



# AGENDA

## Benchers

Date: Thursday, March 23, 2023

Time: 12:30 p.m.

Location: Law Society Offices, 200 - 260 St. Mary Avenue, Winnipeg, Manitoba  
and Via Videoconference

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT					
	The President will welcome Tamara McCaffrey, Co-Ordinator of Law(yer) Strong, benchers, guests and staff to the meeting.				
2.0 IN MEMORIAM					
	<p><b>Balmukand Kapoor</b>, who passed away on January 30, 2023 at the age of 86. Mr. Kapoor received his call to the Bar on June 25, 1974. He practised as a sole practitioner for eight years before joining the Manitoba Public Insurance Corporation, where he served as inhouse counsel for 16 years. Mr. Kapoor retired from practice in 1997.</p> <p><b>Marcel Andre Desautels, C.M., O.Ont., LL.D, O.M.</b>, who passed away on January 31, 2023 at the age of 88. Mr. Desautels received his call to the Bar on September 2, 1959. He served as inhouse counsel to Great West Life Assurance Company and the Treasury Board of Canada, and then</p>				

moved on to other entrepreneurial and philanthropic endeavors. Mr. Desautels was a recipient of the Order of Canada, the Order of Ontario, and the Order of Manitoba. He resided in Toronto at the time of his death.

**Harvey Irvin Pollock, K.C.**, who passed away on February 5, 2023 at the age of 89. Mr. Pollock received his call to the Bar on October 1, 1958. He began his career serving as inhouse counsel to the Children's Aid Society of Winnipeg. From 1961 to 1968 he practised as a sole practitioner and then opened the firm known today as Pollock & Company, where he continued to practice up to the date of his death. Mr. Pollock was appointed King's Counsel in 1970 and in 2009 was recognized by the Law Society for having practised law for 50 years.

**Donald Andrew Slough**, who passed away on February 7, 2023 at the age of 37. Mr. Slough received his call to the Bar on June 16, 2016. He served as a crown attorney with Justice Manitoba - Public Prosecutions up to the date of his death.

**Garry Ruben Samaria Micflikier**, who passed away on March 5, 2023 at the age of 74. Mr. Micflikier received his call to the Bar on June 25, 1974. He practised as a sole practitioner and as an associate with several Winnipeg firms during the course of his career which spanned 49 years. Mr. Micflikier was a practising member at the time of his death.

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
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### 3.0 CONSENT AGENDA

The Consent Agenda matters are proposed to be dealt with by unanimous consent and without debate. Benchers may seek clarification or ask questions without removing a matter from the consent agenda. Any benchers may request that a consent agenda item be moved to the regular agenda by notifying the President or Chief Executive Officer prior to the meeting.

3.1	Minutes of February 9, 2023 Meeting	5		Attached	Approval
3.2	Report of the Discipline Committee			Attached	Information

### 4.0 EXECUTIVE REPORTS

4.1	President's Report	10	Sacha Paul		Briefing
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ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
4.2	CEO Report	15	Leah Kosokowsky	Attached	Briefing
4.3	Strategic Plan Progress Report - March 2023	5	Leah Kosokowsky	Attached	Briefing
<b>5.0 PRESENTATION</b>					
5.1	Law(yer) Strong	30	Tamara McCaffrey		Briefing
<b>6.0 DISCUSSION/DECISION</b>					
6.1	National Mobility Agreement - Memorandum of Understanding - Federal Government Lawyers	10	Leah Kosokowsky	Attached	Discussion/ Decision
<b>7.0 MISCELLANEOUS BUSINESS</b>					
7.1	Western Canada Competency Profile	10	Rennie Stonyk	Attached	Briefing
7.2	Evolution of Manitoba Access to Justice Committees	10	Darcia Senft	Attached	Briefing
7.3	FLSC Council Report	5	Lynda Troup	Attached	Briefing
<b>8.0 MONITORING REPORTS</b>					
8.1	Profit and Loss Statements - April 1, 2022 to January 31, 2023	10	Leah Kosokowsky	Attached	Briefing
8.2	Investment Compliance - December 31, 2022	5	Leah Kosokowsky	Attached	Briefing



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# REPORT of the Discipline Committee

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<b>Member:</b>	<b>Member A</b>
<b>Jurisdiction:</b>	Manitoba
<b>Particulars of Charge:</b>	Professional Misconduct (1 Charge): <ul style="list-style-type: none"><li>▪ Breach of Rule 5.1-2A of the <i>Code</i> [hindering a police investigation by concealment, destruction or alteration of incriminating physical evidence]</li></ul>
<b>Plea:</b>	Not Guilty
<b>Date of Hearing:</b>	January 23 & 24, 2023
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Sarah Inness, K.C. (Chair)</li><li>▪ Douglas Bedford</li><li>▪ Susan Boulter (Public Representative)</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ Rocky Kravetsky for the Law Society of Manitoba</li><li>▪ Saul Simmonds, K.C. for the Member</li></ul>
<b>Date of Decision:</b>	February 10, 2023 (Conduct)
<b>Consequences:</b>	<ul style="list-style-type: none"><li>▪ Acquittal (Susan Boulter, Dissenting)</li></ul>

## STRATEGIC PLAN 2022 – 2025

### Progress Report

March 2023



#### STRATEGIC OBJECTIVE 1: COMPETENCE

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

- Proactively support lawyers and law firms to mitigate risk
- Proactively ensure that lawyers are fit to practice by addressing capacity and well-being
- Proactively support, assess and address the competence of lawyers at stages of practice when it is most needed
- Proactively engage with articling students to provide support and resources as appropriate

#### Progress:

Spring 2022	Practice management resources completed and posted on website related to file closing, withdrawal of legal services, absences and contingency planning; billing disbursements, retainers, retirement trust accounting
Spring 2022	Practice area fundamentals revised, updated and posted on website related to criminal law, civil procedure (partial), corporate commercial, real estate wills and estates
March 2022	Health Recovery Program framework, and consent form and agreement templates completed
May 2022	Health Recovery Program rule amendments presented to benchers for approval
June 2022	Health Recovery Program Coordinator position established
2021-2022	Peer Support Program - Law(yer) Strong - established with ongoing awareness initiatives
June 2022	Northern Bar CPD program - LSM resources and supports
August 2022	Central Bar CPD program - LSM resources and supports
September 2022	Translated Rule Amendments (Final) approved - Health Recovery Program

September 2022	Draft e-learning modules completed - file closing, retention & storage; planning for absences and contingencies; retainers; retirement: winding up a practice; and withdrawal of legal services
October 2022	Second annual wellness edition of <i>Communiqué</i> published
November 2022	Practice Management Workbook complete and posted
November 2022	Health Recovery Program launched
November 2022	New and updated family law and child protection fundamentals
December 2022	New and updated practice fundamentals posted for wills and estates
March 2023	<i>Life Beyond Law</i> CPD series, 2 <sup>nd</sup> session March 3: <i>Financial Fitness for a wHealthy Retirement</i>

## STRATEGIC OBJECTIVE 2: ACCESS TO JUSTICE

Advance, promote and facilitate increased access to justice for all Manitobans.

- Engage with Manitobans in northern and rural communities, members of Indigenous communities and others who are members of vulnerable and historically disadvantaged groups about unmet legal needs and opportunities to address those needs
- Explore opportunities to remove regulatory barriers to the delivery of legal services in new ways
- Promote and facilitate collaboration about access issues with the courts and other justice system stakeholders to increase access to justice
- Explore opportunities for the Law Society to increase the number of lawyers who practice law in remote/rural communities and improve retention

### Progress:

February 2022	Conduct engagement sessions with community organizations
April 2022	Review, analyze and summarize consultations
May 2022	Follow-up communications and surveys delivered to organizations
April 2022	Amendments to the Legal Profession Act allowing for the regulation of limited practitioners proclaimed

April 2022	Benchers approve of proposed structure for “regulatory sandbox”
May 2022	Benchers review Forgivable Loan Program
Summer 2022	Collaboration with Manitoba Law Foundation on survey of Manitobans
August 2022	Collaboration with University of Manitoba Faculty of Law - distribute Access to Justice Survey
October 2022	Presentation at National Access to Justice Week - people-centred data collection
November 2022	Results of survey and consultation received by Entity Regulation Committee
November 2022	Regulatory Sandbox launched
November 2022	Request to extend and expand Hub services to Manitoba Law Foundation
December 2022	Manitoba Law Foundation approves of continuing Hub services through April 1, 2024.
December 2022	Manitoba Law Foundation approves of the Faculty of Law's request to fund the Access to Justice Coordinator from April 1, 2023 through April 1, 2026. Transition work is ongoing.
January 2023	Hub resumes operations.
January 2023	Law Society receives sandbox application
January 2023	Law Society's Access to Justice Stakeholders Committee Working Group on Rural and Remote Communities - intermediaries met on January 25, 2023
March 2023	Hub expands services to civil matters with supervision being provided by Sadira Garfinkel
March 2023	Access to Justice Coordinator moves to Faculty of Law

### STRATEGIC OBJECTIVE 3: EQUITY, DIVERSITY AND INCLUSION

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

- Engage and inspire Indigenous youth in Manitoba to become lawyers
- Remove inequitable barriers to admission into the legal profession for Indigenous people and other equity-seeking individuals
- Consider imposing mandatory continuing legal education relating to cultural competency as a regulatory requirement for lawyers
- Promote, support and facilitate equity, diversity and inclusion within law firms

#### Progress:

January 2022	Post inclusivity statement on website regarding the admissions process and the good character requirements
March 2022	Benchers resolve to require all Manitoba practising lawyers to complete one-time Indigenous intercultural awareness and competency training
June 2022	Benchers consider proposed amendments to Code of Professional Conduct re: French speaking clients and legal services
June 2022	Host SOGIC reception with MBA
September 2022	<i>The Path Forward: Conversations Around Reconciliation</i> . Joint program with MBA and Law School
September 2022	Anti-racism training for Law Society staff
December 2022	Collaboration proposed with University of Manitoba, Public Prosecutions and Legal Aid to attract and retain lawyers to northern communities
December 2022	Collaboration underway with University of Manitoba to attract Indigenous youth to law
February 2023	Anti-racism training for benchers
February 2023	Hosted Faculty of Law presentation for Black History Month
March 2023	Hosted 5 <sup>th</sup> annual Building Connections Networking Event for Indigenous law and articling students
March 2023	Provided information and resources via social media and website for Black History Month and International Women's Day



## STRATEGIC OBJECTIVE 4: STAKEHOLDER CONFIDENCE

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

- Engage with members of the public who are from vulnerable and historically disadvantaged groups
- Increase and improve engagement of the Law Society with members of the Northern Bar and members practising in other rural communities
- Build members' confidence and competence by connecting them to Law Society resources and supports

### Progress:

Spring 2022	Engage with access to justice coordinator to identify organizations and leaders
June 2022	Northern Bar communication - implementation of survey and mentorship supports
December 2022	Outreach to profession regarding website resources to support competence
March 2023	Mid-year communication to articling students re: Equity Advisor and health and wellness resources



## MEMORANDUM

**To:** Benchers  
**From:** Leah Kosokowsky  
**Date:** March 15, 2023  
**Re:** National Mobility Agreement  
Memorandum of Understanding – Federal Government Lawyers

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### BACKGROUND

Prior to the adoption of the Interjurisdictional Practice Protocol which preceded the National Mobility Agreement, lawyers in the Canadian common law provinces were unable to practice in other provinces without being admitted in that jurisdiction. Under the mobility regime, lawyers can practice temporarily (up to 100 days per year) in most other jurisdictions and can transfer to other jurisdictions with relative ease if they exceed the temporary mobility limits. The mobility regime applies to all lawyers, including those who practice exclusively for the federal government, with some narrow exceptions. As a result, Justice Canada lawyers are required to become a member in any jurisdiction where they practice other than on a temporary basis.

Federal Government lawyers are unique in that they routinely provide legal advice across the country, making compliance with the temporary mobility provisions difficult. They also appear in court on behalf of the federal government in more than one jurisdiction. As a result, they have sought to be excluded from the provisions of the National Mobility Agreement. Negotiations have started and stalled on a number of occasions over the last two decades and with some significant effort, an agreement has been reached between the Federation of Law Societies and Justice Canada.

In the attached Memorandum of Understanding (**Appendix A**), you will note the following:

1. As the territories have a unique Territorial Mobility Agreement, the signatories to this agreement would be nine common law provinces.
2. Legal counsel in the exclusive employ of the federal government would be exempt from the temporary mobility provisions.
3. Federal government advisory, policy and legislative counsel would be exempt from the obligation to be licensed in any jurisdiction in which they establish an economic nexus. Rather, they each must be and remain a practising lawyer in good standing of one law society.

4. Litigation counsel would be required to be and remain practising members in good standing in the jurisdiction in which they primarily work and practice, except for temporary assignments.

## APPROVAL

A draft of the Memorandum of Understanding was circulated among senior staff of the Law Society and the Executive Committee last year. The consensus was that the agreement raised no public protection concerns. Accordingly, through our council representative, Lynda Troup, we indicated our approval of the agreement at the October 2022 council meeting and the council approved it.

The next step is for each of the nine signatory jurisdictions to formally endorse our approval. Once all jurisdictions sign the agreement, it will take effect.

We recommend that you approve of the Memorandum of Understanding that is attached.

ATC.

**MEMORANDUM OF UNDERSTANDING****BETWEEN**

**THE LAW SOCIETY OF BRITISH COLUMBIA  
THE LAW SOCIETY OF ALBERTA  
THE LAW SOCIETY OF SASKATCHEWAN  
THE LAW SOCIETY OF MANITOBA  
THE LAW SOCIETY OF ONTARIO  
THE LAW SOCIETY OF NEW BRUNSWICK  
THE NOVA SCOTIA BARRISTERS' SOCIETY  
THE LAW SOCIETY OF PRINCE EDWARD ISLAND  
THE LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR**

**AND**

**THE GOVERNMENT OF CANADA**

This memorandum of understanding sets out the agreement of the signatories on the application of the National Mobility Agreement, the National Mobility Agreement 2013 and the Quebec Mobility Agreement to legal counsel employed by the Government of Canada.

**Introduction**

1. The National Mobility Agreement (“NMA”) is an agreement between the provincial law societies that facilitates temporary and permanent mobility of lawyers between the common law provinces. Under the NMA a lawyer licensed in a common law province may practise for up to 100 days a year in any other common law province and may transfer between common law jurisdictions without having to complete the bar admission program or exams. The Quebec Mobility Agreement (“QMA”) provides more limited mobility rights to lawyers seeking to transfer to or from Quebec. The National Mobility Agreement 2013 (“NMA 2013”) extends the provisions of the NMA to the transfer of lawyers to and from the Barreau du Quebec. At the time of the signing of this memorandum, a number of jurisdictions have not yet implemented the NMA 2013. The NMA and the QMA remain in force in those jurisdictions.
2. The NMA, NMA 2013, and QMA (referred to hereinafter as “the mobility agreements”) apply to all lawyers, including those employed by the Government of Canada. Legal counsel employed by the Government of Canada provide litigation, advisory and legislative services across the country, working in federal government departments, agencies and Crown Corporations, and for the Department of Justice in regional offices and the headquarters in the National Capital Region. A memorandum of understanding between the Law Society of Ontario (formerly the Law Society of Upper Canada) (“LSO”) and the Barreau du Québec (“Barreau”) signed in 2005 (the “LSO-Barreau MOU”), permits lawyer members of the LSO or the Barreau who provide legal services exclusively to the Government of Canada and who do not appear in the courts of the province in which they are not licensed, excluding federal courts and tribunals, to practise in either jurisdiction.
3. The parties agree that the provisions of the mobility agreements should be applied in a way that is responsive to the unique circumstances of Government of Canada legal counsel.

## **Objectives and Scope**

4. This memorandum of understanding clarifies how the mobility agreements will be applied to Government of Canada legal counsel. Except as provided by the LSO-Barreau MOU, the terms of this memorandum of understanding apply to all legal counsel who work for and provide legal services exclusively to the Government of Canada in the jurisdictions of the signatory law societies except that until such time as the NMA 2013 is in force in Quebec, the permanent mobility provisions of the NMA, and the QMA will continue to apply to legal counsel working in Quebec.

## **Application of Mobility Agreements**

5. Notwithstanding the provisions of the mobility agreements, provincial statutes, or the rules, regulations or bylaws of the signatory law societies, the parties agree:
  - a. Legal counsel employed by and providing legal services exclusively to the Government of Canada, including those in management positions, will be exempted from the temporary mobility provisions of the mobility agreements.
  - b. Legal counsel who appear before courts or tribunals on behalf of the Government of Canada must be and remain practising members in good standing of the provincial law society in which they primarily work and practice.
  - c. Legal counsel who appear before courts or tribunals on behalf of the Government of Canada and who are on temporary assignments or secondments will be exempted from the requirement to be a practising member in good standing in the jurisdiction in which they primarily work and practice for the duration of the temporary assignment or secondment.
  - d. All legal counsel providing advisory, policy or legislative services must be and remain practising members in good standing of a provincial or territorial law society.
6. The Government of Canada will ensure that all legal counsel in its employ comply with the law society membership requirements set out above.

## **Amendments**

7. This memorandum may be amended with the mutual written consent of all signatories.

## **Duration and Termination**

8. This memorandum will remain in effect unless terminated with the mutual written consent of all signatories.

## **Effective date**

9. This memorandum becomes effective on the date of the last signature.

**Government of Canada**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_

**Law Society of British Columbia**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_

**Law Society of Saskatchewan**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_

**Law Society of Ontario**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_

**Law Society of Alberta**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_

**Law Society of Manitoba**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_

**Law Society of New Brunswick**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_

**Nova Scotia Barristers Society**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_

**Law Society of Prince Edward Island**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_

**Law Society of Newfoundland and Labrador**

Per: \_\_\_\_\_  
Authorized Signatory

Date: \_\_\_\_\_



## MEMORANDUM

**To:** **Benchers**

**From:** **Rennie Stonyk**

**Date:** **March 15, 2023**

**Re:** **Western Canada Competency Profile**

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### OVERVIEW

As previously reported to you, we have agreed to collaborate with the other three western provincial law societies to jointly develop an “entry to practice” competency profile. Under this proposal, the four law societies will work together with a consultant, ACT, Inc. to develop a competency profile which would encompass the “soft” skills that an applicant would need to have acquired during their articling year in order to be called to the bar. Examples of such skills would be interviewing, negotiation, written and oral communications, etc.

While CPLED has its own competency framework that it uses to assess PREP students, there is currently no all-encompassing competency profile for the entire pre-call experience. Such a competency framework would set out the minimum skills that a student must demonstrate during the articling period in order to obtain their call to the bar. Thus the framework has been coined as an “entry to practice” competency profile.

Currently the Law Society of British Columbia (LSBC) delivers its own bar admission course which is significantly different from CPLED, both in terms of delivery and content. However, they have established a task force to examine and perhaps revamp both their bar admission course and the experiential component of articling. One positive side effect of developing a unified western competency profile is that there will be an opportunity to showcase the value of CLPED’s PREP program to LSBC, who may consider this program as an option going forward.

### ENGAGING ACT

The four western law societies ultimately agreed that the proposal to develop a western entry-to-practice competency profile is a worthwhile endeavour and all agreed to participate in the project



being facilitated by ACT as both the LSA and the NCA have previous experience with this organization. In Alberta, the Society worked with ACT to create a professional development profile for their continuing professional development program. Instead of having to complete a minimum number of CPD hours annually, Alberta lawyers are required to assess themselves against the professional development competency profile and develop (and submit) a CPD plan to address the areas where they require more training.

The LSA advises that this project was a success in terms of being on time, on budget and in delivering a high quality and useful product. They recommended that we work with ACT on the entry to practice competency profile given their previous positive experience. The LSA also provided the process that they used in their previous project and given its successful outcome, it was agreed to use a similar process for this new initiative.

## PROCESS

The process began with the creation of a project Advisory Committee. The Advisory Committee consists of senior staff from each Law Society, and I am the representative on this committee for LSM. The role of the Advisory Committee is to oversee the development of the profile. It will have decision-making authority from all participating law societies and will provide strategic direction on stakeholder engagement and the flow of work to the working groups below it. Members of this committee will also be responsible for reporting back to their respective benchers on the progress of the work and obtain approvals as needed. Accordingly, as LSM's member on the Advisory Committee, I will be providing you with regular status updates and will come to you for approval of the profile once it has been developed.

At this time, the Advisory Committee is finalizing a draft project charter to set the parameters of the initiative. We anticipate this will be completed within the next month.

Under the Advisory Committee sits the Task Force which is where the heavy lifting of drafting the profile will occur. The goal for the composition of the Task Force is to have a diverse group of approximately 12 to 15 people with a variety of backgrounds and practice experiences.

The Advisory Committee met in February to create the Task Force. Each province put forward three individuals and the committee carefully considered each to ensure that the entire composition of the Task Force would be diverse. So far, the Task Force consists of recently called lawyers (including a former NCA student), principals, academics, lawyers from racialized communities and lawyers from both urban and rural communities. In addition, a representative from CPLED will be included to ensure that the profile being developed will align with and complement (and not simply repeat or conflict with) CPLED's PREP competency profile. From Manitoba, Kelli Potter (who you all know), Lisa Stiver from TDS Law, and Mark Alward from Taylor McCaffrey LLP have all agreed to participate

on the Task Force. The Task Force is nearly finalized; a few provinces are simply awaiting confirmation from a few remaining individuals.

In early June the Task Force is scheduled to have its first meeting, which will be in-person and held over two days in Calgary. Thereafter, it is anticipated that the group will meet virtually four or five additional times. This group will be heavily assisted by ACT in developing the draft competency profile.

Once the significant portion of the drafting is completed by the TASK Force and ACT, the draft document will be examined by several focus groups. The Advisory Committee will be tasked with deciding on the number of focus groups and the overall composition of these groups.

Once the drafting is essentially complete and approved by the Advisory Committee and any jurisdictional committees, a validation survey will go out to all lawyers in the western provinces. Based on the survey results, additional adjustments to the draft profile will be made by the Advisory Committee/Task Force. Once the Advisory Committee is satisfied with the final draft, the profile will be presented to the benchers of each law society for final approval.

## BUDGET AND TIMELINE

ACT presented the Advisory Committee with a statement of work outlining the project fees and timelines. The budget for the project is \$130,000 and is being shared by the four law societies based on the following allocation: 30% LSBC, 30% LSA, 20% LSS and 20% LSM. The competency profile is anticipated to be completed and approved by the Spring of 2024, although we think this may be somewhat aggressive. That said, we are already slightly ahead of schedule in our activity plan.

## SUMMARY

We foresee multiple benefits for LSM once this western entry to practice competency profile is developed. First, there will be a consistent expectation for minimum competency requirements upon entry to practice across the western provinces, which ultimately facilitates a smoother transition for newly called lawyers that wish to transfer between provinces. Secondly, a holistic competency profile for the entire articling experience can assist the LSM in developing training for principals and CPD planning for newly called lawyers. There will undoubtedly be other benefits to developing this type of profile as it will serve as a building block for many other potential initiatives.



## MEMORANDUM

To: Benchers  
From: Darcia Senft  
Date: March 14, 2023  
Re: **Evolution of Manitoba Access to Justice Committees**

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### BACKGROUND

In 2011, The Law Society of Manitoba struck an “Access Stakeholders Committee” that met twice a year. It became a useful forum for sharing information among about two dozen players in the field of accessible legal services.

In October 2013, The National Action Committee on Access to Justice (in Civil and Family Matters) released its report containing a recommendation that each jurisdiction across the country establish an access “coordinating” committee that would have a robust mandate to promote access initiatives.

An idea developed to create a smaller new Manitoba Access to Justice Steering Committee comprised of senior representatives/leaders from key access to justice stakeholders. Initially, there was debate about who or what organization should host this new committee and when a consensus was lacking, the Law Society offered to take ownership of the committee. It was proposed that the larger Stakeholders group become a subcommittee of the Steering Committee and continue to meet semi-annually to share information and best practices.

The benchers supported the idea that the purpose of the new Steering Committee would be “to promote efficient and cost-effective access to justice for all Manitobans, with particular emphasis on justice services that address family law matters and the civil legal needs of Manitobans.”

In August 2014, terms of references were proposed. The benchers subsequently approved the proposed mandate and composition of the new Steering Committee that met for the first time in December 2014. In the early days of the Committee’s work, three working groups were struck to consider specific access to justice issues and proposed solutions. One group considered the feasibility of a “one-stop shop” to respond to unmet legal needs, and another group considered access challenges in family law and made recommendations to address those challenges. The third group began examining how to improve public education and dissemination of legal information, for example through the creation of a portal that could be embedded into any website affording access to reliable legal information with a “no wrong door” approach.

While the work of the Steering Committee continued, we also had Manitoba representatives involved in the work of the National Action Committee.

Recognizing that access to justice issues are complex and systemic in nature and that effective solutions are best created using a collaborative approach, the Steering Committee ultimately recommended that its work be supported by a person who could act as a dedicated coordinator for justice system stakeholders.

## STRATEGIC PLAN & A2J COORDINATOR

In the 2017-2020 Strategic Plan, the benchers directed the Law Society to take a leadership role in coordinating the various access to justice initiatives in the province. In furtherance of that goal and in light of the recommendation from the Steering Committee, the Law Society sought and obtained two years of funding from the Manitoba Law Foundation to support the hiring of an Access to Justice Coordinator and fund the work. Natasha Brown was hired to fill the new Coordinator position and she commenced her employment with the Society in May 2021.

## A2J COORDINATOR WORK AND IMPACT

Natasha enthusiastically embraced the responsibilities associated with her new role. Despite the restrictions imposed by the pandemic, Natasha made great strides in furtherance of our access initiatives. She has conducted research and established connections right across the province, much of which assisted the Society in our public outreach for unmet legal needs.

For the past two years, she has been the primary support for the work of the Manitoba Access to Justice Steering Committee and she energized the work of the Committee with various subgroups taking on projects. She served as a liaison to the Faculty of Law, supporting the development of complementary access to justice initiatives such as the creation and distribution of an access to justice survey and the creation of an access blog.

She has done a tremendous job coordinating access work among stakeholders, promoting dialogue about access needs and solutions and identifying opportunities for increased collaborative work among stakeholders both in Manitoba and nationally. For example, she spearheaded Manitoba's involvement in the national Access to Justice Week and was instrumental in getting key stakeholders to partner together to host specific events.

The Manitoba Bar Association hosted two events: (i) Dispute Resolution at Administrative Tribunals in Manitoba; and (ii) Flat Rates, Unbundling and Coaching: An Overview of Alternative Private Bar Legal Services Provision. The Faculty of Law hosted "Access to Justice Clinics and Organizations in Manitoba: Where law students assist with the A2J crisis". The Law Society of Manitoba hosted the national event, People-Centred Data Collection. The panel featured Susan McDonald (Justice Canada) and Sarah McCoubrey (CALIBRATE) as well as Manitoba presenters. The event had 239

registrants and the feedback received following the event was extremely positive. All three organizations hope to partner together for A2J week this year.

Natasha excelled in her role and worked hard to develop and maintain relationships with a wide variety of stakeholders. She regularly reminded us of the importance of diversity and suggested ways to improve diversity. She was also unafraid to help potentially competing stakeholders seek common ground and identify the benefits of cooperation.

### ROLE OF THE LAW SOCIETY IN FACILITATING ACCESS

As you worked your way through the strategic planning process for the 2022–2025 Strategic Plan, the benchers decided to shift focus on our access to justice initiatives to place greater emphasis on the Society's role in facilitating greater access to justice for Manitobans, rather than coordinating the efforts of other agencies. That said, you determined that access ought to remain a key component of our Strategic Plan. Accordingly, you will find that the activities to further the access goal are reflective of the Society's distinct role in increasing access to justice, such as removing regulatory barriers and creating a regulatory sandbox for other service providers.

Notwithstanding the shift in focus, you agreed that the role of the Access to Justice Coordinator remains critical and ought to be continued. In consultation with the Society, Richard Jochelson, Dean of the Faculty of Law, proposed that the Access to Justice Coordinator position be moved to the University of Manitoba. In a memo to the benchers, Leah Kosokowsky previously outlined numerous good reasons for the role to be moved to the University and many benefits as well. For example, the University has greater resources, both financial and in kind. The position will have access to law students to further research and the University can support the establishment and maintenance of an access to justice website for stakeholders. Furthermore, there will be other roles for the Access to Justice Coordinator at the Faculty which, although secondary to the role, will support and enhance it. She also advised that there was precedent for such a role with Saskatchewan's Access to Justice Coordinator position housed at the University of Saskatchewan, Faculty of Law.

The Faculty of Law prepared an application to the Manitoba Law Foundation for three further years of funding to continue the Access to Justice Coordinator's work and the Society provided a letter of support. The Foundation approved the grant application in December 2022.

### TRANSITION OF COORDINATOR POSITION & COMMITTEE

Natasha will complete her work with the Law Society on March 24, 2023. While we are sad to see her go, we are excited to continue working with her as the A2J Coordinator position transitions to the Faculty of Law. Her new position will be titled "Director of Access to Justice Community Engagement."

In anticipation of the transition, in consultation with the Society consideration has been given to revising the Manitoba Access Committee's Terms of Reference so that the committee will be able to continue its valuable work, but no longer as a "Law Society" committee. Attached as **Appendix A**, please find the draft that has been prepared by the Faculty of Law in collaboration with Natasha, using Saskatchewan's model as a valuable template. Please note that the document is confidential and should not be distributed as it has not been finalized.

We fully expect that the Law Society will continue to play an important role in the work of the newly constituted Manitoba Access to Justice Advisory Network.

### LAW SOCIETY ACCESS TO JUSTICE INITIATIVES

While the Law Society continues to pursue access initiatives, they currently are not considered by one committee tasked with considering access issues. For example, the Forgivable Loan Program is an access initiative that is being reviewed by the Society's Admissions and Education Committee. Similarly, the Entity Regulation Committee has been considering issues relating to the removal of regulatory barriers to the delivery of legal services with the intention of increasing access to justice. The work of the Entity Regulation Committee has evolved since its establishment several years ago as it shifted from addressing issues relating specifically to entity regulation to considering more broadly the delivery of legal services, including the delivery of legal services by alternate legal services providers. While the work has evolved on the access front, it did continue some of its original focus on the regulation of entities/law firms as opposed to the regulation of individual lawyers. For example, the committee examined how to assist law firms in creating ethical infrastructures for the delivery of legal services and assisted in the development of resources such as a law firm Practice Management Assessment Tool.

### WHERE ARE WE GOING?

We will have to decide, as an organization, the vehicle through which we continue to pursue initiatives through which we, as the regulator, can increase access to justice in Manitoba. We will also have to examine how the access work and the entity regulation work intersect. Over the next several weeks, we will work with the Law Society executive and Nominating Committee to establish the President's special committees for the 2023-2024 year, in light of the above-noted issues and, in particular, with reference to the strategic activities plan.

ATC.

**Establishment of Manitoba's Access to Justice Advisory Network**

**As there is a commitment** in Manitoba to building a coherent, collaborative, and coordinated approach to addressing the justice system while avoiding duplication of effort and activity;

**And because** we recognize the distinct roles of many participants in the justice system who are currently working on initiatives and programs to improve access to justice for Manitobans and that each must work to improve those areas over which it has primary responsibility;

**And because** there is a need for the public to have a central role in working to improve the justice system and to put the public first in considering and implementing improvements;

**And because** in order to redress the legacy of residential schools and advance the process of Canadian Reconciliation, the Truth and Reconciliation Commission outlined ninety-four Calls to Action many of which address inequities and the need for improved access to justice for Aboriginal people;

**And because** there is a need for existing and as yet undeveloped access to justice initiatives to be facilitated, coordinated and supported in order to better and more efficiently assist Manitobans,

The Manitoba Access to Justice Advisory Network is hereby established.

**Vision**

All Manitoba residents have meaningful and timely access to appropriate legal services and dispute resolution mechanisms that produce just results. Access to justice is achieved through fair processes and fair outcomes. Fair processes refer to a justice system that is transparent, affordable and as easy to navigate as possible for Manitobans. It also means that Manitobans have meaningful opportunities to be heard on a timely basis, including being aided by access to legal information and services. At a systemic level, access to justice may also involve meaningful opportunities to participate in the development and reform of the law and legal processes and to ensure that the justice system and its service providers are reflective of all Manitobans.

**Mission**

Led by the Director of Access to Justice Community Engagement ("the Director"), the Manitoba Access to Justice Advisory Network seeks to:

1. Foster a "public first" approach to all justice processes and services;
2. Generate energy and enthusiasm for access to justice initiatives;

3. Foster information exchange, communication, engagement and momentum-building within and among member organizations and a diverse group of stakeholders and interest groups;
4. Encourage appropriate collaboration and coordination between and among members with respect to access to justice initiatives;
5. Improve understanding of the problem of inadequate access to appropriate legal services and mechanisms to resolve disputes;
6. Support opportunities for the public and legal services providers to both learn about Indigenous nations and their legal traditions and to learn about the role anti-racism plays within the justice system in order for the public and legal service providers to be culturally responsive and move towards more just outcomes;
7. Develop a digital space to share access to justice information; and
8. Bring an access to justice lens to legal clinics and experiential opportunities in legal education and at the University of Manitoba, Faculty of Law.

### **Operating Principles**

The Access to Justice Advisory Network operates according to the following principles:

1. *Network information and decision-making is open and transparent-* Regular and transparent communication among the membership is essential to build connections and honour a decentralized model.
2. *The members do the work-* The Director supports the members to connect and collaborate but not replace the collaboration of the network members themselves. Members are encouraged to engage actively with the network and, as appropriate, to leverage connections, knowledge, competencies and resources of the membership to achieve shared objectives.
3. *Do everything with someone, not alone-* When undertaking new initiatives, members are encouraged, as appropriate, to connect with other members who may wish to join the effort or offer feedback.
4. *Respect confidentiality-* Members may request that information shared with the network remain confidential. Members are expected to both identify when information they are sharing is confidential and to honour the request for confidentiality from others.
5. *Members are conduits of information-* Member representatives are expected to be the information conduit between the network and their organization by gathering information from their organization to share with the network and to share information from the network with their organization.



## **Membership**

The network is comprised of member stakeholders involved in civil, family, criminal and administrative justice matters in Manitoba. Membership consists of representative stakeholder organizations.

Member organizations determine representatives who will most effectively facilitate participation of the organization in the network. It is open to the membership to propose or nominate additional members to be added to the membership. The addition of new members is decided by consensus at an annual meeting.

Proposed membership:

TBD

## **Benefits of Membership**

Access Advisory Network Members benefit from participation by:

1. Learning from other members and gaining perspective;
2. Having the opportunity to influence the access to justice response in Manitoba;
3. Connecting with others to get inspired and motivated;
4. Building relationships with other leaders across the justice system;
5. Improving innovations by garnering feedback from other members;
6. Increasing the impact of independent initiatives through collective alignment;
7. Improving funding opportunities through collaboration;
8. Increasing information dissemination about initiatives;
9. Bringing energy and attention to the issue of access to justice; and
10. Finding support for initiatives in a variety of forms.

## **Working Groups/Small Group Meetings**

The Director may coordinate working groups and/or may coordinate smaller group advisory meetings with Network members or with others not formally within the Network from time to time to assist with or help advise the Director on her work.

## **Governance**

The Director will chair all meetings. All members are responsible to contribute to the network, maintain the network health and guide the focus and direction of the network activities. The Director may oversee joint network initiatives and/or activities.

The network is comprised of members from organizations, each with their own mandates and accountability structures. Network members are not formally accountable to the network and the network does not have the power to direct the activities of any member.

## **Resources**

The Manitoba Law Foundation provides funding for the position of the Director. Network members contribute to the network in-kind by committing staff time to engage in the network activities.

### **Coordination, Communication and Collaboration**

The Access to Justice Advisory Network uses a range of mechanisms to coordinate, communicate and collaborate.

1. Annual meeting/Director's Annual Forum on Access to Justice
2. Digital communications
3. Digital meetings/experiences
4. Quarterly online newsletter-a quarterly communication compiled and distributed by the Director outlining current access to justice news and updates. Members are encouraged to submit information about initiatives to the newsletter and to encourage others within their organization to read and contribute initiatives to the newsletter.
5. UM Justice- Focused on access to justice research, evaluation and action-oriented initiatives and serves as a hub for community-engaged activities. Members are encouraged to provide ideas for research and to participate in UM Justice's activities on an ongoing basis.
6. Annual Access to Justice Week-provides opportunities to engage new voices in the access to justice conversation and highlight initiatives that aim to improve access to justice for Manitoba residents. Members are encouraged to participate in the week's activities and to use the week to engage with the public on access to justice issues and initiatives.



## FLSC COUNCIL REPORT

To: Benchers  
From: Lynda Troup  
Date: March 14, 2023

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We headed to Quebec City for our March meetings. A report on our first day will be provided by Leah and the Gang. Our Federation Meeting proceeded on day two. These are the highlights:

- **National Wellness Study** – Late last year there was a release of recommendations that flowed from the issuance of the Phase I report on wellness of legal professionals across Canada.

Phase II interviews with members of the legal profession have resumed as of January 2023. There are 12 reports contemplated at the conclusion of Phase II, one for each provincial law society, one for the three territories, and one national report. The revised timeframe for completion of all reports is summer 2024.

The purpose of Phase II is to dive deeper into the information that is being obtained to determine why the mental health challenges are so prevalent and, most importantly, what can be done to address these challenges.

- **Indigenous Advisory Council** - This council first meet in February and a further meeting is to be set shortly.

The joint working group of the Council of Canadian Law Deans (“CCLD”) and the Federation has circulated surveys to law societies and law schools to gather current information on what each is doing with respect to truth and reconciliation. The working group is exploring dates to meet in March to follow up on the surveys and identify their priorities for 2023.

- **NCA Assessment Modernization (NCA process)** – I am now the chair of this committee. We have met for a number of hours over the last several months to finalize a draft competency profile, which is now complete. This is the list of competencies that an NCA candidate is expected to have as they enter the NCA process.

The draft competency profile will now be going through a validation process – where those we have identified can confirm the profile includes the right competencies. The profile will also be circulated to the law societies for comment.

- **National Requirement Review (law schools)** – The National Requirement Review Committee (“NRRC”) last met in late February 2023. An initial communiqué was sent in late September 2022 to a broad range of stakeholders, seeking input by November 30. A second communiqué was sent in February 2023 to provide an update on the NRRC’s work. You will find the communiqué elsewhere in these agenda materials.

The NRRC has identified its priority issues, informed in part by the input received from stakeholders in the fall, and meets monthly to undertake its work.

The committee met with the CCLD and the association of law teachers – where listening has been the main purpose. The consultation process remains in the ongoing stage.

- **Anti-Money Laundering Initiatives** – Work on the online educational program consisting of five modules is well underway, with an expected launch in Spring 2023.

Work is nearing completion on new and revised guidance focusing on mitigating risk and ensuring robust compliance processes.

Work is continuing on new discipline standards addressing identification of breaches of the anti-money laundering rules, the tracking of breaches, the ability to make referrals for breaches, and staff training.

Council was asked to approve amendments to the Model Rule on Client Identification and Verification as follows:

- A change to 6.3 regarding use of an agent – the Code will now read:

Use of Agent (2) A lawyer may rely on an agent to obtain the information described in subsection (6) to verify the identity of an individual client, third party or individual described in paragraph 3(2)(d) provided the lawyer and the agent have an agreement or arrangement in writing for this purpose as described in subsection (4).

- A change to 6.6 regarding the change “original” to “authentic”:

(6) For the purposes of paragraph (1)(b), the client’s identity must be verified by referring to the following documents, which must be valid, authentic and current, or the following information, which must be valid and current:

The working group was reconstituted as a standing committee such that work on the Model Rules will continue going forward and into the foreseeable future.

- **Finance** – The 2023-2024 Federation budget is substantially the same as the draft presented to Council in December 2022. It provides for a \$250,000 credit to the law societies resulting from savings realized during the pandemic. This will be the last year of a three-year strategy to return pandemic-related savings to the Federation’s members.

The 2023-2024 NCA budget is materially unchanged from the one presented in December 2022. It provides for a surplus of about \$863,000 intended to partially replenish reserves set aside for future improvements to the NCA assessment process.

The recommended allocation of reserves includes a reduction of about \$45,000 to the General Contingency Fund as a result of the application of the Federation’s Reserve Policy. It also provides for setting aside approximately \$231,000 in the Capital Asset Reserve in order to fund necessary leasehold improvements to the Federation’s head office premises.

The second quarter statements for 2022-2023 project a year-end deficit in the General Fund of \$386,017 (of which \$375,000 was planned as a result of the pandemic-related credit to the law societies) and a surplus in the NCA Fund of \$692,057.

The 2023 budget for the National Criminal Law Program, discussed below, is presented on a breakeven basis.

- **CLE Programs** - The National Criminal Law Program (“NCLP”) and the National Family Law Program (“NFLP”) (collectively, the “CLE Programs”) are week-long continuing legal education programs. They are offered each summer, in the case of the NCLP, and every other summer, in the case of the NFLP, to members of the legal profession and the judiciary interested in honing their skills in the areas of criminal and family law, respectively. The Federation of Law Societies of Canada has been associated with the NCLP and the NFLP for decades

The NCLP is proceeding July 2023 and the NFLP is proceeding in 2024.

Next meeting is in Ottawa in June 2023.

LKT

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
<b>9.0 COMMITTEE REPORTS</b>					
9.1	President's Special Committee on Regulating Legal Entities	10	Mason Broadfoot		Briefing
9.2	Pension Review Committee	10	Leah Kosokowsky		Briefing
<b>10.0 NOMINATING COMMITTEE REPORT</b>					
10.1	Election of President and Vice-President and Bencher Vacancies	30	Grant Driedger	Attached	Discussion/ Decision
10.2	Appointment of Election Scrutineers				Decision
10.3	Election of Incoming President				Decision
10.4	Election of Incoming Vice-President				Decision
10.5	Motion to Destroy Ballots				Decision
<b>11.0 FOR INFORMATION</b>					
11.1	FLSC Communiqué - Review of National Requirement			Attached	Information
11.2	FLSC E-Briefing - March 2023			Attached	Information
11.3	Media Reports			Attached	Information