



**The Law Society
of Manitoba**

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MINUTES

Benchers

Date: Thursday, September 10, 2020

Time: 12:30 pm

Location: Law Society Offices, 200 - 260 St. Mary Avenue
and Via Videoconferencing and Teleconferencing

Present:

Lynda Troup, President	Anna Maria Magnifico
Grant Driedger, Vice President	Kenneth Mandzuik
Anita Southall, Past President	Brian McLeod
Susan Boulter, Officer-at-Large	Wayne Onchulenko
Acting Dean David Asper, Q.C.	Anu Osborne
Mason Broadfoot	Joëlle Pastora Sala
Miriam Browne	Sacha Paul
Paul Grower	Jason Poettcker
Tehani Jainarine	Kelli Potter
Ashley Joyce	Vincent Sinclair
Anthony Kavanagh	Gerri Wiebe
Patricia Kloepfer	

Regrets: Christian Monnin Jessica Saunders

Guests: David Swayze

Staff Present:

Kris Dangerfield	Colleen Malone
Leah Kosokowsky	Deirdre O'Reilly
Pat Bourbonnais	Richard Porcher
Tana Christianson	Sean Rivera
Eileen Derksen	Alissa Schacter
Joan Holmstrom	Darcia Senft

1.0 President's Welcome and Treaty Acknowledgement

Ms Troup, President, called the meeting to order at 12:35 pm. Treaty territories 1, 2 and 5 were acknowledged.

2.0 In Memoriam

Benchers observed a moment of silence for Lawrence Ramsay Crane, Q.C., Abraham Louis Simkin, Q.C., William Glenn McFetridge and Gordon Edward Hannon.

3.0 Consent Agenda

3.1 Minutes of June 25, 2020

Motion: That the Consent Agenda item be approved as presented.

MOVED: Ms Southall
Seconded: Ms Browne
Carried.

4.0 Executive Reports

4.1 President's Report

Benchers received for information Ms Troup's report dated September 2, 2020.

It was noted that Bradley Regehr, a past president of the Manitoba Bar Association, would be taking office as President of the Canadian Bar Association at a reception being held for him later in the day and in doing so would be the CBA's first Indigenous president.

Motion: That congratulations be extended to Mr. Regehr on behalf of the benchers to acknowledge this noteworthy occasion.

MOVED: Mr. Onchulenko
Seconded: Mr. Kavanagh
Carried.

Ms Dangerfield confirmed that the good wishes of the benchers would be conveyed to Mr. Regehr at the CBA reception.

4.2 Chief Executive Officer's Report

Benchers received for information Ms Dangerfield's report dated September 1, 2020. Ms Dangerfield advised that a survey had been circulated to all members of the Law Society to gauge interest in implementing part-time practising fees. Benchers were reminded that this matter had arisen in response to a request made by the Woman Lawyers' Section of the Manitoba Bar Association in 2018 to recognize part-time status by providing a discount on Law Society practising fees and insurance fees. Benchers were encouraged to participate in the survey.

With regard to part-time practising fees, it was noted that non-practising and inactive members are not eligible to run or vote in a bencher election. Benchers were advised that there are a variety of reasons why a member may hold a non-practising or inactive status and that in certain circumstances it would be inappropriate for a member to participate in a bencher election. These are, however, issues which will form part of the Equity Committee's review on part-time practising fees.

Ms Dangerfield advised that a discipline hearing had been held for Mr. Hesse earlier in the day. The member had been charged with more than 100 counts of professional misconduct as authorized by the Complaints Investigation Committee in 2019 in response to numerous public complaints received which involved allegations of significant misappropriations. The panel hearing the matter ordered that the member be disbarred and that the Law Society be awarded costs in the amount of \$40,000. The hearing panel indicated that written reasons would be forthcoming.

Benchers were advised that a formal Call to the Bar Ceremony will be held at the Law Society offices on October 2, 2020. Graduating students will be permitted to attend the Ceremony either in person or via videoconference. Due to COVID-19 restrictions, in person attendance will be limited to essential dignitaries, staff and students. The event will, however, be streamed live for viewing by family, friends and the profession.

4.3 Strategic Planning

Benchers considered Ms Dangerfield's memorandum, dated September 3, 2020. As the strategic planning session which was to have been held in conjunction with the bencher meeting was now postponed until the spring or fall of 2021 due to COVID-19 restrictions, benchers were invited to consider at this time (a) whether there were any steps which they believed ought to be addressed in the interim; (b) whether there were any initiatives currently underway which ought to be improved, scaled back or halted; and (c) if there were any issues which ought to be on the agenda for discussion when the strategic planning session takes place.

Benchers indicated that they would like to receive the full report prepared by the facilitator, Mr. Ferguson, so that they could review the survey data, including staff responses, before providing direction on whether there were any steps which they felt needed to be addressed before the strategic planning session was able to take place. It was confirmed that this report would be included in the October 29, 2020 bencher meeting agenda materials and that this issue would be revisited at that time.

With regard to interim activities, benchers indicated that they would like to see further progress made on public engagement (Strategy 4.2) so that they are better able to determine what level of priority ought to be placed on this area when developing the next strategic plan. It was suggested that an additional activity which could be added to this strategy would be to determine whether the needs of a diverse community are being met. This activity could be achieved through community forums.

And finally, with regard to issues to be discussed at the strategic planning session, it was requested that consideration be given to developing strategies to address the recruitment and retention of lawyers in rural communities as part of improving access to justice. Benchers were advised that the Law Society had implemented a forgivable loan program in 2012 which was intended to encourage new lawyers to practice in communities outside of Winnipeg. Over the years some adjustments had been made to the program to encourage greater participation and it is intended that the Admissions and Education Committee will consider whether additional enhancements could be made to the program. The Committee will report to benchers on its findings in advance of the strategic planning session.

Benchers were advised that strategic planning will continue to be placed on each meeting agenda so that they are able to monitor current and developing issues.

5.0 Discussion/Decision

5.1 Proposed Rule Amendments - Calls to the Bar

Benchers considered Ms Kosokowsky's memorandum, dated September 3, 2020, which recommended that benchers direct that the Rules be amended to permit the Chief Executive Officer to waive or vary the formalities for lawyers to be called to the Bar as prescribed within Rule 5-13(1) in exceptional circumstances.

Benchers were advised that in light of the recent change in admission practices which have arisen as a result of COVID-19 and with the commencement of the new PREP program, it is intended that the Admissions and Education Committee will consider whether new call practices should be put in place which better accommodate the needs of the profession, while maintaining certain longstanding Manitoba call traditions. Accordingly, this proposed

rule amendment is intended to provide the Chief Executive Officer with the authority to address future call issues in the interim.

Motion: That the proposed addition of sub-rule 5-13(2) to the Rules be approved in principle as presented.

MOVED: Mr. Grower
Seconded: Ms Magnifico
Carried.

Benchers were advised that the rule amendment would be presented for final approval in both English and French.

Ms Wiebe excused herself from the meeting at 1:45 pm.

5.2 Honoraria and Expense Policies for Executive Members and Lay Benchers

Benchers considered Ms Dangerfield's memorandum, dated August 31, 2020, which invited benchers to consider whether the annual honoraria paid to the president and vice-president ought to be increased and whether the honoraria paid to lay benchers ought to be increased as well. Benchers were advised that the time commitment and level of responsibility in the role of the president and vice-president had increased significantly since benchers last reviewed the honoraria for these two positions in 2011.

Benchers wondered how the proposed increase in the honoraria paid to the president and vice-president would affect the current and future budgets. Ms Dangerfield advised that because there had been a substantial reduction in meeting and travel expenses over the past several months due to COVID-19, the Law Society was in a position to absorb the increase for these two positions in the current budget and that future increases would be incorporated into budgets as they are prepared. In this instance, the cost on a per member basis would be nominal. She recommended that benchers review the honoraria every two years moving forward to minimize the impact of future increases on practising fees.

While benchers generally supported the increase in honoraria to the president and vice-president, some benchers were of the view that it may not be the right time to do this while members and the public continue to be impacted by the pandemic.

Motion: That the honoraria paid to the president and vice-president be increased to \$40,000 and \$20,000, respectively; that the honoraria be increased by an additional \$5,000 for the president and \$2,500 for the vice-president if the incumbent resides outside of Winnipeg; and that benchers consider increasing the honoraria by an additional \$10,000 for the president and \$5,000 for the vice-president at the time the budget for the 2021/2022 fiscal period is prepared.

MOVED: Mr. Grower
Seconded: Ms Magnifico
Abstentions: Ms Troup, Mr. Driedger, Ms Kloepfer and Ms Osborne
Carried.

Benchers were invited to consider a proposed increase in the honoraria paid to lay benchers from \$100 to \$150 per meeting attendance. It was noted that the honoraria had not been increased since 2009. Benchers generally supported an increase in the honoraria paid to lay benchers, although some benchers were again of the view that from a public perception perspective, the timing was not right. However, given that benchers had just approved an increase in the honoraria paid to the president and vice-president, it would appear unfair to not approve an increase in honoraria for the lay benchers. It was also suggested that benchers consider increasing the honoraria to \$200 per meeting attendance, that the Law Society provide payment electronically and that payment to lay benchers be made on a quarterly basis.

Benchers were also of the view that the honoraria for lay benchers should continue to be paid based upon meeting attendance rather than a fixed annual rate given that the time commitment from one lay bencher to another will vary depending upon committee assignment.

Motion: That the honoraria paid to lay benchers be increased from \$100 to \$150 per meeting and that the honoraria be reviewed at the time the 2021/2022 budget is prepared.

MOVED: Mr. Driedger
Seconded: Ms Magnifico
Abstentions: Ms Osborne, Ms Pastora Sala, Ms Kloepfer and Mr. McLeod
Carried.

Ms Southall confirmed that the increase in honoraria for the president, vice-president and lay benchers would apply to the current fiscal period. Benchers will consider any additional increase in honoraria for the two executive positions and for the lay benchers at the time the budget for the 2021/2022 fiscal period is prepared. At that time benchers will also determine when the next honoraria review will take place as well as the frequency of future reviews.

Ms Dangerfield advised that the decisions made by benchers regarding honoraria would be incorporated into a formal bencher policy.

Acting Dean Asper, Q.C., joined the meeting at 2:20 pm. and Ms Wiebe rejoined the meeting as well.

5.3 Awards

Benches considered Ms Dangerfield's memorandum, dated August 24, 2020, which invited benches to consider the recommendation of the Richard J. Scott Award Selection Committee to amend the parameters of the Award in 2021 as follows:

"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."

Benches were also asked to consider the establishment of a second Law Society award or medal which would recognize the services or contributions made by individuals which are directly linked to the work of the Law Society and warrant recognition. It was emphasized that the creation of the new award should not replicate any of the awards given out by the Manitoba Bar Association even though only MBA members are eligible to receive the awards presented by that organization.

And finally, benches were asked to consider whether they supported the creation of a Certificate of Merit which could be presented to lay persons in appropriate circumstances.

Motion: That benches approve (a) the recommendations of the Richard J. Scott Award Selection Committee; (b) the establishment of a second award or medal to recognize the services or contributions made by individuals which are directly linked to the work of the Law Society and which warrant recognition; and (c) the creation of a Certificate of Merit to honor lay persons as benches deem appropriate.

MOVED: Ms Southall
Seconded: Ms Browne
Carried.

5.4 National Discipline Standards

Benches considered Ms Kosokowsky's memorandum, dated August 27, 2020, which provided a detailed report on the performance of the Law Society of Manitoba in the areas of complaints and discipline as against national standards set by the Federation of Law Societies of Canada Standing Committee on National Discipline Standards.

5.5 FLSC Council Member

Benches considered Ms Dangerfield's memorandum, dated August 25, 2020, which invited benches to consider the appointment of Ms Troup to replace Mr. Swayze as representative to the Council of the Federation of Law Societies of Canada. Benches were advised that in

November of 2020 Mr. Swayze will have completed his sixth year of service in this position and, as prescribed by Bencher Policy #3, would no longer be eligible to serve in this capacity.

Motion: That Ms Troup be appointed to replace Mr. Swayze as Council member to the Federation of Law Societies of Canada for a three-year term, effective November 15, 2020.

MOVED: Ms Southall
 Seconded: Ms Browne
 Abstention: Ms Troup
 Carried.

6.0 Committee Reports

6.1 Complaints Investigation Committee

Benchers received for information the report of the Complaints Investigation Committee.

Benchers were advised that this was the final meeting Mr. Poettcker would be attending. Mr. Poettcker was thanked for the contributions he had made to the Law Society in his role as Student Bencher.

7.0 Miscellaneous Business

7.1 *In Camera* Discussion

All guests and staff, with the exception of Ms Bourbonnais, were excused from the meeting at this time.

Motion: That the meeting proceed *in camera*.

MOVED: Mr. Kavanagh
 Seconded: Ms Southall
 Carried.

Ms Troup discussed with benchers matters arising from the resignation of Ms Dangerfield as Chief Executive Officer.

Motion: That the meeting proceed *out of camera*.

MOVED: Ms Boulter
 Seconded: Ms Browne
 Carried.

8.0 For Information

Benchers considered the materials provided for information.

There being no further business, Ms Troup adjourned the meeting at 3:40 pm.