



# MINUTES

## Benchers

Date: Thursday, December 16, 2021

Time: 12:30 p.m.

Location: Law Society Classroom and Via Videoconference

Present:

Grant Driedger, President	Patricia Kloepfer
Sacha Paul, Vice President	Tyler Koshowski
Lynda Troup, Past President	Anna Maria Magnifico
Susan Boulter, Officer-at-Large	Kenneth Mandzuik
Mason Broadfoot	Brian McLeod
Miriam Browne	Christian Monnin
Kyle Dear	Wayne Onchulenko
Paul Grower	Anu Osborne
Tehani Jainarine	Kelli Potter
Dr. Richard Jochelson	Jessica Saunders
Ashley Joyce	Gerri Wiebe
Anthony Kavanagh	

Regrets: Joëlle Pastora Sala Vincent Sinclair

Guests: Erin Wilcott

Staff Present:

Leah Kosokowsky	Ayli Klein
Rennie Stonyk	Colleen Malone
Noelia Bernardo	Deirdre O'Reilly
Pat Bourbonnais	Richard Porcher
Natasha Brown	Sean Rivera
Tana Christianson	Alissa Schacter
Eileen Derksen	Darcia Senft
Joan Holmstrom	Betta Wishart

## **1.0 President's Welcome and Treaty Acknowledgement**

Mr. Driedger, President, called the meeting to order at 12:35 p.m. and welcomed everyone to the meeting. Treaty territories 1, 2 and 5 were acknowledged with gratitude.

## **2.0 In Memoriam**

Benchers observed a moment of silence for Serge Radchuk, Q.C., Stephen Martin Kendall Hope, Ian Reid Anderson Macmillan, Scott Gordon Paler, John Elmer Hodges, Q.C., David Grant Frayer, Q.C., Grant Nerbas and Marilyn Walder Billinkoff.

## **3.0 Consent Agenda**

### **3.1 Minutes of October 28, 2021 Meeting**

The minutes of the meeting held on October 28, 2021 were approved as presented.

### **3.2 Complaints Investigation Committee Report**

Benchers received for information the report of the Complaints Investigation Committee

### **3.3 Discipline Committee Reports**

Benchers received for information the reports of the Discipline Committee.

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

MOVED: Ms Troup  
Seconded: Mr. Paul  
Carried.

## **4.0 Executive Reports**

### **4.1 President's Report**

Benchers received for information Mr. Driedger's report dated December 8, 2021.

## **4.2 Chief Executive Officer's Report**

Benchers received for information Ms Kosokowsky's report dated December 8, 2021. Ms Kosokowsky advised that a new complaint has been filed with the Manitoba Human Rights Commission against the Law Society by a member who has been charged with professional misconduct. The complaint alleges that the member was being forced to retire and had been discriminated against on the basis of his age. Staff are in the process of preparing a response to the complaint.

Benchers were advised that the Association des juristes d'expression française du Manitoba has requested that consideration be given to amending certain provisions within the *Code of Professional Conduct* which relate to the rights of clients as well as the commentary which support those provisions. Benchers will be invited to provide direction on this issue in due course.

## **4.3 Strategic Planning**

Benchers considered a memorandum prepared by Ms Kosokowsky and Ms Senft, dated December 9, 2021, which provided a detailed report on the work of the Strategic Planning Working Group. Benchers were asked to provide direction on the broad recommendations proposed by the Working Group within each of the four strategic objectives of the Plan.

Benchers expressed support for the work presented by the Working Group. A detailed Strategic Plan will be presented for their consideration based on the direction provided.

Mr. Onchulenko excused himself from the meeting at 1:00 pm.

## **5.0 Discussion/Decision**

### **5.1 Part-Time Fees Pilot**

Benchers considered a memorandum prepared by Ms Schacter, dated December 8, 2021, which reported on the work undertaken by the Equity Committee in considering whether part-time practising fees ought to be introduced for members who work on a part-time basis. Based on the findings of the committee, benchers were asked to consider and approve a two year part-time practising fee pilot program which would be available to members who would like to work part-time. Under the terms of the program, members would be permitted to choose part-time practising status and pay 50% of the full time practising fee and levies (excluding the insurance levy) during the period of the pilot program, provided they meet the following eligibility criteria:

1. Lawyers must work in private practice.
2. Lawyers must meet the definition of “part-time work”, which for the purposes of the pilot means not exceeding 750 billable hours annually and having maximum gross billings of no more than \$80,000 annually.
3. Lawyers must fall within one of the following groups:
  - a. Parents and legal guardians who work part-time to accommodate their child care responsibilities. For the purposes of this pilot, “child care responsibilities” are defined as:

Primary responsibility for providing care for a child who is:

    - (i) 12 years of age or under, or
    - (ii) Over 12 years of age and who, due to a significant medical condition or disability experiences physical, cognitive or behavioural barriers to performing age-appropriate independent activities of daily living for an indefinite duration.
  - b. Lawyers who work part-time to accommodate care-giving responsibilities for other family members who, due to chronic illness, disability or other cause, require regular, ongoing care and/or supervision for a period of more than 90 days.
4. Lawyers must certify that they meet the eligibility requirements and confirm that they understand they may be audited to verify compliance with the criteria.

Concerns were expressed by some benchers that: (a) many members would not be eligible to participate because the gross billings amount had been set too low; (b) some members may feel the criteria for eligibility is discriminatory and may leave the Society open to human rights complaints; and (c) reducing the fee by half may be excessive when the administrative costs to the Society on a per member basis are the same regardless of whether a member is practising full or part-time. Benchers were reminded that this is a pilot program and that at its conclusion, the Society will assess and refine the program based upon its experience with the pilot, the feedback received from the participants and the profession in general, and the concerns raised by benchers.

Motion: That for the two year period commencing April 1, 2022, part-time practising status be available to those members who meet the eligibility criteria recommended by the Equity Committee, and that the fee associated with part-time practising status be half of the annual

practising fee and levies (excluding the insurance levy) set by the Chief Executive Officer during the 2022/2023 and 2023/2024 fiscal periods.

MOVED: Ms Magnifico  
Seconded: Mr. Mandzuik  
Carried.

## **5.2 FLSC - Draft Competency Profile**

Benchers considered a memorandum prepared by Ms Kosokowsky, dated December 9, 2021, which recommended that the Admissions and Education Committee be asked to consider and provide direction to benchers on a draft competency profile which has been prepared by the Federation of Law Societies NCA Assessment Modernization Committee. The advice provided by the committee would assist benchers in responding to an invitation received by all law societies to provide feedback to the NCA committee on the Competency Profile. Benchers agreed that the Admissions and Education Committee should be tasked with completing a review of the Competency Profile. The committee will report on its findings at the February 3, 2022 bencher meeting.

## **5.3 Articling Period Abridgement**

Benchers considered a memorandum prepared by Ms Stonyk and Ms Holmstrom, dated December 8, 2021, which requested that benchers approve a recommendation to extend the policy which permits an abridgement of the articling period of up to 16 weeks to include all students who are enrolled in the December 2021 PREP program. Benchers were advised that there are currently six students from Manitoba who would benefit from this extension, although it is anticipated that this number will increase slightly by the February 2022 cut off date for enrollment.

Motion: That the chief executive officer be given discretion to grant an abridgement of the required articling period, upon request, of up to 16 weeks to students who are enrolled in the December 2021 PREP program.

MOVED: Ms Wiebe  
Seconded: Ms Potter  
Carried.

Benchers were advised that CPLED had recently concluded a pilot in Alberta which permitted students to participate in a three month accelerated PREP program prior to commencing their articles. It is anticipated that a similar pilot program will be offered to students in Manitoba in May of 2022. If this occurs, additional direction will be required from benchers regarding the articling period for those students who participate in the pilot.

One bencher wondered whether the Law Society could facilitate the setting of a minimum salary for articling students or if there were any measures which could be taken to prohibit a principal from hiring an articling student without providing reasonable financial compensation. Ms Kosokowsky confirmed that this issue would be reviewed and brought back to benchers for further consideration.

Mr. Onchulenko rejoined the meeting at 1:35 pm.

## **6.0 Monitoring Reports**

### **6.1 FLAC Program**

Benchers considered a monitoring report prepared by Ms Kosokowsky and Ms Stonyk, dated December 8, 2021, which provided an update on the operation of the FLAC Program since benchers had last considered the program in 2016. Benchers were reminded that at that time, they had directed that the Law Society continue to operate the program for one year with limited intake while also monitoring the viability of Legal Aid Manitoba's Agreement to Pay pilot project. Given that the Legal Aid program was still in operation and that the eligibility guidelines had been further expanded, it was recommended that the FLAC program be formally concluded, with the exception of the eight files which have not yet been closed.

While recognizing the great value provided by the program in improving access to legal services, benchers agreed that the program should now be closed.

Motion: That, with the exception of attending to the administration of eight active files, the FLAC program be officially closed.

MOVED: Ms Boulter  
Seconded: Ms Dear  
Carried.

### **6.2 Profit and Loss Statements - April 1, 2021 to October 31, 2021**

Benchers considered a monitoring report prepared by Ms Kosokowsky, dated December 9, 2021, which reported on the operations of each of the four funds for the seven month period ending October 31, 2021.

## **7.0 Committee Reports**

### **7.1 President's Special Committee on Health and Wellness**

Ms Wiebe reported to benchers on the meeting of the President's Special Committee on Health and Wellness which had taken place on December 3, 2021. At this meeting the committee: (a) considered the Terms of Reference for the committee; (b) received status updates on the development of the diversion program and the Law(yer) Strong peer support program; and (c) discussed the delivery of information about well-being to different segments of the profession. The next meeting of the committee will take place on February 8, 2022.

### **7.2 President's Special Committee on Regulating Legal Entities**

Mr. Monnin reported to benchers on the meeting of the President's Special Committee on Regulating Legal Entities which had taken place on December 1, 2021. At this meeting the committee participated in a preliminary discussion about: (a) the merits of a "made in Manitoba" sandbox model; (b) the ends to be achieved by creating a sandbox; and (c) the service providers who ought to be permitted to participate in the sandbox. The next meeting of the committee will take place on January 27, 2022.

## **8.0 Miscellaneous Business**

### **8.1 Federation Council Report**

Benchers received for information Ms Troup's report, dated December 6, 2021, which reported on the meeting of the Council of the Federation of Law Societies of Canada which was held on December 6, 2021.

## **9.0 For Information**

Benchers considered the materials provided for information.

There being no further business, Mr. Driedger adjourned the meeting at 1:55 p.m.