



Agenda

Benchers

Date: Friday, March 6, 2020

Time: **7:30 am** Continental breakfast
9:00 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 31, 2020 meeting (regular session)
2	Rule 3-59(5): Cash transactions; correction
3	Creation of Mark Andrews Excellence in Litigation Award

REPORTS

4	President's Report	Craig Ferris, QC
5	CEO's Report	Don Avison, QC
6	Briefing by the Law Society's Member of the Federation Council	Pinder K. Cheema, QC

DISCUSSION/DECISION

7	Review of the Law Society's 2019 Audited Financial Statements and Financial Reports	Dean P.J. Lawton, QC Jeanette McPhee
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UPDATES

8	Lawyers Indemnity Fund: Program Overview	Su Forbes, QC
9	National Discipline Standards Report	Natasha Dookie

Agenda

The Law Society
of British Columbia



10	Report on Outstanding Hearing & Review Decisions (<i>Materials to be circulated at the meeting</i>)	Craig Ferris, QC
FOR INFORMATION		
11	Of Robes and Robots: Innovation and the Legal Profession Remarks of the Honourable Chief Justice Robert Bauman	
12	Progress update on the Strategic Plan 2018 - 2020	
13	Three Month Benchers Calendar – March to May 2020	
IN CAMERA		
14	Litigation Report	Tara McPhail
15	2019 Benchers and Committee Evaluations	Lisa Hamilton, QC
16	Other Business	



Minutes

Benchers

Date: Friday, January 31, 2020

Present:

Craig Ferris, QC, President	Jamie Maclaren, QC
Dean P.J. Lawton, QC, 1 st Vice-President	Claire Marshall
Lisa Hamilton, QC, 2 nd Vice-President	Geoffrey McDonald
Jasmin Ahmad	Steven McKoen, QC
Paul Barnett	Christopher McPherson, QC
Jeff Campbell, QC	Jacqueline McQueen
Pinder K. Cheema, QC	Elizabeth J. Rowbotham
Jennifer Chow, QC	Mark Rushton
Barbara Cromarty	Karen Snowshoe
Jeevyn Dhaliwal, QC	Thomas L. Spraggs
Lisa Feinberg	Michelle D. Stanford, QC
Martin Finch, QC	Michael Welsh, QC
Brook Greenberg	Chelsea D. Wilson
Sasha Hobbs	Guangbin Yan
Julie K. Lamb, QC	Heidi Zetzsche
Dr. Jan Lindsay	

Unable to Attend: Not Applicable

Staff Present:

Don Avison, QC	Tara McPhail
Lance Cooke	Jeanette McPhee
Natasha Dookie	Eva Milz
Su Forbes, QC	Karen Mok
Andrea Hilland	Doug Munro
Kerryn Holt	Annie Rochette
Jeffrey Hoskins, QC	Lesley Small
Trevor Kaatz	Alan Treleaven
Jason Kuzminski	Adam Whitcombe, QC
Michael Lucas, QC	Vinnie Yuen
Alison Luke	

<p>Guests: Ian Aikenhead, QC The Honourable Chief Justice Robert Bauman Dom Bautista Mark Benton, QC Jennifer Brun Dr. Cristie Ford</p> <p>Alexis Kazanowski Sandra Kovacs Derek LaCroix, QC Caroline Nevin Josh Paterson Michele Ross Linda Russell Jo-Anne Stark</p> <p>Carleen Thomas</p>	<p>AMJ Law Chief Justice of British Columbia and Chief Justice of the Court of Appeal for the Yukon. Executive Director, Law Courts Center Executive Director, Legal Services Society Vice-President, Canadian Bar Association, BC Branch Professor and Associate Dean, Research and the Legal Profession, University of British Columbia Assistant Dean, TRU Law Kazlaw Executive Director, Lawyers Assistance Program CEO, Courthouse Libraries BC Executive Director, Law Foundation of BC President & Education Chair, BC Paralegal Association CEO, Continuing Legal Education Society of BC Director of Advocacy, Canadian Bar Association, BC Branch Manager of Special Projects, Tsleil-Waututh Nation</p>
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OATH OF OFFICE

1. Administer Oaths of Office

The Honourable Chief Justice Robert J. Bauman administered oaths of office to President Craig Ferris, QC, First Vice-President Dean P.J. Lawton, QC and Second Vice-President Lisa Hamilton, QC, and all remaining Benchers, whose terms began on January 1, 2020. Later in the meeting President Ferris administered the oath of office to Ms. Hobbs, an appointed Bencher.

Chief Justice Bauman congratulated the Benchers and thanked them for their service. He spoke about a new generation of lawyers and community leaders coming through as Benchers, and the significant challenges faced by the legal profession. He said the essentials of lawyering are always constant and relevant, but the way lawyers must deliver these services is changing and lawyers need to recognize this and renew the Law Society's traditional role of proactive leadership. Sometimes this might have to be provocative leadership in the new reality faced by the profession and nothing assists more than new ideas from a fresh generation of leaders. Chief Justice Bauman asked Benchers to honour the past, but lead the profession into the future.

First Nations Acknowledgement

President Ferris welcomed Carleen Thomas, a member of the Tsleil-Waututh Nation in North Vancouver, to the Bencher meeting. Ms. Thomas introduced herself to the Benchers and provided information about her family history. She thanked Benchers for the invitation to attend and welcomed them to the meeting.

2. President's welcome

Mr. Ferris welcomed Benchers, staff and guests to the first Bencher meeting of 2020. In particular, he welcomed the six new Benchers: Lisa Feinberg, Julie Lamb, QC, Thomas Spraggs, Chelsea Wilson, Paul Barnett, Sasha Hobbs, and Dr. Jan Lindsay.

Mr. Ferris thanked Law Society staff for the warm welcome, assistance and orientation he received during his transition to the role of President for 2020. Mr. Ferris also acknowledged staff generally and said they are dedicated, hard-working and committed to the section 3 mandate of the Law Society. He thanked staff in advance for their hard work in 2020.

Mr. Ferris then welcomed Lisa Hamilton, QC, Second Vice-President, to the ladder and said he was very much looking forward to working more closely with First Vice-President Dean Lawton, QC, and Ms. Hamilton in 2020.

Finally, Mr. Ferris reminded Benchers of the oath of office they had just taken to act in the public interest, that they are answerable to the public only and the language of section 3 of the

Legal Profession Act provides “It is the object and duty of the Society to uphold and protect the public interest in the administration of justice by:

- (a) preserving and protecting the rights and freedoms of all persons,
- (b) ensuring the independence, integrity, honour and competence of lawyers,
- (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,
- (d) regulating the practice of law, and
- (e) supporting and assisting lawyers, articulated students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.”

Mr. Ferris asked Benchers to reflect on section 3, and what it includes and does not include, so that they can ensure they advance the Law Society’s mandate.

CONSENT AGENDA

3. Minutes of December 6, 2019 meeting (regular session)

The minutes of the meeting held on December 6, 2019 were approved as circulated.

4. Minutes of December 6, 2019 meeting (in camera session)

The minutes of the *In Camera* meeting held on December 6, 2019 were approved as circulated.

5. Law Society Appointment to the Queen’s Counsel Advisory Committee

The following resolution was passed unanimously and by consent:

BE IT RESOLVED that the Benchers appoint President Craig Ferris, QC and First Vice-President Dean P.J. Lawton, QC as the Law Society’s representatives on the 2020 QC Appointments Advisory Committee.

6. Law Society Appointment to the Legal Services Society

The following resolution was passed unanimously and by consent:

BE IT RESOLVED that the Benchers appoint Allan P. Seckel, QC to the Legal Services Society Board of Directors, subject to consultation with the BC Branch of the Canadian Bar Association.

7. Law Society Appointment to the Land Title and Survey Authority

The following resolution was passed unanimously and by consent:

BE IT RESOLVED that the Benchers nominate Scott Smythe as the Law Society's sole nominee to the Land Title and Survey Authority Board of Directors, to be re-appointed for a three-year term commencing April 1, 2020.

8. Terms of Reference – Access to Justice Advisory Committee

The Terms of Reference for the Access to Justice Advisory Committee were removed from the consent agenda at the request of Mr. Campbell for further consideration by the Access to Justice Advisory Committee. A motion to bring revised Terms of Reference back to the Benchers in two meetings' time was unanimously approved.

9. Terms of Reference – Lawyer Development Task Force

The Terms of Reference for the Lawyer Development Task Force were approved as circulated.

REPORTS

10. President's Report

Mr. Ferris reported that he sent a letter and flowers to Constance Isherwood, QC to acknowledge her 100th birthday. He received a phone call from Ms. Isherwood and she was very appreciative of the gesture.

Mr. Ferris then announced that the result of the election for the appointed Bencher position on the 2020 Executive Committee was a tie vote. Appointed Benchers were invited to meet and discuss whether they could reach a consensus on who should be the appointed Bencher representative on the Executive Committee. Later in the meeting the appointed Benchers advised they were not able to reach a consensus and asked for more time. Mr. Ferris indicated the aim would be to have this resolved by the March 6 Bencher meeting.

Mr. Ferris said presidents are often asked what they want to accomplish in their year as president. The first item on his agenda is to change the nature of the president's reports by focusing his comments on a policy issue or topic that is important and relevant to the Law Society's work.

The focus of Mr. Ferris' president's report at the meeting was to speak about leadership and, in particular, the leadership that Benchers need to exercise. He spoke about a re-orientation of what he would like to focus on in how to go about fulfilling the section 3 mandate – which he called his "Direction Statement".

Mr. Ferris said his goal as President is not a particular initiative; but rather to re-orient the Bencher Table, and through that, the Law Society to ensure its effectiveness and relevance in the future. He said the Law Society needs to become more of a data driven and public facing regulator utilizing risk-based practices to regulate both legal providers and legal services to ensure we have a legal market and environment that works for all British Columbians. If not, both self-regulation and the Law Society are, in Mr. Ferris' view, at risk, and while self-preservation is not a goal in itself, he values the Law Society and self-regulation and believes that if done right, with the public interest as our defining principle, it remains the best model for legal regulation.

Mr. Ferris said the above statement is what he has written for himself and what he will remind himself of throughout his year as president. He then spoke about the leadership that is required from the Bencher table to move in that direction.

In terms of leadership, Mr. Ferris described the Bencher table as a round table with rotating leadership, that they all have the same role, and are leaders and not followers. There is no constituency other than the public, in whose interest they are required to act in at all times. This means Benchers are there to do what is best and not what is popular. He spoke about the responsibility of being a Bencher to make sure the lawyers and the legal system work for British Columbians, and that, while it is an honour to be a Bencher, it is not an end in to itself but rather is an opportunity to give back and make the system better. This is the type of leadership he hopes is expected from each other and the Bencher table as a whole, and without that type of leadership, in his view the moral underpinnings of self-regulation would be threatened. If done right, Mr. Ferris' view was that self-regulation remains the best model for legal regulation.

In terms of how the views expressed translate into the Bencher meetings in 2020, Mr. Ferris indicated he expects open, respectful and principled debate and that differing views ought to be discussed openly at Bencher meetings. Debate should not be stifled and Benchers should feel they can express dissenting or unpopular views. While committee recommendations should be respected, Benchers must not forget that committees are subgroups of the larger table with the addition of some outside members, and that Benchers must never hesitate to challenge committee recommendations. Mr. Ferris wanted to see Bencher agendas filled with ample time to debate and discuss issues.

The above approach will necessarily involve less education of Benchers during Bencher meetings and that an avenue for education will be provided outside of Bencher meetings. In 2020 a new strategic plan will need to be created and he will be working with staff to get this process started early to ensure there is a process leading up to the plan that engages Benchers meaningfully. Mr. Ferris also spoke about the mandate letters he prepared and sent to each committee, task force and working group setting out his expectations for those groups in the

coming year. He identified some difficult issues he would like each group to look at and these are the issues Mr. Ferris identified as important ones the Benchers need to take a position on.

Mr. Ferris then spoke about how he intends to operate as president in 2020. He will be a practising president and thinks it is important to demonstrate diversity in the president role so that different perspectives are represented. He also wants to be able to demonstrate to Benchers considering a position on the ladder that it is possible to continue practising.

Finally, Mr. Ferris commented on Law Society staff, indicating that they are smart, committed, hard-working and thoughtful. Sometimes they may hold strong views about policy and this should not be a cause for concern. As leaders, Benchers need to respect and consider the views of staff, while always remembering that it is the role of the Benchers to decide the policy direction of the organization.

11. CEO's Report

Mr. Avison expanded on the five items identified in his written CEO's report. First, he spoke about the orientation session for new Benchers that was held on January 29, 2020 and said the tour of the offices in the Law Society building was a useful exercise.

Secondly, Mr. Avison spoke about the Cullen Commission and work underway to support that process. An extraordinary amount of work had taken place over the past few months and this would continue to be an area of focus throughout 2020. Opening statements would take place on February 24 for three days, with 19 parties formally part of the proceedings (of which the Law Society is one). There has also been a substantial increase in the level of activity regarding support provided to assist with the implementation of the new client identification and verification rules and limits on cash transactions. An increase in the volume of calls to the Practice Advice department indicates that the level of engagement with the legal profession in BC is high, which he thought was a positive sign.

Third, Mr. Avison provided an update on steps taken since the December 2019 Bencher meeting towards developing an indigenous cultural competency program. The goal is to have a course ready for piloting in September 2020 and that more information will be available in the coming days about possible contractors who may be able to assist with creating the course. To date the response from indigenous leaders and communities about the Law Society's decision to implement mandatory indigenous cultural competency training has been very positive.

Fourth, Mr. Avison announced some administrative updates, including the hiring of new Manager of Member Services, Lynwen Clark, and changes to convert the former insurance program into an indemnity program.

Finally, Mr. Avison indicated that planning for the 2020 Law Society Retreat for Benchers was underway and that he would be in a position to provide more detailed information about the program at the March meeting of the Benchers.

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

Mr. Ferris welcomed Ms. Cheema as the new Law Society representative to the Federation of Law Societies of Canada Council.

Ms. Cheema began by thanking staff and others who have helped her with the transition into her new role as the Federation representative. She reported that she has been appointed to three committees: the Standing Committee on the Model Code, the Public Affairs Committee and the National Committee on Accreditation.

The Standing Committee on the Model Code reviews requests for changes to the model code. She said 2019 was a busy year for the Committee and one of the rules considered was Rule 6.3 regarding discrimination and harassment. A survey completed in the Alberta, Saskatchewan and Manitoba revealed that one third of articulated students in those provinces experienced harassment during recruitment and articling. Recommendations regarding changes to the rule were made and the consultation process is underway. Consultation is open until the end of May 2020.

The Canadian Judicial Council has also released a draft of its ethical principles for judges, which is available online. The Federation was asked to consult on the draft. The Standing Committee on the Model Code met and put forward comments. The final version of the principles is likely to be available in the spring of 2020.

The next issue for consideration by the Committee is Rule 7.1-3, which was raised by British Columbia. It was discussed at the Bencher table in December 2019 in the context of the lawyer-counsellor relationship and the duty to report. This issue will be raised in a general setting and Ms. Cheema will report back to Benchers as to that decision.

The Public Affairs Committee has only met once, but in that time, the Committee has discussed the McClellan Report – a report commissioned to review the roles of the Minister of Justice and Attorney General of Canada. The report was released mid-2019 and included eight recommendations. Recommendation four concerned the education of parliamentarians and cabinet ministers regarding the role of the Attorney General and the rule of law. The Law Society of BC's Rule of Law and Lawyer Independence Advisory Committee suggested it may have a role in implementing this recommendation given its expertise. The Federation will meet with government officials in late February and seek its views on the role the Federation might play.

Ms. Cheema said the National Committee on Accreditation had not yet met.

At a Federation meeting in December, discussion took place about the Federation's priorities and the development of the strategic plan. Priorities identified included legal technology, access to justice, lawyer competence, truth and reconciliation, wellness, data collection regarding the National Committee on Accreditation Modernization Committee. She said there was a robust discussion about what is driving change, the role of the Federation and how it could support the regional law societies.

The meeting concluded with a presentation from Chief Justice Wagner. He talked about new directions for the court going forward, politicization around the world where judicial independence is under attack, wellness, the use of technology and self-represented litigants.

DISCUSSION/DECISION

13.2020 Objectives, Challenges and Program Area Overviews:

- **Trust Assurance**

Mr. Ferris invited Mr. Avison and Ms. McPhee to provide an update on the Trust Assurance program area.

Mr. Avison began by saying this was the first of several program area updates that would be brought to the Bencher table. He said he had been meeting with different departments at the Law Society to discuss linking the strategic plan to what they do – taking the time to make sure staff know what is happening in other parts of the building. In his view, there has been significant progress made in many areas of the current strategic plan, approved in December 2017.

Ms. McPhee outlined the program objectives and provided an overview of the Trust Assurance Program. The purpose of the program is “To ensure high standards of professionalism and financial responsibility, and that the public, clients and lawyers can have confidence that lawyers are handling client trust funds in a careful and appropriate manner”. The four main goals of the program are: compliance, deterrence, detection, and credibility and accountability.

Ms. McPhee described the elements of the program: compliance audits, annual reporting requirements, mandatory self-report requirements, and education and outreach. Regarding annual trust reports, there are approximately 3,500 reports per year, 2,500 of which identify as holding trust funds. Law firms that hold trust funds may either file a self-report, or file an accountant's report. Annual trust reports and other reporting requirements submitted by lawyers are reviewed by an auditor and if issues are identified, they may result in further follow up and potentially a referral to the Investigations department for further examination.

Ms. McPhee then spoke about the objectives of compliance audits, compliance audit cycles and the different types of audits. There has been an increase in the number of audits completed from 2015 – 2018 (approximately 400-500 audits per year) to 2019 (675 audits per year – also projected for 2020). This has also resulted in an increase in the number of referrals to the Professional Regulation department, with an increase from 2015 – 2018 (40 – 70 referrals) to 2019 (111 referrals). A corresponding increase in the percentage of referrals from audits can also be seen, with 15.7% of audits referred in 2019.

Ms. McPhee spoke about some of the primary reasons for referrals; including, multiple matters, client identification and verification, breach of the no cash rule, digital signatures, no legal services provided and others. She then provided a breakdown of the outcome of referrals, within 41% closed at the staff level, 29% resulting in a conduct review and 11% leading to a citation.

In terms of education and outreach, the department provides key resources to lawyers, trust advice and support and works closely with the Practice Advice department to provide support.

Ms. McPhee then spoke about the data analytics and artificial intelligence program, which was developed to apply to large firms (15 or more lawyers) and large volume firms. It is a web-based application that conducts data validation and analysis. Auditors can adjust algorithms for specific firm information when conducting audits in the field. This program has resulted in auditor time reduction of 13.9% and 28.6%.

Ms. McPhee completed her presentation with discussion of some of the challenges and opportunities faced by the program. Challenges included turnover of new law firms (10% per year), recruitment of auditors, increasing numbers of audits and referrals as well as the percentage of referrals, pressure on resources with expanded scope of the audit program and others. Opportunities included continued refinement of audit program and processes to target areas of concern, active participation with the Federation and the Anti-Money Laundering Working Group, use of data analytics and artificial intelligence to improve efficiency and effectiveness, and increasing the education and resources available.

Bencher asked questions about the use of the terrorist or persons of interest list in the data analytics process, how existing processes support anti-money laundering efforts, and how the audit process applies to sole practitioners and lawyers working in small firms. Further information was requested year over year about whether the seriousness of matters referred is also increasing or whether the matters being referred are lower level violations. Benchers also sought clarification about the types of practices that do not have trust accounts and how these numbers compare to other provinces.

- **Professional Conduct**

Ms. Dookie outlined the program objectives and provided an overview of the Professional Regulation department. She referred to the section 3 mandate, to uphold and protect the public interest in the administration of justice. The regulatory approach of the department is guided by the objectives of: ensuring procedural fairness, treating all participants in the process with respect, being efficient and timely; and taking a risk based approach.

Ms. Dookie described the four different areas in the department: Professional Conduct (made up of Intake & Early Resolution, and Investigations, Monitoring & Enforcement), Discipline, Custodianships, and Unauthorized Practice.

Beginning with Custodianships, Ms. Dookie said the program becomes involved when membership of a lawyer ceases for some reason or they cannot continue their practice. The public is protected through the Law Society taking over management or closing of a law practice, which involves taking custody of the files and bank accounts, contacting clients, acting on behalf of clients and ensuring trust funds are accounted for and paid out. She then provided some statistics (43 active custodianships currently) and outlined some challenges for the department, including an aging population, decline in rural and small community practices, social isolation of lawyers, inability to sell a practice and increasing demand.

The Unauthorized Practice group investigates complaints of unauthorized practice of law, obtains undertakings or court injunctions to stop unauthorized practice and, in rare cases, seeks contempt orders. Following some statistics, Ms. Dookie explained that a challenge faced by the group is the tension between taking action and access to justice. In some cases the access to justice concerns are considered by the Unauthorized Practice Committee as more important than enforcing the law and, conversely, where there is risk to the public the Law Society will take action.

The two programs making up the Professional Conduct department are Intake & Early Resolution, and Investigations, Monitoring & Enforcement. Both groups investigate and address complaints. The Intake group is more remedially focused, whereas the Investigations group deals with more serious matters that will likely result in a referral to the Discipline Committee.

Ms. Dookie provided some background information about complaint frequency by origin and by area of law. Common types of complaints include communication issues, quality of service and client dissatisfaction, billing/fee agreements, conflicts of interest and others.

The Intake & Early Resolution group responds to over 1300 phone calls per year, which includes general inquiries and complaints. Complaints alleging less serious issues are referred to the Early Resolution lawyers and can be closed at the staff level. The Complainants' Review Committee

helps to ensure that no investigated complaints have been incorrectly closed with no further action. Only certain categories of complaints can be reviewed by this Committee.

The Investigations, Monitoring & Enforcement group is responsible for investigating conduct concerns that are likely to result in disciplinary action. There are a range of investigative steps and avenues available, as well as mitigation measures and cooperation with other agencies if needed. From 2015 to 2019, the number of referrals from the group to the Discipline Committee has ranged from 75 to 120 per year. On the monitoring and enforcement side, monitoring takes place to ensure compliance with undertakings obtained during investigations and disciplinary hearing orders. Approximately 35 new monitoring and enforcement files are opened each year.

The Discipline group represents the Law Society in citation hearings, judicial and internal reviews, and applications and appeals. The group also conducts Rule 3-10 interim proceedings where necessary, manages external counsel and litigation, and administers conduct meetings and reviews. There were 64 hearings in 2019, which is up from an approximately 30 hearings per year in 2017 and 2018.

Finally, Ms. Dookie discussed some challenges faced by each of the four groups in the department. Challenges included disproportionate use of resources by a few lawyers, staff changes, specialized files (e.g. AML) and an increase in the volume of files. She then covered some ways to address each of the challenges, which included changes to processes and rules, using technology and increasing staff training and specialized skill sets.

Benchers asked about the use of outside counsel vs. in-house lawyers, “frequent flier” complainants, the development of the proposed Solutions Explorer, analysis of the demographics or complainants and lawyers complained about, and timeframes in relation to hearings.

Lawyers Assistance Program of BC Presentation

Mr. Derek C. LaCroix, QC, Executive Director of the Lawyers’ Assistance Program, Ian Aikenhead, QC and Sandra Kovacs attended the Bencher meeting to speak about the program and their personal involvement and experiences.

Mr. LaCroix provided an overview of the Lawyers Assistance Program and said the path to lawyer well-being is “...seeking to create a movement towards improving the health and well-being of the legal profession.” He provided some background information about mental health issues in the legal profession and spoke about the importance of removing barriers to seeking help and reducing the stigma.

Mr. Aikenhead, QC, followed by Ms. Kovacs, then provided detailed and personal accounts of their experience in the legal profession and involvement with the Lawyers Assistance Program. Both speakers spoke very positively about the program, the impact it had on their lives, and the

importance of seeking help early and reducing stigma associated with mental health and substance use issues.

14. Mental Health Task Force Second Interim Report

Rather than making a motion that the Benchers adopt all recommendations contained in the Task Force's report, Mr. Greenberg addressed each recommendation separately and provided background information to support the recommendations. He spoke about research indicating there are a troubling number of mental health and substance use issues in the profession.

The first recommendation presented to Benchers for discussion and decision was as follows:

Recommendation 1: The Law Society will consult and collaborate with BC law schools to improve the exchange of information about the availability of support resources for mental health and substance use issues within the profession and to assist students in transitioning to these supports from those provided during law school.

Mr. Greenberg indicated feedback received during Bencher-Student interviews and through the Professional Legal Training Course Program suggests students are not aware of the support and resources available to them and that work was needed to assist students with making the transition from law school to professional practice.

A motion to approve Recommendation 1 beginning at page 53 of the materials was passed unanimously.

The second recommendation presented to Benchers is below:

Recommendation 2: Revise the material in the Bencher Orientation Manual and expand in-person training to improve the manner in which mental health and substance use issues are addressed during the Bencher interview process.

Mr. Greenberg said the purpose of this recommendation was to create space in Bencher interviews to discuss mental health issues in an appropriate way. A Bencher commented that it would be appropriate for Benchers to pass along relevant information to students or put them in touch with the right resources, but that Benchers should not be talking about mental health issues in a substantive way.

A motion to approved Recommendation 2 on page 56 of the materials was passed unanimously.

The third recommendation presented to Benchers is below:

Recommendation 3: Host a town hall to encourage lawyers and firms and other legal employers to engage in a discussion about mental health and substance use within the profession, including the role that legal employers can play in improving lawyer wellness.

Mr. Greenberg referred to the town hall as more of a “forum”, where a much wider group of people can attend and be part of an interactive session which would include problem-solving, and the generation of ideas. He said this is an important step in showing that the Law Society is continuing its leadership role in this area and that it places importance on these issues.

A motion to approve recommendation 3 was moved and seconded.

A Bencher inquired as to whether it would be a one-off event and if there would be ongoing cost implications. Mr. Greenberg indicated the intention is to hold one event at this stage and see how it goes. It will be important to reach remote areas and that the event not be Vancouver-centric. Suggestions included providing online participation.

Mr. Ferris suggested a friendly amendment to the motion to include a completion date of “in 2020”. The friendly amendment was accepted and the motion to approve Recommendation 3, as amended, passed unanimously.

The fourth recommendation presented to Benchers is below:

Recommendation 4: Staff will develop a style guide that provides guidance on the use of non-stigmatizing and non-discriminatory language in all future Law Society publications and communications and update the current practice resource on respectful language and ensure that this material is prominently displayed on the Law Society’s website.

Mr. Greenberg said the purpose of the recommendation is to provide guidance on the use of non-stigmatizing and non-discriminatory language in all future Law Society publications and communications and that this guidance material would be updated from time to time as appropriate. A Bencher asked if the *Law Society Rules* could also be reviewed with this in mind to ensure the rule do not contain stigmatizing language.

A motion to approved Recommendation 4 on page 59 of the materials was passed unanimously.

The fifth recommendation for Bencher consideration was:

Recommendation 5: Conduct a voluntary, confidential member survey exploring mental health and substance use among BC lawyers.

Mr. Greenberg referred to other studies conducted and indicated the need for British Columbia based data. A recent Quebec survey shows similar results to earlier studies based in the United

States, but also indicate there may even be more of a problem in Canada. He said it was important to know the state of the legal profession in British Columbia and that some level of baseline is also needed in order to provide a comparator for future results. A nationwide survey is being considered at the Federation level and the potential efficiencies in participating in this survey will need to be considered.

A motion to approve Recommendation 5 on page 62 of the materials was moved and seconded.

A Bencher asked if it would be prudent to include a timeline for completion of the survey in the motion. Mr. Greenberg said this would be possible if the Law Society decides to do its own survey, but if the Law Society decides to take part in the nationwide survey it may not be possible to meet this timeline. Comments were also made that the survey should include different regions in the province to see if lawyers are experiencing these issues differently throughout the province. A comparative analysis with the Quebec survey would be helpful to determine if there are additional questions we need to ask in British Columbia.

A friendly amendment to “conduct the survey in 2020” was accepted and the motion to approve Recommendation 5, as amended, was passed unanimously.

No motion was required in respect of Recommendation 6, as outlined below, as events at the Bencher meeting in December 2019 have overtaken this recommendation:

Recommendation 6: Amend BC Code Rule 7.1-3 (“duty to report”) and the associated Commentary.

The final recommendation for Bencher consideration and decision is below:

Recommendation 7: The medical fitness questions in Schedule A of the LSAP Application Form be removed.

Mr. Greenberg indicated that this recommendation was the one that generated the most discussion at the October Bencher meeting. Mr. Greenberg said the medical fitness questions are ineffective and unhelpful to the Law Society as a regulator, they are not predictive of anything and are not useful. He weighed the policy value of the questions to the Law Society against the harm asking the questions may cause people. He indicated law students may avoid treatment and diagnoses because they know they will need to answer these questions, and the existence of the questions creates a presumption that answering the questions positively will impact your ability to be a lawyer. Mr. Greenberg said the focus should be on conduct and not on the existence of a particular condition.

A motion to approve Recommendation 7 as set out on page 64 of the materials was moved and seconded. Benchers discussed whether approval of this recommendation would take effect

immediately. Some Benchers were of the view that the questions should be removed immediately and others commented that some consideration may need to be given as to what questions (if any) would go in the form instead. The consensus of the table was that the questions could be removed immediately and any replacement questions could be considered separately at a later date.

Benchers commented on the importance of removing the questions and the need to remove barriers to law students and lawyers seeking help.

The motion to approve Recommendation 7 was passed, with one Bencher abstaining from voting.

UPDATES

15. Report on Outstanding Hearing & Review Decisions

Mr. Ferris provided an update on outstanding hearing and review decisions. He encouraged Benchers to keep up efforts to get decisions out on time and follow up with their fellow panel members to ensure reports are completed in timely fashion.

FOR INFORMATION

16. 2021 Bencher and Executive Committee Meeting Dates

There was no discussion on this item.

17. Three Month Bencher Calendar – February to April 2020

There was no discussion on this item.

The Benchers then commenced the *In Camera* portion of the meeting.

KH
2020-01-31



Memo

To: Benchers
From: Jeffrey G. Hoskins, QC, for the Act and Rules Committee
Date: February 21, 2020
Subject: **Rule 3-59(5)—Cash transactions; correction**

1. We have recently become aware that, when the Benchers adopted changes to Rule 3-59(5) in July last year, there was a transcription error between the draft changes that the Committee recommended to the Benchers and the resolution that the Benchers approved in the end. As a result, the Benchers have not formally adopted a change from the model rules that would eliminate the “\$1,000 or under” exception to the rule that lawyers must refund cash received with cash. That is, the intended change was that all refunds of cash in any amount must be in cash.
2. This is the provision that appeared in the resolution adopted with the unintended part struck through:

(5) A lawyer or law firm that receives or accepts cash in an aggregate amount greater than \$7,500 under subrule (4) must make any refund ~~greater than \$1,000~~ out of such money in cash
3. It was intended that the phrase “greater than \$1,000” would be deleted in order to be consistent with the Federation’s model rules.
4. The Act and Rules Committee recommends that adoption of the following suggested resolution to correct the error and ensure consistency with the model rules:

BE IT RESOLVED to amend Rule 3-59 (5) by striking “greater than \$1,000”.

5. As a Rule amendment, the resolution requires a 2/3 majority of Benchers voting to pass.

JGH



CEO's Report to the Benchers

March 6, 2020

Prepared for: Benchers

Prepared by: Don Avison

1. Cullen Commission – Opening Statements

Parties involved in the Cullen Commission on Money Laundering in British Columbia made opening statements to Mr. Justice Cullen at hearings held in Vancouver, February 24 – 26, 2020. A copy of the Law Society's statement is attached for information.

A detailed analysis of positions taken during the February hearings will be provided at the meeting.

For those who may wish to view the opening statements prior to the next Benchers meeting they can be found on the [Commission's website](#).

2. Federation of Law Societies of Canada, Montreal Meetings, March 2020

President Ferris, QC, First-Vice President Dean Lawton, QC and B.C.'s Federation Council member Pinder Cheema, QC will be attending the Federation meetings on March 2-3, 2020 supported by senior staff members.

Ms. Cheema will report at the meeting regarding the Council meeting where the core focus will be on next iteration of the Federation's Strategic Plan.

It is also expected that the meetings of the Presidents, V.P.s and senior staff will include consideration/discussion of implementation issues associated with the introduction of the new rules regarding client identification/verification and cash limitation rules. Benchers will be briefed on those discussions at the meeting.

3. Provincial Government Budget 2020/21

Jason Kuzminski and First-Vice President Dean Lawton, QC attended the budget lock-up on February 18 on behalf of the Law Society of BC. The key themes were identified as making life affordable, investing in services, and building a sustainable economy.

The signature elements for making life affordable are enhancement of the child benefit, expansion of child care spaces, elimination of the MSP, improving housing supply, action on homelessness, increasing earning exemptions for

social assistance, and transforming ICBC. The government also referenced the Cullen Commission and responding to money laundering in the BC economy in the budget papers.

With regard to Law Society priorities, legal aid spending in the current year and fiscal plan for the next two years calls for \$19M more each year. The lion's share of that money is going to fund the tariff increase, with the remainder going toward legal aid clinics. There is no new money planned for expanding eligibility or extending coverage from current levels.

In regards to Reconciliation, the province has allocated \$8M over three years to the Indigenous justice strategy, which will include Indigenous justice centres, to do some of the work that had traditionally fallen to the criminal legal aid budget. The Indigenous justice strategy has not yet been released, but it envisions changes to the system, including diversion, in order to address the overrepresentation of Indigenous people in the justice system. There are a number of initiatives funded under this area, although there is no reference to funding related to reviewing all current and new laws to make them consistent with the United Nations Declaration on the Rights of Indigenous Peoples principles. It was indicated that government is still working to develop its framework for moving ahead on this.

4. Organizational Changes – Workforce Engagement Survey

With the up-coming departure of Mr. Treleaven after many years of distinguished service with the Law Society, we will be initiating a search process for a Senior Director, Professional Development and Practice Support. We will also be moving the responsibility for the Practice Standards group, which has been Alan's, to the Chief Legal Officer to better align the work of that group with our overall professional regulation.

The survey work associated with the Workforce Engagement Survey conducted by Verita HR Services is complete and a summary of the survey findings will be provided to Benchers at the April 17 meeting.

5. Law Society Operation Tour

All newly appointed and elected Benchers participated in a building tour prior to the January meeting. The tour was received positively by the new Benchers and

by staff. As other Benchers have expressed interest in a similar opportunity, another tour will be conducted following conclusion of the meeting. It would be helpful if any Benchers wishing to take part could communicate their interest to Ms. Kerry Holt.

Don Avison, QC
Chief Executive Officer

COMMISSION OF INQUIRY INTO MONEY LAUNDERING IN BRITISH COLUMBIA

OPENING STATEMENT OF THE LAW SOCIETY OF BRITISH COLUMBIA

PART 1 - OVERVIEW

1. The Law Society of British Columbia (the “**Law Society**”) has a long and active history of engagement and innovation in addressing money laundering in this province. The Law Society’s involvement has included rule-setting and enforcement, law firm audits, investigation and discipline, education of the legal profession, and collaboration with other agencies that also play a role in combatting money laundering. The Law Society works to minimize the risk that lawyers might, knowingly or unknowingly, have any involvement in money laundering.

2. The standard for lawyers is clear. Lawyers must never engage in activity that they know or ought to know is connected in any way with money laundering. If a lawyer knows or ought to know that money laundering is occurring, he or she must immediately cease acting. A rigorous set of rules and other anti-money laundering (“**AML**”) measures are in place setting out the high standard of conduct lawyers are expected to meet.

3. The Law Society is one of many organizations participating in the fight against money laundering. All bring to the table different powers and perspectives, and face different constraints. The Law Society can do things that governments cannot in order to advance AML objectives; it has investigative powers and remedies that extend beyond what is available to government. However, the Law Society also has protocols in place by which it can refer to the police those cases that require police investigation.

4. The Law Society sought out and welcomes the opportunity to participate in this inquiry because it has much to bring to the fight that is our common cause. It is one of the entities within society that has rolled up its sleeves in tackling this issue. It wants to ensure its efforts are as effective as possible, both independently and as part of a collective whole.

5. Today, in this opening, we take the opportunity to address several elements of what the Law Society is and does in the AML fight, and the constitutional and statutory context within which its work is undertaken. Our comments are organized as follows:

Part 2: a brief overview of the Law Society;

Part 3: AML as an aspect of the Law Society's mandate;

Part 4: the public interest in safeguarding clients' right to committed and confidential representation;

Part 5: addressing potential money laundering while respecting clients' rights;

Part 6: an overview of the Law Society's AML work;

Part 7: the opportunities created by this inquiry; and

Part 8: concluding remarks.

PART 2 – WHAT IS THE LAW SOCIETY?

6. The Law Society is a non-profit society that was established in this province about 135 years ago. Today it is a dynamic organization with approximately 225 staff, governed by a board of both elected lawyer benchers and appointed benchers who are members of the public.

7. All lawyers called to the bar of British Columbia are regulated by the Law Society. The oath that all lawyers must take to gain admission includes a pledge to conduct themselves in all things with integrity, to uphold the rule of law, and to uphold the rights and freedoms of all persons in accordance with the laws of Canada and the province of British Columbia.

8. In order to practise law in British Columbia, a lawyer must apply to the Law Society and meet its high standards. The Law Society acts as a gatekeeper and applicants must be of good character and repute to become practising lawyers.

9. The role of the Law Society is not to represent lawyers. Rather, its role is to uphold and protect the public interest in the administration of justice. To do that, it has substantial investigative and disciplinary powers, which are reviewed in more detail in Parts 5 and 6 of this opening.

10. The Law Society is both empowered by and accountable under a longstanding provincial statute, the *Legal Profession Act*.¹ All that the Law Society does must be seen through the lens of the object and duty set out in section 3 of that statute:

It is the object and duty of the society to uphold and protect the public interest in the administration of justice by
 (a) preserving and protecting the rights and freedoms of all persons,

¹ S.B.C. 1998, c. 9.

- (b) ensuring the independence, integrity, honour and competence of lawyers,
- (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,
- (d) regulating the practice of law, and
- (e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practice law in British Columbia in fulfilling their duties in the practice of law.

11. The Law Society operates independently of government and does not receive government funding. The Law Society must uphold and protect the public interest in the administration of justice even as governments and their priorities and policies change. Indeed, as returned to in Part 4, lawyers must always be in a position to protect their clients' interests in disputes with the state. The independence of the Bar is central to a free society governed by the rule of law.

PART 3 – AML AS AN ASPECT OF THE LAW SOCIETY'S MANDATE

12. Some of the matters and activities in which lawyers are involved – whether accepting retainers, being the intermediary for funds paid in settlement of litigation, or assisting clients navigate complex property dealings, business transactions, family and relationship matters, end-of-life concerns, and so on – include the transmission of money.

13. Any segment of society that deals with money is at risk of being used by dishonest people in an attempt to launder money. Money laundering is a kind of crime that touches on many different sectors of society and utilizes many pathways. The result is that – as the Law Society has long recognized – lawyers may be at risk of involvement in money laundering by virtue of the types of work they do: perhaps most obviously, creating corporations, charities and trusts; working on cross-border transactions; and helping to buy and sell real estate and other assets.

14. The Law Society's mandate includes working to prevent lawyers from involvement in *any* dishonesty, crime or fraud, either by clients or by anyone else. This includes money laundering.

15. Under Rule 3-109 of the detailed rules that are made by the benchers under the *Legal Profession Act* (the “**Law Society Rules**”):

If, in the course of obtaining the information and taking the steps required in Rule 3-100 [*Requirement to identify client*], 3-102 (2) [*Requirement to verify client identity*], 3-103 [*Requirement to identify directors, shareholders and owners*] or 3-110 [*Monitoring*], or at any other time while retained by a client, a lawyer knows or ought to know that he or she is or would be assisting a client in fraud or other illegal conduct, the lawyer must withdraw from representation of the client.

16. Further, the Code of Professional Conduct for British Columbia (the “**B.C. Code**”) provides: “A lawyer must not engage in any activity that the lawyer knows or ought to know assists in or encourages any dishonesty, crime or fraud.”²

17. A lawyer is not permitted to proceed in these circumstances. A lawyer’s obligation is to put an end to their involvement, not to watch matters unfold. As reviewed in Parts 5 and 6 of this opening, the Law Society has substantial investigative and remedial powers to enforce this prohibition.

PART 4 – THE PUBLIC INTEREST REQUIRES THAT DUTIES OWED TO CLIENTS BE PROTECTED DURING AML EFFORTS

18. As outlined in Parts 2 and 3, the Law Society’s object and duty are to uphold and protect the public interest in the administration of justice, which includes efforts to prevent lawyers from having any involvement, knowing or unknowing, in money laundering.

19. The administration of justice requires protecting clients’ rights to confidential dealings with committed legal counsel. The Supreme Court of Canada set out certain parameters in this regard in *Canada (Attorney General) v. Federation of Law Societies of Canada*,³ which applied in the AML context the broader constitutional principles governing the work that lawyers do for clients.

20. The Supreme Court of Canada “has repeatedly emphasized the important role that lawyers play in ensuring access to justice and upholding the rule of law”.⁴ The “rule of law” means that

² Rule 3.2-7.

³ *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7, [2015] 1 SCR 401 [*“Federation of Law Societies”*].

⁴ *British Columbia (Attorney General) v. Christie*, 2007 SCC 21, [2007] 1 SCR 873 [*“Christie”*] at paras. 20 and 22: The rule of law “embraces at least three principles”: (1) the first is that “the law is supreme over officials”; (2) the second “requires the creation and maintenance of an actual order of positive laws which preserves and embodies the more general principle of normative order”; and (3) the third “requires that the relationship between the state and the individual . . . be regulated by law”.

the laws of our province and country apply to everyone, including government officials, corporations and private citizens, no matter how wealthy or powerful; laws are to be administered and enforced fairly and equally; and citizens must be able to stand up against the government or other powerful interests without fear of reprisal or retribution. In this context, citizens need the ability to:

- (a) obtain legal advice. As Justice Major said in *R. v. McClure*, “[t]he law is a complex web of interests, relationships and rules. The integrity of the administration of justice depends upon the unique role of the solicitor who provides legal advice to clients within this complex system ... The important relationship between a client and his or her lawyer stretches beyond the parties and is integral to the workings of the legal system itself”;⁵ and
- (b) have the assistance of a lawyer whose duty is to represent their clients’ best interests and who remains independent of the state. The independence of lawyers from the state, which they need to be able to hold accountable, “is one of the hallmarks of a free society ... The public interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the Bar and through those members, legal advice and services generally.”⁶

21. In this regard, as the Supreme Court of Canada has said:

Lawyers are a vital conduit through which citizens access the courts, and the law. They help maintain the rule of law by working to ensure that unlawful private and unlawful state action in particular do not go unaddressed. The role that lawyers play in this regard is so important that the right to counsel in some situations has been given constitutional status.⁷

22. To exercise these functions, lawyers need to know from their clients the full story, and clients need to know that their lawyer will be committed to the client’s interests. Clients may not

⁵ 2001 SCC 14 at paras. 2, 31.

⁶ *Attorney General of Canada v. Law Society of British Columbia*, [1982] 2 S.C.R. 307 at 335-336; see also *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869 at 887.

⁷ *Christie*, *supra* note 4 at para. 22.

like the advice they receive after providing their lawyer with all the details, but the client will be able to make choices knowing where they stand and that the lawyer has the client's interests first and foremost in mind.⁸

23. These concepts animated the Supreme Court of Canada's 2015 decision in the *Federation of Law Societies* case, which resulted in portions of the federal anti-money laundering legislation being read down to exclude its application to legal counsel and law firms. The Court found that the state could not impose duties on lawyers that interfered with the obligations they owe to clients. In this regard, two key duties that lawyers owe to clients are "essential to the due administration of justice":⁹

- (a) lawyers "must keep their clients' confidences".¹⁰ This duty against "misuse of the client's confidential information" is "reflected in solicitor-client privilege". This privilege, which is that of the client and open only to the client to waive, "is essential to the effective operation of the legal system".¹¹ As such, it attracts constitutional protection; and
- (b) lawyers have a "duty of commitment to the client's cause";¹² this is "is an enduring principle that is essential to the integrity of the administration of justice."¹³ In this regard, a "client must be able to place 'unrestricted and unbounded confidence' in his or her lawyer" which "is at the core of the solicitor-client relationship". As such, it is "a principle of fundamental justice that the state cannot impose duties on lawyers that undermine their duty of commitment to their clients' causes."¹⁴ If clients and the broader public lack confidence in lawyers' commitment "to serving

⁸ Gordon Turriff, "The Law Society, the Rule of Law and Independence of Lawyers" (2009) 67 Advocate 477 at 490.

⁹ The citations below to paragraphs 1-117 of the *Federation of Law Societies* case, *supra* note 3, are to the reasons for judgment of Cromwell J., writing for the majority. The Chief Justice and Moldaver J. agreed with the reasons of Cromwell J. insofar as they related to s. 8 of the *Charter of Rights and Freedoms*, but disagreed with the majority's approach to s. 7. In the view of the Chief Justice and Moldaver J., breach of solicitor-client privilege (which is a principle of fundamental justice) was sufficient to establish a violation of s. 7 without also needing to include as a principle of fundamental justice the notion of commitment to clients' cause. All judges agreed on the result of the appeal.

¹⁰ *Federation of Law Societies*, *supra* note 3 at para. 1.

¹¹ *Ibid.* at para. 82.

¹² *Ibid.* at paras. 1, 83-84.

¹³ *Ibid.* at para. 96.

¹⁴ *Ibid.* at paras. 83-84.

their clients' legitimate interests free of other obligations that might interfere with that duty", "the lawyer's ability to do so may be compromised and the trust and confidence necessary for the solicitor-client relationship may be undermined."¹⁵

24. Because of these essential duties owed to clients, certain AML measures in federal legislation that could have the effect of turning lawyers into state agents against their clients were unconstitutional.¹⁶

...the legislation requires lawyers to gather and retain considerably more information than the profession thinks is needed for ethical and effective client representation. This, coupled with the inadequate protection of solicitor-client privilege, undermines the lawyer's ability to comply with his or her duty of commitment to the client's cause. The lawyer is required to create and preserve records which are not required for ethical and effective representation. The lawyer is required to do this in the knowledge that any solicitor-client confidences contained in these records are not adequately protected against searches and seizures authorized by the scheme. This may, in the lawyer's correctly formed opinion, be contrary to the client's legitimate interests and therefore these duties imposed by the scheme may directly conflict with the lawyer's duty of committed representation.

I also conclude that a reasonable and informed person, thinking the matter through, would perceive that these provisions in combination significantly undermine the capacity of lawyers to provide committed representation. The reasonable and well-informed client would see his or her lawyer being required by the state to collect and retain information that, in the view of the legal profession, is not required for effective and ethical representation and with respect to which there are inadequate protections for solicitor-client privilege. Clients would thus reasonably perceive that lawyers were, at least in part, acting on behalf of the state in collecting and retaining this information in circumstances in which privileged information might well be disclosed to the state without the client's consent. This would reduce confidence to an unacceptable degree in the lawyer's ability to provide committed representation.

25. As part of its public interest mandate, the Law Society must ensure that it defends from state incursion the client rights that the Court found to have been threatened in the *Federation of*

¹⁵ *Ibid.* at para. 96.

¹⁶ *Ibid.* at paras. 108-109.

Law Societies case.

26. At the same time, the Law Society must work firmly and vigorously to safeguard against a situation in which a lawyer crosses the line between fulfilling their obligations to the client, and becoming the facilitator of the client's illegal activities. The high standard that the Law Society requires lawyers to meet, as described in Parts 1 and 2 of this opening, draws that important line. As the majority said in the *Federation of Law Societies* case:¹⁷

Of course the duty of commitment to the client's cause must not be confused with being the client's dupe or accomplice. It does not countenance a lawyer's involvement in, or facilitation of, a client's illegal activities. Committed representation does not, for example, permit let alone require a lawyer to assert claims that he or she knows are unfounded or to present evidence that he or she knows to be false or to help the client to commit a crime. The duty is perfectly consistent with the lawyer taking appropriate steps with a view to ensuring that his or her services are not being used for improper ends.

PART 5 – ADDRESSING MONEY LAUNDERING WHILE RESPECTING CLIENTS' RIGHTS

27. Given the need to draw and enforce the line set out in paragraph 26 above, the Law Society has undertaken considerable AML efforts, both through application of its existing powers and, in many cases, through the development of new tools to address those matters that fall within its jurisdiction. Its broad AML efforts will be summarized in Part 6. For the moment, in Part 5, we deal with a more specific issue: the fact that the restrictions on state action, including legislation as in the *Federation of Law Societies* case, do not apply in the same way to the Law Society. The Law Society recognizes, in this regard, that its work must fill a role that government cannot.

28. Pursuant to the *Legal Profession Act* and the Law Society Rules, the Law Society may request information from lawyers; seek disclosure of client files, banking records and other materials; require persons – including non-lawyers – to answer questions under oath or affirmation; and conduct forensic audits of law practices. Lawyers must comply with Law Society requirements or face serious discipline, including suspension.

¹⁷ *Ibid.* at para. 93.

29. The information that comes to the Law Society through use of its investigative powers may be subject to solicitor-client privilege. However, the *Legal Profession Act* specifically provides that “[a] person who is required under [the *Legal Profession Act*] or the [Law Society] rules to provide [to the Law Society] information, files or records that are confidential or subject to a solicitor client privilege must do so, despite the confidentiality or privilege.”¹⁸

30. The provision of privileged information specifically to the Law Society does not run afoul of the principles set out in the *Federation of Law Societies* case because:

- (a) unlike many investigative agencies and tribunals, the Law Society is not, as discussed in Part 2 of this opening, government or an arm of the state. The Law Society can therefore investigate and regulate lawyer activities while at the same time protecting the interests of clients who seek out a lawyer’s advice, counsel, or assistance. Again, as a result, the Law Society recognizes that in the AML fight, its work fills a role that the work of government cannot;
- (b) specifically pursuant to the *Legal Profession Act*, as part of its public interest mandate the Law Society may audit and investigate the work of lawyers – including work subject to solicitor-client privilege – without any waiver of that privilege. Thus section 88 of the *Legal Profession Act*, which pertains to audits and investigations that the Law Society undertakes and disciplinary proceedings that may flow, provides:

(2) ...a person who, in the course of exercising powers or carrying out duties under this Act, acquires information, files or records that are confidential or are subject to solicitor client privilege has the same obligation respecting the disclosure of that information as the person from whom the information, files or records were obtained.

(3) A person who, during the course of an investigation, audit, inquiry or hearing under this Act, acquires information or records that are confidential or subject to solicitor client privilege must not disclose that information or those records to any person except for a purpose contemplated by this Act or rules.

¹⁸ *Legal Profession Act*, s. 88(1.1).

- (c) the Law Society has the qualifications and expertise to ensure that privilege and confidentiality are properly identified, and that client information is safeguarded, in compliance with these statutory provisions and constitutional imperatives.

31. The above provisions mean that while the Law Society may learn the client's privileged information in the course of its audits, investigations or proceedings, that information will remain protected from the government, parties adverse in interest to the client and the public at large. The confidentiality on which the client and ultimately the broader public depend to ensure the due administration of justice is thereby preserved in conjunction with the important AML work that the Law Society undertakes.¹⁹

32. The Law Society also has a variety of other means by which it seeks to prevent lawyers from having any involvement in money laundering, as will be discussed in the next Part of this opening.

PART 6 – THE LAW SOCIETY'S MULTI-FACETED AML WORK

33. We expect that two of the questions the Commission will address in the course of this inquiry are whether regulators like the Law Society have demonstrated commitment to AML efforts, and whether the measures they have taken have been appropriate.

34. For its part, the Law Society has been engaged with AML since at least the 1980s, with increasing AML involvement since the enactment of federal AML legislation in 2000. The Law Society's commitment to AML is found at all levels of the organization.

35. The work of the Law Society has included the formulation and refinement of rules intended to limit the potential for lawyers to have any involvement in money laundering; it has undertaken this work partly in conjunction with other law societies in Canada, but it also has taken pioneering measures in its own right. Of course, rules are not enough: they must be known, respected and enforced. The Law Society fulfils very considerable auditing, investigative and enforcement functions; it imposes disciplinary measures where appropriate; it provides significant education

¹⁹ For discussion of the constitutionality of the *Legal Profession Act* and the Law Society Rules which provide for practice reviews and other investigative powers see, for example, *Greene v. Law Society of British Columbia*, 2005 BCSC 390 and *Skogstad v. The Law Society of British Columbia*, 2007 BCCA 310.

and practice advice; and it collaborates with other entities including other regulators.

36. We expect the Law Society's work will be the subject of evidence and submissions during the course of this inquiry. That work has been both intensive and wide-ranging. For the purpose of this opening, we simply summarize the general categories of measures that the Law Society has undertaken.

A. Rule-Making and Reform

37. Clear rules are important in setting or confirming expectations for the legal profession, constraining certain activities that might increase the risk of lawyers knowingly or unknowingly having any involvement in money laundering, and providing both standards against which to measure conduct and a fair basis for imposing disciplinary measures.

38. As set out in Part 3 of this opening, the Law Society Rules include a duty to withdraw from representation if "a lawyer knows or ought to know that he or she is or would be assisting a client in fraud or other illegal conduct".²⁰ Further, again, the B.C. Code provides that lawyers must not engage "in any activity that the lawyer knows or ought to know assists in or encourages any dishonesty, crime or fraud."²¹

39. The Law Society has also implemented and improved upon more specific restrictions that are intended to minimize the likelihood of any lawyer involvement in money laundering, including:

- (a) the so-called "no cash rule", first put in place in 2004, which limits the amount of cash that a lawyer may accept from any one client and sets out how that cash is to be dealt with (Rule 3-59);
- (b) client identification and verification ("CIV") rules, including in relation to obtaining information about the client's source of money. These rules are in keeping with a "lawyer's obligation to know his or her client, understand the client's financial dealings in relation to the retainer with the client and manage any

²⁰ Law Society Rules, Rule 3-109.

²¹ B.C. Code, Rule 3.2-7.

risks arising from the professional business relationship with the client” (Part 3, Division 11 of the Law Society Rules). CIV rules were first introduced in 2008 and have steadily been enhanced; and

- (c) various rules regarding trust accounting and use, including a recent rule requiring that “[e]xcept as permitted by the [*Legal Profession Act*] or these rules or otherwise required by law, a lawyer or law firm must not permit funds to be paid into or withdrawn from a trust account unless the funds are directly related to legal services provided by the lawyer or law firm”, and requiring that “[a] lawyer or law firm must take reasonable steps to obtain appropriate instructions and pay out funds held in a trust account as soon as practicable on completion of the legal services to which the funds relate” (Rule 3-58.1).

40. The Law Society has also taken a leadership role among the law societies in Canada, working with the Federation of Law Societies of Canada to coordinate development and implementation of anti-money laundering rules throughout the country.

B. Comprehensive Trust Assurance Program

41. Many of the law firms located in the province have trust accounts. Funds by necessity flow through these accounts as part of client transactions and litigation matters, or as retainers. The Law Society’s Trust Assurance department reviews annual trust reports from every law firm in British Columbia; conducts periodic compliance audits of all law firms; and provides education, advice and resources to help ensure that lawyers handle trust funds appropriately.

42. Traditionally the Law Society conducted audits of each law firm at least once every six years, but more recently it increased the frequency of regular audits to every four years (from at least once every six years) for firms that mainly practise in higher risk areas such as real estate or wills and estates. Both historically and today, the Law Society conducts audits even more frequently where concerns arise. Flags for more frequent audits include failure to file a trust report; information on a trust report that indicates non-compliance with the trust accounting rules and procedures; referral from other departments of the Law Society; or inadequacies that were identified during a previous compliance audit. Further, the Law Society is developing new tools

for auditing complex files and larger firms, including the development of customized data analytics and artificial intelligence software.

43. Currently, five accountants engaged in trust account regulation at the Law Society have obtained certification from the Association of Certified Anti-Money Laundering Specialists (“ACAMS”), with 11 more auditors expected to achieve this certification by spring 2020. Three staff are certified fraud examiners (“CFE”). All trust assurance auditors and management have Chartered Professional Accountant (“CPA”) designations. The Law Society has increased the Trust Assurance department’s staffing budget by more than 30 per cent from 2015 to 2019.

C. Rigorous Investigations and Enforcement

44. The Law Society has a Professional Regulation group responsible for investigations, monitoring and enforcement, as well as for disciplinary proceedings.

45. Any person who believes that a lawyer or law firm has been guilty of professional misconduct, conduct unbecoming to the legal profession or a breach of the *Legal Profession Act* or Law Society Rules may make a complaint to the Law Society.²² Complaints come from many sources, including the public, other lawyers, institutions and the courts. The Law Society also opens files on its own initiative when conduct concerns come to its attention, including through media reports, court decisions, audits and mandatory self-reports from lawyers.

46. The Law Society has developed substantial in-house expertise to address alleged misconduct that may involve allegations of inappropriate financial transactions. Investigations are conducted by either experienced lawyers or a CPA/CFE or both, with assistance from forensic accountants, forensic accounting analysts, an investigator who is a former officer of the Royal Canadian Mounted Police (“RCMP”) and paralegals as needed. Several of the Law Society’s investigators and forensic accountants have achieved or are in the process of achieving designations as certified anti-money laundering specialists, and four forensic accounting staff as well as two investigations staff are CFEs.

47. The Law Society has increased the investigations, monitoring and enforcement group

²² *Legal Profession Act*, s. 26(1).

(which investigates serious complaints) by over 30 percent from 2015 to 2019.

48. The Law Society's investigative powers are significant and include the ability, as referenced in Part 5, to require a person to attend to answer questions on oath or affirmation and to produce records in their possession or control.²³ The Law Society does not shy away from using its strongest investigative powers.

49. Lawyers have a duty to cooperate with Law Society investigations. This includes providing written responses to questions, producing books and records, and attending interviews. A lawyer must produce information to the Law Society regardless of a potential claim to privilege by the client, given the protections outlined in Part 5 of this opening.²⁴

50. In addition, the Law Society may obtain an order from the chair of its Discipline Committee to conduct a forensic audit of a lawyer's practice where there are reasonable grounds to believe that a discipline violation may have occurred.²⁵ The order is normally obtained without notice to the lawyer, to ensure that evidence is not tampered with or destroyed. With the order, the Law Society's forensic service providers make a forensic image of the practice's computer hard drives and other electronic data used in the law practice, including cell phones.

51. The Law Society has the ability to act quickly when the public is at risk even during the investigation phase. If there are reasonable grounds to believe that extraordinary action is necessary to protect the public, the Law Society may bring interim proceedings seeking a suspension or the imposition of restrictions or conditions on the lawyer's practice.²⁶ The lawyer may be requested to sign an interim undertaking that imposes restrictions or conditions on their practice, which would be publicly disclosed on the Law Society's online Lawyer Directory.

52. Where an investigation establishes evidence of a discipline violation, a referral can be made to the Discipline Committee with a recommendation for a disciplinary response. If determined to be warranted after a hearing, disciplinary action may include a substantial fine, the imposition of conditions or limitations on the lawyers' practice, suspension from the practice of law, or

²³ *Legal Profession Act*, s. 26(4); Law Society Rules, Rule 3-5.

²⁴ See *Legal Profession Act*, ss. 87-88; Law Society Rules, Rules 3-5 and 3-6.

²⁵ Law Society Rules, Rule 4-55.

²⁶ Law Society Rules, Rule 3-10.

disbarment.²⁷ The Discipline Committee includes public representation in the form of an appointed bencher who is not a lawyer.

D. Dedicated Educational Efforts

53. The Law Society educates lawyers on their AML obligations, and is increasing the delivery of AML content in the Law Society's Professional Legal Training Course for those about to enter the profession.

54. Law Society staff provide significant contributions to national-level educational initiatives, including through the Federation of Law Societies of Canada's Anti-Money Laundering and Terrorist Financing Working Group. These efforts have led to various publications that provide further guidance and risk advisories for lawyers in fulfilling their professional responsibilities not to have any involvement in money laundering.

55. The Law Society's Practice Advice department provides education and resources relevant to AML. Further, the department's practice advisors (all of whom are lawyers) provide one-on-one advice. These practice advice services assist lawyers who may have some concern about a client interaction or some area of their practice, and include advising on compliance with CIV rules or identifying red flags for money laundering; there is also a trust compliance auditor "hotline" which assists with similar inquiries.

56. In addition, as noted above, the Law Society's Trust Assurance department provides education and resources for lawyers and law firm staff, including a Trust Accounting course, a Trust Accounting Handbook and various other materials.

57. Further, the Law Society publishes on its website Hearing Panel decisions where lawyers have been found to have committed professional misconduct or to have breached the Law Society Rules. Summaries of these decisions are included in the Benchers' Bulletins that are regularly delivered to lawyers, and linked to the involved lawyer's profile on the Law Society's Lawyer Directory. Discipline Advisories may also be prepared to further highlight conduct concerns.

²⁷ *Legal Profession Act*, ss. 38-39.

E. Collaboration with Government and Other Investigative Agencies

58. Money laundering affects every aspect of our society and its institutions, including financial institutions, law enforcement agencies and professional regulators. No single agency has the resources to effectively combat money laundering on its own. Further, different agencies have different powers, strengths and forms of expertise.

59. The Law Society supports initiatives to elevate inter-agency collaboration, cooperation and, where appropriate, information sharing and has been working towards increasing the level of activity on this front.

60. The Law Society has developed relationships with other organizations such as the B.C. Securities Commission, the U.S. Securities and Exchange Commission, the Society of Notaries Public and the Land Title Survey Authority, and has encouraged them to refer to the Law Society, for investigation, any concerns they may have or that may come to their attention about lawyer conduct. The Law Society has invited the RCMP to do the same.

61. The Law Society has also, together with other agencies, participated in discussions regarding AML and fraud-related trends, activities, typologies and red flags. Further, the Law Society is part of Project Athena, a public-private initiative dedicated to eradicating money laundering as well as a new federal working group established by the federal Minister of Finance.

62. Parts 3-5 of this opening addressed the constitutional and statutory framework that requires client rights to be protected in the AML process, and the means used in the context of Law Society investigations and disciplinary proceedings to do so. However, beyond that:

- (a) protocols have been developed among the Law Society, law enforcement, Crown counsel and the courts that deal with the search of a law office, which may allow law enforcement to access information while properly addressing solicitor-client privilege. The Law Society's collaboration efforts include making law enforcement agencies aware of the protocols established for them to seek access to information;

- (b) the Law Society Rules permit the Law Society to deliver information that may disclose a criminal offence to law enforcement agencies while properly addressing solicitor-client privilege;
- (c) during an investigation, the Law Society also encourages complainants and witnesses to directly report their concerns about criminality (including on the part of a lawyer) to law enforcement; and
- (d) in rare instances, where it is clear that communications between a lawyer and a client are, of themselves, criminal, or where those communications relate to obtaining advice with respect to facilitating a criminal enterprise, confidentiality protections either never applied or are lost.

F. Legislative Reform

63. The Law Society is mindful of opportunities that may exist to reform legislation in ways that would facilitate AML efforts by lawyers, by the Law Society itself as a regulator, and by other agencies involved in AML endeavours.

64. A recent example of potential reforms being identified and then acted on by the provincial government, was in relation to improving transparency in terms of beneficial ownership of property. The Law Society supported the provincial efforts to create a publicly accessible registry of beneficial ownership. The registry, to which certain regulators may have access that is more substantial than available even to the public, may also provide an important tool to the Law Society in its investigative efforts. The Law Society is also educating members about assisting their clients to fulfil those clients' new or pending statutory obligations under the *Land Owner Transparency Act* and legislation pertaining to business corporations.

G. Further Work and Evolution

65. The Law Society recognizes that money laundering is a serious and evolving problem. The Law Society is alert to identifying possibilities for further AML work to be undertaken, and for additional AML measures to be employed. Indeed, this is why its rules, staffing and efforts have evolved over the years in which it has been involved in AML. This is also why the Law Society

contributed to and closely reviewed various reports listed in the Commission's Terms of Reference.

66. In addition, the need to uphold and protect the public interest in the administration of justice requires that the Law Society and the legal profession that it regulates maintain public confidence. The Law Society is committed to its efforts to inform the public and other agencies about its work, both to ensure public confidence and to find ways to collaborate.

67. The Law Society welcomes the opportunities that this Commission of Inquiry presents to examine and assess the nature of the money laundering issues that face our province, to evaluate the AML work that has been done, and to build further bridges among the agencies that are deploying their resources and expertise to grapple with the problem. The Law Society addresses these opportunities in more detail in the next Part of this opening.

PART 7 – THE OPPORTUNITIES CREATED OR FURTHERED BY THIS INQUIRY

68. The Commission of Inquiry provides an important forum for the Commission, participants and witnesses to discuss and address money laundering and how it should be combatted. The Law Society welcomes the opportunity to work together on recommendations arising from the Commission's broad mandate as set out in the Terms of Reference.

69. The Law Society takes particular note of, and applauds, the fact that the provincial government instituted this inquiry. While consideration of the regulatory models and methods employed in other jurisdictions may be appropriate, constitutional and statutory imperatives highlight the importance of a "made-in-Canada", and indeed to an extent a "made-in-B.C.", approach to AML. This is a consideration that we expect to be a theme over the course of the inquiry; the Commission is well-placed to understand the local and legal context and from there to find solutions that actually work for all the parties who are involved in AML efforts in this province.

70. The Commission provides a particularly important forum for encouraging collaboration, rather than litigation. As the *Federation of Law Societies* case demonstrated, there is a risk that legislative measures imposed by a government may inadvertently produce consequences that are found to be unconstitutional. If legislative measures were imposed in future that again threatened

the public interest in the administration of justice, the Law Society and other participants might well need to return to the courts to ask their view of whether those measures are constitutional. Litigation consumes considerable time and resources, and detracts from the AML work that needs to be done. It is more productive to address the underlying issues in a collaborative manner.

71. The Law Society sought, and was granted, a broad grant of standing in this inquiry, in part because the work of its more than 12,500 practising lawyers and the Law Society itself in regulating them touches on many of the areas identified in the Commission's Terms of Reference. The Law Society sees its role in the Commission process as:

- (a) providing a clear and accurate understanding of the Law Society's place in AML efforts, and the constitutional and statutory framework that the Law Society, and lawyers, operate within in relation to AML; and
- (b) beyond its direct role as regulator, providing the Commission with information and resources that the Law Society has gathered and brought to bear on this issue over the years.

72. The Law Society also appreciates the fact that the inquiry process will raise awareness of the money laundering risks and challenges that British Columbia is facing. Increased awareness helps all regulators be more effective. In particular, it assists the Law Society by further raising the profile of this issue for lawyers, and raising the profile of the issue for members of the public who may provide information for Law Society investigations.

73. In exploring the specialized resources, skills and responsibilities of the various organizations engaged in AML work, we expect as well that the Commission's process will reveal further avenues for cooperation and information sharing, as well as gaps that may exist. As noted above, the Law Society continues to engage actively with other entities that share a common interest in AML work, and welcomes suggestions on how to build on those efforts.

PART 8 – CONCLUDING REMARKS

74. The Law Society acknowledges that money laundering is a serious issue. It also acknowledges the importance of its participation in AML efforts compatible with its regulatory

mandate and informed by the *Federation of Law Societies* case.

75. Successfully addressing money laundering will require a wide range of organizations to play a role commensurate with their mandates, their expertise, and the constitutional and statutory framework in which they operate. That framework includes recognition that the administration of justice obliges lawyers to maintain their clients' confidences and advance their clients' causes, especially when those causes may put their clients in conflict with the state, subject of course to lawyers' duty not to have any involvement in any dishonesty, crime or fraud.

76. The Law Society commits to continue working collaboratively with other organizations and the Commission and to supporting the public inquiry process in order to advance the AML fight.

Dated: 18/Feb/2020



Ludmila B. Herbst, Q.C. and
Catherine George

Counsel for the Law Society of British
Columbia

The Law Society
of British Columbia



Financial Report

December 31, 2019

Prepared for: Finance and Audit Committee Meeting - February 13, 2020
Bencher Meeting - March 6, 2020

Financial Report – To December 31, 2019

Attached are the draft 2019 financial results to budget for the year ended December 31, 2019.

The final 2019 audited financial statements will be reviewed at the February 13, 2020 Finance and Audit Committee meeting and will then be presented for approval by the Benchers at the March 6, 2020 Benchers meeting.

General Fund

General Fund (excluding capital and TAF)

The 2019 General Fund financial results were \$3.6 million favourable to the 2019 deficit budget, with higher than expected revenue being earned in member fees, PLTC fees, D&O insurance recoveries and interest income. Additionally there was significant savings which were primarily related to external counsel fees and other regulation costs. The 2019 budget projected a deficit of \$1.2 million and the actual results are a positive variance of \$2.4 million.

Revenue

Total revenue was \$28.8 million, \$1.5 million (5%) more than projected in the 2019 budget. The principal areas where revenue exceeded budget were:

1. Membership revenue was over budget \$327,000, with 12,572 members, 189 members more than the budget of 12,383. This was an increase in members of 2.9% over last year, which is consistent with the increase in 2018.
2. There were 656 PLTC students, 116 more than the budget projection of 540 students resulting in \$343,000 more PLTC revenue than budgeted.
3. Insurance recoveries on legal defense files were \$731,000 in the current year compared to a budget of \$60,000, a positive variance of \$671,000. A significant portion of these recoveries (\$512,000) were budgeted in 2020 so this will be a timing difference between budget years.
4. Interest income was \$132,000 over budget with higher interest rates and higher cash balances held during the year.

Operating Expenses

Operating expenses were \$26.4 million, \$2,089 (7%) less than budget, arising from a number of areas:

1. There was a combined savings in external counsel and forensic fees of \$1.4 million due to the variability of file costs from year to year. There were external fee reductions in legal defense, forensic accounting and custodianships, partially offset by increased investigations fees. The discipline external counsel fee budgets were increased due to a significant number of hearings planned in 2019, and there were savings as a number of files were done in house which reduced costs. In addition, there is approximately \$400,000 in Discipline files costs that are expected to carry over into 2020 for hearings being held in that year.

2. There were savings in regulation of \$134,000 with lower investigation, tribunals and other professional services costs.
3. Human Resources costs were \$160,000 less than expected primarily due to a reduction in legal and consulting fees and professional development savings.
4. General meeting and travel expenses were \$138,000 less than budget.
5. There was a savings in storage costs of \$104,000 related to the renegotiation of the annual storage contract.
6. Law firm regulation policy development work for \$100,000 was deferred until the next year. These costs will be incurred in 2020.
7. There was a favorable variance software maintenance costs of \$92,000 related to some cost savings as well as deferring implementation of some programs to 2020.
8. There was savings as a result of moving to paperless e-billing, Members Manuals and Benchers Bulletins of \$80,000.
9. The remaining savings were related to property taxes and utilities (\$55,000), the timing of mental health initiatives and other benchers initiatives (43,000), the deferral of online course development to 2020 (\$42,000) plus miscellaneous savings of \$181,000.

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

1. Additional compensation costs of \$322,000, 1.6% of the total compensation budget.
2. Higher PLTC expenses primarily related to the increased number of students.

Net Assets

The General Fund net asset balance, without capital funding and TAF reserve, is \$21.3 million, consisting of \$12.9 million invested in capital assets (mainly the 845 building), and \$8.4 million in working capital.

The net assets also include \$3.0 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 2019 TAF revenue was \$3.5 million, which is \$571,000 (14%) less than the budget. TAF revenue levels will continue to be monitored closely as the BC real estate market has been volatile in recent years.

Trust assurance expenses were \$3.2 million, \$87,000 under budget mainly due to reduced travel costs.

Pursuant to reserve policies, excess trust assurance reserves of \$1.2 million were transferred to the Lawyers Insurance Fund for Part B insurance coverage. The Trust Assurance net assets balance was \$2.0 million at December 2019.

Special Compensation Fund

In 2019, there were ongoing document production costs in the Special Compensation Fund. These are expected to continue into 2020 and net assets of \$58,000 will remain in the fund to offset additional costs related to ongoing matters.

Lawyers Insurance Fund (LIF)

LIF assessment revenues were \$16.1 million, \$69,000 (0.4%) over budget. Operating expenses (excluding the claims provision and provision for ULAE) were \$6.9 million, \$1.5 million (17%) 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 \$76.5 million, an increase of \$2.2 million from 2018. The claims provision on the income statement is \$12.9 million, a decrease of \$3.6 million over the 2018 claims provision. The 2019 claims provision was lower due to net adjustment to required reserves for claims relating mainly to prior years.

At the end of 2019, the LIF long term investment portfolio was \$191 million, an increase of \$ 24.4 million from 2018. With the recovering investment market in 2019, the LIF investment portfolio earned a 14.1%, slightly higher than the benchmark of 13.1%.

Pursuant to reserve policies, \$1,160,000 of the net assets related to trust assurance was transferred to the Lawyers Insurance Fund for Part B coverage. At December 2019, LIF net assets were \$97.9 million, including \$17.5 million internally restricted for Part B claims.

Summary of Financial Highlights - Dec 2019
(\$000's)

2019 General Fund Results - YTD Dec 2019 (Excluding Capital Allocation & Depreciation)

	Actual	Budget	\$ Var	% Var
Revenue (excluding Capital)				
Practice fees	21,999	21,672	327	2%
PLTC and enrolment fees	1,882	1,539	343	22%
Electronic filing revenue	766	841	(75)	-9%
Interest income	644	512	132	26%
Credentials & membership services	616	610	6	1%
Fines, penalties & recoveries	405	369	36	10%
Other revenue	1,104	421	683	162%
Building revenue & tenant cost recoveries	1,339	1,305	34	3%
	28,755	27,269	1,486	5%
Expenses (excl. dep'n)	26,395	28,484	2,089	7%
	2,360	(1,215)	3,575	

2019 General Fund Year End Variances (Excluding Capital Allocation & Depreciation)

<u>Practice Fee Revenue</u>	Avg # of Members		Year end Variance
2018 Actual	12,223		
2019 Budget	12,383		
2019 Actual	12,572		
Revenue			
Practice fee revenue ahead of budget - 189 lawyers over budget			327
PLTC revenue ahead of budget - 656 students vs 540 budget			343
D&O Insurance Recoveries- \$512,000 timing of recoveries budgeted in 2020, plus higher other recoveries			671
Interest Income - higher cash balances			132
Other- Net			13
			1,486
Expenses			
Savings in external fees related to:			
Discipline external counsel fees - lower hearing costs - some timing so these costs will occur in 2020			552
Regulation external counsel fees based on fewer files - mainly legal defence off set by additional IME files			399
Forensic accounting fees - files done internally			231
External counsel fees - contingency not used			200
Other regulation savings (investigations, tribunals, contractors)			134
HR savings in consultants costs			160
Benchers & staff - savings in meetings and travel costs			138
Storage savings due to contract renegotiation			104
Law Firm Regulation - policy development deferred to 2020			100
Information Services - lower software maintenance costs			92
E-Billing, Members Manual and Benchers Bulletin - print savings as no longer in paper form			80
Building property taxes and utilities - lower costs			55
Timing of Mental Health initiatives and other Bencher initiatives savings			43
Online courses development- deferred to 2020			42
Other			181
Additional compensation costs - approximately 1.6% of salary budget			(322)
Higher PLTC expenses related to higher student numbers, offset by savings in printing			(100)
			2,089
2019 General Fund Variance to Budget			3,575

Trust Assurance Program Actual

	2019 Actual	2019 Budget	Variance	% Var
TAF Revenue	3,471	4,042	(571)	-14.1%
Trust Assurance Department	3,277	3,364	87	2.6%
Net Trust Assurance Program	194	678	(484)	

2019 Lawyers Insurance Fund Long Term Investments - YTD Dec 2019* Before investment management fees

Performance	14.11%
Benchmark Performance	13.14%

The Law Society of British Columbia
General Fund
Results for the 12 Months ended December 31, 2019
(\$000's)

	2019 Actual	2019 Budget	\$ Variance	% Variance
Revenue				
Membership fees (1)	24,213	23,853	360	2%
PLTC and enrolment fees	1,882	1,539	343	22%
Electronic filing revenue	766	841	(75)	-9%
Fines, penalties and recoveries	405	369	36	10%
Application fees	616	610	6	1%
Interest income	644	512	132	26%
Other revenue	1,104	421	683	162%
Building Revenue & Recoveries	1,339	1,305	34	3%
Total Revenues	30,969	29,450	1,519	5.2%
Expenses				
Regulation	10,925	12,530	1,605	13%
Education and Practice	5,094	4,908	(186)	-4%
Corporate Services	3,064	3,213	149	5%
Bencher Governance and Board Relations and Events	1,255	1,270	15	1%
Communications and Information Services	2,049	2,090	41	2%
Policy and Legal Services	2,131	2,530	399	16%
Occupancy Costs	1,876	1,943	67	3%
Depreciation	1,025	1,249	224	18%
Total Expenses	27,419	29,733	2,314	7.8%
General Fund Results before Trust Assurance Program	3,550	(283)	3,833	
Trust Assurance Program (TAP)				
TAF revenues	3,471	4,042	(571)	-14.1%
TAP expenses	3,277	3,364	87	2.6%
TAP Results	194	678	(484)	71.4%
General Fund Results including Trust Assurance Program	3,744	393	3,351	
Contribution from Trust Assurance Program to Lawyers Insurance Fund	1,160			
General Fund Results	2,584			

(1) Membership fees include capital allocation of \$2.24m (Capital allocation budget = \$2.19m)

The Law Society of British Columbia
General Fund - Balance Sheet
As at December 31, 2019
(\$000's)

	Dec 31 2019	Dec 31 2018
Assets		
Current assets		
Cash and cash equivalents	37,680	23,107
Unclaimed trust funds	2,215	2,026
Accounts receivable and prepaid expenses	1,927	1,478
Due from Lawyers Insurance Fund	6,024	16,722
	<u>47,846</u>	<u>43,334</u>
Property, plant and equipment		
Cambie Street property	12,213	12,909
Other - net	1,736	1,610
	<u>13,949</u>	<u>14,519</u>
Long Term Loan	365	276
	<u>62,160</u>	<u>58,129</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	7,110	6,546
Liability for unclaimed trust funds	2,215	2,026
Current portion of building loan payable	500	500
Deferred revenue	25,431	24,237
Deferred capital contributions		1
Deposits	56	55
	<u>35,312</u>	<u>33,366</u>
Building loan payable	600	1,100
	<u>35,912</u>	<u>34,466</u>
Net assets		
Capital Allocation	3,000	2,167
Unrestricted Net Assets	23,247	21,497
	<u>26,247</u>	<u>23,664</u>
	<u>62,160</u>	<u>58,129</u>

The Law Society of British Columbia
General Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2019
(\$000's)

	<i>Invested in Capital</i>	<i>Working Capital</i>	Unrestricted	Trust	Capital	2019	Year ended
	\$	\$	Net Assets	Assurance	Allocation	Total	2018
			\$	\$	\$	\$	Total
							\$
Net assets - At Beginning of Year	12,919	5,623	18,542	2,955	2,167	23,664	20,997
Net (deficiency) excess of revenue over expense for the period	(1,449)	2,785	1,336	194	2,213	3,743	2,667
Contribution to LIF				(1,160)		(1,160)	
Repayment of building loan	500	-	500	-	(500)	-	-
Purchase of capital assets:							
LSBC Operations	574	-	574	-	(574)	-	-
845 Cambie	305	-	305	-	(305)	-	-
Net assets - At End of Period	12,849	8,408	21,257	1,989	3,001	26,247	23,664

The Law Society of British Columbia
Special Compensation Fund
Results for the 12 Months ended December 31, 2019
(\$000's)

	2019 Actual	2019 Budget	\$ Variance
Revenue			
Interest income	3	-	3
Total Revenues	3	-	3
Expenses			
Claims and costs, net of recoveries	104	-	104
Total Expenses	104	-	104
Special Compensation Fund Results	(101)	-	(101)

Special Compensation Fund - Balance Sheet
As at December 31, 2019
(\$000's)

	Dec 31 2019	Dec 31 2018
Assets		
Current assets		
Due from Lawyers Insurance Fund	58	159
	<u>58</u>	<u>159</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	-	-
Net assets		
Unrestricted net assets	58	159
	<u>58</u>	<u>159</u>

The Law Society of British Columbia
Special Compensation Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2019
(\$000's)

	2019	Year ended 2018
	\$	\$
Unrestricted Net assets - At Beginning of Year	159	276
Net excess of revenue over expense for the period	(101)	-
		(117)
Unrestricted Net assets - At End of Period	<u>58</u>	<u>159</u>

The Law Society of British Columbia
Lawyers Insurance Fund
Results for the 12 Months ended December 31, 2019
(\$000's)

	2019 Actual	2019 Budget	\$ Variance	% Variance
Revenue				
Annual assessment	16,140	16,071	69	0%
Investment income	24,511	8,634	15,877	184%
Other income	76	60	16	27%
Total Revenues	40,727	24,765	15,962	64.5%
Expenses				
Insurance Expense				
Provision for settlement of claims	12,896	17,198	4,302	25%
Salaries and benefits	2,913	3,478	565	16%
Contribution to program and administrative costs of General Fund	1,392	1,382	(10)	-1%
Provision for ULAE	1,081	-	(1,081)	-100%
Insurance	394	466	72	15%
Office	655	1,308	653	50%
Actuaries, consultants and investment brokers' fees	840	930	90	10%
Premium taxes	10	10	-	0%
Income taxes	6	6	-	0%
	20,186	24,778	4,592	19%
Loss Prevention Expense				
Contribution to co-sponsored program costs of General Fund	702	905	203	22%
Total Expenses	20,888	25,683	4,795	18.7%
Lawyers Insurance Fund Results before Contributions	19,839	(918)	20,757	
Contribution from Trust Assurance Program and Special Compensation Fund				
Contribution from Special Compensation Fund	-			
Contribution from Trust Assurance Program	1,160			
	1,160			
Lawyers Insurance Fund Results	20,999			

There is an unrealized loss of \$11.472 million for the twelve month period recognized through net assets (not through income statement). See Statement of Changes in Net Assets.

The Law Society of British Columbia
Lawyers Insurance Fund - Balance Sheet
As at December 31, 2019
(\$000's)

	Dec 31 2019	Dec 31 2018
Assets		
Cash and cash equivalents	8,475	18,259
Accounts receivable and prepaid expenses	1,801	1,620
Current portion General Fund building loan	500	500
LT Portion of Building Loan	600	1,100
Investments	191,282	166,899
	202,658	188,378
Liabilities		
Accounts payable and accrued liabilities	2,143	1,583
Deferred revenue	8,144	7,958
Due to General Fund	6,024	16,722
Due to Special Compensation Fund	58	159
Provision for claims	76,509	74,256
Provision for ULAE	11,860	10,779
	104,738	111,458
Net assets		
Internally restricted net assets	17,500	17,500
Unrestricted net assets	80,420	59,421
	97,920	76,921
	202,658	188,378

***The Law Society of British Columbia
Lawyers Insurance Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2019***

	Unrestricted \$	Internally Restricted \$	2019 Total \$	2018 Total \$
Net assets - At Beginning of Year	59,421	17,500	76,921	84,248
Net excess of revenue over expense for the period	20,999	-	20,999	(7,327)
Net assets - At End of Period	80,420	17,500	97,920	76,921



To Benchers
From Finance and Audit Committee
Date February 13, 2020
Subject **Benchers Approval of the 2019 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 2019 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 13, 2020 meeting.

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

BE IT RESOLVED to approve the Law Society's 2019 Combined Financial Statements for the General & Special Compensation Funds, and the 2019 Consolidated Financial Statements for the Lawyers Insurance Fund.

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

Fund Financial Statements
December 31, 2019

DRAFT

DM2544715

**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, 2019

	2019		2018
	General Fund \$	Special Compensation Fund \$	Total \$
Assets			
Current assets			
Cash (note 2)	37,681,219	-	37,681,219
Unclaimed trust funds (note 2)	2,215,017	-	2,215,017
Accounts receivable and prepaid expenses (note 3)	1,926,518	-	1,926,518
Due from Lawyers Insurance Fund (note 9)	6,023,524	58,497	6,082,021
	47,846,278	58,497	47,904,775
Non-current assets			
Cambie Street property – net (note 4(a))	12,212,617	-	12,212,617
Other property and equipment – net (note 4(b))	1,236,982	-	1,236,982
Intangible assets – net (note 4(c))	498,909	-	498,909
Long-term loan receivable (note 5)	365,469	-	365,469
	62,160,255	58,497	62,218,752
Liabilities			
Current liabilities			
Accounts payable and accrued liabilities (note 6)	7,110,499	-	7,110,499
Liability for unclaimed trust funds (note 2)	2,215,017	-	2,215,017
Current portion of building loan payable (note 8)	500,000	-	500,000
Deferred revenue (note 2)	25,431,367	-	25,431,367
Deferred capital contributions	-	-	-
Deposits	56,005	-	56,005
	35,312,888	-	35,312,888
Building loan payable (notes 8 and 9)	600,000	-	600,000
	35,912,888	-	35,912,888
Net assets			
Unrestricted (note 7)	26,247,367	58,497	26,305,864
	62,160,255	58,497	62,218,752
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, 2019

	2019		2018	
	General Fund - Unrestricted \$	Special Compensation Fund - Unrestricted \$	Total \$	Total \$
Net assets – Beginning of year	23,663,516	159,249	23,822,765	21,273,542
Net excess (deficiency) of revenue over expenses for the year	2,583,851	(100,752)	2,483,099	2,549,223
Net assets – End of year (note 7)	26,247,367	58,497	26,305,864	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, 2019

	2019		2018	
	General Fund \$	Special Compensation Fund \$	Total \$	Total \$
Revenue				
Practice fees	24,212,553	-	24,212,553	22,001,783
Trust administration fees	3,470,785	-	3,470,785	4,048,339
Enrolment fees	1,882,422	-	1,882,422	1,513,650
E-filing revenue	766,429	-	766,429	832,643
Fines, penalties and recoveries	403,378	-	403,378	446,388
Application fees	616,188	-	616,188	555,075
Investment income (note 9)	630,295	2,856	633,151	647,233
Other income	1,118,950	-	1,118,950	864,591
Rental revenue	1,043,490	-	1,043,490	981,243
	34,144,490	2,856	34,147,346	31,890,945
Expenses				
Bench governance and support	1,693,301	-	1,693,301	1,719,062
Communications and publications	700,378	-	700,378	723,677
Information services	1,675,716	-	1,675,716	1,580,343
Education and practice				
Credentials	839,436	-	839,436	680,188
Member services	902,539	-	902,539	812,209
Membership assistance programs	78,360	-	78,360	89,520
Practice advice	665,597	-	665,597	610,463
Practice standards	644,107	-	644,107	585,249
Professional legal training course and education	2,728,522	-	2,728,522	2,016,427
General and administrative				
Finance	1,191,870	-	1,191,870	1,094,188
Amortization of other property and equipment	446,470	-	446,470	453,131
General administration	1,283,743	-	1,283,743	1,262,263
Human resources	646,979	-	646,979	737,421
Records management and library	247,591	-	247,591	319,373
Policy and legal services				
Policy, ethics and tribunal counsel	1,985,329	-	1,985,329	1,826,607
External litigation and interventions	110,678	-	110,678	249,093
Unauthorized practice	275,274	-	275,274	300,906
Regulation				
Custodianship costs	1,617,402	-	1,617,402	1,624,173
Discipline	2,892,588	-	2,892,588	1,785,168
Professional conduct – intake and investigations	5,597,760	-	5,597,760	5,641,201
Forensic accounting	818,794	-	818,794	719,125
Trust assurance	2,975,003	-	2,975,003	2,324,250
Occupancy costs, net of tenant recoveries	2,475,257	-	2,475,257	2,312,889
Carried forward	32,492,694	-	32,492,694	29,466,926

**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, 2019

	2019		2018
	General Fund \$	Special Compensation Fund \$	Total \$
Brought forward	32,492,694	-	32,492,694
Special Compensation Fund			
General and administrative costs		103,608	103,608
	32,492,694	103,608	32,596,302
Costs recovered Lawyers Insurance Funds			
Co-sponsored program costs	(701,657)	-	(701,657)
Program and administrative costs	(1,390,398)	-	(1,390,398)
	(2,092,055)	-	(2,092,055)
	30,400,639	103,608	30,504,247
Net excess (deficiency) of revenue over expenses for the year before contribution to Lawyers Insurance Fund	3,743,851	(100,752)	3,643,099
Contribution from Trust Assurance Net Assets to Lawyers Insurance Fund (note 7)	1,160,000	-	1,160,000
Net excess (deficiency) of revenue over expenses for the year	2,583,851	(100,752)	2,483,099

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 Cash Flows

For the year ended December 31, 2019

	2019		2018
	General Fund \$	Special Compensation Fund \$	Total \$
Cash provided by (used in)			
Operating activities			
Net excess (deficiency) of revenue over expenses for the year	2,583,851	(100,752)	2,483,099
Items not affecting cash			
Amortization of Cambie Street building and tenant improvements	986,773	-	986,773
Amortization of other property and equipment	327,488	-	327,488
Amortization of intangible assets	118,281	-	118,281
Amortization of deferred capital contributions	(741)	-	(741)
Reclass and adjustment of capital assets	13,216	-	13,216
Loss (Gain) on disposal of other property and equipment	3,483	-	3,483
Contributions to Lawyers Insurance Fund	1,160,000	-	1,160,000
	5,192,351	(100,752)	5,091,599
(Increase) decrease in current assets			
Unclaimed trust funds	(188,675)	-	(188,675)
Accounts receivable and prepaid expenses	(448,303)	-	(448,303)
Courthouse Libraries BC Fund	-	-	-
Increase (decrease) in current liabilities			
Accounts payable and accrued liabilities	564,081	-	564,081
Liability for unclaimed trust funds	188,675	-	188,675
Deferred revenue	1,194,148	-	1,194,148
Courthouse Libraries BC Fund	-	-	-
Deposits	900	-	900
	6,503,177	(100,752)	6,402,425
Financing activities			
Decrease in building loan payable	(500,000)	-	(500,000)
Interfund transfers	9,538,942	100,752	9,639,694
	9,038,942	100,752	9,139,694
Investing activities			
Purchase of property and equipment	(638,756)	-	(638,756)
Purchase of intangible assets	(240,287)	-	(240,287)
Long-term loan receivable	(89,078)	-	(89,078)
	(968,121)	-	(968,121)
Increase in cash	14,573,997	-	14,573,997
Cash – Beginning of year	23,107,222	-	23,107,222
Cash – End of year	37,681,219	-	37,681,219
Supplementary cash flow information			
Interest paid	25,780	-	25,780
Interest income received	643,551	2,856	646,407

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

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

Notes to the Financial Statements

For the year ended December 31, 2019

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 2019, the per member Special Compensation Fund assessment remained at \$nil (2018 – \$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.

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

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

Notes to the Financial Statements

For the year ended December 31, 2019

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.

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.

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

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

Notes to the Financial Statements

For the year ended December 31, 2019

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.

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

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

Notes to the Financial Statements

For the year ended December 31, 2019

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 \$1,106,645 (2018 – \$1,005,743).

4 Property, equipment and intangible assets

a) 845 Cambie Street property

	2019		
	Cost \$	Accumulated amortization \$	Net \$
Land	4,189,450	-	4,189,450
Buildings and equipment	16,706,689	10,094,290	6,612,399
Leasehold improvements	7,639,317	6,331,689	1,307,628
Tenant improvements	826,619	723,479	103,140
	29,362,075	17,149,458	12,212,617
	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

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

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

Notes to the Financial Statements

For the year ended December 31, 2019

b) Other property and equipment

	2019		
	Cost \$	Accumulated amortization \$	Net \$
Furniture and fixtures	2,920,479	2,118,195	802,284
Computer hardware	1,536,233	1,105,291	430,942
Artwork and collectibles	49,160	45,405	3,755
Law libraries – at nominal value	1	-	1
	4,505,873	3,268,891	1,236,982
	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

c) Intangible assets

	2019		
	Cost \$	Accumulated amortization \$	Net \$
Computer software	2,084,686	1,630,070	454,616
Website development	110,733	66,440	44,293
	2,195,419	1,696,510	498,909

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

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

Notes to the Financial Statements

For the year ended December 31, 2019

	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

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 in this loan was \$ \$276,390 in 2018. Part of the Society's support of this transaction are annual repayable capital payments of \$89,079 in 2019, \$86,257 in 2020 and \$83,435 in 2021 to fund three annual balance of sale payments to the vendors of Lexum as provided in a Subordination and Commitment Agreement. Amounts advanced under this agreement earn interest at the same rate as the amount advanced under the collective loan. In 2019, the Society's total participation in this loan is \$365,469 (2018 - \$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 \$13,256.

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:

	2019 \$	2018 \$
Advocate	331,487	320,324
Courthouse Libraries BC	2,775,015	2,504,651
Lawyers Assistance Program	791,161	786,659
Pro bono	355,733	346,743
CanLII	484,063	464,509
Federation of Law Societies	365,915	417,853

7 Unrestricted net assets

The General Fund unrestricted net assets include \$3,000,219 (2018 – \$2,166,663), which has been allocated to capital expenditures in accordance with the capital plan.

The General Fund unrestricted net assets also include \$1,989,501 (2018 – \$2,955,460), which has been appropriated for future trust assurance expenses. During the year, \$3,470,785 (2018 – \$4,048,339) in trust administration fee revenue was collected and \$3,276,744 (2018 – \$2,625,990) in trust assurance expenses were incurred.

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

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

Notes to the Financial Statements

For the year ended December 31, 2019

Pursuant to the reserve policy, \$1,160,000 of the net assets related to trust assurance was transferred to the Lawyers Insurance Fund for Part B coverage 2019 (2018 – \$1,780,000)

The remaining General Fund net assets represent \$12,848,509 (2018 – \$12,918,705) invested in capital assets, and working capital of \$8,409,140 (2018 – \$5,622,687), combining for a total unrestricted net asset amount of \$21,257,649 (2018 – \$18,541,392).

	(in 000s)					2019	2018
	Invested in capital \$	Working capital \$	Unrestricted \$	Trust assurance \$	Capital plan \$	Total \$	Total \$
Net assets – Beginning of year	12,919	5,623	18,542	2,955	2,166	23,663	20,997
Net (deficiency) excess of revenue over expenses before contribution to Lawyers Insurance Fund	(1,449)	2,786	1,337	194	2,213	3,744	4,446
Contribution to Lawyers Insurance Fund				(1,160)		(1,160)	(1,780)
Repayment of building loan payable (note 8)	500		500		(500)	-	-
Purchase of capital assets (note 4)	879		879		(879)	-	-
Net assets – End of year	12,849	8,409	21,258	1,990	3,000	26,248	23,663

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 \$1.1 million (2018 – \$1.6 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 2019, principal of \$500,000 (2018 – \$500,000) was repaid. The loan will be paid off in total by 2022.

	2019 %	2018 %
Weighted average rate of interest	2.29	2.83

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

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

Notes to the Financial Statements

For the year ended December 31, 2019

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, 2019 (2018 – \$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, 2019 no amounts have been drawn down from the facilities (2018 – \$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 2019 was 2.29% (2018 – 2.83%). 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 2019, interest of \$25,780 was paid on the building loan and interest revenue of \$264,139 was received from General Fund cash balances held by the Lawyers Insurance Fund and \$2,755 was received from Special Compensation Fund cash balances held by the Lawyers Insurance Fund for a net interest income of \$241,114.

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.

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, 2019, 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 DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT NOT TO BE FURTHER COMMUNICATED

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

Notes to the Financial Statements

For the year ended December 31, 2019

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 10(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, 2019, 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 2019, the Special Compensation Fund recovered \$nil (2018 – \$nil) related to the Wirick case.

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, 2019, expenses of \$28,826 (2018 – \$244,128) 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.

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

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

Notes to the Financial Statements

For the year ended December 31, 2019

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 \$38,787,865 (2018 – \$24,303,331). 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 are:

	\$
2020	5,304
2021	5,304
2022	5,304
2023	2,652
	<hr/>
Total future minimum lease payments	18,564
	<hr/>

For the year ended December 31, 2019, an amount of \$6,037 representing payments under operating leases was expensed (2018 – \$6,804).

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

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

**Consolidated Fund Financial Statements
December 31, 2019**

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**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 Financial Position

As at December 31, 2019

	2019 \$	2018 \$
Assets		
Cash	927,269	10,868,764
Accounts receivable - net of allowance (note 3)	312,371	293,678
Prepaid expenses	45,945	32,793
Short-term investments (note 5)	7,546,680	7,390,721
Members' share of provision for claims	1,442,764	1,377,249
General Fund building loan (note 7)	1,100,000	1,600,000
Investments (note 6)	191,282,480	166,899,382
	<u>202,657,509</u>	<u>188,462,587</u>
Liabilities		
Accounts payable and accrued liabilities (notes 4 and 8)	2,141,921	1,583,217
Deferred revenue	8,143,703	7,957,610
Due to General Fund (note 10)	6,023,524	16,722,466
Due to Special Compensation Fund (note 10)	58,496	159,249
Provision for claims (note 9)	76,509,061	74,340,380
Provision for ULAE (note 9)	11,860,000	10,779,000
	<u>104,736,705</u>	<u>111,541,922</u>
Net assets		
Unrestricted net assets	80,420,804	59,420,665
Internally restricted net assets (note 11)	17,500,000	17,500,000
	<u>97,920,804</u>	<u>76,920,665</u>
	<u>202,657,509</u>	<u>188,462,587</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 Revenue and Expenses

For the year ended December 31, 2019

	2019 \$	2018 \$
Revenue		
Annual assessments	16,140,477	15,724,169
Investment income (note 6)	7,849,782	6,725,629
Other income	76,230	60,100
	<u>24,066,489</u>	<u>22,509,898</u>
Insurance expenses		
Actuary, consultant and investment manager fees	839,918	801,265
Allocated office rent from General Fund	323,829	323,834
Contribution to program and administrative costs of General Fund	1,391,788	1,330,493
Insurance	394,044	394,293
Office	331,579	403,639
Premium taxes	9,056	9,116
Provision for settlement of claims (note 9)	12,896,115	16,531,000
Provision for ULAE (note 9)	1,081,000	1,178,000
Salaries, wages and benefits	2,913,092	2,639,440
	<u>20,180,421</u>	<u>23,611,080</u>
Loss prevention expenses		
Contribution to co-sponsored program costs of General Fund	701,657	699,983
	<u>20,882,078</u>	<u>24,311,063</u>
Excess (deficiency) of revenue over expenses before the following	3,184,411	(1,801,165)
Fair value increase (decrease) in investments (note 6)	16,661,358	(7,300,769)
	19,845,769	(9,101,934)
Provision for income taxes	5,630	5,504
	<u>19,840,139</u>	<u>(9,107,438)</u>
Contribution from Trust Assurance Net Assets in General Fund (note 10)	1,160,000	1,780,000
(Deficiency) excess of revenue over expenses for the year	<u>21,000,139</u>	<u>(7,327,438)</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 Changes in Net Assets

For the year ended December 31, 2019

	2019		2018
	Unrestricted \$	Internally restricted \$	Total \$
Net assets – Beginning of year	59,420,665	17,500,000	76,920,665
Excess (deficiency) of revenue over expenses for the year	21,000,139	-	21,000,139
Net assets – End of year	80,420,804	17,500,000	97,920,804

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, 2019

	2019 \$	2018 \$
Cash provided by (used in)		
Operating activities		
Excess (deficiency) of revenue over expenses for the year	21,000,139	(7,327,438)
Items not affecting cash		
Unrealized (gain) loss on investments	(15,803,698)	8,100,672
Realized gain on disposal of investments	(857,660)	(799,903)
Pooled distributions from investments	(7,826,035)	(6,851,530)
Contribution from General and Special Funds	1,160,000	1,780,000
	(2,327,254)	(5,098,199)
Decrease (increase) in assets		
Accounts receivable	(18,014)	153,330
Prepaid expenses	(13,152)	92,945
Short-term investments	(155,959)	(123,699)
Members' share of provision for claims	(149,677)	60,963
Increase (decrease) in liabilities		
Accounts payable and accrued liabilities	558,024	(59,570)
Deferred revenue	186,092	171,488
Provision for claims	2,252,844	5,183,053
Provision for ULAE	1,081,000	1,178,000
	1,413,904	1,558,311
Investing activities		
Decrease in General Fund building loan	500,000	500,000
Purchase of investments	(7,587,811)	(5,108,390)
Proceeds from disposal of investments	7,692,106	5,207,399
	604,295	599,009
Financing activities		
Interfund transfers (note 10)	(11,959,695)	(2,559,336)
Decrease in cash	(9,941,496)	(402,016)
Cash – Beginning of year	10,868,764	11,270,780
Cash – End of year	927,269	10,868,764
Supplementary cash flow information		
Interest paid	250,102	461,800
Interest income received	144,697	220,141

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

Notes to the Financial Statements

For the year ended December 31, 2019

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 Services Authority (BCFSA). 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
Limit per error or related errors		1,000,000
Annual aggregate limit for all errors per insured lawyer		2,000,000

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 2019 and 2018 policy years, the Society and the Captive have obtained stop-loss reinsurance in the amount of \$12 million to cover aggregate payments over \$25 million for Parts A and C of the Policy. This limit is co-insured 80/20 with the reinsurer paying 80% of losses over \$25 million to a maximum of \$12 million and the Fund paying 20%.

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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 2019 and 2018 policy years, there is a \$300,000 per claim limit and a \$17.5 million profession-wide annual aggregate limit. The Society and the Captive have obtained insurance in the amount of \$5 million to cover a portion of the annual aggregate limit. There is no deductible payable by the member. This insurance is subject to a \$3 million group deductible and is co-insured 80/20 with the insurer paying 80% of losses over \$3 million to a maximum of \$5 million, 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 2019 and 2018 policy years, there is a limit of \$500,000 per claim, and per lawyer and firm annually, a profession-wide annual aggregate of \$2 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.

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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.

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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 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 \$97,417,192 (2018 – \$98,605,817).

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.

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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, 2019, if pooled fund prices increased or decreased by 10% with all other factors remaining constant, net assets would have increased or decreased by approximately \$19.1 million (2018 – \$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, 2019, 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 \$95 million, or 91% (2018 – \$73.7 million, or 66%).

3 Accounts receivable

	2019 \$	2018 \$
Member deductibles	572,740	507,578
Allowance for doubtful accounts	(376,238)	(368,222)
GST/HST receivable	113,523	131,638
Income tax receivable	5	-
Other receivables	2,341	22,684
	<u>312,371</u>	<u>293,678</u>

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

4 Government remittances

The following government remittances are included in accounts payable:

	2019 \$	2018 \$
Receiver General – corporate income tax	-	5,635
Ministry of Finance – premium tax	9,056	9,116
	<u>9,056</u>	<u>14,751</u>

5 Short-term investments

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

	2019 \$	2018 \$
Money market funds	<u>7,546,680</u>	<u>7,390,721</u>

6 Investments

	2019 \$	2018 \$
Investments - at fair value	<u>191,282,480</u>	<u>166,899,382</u>

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

2019				
	Carrying cost \$	Gross unrealized gains \$	Gross unrealized losses \$	Estimated fair value \$
Bonds				
Pooled Funds	51,527,919		(216,811)	51,311,108
Equities				
Canadian Pooled Funds	25,901,689	15,024,426	-	40,926,115
International Pooled Funds	41,394,505	21,750,850	-	63,145,355
	67,296,194	36,775,276	-	104,071,470
Real Estate & Mortgage				
Real Estate Fund	14,521,175	4,562,792	-	19,083,967
Mortgage Fund	16,988,365		(172,430)	16,815,935
	31,509,540	4,562,792	(172,430)	35,899,902
	150,333,653	41,338,068	(389,241)	191,282,480
2018				
	Carrying cost \$	Gross unrealized gains \$	Gross unrealized losses \$	Estimated fair value \$
Bonds				
Pooled Funds	46,455,126	-	(1,320,686)	45,134,440
Equities				
Canadian Pooled Funds	23,010,364	11,810,421	-	34,820,785
International Pooled Funds	41,433,566	11,885,464	-	53,319,030
	64,443,930	23,695,885	-	88,139,815
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

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

The effective yield on the Bonds, Mortgages and Equities portion of the investment portfolio was 2.58% (2018 – 2.95%).

Investment risk management

The Society has adopted policies that 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

	2019 \$	2018 \$
Interest on cash	118,918	174,302
Pooled distributions	7,971,978	6,967,288
Net interfund loan interest expense (note 10)	(241,114)	(415,961)
Investment income	<u>7,849,782</u>	<u>6,725,629</u>

Fair value changes in investments

	2019 \$	2018 \$
Realized gain on disposal of investments	857,660	799,903
Unrealized gain (loss) on investments measured at fair value	<u>15,803,698</u>	<u>(8,100,672)</u>
Fair value (decrease) increase in investments	<u>16,661,358</u>	<u>(7,300,769)</u>

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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, BC. 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 2019, principal of \$500,000 (2018 – \$500,000) was repaid.

	2019 %	2018 %
Weighted average rate of return	2.29	2.83

8 Accounts payable and accrued liabilities

	2019 \$	2018 \$
Trade payables	1,865,030	1,313,002
Accrued trade expenses	267,835	255,464
Premium taxes payable	9,056	9,116
Income taxes payable	-	5,635
	2,141,921	1,583,217

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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:

	2019 \$	2018 \$
Part A Insurance Coverage		
Provision for claims – Beginning of year	73,309,091	66,372,510
Provision for losses and expenses for claims reported in the current year	19,839,622	21,014,000
(Decrease) increase in estimated losses and expenses for losses reported in prior years	(8,176,687)	(4,477,500)
Provision for claims liability	84,972,026	82,909,010
(Subtract) add:		
Payments on claims reported in the current year	(1,746,698)	(1,643,173)
Payments on claims reported in prior years	(9,369,245)	(8,340,323)
Recoveries on claims	1,314,977	298,318
Change in due from members	2,957	85,259
Claim payments – net of recoveries	(9,798,009)	(9,599,919)
Part A Provision for claims – End of year	75,174,017	73,309,091
Part B Insurance Coverage		
Unpaid claims – Beginning of year	593,694	2,079,000
Provision for losses and expenses for claims	(34,599)	(46,000)
	559,095	2,033,000
(Subtract) add:		
Payments on claims	(246,992)	(1,448,034)
Recoveries on claims	7,387	8,728
Claim payments – net of recoveries	(239,605)	(1,439,306)
Part B Provision for claims – End of year	319,490	593,694
Part C Insurance Coverage		
Provision for claims – Beginning of year	437,595	621,655
Provision for losses and expenses for claims reported in the current year	1,267,779	40,500
	1,705,374	662,155
(Subtract) add:		
Payments on claims	(752,378)	(162,500)
Change in due from members	62,558	(62,060)
Part C Provision for claims – End of Year	1,015,554	437,595
Total provision for Parts A, B and C Insurance Coverage	76,509,061	74,340,380

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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 effect 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 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 2.47% (2018 – 2.91%). 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 \$2.563 million (2018 – \$2.558 million) and a 1% decrease in the discount rate will have an unfavourable impact on the discounted claims liability of \$2.750 million (2018 – \$2.747 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):

	2019 \$	2018 \$
Undiscounted	79,942	78,017
Effect of present value	(5,926)	(7,032)
PFAD	12,910	12,757
	<hr/>	<hr/>
Discounted	86,926	83,742

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Estimate of undiscounted ultimate claims costs											
At end of claims year	13,650	14,560	13,390	15,230	12,690	15,090	16,720	15,720	19,767	18,522	
One year later	12,990	13,550	13,080	15,100	12,390	16,590	15,440	15,791	19,219		
Two years later	12,610	11,570	11,970	17,780	12,240	15,210	15,956	16,005			
Three years later	13,210	10,920	10,690	20,300	11,760	13,153	14,548				
Four years later	13,920	11,100	10,490	20,460	12,256	12,775					
Five years later	15,190	11,810	10,100	18,983	11,862						
Six years later	14,900	12,300	9,571	18,087							
Seven years later	14,420	12,078	8,870								
Eight years later	14,413	11,596									
Nine years later	13,528										
Current estimate of cumulative claims	13,528	11,596	8,870	18,087	11,862	12,775	14,548	16,005	19,219	18,522	145,012
Cumulative payments to date	(12,571)	(9,947)	(7,980)	(16,087)	(7,943)	(7,336)	(8,187)	(4,980)	(3,213)	(1,799)	(80,043)
Undiscounted unpaid liability	1,863	2,236	2,140	3,764	4,833	6,558	9,762	13,670	18,128	16,723	64,969
Undiscounted unpaid liability in respect of 2009 and prior years											2,952
Undiscounted unallocated loss adjustment expense reserve											10,709
Total undiscounted unpaid claims liability											78,630
Discounting adjustment (includes Claim PFAD)											6,930
Total discounted unpaid claims liability											85,560

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

Part B insurance claims (in thousands of dollars)

Claims year	2010 \$	2011 \$	2012 \$	2013 \$	2014 \$	2015 \$	2016 \$	2017 \$	2018 \$	2019 \$	Total \$
Estimate of undiscounted ultimate claims costs											
At end of claims year	23	28	18	53	562	41	274	1,588	135	152	
One year later	19	24	13	82	500	184	134	1764	126		
Two years later	22	23	12	100	421	180	62	1696			
Three years later	26	23	13	115	372	157	65				
Four years later	26	23	8	108	205	120					
Five years later	26	25	8	100	185						
Six years later	27	25	20	100							
Seven years later	26	24	14								
Eight years later	26	24									
Nine years later	26										
Current estimate of cumulative claims	26	24	14	100	185	120	65	1,696	126	152	2,508
Cumulative payments to date	(26)	(23)	-	(99)	(180)	(93)	(65)	(1,604)	(126)	(9)	(2,225)
Undiscounted unpaid liability	-	1	14	1	5	27	-	92	-	143	283
Undiscounted unpaid liability in respect of 2009 and prior years											11
Undiscounted unallocated loss adjustment expense reserve											46
Total undiscounted unpaid claims liability											340
Discounting adjustment (includes Claim PFAD)											29
Total discounted unpaid claims liability											369

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

Part C insurance claims (in thousands of dollars)

Claims year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Estimate of undiscounted ultimate claims costs											
At end of claims year	-	-	-	-	-	-	-	-	65	650	
One year later	-	-	-	-	-	-	-	423	65		
Two years later	-	-	-	-	-	-	-	923			
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	-	-	-	-	-	-	-	923	65	650	1,638
Cumulative payments to date	-	-	-	-	-	-	-	(429)	(65)	(325)	(819)
Undiscounted unpaid liability	-	-	-	-	-	-	-	494	-	325	819
Undiscounted unpaid liability in respect of 2009 and prior years											-
Undiscounted unallocated loss adjustment expense reserve											154
Total undiscounted unpaid claims liability											973
Discounting adjustment (includes Claim PFAD)											23
Total discounted unpaid claims liability											996

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, 2019	19,652	16,587	12,690	8,936	6,371	15,706	79,942
December 31, 2018	18,554	14,694	12,022	8,716	7,023	17,007	78,016

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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, 2019, no amounts have been drawn on the facilities (2018 – \$nil).

Pursuant to reserve policy, \$1.16 million of the net assets related to trust assurance was transferred to the Lawyers Insurance Fund for Part B coverage during 2019 (2018 – \$1.78 million).

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to the Financial Statements

For the year ended December 31, 2019

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 2019 was 2.29 % (2018 – 2.83%). The Fund's net loan position at December 31, 2019 was \$5.0 million (2018 – \$15.3 million) 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, 2019, interest revenue of \$25,780 (2018 – \$45,839) was received on the General Fund building loan, interest of \$264,139 (2018 – \$455,342) was paid on General Fund cash balances held by the Fund, and \$2,755 (2018 – \$6,458) was paid on the Special Compensation Fund cash balances held by the Fund for a net interest expense of \$241,114 (2018 – \$415,961).

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

11 Internally restricted net assets

The Benchers have allocated \$17.5m (2018 – \$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, 2019.

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, 2019, expenses of \$54,354 (2018 – \$12,861) were incurred by the Fund with these law firms.

14 Subsequent Events

Effective January 1, 2020, Section 30 of the Legal Profession Act was amended to change any reference to "insurance" to "indemnification". New Section 30.1 provides that the Law Society or any subsidiary (except for a captive insurer) that operates such an indemnification program is not an insurer as defined in the Financial Institutions Act or the Insurance Act, nor are they carrying on insurance business in B.C. Effective January 1, 2020, the Lawyers Insurance Fund will now be called the Lawyers Indemnity Fund.

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 2019 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 2019, 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 2020 practice fees and insurance assessments, and reviewing corresponding budgets
- Reviewing the enterprise risk management plan

General Fund

Overview

Overall, the 2019 results for the General Fund resulted in an operating surplus of \$2.6 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, employee benefit costs as a result of the Employer Health Tax which came into effect at the start of the year, costs in delivering the Professional Legal Training Course to match the increased number of students, increased staff resources in Trust Assurance, and increased staff resources and external counsel fees in Discipline with an increased number of hearings.

Revenues

General Fund revenue was \$34.1 million, \$2.3 million higher than 2018 partly due to the growth in the number of lawyers and an increase in the 2019 practice fee. During 2019, net growth in the number of full-time equivalent practicing lawyers was 2.9% resulting in a total of 12,572 full fee paying

equivalent lawyers for the year, compared to 12,223 in 2018. Professional Legal Training Course (PLTC) enrolment revenue was higher in 2019, with 656 PLTC students during the year, compared with 540 in the prior year. The trust administration fee (TAF) revenue decreased 14% 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. Other income increased over 2018 with the receipt of legal defense insurance recoveries.

The Lawyers Insurance Fund contributed \$2.1 million to the General Fund for co-sponsored programs and for general program and administrative expenses attributable to operations.

Expenses

The 2019 General Fund expenses increased by \$3 million (10.3%) to \$32.5 million, compared to \$29.5 million in 2018.

Benchers Governance and Support expenses were similar to 2018.

Communication and Information Services total costs were the similar to 2018, with increased costs for market based salary adjustments and benefits and the addition of one staff member, offset by printing cost savings realized from providing the Benchers' Bulletin and Members' Manual online.

Education and Practice expenses were higher than 2018 by \$1.1 million, with increases primarily related to market based salary adjustments and benefits and additional PLTC program expenses due to the increase in students.

General and administration costs remained fairly stable overall with increases in market based staff salary adjustments and benefits offset by savings in storage costs and consulting.

Policy and Legal Services expenses remained fairly stable over 2018, with decrease in external counsel fees offset by market based staff salary adjustments and benefits.

Regulation operating expenses increased \$1.8 million over 2018, due to higher external counsel fees and staffing costs for a higher number of Discipline hearings held during 2019, market based salary adjustments and benefits, and increased staffing costs in Trust Assurance.

Net Assets

Overall, the General Fund remains financially sound. As of December 31, 2019, net assets in the General Fund were \$26.3 million. The net assets include \$3 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 \$1.16 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, 2019, the net assets include \$2.0 million of trust assurance reserves. The remaining General Fund net assets are \$21.3 million, of which \$12.9 million is invested in capital assets, mainly the 845 Cambie Street building, and \$8.4 million is in 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.

Revenues/Expenses

There were no claims costs in 2019 since the Lawyers Insurance Fund has been providing coverage for dishonest appropriation of funds by lawyers since 2004. During the year, \$3,000 of interest income was earned. In addition, external counsel costs of \$104,000 were incurred for specific file activity.

Net Assets

At the end of 2019, the Special Compensation Fund net assets were \$58,000.

Lawyers Insurance Fund

Overview

The Lawyers Insurance Fund remains in a strong financial position at the end of 2019. Revenue from annual assessments was slightly higher due to additional insured members and overall investment returns were slightly above the benchmark.

Revenues

The 2019 insurance assessment remained at \$1,800 per insured member, resulting in total revenue of \$16.1 million, compared to \$15.7 million in 2018.

During 2019, the long term investment portfolio performed well, earning a return of 14.1%, compared to a benchmark return of 13.1%. All increases 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 2019, the Lawyers Insurance Fund general operating costs, including the \$2.1 million contribution to the General Fund, but excluding claims payments and unallocated loss adjustment expenses (ULAE), were \$6.9 million, compared to \$6.6 million in 2018. The increase is primarily due to market based staff salary adjustments and benefits and increased investment management fees.

The net actuarial provision for settlement of claims for the year was \$12.9 million, a decrease of \$3.6 million from 2018. The 2019 claims provision was lower due to net adjustment to required reserves for claims relating mainly to prior years. The provision for claims liabilities on the balance sheet at the end of 2019 was \$76.5 million, compared to \$74.3 million at the end of 2018.

Net Assets

As of December 31, 2019, the Lawyers Insurance Fund net assets were \$97.9 million, which includes \$17.5 million internally restricted for Part B claims, leaving \$80.4 million in unrestricted net assets.

Other Matters

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

Effective January 1, 2020, Section 30 of the Legal Profession Act was amended to change any reference to “insurance” to “indemnification”. New Section 30.1 provides that the Law Society or any subsidiary (except for a captive insurer) that operates such an indemnification program is not an insurer as defined in the Financial Institutions Act or the Insurance Act, nor are they carrying on insurance business in B.C. Effective January 1, 2020, the Lawyers Insurance Fund will now be called the Lawyers Indemnity Fund.



Memo

To: The Benchers
From: Natasha Dookie, Chief Legal Officer
Date: February 24, 2020
Subject: National Discipline Standards - 2019

Background

1. The National Discipline Standards were developed as a Federation of Law Societies of Canada initiative to create uniformly high standards for the handling of complaints and disciplinary matters. The Benchers approved the adoption and implementation of the National Discipline Standards at its meeting on June 13, 2014. All law societies in Canada have adopted the standards.
2. The standards address timeliness, openness, public participation, transparency, accessibility and training of adjudicators and investigators.
3. The standards are aspirational. As of 2019 year end, no law society has met all of the standards in their entirety. In 2018 Canadian law societies met on average 78% of the standards and LSBC met 83% of the standards.
4. Standard 23 requires us to report to you annually. As such, I provide that report below.

Report on LSBC Progress

5. LSBC progress on each of the standards is set out at Attachment 1.
6. For 2019, we met 19 of 23 standards, which is similar to our performance in 2017 & 2018. In 2016, we achieved our best results yet, meeting 18 of 21 standards.
7. Of significance we met the standards regarding:
 - a. timely complaint resolution or referral to the Discipline Committee (Standard 4); and,
 - b. ongoing contact with complainants during the investigation process (Standard 5).

8. The four standards we did not meet in 2019 are:

- a. Standard 2 requires 100% of written complaints to be acknowledged in writing within 3 business days. Technically we did not meet this standard having achieved 99.89% compliance as there was one complaint that was not acknowledged within 3 business days due to an administrative error. However given our 99.89% compliance – for all intents and purposes we did meet the principle of timely communication with complainants which is the underlying rationale for the standard. As a note, for 2020 the NDS requirement has been changed to 95% of written complaints have to be acknowledged in writing within 3 business days.
- b. Standard 9 requires 75% of hearings to be commenced within 12 months of the citation being authorized. In 2019 we met this standard with 36% of the hearings. Standard 9 also requires that 90% of hearings be commenced within 12 months of the citation being authorized. In 2019 we met this standard with 72% of hearings. As such, in comparison with 2018, we made significant progress in improving our performance with respect to this standard in 2019. Due to significant staff turnover in 2017, including at the managerial level, we began 2018 with 53 open files. This coupled with the increase in citations over the past few years has resulted in challenges in meeting Standard 9. In 2019, the Discipline team made a concerted effort to reduce the backlog and to better meet the standard. To that end, there was an increase of 135% in the number of hearings.

Year	75% of hearings commenced within 9 months	90% of hearings commenced within 12 months
2019	36%	72%
2018	16%	26%
2017	66%	92%

- c. Standard 10 requires 90% of hearing panel decisions to be rendered within 90 days of the last submissions. We are at 78% which is an improvement over the 62% for 2018 and our best level of compliance since the inception of the standards. A summary of our past performance is set out in the table below.

Year	Percentage of decisions rendered within 90 days
2018	62%
2017	65%
2016	70%
2015	55%
2014	71%

- d. Standard 19 requires that there be a directory available with easily accessible information on discipline history for each lawyer. In 2016, changes were made to the Lawyer Directory to allow easy access to post-September 2003 discipline decisions. We have since made significant progress with regards to pre-September 2003 decisions and discipline histories dating back to 1985 are now posted online. The work on this project continues.

ATTACHMENT 1

NATIONAL DISCIPLINE STANDARDS

ANNUAL REPORT ON LSBC STATUS FOR 2019

STANDARD		CURRENT STATUS
Timeliness		
1.	<p><i>Telephone inquiries:</i></p> <p>75% of telephone inquiries are acknowledged within one business day and 100% within two business days.</p>	<p>MET</p> <p>99.92% of telephone inquiries were returned within one business day and 100% were returned within two business days</p>
2.	<p><i>Written complaints:</i></p> <p>100% of written complaints are acknowledged in writing within three business days.</p>	<p>NOT MET</p> <p>99.89% of written complaints were acknowledged within three business days; one complaint was not acknowledged due to an administrative error</p>
3.	<p><i>Early Resolution:</i></p> <p>There is a system in place for early resolution of appropriate complaints.</p>	<p>MET</p> <p>The Intake & Early Resolution Group within Professional Conduct implements early resolution of appropriate complaints</p>
4.	<p><i>Timeline to resolve or refer complaint:</i></p> <p>(a) 80% of all complaints are resolved or referred for a disciplinary or remedial response within 12 months.</p> <p>90% of all complaints are resolved or referred for a disciplinary or remedial response within 18 months.</p>	<p>MET</p> <p>93% of complaints were closed within 12 months.</p> <p>98% of complaints were closed within 18 months.</p>

STANDARD		CURRENT STATUS
	<p>(b) Where a complaint is resolved and the complainant initiates an internal review or internal appeal process:</p> <p>80% of all internal reviews or internal appeals are decided within 90 days.</p> <p>90% of all internal reviews of internal appeals are decided within 120 days.</p>	<p>MET</p> <p>100% of all internal reviews were decided within 90 days.</p> <p>See above.</p>
	<p>(c) Where a complainant has been referred back to the investigation stage from an internal review or internal appeal process:</p> <p>80% of those matters are resolved within a further 12 months.</p> <p>90% of those matters are resolved or referred for a disciplinary or remedial response within a further 18 months.</p>	<p>MET</p> <p>One complaint has been referred back to staff for further investigation and while the matter has not yet been concluded, it is within the 12 and 18 month periods.</p>
5.	<p><i>Contact with complainant:</i></p> <p>For 90% of open complaints there is contact with the complainant at least once every 90 days during the investigation stage.</p>	<p>MET</p> <p>For 99.2% of open complaints, complainants were contacted at least once every 90 days during the investigation stage.</p>
6.	<p><i>Contact with lawyer or Québec notary:</i></p> <p>For 90% of open complaints there is contact with the lawyer or Québec notary at least once every 90 days during the investigation stage.</p>	<p>MET</p> <p>For 97.3% of open complaints, subject lawyers were contacted at least once every 90 days during the investigation stage.</p>

STANDARD		CURRENT STATUS
7.	<p><i>Interim Measures:</i></p> <p>There is authority and a process for the law society to obtain an interlocutory or interim suspension, restrictions or conditions on a member's practice of law, as the public interest may require.</p>	<p>MET</p> <p>Rule 3-10 or voluntary undertakings.</p>
Hearings		
8.	<p>75% of citations or notices of hearings are issued and served upon the lawyer or Québec notary within 60 days of authorization.</p> <p>95% of citations or notices of hearings are issued and served upon the lawyer or Québec notary within 90 days of authorization.</p>	<p>MET</p> <p>100% of citations were issued and served within 60 days of authorization.</p> <p>MET</p> <p>100% of citations were issued and served within 90 days of authorization.</p>
9.	<p>75% of all hearings commence within 9 months of authorization.</p> <p>90% of all hearings commence within 12 months of authorization.</p>	<p>NOT MET</p> <p>36% of hearings commenced in this reporting period were commenced within 9 months.</p> <p>NOT MET</p> <p>72% of hearings commenced in this reporting period were commenced within 12 months.</p> <p>Standard not met due to significantly increased file and hearing volume in 2018 and 2019. An influx of additional files combined with significant staff turnover created a backlog of discipline files beginning in 2017. Over 2019, significant efforts were made to reduce the backlog. For example, there was an increase of 135% in the number of hearings conducted that are relevant to this standard and an increase of 106% in all hearing types.</p>

STANDARD		CURRENT STATUS
10.	Reasons for 90% of all decisions are rendered within 90 days from the last date the panel receives submissions.	NOT MET 78% of hearing decisions issued in 2019 were issued within 90 days of the final submissions. This is a significant improvement on 62% in 2018.
Public Participation		
11.	There is public participation at every stage of discipline; e.g. on all hearing panels of three or more; at least one public representative; on the charging committee, at least one public representative.	MET There was one public representative on every disciplinary panel, at least one public representative on every review board and a public representative on our charging body (i.e., Discipline Committee).
12.	There is a complaints review process in which there is public participation for complaints that are disposed of without going to a charging committee.	MET There is a public representative on each of the two Complainants' Review Committees.
Transparency		
13.	Hearings are open to the public.	MET Hearings are open to the public unless the panel exercises its discretion under Rule 5-8 to exclude some or all members of the public.
14.	Reasons are provided for any decision to close hearings.	MET Rule 5-8(5) requires panels to give written reasons for orders to exclude the public or to require non-disclosure of information.
15.	Notices of charge or citation are published promptly after a date for the hearing has been set.	MET In all cases, we publish the fact that a citation has been authorized as soon as the respondent has been informed and the content of the citation after the respondent has been served.

STANDARD		CURRENT STATUS
16.	Notices of hearing dates are published at least 60 days prior to the hearing, or such shorter time as the pre-hearing process permits.	MET In all cases, we publish dates of hearings as soon as they are set.
17.	There is an ability to share information about a lawyer or Québec notary who is a member of another law society with that other law society when an investigation is underway in a manner that protects solicitor-client privilege, or there is an obligation on the lawyer or Québec notary to disclose to all law societies of which he/she is a member that there is an investigation underway.	MET In 2018, we enacted Rule 2-27.1, which gives us discretion to share information when it is in the public interest to do so and to provide confidential or privileged information if the information will be adequately protected against disclosure.
18.	There is an ability to report to police about criminal activity in a manner that protects solicitor/client privilege.	MET Rule 3-3(5) allows the Discipline Committee to consent to delivery of such information to a law enforcement agency. Rule 3-3(6) indicates we cannot share privileged material. Note however that, as a matter of practice, the Law Society does not provide non-public information on discipline matters to law enforcement.
Accessibility		
19.	A complaint help form is available to complainants.	MET There are online materials available on the Law Society website to assist the public in making complaints as well as printed brochures describing the complaint process and jurisdiction.
20.	There is a directory available with status information on each lawyer or Québec notary, including easily accessible information on discipline history.	NOT MET We have easily accessible information on discipline histories on our website, including on our Lawyer Directory for discipline decisions dating back to 1985.
Qualification of Adjudicators and Volunteers		

STANDARD		CURRENT STATUS
21.	There is ongoing mandatory training for all adjudicators, including training on decision writing, with refresher training no less often than once a year and the curriculum for mandatory training will comply with the national curriculum if and when it is available.	MET All adjudicators have taken a basic course on the principles of administrative law, Law Society procedures and decision-writing. All lawyer adjudicators have taken an advanced workshop on decision writing and, before chairing a panel or review board, an advanced workshop on hearing skills. All adjudicators attend the annual refresher training in person or by video recording.
22.	There is mandatory orientation for all volunteers involved in conducting investigations or in the charging process to ensure that they are equipped with the knowledge and skills to do the job.	MET Orientation was provided to all new members of the Discipline Committee. There are no volunteers involved in conducting investigations.
Qualification of Adjudicators and Volunteers		
23.	Each law society will report annually to its governing body on the status of the standards.	MET Report to the Benchers in March 2020.



Strategic Plan 2018 - 2020

Our Strategic Plan

The initiatives identified in this Plan are intended to advance the objects and duties of the Law Society. They represent opportunities to initiate or improve Law Society policies, visions or positions on various issues of importance facing the justice system and the legal profession.

Mandate

The Law Society fulfills its mandate and implements its vision through its day-to-day operations and through its strategic initiatives. Our Strategic Plan identifies Law Society goals under each of these statutory objects and duties.

The Mandate of the Law Society is contained in section 3 of the *Legal Profession Act*:

It is the object and duty of the society to uphold and protect the public interest in the administration of justice by

- (a) preserving and protecting the rights and freedoms of all persons,*
- (b) ensuring the independence, integrity, honour and competence of lawyers,*
- (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,*
- (d) regulating the practice of law, and*
- (e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.*

Law Society Vision:

The Law Society of British Columbia protects the public interest in the administration of justice. It does this by ensuring the public is well served by legal professionals who are honourable and competent, and brings a voice to issues affecting the justice system and the delivery of legal services.

Strategic Goal 1: Preserving and Protecting the Rights and Freedoms of All Persons

The Law Society's duty to preserve and protect the rights and freedoms of all people recognizes the Law Society's role extends beyond ensuring that individuals are well served by their lawyers. It also requires that we ensure the public has access to justice and has confidence in the rule of law and the administration of justice.

Strategy 1-1: We will ensure the public has better access to justice by

- (a) Pursuing our Vision for Publicly Funded Legal Services adopted by the Benchers in March 2017.

The Legal Aid Advisory Committee pursued our Vision through liaising with government and external groups. By the fall of 2019, negotiations between the government and the Association of Legal Aid Lawyers had resulted in a revised tariff and government recognition of the importance of legal aid. The Committee merged with the Access to Justice Advisory Committee for 2020 and the merged Committee is tasked with recommending to the Benchers an ongoing legal aid strategy.

- (b) Pursuing our initiative to license alternate legal service providers and work with government to obtain the necessary legislative amendments to do so.

The Alternative Service Providers Working Group prepared a consultation paper on the possibilities of licensing paralegals in the area of family law, and undertook a consultation in 2018. In response to a request from the Law Society, the government amended the Legal Profession Act to provide the Law Society authority to regulate licensed paralegals. Those amendments have not yet been proclaimed. In late 2018, it was recognized that broader scope to the licensed paralegal initiative was required. The Licensed Paralegal Task Force was created in 2019, and it is currently undertaking work to identify areas of unmet legal need, with a view to delivering a report on the opportunities for assistance from licensed paralegals by the fall of 2020.

- (c) Collaborating with other justice system organizations to identify issues within the justice system, such as document disclosure, mega trials, and advocacy skills and training that could be addressed to improve the delivery of legal services.

Based on its analysis of the issues of mega trials and active case management, the Legal Aid Advisory Committee recommended to the Benchers in its 2019 mid-year report that these issues no longer be pursued and the Benchers accepted the recommendation.

- (d) Examining the underlying economic costs of the provision of legal services and the cost of accessing justice.

The Law Society retained Professor Yvon Dandurand to conduct a feasibility analysis of developing an economic analysis of legal aid. This included a review

of existing data and an analysis of what data is likely missing and any barriers to obtaining it. The Committee reported to the Benchers in its 2019 mid-year report that until such time as the government, the courts, Legal Aid BC and other key justice system stakeholders that collect data about users of the justice system establish a data collection and analysis architecture to measure outcomes and how the systems are used and the benefits that result, we will continue to have significant gaps in our empirical data regarding the economic benefits of accessing justice systems and legal services.

- (e) Reviewing regulatory requirements to ensure that they do not hamper innovation regarding or hinder cost-effective delivery of legal services.

The Access to Legal Services Advisory Committee recommended to the Benchers in its 2019 year-end report a set of principles that will guide this analysis.

Strategy 1-2: We will ensure the public has greater confidence in the Rule of Law and the Administration of Justice by

- (a) Identifying opportunities for public discussion about the meanings of these topics and about their importance to Canadian society.

Under the auspices of the Rule of Law and Lawyer Independence Advisory Committee, the Law Society presents an annual Rule of Law lecture on topics covering the intersection of social issues and the rule of law. In addition, the Law Society conducts an annual essay competition for high school students to encourage thinking and writing on the rule of law at the senior high school level. The Rule of Law and Lawyer Independence Advisory Committee has also written commentaries on various rule of law topics for publication.

- (b) Developing educational materials about the role of a lawyer in the justice system and how lawyers advance the cause of justice.

The Rule of Law and Lawyer Independence Advisory Committee is considering how to advance this initiative, working in part from materials developed for use in high school programs approximately a decade ago. It expects to give further consideration to how to advance this initiative over the coming year.

Strategy 1-3: We will identify and implement appropriate responses to the Calls to Action from the Report of the Truth and Reconciliation Commission by

- (a) Seeking opportunities to collaborate with Aboriginal groups and other organizations to further examine the Recommendations and identify strategic priorities.

The Law Society has also been collaborating with the Canadian Bar Association BC Branch (CBA BC) and the Continuing Legal Education of BC Society to encourage the development and incorporation of Indigenous intercultural competence education in their continuing professional development programs, and with the CBABC Aboriginal Lawyers Forum to support Indigenous lawyers through mentorship and networking opportunities.

The Law Society has also taken a leadership role within the Federation of Law Societies' TRC Calls to Action Committee, which is mandated to facilitate the exchange of information to the law societies about law society initiatives related to the Calls to Action and the initiatives of other stakeholders.

Alongside representatives of the First Nations Summit, the Union of British Columbia Indian Chiefs, and the British Columbia Assembly of First Nations, the Attorney General, Minister of Public Safety, and Solicitor General of British Columbia, delegates from the Law Society participated in the First Nations Justice Forums with the aim of jointly developing a provincial Indigenous Justice Strategy geared toward key priorities such as: decreasing overrepresentation of Indigenous people in the justice system; improving the experience of Indigenous people within the justice system; and improving access to justice services by Indigenous people.

- (b) Embarking upon the development of an action plan to facilitate the implementation of relevant Recommendations.

The Benchers endorsed a Truth and Reconciliation Action Plan in June of 2018. Key actions that have been taken to date include: increasing Indigenous representation in Law Society governance (e.g. committees) and regulation (e.g. hearing panel pools); improving Indigenous intercultural competence of Law Society Benchers, staff, panel members, and lawyers; and continuing to support the retention and advancement of Indigenous lawyers through the Indigenous scholarship and the Indigenous mentorship program.

- (c) Encouraging all lawyers in British Columbia to take education and training in areas relating to Aboriginal law (the Law Society's mandatory continuing professional development program recognizes and gives credit for education and training in areas relating to Aboriginal issues).

In December of 2019, the Benchers approved development of an Indigenous intercultural competency course. Beginning in 2021, all practicing lawyers in BC will be required to complete a six-hour online course that will be responsive to the Truth and Reconciliation Commission's calls to action, and provide a foundation for members of the legal profession to inform and respond to changes in laws and the legal system in an age of reconciliation. Development of the course is now underway.

- (d) Urging all lawyers in British Columbia to act on the TRC Report and to consider how they can better serve the Indigenous people of British Columbia.

The Law Society has made numerous public statements to encourage lawyers to consider and act on the TRC Report and Calls to Action.

Strategic Goal 2: Ensuring the Independence, Integrity, Honour and Competence of Lawyers

The Law Society's obligation to ensure the independence, integrity, honour and competence of lawyers is essential to the effective provision of legal advice and service.

Without independence, the public cannot be assured that lawyers are acting only in their clients' interests.

Without integrity and honour, the public cannot be assured that lawyers are discharging their role in the justice system with time-honored values of probity, honesty, and diligence.

Without competence, the public cannot be assured that the services provided by lawyers will meet clients' needs or provide value. Moreover, public confidence in the justice system would falter if the Law Society could not establish professional standards of competence for lawyers.

Strategy 2-1: We will maintain and improve our standards for effective professional education, practice standards and practice advice by

- (a) Identifying opportunities to educate the public and the profession about the benefits of the public's right to an independent legal profession.

Through the Rule of Law and Lawyer Independence Advisory Committee, the Law Society presents an annual Rule of Law lecture on topics discussing the intersection of social issues and the rule of law. In addition, the Law Society conducts an annual essay competition for high school students to encourage thinking and writing on the rule of law at the senior high school level. The Rule of Law and Lawyer Independence Advisory Committee has also written commentaries on various rule of law topics for publication.

- (b) Continuously examining the standards of lawyer competence requirements to ensure they maintain public confidence in the excellence of the delivery of legal services.

The Lawyer Education Advisory Committee began its work on a review of the Admissions Program in 2018, which is ongoing, and a new competency framework for PLTC is being developed under the direction of the Deputy Director of PLTC. A central component of the articling survey is an assessment of the various competencies necessary for the practice of law, and an inquiry into how and when new lawyers develop these skills.

The admission program review will inform the next phase of the work of the newly created Lawyer Development Task Force, which will continue and expand on the work of the Lawyer Education Advisory Committee and explore the means for ensuring lawyer competency more broadly, including looking at licensing, re-certification and specialization, as well as possible changes to the articling program.

The Truth and Reconciliation Advisory Committee, along with the Lawyer Education Advisory Committee has also done significant work on lawyer competence in relation to Indigenous intercultural competence. That Committee's recommendation to introduce the six hour Indigenous cultural competence requirement was based, in part, on its view that Indigenous cultural competence is an integral part of professional competence for BC lawyers.

Strategic Goal 3: Establishing Standards and Programs for the Education, Professional Responsibility and Competence of Lawyers and of Applicants for Call and Admission

The public expects and deserves effective regulation of the legal profession. Proper regulation of the legal profession requires setting effective standards and enforcement mechanisms to ensure applicants are properly qualified, and those who practise law do so competently, professionally and ethically. To meet that expectation, we will seek out and encourage innovation in all of our practices and processes in order to continue to be an effective professional regulatory body.

Strategy 3-1: We will ensure, bearing in mind the mobility of lawyers within Canada, that the Admission Program remains appropriate and relevant by

- (a) Examining the availability of Articling positions and develop a Policy and proposals on access to Articling positions and remuneration.
- (b) Examining the effectiveness of Articling and develop proposals for the enhancement of Articling as a student training and evaluation program.
- (c) Examining alternatives to Articling.

The Lawyer Education Advisory Committee began consideration of these initiatives in 2018, which will now be overseen by the Lawyer Development Task Force.

In 2018, staff developed a research plan identifying critical research questions across four key areas: the availability of articling positions, remuneration for articling positions, the quality of the articling program and the effectiveness of the Admissions Program, including the articling program. Work on these matters is ongoing.

Following a preliminary focus group, a survey was developed and disseminated in early 2019 to all 1-3 year calls. The questions aimed to elicit information about articling students' experience with the program, collecting a large volume of data that will inform subsequent recommendations about the program. The analysis of the results will be completed by April 2020, following which a report containing the results will be provided to the Task Force. This report, which will form the basis of future recommendations on the articling program, will also include information drawn from staff's review of data from articling surveys undertaken

in other jurisdictions, materials from the NCA, PLTC exit surveys and the results of numerous additional focus groups.

Strategy 3-2: We will ensure that appropriate standards are maintained for ethical and professionally responsible practice of law by

Reviewing standards to ensure they are effective to reduce the likelihood of the laundering of money through the use of legal professionals.

The Law Society continues, on its own and in conjunction with the Federation of Law Societies of Canada, to examine its rules and the provisions of the BC Code in order to improve regulatory conditions that are intended to reduce the risk that lawyers, either intentionally or unwittingly, facilitate the laundering of money. Rule changes have included improvements to the “no cash” and client identification and verification rules, as well as clarifying that a lawyer’s trust account may only be used where the funds deposited into it are directly related to the provision of legal services.

The Law Society is also participating in the Commission on Inquiry into Money Laundering in British Columbia.

Strategic Goal 4: Regulating the Practice of Law

The regulation of the practice of law is a key function of the Law Society and reflects how the public interest in the administration of justice is protected through setting standards for the competence and conduct of lawyers. Law Society investigations and hearings must continue to ensure that processes are fair and transparent.

The Goals that the Benchers have identified relating to this subsection of the Act are:

Strategy 4-1: We will maintain a fair and transparent process through which concerns about lawyers’ professional conduct can be investigated and, where appropriate, sanctioned by

Continuously examining our regulatory processes to ensure they are fair and transparent and that they work to protect the public interest.

Strategy 4-2: We will enhance our regulatory oversight of law firms by

Implementing the recommendations of the Law Firm Regulation Task Force.

As a result of the recommendations of the Task Force, approved in December 2017, a pilot project was undertaken in 2018 in which approximately 10% of all law firms in private practice in BC were asked to complete a form of self-assessment that the Task Force recommended to the Benchers. At the same time, the government, acting on the Law Society's request, proclaimed the outstanding amendments to permit the Law Society to implement its program, and rule were passed by the Benchers requiring firms to register, and to create a process by which firms could be required to complete the self-assessment.

At the conclusion of the pilot project, additional recommendations were made to, and approved by, the Benchers with respect to the self-assessment process, as articulated in the Task Force's final report in October 2019. Flowing from these recommendations, and following further revisions to the self-assessment, the self-assessment process will be rolled out to all firms in private practice in BC starting in 2021.

Strategy 4-3: We will mitigate risk and prevent misconduct and improve regulatory outcomes by

Examining “pro-active” or “outcomes focused” methods of regulation to complement the disciplinary process.

Through the law firm regulation initiative, the Law Society has designed a self-assessment process that proactively sets target standards for ethical, professional firm practice by establishing a set of eight “Professional Infrastructure Elements” that represents core aspects of practice management.

The mandatory self-assessment process will be the key means of evaluating the extent to which firms have met these new standards. Although the elements of the self-assessment process establish what is expected of firms, there are no prescriptive rules that direct firms how to address the elements in order to achieve compliance. The self-assessment involves a significant education, learning and support function by providing firms with resources that will assist them in satisfying the Professional Infrastructure Elements.

Strategy 4-4: We will review our disclosure processes to balance transparency and privacy by

Undertaking an examination of disclosure and privacy issues relating to Law Society core functions and recommend updates to our current practices.

A process has been identified for undertaking this examination, but work on this initiative has not yet commenced.

Strategic Goal 5: Supporting and Assisting Lawyers, Articled Students, and Lawyers of other Jurisdictions who are Permitted to Practise Law In British Columbia in Fulfilling their Duties in the Practice of Law

While the public interest is the focus of the work of the Law Society, the public interest is also served where, as relevant, the Law Society can support and assist students and lawyers to meet the standards the Law Society has established. Disciplining those who fail in meeting standards will always be important, but such processes address after-the fact results. On the other hand, providing resources to assist lawyers and students in meeting the standards can lead to better and healthier lawyers and reduce the likelihood of incidents that will lead to a regulatory outcome.

Strategy 5-1: We will improve the mental health of the legal profession by

- (a) Identifying ways to reduce the stigma of mental health issues.
- (b) Developing an integrated mental health review concerning regulatory approaches to discipline and admissions.

Over the last two years, the Mental Health Task Force has focused on two streams of work: stigma reduction and a review of some aspects of the Law Society's admission and discipline process as they relate to addressing mental health and substance use issues that may be affecting applicants and lawyers.

The Task Force's work in each of these areas is reflected in its two interim reports, which contain 20 recommendations that were approved by the Benchers over the course of 2018 and 2019. These recommendations fall into three broad categories: educational initiatives, which primarily focus on improving awareness and understanding among Law Society staff dealing with lawyers affected by these issues; communications and outreach initiatives that aim to facilitate dialogue and improve awareness about these issues and related support

and resources within the profession; and regulatory initiatives that focus on changes to the BC Code and the admissions application form, amongst other things. Implementation of these initiatives remains ongoing.

Strategy 5-2: We will develop initiatives to improve the retention rate of lawyers in the profession, including in particular Indigenous and women lawyers by

Promoting initiatives to improve the equity and diversity of the legal profession.

The Law Society continues to gather and monitor demographic data about the legal profession in an effort to ensure that the diversity of the legal profession is reflective of the diversity of society. The Equity Diversity and Inclusion Advisory Committee will be further analyzing the data and developing recommendations to further support diverse lawyers in the coming year.

The Law Society's Equity Ombudsperson is available to assist lawyers with resolving concerns about discrimination and discriminatory harassment. In collaboration with the CLE BC, she and the Law Society's Deputy Chief Legal Officer recently provided a one-hour course on Sexual Misconduct in the Legal Profession, which is now available online.

The Equity Diversity and Inclusion Advisory Committee undertook a review of the Maternity Leave Benefit Loan Benefit Pilot Program, and is developing a recommendation regarding the future of the Program, which will be presented to the Benchers in 2020.

The Truth and Reconciliation Advisory Committee continues to oversee the administration of the Indigenous mentorship program and the Indigenous scholarship.