

MINUTES

Benchers

Date: Thursday, October 31, 2024

Time: 12:30 pm

Location: Law Society Offices and via Videoconference

Present:

Gerri Wiebe, KC, President	Simon Jack
Christian Monnin, Vice President	Teresa Jaenen
Wayne Onchulenko, Past President	Tehani Jainarine
Carmen Nedohin, Officer-at-Large	Dr. Richard Jochelson
Kassy Baker	Timothy Kurbis
Kathrine Basarab	Mathieu Lafrenière
Gordon Daman	Kenneth Mandzuik, KC
Kyle Dear	Penny Piper
Serena Ehrmantraut	Trent Sholdice
Kalanit Faingold	Leah Unruh
Patrick Fortier	Joshua Weinstein
Sharyne Hamm	Deanna Wilson

Guests: Erin Wilcott

Staff Present:

Leah Kosokowsky	Joan Holmstrom
Rennie Stonyk	Sharon Kravetsky
Sandra Alleyne	Deirdre O'Reilly
Noelia Bernardo	Richard Porcher
Pat Bourbonnais	Sean Rivera
Eileen Derksen	Alissa Schacter
Linda Fontaine	

1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT

Ms Wiebe, President, called the meeting to order at 12:45 pm. Benchers, guests and staff were welcomed to the meeting as well as new student bencher, Kalanit Faingold. Treaty territories 1, 2 and 5 were acknowledged with gratitude.

2.0 IN MEMORIAM

Benchers observed a moment of silence for Roman Duncan Kozak, William Richard Stovel, Harold Kemp Irving, Barbara Ruth Hochman and Edward Ross Yarnell, KC.

3.0 CONSENT AGENDA

3.1 Minutes of September 12, 2024 Meeting

Benchers considered the minutes of the benchers' meeting held on September 12, 2024.

3.2 French Corporate Name Change

Benchers endorsed the amendments to the French version of the Rules and Code of Professional Conduct which incorporate the recent statutory amendment to the Law Society's French corporate name.

3.3 Report of the Complaints Investigation Committee

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

3.4 Discipline Committee Report

Benchers received for information the report of the Discipline Committee.

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

MOVED: Mr. Jack
Seconded: Ms Unruh
Carried.

4.0 EXECUTIVE REPORTS

4.1 President's Report

Bencher received for information Ms Wiebe's report dated October 28, 2024.

4.2 Chief Executive Officer's Report

Bencher received for information Ms Kosokowsky's report dated October 23, 2024. Bencher were advised that the Capstone results of the September 2024 PREP program for Manitoba had been received and indicated that only one of 44 participants had failed the assessment. Demographic data indicated that seven participants were Indigenous, 14 were racialized persons and 10 were internationally trained lawyers.

Bencher discussed how the Law Society might assist in ensuring that all first and second year law students are encouraged and afforded an equal opportunity to attend the annual Manitoba Law Students' Association Banquet as this is an important networking event for students and law firms.

4.3 2022-2025 Strategic Plan Activities Update

Bencher considered Ms Kosokowsky's memorandum, dated October 20, 2024, which provided an update on strategic plan activities in the areas of public engagement, support for solo and small firms, encouraging and inspiring Indigenous youth to consider a career in law, and the trusted intermediaries project.

Bencher also considered the detailed Strategic Plan Progress Report covering the period January 2022 to October 2024.

5.0 DISCUSSION/DECISION

5.1 Bencher Removal – Proposed Rule Amendments and Bencher Policy

Benchers considered a memorandum prepared by Ms Stonyk, dated October 9, 2024, which invited them to consider the proposed Rule amendments and a new Bencher Policy flowing from the direction provided at their meeting on September 12, 2024.

Motion: That the draft Rule amendments to Division 6 – Bencher Vacancies and Removal be approved in principal as presented and that Bencher Policy #7 – Removal of Bencher From Office be approved as presented.

MOVED: Mr. Kurbis
Seconded: Mr. Mandzuik
Abstention: Ms Baker
Carried.

Benchers were advised that the rule amendments will return for final approval upon receipt of the French translation. Bencher Policy #7 will come into effect at that time.

6.0 MISCELLANEOUS BUSINESS

6.1 National Study on the Psychological Health Determinants of Legal Professionals in Canada – Phase II

Benchers received for information a memorandum prepared by Ms Kosokowsky, dated October 21, 2024, which reported on the outcomes of Phase II of a national study commissioned by the Federation of Law Societies of Canada on the well-being of Canada's legal professionals. The report included a jurisdiction-specific report for Manitoba which identified three themes affecting practitioners' health and well-being (work-life balance; working conditions and cognitive demand; and coping strategies and lifestyle) and set out recommendations which could be used by the Law Society to address these issues (focus on risk factors affecting practitioners; set up actions to support members dealing with the emotional demands of their practices; and set up a means to measure if the steps taken are proving to be effective). This information will be valuable in guiding the development of initiatives within the new strategic plan. Benchers were advised that staff will also be

exploring opportunities to streamline processes which might reduce certain administrative burdens required of members.

6.2 Articling Survey Update

Benchers received for information a memorandum prepared by Ms Stonyk, dated October 9, 2024, which reported on the results of the articling surveys conducted by the four western jurisdictions and Nova Scotia, and also provided a detailed report on the survey results specifically for the Manitoba survey participants. Results for Manitoba indicated that only half of the student and recently called practitioner participants felt prepared to enter practice at the conclusion of their articles. Additionally, principals, recruiters and mentors were challenged to provide quality time and guidance to their students. The results also revealed that 28% of students had reported experiences of discrimination and harassment during the recruitment and articling processes.

Benchers noted that the data indicated that 47% of internationally trained student respondents had not been compensated for their services, and that 19% of this group identified as being part of an equity-deserving demographic. Staff were asked to gather additional information and data on this troubling practice so that benchers could consider potential options to address this problem. In doing so, it was recommended that staff explore the impact of the minimum wage requirement implemented by the Law Society of British Columbia.

Benchers were advised that the results of the survey will be shared with the profession and that the next phase of this initiative will involve a comparative analysis of the survey results of all five participating jurisdictions.

6.3 Investment Committee

Mr. Onchulenko reported on the meeting of the Investment Committee which was held on October 28, 2024. Representatives from Mawer, the Society's investment managers, were present to review investment performance and to discuss recommended changes to the Society's investment policies. Benchers were advised that: (i) investments were exceeding benchmark performance in both funds and remained in compliance with the Society's investment guidelines; and (ii) the committee agreed to one of the recommended changes to the investment policies and has requested additional information regarding the other recommendations.

Mr. Onchulenko was excused from the meeting at 2:05 pm.

6.4 FLSC Council Report

Bencher received for information Ms Troup's report, dated October 18, 2024,

7.0 COMMITTEE REPORTS

7.1 Practice and Ethics Committee

Mr. Mandzuik provided an oral report on the meeting of the Practice and Ethics Committee which was held on October 25, 2024 to review proposed amendments to the Federation of Law Societies' Model Code of Conduct in response to the Truth and Reconciliation Commission's Call to Action #27. During the course of the review, the committee agreed upon several key principles: the importance of ongoing cultural awareness training; an expansion of the education plan to include Indigenous history and inclusive practices (such as religious diversity, gender identity); and providing practitioners with flexibility to identify and participate in areas of training which is relevant to their practices. The committee resolved to seek input from the Indigenous Advisory Committee to the proposed amendments and the findings of the committee. It will meet again once that feedback has been received.

7.2 Strategic Planning Committee

Ms Wiebe provided an oral report on the meeting of the Strategic Planning Committee which had met on October 10, 2024 to review the changes which had been made to the draft strategic plan flowing from the direction provided by benchers at the strategic planning session held on September 12, 2024 in Clear Lake. Senior staff will next meet to consider the resources which would be required to achieve the goals identified by benchers and to also consider any potential pitfalls. This information will be shared with the committee at its next meeting on November 19, 2024.

8.0 MONITORING REPORTS

8.1 Complaints Resolution Department and Discipline Department

Benchers considered a detailed monitoring report on operations within the Complaints Resolution Department and the Discipline Department dated October 23, 2024. Benchers were advised that staff are developing new procedures which will allow the Society to: (i) measure the value and effectiveness of resources and initiatives offered to the profession in the complaints and discipline areas; and, (ii) identify the areas of practice and primary concerns which result in the highest frequency of complaints received by the Society.

In an effort to support transparency and remove risk of bias and conflicts of interest, benchers were asked to consider whether the practice of appointing sitting benchers to the Discipline Committee should be abandoned. Benchers were also invited to consider whether this same approach should be taken when populating the membership of the Complaints Investigation Committee. Benchers were advised that such a move would significantly deplete the membership of both committees and would require rule amendments as well as the creation of new processes for committee appointments and training.

It was noted that benchers are appointed to a very small number of hearing panels each year and that there have been very few instances where a problem has arisen with this practice. Some benchers were of the view that no change to the current practice was necessary as the process is working effectively, without public concern or criticism. Other benchers were of the view that it would be in the Society's best interest to be proactive in removing any perception of conflict or bias. It was also suggested that consideration be given to adopting a similar practice for the membership of the Admissions and Education/Trust Safety Appeals Committee.

Benchers requested that a report with additional detail on the issues and procedures which would need to be considered and addressed, including the time and cost to implement this new practice, be provided for their consideration.

9.0 IN CAMERA

With the exception of Ms Kosokowsky, Ms Stonyk, Ms Bourbonnais and Mr. Rivera, all staff were excused from the balance of the meeting at 3:25 pm.

9.1 BC Single Legal Regulator and Independence

Motion: That these agenda items be discussed *in camera*.

MOVED: Mr. Mandzuik
Seconded: Mr. Fortier
Carried.

Ms Kosokowsky reported to benchers on: (i) the status of matters relating to the proposed establishment of a single legal regulator for lawyers, notaries and paralegals by British Columbia's provincial government; and, (ii) a recent public video message issued by the Premier and Minister of Justice of Alberta.

Motion: That the meeting proceed out of camera.

MOVED: Mr. Lafrenière
Seconded: Ms Unruh
Carried.

10.0 FOR INFORMATION

Benchers considered the materials provided for information.

There being no further business, Ms Wiebe adjourned the meeting at 3:45 pm.