



Agenda

Benchers

Date: Friday, March 1, 2019

Time: **7:30 am** Continental breakfast

8:30 am Call to order

Location: Bencher Room, 9th Floor, Law Society Building

Recording: *Benchers, staff and guests should be aware that a digital audio recording is made at each Benchers meeting to ensure an accurate record of the proceedings.*

CONSENT AGENDA

Any Bencher may request that a consent agenda item be moved to the regular agenda by notifying the President or the Manager, Governance & Board Relations prior to the meeting.

1	Minutes of January 25, 2019 meeting (regular session)
2	Minutes of January 25, 2019 meeting (<i>in camera</i> session)
3	Amendments to Rule 4-38 – Pre-hearing Conference
4	Revised Terms of Reference for Annual Fee Review Working Group

REPORTS

5	President's Report		Nancy G. Merrill, QC
6	CEO's Report		Don Avison
7	Briefing by the Law Society's Member of the Federation Council		Herman Van Ommen, QC

GUEST PRESENTATION

8	Update on Washington State's Limited License Legal Technician Program		Paula C. Littlewood & Stephen R. Crossland
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Agenda

DISCUSSION/DECISION			
9	Review of the Law Society’s 2018 Audited Financial Statements and Financial Reports		Craig Ferris, QC Jeanette McPhee
10	Recommendation on CPD Credit for Pro Bono Work		Tony Wilson, QC
11	Proposal for Licensed Paralegal Task Force		Craig Ferris, QC
FOR INFORMATION			
12	BC Legal Profession Demographics		
13	Three Month Benchers Calendar – March to May		
IN CAMERA			
14	Other Business <ul style="list-style-type: none">Governance Committee Report: Year-End Evaluation Results		



Minutes

Benchers

Date: Friday, January 25, 2019

Present:

Nancy G. Merrill, QC, President	Geoffrey McDonald
Craig Ferris, QC, 1 st Vice-President	Steven McKoen, QC
Dean P.J. Lawton, QC, 2 nd Vice-President	Christopher McPherson, QC
Jasmin Ahmad	Jacqui McQueen
Jeff Campbell, QC	Phil Riddell, QC
Pinder Cheema, QC	Elizabeth Rowbotham
Jennifer Chow, QC	Mark Rushton
Barbara Cromarty	Carolynn Ryan
Anita Dalakoti	Karen Snowshoe
Jeevyn Dhaliwal	Michelle D. Stanford, QC
Martin Finch, QC	Sarah Westwood
Brook Greenberg	Michael Welsh, QC
Lisa Hamilton, QC	Tony Wilson, QC
Roland Krueger, CD	Guangbin Yan
Jamie Maclaren, QC	Heidi Zetzsche
Claire Marshall	

Staff Present:

Don Avison	Jason Kuzminski
Gurprit Bains	Michael Lucas
Chantal Broughton	Alison Luke
Lance Cooke	Tara McPhail
Su Forbes, QC	Jeanette McPhee
Mira Galperin	Veronica Padhi
Kerryn Garvie	Annie Rochette
Andrea Hilland	Lesley Small
Jeffrey Hoskins, QC	Alan Treleaven
David Jordan	Adam Whitcombe, QC

Guests: Lawrence Alexander	Guest Presenter, Associate Counsel of Gall Legge Grant Zwack
Kenneth Armstrong	Vice-President, Canadian Bar Association, BC Branch
Chief Justice Honourable Robert Bauman	Chief Justice of British Columbia and Chief Justice of the Court of Appeal for the Yukon.
Dom Bautista	Executive Director, Law Courts Center
Richard Fyfe, QC	Deputy Attorney General of BC, Ministry of Justice, representing the Attorney General
Dennis Joseph (Xwechtaal Siem)	Squamish Nation
Prof. Bradford Morse	Dean of Law, Thompson Rivers University
Ron Nairne	President, Trial Lawyers Association of BC
Caroline Nevin	CEO, Courthouse Libraries BC
Natasha Dookie	Incoming Chief Legal Officer, Law Society of BC
Herman Van Ommen, QC	Law Society of BC Member, Council of the Federation of Law Societies of Canada
Tina Parbhakar	CBABC Equity & Diversity Chair
Kerry Simmons, QC	Acting Executive Director, Canadian Bar Association, BC Branch
Bill Veenstra, QC	Past President, Canadian Bar Association, BC Branch
Karenn Williams	External Relations Executive Member, Aboriginal Lawyers Forum

INTRODUCTORY MATTERS

First Nations Acknowledgement

The President welcomed Dennis Joseph (Xwechtaal Siem) from Squamish Nation to the Bencher meeting. Mr. Joseph led the Benchers in an opening prayer.

1. Administer Oaths of Office

The Honourable Chief Justice Robert J. Bauman administered the oaths of office to President, Nancy G. Merrill, QC, First Vice-President Craig Ferris, QC, Second Vice-President Dean P.J. Lawton, QC and newly elected Bencher Jacqueline McQueen, whose term commenced on January 1, 2019.

2. President's Welcome

Ms. Merrill welcomed various guests to the Bencher meeting.

CONSENT AGENDA

3. Minutes of December 7, 2018, meeting (regular session)

The minutes of the meeting held on December 7, 2018 were approved as circulated.

4. QC Advisory Committee Appointment

The following resolution was passed unanimously and by consent:

BE IT RESOLVED that the Benchers appoint President Nancy G. Merrill, QC and First Vice-President Craig Ferris, QC as the Law Society's representatives on the 2019 QC Appointments Advisory Committee.

5. Recruitment and Nominating Advisory Committee

At a Bencher's request, this item was moved to the discussion portion of the agenda.

Ms. Merrill spoke to the item and explained that, while the intention behind the Recruitment and Nominating Advisory Committee (RNAC) was laudatory, in practice the Committee has simply taken over the function of the Executive Committee's appointments subcommittee while adding more time, process and resources to get to the same recommendations.

Some Benchers expressed concern about the recommendation from an equity and diversity perspective and were of the view that, by disbanding the RNAC and losing the perspectives of

those additional Committee members, it may be restricting diversity when it comes to making selections for appointments. It was thought that a wider expression of views may lead to a broader range of input into who may be appropriate for certain appointments.

Benchers were reminded of the Law Society's Appointments Policy, which states that the Law Society promotes diversity in its internal and external appointments and should ensure adequate representation based on gender, Aboriginal identity, cultural diversity, disability, sexual orientation and gender identity.

Some Benchers expressed support for the recommendation and indicated the removal of the RNAC would not change anything in terms of the application of the appointments policy and equity and diversity considerations; however, it would reduce the administrative burden on staff that had to support the RNAC. In their view, as long as the Executive Committee acted appropriately with appointments, there would be no issue with removing the RNAC.

The motion was made as follows:

BE IT RESOLVED that the Recruitment and Nominating Advisory Committee be wound up and that in the future the Executive Committee exercise the authority given it under the Rules to oversee and recommend to the appropriate appointing person or body within the Law Society on appointments to outside bodies.

The motion carried with 14 in favour, 12 opposed and 2 abstentions.

6. BC Representative for Federation of Law Societies' Committees

The following resolution was passed unanimously and by consent:

BE IT RESOLVED that we should continue to appoint our Chief Legal Officer as our representative on this Committee and recommends that the new Chief Legal Officer be appointed after joining the Law Society.

REPORTS

7. President's Report

Ms. Merrill began by highlighting some areas of focus for 2019, including consideration of the resolutions that were passed at the 2018 Annual General Meeting.

Continuing to promote legal aid and pro bono work will be an ongoing focus. The Legal Aid Advisory Committee will continue to advocate for better funding of legal aid and the Access to Legal Services Advisory Committee will look at ways to incentivize pro bono work in the legal

profession. The pro bono questions on the Annual Practice Declaration are also being revised to give the Law Society a better sense of the pro bono landscape.

Ms. Merrill said the Legal Aid Advisory Committee is considering a robust communication plan and ways to lobby the government for better legal aid funding. The Committee will be recommending that the Law Society create and lead a coalition of like-minded organizations to strengthen the Law Society's advocacy efforts, and that it also continue to address the loss of training and mentoring of young lawyers within the legal aid system.

The second resolution at the Annual General Meeting essentially requested that the Law Society cease working on the Alternate Legal Service Provider initiative and not request proclamation of the necessary amendments to permit a framework for licensed paralegals. Ms. Merrill noted that, while the resolutions are not binding on the Benchers, it is appropriate to consider them in the context of our work in this area.

Ms. Merrill said the Governance Committee had been asked to look at a revised process for the 2019 Annual General Meeting and its recommendations may include advanced voting and no amendments from the floor at the meeting. She said the Governance Committee would report back to Benchers with recommendations.

Ms. Merrill said she wanted to see the Law Society establish a Futures Task Force and the Executive Committee would be making that recommendation at the meeting. The Task Force would provide guidance to the Benchers on anticipated changes and developments in the practice and regulation of law, and what the Law Society needs to do to be ready for those changes and developments.

Other areas of focus for 2019 included continuing to promote equity and diversity, and continuing work on the goals of the Truth and Reconciliation Commission Calls to Action.

Ms. Merrill said the Governance Committee was also asked to develop a more comprehensive Bencher Code of Conduct, which would address such matters as chronic absenteeism, the unlikely event of Bencher misconduct, and how to deal with conflicts of interest.

8. CEO's Report

Mr. Avison began his report by introducing the incoming Chief Legal Officer, Natasha Dookie. He provided background information about Ms. Dookie and welcomed her to the Law Society.

Mr. Avison referred to work being done to reform the Annual General Meeting format and structure, and indicated the Mental Health Task Force will be moving on to the implementation phase of its work, which will involve training opportunities for staff.

He said anti-money laundering will be another significant area of focus for 2019. Dr. Peter German will be invited back to the Bencher meeting to talk about the second phase of the review, which will focus on real estate and other areas where there is an expectation that anti-money laundering activity is taking place. A second process mandated by the Minister of Finance involves an expert panel on money laundering, chaired by Maureen Maloney, a former Deputy Attorney General, together with Tsur Somerville from the University of British Columbia's Sauder School of Business and Dr. Brigitte Unger from the University of Utrecht in the Netherlands. The panel will be meeting with a number of individuals and organizations, including a meeting with the Law Society presently scheduled for February 15. Mr. Avison said he would report back to Benchers following the meeting.

Mr. Avison then congratulated staff at the Law Society who contributed to the Law Society winning a national energy efficiency award.

9. Briefing by the Law Society's Member of the Federation Council

Mr. Van Ommen reported on his attendance at the two-day December 2018 Federation Council meeting. The first meeting day focused on governance issues as there had been a number of changes at the Council table. One of the messages that came out of that meeting was that the judiciary generally would like to see law societies speak out publically more often, in particular, in defence of judges and the rule of law.

Mr. Van Ommen said the second meeting day consisted of regular business, including reviewing the Council's three strategic priorities. The first priority discussed was anti-money laundering. The Council's anti-money laundering group intends to continue to work closely with the Federal Ministry of Finance in 2019. The second priority discussed was the national assessment review process. Mr. Van Ommen reported that a work plan had been prepared. He said the first part of the plan is to assess the gaps between lawyers coming through the National Committee on Accreditation and lawyers trained in Canadian law schools, and suggest ways of addressing the problem. The third priority Mr. Van Ommen reported on was the Truth and Reconciliation Commission's Calls to Action, in particular call to action 28, which calls upon law schools in Canada to require all law students to take a course in Aboriginal people and the law. The Federation is reaching out to the legal academy to work together on implementation and ensure consistency across the country on this issue.

Mr. Van Ommen also reported on two Model Code items. The first issue was the technological competence rule proposed by the Federation. He said a decision on the rule had been put over to the March meeting. Ontario and BC are not currently supportive of the rule as drafted and Mr. Van Ommen said he would be seeking instructions shortly on how they would like him to respond. The second issue was the rule relating to the return to practice for judges. Mr. Van Ommen said this issue needs further discussion and he will be seeking instructions.

GUEST PRESENTATIONS

10. Presentation on Future Trends and the Legal Profession

Ms. Merrill welcomed and introduced Mr. Lawrence Alexander, who gave a presentation on Future Trends and the Legal Profession.

Mr. Alexander began by referring to a story from October 2018 where 20 top corporate lawyers in the United States challenged an artificial intelligence algorithm called LawGeex. The story illustrated some of the potential benefits of AI technology. The algorithm was asked to review five non-disclosure agreements and spot the legal issues, and the results were compared with that of the lawyers. The lawyers, who were very experienced in reviewing non-disclosure agreements, scored on average 85% for accuracy and LawGeex scored 94%. In terms of speed, the lawyers took on average 92 minutes and Law Geex took 26 seconds to complete the task.

Mr. Alexander then displayed information about a range of other AI applications in the law world. He also referred to the Ministry of Attorney General's announcement regarding the "AI Justice Challenge". The Ministry is seeking five different AI solutions, including assistance with streamlining completion of forms, document review, a Chatbot to provide legal information on matters or processes involving probate, wills and estates planning, faster and cheaper transcription, and an interactive platform for navigating the court process.

A number of stories followed that were in support of the proposition that the legal world is changing and Mr. Alexander asked the Benchers to think about what the legal profession would look like in 10 or 20 years. He asked how the legal profession can better protect the public interest in a changing world, and whether there are better ways to meet those objectives going forward.

Mr. Alexander suggested to Benchers that if AI is embraced by the legal profession, costs go down for clients, and access to justice and client satisfaction go up. For lawyers, the drudgery goes down and the high value work and mental health of lawyers could go up. This may also mean people who have been leaving the legal profession start to return.

Mr. Alexander also spoke about emerging trends that could impact the practice of law, such as entrepreneurs and investors that are disrupting the legal profession, investment by the legal profession in research and development, changes in legal publishing, and problems experienced by sole practitioners and small firms managing law practices.

Mr. Alexander then discussed what changes could mean for regulating the practice of law, such as the technological competence rule proposed by the Federation, the impact of technological solutions on lawyers' mental health and wellbeing, and whether skillsets are missing from the regulation of lawyers' competency/credentials. He summarized some statistics illustrating "the

unmet need”, which showed a gap between the number of people who experience a legal problem and the number of people who seek legal assistance. He said there is an 81% gap, where those people experience a legal problem and do not obtain legal advice. There are three main factors: people cannot afford legal advice, people do not understand the law and people do not feel welcome. Mr. Alexander questioned whether this gap could be filled by innovation, investment and technology.

Mr. Alexander then discussed what the changing legal world could mean for the regulation of lawyers, the concept of economic regulation and whether the Law Society is set up to embrace change and the future. His suggested next steps could include the following: find more data, set stretch goals, engage the profession, take a hard look at what will fill the gap, and broadly embrace talent and capital. Mr. Alexander then concluded his presentation.

DISCUSSION/DECISION

11. A Proposal for a Futures Task Force

Mr. Ferris said that he hoped, following Mr. Alexander’s presentation, the need for a Futures Task Force would be fairly self-evident. Mr. Ferris referred to the memorandum provided by the Executive Committee proposing the establishment of a Futures Task Force and encouraged the Benchers to support the following resolution:

The Benchers hereby establish a Futures Task Force with terms of reference as set out in the Appendix to this memorandum and that the Futures Task Force provide its final report to the Benchers no later than July, 2020.

The motion passed unanimously.

12. Annual Fee Review Working Group: Final Report

The Chair of the Annual Fee Review Working Group, Mr. Lawton, introduced and spoke to the item. He thanked staff and working group members for their contributions.

The Working Group consulted with the public, members of the profession, academia and other interest groups with respect to the concept of reduced practice and insurance fees for public interest practitioners. Mr. Lawton referred to the Terms of Reference and the directive from the President at the time the group was created, that:

The Working Group will investigate and duly consider providing public interest practitioners with reduced rates of practice fees and insurance fees and will report back to Benchers before the 2018 annual general meeting.

Mr. Lawton explained the report was delayed due to the need to complete the consultation process. He brought to Benchers' attention the following recommendation from the report (page 35, paragraph 10):

The voting members of the Working Group recommend against providing public interest practitioners with reduced rates of practice fees and insurance fees but suggest that the Benchers give consideration to our current practice of charging all lawyers largely the same amount for practice and insurance fees regardless of factors such as type, volume of work, and area of legal practice, income from practice, risk, geography, clientele and other considerations identified in the consultation.

Mr. Lawton said approximately 35 written submissions were received through the consultation process and the Working Group met with one of the two people who originally proposed the resolution for the 2017 AGM.

Mr. Lawton said the Committee found it challenging to define "public interest practitioner" and that type of work in a non-arbitrary way. Although the Working Group was recommending against providing public interest practitioners with reduced rates of practice fees and insurance fees at this time, it suggested to Benchers that the issue should be considered and reflected on in the future, which may include consultation with other jurisdictions and other professions.

Benchers then engaged in a discussion about the proposed recommendation. Some Benchers commented that they agreed with the recommendation not to provide reduced rates of practice and insurance fees for a particular area of law, and strongly supported the latter part of the recommendation for work on this to continue, such as consideration of the UK model where the fee structure is based on different income-levels. The model is not arbitrary and seemed well-received in the UK. More work could be done to see how the UK model is working, and the pros and cons of that model.

Clarification was sought about whether or not the Working Group considered, and if the recommendation contemplated, providing incentives for lawyers to do public interest-type work. Mr. Lawton repeated the recommendation and the Chair clarified that the motion contained two parts; the first part was a recommendation against providing public interest practitioners with reduced rates of practice fees and insurance fees, and the latter part was a suggestion that Benchers give further consideration to our current practice of charging all lawyers largely the same amount for practice and insurance fees.

Concern was expressed about the impact of making changes to the fee structure, the implications this may have for Law Society operations and other members of the profession who do not qualify for reduced rates of practice or insurance fees. Benchers

supported working closely with the Finance and Audit Committee before any changes to the practice or insurance fee are made.

Benchers commented that other solutions could be considered to support and recognize the valuable work public interest practitioners do, such as paying membership fees in installments. It was suggested that it may also be worthwhile to review the timing of membership fee payments (currently due by the end of November each year) to take into account the pressures faced by low-income practitioners, or look at a monthly debit system supported by the Law Society.

There was support around the Bencher table for further work to be done on the question of reduced rates of practice and insurance fees; in particular, rephrasing the question so that the focus is on looking at reduced rates for lawyers with different income-levels rather than lawyers who practice particular areas of law. There was also a desire to see the recommendation framed more positively to demonstrate that this issue is important but that the Law Society needs more time to come up with concrete ways of addressing the problem.

Benchers expressed concern about the timeframe in which this further work would be done and suggested the matter could come back before Benchers for consideration within the next year. Benchers expressed broad agreement with the idea that further work on the issue of reduced rates of practice and insurance fees should be considered in the near future, particularly before the practice fee for 2020 is due.

Other suggestions included considering risk-adjusted premiums, issuing a Law Society credit card to members, and sending the issue back to staff to capture some of the ideas discussed before bringing the matter back before the Benchers at a future date.

A motion was then made to refer the broad question of reduced rates of practice and insurance fees back to the Annual Fee Review Working Group so it could consult with staff and other committees as appropriate before bringing the matter back to the Bencher table. The motion passed unanimously.

13. Implementation of National Mobility Agreement 2013

Mr. Lucas introduced the item and spoke to the memorandum included in the materials. He said the Benchers approved the National Mobility Agreement 2013 (NMA 2013) in principle in May 2013, which would allow mobility between the Law Society of British Columbia and the Barreau once both societies had implemented its provisions.

The Law Society has already adopted Rules designed to implement the terms of the NMA 2013 in order to recognize members of the Barreau with civil law degrees. While the Barreau has

sought approval to implement the NMA 2013, it has not to date been granted and Quebec has therefore been unable to reciprocate.

Mr. Lucas advised Benchers that New Brunswick and Saskatchewan have unilaterally implemented the NMA 2013. Applicants can therefore become a member of one of those jurisdictions, which do reciprocate with BC, and then transfer to BC from that jurisdiction, thereby creating an indirect and costly route to becoming a member in BC.

He said Benchers were asked, in principle, to adopt a rule change to permit Quebec lawyers to transfer to BC under the terms of the NMA 2013 regardless of reciprocity.

The motion to approve the recommendation was passed unanimously.

UPDATES

14. Report on Outstanding Hearing & Review Decisions

As the President's designated Tribunal Chair, Mr. Ferris updated the Benchers on outstanding hearing and review decisions.

KG
2019-01-25

REDACTED MATERIALS

REDACTED MATERIALS

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Memo

To: Benchers
From: Jeff Hoskins, QC on behalf of Act and Rules Committee
Date: February 6, 2019
Subject: **Case Management: Rule 4-38—Pre-hearing conferences**

1. I attach a memo from Craig Ferris, QC, as the President's designate to head the Law Society Tribunal, and myself to the Executive Committee in which we set out the expected increase in discipline hearings in the last half of 2018, or perhaps indefinitely.
2. The Discipline Committee continued to authorize an increased number of citations. The total for 2018 was considerably higher than any recent year, and equal to 2015 and 2016 combined. At the same time, there appeared to be an increased delay between the authorization of a citation by the Discipline Committee and notification to the hearing administrator that the matter can be set down for a hearing. As a result, the caseload volume at the Tribunal was expected to become more difficult to manage efficiently. Experience is beginning to bear out that expectation.
3. The Tribunal has taken the initiative in urging the parties to prepare and set matters down in a more timely fashion, as well as encouraging agreement on issues to simplify and expedite the hearing itself. Chambers Benchers are encouraged to use the vehicle of the pre-hearing conference to become more proactive in case management. Mr. Ferris has begun to use the current rule (4-38 (1)), which allows the President (or designate) to order a pre-hearing conference whether or not one of the parties requests it. This will bring the parties before a Chambers Benchers earlier in the process, allowing the Chambers Benchers to explore means of streamlining the process and getting to a hearing at an early date.
4. I attach a Practice Direction issued by Mr. Ferris in September 2018.
5. The current rule (4-38 (8)) sets out a short list of items that the Chambers Benchers may canvass with the parties:
 - simplification of issues,

- possible amendments to the citation,
 - admissions,
 - disclosure of documents,
 - protection of privilege and confidentiality, and
 - setting a hearing date.
6. In addition, there is an open-ended basket clause: “any other matters that may aid in the disposition of the citation.”
 7. In the end, the Chambers Benchers are permitted to make orders for a limited number of purposes. The current rule (4-38 (10)) empowers the Chambers Benchers to
 - adjourn the pre-hearing conference,
 - set a hearing date, and
 - adjudicate an application made under subrule (9) or otherwise under Part 4 *[Discipline]*.
 8. In this case, though, there is no basket clause allowing the Chambers Benchers to make other orders to manage the case or otherwise facilitate the resolution of the matter. In particular, there is no ability for the Chambers Benchers to make an order on his or her own initiative.
 9. On behalf of the Tribunal, we consulted the Executive Committee on our efforts to improve case management by the Tribunal. We suggested that it could be assisted and empowered by a few amendments to Rule 4-38. The Executive Committee agreed and referred the matter to the Act and Rules Committee to consider proposed amendments.
 10. The Committee has considered the matter and recommends the changes included in the attached draft.
 11. Despite the inclusion of a basket clause, the Committee concluded that the list of matters to be considered in a pre-hearing conference should be expanded so that possible benefits are at least considered. The Committee borrowed several provisions available for case management under the Supreme Court civil rules.
 12. In order to facilitate proactive case management through the vehicle of the pre-hearing conferences, the Chambers Benchers should be empowered to make orders that may not have been applied for by a party. To that end, the Committee recommends changing subrule (10) to empower the Benchers presiding at a pre-hearing conference to make orders, not only on

the application of a party, but also “on the Benchers’ own motion.” The amendments would add to the list of the sorts of orders that the Chambers Benchers could make in the course of the pre-hearing conference. The list is also stated to include, but not be limited to, the listed categories of orders. That would allow flexibility to the Chambers Benchers for creative measures in case management.

13. There is an added provision that would allow the hearing panel, with or without the application of a party, to amend or revise a Chambers Benchers order where it affects the conduct of the hearing on the citation. The hearing panel should have the flexibility to conduct the hearing as appears appropriate to the panel.
14. The Act and Rules Committee recommends the adoption of the attached suggested resolution to facilitate the case management practices of the Law Society Tribunal.

Attachments: memo to Executive Committee, June 25, 2018
 practice direction, Sept. 17, 2018
 draft amendments
 suggested resolution

JGH



Memo

To: Executive Committee
Cc: Sarah Westwood, Michelle Robertson, Aaron Bockner, Sharen Wesnoski
From: Craig Ferris, QC and Jeff Hoskins, QC for the Law Society Tribunal
Date: June 25, 2018
Subject: **Law Society Tribunal—Case Management**

1. This memo sets out the impending increase in demands on Tribunal resources and reports on steps being taken as a means of addressing those demands and attempting to ensure speedy resolution of citation cases. It does not address credentials hearing issues as there are different considerations and the number of hearings is minimal.
2. The Discipline Committee has authorized a higher-than-usual number of citations (22) in the first five months of this year, and we understand that the Committee will be asked to approve a large number of citations in the remainder of 2018. While the vast majority of these matters have not yet been set for hearing, the expectation is that there will be unusual pressure of volume on Tribunal resources in the Fall of 2018 and in 2019. We need to be prepared.
3. There appears to be an increased delay between the authorization of a citation by the Discipline Committee and notification to the hearing administrator that the matter can be set down for a hearing. The Tribunal intends to take the initiative in urging the parties to prepare and set the matter down in a timely fashion, as well as encouraging agreement on issues to simplify and expedite the hearing itself.
4. We believe that the Chambers Benchers should be encouraged and enabled to use the vehicle of the pre-hearing conference to become more proactive in case management. The current rule (4-38 (1)) allows the President (or designate) to order a pre-hearing conference whether or not one of the parties requests it. This has not generally been done, but would require no rule change.
5. The current rule (4-38 (8)) sets out a shopping list of items that the Chambers Benchers may canvass with the parties:

- simplification of issues,
 - possible amendments to the citation,
 - admissions,
 - disclosure of documents,
 - protection of privilege and confidentiality, and
 - setting a hearing date.
6. In addition, there is an open-ended basket clause: “any other matters that may aid in the disposition of the citation.”
7. In the end, the Chambers Benchers are permitted to make orders for a limited number of purposes. The current rule (4-38 (10)) empowers the Chambers Benchers to
- adjourn the pre-hearing conference,
 - set a hearing date, and
 - adjudicate an application made under subrule (9) or otherwise under Part 4 *[Discipline]*.
8. There is no basket clause allowing the Chambers Benchers to make other orders to manage the case or otherwise facilitate the resolution of the matter. In particular, there is no ability for the Chambers Benchers to make an order on his or her own initiative.

Scheduling conferences

9. In order to address the expected increase in volume of discipline hearings, the Tribunal needs to become proactive in case management. After a citation has been issued and no hearing date has been set, the President’s designate will order that a pre-hearing conference be scheduled. At the conference the presiding Chambers Benchers will explore ways of getting the matter to an early hearing and ways to make the hearing more efficient. Further conferences may be scheduled to review progress and consider further measures to move things along.
10. We attach a draft Practice Direction to announce the start of a program of regularly scheduled pre-hearing conferences with a mandate to facilitate the timely resolution of citations.

Rule changes to empower presiding Benchers

11. This effort can be assisted and empowered by a few amendments to Rule 4-38.
12. Despite the inclusion of a basket clause, the list of matters to be considered in a pre-hearing conference should be expanded so that possible benefits are at least considered.
Consideration of the following possible means of supporting the timely resolution of the citation should be added:
 - conducting all or part of the hearing in written form,
 - an agreed statement of facts, and
 - agreement for the hearing panel to receive and consider documents or evidence in advance of the hearing.
13. In order to underscore that a significant purpose of the pre-hearing conference is to improve the timeliness of the setting of a hearing and the disposition of the matter, the basket clause should clearly state that other matters can be considered if they “may aid in the *timely* disposition of the citation.” Similarly, the basket clause in subrule (9), which sets out the orders for which the parties may apply to the Chambers Benchers, should include a reference to timely resolution.
14. It is essential to proactive case management through the vehicle of the pre-hearing conferences that the Chambers Benchers be empowered to make orders that may not have been applied for by a party. To that end, we suggest adding a basket clause to subrule (10), such as this:

The Benchers presiding at a pre-hearing conference may

on the Benchers’ own motion, make an order that, in the judgment of the Benchers,
will aid in the timely disposition of the citation.
15. A first draft of amendments is attached for discussion.

Attachments: draft practice direction
draft amendments.

JGH

TRIBUNAL

**Practice Direction
September 17, 2018**

Case management prehearing conferences

1. This direction applies to a citation issued under Part 4 of the Law Society Rules.
2. A party may request a pre-hearing conference under Rule 4-38 at any time.
3. If, five months after the citation is issued, no hearing date has been set and no party has requested a pre-hearing conference, the hearing administrator will schedule a pre-hearing conference under Rule 4-38 within 30 days and a Chambers Benchler will be designated to preside at the conference.
4. In addition to the matters enumerated in Rule 4-38(8), the Chambers Benchler will ask the parties to consider any matters that may aid in the timely disposition of the citation, including but not limited to
 - (a) conducting all or part of the hearing in written form;
 - (b) an agreed statement of facts;
 - (c) agreement for the hearing panel to receive and consider documents or evidence under Rule 4-41(3)(e).
5. Parties must attend the pre-hearing conference and should be prepared to assist the Chambers Benchler in setting a date for the hearing to begin and making any other orders intended to facilitate the timely disposition of the citation.
6. The hearing administrator will schedule a prehearing conference as soon as practicable for matters where the citation is currently outstanding for five months or more without a hearing date or a prehearing conference.

Craig A.B. Ferris, QC

President's Designate

PART 4 – DISCIPLINE

Pre-hearing conference

- 4-38** (1) The President may order a pre-hearing conference at any time before the hearing of a citation begins, at the request of the respondent or discipline counsel, or on the President's own initiative.
- (2) When the President orders a conference under subrule (1), the President must
- (a) set the date, time and place of the conference, and notify the parties, and
 - (b) designate a Benchers to preside at the conference.
- (3) [rescinded]
- (4) Discipline counsel must be present at the conference.
- (5) The respondent may attend the conference in person, through counsel or both.
- (6) If the respondent fails to attend the conference, the Benchers presiding may proceed with the conference in the absence of the respondent and may make any order under this rule, if the Benchers is satisfied that the respondent had notice of the conference.
- (7) If the Benchers presiding at a pre-hearing conference considers it appropriate, he or she may allow any person to participate in a conference by telephone or by any other means of communication that allows all persons participating to hear each other, and a person so participating is present for the purpose of this rule.
- (8) The conference may consider any matters that may aid in the fair and expeditious disposition of the citation, including but not limited to
- (a) ~~the simplification of the issues,~~
 - (b) ~~the necessity or desirability of amendments to the citation,~~
 - (b.1) any matter for which the Benchers may make an order under subrule (10),
 - (b.2) conducting all or part of the hearing in written form,
 - (c) ~~the possibility of obtaining admissions that might facilitate the hearing~~ or an agreed statement of facts, —
 - (d) ~~the discovery~~ disclosure and production of documents,
 - (d.1) agreement for the hearing panel to receive and consider documents or evidence under Rule 4-41 (3) (e) [Preliminary matters], and
 - (e) the possibility that privilege or confidentiality might require ~~that~~ closure of all or part of the hearing ~~be closed to the public, or that~~ exclusion of exhibits and other evidence ~~be excluded from public access,~~
 - (f) ~~setting a date for the hearing to begin, and~~ [rescinded]

- (g) [rescinded] any other matters that may aid in the disposition of the citation
- (9) The respondent or discipline counsel may apply to the Benchers presiding at the conference for an order
- (a) ~~for discovery and production of documents,~~ [rescinded]
 - (b) to withhold the identity or contact information of a witness,
 - (c) to adjourn the hearing of the citation,
 - (d) for severance of allegations or joinder of citations under Rule 4-22 [*Severance and joinder*],
 - (e) for disclosure of the details of the circumstances of misconduct alleged in a citation under Rule 4-35 [*Application for details of the circumstances*],
- (e.1) that the Benchers may make under subrule (10), or
- (f) concerning any other matters that may aid in the fair and expeditious disposition of the citation.
- (10) The Benchers presiding at a pre-hearing conference may, on the application of a party or on the Benchers' own motion, make an order that, in the judgment of the Benchers, will aid in the fair and expeditious disposition of the citation, including but not limited to orders
- (a) adjourning the conference generally or to a specified date, time and place,
 - (b) setting a date for the hearing to begin, ~~and~~
 - (c) allowing or dismissing an application made under subrule (9) or referred to the conference under this part,
 - (d) specifying the number of days to be scheduled for the hearing,
 - (e) establishing a timeline for the proceeding including, but not limited to, setting deadlines for the completion of procedures and a plan for the conduct of the hearing;
 - (f) directing a party to provide a witness list and a summary of evidence that the party expects that any or all of the witnesses will give at the hearing,
 - (g) respecting expert witnesses, including but not limited to orders
 - (i) limiting the issues on which expert evidence may be admitted or the number of experts that may give evidence,
 - (ii) requiring the parties' experts to confer before service of their reports, or
 - (iii) setting a date by which an expert's report must be served on a party, or
 - (h) respecting the conduct of any application, including but not limited to allowing submissions in writing.

(11) If an order made under this rule affects the conduct of the hearing on the citation, the hearing panel may rescind or vary the order on the application of a party or on the hearing panel's own motion.

PART 4 – DISCIPLINE

Pre-hearing conference

- 4-38** (1) The President may order a pre-hearing conference at any time before the hearing of a citation begins, at the request of the respondent or discipline counsel, or on the President's own initiative.
- (2) When the President orders a conference under subrule (1), the President must
- (a) set the date, time and place of the conference, and notify the parties, and
 - (b) designate a Benchler to preside at the conference.
- (3) [rescinded]
- (4) Discipline counsel must be present at the conference.
- (5) The respondent may attend the conference in person, through counsel or both.
- (6) If the respondent fails to attend the conference, the Benchler presiding may proceed with the conference in the absence of the respondent and may make any order under this rule, if the Benchler is satisfied that the respondent had notice of the conference.
- (7) If the Benchler presiding at a pre-hearing conference considers it appropriate, he or she may allow any person to participate in a conference by telephone or by any other means of communication that allows all persons participating to hear each other, and a person so participating is present for the purpose of this rule.
- (8) The conference may consider any matters that may aid in the fair and expeditious disposition of the citation, including but not limited to
- (a) simplification of the issues,
 - (b) amendments to the citation,
 - (b.1) any matter for which the Benchler may make an order under subrule (10),
 - (b.2) conducting all or part of the hearing in written form,
 - (c) admissions or an agreed statement of facts,
 - (d) disclosure and production of documents,
 - (d.1) agreement for the hearing panel to receive and consider documents or evidence under Rule 4-41 (3) (e) [*Preliminary matters*], and
 - (e) the possibility that privilege or confidentiality might require closure of all or part of the hearing to the public, or exclusion of exhibits and other evidence from public access.
 - (f) [rescinded]
 - (g) [rescinded]

- (9) The respondent or discipline counsel may apply to the Benchers presiding at the conference for an order
 - (a) [rescinded]
 - (b) to withhold the identity or contact information of a witness,
 - (c) to adjourn the hearing of the citation,
 - (d) for severance of allegations or joinder of citations under Rule 4-22 [*Severance and joinder*],
 - (e) for disclosure of the details of the circumstances of misconduct alleged in a citation under Rule 4-35 [*Application for details of the circumstances*],
 - (e.1) that the Benchers may make under subrule (10), or
 - (f) concerning any other matters that may aid in the fair and expeditious disposition of the citation.
- (10) The Benchers presiding at a pre-hearing conference may, on the application of a party or on the Benchers' own motion, make an order that, in the judgment of the Benchers, will aid in the fair and expeditious disposition of the citation, including but not limited to orders
 - (a) adjourning the conference generally or to a specified date, time and place,
 - (b) setting a date for the hearing to begin,
 - (c) allowing or dismissing an application made under subrule (9) or referred to the conference under this part,
 - (d) specifying the number of days to be scheduled for the hearing,
 - (e) establishing a timeline for the proceeding including, but not limited to, setting deadlines for the completion of procedures and a plan for the conduct of the hearing;
 - (f) directing a party to provide a witness list and a summary of evidence that the party expects that any or all of the witnesses will give at the hearing,
 - (g) respecting expert witnesses, including but not limited to orders
 - (i) limiting the issues on which expert evidence may be admitted or the number of experts that may give evidence,
 - (ii) requiring the parties' experts to confer before service of their reports, or
 - (iii) setting a date by which an expert's report must be served on a party, or
 - (h) respecting the conduct of any application, including but not limited to allowing submissions in writing.

- (11) If an order made under this rule affects the conduct of the hearing on the citation, the hearing panel may rescind or vary the order on the application of a party or on the hearing panel's own motion.

PRE-HEARING CONFERENCE

SUGGESTED RESOLUTION:

BE IT RESOLVED to amend the Law Society Rules by rescinding Rule 4-38 (8) to (10) and substituting the following:

- (8) The conference may consider any matters that may aid in the fair and expeditious disposition of the citation, including but not limited to
 - (a) simplification of the issues,
 - (b) amendments to the citation,
 - (b.1) any matter for which the Benchers may make an order under subrule (10),
 - (b.2) conducting all or part of the hearing in written form,
 - (c) admissions or an agreed statement of facts,
 - (d) disclosure and production of documents,
 - (d.1) agreement for the hearing panel to receive and consider documents or evidence under Rule 4-41 (3) (e) [*Preliminary matters*], and
 - (e) the possibility that privilege or confidentiality might require closure of all or part of the hearing to the public, or exclusion of exhibits and other evidence from public access.
- (9) The respondent or discipline counsel may apply to the Benchers presiding at the conference for an order
 - (b) to withhold the identity or contact information of a witness,
 - (c) to adjourn the hearing of the citation,
 - (d) for severance of allegations or joinder of citations under Rule 4-22 [*Severance and joinder*],
 - (e) for disclosure of the details of the circumstances of misconduct alleged in a citation under Rule 4-35 [*Application for details of the circumstances*],
 - (e.1) that the Benchers may make under subrule (10), or
 - (f) concerning any other matters that may aid in the fair and expeditious disposition of the citation.
- (10) The Benchers presiding at a pre-hearing conference may, on the application of a party or on the Benchers' own motion, make an order that, in the judgment of the Benchers, will aid in the fair and expeditious disposition of the citation, including but not limited to orders
 - (a) adjourning the conference generally or to a specified date, time and place,

- (b) setting a date for the hearing to begin,
 - (c) allowing or dismissing an application made under subrule (9) or referred to the conference under this part,
 - (d) specifying the number of days to be scheduled for the hearing,
 - (e) establishing a timeline for the proceeding including, but not limited to, setting deadlines for the completion of procedures and a plan for the conduct of the hearing;
 - (f) directing a party to provide a witness list and a summary of evidence that the party expects that any or all of the witnesses will give at the hearing,
 - (g) respecting expert witnesses, including but not limited to orders
 - (i) limiting the issues on which expert evidence may be admitted or the number of experts that may give evidence,
 - (ii) requiring the parties' experts to confer before service of their reports, or
 - (iii) setting a date by which an expert's report must be served on a party, or
 - (h) respecting the conduct of any application, including but not limited to allowing submissions in writing.
- (11) If an order made under this rule affects the conduct of the hearing on the citation, the hearing panel may rescind or vary the order on the application of a party or on the hearing panel's own motion.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



Memo

To: Benchers
Date: February 19, 2019
Subject: Annual Fee Review Working Group: Revised Terms of Reference

The Benchers had the opportunity to consider the final report of the Annual Fee Review Working Group (AFRWG) at their December, 2018 and January, 2019 meetings.

In light of the report, the responses to the consultation and the discussion at the January, 2019 meeting, the Benchers resolved to refer the broader issue of differential practice and insurance fees back to the AFRWG for further consideration.

The original mandate of the AFRWG was to investigate and duly consider providing public interest practitioners with reduced rates of practice fees and insurance fees. As the Benchers have now tasked the AFRWG with another mandate, it would be appropriate to reflect that mandate in terms of reference for the continued AFRWG.

The following resolution is therefore proposed:

BE IT RESOLVED that the Annual Fee Review Working Group be continued with terms of reference as attached.

Annual Fee Review Working Group

Terms of Reference

Mandate

To consider whether there is a principled justification for the Law Society changing its present practice of charging all members in a particular category of membership the same annual practice fee and, where applicable, insurance fees, and if so, what basis might be appropriate and feasible for determining and assessing differential fees for any particular sub-group of the membership.

Composition

The Working Group shall consist of members appointed by the President in accordance with Rule 1-49.

Meeting Practices

1. The Committee shall operate in a manner that is consistent with the Benchers' governance policies.
2. The Committee shall meet as required.
3. At least half the members of a committee constitutes a quorum. (Rule 1-17(2))

Accountability

The Working Group is accountable to the Benchers.

Reporting Requirements

The Working Group shall report to the Benchers at least every six months and more frequently in the discretion of the Working Group.

Duties and Responsibilities

The Working Group will:

1. meet as required to accomplish its mandate as expeditiously as possible;
2. establish a process to receive comment from Law Society members and others the Working Group considers necessary regarding matters within the Working Group's mandate;
3. assist and advise the Benchers by:
 - a) making recommendations to the Benchers regarding whether the Law Society should change its present practice of charging all members in a particular category of membership the same annual practice fee and, where applicable, insurance fees; and
 - b) if required, making recommendations to the Benchers regarding what basis might be appropriate and feasible for determining and assessing differential fees for any particular sub-group of the membership.



CEO's Report to the Benchers

March 1, 2019

Prepared for: Benchers

Prepared by: Don Avison

1. Provincial Government – The 2019/2020 Budget Speech and Estimates

On Tuesday, February 19th, President Merrill and I attended the 2019/2020 Provincial Budget “lock-up”. That event provides an opportunity to review the Budget Speech together with the budget estimates / supplementary estimates before the Minister of Finance formally tables the budget documents in the Legislative Assembly. The pre-budget event also presents an opportunity to discuss some of the budget details with Senior Officials from Ministries including the Ministry of the Attorney General and the Ministry of Finance.

The Focus of the 2019/2020 Budget, as stated by Finance Minister Carole James, was on, improving services and “making life more affordable” for British Columbians. Key investments included the introduction of the B.C. Child Opportunity Benefit, the full elimination of MSP premiums, further investments in housing / homelessness reduction, expansion of child care spaces, the elimination of interest on the B.C. portion of the post-secondary student loan program, substantial investments in both healthcare and education, money for climate action over the 3-year fiscal plan (part of a much larger 25 year commitment to implement revenue sharing arrangements with First Nations).

The budget plan did include a section specifically dedicated to access to justice and to improving support for victims of crime including the following elements:

- The Ministry of the Attorney General, together with the Legal Services Society and the Law Foundation, will review the reforms proposed in the Maclaren review of legal aid service delivery;
- The Province will provide funding to pilot legal clinics in “up to eight communities” in partnership with the Law Foundation. These clinics will focus on advocacy in poverty law, family law, child protection, Indigenous law and criminal law in areas not covered by [the] Legal Services Society to people who cannot afford a lawyer. Funding for the proposed clinics appears to be part of a commitment to “enhancing Capacity in the Justice System” which allocates \$2 million for 2019/20, rising to \$4 million in the third year of the fiscal plan.

The 2019/2020 budget made no provision for any improvement in the legal aid tariff. For reasons that will be discussed at the March 1st meeting, government’s apparent decision to leave unaddressed that key component of an effective and sustainable legal aid system is likely to generate adverse comment and attention in the months ahead.

The budget, as is always the case, included a number of assumptions and forecast allowances with respect to economic growth, potential contingency pressures and spending pressures. Particularly notable this year was our indication that, after two years of very large cost losses at the Insurance Corporation of British Columbia, the pattern of loss is expected to be almost entirely reversed over the course of the coming year. The methodology of achieving such a result may touch upon issues of relevance to the profession and to the Law Society.

2. Status of the German and Maloney Reviews

I expect to be in a position to brief Benchers at the March 1st meeting regarding discussions that have taken place with Dr. Peter German and with the panel chaired by former Deputy Attorney General Maureen Maloney pursuant to their respective mandates from the Attorney General and the Minister of Finance.

3. Federation Meetings in Montreal

The winter meeting of the Federation will take place in Montreal during the first full week of March, 2019.

Mr. Van Ommen will brief Benchers on matters relevant to the Federation Council.

At the April Bencher meeting, President Merrill and I will provide information regarding the meetings of Presidents and the CEO Session.

4. Staffing Updates

I am pleased to report that we have had some significant success of late in recruiting auditors which has me feeling optimistic about meeting the aggressive targets in the audit cycle.

I also want to acknowledge the excellent work of the Professional Conduct group through a period of transition. I am particularly grateful to Gurprit Bains and Tara McPhail. I had high expectations of both of them and those expectations have been exceeded. Natasha Dookie will be joining us on March 4th, 2019; and I'm very much looking forward to working with what I know is going to be a very strong team.

Don Avison
Chief Executive Officer

The Law Society
of British Columbia



Financial Report

December 31, 2018

Prepared for: Finance and Audit Committee Meeting - February 14, 2019
Bencher Meeting - March 1, 2019

Financial Report – To December 31, 2018

Attached are the draft 2018 financial results to budget for the year ended December 31, 2018.

The final 2018 audited financial statements will be reviewed at the February 14, 2019 Finance and Audit Committee meeting and presented for approval by the Benchers at the March 1, 2019 Bencher meeting.

General Fund

General Fund (excluding capital and TAF)

The 2018 General Fund financial results were \$1.88 million favorable to the 2018 budget, with higher than expected revenue being earned in member fees, insurance recoveries and interest income.

Revenue

Total revenue was \$26.0 million, \$1.3 million (5%) more than projected in the 2018 budget. The principal areas where revenue exceeded budget were:

1. Insurance recoveries on legal defense files were \$514,000 in the current year which was not budgeted.
2. Interest income was \$319,000 over budget with higher interest rates and higher cash balances held during the year.
3. Membership revenue was over budget \$242,000, with 12,223 members, 143 members more than the budget of 12,080. This was an increase of 3.1% over last year, higher than past years.
4. Custodianship recoveries exceeded the budget projection by \$90,000.
5. There were 540 PLTC students, 40 more than the budget projection of 500 students resulting in \$89,000 more revenue from enrollment fees than budgeted.

Operating Expenses

Operating expenses were \$24.1 million,, \$590,000 (2.4%) less than budget, arising from a number of areas:

1. Compensation costs during the year were \$343,000 less than budgeted due to additional vacancies and salary savings.
2. There was a net savings in external counsel fees in Credentials and Forensic Accounting of \$65,000 and \$174,000 respectively, due to the variability of files over the year.
3. Human Resources costs were \$196,000 less than expected primarily due to a reduction in professional fees resulting from lower recruiting, legal and consulting fees.
4. Bencher and committee related costs were \$113,000 less than budgeted with lower per diem, meeting and travel expenses.
5. General meeting and travel expenses were \$73,000 less than budget.

These savings were offset by some additional spending required in a few key areas:

1. An additional AGM meeting was required in 2018 for added costs of \$116,000.
2. Benchers approved reserve spending on external counsel fees in Investigations, Monitoring and Enforcement (IME) was \$319,000.

Net Assets

The General Fund net asset balance, without capital funding and TAF reserve, is \$18.5 million, consisting of \$12.9 million invested in capital assets (mainly the 845 building), and \$5.6 million in working capital.

The net assets also include \$2.2 million in capital funding for scheduled capital projects related to the 845 Cambie building and workspace improvements for Law Society operations.

TAF Related Revenue and Expenses

The 2018 TAF revenue was \$4.0 million, which was very close to the 2018 budget of \$4.1 million. The TAF revenue levels will continue to be monitored closely as the BC real estate market continues to be volatile.

Trust assurance expenses were \$2.6 million, \$352,000 under budget mainly due to staff vacancies and reduced travel costs.

Pursuant to reserve policies, excess trust assurance reserves of \$1.8 million was transferred to the Lawyers Insurance Fund for Part B insurance coverage. The Trust Assurance net assets balance was \$3.0 million at December 2018.

Special Compensation Fund

In 2018, there were ongoing costs of winding up the Special Compensation Fund. These are expected to continue into 2019 and net assets of \$159,000 will remain in the fund to offset additional costs related to ongoing matters.

Lawyers Insurance Fund (LIF)

LIF assessment revenues were \$15.7 million, \$421,000 (3.0%) over budget, with more insured members than projected. Operating expenses (excluding the claims provision and provision for ULAE) were \$5.9 million, \$1.4 million (19%) below budget. The expense savings are a result of staff vacancies, reduced external counsel fees and lower insurance and administrative expenses.

The actuarially determined claims provision liability is \$74.3 million, an increase of \$5.3 million from 2017. The claims provision on the income statement is \$16.5 million, an increase of \$2.9 million over the 2017 claims provision.

At the end of 2018, the LIF long term investment portfolio was \$167 million, a decrease of \$549,000 from 2017. With the poor investment market in 2018, the LIF investment portfolio earned a -0.25% return in 2018, slightly lower than the benchmark of -0.16%.

Pursuant to reserve policies, \$1,780,000 of the net assets related to trust assurance was transferred to the Lawyers Insurance Fund for Part B coverage. At December 2018, LIF net assets were \$76.9 million, including \$17.5 million internally restricted for Part B claims.

Summary of Financial Highlights - December 2018
(\$000's)

2018 General Fund Results - YTD Variance December 2018 (Excluding Capital Allocation & Depreciation)				
	Actual*	Budget	\$ Var	% Var
Revenue (excluding Capital)				
Membership fees	19,860	19,618	242	1%
PLTC and enrolment fees	1,514	1,425	89	6%
Electronic filing revenue	833	856	(23)	-3%
Fines, penalties & recoveries	446	354	92	26%
Application fees	555	505	50	10%
Interest Income	654	335	319	95%
Other Revenue	850	327	523	160%
Building revenue & tenant cost recoveries	1,261	1,264	(3)	0%
	25,973	24,684	1,289	5%
Expenses (excl. depreciation)	24,094	24,684	590	2%
	1,879	-	1,879	

2018 General Fund Year End Variance (Excluding Capital Allocation & Depreciation)			
	Avg # of Members		
Practice Fee Revenue			
2017 Actual	11,849		
2018 Budget	12,080		
2018 Actual	12,223		
			Variance to Budget Favourable/ (Unfavourable)
Revenue Variance			
Legal Defence Insurance Recoveries			514
Interest income - higher interest rates, interfund interest, higher cash balances			319
Membership revenue - 143 members more than budget			242
Custodianship Recoveries			90
PLTC revenue - 40 additional students			89
Trust Reporting penalties			37
Electronic filing revenue			(23)
Additional miscellaneous fees and recoveries			21
			1,289
Expenses Variance			
Salary savings			343
HR costs savings (reduced recruitment costs, consulting and external counsel fees)			196
Benchers governance savings (per diems, meetings and committee costs, TRC symposium now in 2019)			113
Tribunal costs savings (fewer than expected hearings, timing, will incur next year)			35
Additional external counsel fee spending:			
Regulation external counsel fees- regular files			(17)
Regulation external counsel fees- Benchers approved reserve spending			(319)
Credentials external counsel fees savings			65
Forensic Accounting external accounting fees savings			174
Information Services- software maintenance savings			54
Annual General Meeting costs - additional meeting			(116)
Meetings and travel savings			73
Scanning project costs - offset by storage savings in future years			(35)
Other miscellaneous savings			24
			590
2018 General Fund Variance - with approved reserve spending			1,879

Trust Assurance Program Actual to December 2018				
	2018 YTD Actual	2018 YTD Budget	YTD Variance	% Var
TAF Revenue	4,048	4,052	(4)	-0.1%
Trust Assurance Department Expenses	2,626	2,978	352	11.8%
Net Trust Assurance Program	1,422	1,074	348	

2018 Lawyers Insurance Fund Long Term Investments - YTD Dec 2018		<i>Before investment management fees</i>
Performance	-0.25%	
Benchmark Performance	-0.16%	

The Law Society of British Columbia
General Fund
Results for the 12 Months ended December 31, 2018
(\$000's)

	2018 Actual	2018 Budget	\$ Variance	% Variance
Revenue				
Membership fees (1)	22,002	21,744	258	1%
PLTC and enrolment fees	1,514	1,425	89	6%
Electronic filing revenue	833	856	(23)	-3%
Fines, penalties and recoveries	448	354	94	27%
Application fees	555	505	50	10%
Interest income	654	335	319	95%
Other revenue	850	327	523	160%
Building Revenue & Recoveries	1,261	1,264	(3)	0%
Total Revenues	28,117	26,810	1,307	4.9%
Expenses				
Regulation	9,770	9,609	(161)	-2%
Education and Practice	4,039	4,303	264	6%
Corporate Services	2,969	3,213	244	8%
Benchers Governance and Board Relations and Events	1,318	1,209	(109)	-9%
Communications and Information Services	1,988	1,993	5	0%
Policy and Legal Services	2,127	2,458	331	13%
Occupancy Costs	1,861	1,897	36	2%
Depreciation	1,020	1,309	289	22%
Total Expenses	25,092	25,992	900	3.5%
General Fund Results before Trust Assurance Program	3,025	818	2,207	
Trust Assurance Program (TAP)				
TAF revenues	4,048	4,052	(4)	-0.1%
TAP expenses	2,626	2,978	352	11.8%
TAP Results	1,422	1,074	348	-32.4%
General Fund Results including Trust Assurance Program	4,447	1,807	2,639	
Contribution from Trust Assurance Program to Lawyers Insurance Fund	1,780			
General Fund Results	2,667			

(1) Membership fees include capital allocation of \$2.15m (Capital allocation budget = \$2.14m)

The Law Society of British Columbia
General Fund - Balance Sheet
As at December 31, 2018
(\$000's)

	Dec 31 2018	Dec 31 2017
Assets		
Current assets		
Cash and cash equivalents	23,107	18,633
Unclaimed trust funds	2,026	2,016
Accounts receivable and prepaid expenses	1,478	1,678
B.C. Courthouse Library Fund		787
Due from Lawyers Insurance Fund	16,722	17,661
	<u>43,334</u>	<u>40,776</u>
Property, plant and equipment		
Cambie Street property	12,909	12,370
Other - net	1,610	1,433
	<u>14,519</u>	<u>13,804</u>
Long Term Loan	276	
	<u>58,129</u>	<u>54,579</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	6,577	6,320
Liability for unclaimed trust funds	2,026	2,016
Current portion of building loan payable	500	500
Deferred revenue	24,237	22,054
Deferred capital contributions	1	1
B.C. Courthouse Library Grant		787
Deposits	25	28
	<u>33,366</u>	<u>31,706</u>
Building loan payable	1,100	1,600
	<u>34,466</u>	<u>33,306</u>
Net assets		
Capital Allocation	2,167	2,666
Unrestricted Net Assets	21,497	18,607
	<u>23,664</u>	<u>21,273</u>
	<u>58,129</u>	<u>54,579</u>

The Law Society of British Columbia
General Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2018
(\$000's)

	<i>Invested in Capital</i> \$	<i>Working Capital</i> \$	Unrestricted Net Assets \$	Trust Assurance \$	Capital Allocation \$	2018 Total \$	2017 Total \$
Net assets - At Beginning of Year	11,704	3,314	15,018	3,313	2,666	20,997	19,817
Net (deficiency) excess of revenue over expense for the period	(1,436)	2,309	873	1,422	2,151	4,447	4,380
Contribution to LIF				(1,780)		(1,780)	(3,200)
Repayment of building loan	500	-	500	-	(500)	-	-
Purchase of capital assets:							
LSBC Operations	627	-	627	-	(627)	-	-
845 Cambie	1,524	-	1,524	-	(1,524)	-	-
						-	-
Net assets - At End of Period	12,919	5,623	18,542	2,955	2,167	23,664	20,997

The Law Society of British Columbia
Special Compensation Fund
Results for the 12 Months ended December 31, 2018
(\$000's)

	2018 Actual	2018 Budget	\$ Variance
Revenue			
Annual assessment	-	-	
Recoveries	-	-	
Interest income	6	-	
Loan interest expense			
Other income	-	-	
Total Revenues	6	-	6
Expenses			
Claims and costs, net of recoveries	124	-	
Administrative and general costs	-	-	
Total Expenses	124	-	124
Special Compensation Fund Results before Contribution			
Lawyers Insurance Fund	(117)	-	(117)

The Law Society of British Columbia
Special Compensation Fund - Balance Sheet
As at December 31, 2018
(\$000's)

	Dec 31 2018	Dec 31 2017
Assets		
Current assets		
Cash and cash equivalents		1
Accounts receivable		
Due from General Fund		
Due from Lawyers Insurance Fund	159	276
	<u>159</u>	<u>277</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities		
Deferred revenue		
Net assets		
Unrestricted net assets	159	277
	<u>159</u>	<u>277</u>

The Law Society of British Columbia
Special Compensation Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2018
(\$000's)

	2018	2017
	\$	\$
Unrestricted Net assets - At Beginning of Year	277	1,364
Net excess of revenue over expense for the period	<u>(117)</u>	<u>(1,088)</u>
Unrestricted Net assets - At End of Period	<u>159</u>	<u>277</u>

The Law Society of British Columbia
Lawyers Insurance Fund
Results for the 12 Months ended December 31, 2018
(\$000's)

	2018 Actual	2018 Budget	\$ Variance	% Variance
Revenue				
Annual assessment	15,724	15,303	421	3%
Investment income	(575)	8,335	(8,910)	-107%
Other income	60	60	-	0%
Total Revenues	15,209	23,698	(8,489)	-35.8%
Expenses				
Insurance Expense				
Provision for settlement of claims	16,531	17,079	548	3%
Salaries and benefits	2,638	3,223	585	18%
Contribution to program and administrative costs of General Fund	1,330	1,392	62	4%
Provision for ULAE	1,178	-	(1,178)	
Insurance	394	470	76	16%
Office	727	1,276	549	43%
Actuaries, consultants and investment brokers' fees	801	884	83	9%
Premium taxes	9	9	-	0%
Income taxes	6	5	(1)	-20%
	23,616	24,338	722	3%
Loss Prevention Expense				
Contribution to co-sponsored program costs of General Fund	700	910	210	23%
Total Expenses	24,316	25,248	932	3.7%
Lawyers Insurance Fund Results before Contributions	(9,107)	(1,550)	(9,421)	
Contribution from Trust Assurance Program	1,780			
Lawyers Insurance Fund Results	(7,327)			

***The Law Society of British Columbia
Lawyers Insurance Fund - Balance Sheet
As at December 31, 2018
(\$000's)***

	Dec 31 2018	Dec 31 2017
Assets		
Cash and cash equivalents	18,259	18,538
Accounts receivable and prepaid expenses	1,703	1,927
Current portion General Fund building loan	500	500
LT Portion of Building Loan	1,100	1,600
Investments	166,899	167,448
	<u>188,462</u>	<u>190,012</u>
Liabilities		
Accounts payable and accrued liabilities	1,583	1,643
Deferred revenue	7,958	7,786
Due to General Fund	16,722	17,385
Due to Special Compensation Fund	159	276
Provision for claims	74,340	69,073
Provision for ULAE	10,779	9,601
	<u>111,541</u>	<u>105,764</u>
Net assets		
Internally restricted net assets	17,500	17,500
Unrestricted net assets	59,421	66,748
	<u>76,921</u>	<u>84,248</u>
	<u>188,462</u>	<u>190,012</u>

The Law Society of British Columbia
Lawyers Insurance Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2018
(\$000's)

	Unrestricted \$	Internally Restricted \$	2018 Total \$	2017 Total \$
Net assets - At Beginning of Year	66,748	17,500	84,248	70,369
Net excess of revenue over expense for the period	(7,327)	-	(7,327)	13,879
Net assets - At End of Period	59,421	17,500	76,921	84,248



To Benchers
From Finance and Audit Committee
Date February 14, 2019
Subject **Benchers Approval of the 2018 Audited Financial Statements**

The annual audited financial statements are to be reviewed and recommended for approval by the Finance and Audit Committee, and approved by the Benchers.

Attached are the 2018 audited financial statements for the General and Special Compensation Funds, and the consolidated Lawyers Insurance Fund. These statements were reviewed by the Finance and Audit Committee at their February 14, 2019 meeting.

The Finance and Audit Committee recommends the following resolution for approval by the Benchers:

BE IT RESOLVED to approve the Law Society's 2018 Combined Financial Statements for the General & Special Compensation Funds, and the 2018 Consolidated Financial Statements for the Lawyers Insurance Fund.

The Law Society of British Columbia - General and Special Compensation Funds

**Fund Financial Statements
December 31, 2018**

DRAFT

DM2235155

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Fund Statement of Financial Position

As at December 31, 2018

	2018		2017
	General Fund \$	Special Compensation Fund \$	Total \$
Assets			
Current assets			
Cash (note 2)	23,107,222		23,107,222
Unclaimed trust funds (note 2)	2,026,342		2,026,342
Accounts receivable and prepaid expenses (note 3)	1,478,215		1,478,215
Courthouse Libraries BC Fund (note 2)	-		-
Due from Lawyers Insurance Fund (note 9)	16,722,466	159,249	16,881,715
	43,334,245	159,249	43,493,494
Non-current assets			
Cambie Street property - net (note 4(a))	12,908,741		12,908,741
Other property and equipment - net (note 4(b))	1,233,062		1,233,062
Intangible assets - net (note 4(c))	376,902		376,902
Long Term Loan Receivable (note 5)	276,390		276,390
	58,129,340	159,249	58,288,589
			54,579,728
Liabilities			
Current liabilities			
Accounts payable and accrued liabilities (note 6)	6,546,417		6,546,417
Liability for unclaimed trust funds (note 2)	2,026,342		2,026,342
Current portion of building loan payable (note 8)	500,000		500,000
Deferred revenue (note 2)	24,237,219		24,237,219
Deferred capital contributions	741		741
Courthouse Libraries BC Fund (note 2)	-		-
Deposits	55,105		55,105
	33,365,824	-	33,365,824
			31,706,186
Building loan payable (notes 8 and 9)	1,100,000		1,100,000
	34,465,824	-	34,465,824
			33,306,186
Net assets			
Unrestricted (note 7)	23,663,516	159,249	23,822,765
	58,129,340	159,249	58,288,589
			54,579,728

Commitments (note 14)

Approved by

____ President _____ Chair of Finance and Audit Committee

The accompanying notes are an integral part of these fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Fund Statement of Changes in Net Assets

For the year ended December 31, 2018

	2018		2017
	General Fund - Unrestricted \$	Special Compensation Fund - Unrestricted \$	Total \$
Net assets - Beginning of year	20,996,808	276,734	21,273,542
Net excess of revenue (deficiency) over expenses for the year	2,666,708	(117,485)	2,549,223
Net assets - End of year (note 7)	23,663,516	159,249	23,822,765

The accompanying notes are an integral part of these fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Fund Statement of Revenue and Expenses

For the year ended December 31, 2018

	2018		2017	
	General Fund \$	Special Compensation Fund \$	Total \$	Total \$
Revenue				
Practice fees	22,001,783	-	22,001,783	21,249,693
Trust administration fees	4,048,339	-	4,048,339	4,454,664
Enrolment fees	1,513,650	-	1,513,650	1,425,250
E-filing revenue	832,643	-	832,643	920,399
Fines, penalties and recoveries	446,388	-	446,388	436,871
Application fees	555,075	-	555,075	518,830
Investment income (note 9)	640,775	6,458	647,233	567,056
Other income	864,591	-	864,591	463,375
Rental revenue	981,243	-	981,243	891,273
	31,884,487	6,458	31,890,945	30,927,411
Expenses				
Benchers governance and support	1,719,062	-	1,719,062	1,551,081
Communications and information services				-
Communications and publications	723,677	-	723,677	811,599
Information services	1,580,343	-	1,580,343	1,492,381
Education and practice				
Credentials	680,188	-	680,188	811,367
Member services	812,209	-	812,209	766,730
Membership assistance programs	89,520	-	89,520	187,193
Practice advice	610,463	-	610,463	664,902
Practice standards	585,249	-	585,249	573,477
Professional legal training course and education	2,016,427	-	2,016,427	1,761,412
General and administrative				
Finance	1,094,188	-	1,094,188	1,067,586
Amortization of other property and equipment	453,131	-	453,131	522,866
General administration	1,262,263	-	1,262,263	1,142,733
Human resources	737,421	-	737,421	738,989
Records management and library	319,373	-	319,373	291,134
Policy and legal services				
Policy, ethics and tribunal counsel	1,826,607	-	1,826,607	1,772,496
External litigation and interventions	249,093	-	249,093	493,825
Unauthorized practice	300,906	-	300,906	322,278
Regulation				
Custodianship costs	1,624,173	-	1,624,173	1,492,007
Discipline	1,785,168	-	1,785,168	1,741,949
Professional conduct - intake and investigations	5,641,201	-	5,641,201	5,082,621
Forensic accounting	719,125	-	719,125	710,507
Trust assurance	2,324,250	-	2,324,250	2,406,433
Occupancy costs, net of tenant recoveries	2,312,889	-	2,312,889	2,288,726
Carried forward	29,466,926	-	29,466,926	28,694,292

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Fund Statement of Revenue and Expenses ...continued

For the year ended December 31, 2018

	2018		2017
	General Fund \$	Special Compensation Fund \$	Total \$
Brought forward	29,466,926	-	29,466,926
Special Compensation Fund			
General and administrative costs		123,943	123,943
	29,466,926	123,943	29,590,869
Costs recovered Lawyers Insurance Funds			
Co-sponsored program costs	(699,983)	-	(699,983)
Program and administrative costs	(1,329,164)	-	(1,329,164)
	(2,029,147)	-	(2,029,147)
	27,437,779	123,943	27,561,722
Net excess (deficiency) of revenue over expenses for the year before contribution to Lawyers Insurance Fund	4,446,708	(117,485)	4,329,223
Contribution from Trust Assurance Net Assets to Lawyers Insurance Fund (note 7)	1,780,000	-	1,780,000
Contribution from Special Compensation Fund to Lawyers Insurance Fund (notes 7 and 10)	-	-	-
			1,000,000
Net excess (deficiency) of revenue over expenses for the year	2,666,708	(117,485)	2,549,223

The accompanying notes are an integral part of these fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

FINAL DRAFT

	2018		2017
	General Fund \$	Special Compensation Fund \$	Total \$
Cash flows from operating activities			
Net excess (deficiency) of revenue over expenses for the year	2,666,708	(117,485)	2,549,223
Items not affecting cash			92,761
Amortization of Cambie Street building and tenant improvements	984,922		873,176
Amortization of other property and equipment	319,623		303,841
Amortization of intangible assets	133,508		219,025
Amortization of deferred capital contributions	(741)		(10,970)
Loss on disposal of other property and equipment	(2,306)		11,845
Contributions to Lawyers Insurance Fund	1,780,000		4,200,000
	5,881,714	(117,485)	5,764,229
(Increase) decrease in current assets			5,689,678
Unclaimed trust funds	(10,693)		(202,330)
Accounts receivable and prepaid expenses	200,181		303,206
Courthouse Libraries BC Fund	787,498		(58,963)
Increase (decrease) in current liabilities			
Accounts payable and accrued liabilities	256,623		38,280
Liability for unclaimed trust funds	10,693		202,330
Deferred revenue	2,183,561		709,152
Courthouse Libraries BC Fund	(787,498)		58,963
Deposits	(3,000)		2,500
	8,519,079	(117,485)	8,401,594
Cash flows from financing activities			
Decrease in building loan payable	(500,000)		(500,000)
Interfund transfers	(1,117,653)	116,985	13,673,049
	(1,617,653)	116,985	13,173,049
Cash flows from investing activities			
Purchase of property and equipment	(1,984,874)		(1,404,928)
Purchase of intangible assets	(165,870)		(161,317)
Long Term Loan Receivable	(276,390)		(276,390)
	(2,427,134)	-	(1,566,245)
Increase (decrease) in cash	4,474,292	(500)	18,349,620
Cash - Beginning of year	18,632,930	500	283,810
Cash - End of year	23,107,222	-	18,633,430
Supplementary cash flow information			
Interest paid	45,839	-	48,594
Interest income received	653,876	6,458	567,056

1 Nature of operations

The Law Society of British Columbia (the Society) regulates the legal profession in British Columbia, protecting public interest in the administration of justice by setting and enforcing standards of professional conduct for lawyers. The Society is a not-for-profit organization.

The funds covered in these fund financial statements are for the Society's General Fund and Special Compensation Fund with the following activities:

The General Fund comprises the assets, liabilities, net assets, revenue and expenses of the operations of the Society other than those designated to the statutory Special Compensation Fund and the Lawyers Insurance Fund (including its wholly owned subsidiary, LSBC Captive Insurance Company Ltd.). This includes collecting revenues associated with practice fees, trust administration fees, enrollment fees, and various other administrative fees and penalties used to cover the costs of the Society to regulate the legal profession and educate and enforce adherence of its members to act within the rules of professional conduct for lawyers.

The Special Compensation Fund was maintained by the Society pursuant to Section 31 of the Legal Profession Act (the LPA). The Special Compensation Fund claims were recorded net of recoveries from the Special Compensation Fund's insurers when they were approved for payment by the Special Compensation Fund Committee as delegated by the Benchers and the settlement has been accepted by the claimant. The LPA provides that the assets of the Special Compensation Fund are not subject to process of seizure or attachment by creditors of the Society.

Effective January 1, 2013, the Legal Profession Amendment Act, 2012 repealed Section 31 of the LPA. The legislation was changed pursuant to Section 50 of the Legal Profession Amendment Act, 2012 (SBC 2012, C16), to initiate the transfer of unused reserves that remain within the Special Compensation Fund, after all recoveries are received and expenses and claims are paid, to be used in the Lawyers Insurance Fund. Additionally, Section 23 of the LPA was amended to remove the requirement that practising lawyers pay the Special Compensation Fund assessment. Accordingly, for 2018, the per member Special Compensation Fund assessment remained at \$nil (2017 - \$nil).

Effective May 1, 2004, Part B to the B.C. Lawyers' Compulsory Professional Liability Insurance Policy provides defined insurance coverage for dishonest appropriation of money or other property entrusted to and received by insured lawyers in their capacity as barrister and solicitor and in relation to the provision of professional services. Part B (Trust Protection Coverage) is recorded in the Lawyers Insurance Fund.

The Society's Lawyers Insurance Fund is presented separately in consolidated fund financial statements, including the Society's wholly owned LSBC Captive Insurance Company Ltd. (the Captive). The Lawyers Insurance Fund underwrites the program by which errors and omissions insurance is provided to members of the Society. The Lawyers Insurance Fund's consolidated fund financial statements provide further detail on the various insurance coverages provided.

2 Significant accounting policies

These fund financial statements are prepared in accordance with Canadian accounting standards for not-for-profit organizations (ASNPO) as issued by the Canadian Accounting Standards Board.

Allocated administrative expenses

Administrative expenses are recovered by the General Fund from both the Lawyers Insurance and Special Compensation Funds. Recoveries are based on amounts derived either on percentage of use, the proportion of the Lawyers Insurance Fund's staff compared to the Society's total staff costs, or a set amount.

Courthouse Libraries BC Fund

In the prior year, the Society administered funds held on behalf of the Courthouse Libraries BC (CLBC). Such funds were held in trust and the use of the funds was not recorded in the fund statement of revenue and expenses of the General Fund. The Society collects fees for the (CLBC) through its fees per lawyer assessments. In the current year, the decision was made to no longer hold these funds on their behalf and balance of the funds were transferred to CLBC.

Cash

Cash comprises cash on hand and held with a Canadian chartered bank.

Claims liabilities

In accordance with the absolute discretionary nature of the Special Compensation Fund arrangements, the claims become a liability only when approved by the Special Compensation Fund Committee and accepted by the claimant.

Deferred capital contributions

Contributions restricted for the purchase of capital assets are deferred and recognized as revenue on the same basis as the capital assets are amortized.

Fair value of financial instruments

The fair values of cash, accounts receivable and accounts payable and accrued liabilities correspond to their carrying values due to their short-term nature.

Intangible assets

Intangible assets comprise computer software. Software is recorded at cost and amortized on a straight-line basis at 10% - 20% per annum.

Property and equipment

Property and equipment, including leasehold improvements, are recorded at cost less accumulated amortization.

The Society provides for amortization on a straight-line basis as follows:

Buildings	40 years from purchase date
Building - Envelope	7% per annum
Computer hardware	10% - 20% per annum
Furniture and fixtures	10% per annum
Leasehold improvements	10% per annum
Building improvements and equipment	10% per annum
Tenant improvements	over lease period

The Society recognizes a full year's amortization expense in the year of acquisition, with the exception of building improvements and equipment and leasehold improvements which are amortized from their date of completion.

Revenue recognition

The Society follows the deferral method of accounting for practice fees and assessments. Fees and assessments are billed and received in advance on a calendar-year basis. Accordingly, fees and assessments for the next fiscal year received prior to December 31 have been recorded as deferred revenue for financial reporting purposes and will be recognized as revenue in the next calendar year. Revenue will be recognized on a monthly basis as earned. Surplus funds are invested in a high interest savings account.

All other revenues are recognized when earned if the amount to be received can be reasonably estimated and collection is reasonably assured.

Unclaimed trust funds

The General Fund recognizes unclaimed trust funds as an asset as well as a corresponding liability on the fund statement of financial position. If these funds are claimed, the owner of the trust fund balance is entitled to the principal balance plus interest at prime rate minus 2%. Due to the historically low collection rates on these balances, the General Fund does not accrue for any interest owing on the trust fund amounts held and recognizes income earned from the unclaimed trust fund investments in the fund statement of revenue and expenses. Unclaimed funds outstanding for more than five years are transferred to the Law Foundation of British Columbia.

Use of estimates

The preparation of fund financial statements in accordance with ASNPO requires management to make estimates and assumptions that affect the reported amounts of certain assets and liabilities and disclosure of contingent assets and liabilities at the date of the fund financial statements and the reported amounts of certain revenues and expenses during the year. Actual results could differ from these estimates.

3 Accounts receivable and prepaid expenses

Accounts receivable are presented net of the allowance for doubtful accounts of \$1,005,743 (2017 - \$993,116).

4 Property, equipment and intangible assets

a) 845 Cambie Street property

	2018		
	Cost \$	Accumulated amortization \$	Net \$
Land	4,189,450	-	4,189,450
Buildings and equipment	16,610,686	9,397,083	7,213,603
Leasehold improvements	7,444,671	6,077,810	1,366,861
Tenant improvements	826,619	687,792	138,827
	29,071,426	16,162,685	12,908,741
	2017		
	Cost \$	Accumulated amortization \$	Net \$
Land	4,189,450	-	4,189,450
Buildings and equipment	15,331,039	8,706,201	6,624,838
Leasehold improvements	7,200,176	5,834,726	1,365,450
Tenant improvements	826,619	636,138	190,481
	27,547,284	15,177,065	12,370,219

FINAL DRAFT**b) Other property and equipment**

	2018		
	Cost \$	Accumulated amortization \$	Net \$
Furniture and fixtures	3,259,800	2,408,819	850,981
Computer hardware	1,586,312	1,207,988	378,324
Artwork and collectibles	49,161	45,405	3,756
Law libraries - at nominal value	1	-	1
	4,895,274	3,662,212	1,233,062

	2017		
	Cost \$	Accumulated amortization \$	Net \$
Furniture and fixtures	3,041,592	2,259,174	782,418
Computer hardware	1,349,587	1,046,811	302,776
Artwork and collectibles	49,160	45,405	3,755
Law libraries - at nominal value	1	-	1
	4,440,340	3,351,390	1,088,950

c) Intangible assets

	2018		
	Cost \$	Accumulated amortization \$	Net \$
Computer software	1,844,397	1,533,935	310,462
Website development	110,733	44,293	66,440
	1,955,130	1,578,228	376,902

	2017		
	Cost \$	Accumulated amortization \$	Net \$
Computer software	1,678,529	1,422,576	255,953
Website development	110,733	22,147	88,586
	1,789,262	1,444,723	344,539

5 Long Term Loan Receivable

In 2018, the Society agreed to participate with other Canadian law societies in a collective loan of \$2 million to the Canadian Legal Information Institute (CanLII), a wholly-owned subsidiary of the Federation of Law Societies of Canada (FLSC). The loan is part of the financing for the purchase by CanLII of LexUM, a corporation providing support services to CanLII for the implementation of CanLII's legal information website. The Law Society's participation is \$276,390. The loan has a five year term with an annual interest rate of 4.74% payable annually. The interest earned in the current year relating to the loan was \$13,101.

6 Accounts payable and accrued liabilities

Accounts payable and accrued liabilities include the following amounts collected on behalf of external organizations, but not yet paid:

	2018 \$	2017 \$
Advocate	320,324	396,606
Courthouse Libraries BC	2,504,651	2,298,606
Lawyers Assistance Program	786,659	773,569
Pro bono	346,743	334,559
CanLII	464,509	476,000
Federation of Law Societies	417,853	292,425

7 Unrestricted net assets

The General Fund unrestricted net assets include \$2,166,663 (2017 - \$2,666,232) which has been allocated to capital expenditures in accordance with the capital plan.

The General Fund unrestricted net assets also include \$2,955,460 (2017 - \$3,313,111) which has been appropriated for future trust assurance expenses. During the year, \$4,048,339 (2017 - \$4,454,664) in trust administration fee revenue was collected, and \$2,625,990 (2017 - \$2,707,673) in trust assurance expenses were incurred.

Pursuant to the reserve policy, \$1,780,000 of the net assets related to trust assurance was transferred to the Lawyers Insurance Fund for Part B coverage during 2018 (2017 – 3,200,000).

Pursuant to Section 50 of the Legal Profession Amendment Act, 2012 (SCB 2012, C16), \$nil of unused reserves of the Special Compensation Fund was transferred to the Lawyers Insurance Fund during 2018 (2017 - \$1,000,000).

The remaining General Fund net assets represent \$12,918,705 (2017 - \$11,703,709) invested in capital assets, and working capital of \$5,622,687 (2017 - \$3,313,758), combining for a total unrestricted net asset amount of \$18,541,392 (2017 - \$15,017,467).

	(in 000s)					2018	2017
	Invested in capital \$	Working capital \$	Unrestricted \$	Trust assurance \$	Capital plan \$	Total \$	Total \$
Net assets - Beginning of year	11,704	3,314	15,018	3,313	2,666	20,997	19,817
Net (deficiency) excess of revenue over expenses before contribution to Lawyers Insurance Fund	(1,436)	2,309	873	1,422	2,151	4,447	4,380
Contribution to Lawyers Insurance Fund				(1,780)		(1,780)	(3,200)
Repayment of building loan payable (note 7)	500	-	500	-	(500)	-	-
Purchase of capital assets (note 4)	2,151	-	2,151	-	(2,151)	-	-
Net assets - End of year	12,919	5,623	18,542	2,955	2,167	23,664	20,997

8 Building loan payable

In 1992, the Benchers authorized the borrowing of monies from the Lawyers Insurance Fund to fund the capital development of the Society's buildings at 845 Cambie Street, Vancouver, B.C. The loan is secured by the buildings, has no fixed repayment terms and bears interest calculated monthly at a rate equal to the stated monthly bond yield to maturity earned on the Lawyers Insurance Fund investment portfolio. Interest paid on the building loan is disclosed in note 9. The outstanding building loan balance at year-end is \$1.6 million (2017 - \$2.1 million). It is the intention of the Benchers to require the General Fund to repay a minimum of \$500,000 of the principal each year. During 2018, principal of \$500,000 (2017 - \$500,000) was repaid. The loan will be paid off in total by 2022.

	2018 %	2017 %
Weighted average rate of interest	2.83	2.27

9 Interfund transactions

The operations of the General, Lawyers Insurance and Special Compensation Funds are controlled by the management of the Society. Balances between the funds generally arise from transactions of an operating nature and are recorded at the exchange amount at the dates of the transactions. Surplus funds are kept in the General Fund bank accounts or invested in a high interest savings account.

Amounts due to and from the Lawyers Insurance Fund are due on demand and have no fixed terms of repayment. The Lawyers Insurance Fund has authorized a loan facility of up to \$1 million, of which \$nil has been drawn down at December 31, 2018 (2017 - \$nil), to the General Fund to fund capital expenditures in accordance with the capital plan. The Lawyers Insurance Fund has also authorized a loan facility of up to \$8 million to the Special Compensation Fund, which is not expected to be used as the Special Compensation Fund is in the process of being wound up. As of December 31, 2018 no amounts have been drawn down from the facilities (2017 - \$nil).

Monthly interest on the Lawyers Insurance Fund's net loan position with the General and Special Compensation Funds is earned at the rate equal to the stated monthly bond yield to maturity earned on the Lawyers Insurance Fund investment portfolio. The average bond yield for 2018 was 2.83% (2017 - 2.27%). The General Fund's net loan position includes the General Fund's building loan and other operating balances with the Lawyers Insurance Fund. The net loan position fluctuates during the year as amounts are transferred between the General Fund, the Special Compensation Fund and the Lawyers Insurance Fund to finance ongoing operations.

During 2018, interest of \$45,839 was paid on the building loan and interest revenue of \$455,342 was received from General Fund cash balances held by the Lawyers Insurance Fund and \$6,458 was received from Special Compensation Fund cash balances held by the Lawyers Insurance Fund for a net interest income of \$415,961.

During 2017, interest of \$48,594 was paid on the building loan and interest revenue of \$528,219 was received from General Fund cash balances held by the Lawyers Insurance Fund and \$27,705 was received from Special Compensation Fund cash balances held by the Lawyers Insurance Fund for a net interest income of \$507,330.

Other interfund transactions are disclosed elsewhere in these fund financial statements.

10 Special Compensation Fund claims and program changes

a) Outstanding claims

Pursuant to section 31(6) of the Legal Profession Act, the payment of Special Compensation Fund claims is at the discretion of the Special Compensation Fund Committee as delegated by the Benchers. As at December 31, 2018, there were no remaining claims for which statutory declarations had been received. All claims for which statutory declarations were received have been reviewed by the Special Compensation Fund Committee.

For claims reported prior to May 1, 2004, the insurance bond provided that total claims attributable to the period in excess of \$2,500,000 were 100% reimbursed by a commercial insurer up to a maximum of \$15,000,000 for claims against one lawyer and in total, other than as noted in note 9(b). As set out in note 1, claims reported after May 1, 2004 are subject to Part B coverage by the Lawyers Insurance Fund.

b) Wirick case

In May 2002, the Discipline Committee ordered an audit investigation, pursuant to Rule 4-43, of Martin Keith Wirick's practice.

At December 31, 2018, there were no remaining claims still under consideration.

Until May 1, 2004, the Special Compensation Fund carried insurance of \$15,000,000 for each bond period (\$17,500,000 total coverage with a deductible of \$2,500,000). The bond period is defined as the year in which the Society becomes aware of evidence indicating a member may have been guilty of an act or acts of misappropriation or wrongful conversion. All claims concerning Mr. Wirick fell into the 2002 bond period and, as such, the Special Compensation Fund had claims greater than its level of insurance. In early 2005, the final proof of loss that reached this limit was filed. In 2002, the Benchers agreed to allow the Special Compensation Fund Committee to exceed the \$17,500,000 cap they had imposed in the Society rules.

In 2006, the Benchers approved a payment of \$7,543,528 to be paid to claimants over four years commencing in fiscal 2007 at \$1,885,882 per year. The final payment was made in 2010.

In December 2012, the Benchers approved a further payment of \$162,399 that was paid to claimants in 2013.

In 2018, the Special Compensation Fund recovered \$nil (2017 - \$nil) related to the Wirick case.

Pursuant to Section 50 of the Legal Profession Amendment Act, 2012 (SCB 2012, C16), \$nil of unused reserves of the Special Compensation Fund was transferred to the Lawyers Insurance Fund during 2018 (2017 - \$1,000,000).

11 Related parties

The elected Benchers include members drawn from law firms across the province. These law firms may at times be engaged by the Society in the normal course of business. During the year ended December 31, 2018, expenses of \$244,128 (2017 - \$481,187) recorded at carrying amount were incurred by the General Fund during the normal course of business with these law firms.

12 Capital management

The Society defines its capital as the amounts included in its unrestricted net assets. Its objective when managing capital is to safeguard its ability to continue as a going concern so that it can continue to fulfill its objectives and meet its requirements.

13 Financial instruments

The General and Special Compensation Funds' financial instruments consist of cash, accounts receivable and accounts payable and accrued liabilities.

The significant financial risks to which the Society is exposed are credit risk and liquidity risk.

a) Credit risk

Cash and accounts receivable expose the Funds to credit risk.

The maximum exposure to credit risk arising from the above-noted items is \$24,303,331 (2017 - \$20,093,903). Credit risk arises from the possibility that a counterparty to an instrument fails to meet its obligations.

b) Liquidity risk

Liquidity risk is the risk that the Funds will not be able to meet all cash outflow requirements. Financial instruments held by the Society are limited to cash, accounts receivable and accounts payable and accrued liabilities and, therefore, bear no significant liquidity risk.

14 Obligations and commitments under operating leases

The Society has committed to payments under certain operating leases relating to vehicle costs. Future minimum lease payments required in each of the next four fiscal years and thereafter are:

	\$
For the year ending December 31	
2019	3,402
2020	-
2021	-
2022	-
	<hr/>
Total future minimum lease payments	<u>3,402</u>

For the year ended December 31, 2018, an amount of \$6,804 representing payments under operating leases was expensed (2017 - \$15,880).

**The Law Society of British
Columbia - Lawyers
Insurance Fund**

**Consolidated Fund Financial Statements
December 31, 2018**

DRAFT

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**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

FINAL DRAFT 68

The Law Society of British Columbia - Lawyers Insurance Fund
Consolidated Fund Statement of Financial Position
As at December 31, 2018

	2018 \$	2017 \$
Assets		
Cash	10,868,764	11,270,780
Accounts receivable - net of allowance (note 3)	293,678	447,008
Prepaid expenses	32,793	125,738
Short-term investments (note 5)	7,390,721	7,267,022
Members' share of provision for claims	1,377,249	1,354,050
General Fund building loan (note 7)	1,600,000	2,100,000
Investments (note 6)	166,899,382	167,447,629
	<u>188,462,587</u>	<u>190,012,227</u>
Liabilities		
Accounts payable and accrued liabilities (notes 4 and 8)	1,583,217	1,642,786
Deferred revenue	7,957,610	7,786,123
Due to General Fund (note 10)	16,722,466	17,384,813
Due to Special Compensation Fund (note 10)	159,249	276,237
Provision for claims (note 9)	74,340,380	69,073,165
Provision for ULAE (note 9)	10,779,000	9,601,000
	<u>111,541,922</u>	<u>105,764,124</u>
Net assets		
Unrestricted net assets	59,420,665	66,748,103
Internally restricted net assets (note 11)	17,500,000	17,500,000
	<u>76,920,665</u>	<u>84,248,103</u>
	<u>188,462,587</u>	<u>190,012,227</u>
Commitments (note 10)		

Approved by

_____ President _____ Chair of Finance and Audit Committee

The accompanying notes are an integral part of these consolidated fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - Lawyers Insurance Fund

Consolidated Fund Statement of Changes in Net Assets

For the year ended December 31, 2018

	2018			2017
	Unrestricted \$	Internally restricted \$	Total \$	Total \$
Net assets - Beginning of year	66,748,103	17,500,000	84,248,103	70,369,332
Excess (deficiency) of revenue over expenses for the year	(7,327,438)	-	(7,327,438)	13,878,771
Net assets - End of year	59,420,665	17,500,000	76,920,665	84,248,103

The accompanying notes are an integral part of these consolidated fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - Lawyers Insurance Fund

Consolidated Fund Statement of Revenue and Expenses

For the year ended December 31, 2018

	2018 \$	2017 \$
Revenue		
Annual assessments	15,724,169	14,932,599
Investment income (note 6)	6,725,629	7,237,688
Other income	60,100	60,812
	<u>22,509,898</u>	<u>22,231,099</u>
Insurance expenses		
Actuary, consultant and investment manager fees	801,265	794,764
Allocated office rent from General Fund	323,834	212,750
Contribution to program and administrative costs of General Fund	1,330,493	1,335,465
Insurance	394,293	411,466
Office	403,639	528,733
Premium taxes	9,116	10,124
Provision for settlement of claims (note 9)	16,531,000	13,567,516
Provision for ULAE (note 9)	1,178,000	820,000
Salaries, wages and benefits	2,639,440	2,761,569
	<u>23,611,080</u>	<u>20,442,387</u>
Loss prevention expenses		
Contribution to co-sponsored program costs of General Fund	699,983	844,580
	<u>24,311,063</u>	<u>21,286,967</u>
Excess (deficiency) of revenue over expenses before the following	(1,801,165)	944,132
Fair value (decrease) increase in investments (note 6)	(7,300,769)	8,740,646
	(9,101,934)	9,684,778
Provision for income taxes	5,504	6,007
	(9,107,438)	9,678,771
Contribution from Special Compensation Fund (note 10)	-	1,000,000
Contribution from Trust Assurance Net Assets in General Fund (note 10)	1,780,000	3,200,000
Excess (deficiency) of revenue over expenses for the year	<u>(7,327,438)</u>	<u>13,878,771</u>

The accompanying notes are an integral part of these consolidated fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - Lawyers Insurance Fund

Consolidated Fund Statement of Cash Flows

For the year ended December 31, 2018

	2018	2017
	\$	\$
Cash flows from operating activities		
Excess (deficiency) of revenue over expenses for the year	(7,327,438)	13,878,771
Items not affecting cash		
Unrealized loss(gain) on investments	8,100,672	(4,613,386)
Realized gain on disposal of investments	(799,903)	(4,127,259)
Pooled distributions from investments	(6,851,530)	(7,558,850)
Contribution from General and Special Funds	1,780,000	4,200,000
	<u>(5,098,199)</u>	<u>1,779,276</u>
Decrease (increase) in assets		
Accounts receivable	153,330	(192,094)
Prepaid expenses	92,945	(94,801)
Short-term investments	(123,699)	(3,065,663)
Members' share of provision for claims	60,963	(206,919)
Increase (decrease) in liabilities		
Accounts payable and accrued liabilities	(59,570)	(182,839)
Deferred revenue	171,488	324,906
Provision for claims	5,183,053	1,880,445
Provision for ULAE	1,178,000	820,000
	<u>1,558,311</u>	<u>1,062,311</u>
Cash flows from investing activities		
Decrease in General Fund building loan	500,000	500,000
Purchase of investments	(5,108,390)	(7,056,356)
Proceeds from disposal of investments	5,207,399	10,176,110
	<u>599,009</u>	<u>3,619,754</u>
Cash flows from financing activities		
Interfund transfers (note 10)	(2,559,336)	(22,073,046)
Decrease in cash	<u>(402,016)</u>	<u>(17,390,981)</u>
Cash - Beginning of year	<u>11,270,780</u>	<u>28,661,761</u>
Cash - End of year	<u>10,868,764</u>	<u>11,270,780</u>
Supplementary cash flow information		
Interest paid	<u>461,800</u>	<u>555,924</u>
Interest income received	<u>220,141</u>	<u>193,433</u>

The accompanying notes are an integral part of these consolidated fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

1 Nature of operations

The Law Society of British Columbia (the Society) regulates the legal profession in British Columbia, protecting public interest in the administration of justice by setting and enforcing standards of professional conduct for lawyers.

The Society's fund covered in these consolidated fund financial statements is for the Lawyers Insurance Fund (the Fund) and the Society's only subsidiary, LSBC Captive Insurance Company (the Captive), that together comprise the Society's insurance program.

The Society's General Fund and Special Compensation Fund are presented in separate fund financial statements.

The Fund is maintained by the Society pursuant to Section 30 of the Legal Profession Act. The Captive is considered assessable for income tax under current legislation and is subject to regulation by the Financial Institutions Commission (FICOM). Effective January 1, 1990, the Fund underwrites the program by which professional liability insurance is provided to eligible members of the Society.

Part A

The Society's members have limits of coverage for claims and potential claims arising from negligent acts, errors or omissions under Part A of the B.C. Lawyers' Compulsory Professional Liability Insurance Policy (the Policy) as follows:

	\$	\$
The Fund	995,000	990,000
Deductible - applicable to indemnity payments only	5,000 or	10,000
	<hr/>	<hr/>
Limit per error or related errors		1,000,000
		<hr/>
Annual aggregate limit for all errors per insured lawyer		2,000,000
		<hr/>

The amount of the member deductible is \$5,000 for each initial claim resulting in an indemnity payment and \$10,000 for each additional claim within a three-year reporting period resulting in an indemnity payment.

For claims reported between 1990 and 1996, the Captive entered into reinsurance contracts under which all claim payments above a per claim limit and in excess of inner aggregate retentions were ceded to reinsurers. Reinsurance does not relieve the Captive of primary liability as the originating insurer. All losses on claims since 1997 are fully reimbursed by the Fund on behalf of the Society under agreement.

For the 2018 and 2017 policy years, the Society and the Captive have obtained stop-loss reinsurance in the amount of \$12,000,000 to cover aggregate payments over \$25,000,000 for Parts A and C of the Policy. This limit is co-insured 80/20 with the reinsurer paying 80% of losses over \$25,000,000 to a maximum of \$12,000,000 and the Fund paying 20%.

Part B

Effective May 1, 2004, Part B of the Policy provides defined insurance coverage for dishonest appropriation of money or other property entrusted to and received by insured lawyers in their capacity as barristers and solicitors and in relation to the provision of professional services.

For the 2018 and 2017 policy years, there is a \$300,000 per claim limit and a \$17,500,000 profession-wide annual aggregate limit. The Society and the Captive have obtained insurance in the amount of \$5,000,000 to cover a portion of the annual aggregate limit. There is no deductible payable by the member. This insurance is subject to a \$3,000,000 group deductible and is co-insured 80/20 with the insurer paying 80% of losses over \$3,000,000, to a maximum of \$5,000,000, and the Fund paying 20%.

Part C

Effective January 1, 2012, Part C of the Policy provides defined insurance coverage for trust shortages suffered by insured lawyers as a result of relying on fraudulent certified cheques. Effective January 1, 2017, Part C coverage was expanded to include coverage for certain other social engineering frauds.

For the 2018 and 2017 policy years, there is a limit of \$500,000 per claim, and per lawyer and firm annually, a profession-wide annual aggregate of \$2,000,000 million, and a deductible of 35% of the client trust fund shortage (reduced by the amount of any overdraft paid). Coverage, for relying on fraudulent certified cheques, is contingent upon compliance with the Society's client identification and verification rules.

2 Significant accounting policies

These Consolidated Fund Financial Statements are prepared in accordance with Canadian accounting standards for not-for-profit organizations (ASNPO) as issued by the Canadian Accounting Standards Board.

Basis of consolidation

These Consolidated Fund Financial Statements include the accounts of the Fund and the Captive, a wholly-owned subsidiary.

Allocated administrative expenses

Administrative expenses are recovered by the General Fund of the Society from the Fund. Recoveries are based on amounts derived either on percentage of use or the proportion of the Fund's staff compared to the Society's total staff cost, or a set amount.

Cash

Cash comprises cash on hand and held with a Canadian chartered bank.

Fair value of financial instruments

The fair values of cash, accounts receivable, short-term investments and accounts payable and accrued liabilities correspond to their carrying values due to their short-term nature.

The fair values of the provision for claims correspond to their carrying values because they are discounted.

The interfund balances including the building loan receivable and other interfund transactions are recorded at their carrying amounts which approximate their exchange amounts.

Short-term investments

Short-term investments consist of pooled money market funds, whose investments have original maturities of less than 90 days, and the carrying amount approximates the fair value at the reporting date due to their short-term maturities.

Investments

The Fund's investments consist of units in pooled equity, bond, real estate and mortgage funds and are initially and subsequently measured at fair value. Changes in fair value are recognized in the consolidated fund statement of revenue and expenses in the year incurred. Transaction costs that are directly attributable to the acquisition of these investments are recognized in the consolidated fund statement of revenue and expenses in the year incurred.

Investment income

Investment income and pooled fund distributions are recorded on an accrual basis. Dividends are recorded on the date of record. Gains and losses realized on the disposal of investments are taken into income on the date of disposal.

Provision for claims

The provision for claims and unallocated loss adjustment expenses (ULAE) represent an estimate for all external costs of investigating and settling claims and potential claims reported prior to the date of the consolidated fund statement of financial position. The provision is adjusted as additional information on the estimated amounts becomes known during the course of claims settlement. All changes in estimates are expensed in the current period. The Fund presents its claims on a discounted basis.

Revenue recognition

The Fund follows the deferral method of accounting for annual assessments. Assessments are billed and received in advance on a calendar-year basis. Accordingly, assessments for the next fiscal year received prior to December 31 have been recorded as deferred revenue for financial reporting purposes and will be recognized as revenue in the next calendar year.

All other revenues are recognized when receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Use of estimates

The preparation of financial statements in conformity with ASNPO requires management to make estimates and assumptions which affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the the consolidated fund financial statements and revenues and expenses for the period reported. The determination of the provision for claims and ULAE involves significant estimation. Actual results could differ from those estimates and the differences could be material.

Financial instruments

The Fund's financial instruments consist of cash, accounts receivable, short-term investments, investments and accounts payable and accrued liabilities.

The significant financial risks to which the Fund is exposed are credit risk, market risk, price risk, and liquidity risk.

Credit risk

Cash, short term investments, accounts receivable, members' share of provision for claims, bond pooled funds and the investment in real estate mortgage indirectly expose the Fund to credit risk.

The maximum exposure to credit risk arising from the above-noted items is \$98,605,817 (2017 - \$97,734,200).

Credit risk arises from the possibility that a counterparty to an instrument fails to meet its obligations.

The cash deposits are held only with Schedule I banks. The accounts receivable balances are spread across the broad membership base with no significant exposure to any one individual. The guidelines of the Society's statement of investment policies and procedures (SIPP) mitigate credit risk by ensuring the investments in the bond pooled funds have an adequate minimum credit rating and well-diversified portfolios.

Market risk

Market risk is the potential for loss to the Fund from changes in the value of its financial instruments due to changes in interest rates, foreign exchange rates or equity prices.

The Fund manages market risk by diversifying investments within the various asset classes and investing in pooled funds as set out in the Society's SIPP.

Price risk

Price risk is the risk that the fair value of the Society's investments will fluctuate due to changes in the market prices whether these changes are caused by factors specific to the individual financial instrument, its issuer, or factors affecting all similar financial instruments traded in the market. It arises primarily on pooled equity, bond, real estate and mortgage fund investments.

To manage price risk, the Society has guidelines on the diversification and weighting of investments within pooled funds which are set and monitored against the Society's SIPP.

As at December 31, 2018, if pooled fund prices increased or decreased by 10% with all other factors remaining constant, net assets would have increased or decreased by approximately \$16.7 million (2017 - \$16.7 million).

Liquidity risk

Liquidity risk is the risk that the Fund will not be able to meet all cash outflow requirements. At December 31, 2018, the sum of the Fund's cash, short-term investments and pooled fund investments, at fair value, which are available to settle the liabilities of the Society as they come due, exceeded the sum of the liabilities by \$73.7 million, or 66% (2017 - \$80.2 million, or 76%).

3 Accounts receivable

	2018	2017
	\$	\$
Member deductibles	507,578	582,382
Allowance for doubtful accounts	(368,222)	(341,825)
GST/HST receivable	131,638	168,610
Other receivables	22,684	37,841
	<hr/>	<hr/>
	293,678	447,008
	<hr/>	<hr/>

4 Government remittances

The following government remittances are included in accounts payable:

	2018 \$	2017 \$
Ministry of Finance - PST	-	4,482
Receiver General - corporate income tax	5,635	844
Ministry of Finance - premium tax	9,116	10,145
	<hr/> 14,751	<hr/> 15,471

5 Short-term investments

Short-term investments comprise pooled money market funds with the following balances:

	2018 \$	2017 \$
Money market funds	<hr/> 7,390,721	<hr/> 7,267,022

6 Investments

	2018 \$	2017 \$
Investments - at fair value	<hr/> 166,899,382	<hr/> 167,447,629

FINAL DRAFT

2018				
	Carrying cost \$	Gross unrealized gains \$	Gross unrealized losses \$	Estimated fair value \$
Bonds				
Pooled Funds	46,455,126	-	(1,320,686)	45,134,441
Equities				
Canadian Pooled Funds	23,010,364	11,810,421	-	34,820,785
International Pooled Funds	41,433,566	11,885,464	-	53,319,029
	64,443,930	23,695,885	-	88,139,814
Real Estate & Mortgage				
Real Estate Fund	14,521,175	2,971,422		17,492,597
Mortgage Fund	16,382,169	-	(249,639)	16,132,530
	30,903,344	2,971,422	(249,639)	33,625,127
	141,802,400	26,667,307	(1,570,325)	166,899,382
2017				
	Carrying cost \$	Gross unrealized gains \$	Gross unrealized losses \$	Estimated fair value \$
Bonds				
Pooled Funds	46,357,149		(797,619)	45,559,530
Equities				
Canadian Pooled Funds	21,084,947	15,994,047	-	37,078,994
International Pooled Funds	36,525,196	16,448,098	-	52,973,294
	57,610,143	32,442,145	-	90,052,288
Real Estate & Mortgage				
Real Estate Fund	14,521,175	1,824,287		16,345,462
Mortgage Fund	15,761,508		(271,159)	15,490,349
	30,282,683	1,824,287	(271,159)	31,835,811
	134,249,975	34,266,432	(1,068,778)	167,447,629

The effective yield on the Bond, Mortgages and Equities portion of the investment portfolio was 2.95% (2017 - 5.78 %).

Investment risk management

The Society has adopted policies which establish the guidelines for all investment activities. These guidelines apply to the investment funds controlled by the Fund.

The Society's overall investment philosophy is to maximize the long-term real rate of return subject to an acceptable degree of risk.

The Society's long-term funding requirements and relatively low level of liquidity dictate a portfolio with a mix of fixed income, equities, as well as real estate and mortgages. The Society invests in bonds, equities, real estate and mortgages through pooled funds.

Investment income

	2018 \$	2017 \$
Interest on cash	174,302	144,840
Pooled distributions	6,967,288	7,600,178
Net interfund loan interest expense (note 10)	(415,961)	(507,330)
	<hr/>	<hr/>
Investment income	6,725,629	7,237,688
	<hr/>	<hr/>

Fair value changes in investments

	2018 \$	2017 \$
Realized gain on disposal of investments	799,903	4,127,259
Unrealized (loss) gain on investments measured at fair value	(8,100,672)	4,613,387
	<hr/>	<hr/>
Fair value (decrease) increase in investments	(7,300,769)	8,740,646
	<hr/>	<hr/>

7 General Fund building loan

In 1992, the Benchers authorized the lending of monies from the Fund to support the capital development of the Society's buildings at 845 Cambie Street, Vancouver, B.C. The loan has no fixed repayment terms and bears interest calculated monthly at a rate equal to the stated monthly bond yield to maturity earned on the Fund's investment portfolio. It is the intention of the Benchers to require the General Fund to repay a minimum of \$500,000 of the principal each year. During 2018, principal of \$500,000 (2017 - \$500,000) was repaid.

	2018 %	2017 %
Weighted average rate of return	2.83	2.27

8 Accounts payable and accrued liabilities

	2018 \$	2017 \$
Trade payables	1,313,002	1,371,159
Accrued trade expenses	255,464	256,970
Taxes payable	-	4,482
Premium taxes payable	9,116	10,112
Income taxes payable	5,635	63
	<u>1,583,217</u>	<u>1,642,786</u>

9 Provision for claims and unallocated loss adjustment expenses (ULAE)

The changes in unpaid claims recorded in the consolidated fund statement of financial position are as follows:

	2018 \$	2017 \$
Part A Insurance Coverage		
Provision for claims - Beginning of year	66,372,510	66,493,720
Provision for losses and expenses for claims reported in the current year	21,014,000	16,824,000
(Decrease) increase in estimated losses and expenses for losses reported in prior years	(4,477,500)	(5,159,000)
Provision for claims liability	82,909,010	78,158,720
(Subtract) add:		
Payments on claims reported in the current year	(1,643,173)	(929,822)
Payments on claims reported in prior years	(8,340,323)	(11,087,786)
Recoveries on claims	298,318	200,134
Change in due from members	85,259	31,264
Claim payments - net of recoveries	(9,599,919)	(11,786,210)
Part A Provision for claims - End of year	73,309,091	66,372,510
Part B Insurance Coverage		
Unpaid claims - Beginning of year	2,079,000	699,000
Provision for losses and expenses for claims	(46,000)	1,456,517
	2,033,000	2,155,517
(Subtract) Add:		
Payments on claims	(1,448,034)	(82,017)
Recoveries on claims	8,728	5,500
Claim payments - net of recoveries	(1,439,306)	(76,517)
Part B Provision for claims - End of year	593,694	2,079,000
Part C Insurance Coverage		
Provision for claims - Beginning of year	621,655	-
Provision for losses and expenses for claims reported in the current year	40,500	446,000
	662,155	446,000
(Subtract) add:		
Payments on claims	(162,500)	-
Change in due from members	(62,060)	175,655
Part C Provision for claims - End of Year	437,595	621,655
Total provision for Parts A, B and C Insurance Coverage	74,340,380	69,073,165

The determination of the provision for unpaid claims and adjustment expenses requires the estimation of two major variables or quanta, being development of claims and the effects of discounting, to establish a best estimate of the value of the respective liability or asset.

The provision for unpaid claims and adjustment expenses is an estimate subject to variability, and the variability, as with any insurance company, could be material in the near term. The variability arises because all events affecting the ultimate settlement of claims have not taken place and may not take place for some time. Variability can be caused by receipt of additional claim information, changes in judicial interpretation of contracts, significant changes in severity of claims from historical trends, the timing of claims payments and future rates of investment return. The estimates are principally based on the Fund's historical experience. Methods of estimation have been used that the Society believes produce reasonable results given current information.

The provision for ULAE is an actuarially determined estimate of the Fund's future operational costs relating to the administration of claims and potential claims reported up to the consolidated fund statement of financial position date.

The Fund discounts its best estimate of claims provisions at a rate of interest of 2.91% (2017 - 2.66%). The Fund determines the discount rate based upon the expected return on its investment portfolio of assets with appropriate assumptions for interest rates relating to reinvestment of maturing investments.

A 1% increase in the discount rate will have a favourable impact on the discounted claims liability of \$2.558 million (2017 - \$2.367 million) and a 1% decrease in the discount rate will have an unfavourable impact on the discounted claims liability of \$2.747 million (2017 - \$2.539 million).

To recognize the uncertainty in establishing these best estimates, to allow for possible deterioration in experience, and to provide greater comfort that the actuarial estimates are adequate to pay future claims liabilities, the Fund includes a Provision for Adverse Deviations (PFAD) in some assumptions relating to claims development and future investment income. The PFAD is selected based on guidance from the Canadian Institute of Actuaries.

The effects of discounting and the application of PFAD, net of members' share of provision for claims, are as follows (in thousands of dollars):

	2018	2017
	\$	\$
Undiscounted	78,017	71,677
Effect of present value	(7,032)	(5,933)
PFAD	12,757	11,576
	<hr/>	<hr/>
Discounted	83,742	77,320
	<hr/>	<hr/>

Claims development tables (net of members' share of provision for claims)

A review of the historical development of the Fund's insurance estimates provides a measure of the Fund's ability to estimate the ultimate value of claims. The top half of the following tables illustrates how the Fund's estimate of total undiscounted claims costs for each year has changed at successive year-ends. The bottom half of the tables reconciles the cumulative claims to the amount appearing in the consolidated fund statement of financial position.

Part A insurance claims (in thousands of dollars)

Claims year	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Estimate of undiscounted ultimate claims costs											
At end of claims year	11,520	13,650	14,560	13,390	15,230	12,690	15,090	16,720	15,720	19,767	
One year later	11,310	12,990	13,550	13,080	15,100	12,390	16,590	15,440	15,791		
Two years later	11,500	12,610	11,570	11,970	17,780	12,240	15,210	15,956			
Three years later	13,470	13,210	10,920	10,690	20,300	11,760	13,153				
Four years later	13,960	13,920	11,100	10,490	20,460	12,256					
Five years later	14,540	15,190	11,810	10,100	18,983						
Six years later	14,240	14,900	12,300	9,571							
Seven years later	14,340	14,420	12,078								
Eight years later	14,340	14,413									
Nine years later	14,244										
Current estimate of cumulative claims	14,244	14,413	12,078	9,571	18,983	12,256	13,153	15,956	15,791	19,767	146,212
Cumulative payments to date	(13,494)	(12,550)	(9,842)	(7,431)	(15,219)	(7,423)	(6,595)	(6,194)	(2,121)	(1,639)	(82,508)
Undiscounted unpaid liability	750	1,863	2,236	2,140	3,764	4,833	6,558	9,762	13,670	18,128	63,704
Undiscounted unpaid liability in respect of 2008 and prior years											3,385
Undiscounted unallocated loss adjustment expense reserve											9,899
Total undiscounted unpaid claims liability											76,988
Discounting adjustment (includes Claim PFAD)											5,688
Total discounted unpaid claims liability											82,675

Part B insurance claims (in thousands of dollars)

Claims year	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Estimate of undiscounted ultimate claims costs											
At end of claims year	107	23	28	18	53	562	41	274	1,588	135	
One year later	196	19	24	13	82	500	184	134	1764		
Two years later	197	22	23	12	100	421	180	62			
Three years later	197	26	23	13	115	372	157				
Four years later	197	26	23	8	108	205					
Five years later	197	26	25	8	100						
Six years later	197	27	25	20							
Seven years later	203	26	24								
Eight years later	201	26									
Nine years later	201										
Current estimate of cumulative claims	201	26	24	20	100	205	157	62	1,764	135	2,694
Cumulative payments to date	(197)	(26)	(23)	-	(100)	(172)	(92)	(62)	(1,445)	(25)	(2,142)
Undiscounted unpaid liability	4	-	1	200	-	33	65	-	319	110	552
Undiscounted unpaid liability in respect of 2008 and prior years											8
Undiscounted unallocated loss adjustment expense reserve											81
Total undiscounted unpaid claims liability											641
Discounting adjustment (includes Claim PFAD)											39
Total discounted unpaid claims liability											680

Part C insurance claims (in thousands of dollars)

Claims year	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Estimate of undiscounted ultimate claims costs											
At end of claims year	-	-	-	-	-	-	-	-	423	65	
One year later	-	-	-	-	-	-	-	-	423		
Two years later	-	-	-	-	-	-	-				
Three years later	-	-	-	-	-	-					
Four years later	-	-	-	-	-						
Five years later	-	-	-	-							
Six years later	-	-	-								
Seven years later	-	-									
Eight years later	-										
Nine years later											
Current estimate of cumulative claims	-	-	-	-	-	-	-	-	423	65	488
Cumulative payments to date	-	-	-	-	-	-	-	-	(98)	(65)	(163)
Undiscounted unpaid liability	-	-	-	-	-	-	-	-	325	-	325
Undiscounted unpaid liability in respect of 2008 and prior years											-
Undiscounted unallocated loss adjustment expense reserve											63
Total undiscounted unpaid claims liability											388
Discounting adjustment (includes Claim PFAD)											(1)
Total discounted unpaid claims liability											387

The expected maturity of the unpaid claims provision is analyzed below (undiscounted and gross of reinsurance):

(in thousands of dollars)	Less than one year \$	One to two years \$	Two to three years \$	Three to four years \$	Four to five years \$	Over five years \$	Total \$
December 31, 2018	18,554	14,694	12,022	8,716	7,023	17,007	78,016
December 31, 2017	17,230	13,620	10,966	8,359	5,912	15,590	71,677

Role of the actuary

The actuary is appointed to fulfill reporting requirements pursuant to the Insurance (Captive Company) Act of B.C. With respect to preparation of these Consolidated Fund Financial Statements, the actuary is required to carry out a valuation of the Fund's policy liabilities and to provide an opinion regarding their appropriateness at the date of the consolidated fund statement of financial position. The factors and techniques used in the valuation are in accordance with accepted actuarial practice, applicable legislation and associated regulations. The scope of the valuation encompasses the policy liabilities as well as any other matter specified in any direction that may be made by the regulatory authorities. The policy liabilities consist of a provision for unpaid claims and adjustment expenses. In performing the valuation of the liabilities for these contingent future events, which are by their very nature inherently variable, the actuary makes assumptions as to future loss ratios, trends, expenses and other contingencies, taking into consideration the circumstances of the Fund and the nature of the insurance policies.

The valuation is based on projections for settlement of reported claims and claim adjustment expenses. It is certain that actual claims and claim adjustment expenses will not develop exactly as projected and may, in fact, vary significantly from the projections.

The actuary relies on data and related information prepared by the Fund. The actuary also analyzes the Fund's assets for its ability to support the amount of policy liabilities.

10 Interfund transactions

The operations of the Fund, the General Fund and the Special Compensation Fund are administered by the management of the Society. Balances between the funds arise from transactions of an operating nature and are recorded at exchange amounts at the dates of the transactions. Amounts due to and from the General Fund and the Special Compensation Fund are due on demand and have no fixed terms of repayment. The Fund has authorized a loan facility of up to \$1 million to the General Fund to fund capital expenditures in accordance with the 10-year capital plan. The Fund has also authorized a loan facility of up to \$8 million to the Special Compensation Fund which is not expected to be used as the Special Compensation Fund is in the process of being wound up. As of December 31, 2018, no amounts have been drawn on the facilities (2017 - \$nil).

Pursuant to reserve policy, \$1,780,000 of the net assets related to trust assurance was transferred to the Lawyers Insurance Fund for Part B coverage during 2018 (2017 - \$3,200,000).

Pursuant to Section 50 of the Legal Profession Amendment Act, 2012 (SCB 2012, C16), \$nil of unused reserves of the Special Compensation Fund was transferred to the Lawyers Insurance Fund during 2018 (2017 – 1,000,000).

Monthly interest on the Fund's net loan position with the General Fund and Special Compensation Fund is paid to the Fund at a rate equal to the stated monthly bond yield to maturity earned on the Fund's investment portfolio. The average bond yield for 2018 was 2.83% (2017 - 2.27%). The Fund's net loan position at December 31, 2018 was \$15.3m (2017 - \$15.6m) which includes the General Fund building loan, other operating balances with the General Fund and the Special Compensation Fund. This net loan position fluctuates during the year as amounts are transferred between the General Fund, the Special Compensation Fund and the Fund to finance ongoing operations.

During the year ended December 31, 2018, interest revenue of \$45,839 (2017 - \$48,594) was received on the General Fund building loan, interest of \$455,342 (2017 - \$528,219) was paid on General Fund cash balances held by the Fund, and \$6,458 (2017 - \$27,705) was paid on the Special Compensation Fund cash balances held by the Fund for a net interest expense of \$415,691 (2017 - \$507,330).

Other interfund transactions are disclosed elsewhere in these Consolidated Fund Financial Statements.

11 Internally restricted net assets

The Benchers have allocated \$17.5m (2017 - \$17.5m) of the net assets to Part B coverage for dishonest appropriation of trust funds or property.

12 Regulatory requirements and capital management

The Captive is required to maintain a minimum of \$200,000 in shareholder's equity and \$100,000 in reserves under the regulations of the Insurance (Captive Company) Act of B.C. The Captive was in compliance with these regulations throughout the year and as at December 31, 2018.

13 Related parties

The elected Benchers include members drawn from law firms across the province. These law firms may at times be engaged by the Society in the normal course of business. During the year ended December 31, 2018, expenses of \$12,861 (2017 - \$99,037) were incurred by the Fund with these law firms.

Management Discussion and Analysis

The Law Society of British Columbia accounts for its financial activities through three separate funds: the General Fund, the Special Compensation Fund and the Lawyers Insurance Fund. Society management has the responsibility for assisting the Benchers in fulfilling the Society's mandate, while ensuring that operating expenditures are closely controlled and that appropriate accounting and internal controls are maintained. The 2018 audited financial statements for the three funds are set out in this report. The statements are presented in accordance with the presentation and disclosure standards of the Chartered Professional Accountants of Canada.

During 2018, in addition to the general oversight by the Benchers, the Finance and Audit Committee assisted the Benchers in ensuring that management and staff properly managed and reported on the financial affairs of the Society. The oversight by the Benchers and the Finance and Audit Committee included:

- Reviewing periodic financial statements of the General, Special Compensation and Consolidated Lawyers Insurance Fund
- Reviewing investment performance as managed by the appointed investment managers
- Reviewing with the Law Society's auditors their approach, scope and audit results
- Reviewing the annual Audit Report prepared by the Law Society auditors
- Recommending the 2019 practice fees and insurance assessments, and reviewing corresponding budgets
- Reviewing the enterprise risk management plan

General Fund

Overview

Overall, the 2018 results for the General Fund resulted in an operating surplus of \$2.7 million, after the transfer of net assets from the trust assurance program to the Lawyers Insurance Fund. Revenues were higher than expected, particularly in the areas of practice fees, enrollment fees, application fees, interest income, and legal defense insurance recoveries. Operating expenses increased over the prior year primarily due to market based salary adjustments and external professional fees.

Revenues

General Fund revenue was \$31.9 million, \$1.0 million higher than 2017 partly due to the growth in the number of lawyers and an increase in the 2018 practice fee. During 2018, net growth in the number of full-time equivalent practicing lawyers was 3.2% resulting in a total of 12,223 full fee paying equivalent lawyers for the year, compared to 11,849 in 2017. Professional Legal Training Course (PLTC) enrolment revenue was higher in 2018, with 540 PLTC students attending during the year, compared with 510 in the prior year. The trust administration fee (TAF) revenue decreased 9% due to

a decrease in the number of TAF-related transactions arising from a reduction in activity in the real estate market. Electronic filing revenues also decreased with a reduction in the real estate market. Investment income increased due to higher cash balances held during the year. Other income increased over 2017 due to the receipt of legal defense insurance recoveries.

The Lawyers Insurance Fund contributed \$2.0 million to the General Fund for co-sponsored programs and for general program and administrative expenses attributable to operations.

Expenses

The 2018 General Fund expenses increased by \$773,000 (2.6%) to \$29.5 million, compared to \$28.7 million in 2017.

Benchner Governance and Support expenses increased by \$168,000, reflecting increased costs related to the annual general meeting.

Communication and Information Services total costs were the same as 2017 with increased costs for market based salary adjustments and the addition of one staff member, offset by savings in consulting costs.

Education and Practice expenses were higher than 2017 by \$29,000, with increases primarily related to market based salary adjustments and additional PLTC program expenses related to the increase in students, offset by a reduction in external counsel fees

General and administration costs increased by \$103,000 from 2017 primarily due to market based staff salary adjustments.

Policy and Legal Services expenses decreased by \$211,000 over 2017, due to a decrease in external counsel fees offset by market based staff salary adjustments.

Regulation operating expenses increased \$685,000 over 2017, due to higher external counsel fees, market based salary adjustments and increased staffing costs in the areas of professional conduct, and investigations with higher file loads.

Net Assets

Overall, the General Fund remains financially sound. As of December 31, 2018, net assets in the General Fund were \$23.7 million. The net assets include \$2.2 million in capital funding for planned capital projects related to the 845 Cambie Street building and workspace improvements for Law Society operations. Pursuant to reserve policy, during the year \$1.8 million of net assets related to trust assurance was transferred to the Lawyers Insurance Fund for Part B coverage. After this transfer, at December 31, 2018, the net assets include \$3.0 million of trust assurance reserves. The remaining General Fund net assets are \$18.5 million, of which \$12.9 million is invested in capital assets, mainly the 845 Cambie Street building, and \$5.6 million of working capital.

Special Compensation Fund

Overview

Previously, the Special Compensation Fund was maintained pursuant to Section 31 of the *Legal Profession Act*, was financed by members' annual assessments, and claims were recorded net of recoveries when they had been approved for payment. In 2012, the *Legal Profession Amendment Act, 2012* repealed section 31 of the *Legal Profession Act*. In addition, Section 23 of the *Legal Profession Act* was amended to remove the requirement that practising lawyers pay the Special Compensation Fund assessment. Section 50 of the *Legal Profession Amendment Act, 2012* provides for the transfer of unused reserves that remain within the Special Compensation Fund to the Lawyers Insurance Fund for the purposes of the insurance program, which has provided insurance coverage since 2004 for dishonest appropriation of money or other property entrusted to and received by insured lawyers. In 2017, pursuant to Section 50 of the *Legal Profession Amendment Act*, \$1 million of unused reserves were transferred to the Lawyers Insurance Fund and the remainder was held in the Special Compensation fund to offset expected external counsel fees. Most of the remaining reserves are expected to be used in subsequent years to offset external counsel costs, after which any remaining balance will be transferred to the Lawyers Insurance Fund.

Revenues/Expenses

There were no claims costs in 2018 since the Lawyers Insurance Fund has been providing coverage for dishonest appropriation of funds by lawyers since 2004. During the year, \$6,000 of interest income was earned. In addition, external counsel costs of \$124,000 were incurred for specific file activity.

Net Assets

At the end of 2018, the Special Compensation Fund net assets were \$159,000.

Lawyers Insurance Fund

Overview

The Lawyers Insurance Fund remains in a strong financial position at the end of 2018. Revenue from annual assessments was slightly higher due to additional insured members. Although overall investment returns were low due to market returns, the returns were close to the benchmark, and there is an appropriate level of unrestricted net assets.

Revenues

The 2018 insurance assessment increased to \$1,800 per insured member, resulting in total revenue of \$15.7 million, compared to \$14.9 million in 2017.

During 2018, the long term investment portfolio performed very close to the benchmark, earning a return of -0.25%, compared to a benchmark return of -0.16%. All decreases in the market value of the investment portfolio have been recognized through the statement of revenue and expenses in accordance with Canadian accounting standards for not-for-profit organizations.

Expenses

In 2018, the Lawyers Insurance Fund general operating costs, including the \$2.0 million contribution to the General Fund, but excluding claims payments and unallocated loss adjustment expenses (ULAE), were \$6.6 million, compared to \$6.9 million in 2017. The decrease is primarily due to salary savings, reduced external counsel fees, and a reduction in the contribution to the general fund due to lower costs. This is partially offset by an increased rent allocation related to a larger space in the 845 Cambie Street building, and an increase to market rent, in 2018.

The net actuarial provision for settlement of claims for the year was \$16.5 million, an increase of \$2.9 million from 2017. The 2018 claims provision was higher due to higher than usual reserves related to 2018 claims. The provision for claims liabilities on the balance sheet at the end of 2018 was \$74.3 million, compared to \$69.0 million at the end of 2017.

Net Assets

As of December 31, 2018, the Lawyers Insurance Fund net assets were \$76.9 million, which includes \$17.5 million internally restricted for Part B claims, leaving \$59.4 million in unrestricted net assets.

Other Matters

In 2014, the Law Society heard from the Financial Institutions Commission (“FICOM”) about their concerns with the Law Society’s captive insurance company and the Law Society’s insurance program. Following discussions with FICOM, the Ministry of Finance and the Ministry of Justice, it was agreed that the Law Society would pursue an exemption from certain statutory requirements.

In 2018, the BC government passed amendments to the Legal Profession Act which provide that neither the Law Society nor a wholly-owned subsidiary (other than a captive insurance company under the Insurance (Captive Company) Act), by establishing and administering an indemnification program, is an insurer or carrying on insurance business for the purposes of the Financial Institutions Act (FIA) and the Insurance Act, and is not required to be licensed under the FIA. The relevant provisions of the amendments have not yet been proclaimed by regulation.



Memo

To: Benchers
From: Lawyer Education Advisory Committee
Date: February 7 2019
Subject: **Recommendation on CPD credit for pro bono work**

Purpose

1. This memo provides the Benchers with a recommendation from the Lawyer Education Advisory Committee not to approve the accreditation of pro bono work for continuing professional development credit (“CPD”), following a reconsideration of this issue over the past year.
2. In an effort to provide the Benchers with the range of debate on this issue within various Committees, the memo highlights arguments both in favour of, and opposing accreditation, with an emphasis on policy rationales that support the Lawyer Education Advisory Committee’s recommendation that pro bono work should remain ineligible for CPD credit in BC.

Background

3. During its review of the CPD program in 2016 and 2017, the Lawyer Education Advisory Committee examined the issue of providing credit for pro bono activities under the CPD program. This work included a consideration of hundreds of comments in relation to the 2016 CPD survey question seeking member feedback on whether pro bono activities should qualify for CPD credit, as well as a review of several academic articles¹ and numerous internal memos on the issue.

¹ Jason Wesoky and Christopher Bryan, “Receiving CLE Credit for *Pro Bono* Service” 41 The Colorado Lawyer 115 (August 2012), online at: http://www.garfieldhecht.com/wp-content/uploads/2012/08/Aug2012TCL_PointCounterpoint.pdf; Brian J. Murray “The Importance of Pro Bono Work in Professional Development” (2009) 23:3 Verdict, online at: <http://www.jonesday.com/files/Publication/adc22e68-c7f5-44d2-a043->

4. No Canadian province or territory with a CPD credit hour requirement grants CPD credit for pro bono activity. However, Alberta, which does not have a CPD credit hour requirement, recognizes pro bono activity as relevant to lawyer learning.²
5. In the USA, thirteen states have adopted rules permitting lawyers to earn a limited number of credits for pro bono work as part of their mandatory continuing legal education programs (“MCLE”). Although the specifics of accreditation rules vary, most commonly, a lawyer must complete five hours of pro bono service for each MCLE credit earned. The average amount of MCLE credits a lawyer is permitted to claim each year is capped at three hours [See **Appendix A**].³
6. Having considered the various policy arguments for and against providing CPD credit for pro bono work, in December 2017 the Lawyer Education Advisory Committee recommended against the accreditation of pro bono activities for CPD credit in its Final CPD Review Report. The rationale for not providing CPD credit was outlined as follows:

Pro bono and legal aid

92. During the 2011 CPD review, the Lawyer Education Advisory Committee determined that pro bono and legal aid work should not be recognized for CPD credit, on the basis that it is fundamentally the “practice of law,” not professional development.
93. The 2016 and 2017 Committees considered numerous arguments for and against accreditation,⁴ and came to a similar conclusion, ultimately recommending against the accreditation of pro bono and legal aid work.

Recommendation 10: The Law Society will not recognize pro bono and legal aid work as eligible for CPD credit.

94. Proponents of accreditation argue that pro bono activities provide unique learning opportunities not available to lawyers in the course of their paid work, both in relation to skill and knowledge

94709677480a/Presentation/PublicationAttachment/d2593229-ad83-428c-8023-a7afce3f3b62/Murray.pdf ; Esther Lardent, “Solving the Professional Development Puzzle” (2012) National Law Journal.

² Unlike BC, Alberta’s CPD system does not require the regulator to accredit activities and there are no minimum number of CPD hours lawyers must complete. Rather, any learning activity that is relevant to the professional needs of a lawyer, pertinent to long-term career interests of a lawyer, in the interests of the employer of a lawyer or related to the professional ethics and responsibilities of lawyers, qualifies for a CPD activity that can be included in a lawyer’s CPD plan. Pro bono work is listed as an example of one such activity. See the Law Society Alberta at: <https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-activities/>

³ See the American Bar Association, online at:

http://www.americanbar.org/groups/probono_public_service/policy/cle_rules.html.

development and in gaining a deeper understanding of access to justice issues. Pro bono and legal aid work may also contribute to enhancing professional responsibility and ethics.

95. Others have suggested that pro bono work is comparable to mentoring or teaching the general public in that it is “service learning” that integrates meaningful community service with skill development. Similar arguments can be made to support the accreditation of legal aid work.
96. The Committee is, however, troubled by the prospect of accrediting pro bono and legal aid work for a number of reasons. Importantly, file specific legal work is not eligible for CPD credit. In the Committee’s view, no exception should be made for free, but nevertheless file specific legal work.
97. The Committee also observes that although some American jurisdictions recognize pro bono work for a limited amount of MCLE credit, no Canadian law society currently grants CPD credit for pro bono activities.
98. Further, half of the respondents to the 2016 Survey were not in favour of including pro bono work in the CPD scheme and 64% were against providing credit for legal aid work. Examples of the comments provided include the following:

“This conflates the differing objectives of CPD. If mandatory CPD training is necessary in order to ensure ongoing substantive competency then it should be used for that. If you allow CPD for pro- bono - why not allow it [for] file work? How is the learning different if the work is done for free vs. being paid?”

“If the purpose of the CPD is professional development and given that lawyers are expected to provide the same level of service and skill to paying and pro bono clients giving credit for work on pro bono files suggests that a lower level of skill is required when a person takes on these files and that pro bono files are a chance to learn about areas of the law that the lawyer is not skilled in. In my view this would violate the ethical obligations lawyers have to provide competent service.”

99. Notwithstanding the recommendation against accreditation, the Committee views this type of work as a professional duty and expresses support for initiatives that encourage lawyers to take on pro bono and legal aid files as part of ongoing efforts to improve access to justice.
7. After considerable discussion by the Benchers, the recommendation was sent back for consideration by the “appropriate Committees.”
 8. Having already considered the merits of providing CPD credit for pro bono work and deciding against accreditation, the Lawyer Education Advisory Committee determined it should refer the matter to the Access to Legal Services Advisory Committee (the “Access Committee”). Specifically, the following questions were referred:
 - a. Whether pro bono work should be granted CPD credit and if so, how this meets the goals of the CPD program and/or improves access to justice.

- b. If the answer to the first question is “yes,” what type and amount of pro bono work should be eligible for credit and how such work might be verified.
9. The Access Committee was of the view that the question of whether pro bono work should be eligible for CPD credit must turn on whether it advances the objectives of the CPD program, as articulated in the Final CPD Review Report:

The purpose of the mandatory CPD program is to uphold and protect the public interest in the administration of justice by actively supporting the Law Society’s members in achieving and maintaining high standards of competency, professionalism and learning in the practice of law.

10. The Access Committee agreed that if pro bono work does not advance lawyer competency, professionalism or learning, it should not be eligible for credit notwithstanding that it may advance the goal of promoting access to justice.⁵
11. Members of the Access Committee had conflicting views as to whether pro bono work satisfies the objectives of the CPD program. These views were articulated in a memo provided to the Lawyer Education Advisory Committee in May 2018, in which the Access Committee concluded that due to a diversity of opinions among its members, it was not possible to reach a consensus that would support a unanimous recommendation to the Lawyer Education Advisory Committee. As a result, rather than providing a recommendation, the Access Committee outlined arguments both for and against granting CPD credit for pro bono services.
12. These arguments, which were similar to those previously considered by the Lawyer Education Advisory Committee during its analysis of the pro bono issue in 2016 and 2017, were again reviewed by the Lawyer Education Advisory Committee at its September 2018 meeting.
13. As discussed in further detail below, those discussions informed the Lawyer Education Advisory Committee’s final recommendation to the Benchers that pro bono work should not be eligible for CPD credit in BC.

⁵ Based on this view, the Access Committee felt it unnecessary to resolve the question of whether adoption of a policy that would permit CPD credit for pro bono work would encourage lawyers to provide pro bono services or otherwise promote access to legal services.

Discussion

14. The Lawyer Education Advisory Committee supports the Access Committee's view that pro bono work should only be eligible for CPD credit if it meets the objectives of the CPD program, namely: supporting lawyers to achieve and maintain high standards of competency, professionalism and learning in the practice of law.
15. For the reasons identified below, the Committee is of the unanimous view that pro bono work does not sufficiently meet these objectives, and therefore should not be accredited.

Competency and learning

16. The CPD program has a well-established set of "learning modes" which are eligible for CPD credit, including online interactive programs, local bar and CBA section meetings, study groups, teaching, writing, and mentoring. The Lawyer Education Advisory Committee's review of these learning modes in 2017 confirmed the historical view that learning and competency are predominantly enhanced by educational activities that help lawyers keep up with legislation, cases and trends in different practice areas and the development of lawyering skills. As such, the Committee felt the continued accreditation of these types of activities was warranted.
17. However, the Committee determined then, as it reaffirms now, that these learning and competency goals are not adequately advanced through the provision of pro bono work, particularly if lawyers simply perform their regular services, but without pay.
18. Rather, the primary rationale for providing CPD credit for pro bono work is to improve access to justice. This is reflected by the American Bar Association's view that most states permitting pro bono work for CLE do so to encourage the recruitment and retention of pro bono volunteers.⁶ As both the Lawyer Education Advisory Committee and the Access Committee agree, improving access to justice is not a sufficient reason to permit the accreditation of pro bono work.
19. Moreover, the Lawyer Education Advisory Committee is concerned that accrediting pro bono services creates a risk that pro bono work will displace CPD hours that lawyers would otherwise earn through existing learning modes.⁷

⁶ *Supra* note 3.

⁷ Notably, all US regulators that recognize pro bono work for MCLE credit have implemented a cap on the number of MCLE hours than can be earned through pro bono activities. See Appendix A at the end of this memo.

20. An opposing view was presented by some members of the Access Committee, who advocated that pro bono work does contribute to improved competency and learning.
21. For example, pro bono work can provide lawyers — particularly newer lawyers in larger firms — with opportunities to develop skills and knowledge through experiences that may not be available in the course of paid work, including taking responsibility for the full conduct of a case, increased access to courtroom experiences and a substantial amount of client contact and communications. Additionally, pro bono work provides lawyers with greater insight into the relationship between law and society, including the opportunity to learn about the systemic barriers and issues of access to justice and how to represent marginalized persons.
22. Notwithstanding the laudable benefits of taking on pro bono work, the Lawyer Education Advisory Committee is of the view that a lack of payment does not fundamentally change the nature of what is essentially “file specific” work. The current CPD Guidelines are explicit that all file specific work, including file specific mentoring, file specific teaching and file specific group study activities are not eligible for credit.⁸
23. One example of how providing credit for pro bono work could result in accrediting file specific work is demonstrated in the context of legal aid files. Legal aid lawyers often provide a portion of their services for free, given that the tariff is typically insufficient to cover all costs associated with a file. Accreditation of pro bono work could lead to a problematic scenario whereby unpaid work associated with a legal aid file is eligible for CPD credit because it is regarded as an educational experience that fosters lawyer competency and learning, while the paid portion does not qualify, despite the nature of the work being virtually identical.
24. The Lawyer Education Advisory Committee is also troubled by the notion of accrediting pro bono work on the basis that it provides an opportunity for lawyers to improve their competence. Importantly, lawyers should *already* have attained high standards of competency before agreeing to provide legal services to a client, regardless of who those clients are.
25. Characterizing pro bono as a learning opportunity for lawyers might send the message that pro bono clients’ matters are somehow inferior to paid legal work, in that accepting pro bono files to develop competence is acceptable, whereas lawyers are expected to

⁸ See <https://www.lawsociety.bc.ca/support-and-resources-for-lawyers/continuing-professional-development/eligible-activities/>

develop their competence both within and beyond the CPD sphere before taking on paid work.

Professionalism

26. The *BC Code of Professional Conduct* establishes that lawyers have a duty to assist the advancement of the goals of the legal profession. The associated Commentary encourages lawyers to enhance the profession through activities that include providing legal services on a pro bono basis:

2.2-2 A lawyer has a duty to uphold the standards and reputation of the legal profession and to assist in the advancement of its goals, organizations and institutions.

Commentary

[1] Collectively, lawyers are encouraged to enhance the profession through activities such as: [...]

(b) participating in legal aid and community legal services programs or providing legal services on a pro bono basis;

27. Accordingly, some members of the Access Committee have suggested that providing CPD credit for pro bono work is consistent with achieving and maintaining standards of professionalism in the practice of law – one of the objectives of the CPD program.⁹
28. The Lawyer Education Advisory Committee supports the view that the provision of free legal services to assist the less fortunate is a foundational ethical principle of lawyering. However, this principle is eroded by creating an incentive, or self-interested reason for lawyers to do pro bono work. Providing CPD credits for pro bono is a form of non-monetized payment for something that should be provided without compensation. Lawyers should not need the benefit of CPD credits to do what should be done as a matter of course.

⁹ The Access Committee proposed that to be eligible for CPD credit on the basis of professionalism, pro bono services must be provided to persons of limited means such that the recipients of the services would not otherwise be able to retain a lawyer, and that pro bono services should not be work provided as part of the lawyer's regular employment duties.

Other considerations

29. The Lawyer Education Advisory Committee has undertaken limited analysis of how accreditation might operate if pro bono work were eligible for CPD credit on the basis that the Benchers must first decide the threshold issue of whether, in principle, *any* pro bono work should qualify for CPD credit.
30. However, even a preliminary consideration of how to establish criteria regarding which types of free legal services would be eligible for CPD credit, and which types would be ineligible, reveals significant operational challenges.
31. For example, some members of the Access Committee proposed that pro bono work should not be accredited if it falls within the lawyer's primary area of practice. The Lawyer Education Advisory Committee is of the view, however, that imposing this type of limitation raises the risk that lawyers will pursue pro bono work in new and unfamiliar areas, potentially to the detriment of their pro bono clients.
32. Additionally, given that the Law Society has moved away from a CPD model that requires confirmation and corroboration of learning activities, and now generally trusts members to truthfully and accurately report their CPD hours, implementing a system of approved pro bono providers and associated verification procedures —design elements of many of the American programs that recognize pro bono work for MCLE credit — would be both challenging and out-of-step with the general shift away from the Law Society providing extensive regulatory oversight of the CPD program.
33. These additional considerations all auger against the approval of pro bono activities for CPD credit in BC.

Conclusion

34. Over the past two and a half years, the issue of whether pro bono work should be eligible for CPD credit has resulted in a great deal of discussion and debate at both the Committee level and around the Benchers table.
35. The Benchers are now asked to make a final decision as to whether pro bono work should, in principle, be eligible for accreditation.

36. The Lawyer Education Committee has presented a recommendation to the Benchers twice on this issue, first, in December 2017, as part of the review of the CPD program, and now, as a stand-alone issue.
37. Analysis of this issue has been both substantial and comprehensive, including research into the approaches taken by other jurisdictions, a review of academic articles and numerous memos prepared by the Law Society's policy and legal services staff and consideration of hundreds of comments from lawyers that responded to the 2016 CPD survey question asking whether pro bono activities should qualify for CPD credit.
38. More recently, this work has benefitted from the insights of the Access Committee, which agreed that *if* pro bono work does not advance lawyer competency, professionalism or learning, it should not be eligible for credit notwithstanding that it may advance the goal of promoting access to justice.
39. This detailed and lengthy review has resulted in consensus amongst the Lawyer Education Advisory Committee that CPD credit should not be provided for pro bono work in BC on the basis that it does not adequately meet the objectives of the CPD program, namely: supporting lawyers to achieve and maintain high standards of competency, professionalism and learning in the practice of law. Accordingly, the Lawyer Education Advisory Committee seeks Bencher approval of the recommendation that pro bono work remain ineligible for CPD credit in BC.
40. The Committee strongly supports the Law Society identifying and implementing methods, other than offering CPD credit, by which lawyers are encouraged to engage in pro bono legal activities. The adoption of the resolutions at the Law Society's 2018 AGM calling for the Benchers to continue to advocate for legal aid funding and encourage lawyers to undertake legal aid and pro bono cases within their field of expertise reflects the profession's strong commitment to improving access to justice. As discussed in this memo and elsewhere, access to legal services is improved by lawyers offering their services for no fee.
41. However, the Committee is of the view that granting CPD credit is not the right mechanism to encourage lawyers to engage in pro bono activities given that this type of work is not sufficiently aligned with the objectives of the CPD program.

APPENDIX A: MCLE CREDIT FOR PRO BONO WORK IN THE UNITED STATES

State	# of pro bono hours required to earn 1 hour of CLE credit	Cap on number of CLE credits for pro bono work
Wisconsin	5	6 CLE credits every 2 years
Arizona	5	5 CLE credits per year
Ohio	6	6 CLE credits every 2 years
Colorado	5	9 CLE credits every 3 years
Wyoming	5	3 CLE credits per year
Delaware	6	6 CLE credits every 2 years
Louisiana	5	3 CLE credits per year
Minnesota	6	6 CLE credits every 3 years
New York	2	10 CLE credits every 2 years
North Dakota	6	3 CLE credits every year
Tennessee	5	3 CLE credits per year
Oregon	2	6 CLE credits every 2 years
Washington	1* (this is the only state that has a 1:1 ratio)	24 CLE credits every 3 years

NOTE: In the majority of states, pro bono work is not eligible for MCLE credit.

The Law Society
of British Columbia



Licensed Paralegals

Executive Committee

Date February 19, 2019

Prepared for: Benchers

Prepared by: Staff

Purpose: Decision

Background

1. At the January Benchers meeting, there was a discussion in camera regarding the future of the Alternate Legal Service Provider Working Group (ALSPWG). The Benchers had before them a memorandum reviewing the history of ALSPWG and its engagement with members, stakeholders and the public.
2. The memorandum recommended continuing to develop our licensed paralegal initiative while taking the time to consider the results of the family law consultation, along with reframing the mandate of the working group to consider other possible areas for licensed paralegals and renaming and repopulating the working group to ensure that the broader mandate is reflected.
3. The Benchers had a wide ranging discussion about licensing paralegals and there were a number of suggestions and a variety of concerns expressed. No decision was sought or made regarding our future efforts to license paralegals of any type in anticipation of bringing the subject of our continuing efforts regarding licensed paralegals back to this meeting.

Discussion

4. At its February 14th meeting, the Committee considered what it could recommend to the Benchers in relation to our efforts to date in relation to licensing paralegals and what might be pursued in the future. The Committee considered a suggestion that a new name and mandate would reframe our future efforts to license paralegals.
5. Recognizing the passage of the amendments to the *Legal Profession Act* in November will permit us to license paralegals when proclaimed, the Committee was of the view that renaming the working group to reflect the amendments to the *Act* made sense and that designating the group as a task force would support the broader mandate proposed.
6. The mandate of the ALSPWG was established by the Benchers in January, 2018. The original mandate specifically directed the working group to identify the qualifications necessary for family law legal service providers other than lawyers to be able to provide family law legal services directly to the public. The Committee was of the view that a revised mandate was needed to reflect our intention to take the time to consider what areas of unmet legal need might be appropriate for paralegals to provide legal services and what might be required of them before granting a license.

Recommendation

7. The Committee recommends the following resolution for the Benchers' consideration. It would establish a Licensed Paralegal Task Force to consider and identify opportunities, in consultation with the profession and others, for the delivery of legal services in areas where there is a substantial unmet legal need and the public would benefit from the provision of those services by licensed paralegals.

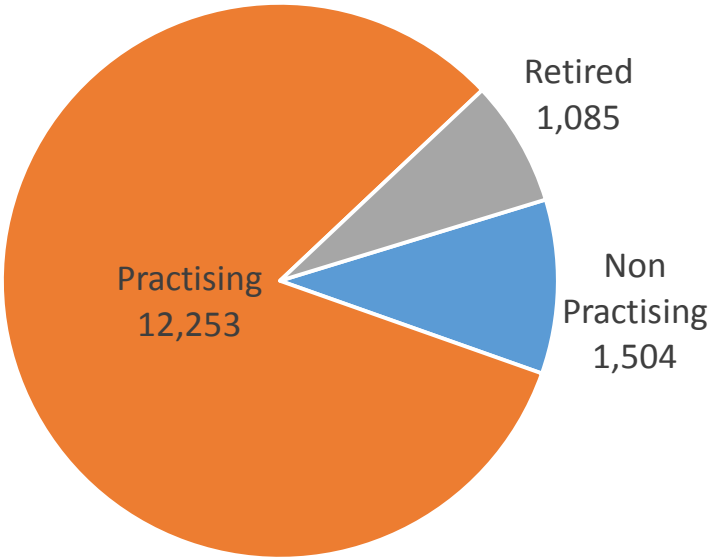
Resolution

BE IT RESOLVED that the Benchers establish a Licensed Paralegal Task Force with the following mandate to further develop the work of the Alternate Legal Service Provider Working Group:

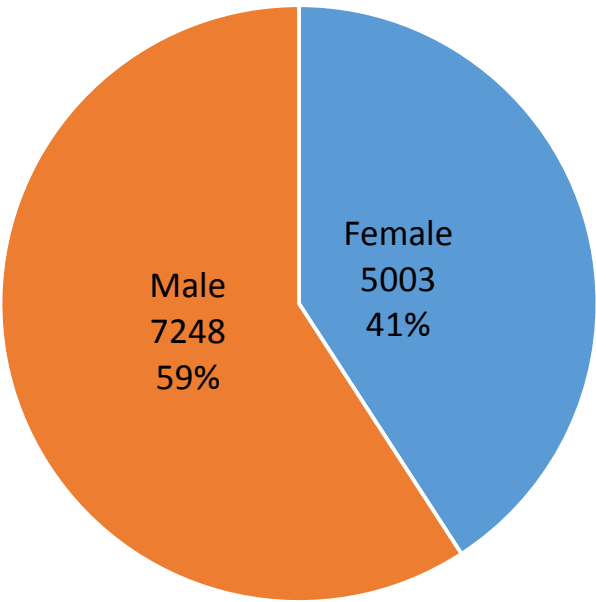
1. Consider and identify opportunities, in consultation with the profession and others, for the delivery of legal services in areas where there is a substantial unmet legal need and the public would benefit from the provision of those services by licensed paralegals; and
2. If the Task Force identifies areas of legal services where licensed paralegals may meet an unmet legal need:
 - a) consider the scope of services that would be appropriate for licensed paralegals to provide in relation to the identified areas of legal services;
 - b) consider what education, qualifications, credentials, experience and insurance would be necessary to enable licensed paralegals to deliver legal services in a competent and ethical manner in the identified areas of legal services; and
 - c) make recommendations to the Benchers for a regulatory framework that will ensure that licensed paralegals provide legal services in a regulated, competent and ethical manner only in the identified areas of legal services approved by the Law Society.

BC Legal Profession February 2019

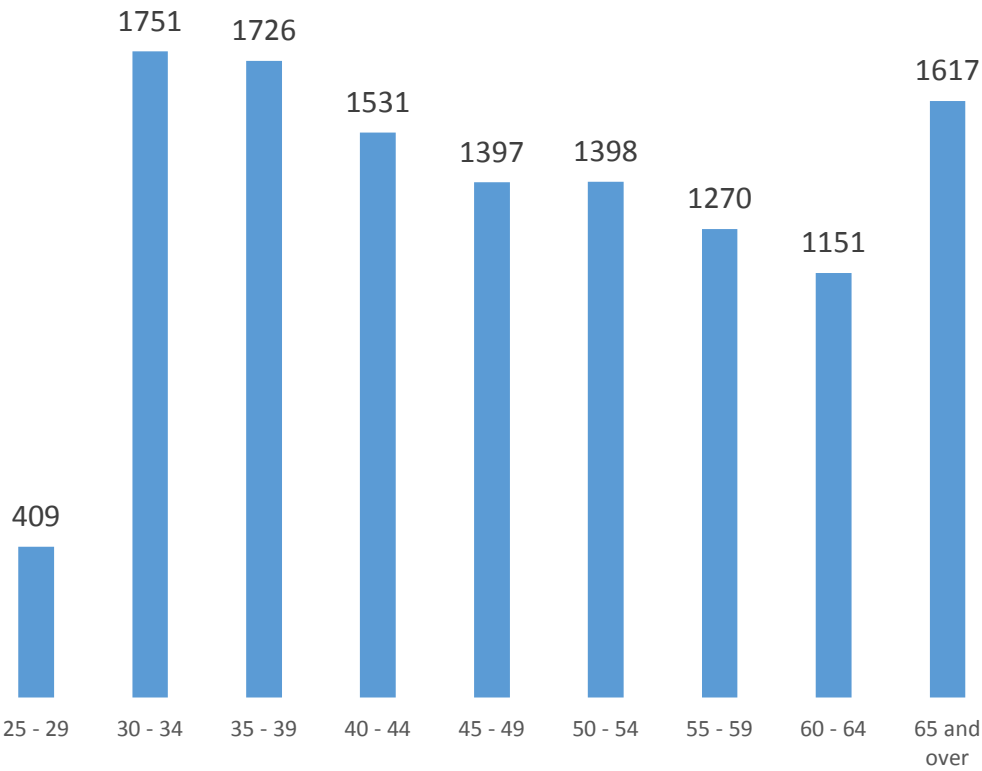
Membership by Type



Practising Members



Practising Members



Practising Members

