of Directors</b>	<b>President Elect &amp; Past President</b>	<b>Chairs of Board Standing Committees (Audit, Governance, IT and Policy &amp; Health Issues)</b>	
\$100,000/per term \$1,000/month gross for car allowance	\$40,000/year (first three years) \$50,000/year (second term) \$5,000/year for professional development (if required)	Honoraria only	\$5,000/year	Daily rate: \$800/day or \$400/half-day Video and teleconferencing: \$125/hour



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# MEMORANDUM

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**TO:** Benchers

**FROM:** Kris Dangerfield

**DATE:** August 24, 2020

**RE:** **Awards**

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Way back in 2012 the benchers established the Richard J. Scott Award on the retirement of Chief Justice Richard Scott from the Manitoba Court of Appeal. He had previously been a president of the Law Society (his name is on my call certificate to prove it) and it was felt that the award could be used to promote issues of importance to the Law Society, like an independent legal profession and access to legal services. By happy coincidence, these were and continue to be important matters to Chief Justice Scott as well. Since 2013 the Richard J. Scott Award has been given out annually to *"an individual who advances the rule of law through advocacy, litigation, teaching, research or writing. Activities that support an independent legal profession, access to legal services, access to justice, and public interest advocacy are all eligible."*

This is the only award that the Law Society of Manitoba currently gives out other than every second year when we honour lawyers who have practised 50 years. We have also appointed visiting guests and lay benchers honorary benchers or honorary members of the Law Society under Rule 2-31. At the time the Scott Award was established there was consideration given to establishing a second award, however there was a general consensus that while the Law Society ought to establish one or two awards to be presented annually, we ought to begin with the Richard J. Scott Award.

At the time the benchers noted that while this did not fall directly within the ambit of the Law Society, the Award provided an opportunity to recognize and promote the core values of the profession to the public and their members. As it turns out, that is also consistent with one of the objectives set out in the 2017 to 2020 Strategic Plan, namely to improve engagement with both the profession and the public.

Attached for your information is a summary of what other Canadian law societies presently give out to honour members of the profession. It appears that one of the only awards presented to persons other than lawyers is the Jean Bruneau, OC, Certificate of Merit given in Newfoundland to "*lay persons who have made a substantial contribution to the Law Society through years of service on Benchers or in some other capacity, or to the legal profession or the administration of justice.*" The award "*should be granted sparingly and must not be compulsory on an annual basis.*"

As many of you will know, the Manitoba Bar Association gives out awards for distinguished service, pro bono work, section activity work, etc. Attached you will find a list of the MBA's annual awards. We wouldn't want to replicate those awards, and so it would be important to ensure that any award is related to the Law Society and the fulfilment of its mandate.

### ***Richard J. Scott Award***

Over the last several years the Richard J. Scott Award Committee, which is chaired by the former Chief Justice, has discussed the parameters of the Award and has struggled to some extent when considering the broad range of potential recipients. The Committee is of the view that the Award ought to honour Mr. Scott's commitment to advancing the rule of law and contributing to a strong and independent legal profession (particularly through advocacy) but that the access to justice component of the Award is honoured elsewhere by the MBA. In the circumstances, the Committee is recommending that the Award be described as follows in 2021:

*The Richard J. Scott Award is presented annually by the Law Society of Manitoba to an individual who advances the rule of law and contributes to a strong and independent legal profession through advocacy, litigation, teaching, research, writing or mentoring.*

### ***Additional Awards***

Based upon the benchers' earlier discussions and a review of what is done by other law societies, I am recommending that you consider the creation of an additional Law Society award. The award could be described as the Law Society Medal/Award or President's Medal to distinguish it from the MBA's awards. The criteria identified by the Law Society of New Brunswick in its Franklin O. Leger, Q.C. Award focusses on contributions that are directly linked to the work of law societies and which you might wish to identify as warranting recognition. That Award is given as follows:

*"In recognition of outstanding meritorious service, dedication or contribution in accordance with the highest ideals of the legal profession. (It) recognizes service to*

*the profession above and beyond the call of each member's duty which may include one or many of the following accomplishments to or on behalf of the Law Society:*

- *Excellence in quality of service advising, representing or serving the Law Society;*
- *Exceptional service or contributions to or on behalf of the Law Society;*
- *Enhancing the role of the Law Society;*
- *Contributions to the governance of the legal profession; and*
- *Outstanding, conspicuous, sustained or dedicated excellence in the practice of law, service or contributions to or on behalf of the profession and other legal professional associations and organizations."*

The cost of such an award would be nominal as it would necessitate the purchase of a modest medal or plaque for presentation. The actual presentation could be coordinated with a Law Society event or presented at a bencher meeting, for example at the Annual General Meeting in June. Alternatively, it could be awarded only every second year and presented at the 50 year luncheon or at some other Law Society event.

I am also recommending that you consider creating a Certificate of Merit, similar to the Jean Bruneau, OC Award presented in Newfoundland, to enable you to honour lay persons from time to time as the benchers conclude is appropriate.

Atc.





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## Summary of Law Society Awards as at July, 2020

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### Law Society of British Columbia

<b>Award</b>	<b>Criteria</b>
<b>Law Society Award</b>	The Law Society Award honours the lifetime contribution of the truly exceptional in the legal profession.
<b>50, 60 and 70 Year Certificates</b>	Each year, the Law Society honours longstanding members of the profession through the presentation of 50, 60 and 70-year certificates, in tribute to their cumulative years in the profession.
<b>Mark Andrews Excellence in Litigation Award</b>	Presented to a lawyer who demonstrates outstanding lifetime achievements in litigation. This is a new award and has not yet been granted.
<b>Excellence in Family Law Award</b>	Recognizes lawyers who have contributed to the advancement of justice for families.
<b>Leadership in Legal Aid Award</b>	Awarded to lawyers who have demonstrated exceptional commitment to the provision of legal aid in British Columbia
<b>Equity, Diversity and Inclusion Award</b>	This award recognizes individuals who have made significant contributions to equity, diversity and inclusion in the legal profession or the law in British Columbia.
<b>Pro Bono Award</b>	Recognizes lawyers who have demonstrated exceptional commitment to the provision of pro bono in British Columbia.

## Law Society of Alberta

Award	Criteria
<p><b>Distinguished Service Award</b></p>	<p>Jointly presented by the Law Society of Alberta and the Canadian Bar Association - Alberta, these prestigious awards shine a light on the outstanding contributions Alberta lawyers make to the community, the legal profession, to pro bono service and to legal scholarship.</p> <p>There are four Distinguished Service Award categories as follows: Service to the Community - Service to the Profession - Legal Scholarship - Pro Bono Legal Service.</p> <p>The following information is required for nominations:</p> <ul style="list-style-type: none"> <li>- A statement detailing why the candidate is worthy of the award;</li> <li>- A curriculum vitae outlining the nominee's background, career and any present activities that qualify them for nomination in one of the four categories, and;</li> <li>- A maximum of two letters of support for the nomination.</li> </ul> <p>The selection committee will consider the following when reviewing nominations: role model for other lawyers; dedication; results achieved; creativity; individual achievement; obstacles overcome; significance of achievement; impact; effective contribution to the role of law in society; and initiative.</p>

## Law Society of Saskatchewan

Award	Criteria
<p><b>Senior Life Member</b></p>	<p>Senior life membership may be conferred by the Benchers to a person who has been a member of the Society for at least 50 years and is, or was in the immediately preceding year, a member of the Society. A Senior Life Member is not required to pay the annual fee applicable to his or her category of membership. (Rule 207)</p>
<p><b>C. Willy Hodgson Award</b></p>	<p>The recipient(s) of this award will exemplify integrity, leadership and character, and have made or are making outstanding contributions to advancing equity and diversity in legal education, the legal profession and/or the administration of justice in Saskatchewan or in Canada. The award recognizes the commitment and contributions made by Willy Hodgson, a Cree elder who sat on the Saskatchewan Legal Aid</p>

	Commission and the Moose Jaw Police Commission, as well as having worked as a nurse and social worker. She was appointed a Lay Bencher of the Law Society of Saskatchewan from 1997 to 2001. Nominations are accepted throughout each year.
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## Law Society of Manitoba

Award	Criteria
<b>Richard J. Scott Award</b>	Presented annually to a person who advances the rule of law through advocacy, litigation, teaching, research or writing.
<b>50 Year Certificates</b>	Offered every two years to long-standing members who have practised safely and effectively for 50 years.

## Law Society of Ontario

Award	Criteria
<b>Law Society Medal</b>	The Law Society Medal, established in 1985, recognizes lawyers who have demonstrated outstanding service through ongoing devotion to professional duties or through a single distinguished professional or academic accomplishment that accords with the highest ideals of the legal community.
<b>Lincoln Alexander Award</b>	The Lincoln Alexander Award honours an Ontario lawyer who has shown an enduring commitment to community service on behalf of Ontarians. The award was created in 2002 in honour of former Lieutenant Governor of Ontario, Member of Parliament, and 2002 Law Society Medal recipient The Honourable Lincoln M. Alexander, P.C., C.C., O.Ont., Q.C., to reward his dedication to the people of Ontario and the legal community.
<b>Laura Legge Award</b>	The Laura Legge Award is given each year to a female lawyer from Ontario who has exemplified leadership within the profession. The award will be bestowed annually as part of the Law Society Medals ceremony, beginning in 2008. The award was established in 2007 in honour of Laura Legge, O. Ont, Q.C., the first woman ever elected as a bencher of the Law Society and the first woman to serve as Treasurer.

<p><b>The J. Shirley Denison Award: (lawyers and paralegals)</b></p>	<p>In April 2015, Convocation approved the establishment of an award in honour of former Treasurer John Shirley Denison, to be bestowed annually in recognition of significant contributions to access to justice and/or poverty issues.</p> <p>Both paralegal and lawyer licensees of The Law Society of Ontario are eligible for this award, established to honour Denison’s commitment to helping others.</p> <p><a href="https://lso.ca/about-lso/medals,-awards-and-honours/law-society-awards/the-j-shirley-denison-award">https://lso.ca/about-lso/medals,-awards-and-honours/law-society-awards/the-j-shirley-denison-award</a></p>
<p><b>The William J. Simpson Distinguished Paralegal Award: (Paralegals only)</b></p>	<p>The Distinguished Paralegal Award was created in 2011 and renamed in 2014 in honour of William J. Simpson, to recognize a paralegal who has demonstrated one or more of the following criteria:</p> <ul style="list-style-type: none"> <li>· outstanding professional achievement;</li> <li>· contribution to the development of the profession;</li> <li>· devotion to professional duties;</li> <li>· adherence to best practices and mentoring of others in best practices;</li> <li>· a history of community service;</li> <li>· personal character that brings credit to the paralegal profession.</li> </ul> <p><a href="https://lso.ca/about-lso/medals,-awards-and-honours/law-society-awards/the-william-j-simpson-distinguished-paralegal-award">https://lso.ca/about-lso/medals,-awards-and-honours/law-society-awards/the-william-j-simpson-distinguished-paralegal-award</a></p>
<p><b>The Human Rights Award</b></p>	<p>The Human Rights Award recognizes outstanding contributions to the advancement of human rights and/or the promotion of the rule of law provincially, nationally or internationally. The award will be granted for devotion to the advancement of human rights and the rule of law over a long term or for a single outstanding act of service. Unless there are reasons to proceed otherwise, the award will be granted to one individual every two years. This award can be awarded to any individual world-wide, it does not have to be a lawyer.</p> <p><a href="https://lso.ca/about-lso/medals,-awards-and-honours/law-society-awards/human-rights-award">https://lso.ca/about-lso/medals,-awards-and-honours/law-society-awards/human-rights-award</a></p>
<p><b>Doctor of Laws</b></p>	<p>The Law Society has the authority under the <i>Law Society Act</i> to confer an honorary doctorate to recognize lawyers and individuals for outstanding achievement. We generally confer the degree at a Call to the Bar ceremony and have the individual do an inspirational keynote address to the new lawyers being called. For the most part, the degree is conferred to lawyers in Ontario or Canada, however we have recognized non-lawyers. I describe it as the “lifetime” achievement</p>

	award and consider it the highest honour of recognition from the Law Society and has been granted since 1960. <a href="https://lso.ca/about-lso/medals-awards-and-honours/honorary-ldd">https://lso.ca/about-lso/medals-awards-and-honours/honorary-ldd</a>
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## Barreau du Québec

Award	Criteria
<b>The Law Society Medal</b>	The highest distinction awarded. It allows the bar to highlight the significant contribution of those who have contributed to the advancement of law and its exercise and, in this way, the development of Quebec society.
<b>Le Mérite du Barreau</b>	<p>Le Mérite du Barreau is presented annually to members of the bar to celebrate, among other things, the performance is a high professional dedication to the cause of the Quebec Bar, the commitment in defending the interests of justice or recognition of social engagement.</p> <p>For two years, the event of delivery of the Attorney Emeritus distinction is mated to a fundraiser with proceeds going to a different charitable organization working in the legal sector. The agency was chosen this year is Spark, whose mission is to help young people in great difficulty in developing self-knowledge and skills essential for successful reintegration.</p>
<b>Le Mérite Christine-Tourigny</b>	This Award is given annually to a lawyer for his social commitment and contribution to the advancement of women in the profession. The work is a bronze sculpture patina green-brown.
<b>La distinction Avocat émérite- The Emeritus Lawyer distinction</b>	The Quebec Bar Association resolved at the General Council meeting of March 2007, to institute an honor, to promote the image of the legal profession through the development of its most deserving. This distinction is known under the name of Emeritus Lawyer and allows any member holding the honor of adding his name after the abbreviation "E. Ad ".
<b>The Tribute To Presidents</b>	The chair of the Bar of Quebec is assumed by the president of Quebec and has traditionally a one-year term, which asks an unusual availability.

	<p>Its responsibilities to protect the public, to the presence and action among members as to the Presidents section across Quebec, and the management of the Society, is indeed a daunting task.</p> <p>All this in addition to having to entrust its business and regular customers to colleagues or associates, to return a year later. By way of thanks for this extraordinary contribution, the president receives at the end of its mandate, the Tribute brass.</p> <p>This Award is given annually to a lawyer for his social commitment and contribution to the advancement of women in the profession. The work is a bronze sculpture patina green-brown.</p>
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## Chambre des notaires du Québec

Award	Criteria

## Law Society of New Brunswick

Award	Criteria
<p><b>Franklin O. Leger, Q.C. Award</b></p>	<p>The Franklin O. Leger, Q.C. Award is given in recognition of outstanding meritorious service, dedication or contribution in accordance with the highest ideals of the legal profession. The Franklin O. Leger, Q.C. Leger Award recognizes service to the profession above and beyond the call of each member's duty which may include one or many of the following accomplishments to or on behalf of the Law Society:</p> <ul style="list-style-type: none"> <li>• Excellence in quality of service advising, representing or serving the Law Society;</li> <li>• Exceptional service or contributions to or on behalf of the Law Society;</li> <li>• Enhancing the role of the Law Society;</li> <li>• Contributions to the governance of the legal profession; and</li> </ul> <p>Outstanding, conspicuous, sustained or dedicated excellence in the practice of law, service or contributions to or on behalf of the profession and other legal professional associations and organizations.</p>

<b>Lifetime awards</b>	50 years to the Bar.
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## **Nova Scotia Barristers' Society**

<b>Award</b>	<b>Criteria</b>
<b>Distinguished Service Award</b>	<p>The Distinguished Service Award is presented to a member of the Barristers' Society who has made significant contributions to the community and the profession. It is open to both practising lawyers and non-practising members (including retired and life members). In some circumstances, it may be granted posthumously.</p> <p>Nominations for the award may be submitted by members of the Society and the public.</p> <p>The Distinguished Service Award Committee chooses a recipient based on the following criteria:</p> <p>Integrity - The recipient is of unimpeachably good character, with a reputation for the highest professional integrity.</p> <p>Professional Achievement - The recipient is amongst the leaders in the practice of law or the academic realm.</p> <p>Service to the Profession - The recipient has made long-term, exceptional volunteer contributions to elevate the legal profession through work with one or more of the following: the Society, the justice system, legal scholarship or otherwise.</p> <p>Community Service - The recipient is an outstanding contributor to the community, through volunteer service and a commitment to making the world a better place.</p> <p>Reform - The recipient has made an outstanding contribution to the betterment of the law or the improvement of the justice system.</p> <p>Overall - The recipient espouses the highest ideals of the legal profession and is a person to whom all members can look for inspiration.</p>

## Law Society of Prince Edward Island

Award	Criteria
<b>Annual Distinguished Community Service Award and Scholarships</b>	<p>Active and sustained participation in a charitable or non- profit organization;</p> <p>Contributions as a volunteer through education or promotion of volunteerism by way of ideas, practices or publications;</p> <p>Continued performance and effort over a period of time in a variety of volunteer activities which has resulted in the enhancement and improvement of the organization, activity or community;</p> <p>Implementation of special events or programs including assisting such organizations through periods of difficulty, change or restructuring.</p>

## Law Society of Newfoundland and Labrador

Award	Criteria
<b>Doctor of Laws, Honoris Causa</b>	<p>The Law Society of Newfoundland and Labrador recognizes outstanding achievement by distinguished members of the profession or of the judiciary by the awarding of the degree of Doctor of Laws, honoris causa.</p> <p>The Law Society of Newfoundland and Labrador has the power to grant honorary degrees by virtue of section 18(2)(j) of the Law Society Act, 1999. Degrees may be granted in recognition of exemplary achievements in service and benefits to the legal profession, the rule of law and the administration of justice.</p> <p>Criteria and Guidelines</p> <ol style="list-style-type: none"> <li>1. Distinction -The recipient has distinguished themselves by having made, directly or indirectly, an outstanding contribution to the legal profession or to the administration of justice.</li> <li>2. Integrity - The recipient is of unimpeachable good character with a reputation for high professional integrity and honesty.</li> </ol>



3. Professional Achievements - The recipient is known for outstanding accomplishments in their professional career.

4. Service - The recipient has made significant volunteer contributions of time and energy to the advancement of the legal profession or the administration of justice, either personally or through a recognized society or organization.

5. Reform - The recipient has made an outstanding contribution to the betterment of the law or to the improvement of the justice system.

This award ought to be conferred, save unusual exceptions, to retired members of a Law Society in Canada or elsewhere as deemed appropriate, or to retired members of the judiciary, for contributions made by persons of the calibre outlined in the criteria set forth above. The selection process should be rigorous and of the highest standard. The criteria and guidelines ought to be applied flexibly, yet reflect the fact that this is the highest award which the Law Society can confer. This award ought to be conferred infrequently.

Procedures for the Degree of Doctor of Laws, honoris causa

1. The Award of Doctor of Laws, honoris causa is to be conferred by Benchers in Convocation on the recommendation of the Honours and Awards Committee or any other Committee determined by Benchers.

2. Nominees should not be informed they are under consideration.

3. Neither the fact of, nor the outcome of any individual nomination, apart from the public announcement by the Law Society of a successful nomination, shall be released by the Committee.

4. The President of the Law Society shall communicate in writing with the person(s) approved by Benchers to be the recipient(s) of the honorary degree.

5. The Law Society should make the announcement of the awarding of the honorary degree to relevant parties and to members of the profession and of the judiciary. The announcement should be posted on the Law Society's website and in any newsletters published by the Law Society.

	<p>6. A proposal to confer a Doctor of Laws, honoris causa degree may be submitted at any time to the Executive Director of the Law Society.</p> <p>7. The Executive Director shall refer any proposals to the Chair of the Honours and Awards Committee or any other Committee determined by Benchers.</p> <p>8. The proposal is to be submitted in writing. It must provide comprehensive and substantive submissions as to how the individual meets the criteria identified and must include reasons why the individual should be honoured by the Law Society. A proposal must include a concise biography and background information on the nominee's outstanding service and achievements as they relate to the Award.</p> <p>9. The Executive Director shall keep a file of names submitted for the award and shall carry forward all submissions until closed by the awarding of the degree, death, or the expiry of a period of three years.</p> <p>10. Persons removed from the list after three years may be re-nominated.</p> <p>11. The Honours and Awards Committee or other Committee shall furnish the Executive Director with a report which shall contain a concise summary for each name recommended by the Committee for the award of an honorary degree, giving reasons for the recommendations and any other relevant facts.</p> <p>12. Normally, serving members of Benchers, serving Law Society staff, serving politicians and active members of the judiciary are not eligible.</p> <p>13. Normally, the degree should not be conferred posthumously.</p>
<p><b>Gordon M Stirling Distinguished Service Award</b></p>	<p>Open to members and former members of the Law Society and of the judiciary who have made a substantial contribution to the Law Society, the legal profession, or the administration of justice, while at the same time making a significant contribution to the public or one's community. The award should take the form of a certificate.</p>
<p><b>Jean Bruneau, OC, Certificate of Merit</b></p>	<p>Open to lay persons whom have made a substantial contribution to the Law Society through years of service on Benchers or in some other capacity, or to the legal profession or the administration of justice.</p>

	<p>The award should take the form of a certificate. This award should be granted sparingly and must not be compulsory on an annual basis.</p> <p>Concerning lay Benchers specifically, they should not be considered automatically eligible for such recognition if it is to hold value. Excepting outstanding contributions during a brief term on Benchers, a lay person should have served the equivalent of two terms of four years each and, as well, have been active outside Benchers in the work of the Law Society as, for example, by sitting on the CAC or some other Committee requiring significant contributions of time and effort.</p>
<p><b>The Kenneth W. Jerrett Award</b></p>	<p>The Kenneth W. Jerrett Award recognizes members of the profession whose tenacity and character are an inspiration to others. The award is granted to lawyers who make exceptional contributions to the profession and who demonstrate commitment to community service within the Province of Newfoundland and Labrador. Recipients must have excelled in three areas:</p> <ol style="list-style-type: none"> <li>1) the practice of law;</li> <li>2) service to the legal profession; and</li> <li>3) service to the community at large.</li> </ol> <p>To be eligible for the award, a nominee must:</p> <ul style="list-style-type: none"> <li>be a member in good standing;</li> <li>currently practice law within the Province of Newfoundland and Labrador;</li> <li>have shown excellence in their work;</li> <li>have shown a commitment to professional and ethical standards;</li> <li>have demonstrated the motivation to persevere in order to excel in the legal profession;</li> <li>have faced significant challenges and succeeded;</li> <li>have made significant contributions to the profession; and</li> <li>have demonstrated a commitment to making important contributions to the community in which they live.</li> </ul> <p>To nominate an individual, the following information is required:</p> <p>A nomination letter discussing how the nominee meets the above criteria for The Kenneth W. Jerrett Award which includes the following:</p> <ul style="list-style-type: none"> <li>a statement of the nominee’s achievements;</li> <li>any offices or leadership positions the nominee has held within the profession;</li> <li>any other contributions in the area of service to the profession; and</li> </ul>

	<p>the nominee's involvement in their community, including volunteer activities and contributions to civic organizations.</p> <p>The award is discretionary and must not be compulsory on an annual basis. The award will take the form of a certificate and will be presented at the Law Society of Newfoundland and Labrador's annual dinner and dance.</p>
<b>Life Membership</b>	Available as an award to members under Rule 2.18, "upon such terms and subject to such conditions as Benchers may prescribe."

## Law Society of Yukon

Award	Criteria
None	

## Law Society of Northwest Territories

Award	Criteria
<b>President's Award</b>	To celebrate excellence in the legal profession in the Northwest Territories, the Executive has introduced a "President's Award" to be presented annually on the occasion of the Presidents' Dinner. This award will be presented to deserving individuals from the Bar who have demonstrated significant service to the legal profession and to their community.

## Law Society of Nunavut

Award	Criteria
<b>Hon. Mr. Justice Neil Sharkey Volunteer Award</b>	<p>Awarded annually, this award recognizes a member who demonstrates outstanding dedication, innovation or results in his or her ongoing involvement with the Law Society as a volunteer.</p> <p>The recipient receives an Inuit art piece and donation made on the recipient's behalf.</p>

<b>Possible New Years of Service Award</b>	Since 2018, we've had a number of resident members who reached the 10-year mark working in Nunavut. We are considering a years of service award for resident members.
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## **Manitoba Bar Association Awards and Recognition Excerpt from Website**

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Each year, the Manitoba Bar Association proudly honours excellence in the legal profession. If you know someone who has made a difference, we welcome your nominations.

Our branch presents up to 10 awards each year:

### **Access to Justice Award**

The Access to Justice Award recognizes an MBA member for outstanding pro bono legal services or outstanding contributions on the issue of access to justice. It is one of eight MBA Recognition Awards, honouring colleagues who demonstrate excellence and commitment to the law, the legal profession and the community at large.

### **Community Involvement Award**

The Community Involvement Award recognizes a Manitoba CBA member who has enhanced the image of the Association, the legal profession and/or the justice system through involvement in non-legal public service in the preceding year. It is one of eight MBA Recognition Awards, honouring colleagues who demonstrate excellence and commitment to the law, the legal profession and the community at large.

### **Council Member Award**

The Council Member Award honours a Manitoba CBA member of Council whose contribution to the Association and its goals is particularly noteworthy. It is one of eight MBA Recognition Awards, honouring colleagues who demonstrate excellence and commitment to the law, the legal profession and the community at large.

## **Distinguished Service Award**

The Distinguished Service Award is presented to a member of the Bench or Bar who exemplifies the ideals of service to the legal profession and the community.

## **Equality Award**

The Equality Award recognizes a Manitoba CBA member whose actions have contributed to the promotion of equality within the legal profession. It is one of eight MBA Recognition Awards, honouring colleagues who demonstrate excellence and commitment to the law, the legal profession and the community at large.

## **Headnotes & Footnotes Award**

This award recognizes a Manitoba CBA member for outstanding contribution to our newsletter, *Headnotes & Footnotes*, in the past year. It is one of eight MBA Recognition Awards, honouring colleagues who demonstrate excellence and commitment to the law, the legal profession and the community at large.

## **Isabel Ross MacLean Hunt Award**

The Isabel Ross MacLean Hunt Award celebrates a Manitoba CBA member whose contributions as a role model for women lawyers deserves special recognition. It is one of eight MBA Recognition Awards, honouring colleagues who demonstrate excellence and commitment to the law, the legal profession and the community at large.

## **President's Award of Excellence**

The President's Award of Excellence recognizes, honours and celebrates a Manitoba CBA member for extraordinary contribution to the Association and its goals, in any manner in the preceding year. It is one of eight MBA Recognition Awards, honouring colleagues who demonstrate excellence and commitment to the law, the legal profession and the community at large.

## **Pro Bono Award**

The Pro Bono Award is part of the Pro Bono Public Interest Law Project, a unique joint venture between the Manitoba Bar Association and the Public Interest Law Centre (PILC). Launched in 1996, the Project encourages lawyers and law firms to donate professional time or funds to enhance access to public interest legal services in Manitoba. Yearly, PILC makes a recommendation to the Executive Committee regarding the recipient of the Pro Bono Award.

## **Section Activity Award**

The Section Activity Award recognizes an MBA Section whose activities during the preceding year have contributed to the promotion or enhancement of Sections and the goals of the MBA. It is one of eight MBA Recognition Awards, honouring colleagues who demonstrate excellence and commitment to the law, the legal profession and the community at large. Eligibility: MBA Sections (not individuals) are eligible.

## **Eligibility**

All awards are open to any CBA member in good standing who resides in Manitoba, with the exception of the Section Activity Award. Members of the current Executive Committee of the MBA are not eligible.





## MEMORANDUM

**To:** Benchers  
**From:** Leah Kosokowsky  
**Date:** August 27, 2020  
**Re:** National Discipline Standards 2019 Implementation Report

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### INTRODUCTION

In 2015, following a two year pilot project, all fourteen Canadian law societies agreed to implement and report on their performance against a number of discipline standards intended to encourage consistent, timely, efficient and transparent processes for the investigation and prosecution of disciplinary matters. The Federation of Law Societies' Standing Committee on National Discipline Standards compiles the reports from each law society and prepares an annual report on their performances against those standards, a copy of which is attached.

### MANITOBA'S PERFORMANCE

As you will observe, for the 2019 year Manitoba met 21 of the 25 standards, or 84%, which is above the national average of 80%. There are two areas which continue to present a challenge. First, standards five and six require that in 90% of the matters, the law society have contact with the complainant and the lawyer at least every 90 days where the investigation remains open for a period over 90 days. Although the 90% standard was not met, it was achieved in 84% of the matters, which is a considerable improvement over 2017 where the standard was met in less than 50% of the cases. Our complaints resolution department continues to strive to meet the standard and, once our new document management system is fully implemented, it is anticipated that the performance against this standard will continue to improve.

The second challenging area is the issuance of citations and the commencement of discipline hearings within the time frames stipulated. Standard 8 requires that 75% of citations are issued within 60 days of the authorization of charges and that 95% of citations issue within 90 days of authorization. In 2019, we issued 57% of citations within 60 days of authorization and 71% within 90 days.

Standard 9 asks that 75% of discipline hearings commence within 9 months of the authorization of charges and that 90% begin within 12 months of authorization. In the 2019 year, 58% of hearings commenced within 9 months and 71% commenced within 12 months.

There are many reasons which contribute to delays, including:

- Our hearing counsel's time was monopolized by an extremely challenging prosecution that involved five motions and two hearings before the discipline hearing panel, along with proceedings in both the Court of Queen's Bench and the Court of Appeal; as well as an unauthorized practice prosecution that involved multiple appearances in the Court of Queen's Bench and the Court of Appeal;
- Where a single member has more than one set of charges authorized at different meetings of the complaints investigation committee, the earlier authorized charges will not proceed to citation or hearing until the subsequent charges are referred to hearing counsel to be dealt with as one matter. This deferral is often at the request of the member or the member's counsel;
- After the issuance of a citation, a member may request a lengthy adjournment during which the member will address underlying mental health or other issues (a "rehabilitative remand");
- On occasion, a member who is facing charges proposes that he/she enter into a retirement agreement. Where the consequences of the member's conduct are likely to be less than disbarment, this may be a viable resolution; however, on occasion, the transition to retirement takes additional time.
- Given that the standard for issuing citations and for the start of a hearing are both measured from the date of the authorization of charges, where there is a delay in the issuance of a citation, there will inevitably be a delay in the start of the hearing.

With the recent hiring of Ayli Klein to support Rocky Kravetsky with discipline hearings, we are optimistic that we will be able to proceed with additional matters even when there are others that are complicated and all-encompassing. We are also considering the development of policies to enter into retirement agreements only when they can be implemented within a short period of time.

## NATIONAL INITIATIVES

In the report, you will have seen reference to the work of sub-committees or special projects. The Law Society of Manitoba is involved in a number of them.

### **Discipline Information-Sharing Database**

As noted in the report, in the absence of an effective means of sharing discipline information among Canadian jurisdictions, it is difficult to reciprocally enforce discipline orders, an important tool to protect the public where lawyers are practising law in multiple jurisdictions.

The Discipline Information Sharing Working Group is hard at work to identify the means by which we can create a single identifier for each Canadian lawyer and to determine what essential information ought to be shared. The American Bar Association recently provided an on-line demonstration of its national lawyer discipline databank and the group has consulted with Lexum to see if they can propose a made in Canada model.

### **Adjudicator Toolkit**

The collegial relationship that exists among the discipline administrators benefits us all as there is significant sharing of information and best practices. A small working group recently created an adjudicator toolkit to act as a resource for discipline committees. While this is particularly helpful for the smallest Canadian jurisdictions that may not have the resources to develop toolkits or guidance, Manitoba is going to take advantage of Alberta's recently created Best Practices for Virtual Hearings.

### **Peer Review Pilot Project**

The purpose of the Peer Review Pilot Project is to share best practices and learn from each other with one jurisdiction visiting another to review the policies and procedures. Manitoba was one of the first participants with a representative from the Law Society of Saskatchewan attending at our offices for two days. It was a beneficial learning experience for both. Manitoba was invited to attend the offices of the Law Society of New Brunswick. However, due to a staffing change in New Brunswick along with the pandemic, that visit has been postponed indefinitely. The pilot project has been extended to June 2021.

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FOR INTERNAL LAW SOCIETY AND FEDERATION USE ONLY

**Standing Committee on  
National Discipline Standards**

**2019 IMPLEMENTATION REPORT**

**August 2020**

**Five-Year Anniversary Edition**

## INTRODUCTION

1. The National Discipline Standards were implemented across all law societies on January 1, 2015. This year marks the fifth-year anniversary of the project. Reaching this milestone has prompted the Standing Committee on National Discipline Standards (“the Standing Committee”) to reflect on how the project has progressed, and the tools and resources that have been developed to support law societies in their discipline work. Taking stock of what has been achieved through the standards over the first five years – including the successes and challenges of this work – provides a lens through which to envision the future. Looking back to look forward is also a mark of good governance and helps to assess whether the project is achieving its goals. This report will highlight some of these reflections, which were also presented in a memorandum to Federation Council on June 8, 2020.

2. This is the fourth Implementation Report prepared by the Standing Committee since the standards were implemented. It provides a high-level analysis of law society performance against the standards in 2019, including notable changes from 2018 (and previous years where appropriate). The analysis begins under the heading “2019 Annual Report Summary” beginning at paragraph 25.

3. This report is prepared for internal law society use and distribution only.

## GOALS OF THE NATIONAL DISCIPLINE STANDARDS

4. When law societies undertook this project, they chose to set challenging, aspirational standards with the goal that they would promote a culture of performance improvement, including recognition and adoption of best practices (see **Appendix A** for further information). The standards reflect law societies’ recognition of the importance of having complaint and discipline processes that are consistent, timely, efficient and transparent to protect the public and foster public confidence in the regulation of the practice of law.

5. It was always recognized that not all law societies would be able to achieve all of the standards and there are various reasons for their inability to do so. For example, legislation may prohibit standards from being met or the law society’s discipline scheme may render certain standards inapplicable. Also, fluctuating staff resources and volume of matters may have an impact on the ability to meet certain standards in a particular year. Each law society, however, has aspired to meet them and in doing so experienced improvements in performance. In the words of one Standing Committee member: “had they [law societies] been able to meet 100% of the standards within the first couple of years, it would have meant the standards were too easy”.

6. Each law society completes an annual report documenting their progress in meeting the standards. The reports are collected in March for the previous calendar year and are reviewed by the Standing Committee in the spring. An Implementation Guide was created to accompany the standards and assist law society staff with implementation and reporting. Both documents are reviewed and updated regularly.

## EVOLUTION OF THE STANDARDS (2015-2020)

7. The National Discipline Standards address such issues as timeliness (e.g., the time it takes to resolve a complaint or hold a hearing), public participation, transparency, accessibility,

and the qualification and training of adjudicators and investigators. At the time of implementation there were 21 standards. During the first few years of implementation the Standing Committee focused primarily on ensuring the standards, as articulated, met the intended goals. The annual review of law society reports enabled the Standing Committee to examine the language and practical impacts of the standards. This review, along with feedback gathered through the Discipline Administrator's Steering Committee ("DASC") and the Standing Committee members directly, led to clarification and adjustments to the standards and Implementation Guide.

8. The standards have been revised several times since the beginning of the project. In 2016 and 2018, Council approved revisions to (former) Standards 3, 9, 16, and 20. These changes were largely to adjust the language of the standards for greater clarity. In June 2019, Council approved a minor change to Standard 2 lowering the requirement for law societies to acknowledge 100% of written complaints within three business days to 95%. A slightly lower standard was considered more appropriate and in line with the other standards, none of which require 100% compliance.

9. As the Standing Committee's work progressed, it also began to explore issues in the complaints and discipline process that might warrant the creation of new standards. In June 2018 Council approved the addition of two new standards – early resolution of complaints (Standard 3) and interim measures (Standard 7), bringing the total to 23 and resulting in a reorganization of the numbering of the standards.

10. The Committee's process for pursuing new standards involves regular consultation and dialogue with law society discipline administrators. Informally, this occurs with the discipline administrators who participate on the Committee. The Standing Committee also engages directly with, and has a seat on, the DASC. Input from discipline administrators is critical to the work of the Standing Committee and has led, for example, to the Committee changing course when discipline administrators held the view that a proposed standard would not make sense in practice. Ongoing dialogue has been important for enhancing the relationship between the Standing Committee and the DASC and ensuring the continued value of the project.

11. In May 2019 the Standing Committee developed internal guidance for determining when an issue might lead to the development of a standard. It sought input from the DASC in generating a list of factors to be considered in evaluating new ideas or issues. A sampling of factors includes: Can it [the subject of the proposed standard] be measured objectively? Can it be standardized for all? Will it enhance efficiency, timeliness, transparency of processes? Will it allow law societies to avoid, mitigate or manage risk? These factors are intended as general guidance to the Standing Committee in determining when an idea might lead to a standard.

## **THE PROMOTION OF BEST PRACTICES**

12. The National Discipline Standards project encourages law societies to reflect on their own processes: e.g. to identify elements that may be contributing to delay or an inability to meet a standard, and opportunities for improved or alternative processes. Law society discipline administrators have observed that, in some instances, having standards has increased their board members' understanding of and support for changes to existing complaint and discipline processes (e.g. rule changes, added resources).

13. Since its inception, the Standing Committee has also developed tools to assist law societies in implementing the standards and to promote best practices. This work has often included surveys of law society rules and practices and has led to enhanced information sharing and reflection on important issues in this area of work. The following are a sampling of best practices, tools and supports initiated by the Standing Committee since 2015.

#### *Model Rule on Sharing Information*

14. In 2015, eight out of 13 law societies reported that they could not meet Standard 17 (i.e. law societies can share information about a lawyer or Quebec notary with one another in a way that protects solicitor-client privilege). Between 2016 and 2017 the Standing Committee identified the main challenge for law societies was that their legislation and/or rules did not permit the sharing of information. In 2018 the Standing Committee proposed revised wording to the standard and the Implementation Guide to clarify its purpose, and it created a model rule. As a result, 13 out of 14 law societies met the standard in 2018 and 2019.

#### *Guidance on Reporting Criminal Activity*

15. Standard 18 requires law societies to have the “ability to report to police about criminal activity in a manner that protects solicitor/client privilege”. In 2015, nine out of 14 (64%) law societies met the standard. Discussions between 2018 and 2019, paired with surveys conducted by the DASC, led the Standing Committee to amend the Implementation Guide commentary to clarify the purpose and expectations associated with the standard. Included in that amendment was best practice guidance to help law societies determine when to report criminal activity. The guidance relied largely on the Nova Scotia Barristers’ Society’s policy, with additional guidance and direction provided from other jurisdictions. In 2018 and 2019 law society performance on this standard improved to 12 out of 14 (86%).

#### *Discipline Information-Sharing Database*

16. In 2018, the Standing Committee conducted a survey among the DASC to ascertain whether law societies were aware of the discipline status of their members in other jurisdictions; how/if they communicate with each other when discipline is imposed, and what authority and processes they rely on to reciprocally enforce orders. The rationale underpinning this inquiry was that some evidence suggests an increase in the number of lawyers licensed in more than one jurisdiction, and a lack of access to current information about the discipline status of these lawyers raises public protection concerns. The survey revealed that while most law societies have a process available for reciprocally enforcing discipline orders, they are rarely used. The survey also highlighted inconsistencies in law society reporting requirements about sanctions in other jurisdictions, and gaps in information sharing among law societies.

17. The DASC was closely involved in this work and was considered better suited to consider the issues further. A subgroup of the DASC was formed to consider how law societies can more effectively share information among themselves: the Discipline Information Sharing Working Group (“DISWG”). The DISWG is currently engaging the American Bar Association about its national lawyer discipline databank as a possible model for a Canadian databank.

### *Adjudicator Toolkit*

18. In 2019 the Standing Committee created the Adjudicator Toolkit Working Group to explore, gather and develop practical tools and resources for assisting law societies with the hearing-related standards, which tend to be more challenging. Several law societies have tools and resources for their adjudicators and hearing staff such as checklists, document templates, procedure manuals and policies. The Working Group intends to assist law societies, in particular the smaller jurisdictions, by compiling a toolkit that would share and/or build upon these resources and complement the National Adjudicator Training Curriculum requirements.

### *Abeyances*

19. Standards 4 through 6 set timelines for responding to complaints and contacting the member and complainant. The Standing Committee conducted a survey in late 2019 and requested law society policies, if available, to better understand how abeyances are handled in each jurisdiction. The results revealed that not all law societies treat matters held in abeyance (i.e. put on hold pending the outcome of another proceeding) in the same way for the purposes of reporting on the standards, which may be skewing the reporting statistics. The Standing Committee is developing guidance for the Implementation Guide and will share existing abeyance policies with the discipline administrators through the DASC.

## **SPECIAL PROJECTS**

### *National Adjudicator Training Curriculum*

20. Standard 21 requires ongoing mandatory training for all adjudicators. A National Adjudicator Training Curriculum (“NATC”) was launched in 2016 to assist law societies in meeting Standard 21. The NATC was developed through a designated working group of the Standing Committee comprised of individuals with extensive expertise in adjudication and training design.

21. The NATC was developed to be flexible enough to meet the needs of a broad spectrum of trainees. The curriculum identifies “core” and “supplementary” competency areas required for inclusion in law society adjudicator training programs. The competency areas were identified through a rigorous process that involved a national survey of law society adjudicators and review of adjudicator training theory and resources from around the world. Law societies have the discretion to determine the curriculum used for their training, so long as it complies with the national curriculum.

22. In 2015, only half of law societies reported being able to meet the standard. Since that time, and since the release of the NATC, law societies have reported continuous progress. This progress is due in part to the Law Society of Alberta’s creation of a comprehensive adjudicator training program that aligns with the competencies contained in the NATC, and that it licenses for purchase by other law societies. In 2019, 10 out of 14 (71%) law societies reported meeting Standard 21. The creation of the NATC paired with the national sharing of adjudicator training materials is a point of pride and achievement for the National Discipline Standards project.



### *Peer Review Pilot Project*

23. In 2018 the Standing Committee launched a voluntary two-year Peer Review Pilot Project (“PRPP”). The project pairs discipline administrators from different jurisdictions for a peer review of the hosting law society’s complaints and discipline process. The goal is mutual learning. The visiting discipline administrator and the host have the opportunity to learn from each other and identify best practices or other ideas that may be adopted or modified to improve performance in their own jurisdiction.

24. Three pairings have taken place since the launch of the pilot. Preliminary feedback received through exit surveys completed by the participating law societies has been positive. The pilot was set to end on May 31, 2020, but in light of interest in further pairings and the ongoing impacts of COVID-19, the Standing Committee has extended the PRPP for one year. At this early stage, the Standing Committee is optimistic that this initiative is fostering practical benefits and useful guidance in relation to law society complaint and discipline processes.

### **2019 ANNUAL REPORT SUMMARY**

25. The changes to the standards and complementary initiatives outlined above have aided in promoting national discussions on best practices and enhancing law society complaint and discipline processes. While some of the impacts of those changes have already been outlined, the below analysis of the 2019 annual reports provides additional insights and notes the impacts that are anticipated for 2020.

26. The following paragraphs also provide a high-level comparative analysis of the 2019 data with prior years, where appropriate (see **Appendix B** for data between 2017 and 2019)<sup>1</sup>. Where it is not possible to draw trends, this report flags observations about law society performance or responses that may be of interest to the law societies. As with past years, law societies should be cautious not to draw too many conclusions from the data without a deeper analysis of why changes have occurred year over year. The analysis takes into consideration the standards’ aspirational nature and the relatively small sample size (i.e. 14 jurisdictions). It also recognizes that several standards are either inapplicable to, or elicit few matters for the smaller jurisdictions, and therefore any small change, for example one outlier case, can skew the data significantly. In addition, the data does not isolate standards that are “almost met”; there are instances when law societies come close to meeting a standard (e.g. 86% of complaints were contacted at least once every 90 days but not 90% for Standard 5), but because they fall short of the threshold the standard is recorded as ‘Not Met’. The analysis makes note of these circumstances where it is relevant to do so.

### *General Findings*

27. All fourteen law societies submitted their annual report for 2019. The national average for meeting the standards was 80%, representing an increase from 78% in 2018. It also represents an overall upward trajectory since 2015 when the national average was 72%. The Standing Committee considers this overall progression in performance to reflect the success of the project in meeting its intended goals.

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<sup>1</sup> Data from 2015 has largely been excluded given the breadth of changes to the standards that have been made since that time.

2015	72%
2016	79%*
2017	76%
2018	78%
2019	80%

\*only 13 law societies submitted reports in 2016 which may have skewed the national average.

28. As with past years, there continues to be fluctuations in law society performance in meeting specific standards. In 2019, ten out of 14 law societies showed overall improvements. Law societies showed improvement in meeting seven standards (4a, 4c, 8, 10, 12, 21 and 23), a decrease in meeting eight standards (1, 4b, 5, 6, 9, 15, 16, 19) and no change in meeting the remaining eight standards<sup>2</sup>. With few exceptions, the reports indicate that challenges with meeting the standards are minor, and in many cases law societies fell just short of meeting a standard due to reasons outside of their control, a small sample size, process changes or a lack of resources. The Standing Committee continues to monitor the standards that are more challenging to meet and consider ways it may support law societies in meeting them.

#### *Standards Met by All or Most Law Societies*

29. Last year was the first year a law society was able to meet all of the standards applicable to it: the Law Society of the Northwest Territories met 16 of the 16 standards.<sup>3</sup> To date, no law society has met all of the standards in their entirety (i.e. all 23 standards, when all are applicable).

30. There was high performance on the two new standards implemented in 2019: Standard 3 (early resolution) and Standard 7 (interim measures). In the case of the former, 12 out of 14 (86%) law societies met the standard, with the remaining two reporting that they will likely be able to meet the standard in 2020. In the case of the latter, all 14 law societies were able to meet the standard in 2019.

31. There was also high performance on Standard 23 (annual reporting to governing body) where all 14 law societies reported meeting the standard for the first time since implementation. Standard 18 (accessible complaint help form) has been met by all fourteen law societies every year since 2016.

32. The following standards were met by all law societies that deemed them applicable: Standard 4c (timelines for referring complaint back to investigation), Standard 13 (hearings open to public) and Standard 14 (reasons for decision to close hearing).

33. The following standards were met by all but one or two law societies (where they were deemed applicable): Standard 4a (timeline for resolving or referring complaints), Standard 12 (complaints review process), Standard 15 (publication of notices of charge or citation), Standard 16 (publication of notices of hearing dates), Standard 17 (ability to share information with other law societies) and Standard 18 (ability to report to police).

<sup>2</sup> Note: the two new standards were not included in this section of the analysis.

<sup>3</sup> The LSNWT did not have any hearings in 2019. The majority of the standards deemed “not applicable” were hearing-related.

### *Most Challenging Standards*

34. In 2019, the most challenging standards to meet were: Standard 5 (timeliness for contacting complainant), Standard 6 (timeliness for contacting the lawyer or Quebec notary) and Standard 9 (commencement of hearings). These standards have generally been more challenging than others but in 2019 all three had an average performance of 50%, which is a significant decrease from previous years and the lowest performance of all the standards. A summary of the performance on each standard is provided below.

35. For Standard 5 the reporting highlighted that three of the seven law societies that did not meet the standard were within 5% of meeting it, which suggests that they are not experiencing significant challenges. The other four law societies provided varied reasons for not meeting the standard: two reported that they did not track this data but are looking into tracking options for future reporting; one cited a lack of resources for its performance; and the other reported a high volume of complaints, which makes it challenging to meet the standard.

36. For Standard 6 the reporting showed similar results to Standard 5 with the same three law societies being within 10% of meeting the standard, and the remaining four reporting the same reasons for not meeting it as reported for Standard 5.

37. Standard 9 is divided into two parts. One law society was unable to meet the first part because of one matter but was able to meet the second part. The remaining five law societies reported challenges with both parts in 2019, which is consistent with their reporting on this standard in past years.

- Part 1 (75% of hearings commence within 9 months) performance ranged from 0% to 62%. The reported challenges include: a significant backlog due to an increase in hearing volume and staff turnover, external factors (e.g. parties not adhering to timelines, reasons out of their control), and resource issues. All five law societies identified actions they are taking to improve their performance. Two notable trends in these actions were the hiring of additional outside counsel and/or staff, and an increased use of pre-hearing resolution processes.
- Part 2 (90% of hearings commence within 12 months) performance ranged from 7% to 80%. All five law societies reported the same challenges and actions referenced in Part 1.

38. Reporting on Standard 9 has been consistently lower than other standards, which suggests that it is one of the more challenging standards to meet. The actions planned by law societies demonstrate that they are aware of the challenges and are steadily working to improve their performance. This standard may be an opportunity for law societies to share best practices with one another to assist in their performance. The Standing Committee may also consider how it can assist.

39. The next most challenging standard for law societies to meet in 2019 was Standard 10 (timeline for reasons for decisions) with an average of 64% (7/11). Despite being a challenging standard, the performance in 2019 is an improvement from 2018 when this standard was reportedly the most challenging to meet (45% or 5/11). Various reasons were provided for not meeting the standard in 2018, while none were provided in 2019; only the statistical data was

made available. Three of the four law societies were within 12% of meeting the standard and they all noted that a reminder system is in place (or was recently implemented) to ensure decision-makers are aware of deadlines for finalizing reasons. This suggests that efforts are being made to encourage higher performance.

40. Except Standard 2, explained below, the average performance on all other standards falls between 70% and 100%.

#### *Anticipated Performance Improvements in 2020*

41. As mentioned at paragraph 8, the June 2019 revision to lower Standard 2 (timeline for responding to written complaints) from 100% to 95% was implemented in January 1, 2020. The 2019 reporting did not show any change in performance from the previous two years (i.e. 8/14 or 57% meet the standard) but feedback from the six law societies that have not met the standard highlighted that most anticipate meeting it in 2020.

42. As mentioned at paragraph 15, law societies have shown continuous improvement in meeting Standard 18 (disclosure to police about criminal activity). The 2019 reporting showed an average performance of 86% (12/14). One of two remaining law societies that cannot meet the standard noted in its annual report that it anticipates meeting it in 2020 because of recently amended legislation. If so, the anticipated average in 2020 will be 93%.

43. Lastly, as mentioned at paragraph 22, Standard 21 (ongoing mandatory training for adjudicators) showed an average performance of 71% in 2019 (10/14), up from 60% in 2018 (8.5/14)<sup>4</sup>. Three of the four law societies that reported not meeting the standard indicated in their 2019 reports that they purchased the Law Society of Alberta's adjudicator training program between 2019 and early 2020, with the goal of implementation in the 2020 reporting year. As a result, it is anticipated that the average performance will increase significantly in 2020.

#### *Current State and Notable Observations*

44. Overall, law societies' progress in meeting the standards between 2017 and 2019 has remained relatively consistent. The Standing Committee observed during its 2019 and 2020 spring meetings that the National Discipline Standards project has hit a period of stability. Law societies appear comfortable with reporting on the standards and are working to improve their performance<sup>5</sup>. There are no new standards or revisions to the standards proposed at this time.

45. Also, while there may be fluctuations from year-to-year in a law society's ability to meet the standards, it is observed that the existence of the standards has generally resulted in process and performance enhancements.

<sup>4</sup> Note that the average has fluctuated over the years, starting with 50% in 2015, then 62% in 2016 and 75% in 2017, before lowering to 60% in 2018. This fluctuation is due, in part, to inconsistency in the number of law societies who deemed this standard "applicable" to them over the years.

<sup>5</sup> In the last two years the Standing Committee has asked law societies to explain in the annual reports what steps they are taking or intend to take to address any challenges they are experiencing in meeting the standards. The responses highlight law societies' commitment to identifying and/or implementing new tools, resources and processes to enable them to meet the standard(s) in the future.

46. There has been no change to the reporting on Standard 20 (availability of discipline status information on a directory) for the last three years (10/14 or 71%). The Standing Committee created a dedicated working group in 2017 to look closer at how law societies publish information publicly about their members, particularly discipline information, and to develop recommendations to clarify how the standard should be interpreted and applied. Given the overlap between this work and the work of the DISWG on a national (internal) discipline sharing database, the work of the two groups has been combined under the DISWG. It remains to be seen how these projects may affect the National Discipline Standards in the years ahead.

47. In 2019 there appeared to be some inconsistency in reporting language used (i.e. the use of “Not Met” vs. “Not Applicable”) from previous years. The Standing Committee is aware that it may not be the same person filling out the reports every year, which may account for this change, or it may not be clear when to use specific terms. The Standing Committee plans to clarify this terminology in the Implementation Guide with the aim of encouraging consistent reporting to permit comparative analysis across law societies year-to-year.

## LOOKING FORWARD

48. The Standing Committee will continue to monitor progress on the standards annually and watch for developments occurring within complaint and discipline processes. Discussions during the Federation’s 2019 annual conference revealed that promoting well-being and addressing wellness challenges is a growing priority for law societies. There was some discussion on the role of the regulator in recognizing and accommodating mental health and substance use challenges in the disciplinary process. For example, some law societies have developed (or are looking into) diversionary programs (e.g. Fitness to Practice), and others have considered additional training needs and supports for law society staff. This is an area that the Standing Committee is monitoring with interest.

49. The Standing Committee has also been monitoring the work of the Federation’s Truth and Reconciliation Commission Calls to Action Advisory Committee (Advisory Committee) with active interest. The Advisory Committee put forward recommendations to Council in June 2020. The Standing Committee will consider the impact of the recommendations on its work.

50. The impacts of COVID-19 on law society complaint and discipline processes in 2020 remain to be seen. The Standing Committee anticipates that the pandemic will have an impact on the annual reporting next year and as such will amend the report template to invite law societies to share their experience. The Standing Committee will determine from that feedback whether it makes sense to conduct a comparative analysis for 2020 and if there are learning lessons to be observed from COVID-19 that could benefit law societies’ in the future.

## CONCLUDING THOUGHTS

51. The National Discipline Standards are unique among Federation initiatives in that they are aspirational and law societies have agreed to report on their progress. They have encouraged law societies to find efficiencies, improve timeliness and transparency and promote national consistency in the public interest. Looking back at the past five years, the Standing Committee is pleased with the progress made on the standards, as well as with the projects developed to support and enhance law society complaint and discipline processes across Canada.

### **Background: The National Discipline Standards Project**

1. The National Discipline Standards project grew out of a desire to strengthen the ways in which complaint and discipline processes are dealt with across the country.
2. This work was initiated by the findings from a benchmarking study undertaken by the law society Discipline Administrators' group in 2007 and 2008. The National Discipline Standards project was launched in 2010 by Canada's law societies through the Federation of Law Societies of Canada ("Federation"). A National Discipline Standards Pilot Project Steering Committee ("Steering Committee") was appointed by the Federation Executive. The Steering Committee developed the standards in consultation with a group comprised of law society complaints resolution, investigation and discipline staff.
3. Twenty-three standards were pilot tested with law societies between 2012 to 2014 to ensure that they were realistic and achievable, yet still ambitious and aspirational in nature. Several refinements were made to the standards based on feedback received during the pilot phase.
4. In April 2014, Federation Council approved 21 National Discipline Standards relating to timeliness, public participation, transparency, accessibility, and the qualification and training of adjudicators and investigators, which were then referred to the law societies for adoption and implementation. The standards were officially implemented by all law societies on January 1, 2015.
5. The standards were not meant to be exhaustive or un-changeable; it was anticipated that they would need to be continuously monitored to ensure they were meeting the intended goals of the project. Since implementation, the national discipline standards have evolved both in number and substance and currently total 23.

### **Purpose of the National Discipline Standards**

6. When law societies undertook this project, they chose to set challenging, aspirational standards. The purpose of the project was measure how complaints and discipline matters were dealt with across law societies and promote a culture of performance improvement, including recognition and adoption of best practices.
7. The National Discipline Standards are a tool designed to address such issues as timeliness (e.g., the time it takes to resolve a complaint or hold a hearing), public participation, transparency (e.g., hearings are open to the public and reasons are given for a decision to close a hearing), accessibility, and the qualification and training of adjudicators and investigators. These are the elements of a discipline process that law societies' agreed are necessary to protect the public and foster public confidence in the regulation of the practice of law.

### **How are the Standards Monitored?**

8. The Standing Committee on National Discipline Standards ("SCNDS") core mandate is to monitor ongoing implementation of the standards and make recommendations to Council for amendments to the standards as deemed appropriate from time to time. The Standing

Committee's Terms of Reference also include liaising with representatives of the Discipline Administrators' Steering Committee ("DASC") and other stakeholders to identify any refinements to the standards that may be desirable.

### **Law Society Annual Status Reports**

9. Law society progress on meeting the standards is reviewed by the Standing Committee on an annual basis, generally occurring in the spring. Law societies are provided with an annual report template early in the calendar year that requests data from January to December of the previous year. It seeks information about whether law societies met the standards or if the standards were applicable, and information about why a standard was not met. The Standing Committee also uses the annual reporting to engage in national discussions around the sharing and/or development of best practice tools and guidance to assist law societies in their efforts to meet the standards.

10. Beginning in the 2018 reporting year, the template was revised to include a column that seeks information about what actions law societies are taking or have planned in response to any standards reported as "unmet". This was done so the committee could get a better sense of law societies' progress in working towards meeting the standards and the circumstances surrounding a law society's inability to meet a standard. This extra column has proved valuable to the Standing Committee in its review of law societies' reports as it has provided greater insight into law society discipline processes and facilitated a more contextual analysis for the implementation report.

### **Analysis Methodology for the Implementation Report**

11. The Implementation Report reflects law society responses on their performance on the standards for the reporting year. The analysis identifies which standards were met or not met and why. **Appendix B** provides the overall number of standards met by each law society in each year and the corresponding percentage calculation. This information is captured in the second row entitled "overview of performance".

12. Appendix B also provides a comparative snapshot of overall performance by standard. This information is captured in the last column entitled "standard totals". The chart makes it easy to compare performance on the standards at a glance from year to year and across law societies. A check mark indicates that the standard was met; an "x" indicates that it was not. For standards with two components, a check mark and an "x" indicate that only one part of the standard was met.

13. Not all law societies report on all the standards each year. In some cases, a standard is not applicable, which is represented in the chart as "N/A". For example, if a law society had no hearings in the year in question, all of the standards that deal with hearings will be marked "not applicable". When a standard is marked as not applicable, it is removed from the performance calculations to avoid skewing the results.

**Appendix B - National Discipline Standards Implementation Report 2017-2019**

This summary highlights the law societies' progress in meeting the discipline standards in the last three years of implementation. It is based on the data contained in law societies' 2017, 2018 and 2019 annual reports.		LSBC	LSA	LSS	LSM	LSO	BQ	CNQ	LSNB	LSPEI	NSBS	LSNL	LSY	LSNWT	LSN	STANDARD TOTALS	
	<b>Overview of Performance by Law Societies</b>	<b>2019</b>	84% 21/25	84% 21/25	71% 17/24	84% 21/25	77% 18.5/24	73% 17.5/24	88% 22/25	59% 13/22	77% 15.5/20	92% 23/25	91% 20/22	82% 13.5/16.5	100% 16/16	55% 12/22	Average:
	2018	83% 19/23	76% 17.5/23	73% 16/22	83% 19/23	75% 16.5/22	68% 15/22	88% 19.5/22	73% 15/20.5	80% 16/20	91% 21/23	90% 17/19	80% 12/15	89% 17/19	40% 6/15	Average:	78%
	2017	84% 18.5/22	83% 19/23	80% 17.5/22	83% 19/23	70% 15.5/22	61% 13.5/22	80% 18.5/23	61% 13.5/22	86% 18/21	93% 21.5/23	83% 16.5/20	86% 12/14	76% 13/17	41% 4.5/11	Average:	76%
<b>Standard 1</b>	<b>2019</b>	✓	✓	✓/X	✓	✓	✓	✓	✓	✓/X	X	✓	✓	✓	X	11/14	(78%)
Telephone inquiries	2018	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	✓	✓	X	12/14	(86%)
	2017	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓/X	✓	✓	✓	X/✓	13/14	(93%)
<b>Standard 2</b>	<b>2019</b>	X	✓	X	✓	✓	X	✓	X	✓	X	✓	✓	✓	X	8/14	(57%)
Written complaints	2018	X	✓	X	✓	✓	X	✓	X	X	X	✓	✓	✓	✓	8/14	(57%)
	2017	✓	✓	X	✓	✓	X	✓	X	✓	X	X	✓	X	✓	8/14	(57%)
<b>Standard 3 *NEW*</b>	<b>2019</b>	✓	✓	X	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	✓	12/14	(86%)
System in place for early resolution of appropriate complaints																	
<b>Standard 4 a)</b>	<b>2019</b>	✓	✓	✓	✓	✓/X	✓/X	✓	✓	✓	✓	✓	✓	✓	✓	13/14	(93%)
Complaint resolved or referred for a disciplinary or remedial response	2018	✓	X/✓	✓	✓	✓	✓	✓/X	X/✓	✓	✓	✓	✓	✓	✓	12.5/14	(89%)
	2017	✓	✓	✓	✓	X	✓	✓/X	✓	✓	✓	✓	✓	✓	✓	12.5/14	(89%)
<b>Standard 4 b)</b>	<b>2019</b>	✓	X	✓/X	✓	X	✓	✓	X	✓	✓	N/A	N/A/✓	N/A	N/A	7/10	(70%)
Complaint initiates an internal review or appeal	2018	✓	X	✓	✓	X	✓	✓	X	✓	✓	N/A	✓	N/A	N/A	8/11	(73%)
	2017	✓	X	✓	✓	X	X	✓	X	✓	✓	N/A	N/A	N/A	N/A	6/10	(60%)

Legend: ✓ = Standard Met X = Standard Not Met N/A = Standard Not Applicable



## Appendix B - National Discipline Standards Implementation Report 2017-2019

<b>Standard 4 c)</b>	<b>2019</b>	✓	✓	N/A	✓	✓	✓	✓	✓	N/A	✓	✓	N/A	N/A	N/A	N/A	<b>8/8</b>	<b>(100%)</b>
Complaint referred back to investigation from an internal review or appeal	2018	✓	✓	N/A	✓	X/✓	✓	✓	✓	N/A	N/A	✓	N/A	N/A	N/A	N/A	6.5/7	(93%)
	2017	N/A	✓	N/A	✓	✓	✓	✓	✓	✓	N/A	✓	N/A	N/A	N/A	N/A	7/7	(100%)
<b>Standard 5</b>	<b>2019</b>	✓	✓	X	X	X	X	✓	X	X	✓	✓	✓	✓	X	<b>7/14</b>	<b>(50%)</b>	
Contact with complainant	2018	✓	✓	X	X	X	X	✓	✓	✓	✓	✓	✓	✓	X	9/14	(64%)	
	2017	✓	✓	✓	X	X	X	Ss	X	✓	✓	✓	✓	✓	X	X	8/14	(57%)
<b>Standard 6</b>	<b>2019</b>	✓	✓	X	X	X	X	✓	X	X	✓	✓	✓	✓	X	<b>7/14</b>	<b>(50%)</b>	
Contact with lawyer or Québec notary	2018	✓	✓	X	X	X	X	✓	X	✓	✓	✓	✓	✓	X	8/14	(57%)	
	2017	✓	✓	✓	X	X	X	✓	X	✓	✓	✓	✓	N/A	X	8/13	(62%)	
<b>Standard 7 *NEW*</b>	<b>2019</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	<b>14/14</b>	<b>(100%)</b>	
Interim measures																		
<b>Standard 8</b>	<b>2019</b>	✓	✓	✓	X	✓	✓	✓	✓	X	N/A	✓	X/✓	N/A	N/A	✓	<b>8.5/11</b>	<b>(77%)</b>
Issuance of citations or notices of hearings	2018	✓	✓	✓	X	✓/X	✓	✓	✓	X	N/A	✓	X	N/A	N/A	N/A	6.5/10	65%
	2017	✓	✓	✓/X	X	✓/X	✓	✓	✓	X	X	✓	X	N/A	✓	N/A	7/12	(58%)
<b>Standard 9</b>	<b>2019</b>	X	X	✓	X	X	✓	✓	✓	X	N/A	✓	X/✓	N/A	N/A	✓	<b>5.5/11</b>	<b>(50%)</b>
Commencement of hearings	2018	X	X	✓	X	✓/X	✓	✓	✓	X	X	✓	✓	N/A	✓	N/A	6.5/12	(54%)
	2017	X/✓	X	✓	X	X	✓	✓	✓	X	X	✓	X/✓	N/A	✓	N/A	6/12	(50%)
<b>Standard 10</b>	<b>2019</b>	X	✓	✓	✓	X	X	✓	✓	✓	N/A	✓	✓	N/A	N/A	X	<b>7/11</b>	<b>(64%)</b>
Reasons for decisions	2018	X	X	X	✓	X	X	✓	✓	✓	N/A	✓	✓	N/A	X	N/A	5/11	(45%)
	2017	X	✓	X	✓	X	X	✓	✓	✓	N/A	✓	✓	N/A	N/A	N/A	6/10	(60%)
<b>Standard 11</b>	<b>2019</b>	✓	✓	X	✓	✓	X	X	✓	✓	✓	✓	✓	✓	✓	X	<b>10/14</b>	<b>(71%)</b>
Public Participation	2018	✓	✓	X	✓	✓	X	X	✓	✓	✓	✓	✓	✓	✓	X	10/14	(71%)
	2017	✓	✓	X	✓	✓	X	X	✓/X	✓	✓	✓	✓	✓	N/A	N/A	8.5/12	(71%)

Legend: ✓ = Standard Met X = Standard Not Met N/A = Standard Not Applicable

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<b>Standard 12</b>	<b>2019</b>	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	N/A	✓	✓	✗	<b>11/13</b>	<b>(85%)</b>
Complaints review process	2018	✓	✓	X	✓	✓	✓	✓	✓	✓/N/A	✓	✓	N/A	✓	✓	X	10.5/12.5	(84%)
	2017	✓	✓	X	✓	✓	✓	✓	✓	X	✓	✓	N/A	✓	✓	N/A	10/12	(83%)
<b>Standard 13</b>	<b>2019</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	✓	<b>13/13</b>	<b>(100%)</b>
Hearings open to public	2018	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	✓	✓	13/13	(100%)
	2017	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	✓	✓	13/13	(100%)
<b>Standard 14</b>	<b>2019</b>	✓	✓	✓	✓	✓	✓	✓	✓	N/A	✓	✓	✓	N/A	N/A	N/A	<b>10/10</b>	<b>(100%)</b>
Reasons for decision to close hearings	2018	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	N/A	N/A	N/A	10/10	(100%)
	2017	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	N/A	N/A	11/11	(100%)
<b>Standard 15</b>	<b>2019</b>	✓	✓	✓	✓	✓	✓	✓	✓	✗	N/A	✓	✓	N/A	N/A	✓	<b>10/11</b>	<b>(91%)</b>
Publication of notices of charge or citation	2018	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	✓	N/A	12/12	(100%)
	2017	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	✓	N/A	12/12	(100%)
<b>Standard 16</b>	<b>2019</b>	✓	✓	✓	✓	✓	✓	✓	✓	✗	N/A	✓	✓	N/A	N/A	✗	<b>9/11</b>	<b>(82%)</b>
Publication of notices of hearing dates	2018	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	✓	N/A	12/12	(100%)
	2017	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	✓	N/A	12/12	(100%)
<b>Standard 17</b>	<b>2019</b>	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	<b>13/14</b>	<b>(93%)</b>
Ability to share information with other law societies	2018	✓	X	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	13/14	(93%)
	2017	X	X	✓	✓	✓	X	X	X	✓	✓	✓	✓	✓	X	N/A	7/13	(54%)
<b>Standard 18</b>	<b>2019</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✗	<b>12/14</b>	<b>(86%)</b>
Disclosure to police about criminal activity	2018	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	X	12/14.	(86%)
	2017	✓	✓	✓	✓	✓	X	X	✓	✓	✓	✓	✓	X	✓	N/A	10/13	(77%)
<b>Standard 19</b>	<b>2019</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	<b>14/14</b>	<b>(100%)</b>
Accessible complaint help form	2018	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	14/14	(100%)
	2017	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	14/14	(100%)

Legend: ✓ = Standard Met ✗ = Standard Not Met N/A = Standard Not Applicable

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<b>Standard 20</b>	<b>2019</b>	<b>X</b>	<b>X</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>X</b>	<b>X</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>10/14</b>	<b>(71%)</b>
Availability of status information directory	2018	X	X	✓	✓	✓	X	X	✓	✓	✓	✓	✓	✓	✓	10/14	(71%)
	2017	X	X	✓	✓	✓	✓	✓	✓	X	✓	✓	✓	✓	X	10/14	(71%)
<b>Standard 21</b>	<b>2019</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>X</b>	<b>X</b>	<b>✓</b>	<b>X</b>	<b>X</b>	<b>✓</b>	<b>✓</b>	<b>10/14</b>	<b>(71%)</b>
Ongoing mandatory training for adjudicators	2018	✓	✓	✓	✓	✓	✓/X	✓	✓	X	✓	X	X	X	X	8.5/14	60%
	2017	✓	✓	✓	✓	✓	✓/X	✓	✓	✓	✓	X	✓	X	X	10.5/14	(75%)
<b>Standard 22</b>	<b>2019</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>N/A</b>	<b>N/A</b>	<b>X</b>	<b>N/A</b>	<b>X</b>	<b>✓</b>	<b>✓</b>	<b>N/A</b>	<b>✓</b>	<b>X</b>	<b>7/10</b>	<b>(70%)</b>
Mandatory volunteer orientation	2018	✓	✓	✓	✓	N/A	N/A	N/A	N/A	X	✓	✓	X	✓	X	7/10	(70%)
	2017	✓	✓	✓	✓	N/A	N/A	X	N/A	✓	✓	✓	X	✓	X	8/11	(73%)
<b>Standard 23</b>	<b>2019</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>✓</b>	<b>14/14</b>	<b>(100%)</b>
Annual reporting to governing body	2018	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	13/14	(93%)
	2017	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	13/14	(93%)

Legend: ✓ = Standard Met X = Standard Not Met N/A = Standard Not Applicable