

Agenda

The Law Society
of British Columbia



Benchers

Date: Friday, July 10, 2020

Time: **9:00 am - Call to order**

Please join the meeting anytime from 8:50 am to allow enough time to resolve any video/audio issues before the meeting commences.

Location: Virtual meeting

Recording: *Benchers, staff and guests should be aware that a digital audio and video recording will be made at this Benchers meeting to ensure an accurate record of the proceedings. Any private chat messages sent will be visible in the transcript that is produced following the meeting.*

VIRTUAL MEETING DETAILS

The Bencher Meeting is taking place via a virtual meeting. If you would like to attend the meeting, please email BencherRelations@lsbc.org.

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 May 29, 2020 meeting (regular session)
2	Minutes of May 29, 2020 meeting (<i>in camera</i> session)
3	2020 Law Society Scholarship
4	2020 Law Society Indigenous Scholarship
5	Revisions to Bencher Meeting <i>In Camera</i> Policy
6	Rule 1-26: Proposed Amendments regarding the Voter List for Elections and By-elections
7	Rule 2-74: Review of failed standing (PLTC)
8	Rule 2-58: Offer Dates for Articled Students

Agenda

The Law Society
of British Columbia



REPORTS		
9	President's Report	Craig Ferris, QC
10	CEO's Report	Don Avison, QC
11	Briefing by the Law Society's Member of the Federation Council	Pinder K. Cheema, QC
DISCUSSION/DECISION		
12	Introduction to the 2021 – 2025 Strategic Planning Process	Don Avison, QC
13	Bencher and Committee Mid-Year Survey Results	Lisa Hamilton, QC
UPDATES		
14	Equity, Diversity & Inclusion Work Plan	Jeevyn Dhaliwal, QC
15	2020 May YTD Financial Report	Jeanette McPhee
16	Report on Outstanding Hearing & Review Decisions (<i>Materials to be circulated at the meeting</i>)	Craig Ferris, QC
FOR INFORMATION		
17	2020 Mid-Year Advisory Committees Report	
18	Rule of Law Secondary School Essay Contest	
19	Three Month Bencher Calendar – July to September 2020	
IN CAMERA		
20	Other Business	



Minutes

Benchers

Date: Friday, May 29, 2020

Present:	Craig Ferris, QC, President	Dr. Jan Lindsay
	Dean P.J. Lawton, QC, 1 st Vice-President	Jamie Maclaren, QC
	Lisa Hamilton, QC, 2 nd Vice-President	Claire Marshall
	Jasmin Ahmad, QC	Geoffrey McDonald
	Paul Barnett	Steven McKoen, QC
	Pinder K. Cheema, QC	Christopher McPherson, QC
	Jennifer Chow, QC	Jacqueline McQueen
	Barbara Cromarty	Elizabeth J. Rowbotham
	Jeevyn Dhaliwal, QC	Mark Rushton
	Cheryl S. D'Sa	Karen Snowshoe
	The Hon. David Eby, 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

Unable to Attend: Not Applicable

Staff Present:	Don Avison, QC	Michael Lucas, QC
	Barbara Buchanan, QC	Jeanette McPhee
	Natasha Dookie	Doug Munro
	Su Forbes, QC	Lesley Small
	Kerryn Holt	Adam Whitcombe, QC
	Jeffrey Hoskins, QC	Vinnie Yuen
	Jason Kuzminski	

<p>Guests: Dom Bautista Dr. Susan Breau Ian Burns Dr. Cristie Ford Richard Fyfe, QC Alexis Kazanowski Brenda Rose Linda Russell Kerry Simmons, QC Sharon Sutherland Bill Veenstra, QC</p>	<p>Executive Director, Law Courts Center Dean of Law, University of Victoria Digital Reporter, The Lawyer's Daily Associate Dean Research and the Legal Profession, Peter A. Allard School of Law Deputy Attorney General of BC, Ministry of Justice, representing the Attorney General Assistant Dean of Law, Thompson Rivers University Director, Community Engagement, Courthouse Libraries BC CEO, Continuing Legal Education Society of BC Executive Director, Canadian Bar Association, BC Branch Director of Strategic Innovation, Mediate BC Board of Directors, Canadian Bar Association</p>
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May 29, 2020 Bencher Meeting

OATH OF OFFICE

1. Administer Oath of Office

President Ferris administered the Oath of Office to new elected Bencher, Cheryl D'Sa.

CONSENT AGENDA

2. Minutes of April 17, 2020, meeting (regular session)

The minutes of the meeting held on April 17, 2020 were approved as circulated.

3. Minutes of the April 17, 2020 meeting (*in camera* session)

The *In Camera* minutes of the meeting held on April 17, 2020 were approved as circulated.

4. Revised Legal Aid Strategy

The revised Legal Aid Strategy was passed unanimously and by consent.

5. Rule 4-20: Proposed Amendments concerning the Publication of Citations

The following resolution was passed unanimously and by consent.

BE IT RESOLVED to amend the Law Society Rules by rescinding Rule 4-20 and substituting the following:

Publication of citation

- 4-20** (1) When there has been a direction to issue a citation, the Executive Director must publish on the Society's website the fact of the direction to issue the citation, the content of the citation and the status of the citation.
- (1.1) Publication under subrule (1) must not occur earlier than 7 clear days after the respondent has been notified of the direction to issue the citation.
- (2) The Executive Director may publish the outcome of a citation, including dismissal by a panel, rescission by the Discipline Committee or the acceptance of a conditional admission.
- (3) Publication under this rule may be made by means of the Society's website and any other means.
- (4) This rule must not be interpreted to permit the disclosure of any information that

is subject to solicitor and client privilege or confidentiality.

- (5) Except as allowed under Rule 4-20.1 [*Anonymous publication of citation*], a publication under this rule must identify the respondent.

Anonymous publication of citation

- 4-20.1** (1) A party or an individual affected may apply to the President for an order that publication under Rule 4-20 [*Publication of citation*] not identify the respondent.
- (2) When an application is made under this rule before publication under Rule 4-20, the publication must not identify the respondent until a decision on the application is issued.
- (3) On an application under this rule, where, in the judgment of the President, there are extraordinary circumstances that outweigh the public interest in the publication of the citation, the President may
- (a) grant the order, or
 - (b) order limitations on the content, means or timing of the publication.
- (4) The President may designate another Bencher to make a determination on an application under this rule.
- (5) The President or other Bencher making a determination on an application under this rule must state in writing the specific reasons for that decision.

6. Rule 10-1: Proposed Amendments to Permit Service through Member Portal

This item was removed from the consent agenda and it was requested that it be brought back for consideration at the July 10, 2020 Bencher meeting.

7. Rule 1-26: Proposed Amendments regarding the Voter List for Elections and By-elections

The following recommendations were approved, in principle, unanimously and by consent.

To amend Law Society Rule 1-26 as follows:

- a) provide that the voter list can be prepared and updated at any time during and up until the close of voting in an election or by-election to reflect member status and address changes; and
- b) remove the requirement that the voter list be made available at the Law Society office for in-person examination by members, and instead, provide that the voter list will be made available electronically.

REPORTS

8. President's Report

Mr. Ferris began his report by speaking about the disturbing rise in anti-Asian racism arising from the COVID-19 pandemic and made it clear that the Law Society's position is that racism, in any form, has no place in Canada, British Columbia or in our legal system. He said the Law Society condemns these acts of racism and will do our part to ensure that British Columbians are not subject to these sorts of horrendous attacks.

Mr. Ferris then spoke about people in the legal profession who are struggling financially as a result of the pandemic and indicated that 3 million dollars would be set aside to provide fee relief to those lawyers who have been hard-hit by COVID-19. He said the Law Society wants to do its part to help and more details of the proposed relief program would be discussed during the *In Camera* portion of the meeting.

The remainder of Mr. Ferris' report focused on steps being taken around in the world regarding alternative legal service providers and how different jurisdictions are addressing access to legal services issues. Topics covered included supervising innovation sandboxes, removing the ban on non-lawyer ownership of legal businesses and creating exceptions to unauthorized practice. Mr. Ferris indicated reports from the Licensed Paralegal Task Force and Futures Task Force would be coming before the Benchers in the fall. He hoped the reports would encourage the Benchers to have a vigorous discussion on these issues and help the Law Society to be part of the solution rather than an impediment because, in his view, the current number of people who are without legal help is unacceptable.

9. CEO's Report

Mr. Avison updated Benchers on phase one of the Law Society's return to the office plan for staff, indicating that most staff were still working from home and had been quite productive. He had been participating in weekly calls with CEOs of other Canadian law societies and indications were that many other law societies would not be returning to the office until the fall or later. The goal is never to have more than 50% of the staff compliment in the office over the next few months and arrangements were going well.

Mr. Avison then spoke about COVID-19 engagement both at the local level and beyond, reporting that it had been quite significant. He had been part of regular meetings with various parts of the provincial government, including the COVID-19 response group established by the Ministry of the Attorney General. These meetings have provided valuable opportunities for the exchange of ideas, updates on progress and have allowed the different parts of the justice system to be more connected. The Attorney General also established the external technical advisory

group, which is looking at a number of options for reform. More information about comments and questions from that group in the coming weeks.

At the last COVID-19 response group meeting, three key areas were identified by the Ministry of the Attorney General as the core areas of focus over the short-term: alternative dispute resolution, alternative legal service providers and the expanded utilization of virtual hearings. There will be more to be said about this in the coming weeks and months.

Regarding the opening of the courts, Mr. Avison said progress was being made and that the courts were working hard to find solutions. The use of technology was being expanded in different courts.

Mr. Avison also reported that he had taken part in a Zoom meeting with colleagues from around the world who are all impacted by COVID-19 to varying degrees, and said these open lines of communication provided valuable opportunities to be more connected, exchange ideas and identify common experiences, such as the impact of COVID-19 on the administration of the courts. Mr. Avison also participated in the Access to Justice BC group and some important themes were mentioned; including alternative legal service providers.

Mr. Avison then updated Benchers on the Cullen Commission hearings, timing and various context witnesses that were providing evidence. He said Mr. Lord's testimony was helpful and informative, and encouraged Benchers to view it online.

Regarding the 2021 budget, Mr. Avison indicated further discussions would take place *in camera*, and more information would be brought back for consideration by the Benchers at the July meeting.

In conclusion, Mr. Avison discussed Law Society operations, specifically the Professional Legal Training Course and call ceremonies, and talked about adjustments that had been made or were being contemplated to make these services more virtual.

10. Federation of Law Societies Report

Ms. Cheema provided an update on the three Federation of Law Societies committees she sits on: the Standing Committee on the Model Code, the Public Affairs Committee and the National Committee on Accreditation. The work of all committees has been impacted by the uncertainty of the current health situation, as has the council meeting scheduled for June 8, which will now be held virtually.

Ms. Cheema reported that the Standing Committee on the Model Code met earlier in May by teleconference and continued its discussions regarding the discrimination and harassment provisions. The Law Society of BC's Ethics Committee continues to follow up and review those

provisions. The consultations by the Standing Committee have been extended until September, and responses from the profession will be encouraged, which it is hoped will inform the Ethics Committee's final comments. A discussion also took place regarding the list of priorities for the Standing Committee.

The Public Affairs Committee also met online earlier in May, and Ms. Cheema indicated that the focus of the Committee's discussions were a response to the Federal government regarding the creation of a beneficial ownership registry, and submissions to the Cullen Commission regarding the anti-money laundering inquiry.

Finally, Ms. Cheema said the National Committee on Accreditation had been particularly impacted by the pandemic. Ordinarily there are 3500 applicants per year who apply for accreditation. It is expected that number will drop to 2800 because education has been halted due to the pandemic. The Committee is preparing for an increase in applications in 2021 as a result. The Committee is also reviewing its policy requiring students to take three courses in person. Ms. Cheema also indicated it is hoped a summary of the gap analysis report will be available by the end of June.

11. Attorney General Eby's Report

Attorney General Eby began by reporting on the latest developments in the provincial government and in the courts in response to COVID-19. He said court locations were being assessed to make sure they meet minimum health and safety requirements and that meetings with the judiciary and stakeholders were taking place regarding recommendations. The expectation was that a limited number of courtrooms would be open as of June 8. Attorney General Eby also recognized the backlog of cases and the need for virtual hearings and other technology to be available and utilized. The Ministry of the Attorney General faced some challenges in this regard, but would also be dedicating additional resources to deal with these issues in partnership with the judiciary.

Benchers then engaged in discussions about various access to justice issues they and other members of the profession had encountered, and offered possible solutions and insights for the Attorney's consideration. Suggestions included further embracing virtual technology in the court system, having set times for court appearances, funding for legal aid lawyers, and the backlog of issues in the courts.

UPDATES

12. Report on Outstanding Hearing & Review Decisions

President Ferris provided an update on outstanding hearing and review decisions and thanked Benchers for their efforts to get decisions in on time, as timeliness is important to the public and those involved in proceedings.

FOR INFORMATION

13. Wayne Robertson, Q.C. Access to Justice Award

There was no discussion on this item.

14. Annual Bencher Conflicts Disclosure Form

There was no discussion on this item.

15. Bencher *In Camera* Guidelines

There was no discussion on this item.

16. Three Month Bencher Calendar – June to August 2020

There was no discussion on this item.

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

KH
2020-05-29



Memo

To: Benchers
From: Credentials Committee
Date: June 23, 2020
Subject: **2020 Law Society Scholarship for Graduate Studies**

The Benchers are asked to ratify the recommendation of the Credentials Committee to award the 2020 Law Society Scholarship to [REDACTED].

The Law Society Scholarship of \$20,000 is offered annually to eligible candidates to encourage and financially assist those candidates in completing graduate studies which will, in turn, ultimately benefit the individual, the province, and the legal profession in British Columbia.

Eligibility

Candidates who are proceeding to a full program of graduate studies in a field of law at a recognized institution are eligible for the Scholarship if they are graduates or graduating students of the University of British Columbia, University of Victoria or Thompson Rivers University law school or, in some other way, can demonstrate a real or substantial connection to British Columbia. Candidates are advised that the Committee will only consider applications from candidates who have outstanding academic and other qualifications.

Guidelines

In addition to examining how the candidate's proposed graduate studies will benefit the individual, the province, and the legal profession in BC, the Committee also takes into consideration:

- i) the candidate's academic standing;
- ii) the candidate's positive social contributions, such as volunteer work;
- iii) whether the candidate intends to practise in BC after their graduate studies;
- iv) financial need; and
- v) importance or significance of proposed graduate work.

Candidates awarded the Scholarship are required to provide a reporting letter on the use of the Scholarship and a copy of the relevant work.

Documents Required in Support of the Application

Each candidate must apply by letter setting out the details of the candidate's academic career to date and proposed plans for graduate study.

The following must also be submitted with the application:

- i) official transcripts of the candidate's academic career; and
- ii) one letter of recommendation from the Dean and two letters from professors of the law school the candidate has graduated or will graduate from.

Conditions

Candidates are advised that the Scholarship will not necessarily be offered every year and, when offered, will be awarded only if there is a highly qualified candidate. The Scholarship must be used in the year it is awarded. The recipient may accept and receive other scholarships and awards up to an amount not exceeding the tuition of the graduate program in which the recipient enrolls, or such other amount as the Committee may determine.

Recipient

[REDACTED]

[REDACTED]

[REDACTED]

Attachments

1. Letter of application from [REDACTED]



Memo

To: Benchers
From: Credentials Committee
Date: June 23, 2020
Subject: **2020 Indigenous Law Society Scholarship**

The Benchers are asked to ratify the recommendation of the Credentials Committee to award the 2020 Indigenous Scholarship equally between [REDACTED] and [REDACTED].

The Indigenous Scholarship is offered for Indigenous students enrolled in full time legal studies in the province of British Columbia. The scholarship may be awarded to one student (\$20,000) or divided equally between two students (\$10,000 per student), at the discretion of the Credentials Committee. The Indigenous Scholarship aims to enhance the demographic representation of Indigenous lawyers in British Columbia by supporting their legal education.

Eligibility

The Indigenous Scholarship is open to Canadian Indigenous students who are enrolled in full-time studies at the University of British Columbia, University of Victoria or Thompson Rivers University law schools.

Criteria

The Credentials Committee takes the following criteria into consideration:

- i) academic standing;
- ii) positive social contributions, such as volunteer work;
- iii) the applicant's intention to practise in BC after completing legal studies; and
- iv) financial need.

Documents Required in Support of the Application

Candidates must submit a letter setting out the details of the applicant's academic career, social contributions, intention to practise in BC upon completion of legal studies, and financial need. The following must also be submitted with the application:

- i) official transcripts of the applicant's academic career;

- ii) proof of enrolment in a law school in British Columbia;
- iii) two letters of recommendation from the applicant's law school (preferably one academic reference, and one reference confirming the applicant's social contributions); and
- iv) proof of Canadian Indigenous ancestry, specifically, a photocopy of either a status, citizenship, membership, registration, or enrolment card.

Background

In 2011, the Executive Committee asked the Equity and Diversity Advisory Committee to consider whether the Law Society should offer a scholarship for Aboriginal lawyers completing graduate studies. The Indigenous Law Graduate Scholarship was created in 2012 to enhance the retention of Indigenous lawyers by assisting the development of Indigenous leaders in the legal academic community. Such leaders could serve as role models in law schools and encourage Indigenous students to pursue legal careers. The scholarship presented a strong positive message that the Law Society valued and supported the participation of Indigenous peoples in the development of law and issues relevant to the legal profession. The scholarship has been available since 2013, but was not awarded in 2016 or 2017 because no applications were received in those years.

The underutilization of the Indigenous Scholarship indicated that the scholarship was not meeting its goal of improving the retention of Indigenous lawyers in BC. As a result, the Truth and Reconciliation Advisory Committee made the following recommendations to the Benchers:

- that the eligibility criteria be expanded to include JD students. The Committee believed that providing scholarships to Indigenous JD students would more directly assist their progression toward becoming lawyers (as compared to legal academics) and that it would broaden the applicant pool.
- limiting the eligibility to Indigenous students who are enrolled in full time studies at British Columbia law schools. The previous eligibility criteria for graduate studies also recognized those who could demonstrate a real or substantial connection to BC. The Committee felt that limiting the eligibility would provide clearer parameters for eligibility, help manage the anticipated increase in applications, and ensure that applicants have a demonstrable connection to British Columbia.
- increase the amount budgeted for the Scholarship from \$12,000 to \$20,000.
- allow the Scholarship to be awarded to one student (\$20,000), or divided equally between two students (\$10,000 per student), at the discretion of the selection committee.

The Benchers approved the recommendations of the Truth and Reconciliation Advisory Committee at its meeting in June 2018.

Recipients

The Credentials Committee resolved to recommend to the Benchers that the \$20,000 Indigenous Scholarship be divided equally between [REDACTED] and [REDACTED].

1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Attachments

1. Letter of application from [REDACTED]

2. Letter of application from [REDACTED]



Memo

To: Benchers
From: Governance Committee
Date: June 22, 2020
Subject: Revisions to Benchers Meeting *In Camera* Policy

At President Ferris' request, the current Benchers meeting *in camera* policy was provided to Benchers for information on the May 29 agenda.

The Governance Committee reviewed the policy at its June 11 meeting. The Committee was of the view that the policy should be updated to clarify the difference between an open or closed Benchers meeting and an *in camera* session, and some minor wording changes to reflect the language used in the Law Society Rules. Accordingly, the Committee recommends Benchers approve updates to the policy as outlined in **Appendix A**. A redlined version is attached as **Appendix B**.

Be it resolved that the Benchers approve revisions to the Benchers meeting *in camera* policy as recommended by the Governance Committee and set out in Appendix A to this memorandum.

5.1 Bencher Meeting Policy

1. Bencher meetings generally open
 - a. Bencher meetings are open to Benchers, Law Society staff, members of the Society in good standing and articulated students unless the President (or other Bencher presiding) declares the meeting, or a portion of the meeting, closed under Rule 1-16(4).
 - b. The President may permit members of the public to attend Bencher meetings and to speak, as appropriate in the discretion of the President.
 - c. The Benchers may, by resolution, overturn the President's ruling to declare the meeting or a portion of the meeting closed.
2. Bencher meetings, or a portion of a Bencher meeting, may be closed or held *in camera*
 - a. The Benchers must meet *in camera*, with no staff, counsel or contractors present, to deliberate on a review of a panel decision or other matter that constitutes a hearing under the Legal Profession Act and Law Society Rules.
 - b. The President may order that only Benchers, or Benchers and specified employees of the Society, be present during the discussion of a confidential matter at a Bencher meeting, or a portion of a Bencher meeting, such as:
 - i. matters relating to Law Society personnel;
 - ii. matters of a financial or personal nature or other matters in respect of which the President determines that the need for privacy outweighs the public interest in disclosure;
 - iii. litigation involving the Law Society and to seek or receive legal advice in any matter;
 - iv. negotiations between the Law Society and another body or an individual, if the Benchers consider that disclosure might reasonably be expected to harm the interests of the Law Society;
 - v. any matter if, in the opinion of the Benchers, an open discussion would compromise the security of the Law Society or its property or of an identifiable individual; or

- vi. any matter if the Benchers consider that disclosure may reasonably be expected to harm the conduct of an investigation or enforcement of the Act, Rules or Professional Conduct Handbook.

3. Bencher decisions *in camera*

- a. The Benchers will not make a decision during an *in camera* session unless it is necessary to do so to protect privacy, security, confidentiality or privilege.

4. Record of *in camera* proceedings

- a. A member of staff, or in the absence of appropriate staff, a Bencher, will keep a record of decisions made by the Benchers in a meeting or part of a meeting held *in camera*, and may keep a record of the discussion, whether or not any decision was made by the Benchers.
- b. Minutes of a meeting or part of a meeting held *in camera* are confidential and must not be disclosed or distributed outside those entitled to attend, unless the Benchers decide otherwise.

5. Disclosure of *in camera* proceedings

- a. A decision made *in camera* will be recorded in the regular minutes of the Benchers, unless to do so would compromise privacy, security, confidentiality or privilege.
- b. Benchers and staff, and any others present during an *in camera* portion of a meeting or becoming aware of the substance of a discussion held *in camera*, will not disclose any information concerning that discussion without the permission of the President, but the Benchers may, by resolution, overrule the President's decision.

5.1 ~~Policy: Bencher Meeting Policy~~ in Camera

1. ~~Bencher m~~Meetings generally open
 - a. Bencher meetings are open to Benchers, Law Society staff, members of the Society in good standing and articulated students unless the President (or other Bencher presiding) declares the meeting, or a portion of the meeting, closed under Rule 1-16(4).
 - b. The President may permit ~~others~~ members of the public to attend Bencher meetings and to speak, as appropriate in the discretion of the President.
 - c. The ~~President may declare a meeting in camera when, in the discretion of the President it is necessary or desirable, but the~~ Benchers may, by resolution, overturn the President's ruling to declare the meeting or a portion of the meeting closed ~~cause the meeting to be open despite the President's ruling.~~
2. Bencher meetings, or a portion of a Bencher meeting, may be closed or held in camera

~~When an in camera session is required or appropriate~~

- ~~d.a.~~ a. The Benchers must meet *in camera*, with no staff, counsel or contractors present, to deliberate on a review of a panel decision or other matter that constitutes a hearing under the Legal Profession Act and Law Society Rules.
- ~~e. The Benchers may meet in camera, with only those Law Society staff, counsel and contractors necessary for the discussion to be conducted, to discuss:~~
- ~~f. matters relating to Law Society personnel; or~~
- ~~g. matters of a financial or personal nature or other matters in respect of which, in the opinion of the Benchers, the need for privacy outweighs the public interest in disclosure.~~
- h.b. The President may order that only Benchers, or Benchers and specified employees of the Society, be present during the discussion of a confidential matter at a Bencher meeting, or a portion of a Bencher meeting, such as may meet in camera, with only Law Society staff, counsel and contractors, to discuss:
 - i. matters relating to Law Society personnel;

ii. matters of a financial or personal nature or other matters in respect of which the President determines that the need for privacy outweighs the public interest in disclosure;

iii. litigation involving the Law Society and to seek or receive legal advice in any matter;

iv. negotiations between the Law Society and another body or an individual, if the Benchers consider that disclosure might reasonably be expected to harm the interests of the Law Society;

v. any matter if, in the opinion of the Benchers, an open discussion would compromise the security of the Law Society or its property or of an identifiable individual; or

vi. any matter if the Benchers consider that disclosure may reasonably be expected to harm the conduct of an investigation or enforcement of the Act, Rules or Professional Conduct Handbook.

2.3. Bencher decisions *in camera*

- a. The Benchers will not make a decision during an *in camera* session unless it is necessary to do so to protect privacy, security, confidentiality or privilege.

3.4. Record of *in camera* proceedings

- a. A member of staff, or in the absence of appropriate staff, a Bencher, will keep a record of decisions made by the Benchers in a meeting or part of a meeting held *in camera*, and may keep a record of the discussion, whether or not any decision was made by the Benchers.
- b. Minutes of a meeting or part of a meeting held *in camera* are confidential and must not be disclosed or distributed outside those entitled to attend, unless the Benchers decide otherwise.

4.5. Disclosure of *in camera* proceedings

- a. A decision made *in camera* will be recorded in the regular minutes of the Benchers, unless to do so would compromise privacy, security, confidentiality or privilege.
- b. Benchers and staff, and any others present during an *in camera* portion of a meeting or becoming aware of the substance of a discussion held *in camera*, will

not disclose any information concerning that discussion without the permission of the President, but the Benchers may, by resolution, overrule the President's decision.



Memo

To: Benchers
From: Jeffrey G. Hoskins, QC for Act and Rules Committee
Date: June 11, 2020
Subject: **Rule 1-26—Voter list**

1. At the meeting in May, the Benchers approved recommendations of the Governance Committee to amend the rule concerning compilation of the voter list for Benchers elections and access to the list during the election period. I attach the memorandum from the Governance Committee considered by the Benchers.
2. The Governance Committee recommended amendments to the rule, which now limits, in effect, who can vote in Benchers elections to those who are qualified to vote several weeks before the election. That rule was adopted when voting by paper ballots and ordinary mail required the time lapse. With electronic voting, that is no longer the case.
3. I attach a draft of amendments recommended by the Act and Rules Committee to give effect to the Benchers policy

Drafting notes

4. The draft amendments remove the various references in the current rules to the required preparation of a voters list in advance of the election.
5. Members are entitled to vote if they are qualified to vote at the time that they vote, not several weeks earlier.
6. A member may request a current voters list at any time that an election is in progress, and the Executive Director may provide the list in electronic form. Although it is anticipated that electronic form will be the norm for responding to such requests, the draft uses the permissive “may” to allow flexibility.

7. I also attach a suggested resolution to effect the proposed changes. The Act and Rules Committee recommends its adoption.

Attachments: memo May 7, 2020
 drafts
 resolution

JGH



Memo

To: Benchers
From: Governance Committee
Date: May 7, 2020
Subject: Rule 1-26: Proposed Amendments regarding the Voter List for Elections and By-elections

The problem

Law Society Rule 1-26(1) requires the Executive Director, by October 10 of each year (or in the case of a by-election, the date set by the Executive Committee), to prepare a list of voters for each district in which an election is to be held. Voting in an election or by-election does not commence until November 11, resulting in a three-week window in which member status and address updates may be received by the Law Society that do not end up being reflected in the previously prepared voter list.

The election and by-election rules largely reflect a time when paper ballots were printed and distributed to eligible voters and the preparation of a voter list three weeks in advance was necessary to allow mailing of the paper ballots. Elections and by-elections are now almost entirely electronic and no paper ballots are produced.

In light of the way in which elections and by-elections are now conducted, the Governance Committee recommends that Benchers approve amendments to Rule 1-26.

Background

There are three main elements to Rule 1-26:

1. the date on which the voter list must be prepared;
2. a member may examine the voter list at the Law Society office during normal office hours;
3. a process is set out for when a member who has reason to believe that a voter list improperly includes or omits a name, or contains an error respecting the district in which a member is

entitled to vote may, before the election, report the error and the Executive Director must promptly investigate.

In addition to Rule 1-26, a practice has developed over time where election or by-election candidates can request and be provided with an electronic copy of the voter list for the district in which they are running for Benchers for campaigning purposes.

Discussion

Date voter list is prepared

Law Society staff prepare the voter list on the date specified in Rule 1-26 (or in the case of a by-election, the date set by the Executive Committee). Prior to every election or by-election, Member Services staff take steps to ensure all member status updates and address change requests are processed and completed prior to the voter list being prepared so that the voter list is as up-to-date as possible. Inevitably, however, member status updates and address change requests are received during the three-week period after the voter list has been prepared and before voting in the election or by-election commences.

Rule 1-26 does not contemplate the ease with which electronic updates can be made to a member's status or address in the Law Society member database. Rather than reflecting the real-time information stored in the database immediately before voting commences or during an election or by-election, the voter list prepared in accordance with Rule 1-26 is a snapshot of eligible voters on a specific date three weeks prior to an election or by-election.

While Rule 1-26 does permit a member to contact the Executive Director to report an error on the voter list and that process may lead to the voter list being updated, there is no provision for Law Society staff to prepare a voter list on a date closer to the commencement of an election or by-election, or update the voter list immediately before voting in an election or by-election commences.

From a practical point of view, it is both technically possible and easier for staff who administer an election or by-election for the voter list to be a "living" document that reflects real-time member status and address changes. A real-time voter list would also be more accurate (e.g. a member who appears on the voter list, whose status later changes to former member, would not be able to vote in an election or by-election, and conversely, a new member who is added to the member database after the voter list is prepared would be able to vote in an election or by-election). The Governance Committee therefore recommends that Benchers approve amendments to Rule 1-26(3) to allow for a real-time voter list to be prepared and utilized that would reflect member status and address changes made at any time during and up until the close of voting in an election or by-election.

Examination of voter list at Law Society office

Rule 1-26(3), which provides that a member of the Society may examine the voter list at the Society during normal office hours, is rarely (if ever) utilized. However, for every election or by-election, a printed voter list is prepared and made available for these purposes.

The current situation with the pandemic has highlighted the difficulty in being able to comply with this rule. Staff have therefore created a workaround, where a member can request access to the voter list and be provided with a copy electronically. Consistent with the rule, the voter list provided to members only contains the names, in alphabetical order, of all members entitled to vote in the district.

The Committee recommends that Benchers approve amendments to Rule 1-26(3) to remove the requirement that the voter list be made available at the Law Society office for in-person examination by members, and instead, provide that the voter list will be made available electronically.

Recommendation

The Governance Committee recommends that the Benchers approve amendments to Rule 1-26 to:

- a) provide that the voter list can be prepared and updated at any time during and up until the close of voting in an election or by-election to reflect member status and address changes; and
- b) remove the requirement that the voter list be made available at the Law Society office for in-person examination by members, and instead, provide that the voter list will be made available electronically.

LAW SOCIETY RULES

PART 1 – ORGANIZATION

Division 1 – Law Society

Elections

Eligibility and entitlement to vote

- 1-25** (1) A member of the Society in good standing is eligible to vote in a Bencher election.
- (1.1) A member of the Society must not cast a vote or attempt to cast a vote that he or she is not entitled to cast.
- (1.2) A member of the Society must not enable or assist a person
- (a) to vote in the place of the member, or
 - (b) to cast a vote that the person is not entitled to cast.
- (2) ~~Only those members of the Society whose names appear on the voter list prepared under Rule 1-26 [Voter list], as corrected, are entitled to vote in a Bencher election.~~ [rescinded]

Voter list

- 1-26** (1) ~~By October 10 of each year, the Executive Director must prepare a list of voters for each district in which an election is to be held that year.~~ [rescinded]
- (2) ~~The~~ In this Division, a “voter list” is a list of voters for ~~each an electoral~~ each an electoral district ~~must list containing,~~ in alphabetical order, the names of all members of the Society ~~entitled-eligible~~ entitled-eligible to vote in the electoral district.
- (2.1) For the purpose of this rule, an election is in progress from the day that nominations are opened until the last day that members are permitted to vote.
- (3) ~~When an election is in progress, A~~ When an election is in progress, a member of the Society may ~~examine the voter list at the Society office during normal office hours of the Society~~ request a voter list from the Executive Director.
- (3.1) The Executive Director may comply with a request for a voter list by providing the list in electronic form.
- (4) A member of the Society who has reason to believe that a voter list improperly includes or omits a name, or contains an error respecting the district in which a member is entitled to vote may, ~~before the election~~ when an election is in progress, report the error to the Executive Director.
- (5) The Executive Director must promptly investigate a report made under subrule (4) and correct any error that exists.
- (6) A member of the Society who is not satisfied with the action taken by the Executive Director under subrule (5) may apply in writing to the Executive Committee for a review.

LAW SOCIETY RULES

- (7) The Executive Committee must promptly review an application made under subrule (6), and must
- (a) confirm the decision of the Executive Director, or
 - (b) order the Executive Director to correct the voter list as the Committee directs.

Voting procedure

- 1-27** (1) By November 1 of each year, the Executive Director must make available to each member of the Society ~~whose name is on the voter list prepared under Rule 1-26~~ ~~Voter list~~ entitled to vote in an election

Bencher by-election

- 1-38** (1) If an elected Bencher ceases to hold office in an even numbered year or before July 1 of an odd numbered year, a by-election must be held to fill the vacancy for the remainder of the term of office.
- (2) When a Bencher by-election is required under subrule (1), the Executive Committee must set a date for the prompt holding of the by-election.
- (3) Rules 1-21 to 1-37 apply to a by-election under subrule (1), except that the Executive Director may change the dates referred to in Rules 1-23 (c) [*Nomination*]; ~~1-26 (1) [Voter list]~~ and 1-27 (1) [*Voting procedure*].

LAW SOCIETY RULES

PART 1 – ORGANIZATION

Division 1 – Law Society

Elections

Eligibility and entitlement to vote

- 1-25** (1) A member of the Society in good standing is eligible to vote in a Bencher election.
- (1.1) A member of the Society must not cast a vote or attempt to cast a vote that he or she is not entitled to cast.
- (1.2) A member of the Society must not enable or assist a person
- (a) to vote in the place of the member, or
 - (b) to cast a vote that the person is not entitled to cast.
- (2) [rescinded]

Voter list

- 1-26** (1) [rescinded]
- (2) In this Division, a “**voter list**” is a list of voters for an electoral district containing, in alphabetical order, the names of all members of the Society eligible to vote in the electoral district.
- (2.1) For the purpose of this rule, an election is in progress from the day that nominations are opened until the last day that members are permitted to vote.
- (3) When an election is in progress, a member of the Society may request a voter list from the Executive Director.
- (3.1) The Executive Director may comply with a request for a voter list by providing the list in electronic form.
- (4) A member of the Society who has reason to believe that a voter list improperly includes or omits a name, or contains an error respecting the district in which a member is entitled to vote may, when an election is in progress, report the error to the Executive Director.
- (5) The Executive Director must promptly investigate a report made under subrule (4) and correct any error that exists.
- (6) A member of the Society who is not satisfied with the action taken by the Executive Director under subrule (5) may apply in writing to the Executive Committee for a review.
- (7) The Executive Committee must promptly review an application made under subrule (6), and must
- (a) confirm the decision of the Executive Director, or
 - (b) order the Executive Director to correct the voter list as the Committee directs.

LAW SOCIETY RULES

Voting procedure

- 1-27** (1) By November 1 of each year, the Executive Director must make available to each member of the Society entitled to vote in an election

Bencher by-election

- 1-38** (1) If an elected Bencher ceases to hold office in an even numbered year or before July 1 of an odd numbered year, a by-election must be held to fill the vacancy for the remainder of the term of office.
- (2) When a Bencher by-election is required under subrule (1), the Executive Committee must set a date for the prompt holding of the by-election.
- (3) Rules 1-21 to 1-37 apply to a by-election under subrule (1), except that the Executive Director may change the dates referred to in Rules 1-23 (c) [*Nomination*] and 1-27 (1) [*Voting procedure*].

VOTER LIST

SUGGESTED RESOLUTION:

BE IT RESOLVED to amend the Law Society Rules as follows:

1. *By rescinding Rule 1-25 (2);*
2. *By rescinding Rule 1-26 (1) to (4) and substituting the following:*
 - (2) In this Division, a “**voter list**” is a list of voters for an electoral district containing, in alphabetical order, the names of all members of the Society eligible to vote in the electoral district.
 - (2.1) For the purpose of this rule, an election is in progress from the day that nominations are opened until the last day that members are permitted to vote.
 - (3) When an election is in progress, a member of the Society may request a voter list from the Executive Director.
 - (3.1) The Executive Director may comply with a request for a voter list by providing the list in electronic form.
 - (4) A member of the Society who has reason to believe that a voter list improperly includes or omits a name, or contains an error respecting the district in which a member is entitled to vote may, when an election is in progress, report the error to the Executive Director.;
3. *In Rule 1-27 (1), by striking “each member of the Society whose name is on the voter list prepared under Rule 1-26” and substituting “each member of the Society entitled to vote in an election”; and*
4. *By rescinding Rule 1-38 (3) and substituting the following:*
 - (3) Rules 1-21 to 1-37 apply to a by-election under subrule (1), except that the Executive Director may change the dates referred to in Rules 1-23 (c) [Nomination] and 1-27 (1) [Voting procedure]..

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



Memo

To: Benchers
From: Jeffrey G. Hoskins, QC for Act and Rules Committee
Date: June 12, 2020
Subject: **Rule 2-74—PLTC exam re-writes**

1. At the meeting in April the Benchers approved in principle the recommendation of the Credentials Committee to amend the rules to delegate to the Executive Director the decision on applications to re-write PLTC exams for a second or subsequent time.
2. I attach for your reference the report of the Credentials Committee that was before the Benchers at that time. The recommendation of the Committee, which was accepted by the Benchers, was “that the Law Society Rules be amended to vest discretion in the Executive Director to grant a second or third opportunity to complete a PLTC examination(s) or assessment(s).”
3. I attach draft amendments and a suggested resolution recommended by the Act and Rules Committee to give effect to the recommendation.

Attachments: Report to Benchers April 8, 2020
drafts
resolution

JGH

The Law Society
of British Columbia



Students who Fail the Professional Legal Training Course: Recommendation to Amend the Law Society Rules

Credentials Committee

April 8, 2020

Prepared for: Benchers

Prepared by: Credentials Committee

Purpose: Approval in Principle to amend rules

Purpose of Report

1. This Report discusses the policy considerations and the recommendation of the Credentials Committee that the Benchers approve in principle that the Law Society Rules be amended to vest discretion in the Executive Director to grant a second or third opportunity to complete the Professional Legal Training Course.

Issue and Recommendation

2. The Credentials Committee has considered the current policy as reflected in the Rules on Students Who Fail the Professional Legal Training Course (“PLTC”) and, specifically, those students who come before the Credentials Committee to seek a second or third opportunity to write an examination(s) or assessment(s). In particular, the Committee considered whether its existing discretion to permit students a second or third opportunity at any one or more of the PLTC assessments or examinations ought to continue to fall under the discretion of the Credentials Committee or whether the discretion ought instead to be exercised by the Executive Director.
3. The Committee noted that its current practice indicates that a student’s request for a second or third opportunity will invariably be granted and because of this, over time it has become the norm to place these requests on the Committee’s consent agenda.
4. As a result, the Committee has considered the policy issues and recommends that the Benchers approve in principle that the discretion to grant articling students a second or third opportunity to complete a PLTC examination(s) or assessment(s) be given to the Executive Director and that the matter be forwarded to the Act and Rules Committee to draft the required rule amendments.

Background

5. Originally, a student who had failed examinations or assessments could apply an unlimited number of times for an opportunity to retake the failed criteria. Third opportunities to write an examination or assessment had become the norm as far back as the early 1990’s. By 1998, the Committee created a policy that attempted to make the third opportunity an extraordinary remedy and in all likelihood the last opportunity, but since the Committee continued to receive requests for fourth and occasionally even a fifth subsequent attempts, the Benchers approved a proposal by the Committee that the Committee’s discretion to grant unlimited opportunities be taken away.
6. Rules were therefore adopted in 2004 to limit the number of times a student could apply to the Credentials Committee and, what is now Rule 2-74(2) was approved. This rule provides that a

student may not apply to the Credentials Committee for a review of their failed standing if the student has failed in three attempts to pass the course.

7. Following adoption of the current Rule, requests for third opportunities come to the Committee, which considers and routinely grants such requests. It has now become the norm to place these requests on the consent agenda where matters are proposed to be dealt with by unanimous consent and without debate.

The Current Process and Problem to be Addressed

8. To achieve an overall Pass standing, a student must successfully complete the four skills assessments and the two PLTC examinations, as well as complete all of the assignments.
9. A student who fails one or two assessments or examinations has an overall Remedial standing. Rule 2-72(6) specifically gives the Executive Director the discretion to allow the student to re-attempt the failed assessment(s) or examination(s). There is no “formal” request or approval process in place for a second attempt.
10. A student who fails three or more assessments and/or examinations on the first attempt, or who fails any one or more assessments and/or examinations for the second time, has an overall FAIL standing and must apply to the Credentials Committee for permission to reattempt the failed components under Rule 2-74. Students are advised that completed submissions to the Committee should include:
 - a) A letter requesting an opportunity to redo the failed PLTC work. This should include:
 - i) the relief sought (e.g. another opportunity)
 - ii) the reason(s) the Committee should consider the request;
 - iii) an explanation for the failed work, including any exceptional circumstances that may have contributed to the failed standing;
 - iv) steps that have been, or will be, taking to ensure any such exceptional circumstances do not continue to be a problem; and
 - v) a detailed education and study plan that demonstrates all efforts made, or will be making, and any help obtained to remediate successfully.
 - b) A submission from the principal advising whether the student should be given further remedial opportunities. The principal should also indicate:
 - i) the firm’s willingness and specific plan to provide special training in the areas the student failed;
 - ii) the firm’s continued support of the student’s efforts to successfully complete PLTC; and

the firm's willingness to extend the student's articles if the Credentials Committee so recommends.

11. Upon receipt of the submissions from the student and the principal, the Deputy Director, PLTC prepares a report for the Committee's consideration and a recommendation regarding the relief sought. If the Deputy Director's recommendation is that the student ought to be granted the relief that is being sought, the matter is placed on the consent agenda of the Committee at the next upcoming meeting.
12. Given that a student's request for a second or third opportunity seems to always be granted, the Credentials Committee recognized that vesting the discretion in the Executive Director could improve operational efficiencies and the process would result in decisions being made more quickly.

Options

13. Three main options were considered:
 - Maintain the status quo;
 - Amend the Rules to permit the Executive Director to exercise the discretion to allow a student a second or third opportunity to write one or more remedial assessments or examinations;
 - Amend the Rules to create automatic permission for a student to have three opportunities to write one or more remedial assessment or examination.
14. The Credentials Committee considered each of the options and noted the following points:

Maintaining the Status Quo

15. In applying for a review of their failed status, students must set out either compassionate grounds or grounds based on their past performance, and relief sought in their applications. Applications must be received within 21 days after the date the student received his or her PLTC transcript. The Committee may then consider any submission made by PLTC, the student, the principal, or any other person who can provide relevant information with regard to the application. The Committee may also invite the student and principal to meet informally with the Committee; however, students are normally invited only when the student has failed badly or PLTC staff disagree with the relief sought by the student.
16. Requiring students to reflect on "what went wrong" and spend some time working on an educational and study plan to remediate successfully is beneficial. Likewise, ensuring that the student's principal and firm are involved to provide support to the student is helpful.

17. Having said that, depending on the timing of the Committee meetings, students must wait for a decision of the Committee before being able to embark on the next steps. This can, in some instances, increase the anxiety of the students as they are unfamiliar with the process and the scheduling involved.
18. In addition, the process from a staff and Committee perspective is time consuming. Staff is required to collect all of the information and write a report to the Committee for consideration. While the materials are placed on the consent agenda, the Committee is still required to review the materials to ensure that they are in agreement with the recommendations.

Amending the Rules to permit the Executive Director discretion

19. Amending the Rules to permit the Executive Director to exercise the discretion to allow a student a second or third opportunity to write one or more assessments or examinations would provide more timely decisions to the students thereby allowing them to move forward.
20. It would also alleviate the Committee's time in reviewing the materials and staff time in preparing reports for the Committee.
21. The process itself could remain the same, in that students and principals could still be required to provide submissions for the Executive Director's consideration in the same way that they are currently required to make submissions to the Credentials Committee.
22. In the event the Executive Director is not willing to exercise discretion to allow for a second or third opportunity, the matter would then be referred to the Credentials Committee for consideration, as contemplated by Rule 2-51.

Amending the Rules to permit an automatic third attempt

23. Amending the Rules to permit students an automatic third attempt would alleviate decisions having to be made by either the Committee or the Executive Director. An automatic third opportunity would remove any uncertainty for the students that the Committee or the Executive Director may not exercise discretion and grant the third opportunity.
24. It would also alleviate the necessity for a student to have to make submissions. This would, however, remove what the Committee considers to be a beneficial step in having a student reflect on their past performance and develop a plan for success.
25. Some may criticize the result as a relaxation of standards. However, as third opportunities are routinely granted now, that concern may already exist.

Discussion and Analysis

26. The Committee considered this issue in light of the efficiency of process given what current practice has developed.
27. The benefit of the status quo is that it sets out a process to suggest to students that a third opportunity to pass a failed item in PLTC is not a given. It focuses the student on the need to make a rationale that the Committee should exercise its discretion to grant the opportunity, and this may better focus the student's mind and practices toward success.
28. Requiring the student to come before the Committee seeking a third opportunity does reflect the importance that the student should attach to the application. Taking matters up to a benchers committee in order to seek a favourable exercise of discretion has a focusing effect and has the benefit of impressing on the student the seriousness of the matter.
29. In order to reflect on the serious nature of the request, a requirement that the applicant make a request to the Executive Director, which can therefore be handled by staff based on guidelines established by the Committee, has the benefit of reinforcing the serious nature of the request on the applicant, but not tying up staff time in preparing materials for an agenda which results in approval by consent without discussion.
30. The Committee considered whether the Legal Profession Act permits the Executive Director to make such decisions.
31. Section 11(1) of the *Legal Profession Act* gives the Benchers rule-making power:

11(1) The benchers may make rules for the governing of the society, lawyers, law firms, articulated students and applicants, and for the carrying out of this Act.
32. Section 3 of the Act sets out the object and duty of the Law Society to uphold and protect the public interest in the administration of justice by:

(c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission.
33. The question is whether it is reasonably within the authority granted by the Act to change the entity that can consider an application for a third opportunity to redo a PLTC examination(s) or assessment(s) from the Credentials Committee to the Executive Director.
34. Some rules vest discretion in the Executive Director to make a decision (such as 2-72(6) that permits the Executive Director to allow a student a second opportunity to pass an examination or assessment), while other rules vest discretion in committees to make a decision. Other rules

could be considered hybrid in that there is a right for review of the Executive Director's decision by a committee. This is the case under Part 2, Division 2, of the Law Society Rules. Specifically, Rule 2-51 provides:

- 2-51(1) The Executive Director may refer any matter for decision under this division to the Credentials Committee.
- (2) At the written request of a lawyer, former lawyer, articulated student or application affected by a decision made by the Executive Director under this division, the Executive Director must refer the matter to the Credentials Committee.
- (3) When the Executive Director refers a matter to the Credentials Committee under this rule, the Committee may make any decision open to the Executive Director under this division and may substitute its decision for that of the Executive Director.

Recommendation

35. After consideration, the Committee concluded that in order to best addresses the policy issues raised including:

- the problem of delay for the articulated students;
- the beneficial step in having a student reflect and develop a plan for success along with involvement from the student's principal and firm; and
- the operational inefficiency caused by the existing rule.

it would be reasonable to delegate the discretion to the Executive Director to grant a student a second or third opportunity if that is the relief that the student is seeking.

36. If the Executive Director does not exercise his or her authority to grant the relief, the articulated student can request that the matter be referred to the Credentials Committee pursuant to Law Society Rule 2-51. In fact, as a matter of practice, if the Executive Director decides not to grant the third opportunity, the matter could automatically be referred to the Credentials Committee.

37. As a result, the Credentials Committee recommends that the Law Society Rules be amended to vest discretion in the Executive Director to grant a second or third opportunity to complete a PLTC examination(s) or assessment(s).

LAW SOCIETY RULES

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 2 – Admission and Reinstatement

Credentials Committee

Referral to Credentials Committee

- 2-51** (1) The Executive Director may refer any matter for decision under this division to the Credentials Committee.
- (2) At the written request of a lawyer, former lawyer, articulated student or applicant affected by a decision made by the Executive Director under this division, the Executive Director must refer the matter to the Credentials Committee.
- (3) When the Executive Director refers a matter to the Credentials Committee under this rule, the Committee may make any decision open to the Executive Director under this division and may substitute its decision for that of the Executive Director.

Admission program

Re-enrolment

- 2-55** (3) A person referred to in subrule (1) (c) may not apply for enrolment for 1 year after the later of
- (b) the failed standing is confirmed under Rule 2-74 (7) (a) [~~Review by Credentials Committee of failed standing~~].

Training course

- 2-72** (5) The Executive Director must deliver to each student who was registered in a training course session and to each student's principal, a transcript stating whether the student passed or failed the training course.
- (6) ~~[rescinded] If a student fails part of the training course, the Executive Director may allow the student one further attempt to pass the examinations, assignments or assessments concerned.~~

Review ~~by Credentials Committee of failed standing~~

- 2-74** (1) Subject to subrule (2), an articulated student who has failed the training course may apply in writing to the ~~Credentials Committee~~ Executive Director for a review of the student's failed standing, not more than 21 days after the date on which the Executive Director issued the transcript under Rule 2-72 (5) [Training course], ~~for a review of his or her failed standing.~~

LAW SOCIETY RULES

- (2) An articulated student may not apply ~~to the Credentials Committee~~ under subrule (1) if the student has failed in 3 attempts to pass the training course, including any of the following:
 - (a) the original attempt;
 - (b) a further attempt to pass examinations, assignments or assessments ~~under Rule 2-72 (6) [Training course]~~;
 - (c) any attempt to meet a requirement under subrule (7).
- (3) The ~~Credentials Committee~~Executive Director may, ~~in its discretion~~, consider an application for review received after the period specified in subrule (1).
- (4) An articulated student applying for a review under this rule must state the following in the application:
 - (a) any compassionate grounds, supported by medical or other evidence, that relate to the student's performance in the training course;
 - (b) any grounds, based on the student's past performance, that would justify the Credentials Committee granting opportunities for further remedial work;
 - (c) the relief that the student seeks under subrule (7).
- (5) ~~The Credentials Committee may~~[rescinded]
 - ~~(a) deliver a copy of the student's application for review to the Executive Director;~~
 - ~~(b) consider any written submission made by the Executive Director, the student, the principal or other person who, in the Committee's opinion, could provide information relevant to the grounds for review; or~~
 - ~~(c) invite one or more of the student, the principal or the Executive Director, to make any further written submissions, or to meet informally with the Committee.~~
- (6) ~~Subject to the Act and these rules, the Credentials Committee may determine the practice and procedure to be followed at a review under this rule.~~[rescinded]
- (7) After considering the submissions made under subrules (4) ~~and (5)~~, the ~~Credentials Committee~~Executive Director may do one or more of the following:
 - (a) confirm the standing, including any failed standing, ~~stated in the transcript delivered by the Executive Director;~~
 - (b) grant the student an adjudicated pass in a training course examination, assignment or assessment, with or without conditions;
 - (c) require the student to complete further examinations, assignments or assessments, and to pass them at a standard set by the ~~Committee~~Executive Director;
 - (d) require the student to complete or repeat and pass all, or a portion of, the training course;

LAW SOCIETY RULES

- (e) require the student to complete a specified program of training at an educational institution or under the supervision of a practising lawyer, or both.
- (8) A student who is required to do anything under subrule (7) must pay the fee for the training course, or for each examination, assignment or assessment as specified in Schedule 1.
- (9) The Executive Director must deliver a transcript stating the student's standing and the extent to which any standards or conditions ~~set by the Credentials Committee~~ have been met to
 - (a) each student whom the ~~Committee~~ Executive Director has required to do anything under subrule (7), and
 - (b) each such student's principal.

SCHEDULE 1 – 2020 LAW SOCIETY FEES AND ASSESSMENTS

D. Articled student fees

- 5. Remedial work (Rule 2-74 (8) [*Review ~~by Credentials Committee~~ of failed standing*]):
 - (a) for each piece of work 100.00
 - (b) for repeating the training course 4,000.00

LAW SOCIETY RULES

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 2 – Admission and Reinstatement

Credentials Committee

Referral to Credentials Committee

- 2-51** (1) The Executive Director may refer any matter for decision under this division to the Credentials Committee.
- (2) At the written request of a lawyer, former lawyer, articulated student or applicant affected by a decision made by the Executive Director under this division, the Executive Director must refer the matter to the Credentials Committee.
- (3) When the Executive Director refers a matter to the Credentials Committee under this rule, the Committee may make any decision open to the Executive Director under this division and may substitute its decision for that of the Executive Director.

Admission program

Re-enrolment

- 2-55** (3) A person referred to in subrule (1) (c) may not apply for enrolment for 1 year after the later of
- (b) the failed standing is confirmed under Rule 2-74 (7) (a) [*Review of failed standing*].

Training course

- 2-72** (5) The Executive Director must deliver to each student who was registered in a training course session and to each student's principal, a transcript stating whether the student passed or failed the training course.
- (6) [rescinded]

Review of failed standing

- 2-74** (1) Subject to subrule (2), an articulated student who has failed the training course may apply in writing to the Executive Director for a review of the student's failed standing, not more than 21 days after the date on which the Executive Director issued the transcript under Rule 2-72 (5) [*Training course*].
- (2) An articulated student may not apply under subrule (1) if the student has failed in 3 attempts to pass the training course, including any of the following:
- (a) the original attempt;
 - (b) a further attempt to pass examinations, assignments or assessments;
 - (c) any attempt to meet a requirement under subrule (7).

LAW SOCIETY RULES

- (3) The Executive Director may consider an application for review received after the period specified in subrule (1).
- (4) An articulated student applying for a review under this rule must state the following in the application:
 - (a) any compassionate grounds, supported by medical or other evidence, that relate to the student's performance in the training course;
 - (b) any grounds, based on the student's past performance, that would justify the Credentials Committee granting opportunities for further remedial work;
 - (c) the relief that the student seeks under subrule (7).
- (5) **[rescinded]**
- (6) **[rescinded]**
- (7) After considering the submissions made under subrule (4), the Executive Director may do one or more of the following:
 - (a) confirm the standing, including any failed standing;
 - (b) grant the student an adjudicated pass in a training course examination, assignment or assessment, with or without conditions;
 - (c) require the student to complete further examinations, assignments or assessments, and to pass them at a standard set by the Executive Director;
 - (d) require the student to complete or repeat and pass all, or a portion of, the training course;
 - (e) require the student to complete a specified program of training at an educational institution or under the supervision of a practising lawyer, or both.
- (8) A student who is required to do anything under subrule (7) must pay the fee for the training course, or for each examination, assignment or assessment as specified in Schedule 1.
- (9) The Executive Director must deliver a transcript stating the student's standing and the extent to which any standards or conditions have been met to
 - (a) each student whom the Executive Director has required to do anything under subrule (7), and
 - (b) each such student's principal.

SCHEDULE 1 – 2020 LAW SOCIETY FEES AND ASSESSMENTS

D. Articled student fees

- 5. Remedial work (Rule 2-74 (8) *[Review of failed standing]*):
 - (a) for each piece of work 100.00
 - (b) for repeating the training course 4,000.00

PLTC RE-WITES

SUGGESTED RESOLUTION:

BE IT RESOLVED to amend the Law Society Rules as follows:

1. *By rescinding Rule 2-72 (6); and*
2. *By rescinding Rule 2-74 (1) to (3), (5) to (7) and (9) and substituting the following:*

Review of failed standing

2-74 (1) Subject to subrule (2), an articulated student who has failed the training course may apply in writing to the Executive Director for a review of the student's failed standing, not more than 21 days after the date on which the Executive Director issued the transcript under Rule 2-72 (5) [Training course].

- (2) An articulated student may not apply under subrule (1) if the student has failed in 3 attempts to pass the training course, including any of the following:
 - (a) the original attempt;
 - (b) a further attempt to pass examinations, assignments or assessments;
 - (c) any attempt to meet a requirement under subrule (7).
- (3) The Executive Director may consider an application for review received after the period specified in subrule (1).
- (7) After considering the submissions made under subrule (4), the Executive Director may do one or more of the following:
 - (a) confirm the standing, including any failed standing;
 - (b) grant the student an adjudicated pass in a training course examination, assignment or assessment, with or without conditions;
 - (c) require the student to complete further examinations, assignments or assessments, and to pass them at a standard set by the Executive Director;
 - (d) require the student to complete or repeat and pass all, or a portion of, the training course;
 - (e) require the student to complete a specified program of training at an educational institution or under the supervision of a practising lawyer, or both.
- (9) The Executive Director must deliver a transcript stating the student's standing and the extent to which any standards or conditions have been met to
 - (a) each student whom the Executive Director has required to do anything under subrule (7), and

- 2 -

(b) each such student's principal.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



Rule 2-58: Proposed Amendments to the Rules Concerning Hiring Articled Students

June 30, 2020

Prepared for: Benchers

Prepared on behalf of: Credentials Committee

Purpose: Proposed Rule Amendments

Purpose

1. The Credentials Committee recommends amendments to Rule 2-58 in order to facilitate the recruitment schedule for 2020/20121 articles moving to the Fall of 2020 instead of Summer 2020.

Problem

2. In light of the current circumstances surrounding the existence of COVID-19, the Vancouver Bar Association requested that the Credentials Committee revise the previously set “offer date” (the date until which offers made by firms to prospective articulated students must remain open) of Friday, August 14, 2020 to Friday, October 23, 2020.
3. The Vancouver Bar Association explained that the request was made following discussions with the recruitment stakeholders in Vancouver on how best to address scheduling in a way that meets the needs of students and employers alike, while being sensitive to practical challenges facing all parties
4. While the Credentials Committee has agreed to re-set the offer date to Friday, October 23, 2020, the issue that this raises is that, because of the language of Rule 2-58(4), the extension would adversely affect students as it does not include those students who have begun third year of studies.

Discussion

5. Rule 2-58 was introduced in 1994 to regulate how Vancouver law firms could make offers to students for articling positions.
6. It recognized that most firms interview students seeking articles in the summer between second and third year law school. The “offer date” requires that certain Vancouver law firms leave articling offers open until a specified date. This permits students time to consider the offer and prevents law firms from pressuring students into accepting offers before canvassing other firms.
7. In recommending the rule to the Benchers, there was a consensus that the rule should only apply to students who have not yet commenced third year of studies. Once the regular offer period has passed, students, and firms interviewing them, would be unfettered in their negotiations, and offers could be made any time.
8. However, because the offer date has now been set in October 2020, the majority of the students who would have benefited from Rule 2-58, will already have begun their third year of studies.

9. In order to address the problem identified and ensure that those law students retain the benefit of Rule 2-58, the Credentials Committee recommends a rule change to address situations where the Credentials Committee sets the offer date outside of the regular Summer recruitment period.

Recommendation

10. The Credentials Committee recommends that the Benchers approve in principle amendments to the rules to address situations where the Credentials Committee sets the offer date outside of the regular Summer recruitment period. If that recommendation is accepted, given the urgency to this recommendation in the current circumstances, the Credentials Committee understands that the Act and Rules Committee has already reviewed this matter, and recommends the rules be amended in the form attached. A proposed resolution is also attached.

LAW SOCIETY RULES

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 2 – Admission and Reinstatement

Admission program

Hiring articled students

- 2-58** (1) This rule does not apply to temporary articles under Rule 2-70 [*Temporary articles*].
- (2) This rule applies to all lawyers practising in a firm that maintains an office in the city of Vancouver north of False Creek and west of Carrall Street.
- (3) The Credentials Committee may designate an offer date in each calendar year.
- (4) A lawyer must not offer articles to a student of any law school ~~who has not begun the third year of studies~~ unless the offer is to remain open at least until the offer date designated under subrule (3).
- (5) As an exception to subrule (4), the Credentials Committee may allow a lawyer to withdraw an offer of articles before the offer date designated under subrule (3).
- (6) If the Credentials Committee designates an offer date that is before September 1, subrule (4) does not apply to a student who has begun the third year of studies at any law school.

LAW SOCIETY RULES

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 2 – Admission and Reinstatement

Admission program

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- (4) A lawyer must not offer articles to a student of any law school unless the offer is to remain open at least until the offer date designated under subrule (3).
- (5) As an exception to subrule (4), the Credentials Committee may allow a lawyer to withdraw an offer of articles before the offer date designated under subrule (3).
- (6) If the Credentials Committee designates an offer date that is before September 1, subrule (4) does not apply to a student who has begun the third year of studies at any law school.

OFFER DATE**SUGGESTED RESOLUTION:**

BE IT RESOLVED to amend the Law Society Rules by rescinding Rule 2-58 (4) and substituting the following:

- (4) A lawyer must not offer articles to a student of any law school unless the offer is to remain open at least until the offer date designated under subrule (3).
- (6) If the Credentials Committee designates an offer date that is before September 1, subrule (4) does not apply to a student who has begun the third year of studies at any law school.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



CEO's Report to the Benchers

July 10, 2020

Prepared for: Benchers

Prepared by: Don Avison, QC

1. Update on COVID 19 Response

As Benchers will know, the Provincial Public Health Officer and the Government of B.C. recently declared that the province has now entered phase three of COVID-19 recovery protocols. This has resulted in some easing of restrictions but the Declaration of Emergency and the “rule of 50” remains in place.

We remain hopeful that we will be able to hold an in person Bencher meeting in the coming months but we now have significant capacity to conduct virtual meetings, as required. Decisions will need to be made about a number of scheduled events, including the Annual General Meeting and whether Rule changes will be required to proceed electronically.

The Law Society’s “Return to Office” strategy continues to result in less than half of our staff being on site at any one time and staff also continue to work remotely. I plan to provide a summary of a number of operational elements at next Friday’s meeting.

We continue to be in frequent contact with the provincial government, with the bulk of those communications taking place with the Ministry of the Attorney General. Deputy Attorney General Fyfe confirms that a significant number of Provincial courtrooms and the Supreme Court are now available and, further, that all court registries will re-open on July 13, 2020.

The report of the External Justice Technical Advisory Group (XJ-TAG) is expected to be provided towards the end of the month and there are a number of working groups considering related issues.

2. Budget Development

The Finance and Audit Committee will be meeting on July 8, 2020 and, while the budget proposal won’t come before the Benchers for a number of weeks, I am hopeful we will be able to provide a high-level summary of some of the key issues and proposals that have been guiding budget development.

Staff are currently developing a form to assist in determining the scope of need for fee relief and eligibility criteria.

3. Cullen Commission

The Commission recently completed 17 days of witness testimony. The July meeting will include a summary of those proceedings. Ludmila Herbst QC and Catherine George are counsel for the Law Society before the Commission and they will be available to attend the in camera section of the meeting.

4. Governance and Bencher Relations

Following the July meeting, Kerry Holt, Manager of Governance and Bencher Relations will be on maternity leave. I want to take this opportunity to thank her for the truly exceptional work she has done since undertaking this important role. Kerry has assembled an excellent team and she and her colleagues consistently demonstrate great commitment to the mission and mandate of the Law Society.

While Kerry is on leave the Governance and Bencher Relations group will be managed by Avalon Bourne who comes to us with significant related experience.

Don Avison, QC
Chief Executive Officer



Memo

To: Benchers
From: Don Avison, QC
Date: June 30, 2020
Subject: Introduction to the 2021 – 2025 Strategic Planning Process

Purpose

The purpose of this memorandum is to provide an introduction to the Benchers on a proposed process and timing for development of the Strategic Plan for 2021-2025. The Law Society's first strategic plan was created in 2008 (for 2009 - 2011) and the Strategic Plan for 2021 – 2025 will be the Law Society's 5th plan.

Strategic planning

Strategic planning is a process of documenting and establishing a direction for an organization by assessing both where you are and where you are going. The plan should identify the key areas that the organization intends to place its focus, resources and energy over the course of the plan. A strategic plan is important for an organization because it:

- defines an organization's overall mission and objectives;
- prioritizes an organization's attention and resources in working toward a mission;
- creates a clear path on how to achieve stated objectives to complete a mission;
- promotes accountability and reporting in an organization's work; and
- helps an organization prepare for and adapt to future events.

Hierarchy and definitions

Before discussions begin about the specific elements that may form the basis of the next strategic plan, it is important Benchers and Staff have a common understanding of the key concepts that form part of an effective strategic plan. Based on examples identified of effective strategic plans used by other regulatory bodies or organizations, the five key concepts of an effective strategic plan are as follows:



Proposed process and timing for development of the Strategic Plan for 2021 - 2025

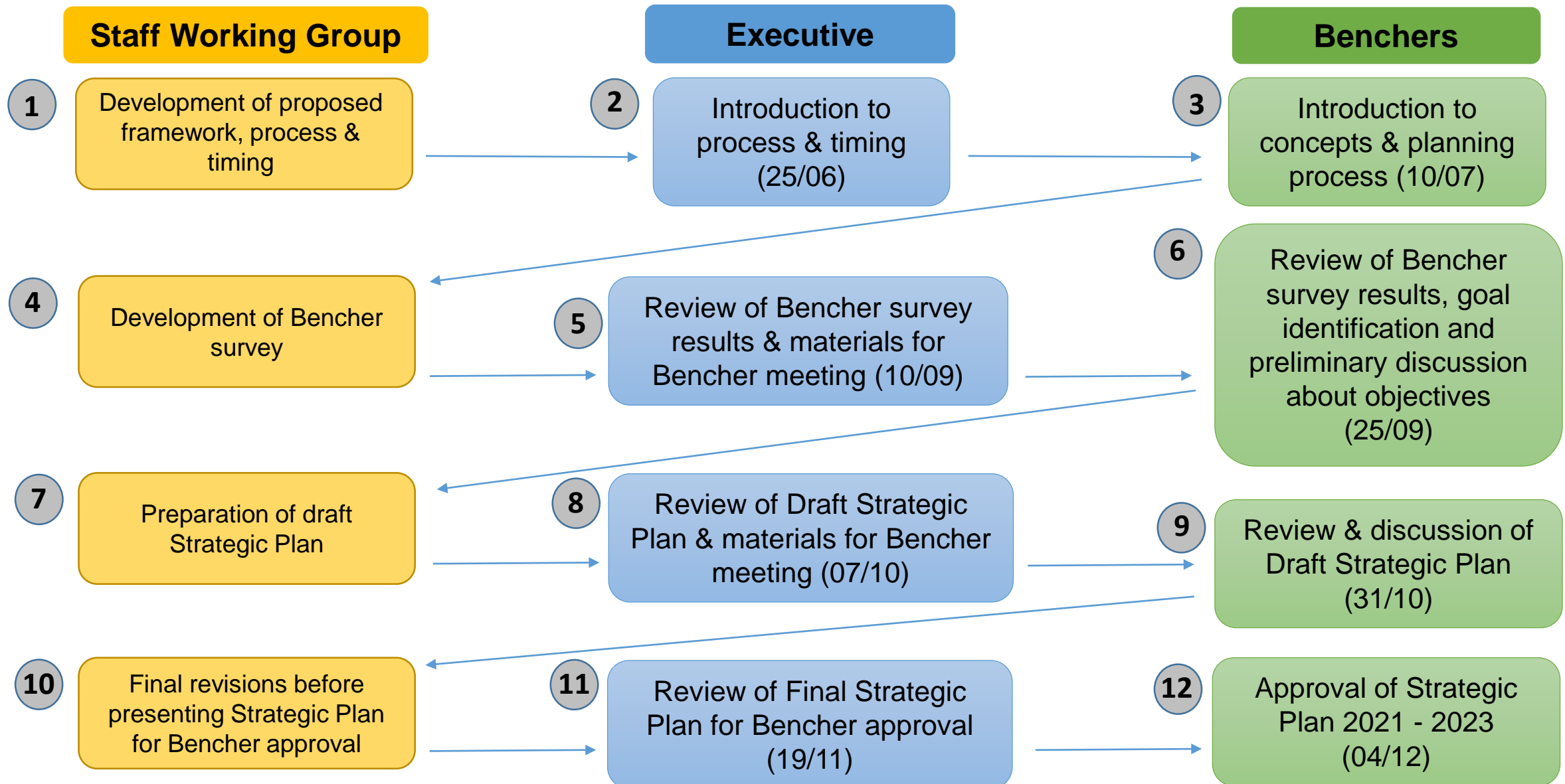
At the July 10 Bencher meeting, Benchers will be introduced to the strategic planning process – including the proposed framework, process and timing for development of the next strategic plan. Benchers will have an opportunity to engage in a meaningful discussion about the mission, vision, values and objectives of the Law Society, before exploring specific objectives and initiatives to be included in the next strategic plan. Over the summer a Bencher survey will be conducted, which will build on the concepts introduced at the July 10 meeting and seek further input from Benchers about the specific mission, vision, values and objectives to be included in the next strategic plan, as well as feedback on possible high-level organizational objectives and initiatives to be considered during the next phase of the strategic plan development. The survey results will be analyzed, and Benchers will be divided into smaller ‘breakout’ groups over Zoom to discuss in more detail the findings and identify core concepts.

The findings of the Bencher survey and breakout groups would then be brought back to Benchers for consideration and discussion at the September 25 Bencher meeting. At that time, it is hoped that Benchers would be in a position to refine some of the concepts expressed in the survey and breakout groups, and agree on 3 to 4 overarching strategic objectives. An initial discussion would also take place about specific initiatives that may be included under each strategic objective.

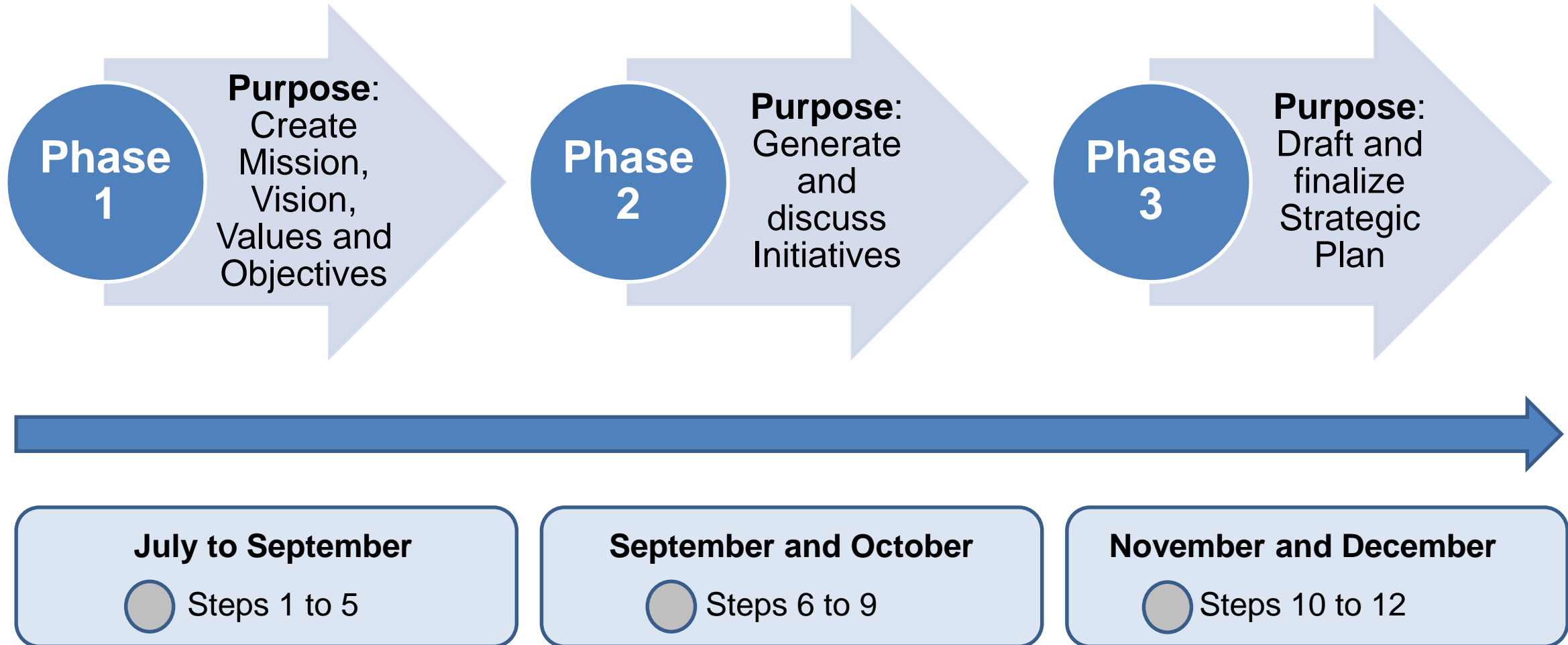
Using feedback from the September 25 Bencher meeting, Staff would develop a draft strategic plan, which would be presented to Benchers for consideration and discussion at the October 31 Bencher meeting. A final strategic plan would be presented to Benchers for approval at the December 4 Bencher meeting.

A more detailed overview of the proposed process and timing for the development of the strategic plan for 2021 – 2025 is attached to this memorandum as **Appendix A**.

Strategic Planning Process & Timing



Planning Phases



The Law Society
of British Columbia



Quarterly Financial Report

May 31, 2020

Prepared for: Finance & Audit Committee Meeting – July 8, 2020
Bencher Meeting – July 10, 2020

Prepared by: The Finance Department

Quarterly Financial Report - End of May 2020

Attached are the financial results and highlights to the end of May 2020.

General Fund

General Fund (excluding capital and TAF)

To the end of May 2020, the General Fund operations resulted in a positive variance to budget. This positive result is mainly due to lower operating expenses from a combination of permanent savings as well as timing differences.

Revenue

Revenue for the period was \$11.7 million \$326,000 (3%) under budget, primarily due to lower D&O insurance recoveries as these recoveries were received in 2019.

Practice fees are slightly behind budget, a trend we expect to continue with current economic conditions. Currently, the number of full-time equivalent practicing lawyers is 12,673, compared to a budget of 12,846. We are projecting that the number of FTE lawyers will remain at 12,673 through the year.

PLTC student revenues are slightly behind budget to date but these revenues are expected to be on track for the year with 641 students versus a budget of 638.

Although interest revenue is slightly ahead of budget to date, we are expecting a decline for the year with the interest rate reductions.

Operating Expenses

Operating expenses for the period were \$10.2 million, \$1.4 million (12%) below budget due to both timing differences and as a result of the impact on Law Society operations of the state of emergency and the various orders from the Public Health Officer and other efforts on the part of management to contain costs during these times.

As noted on the financial highlights attached, there have been permanent savings in a number of areas. There were lower compensation costs with increased vacancies, lower contractors and reductions in other compensation costs, and reduced meeting and travel costs with no in-person meetings, and no Benchers or staff travel. In addition, there are some timing differences, mainly for external counsel fees.

TAF-related Revenue and Expenses

TAF revenue for the period was \$1.0 million, equal to the budget. Trust assurance program costs are below budget with lower travel and compensation costs.

With the current economic conditions, it is expected that real estate unit sales will continue to be down for the year, leading to much lower TAF revenue for the year. It is difficult to project the real estate market in this environment, but there are sufficient reserves to offset the downturn in the market. Currently the TAF reserve sits at \$1.7 million.

Special Compensation Fund

The Special Compensation Fund continues to incur costs related to document production for past files and will use the remaining reserves in 2020. Any further document production costs will be paid through LIF.

Lawyers Indemnity Fund

LIF revenues were \$6.7 million to date, very close to budget. LIF operating expenses were \$2.7 million compared to a budget of \$3.6 million, with savings related to staff costs, lower external fees, and lower stop loss insurance costs.

At the end of May 2020, the market value of the LIF long term investment portfolio was \$188.9 million. Although the markets were down significantly over the last few months, the investment portfolio has mainly recovered at the end of May. The investment portfolio returns for the period were -1.16%.

As approved by the Benchers, the LIF portfolio asset mix now includes infrastructure funds, and a portion of the LIF investment funds are moving to infrastructure funds over the next 12 – 24 months. Over the May to July time period, funds held by Beutel Goodman will be transferred to ACM Mortgage and Fiera Capital. Once the infrastructure funds make their capital calls in the next 12 – 18 months, the temporary funds held by Fiera will move to IFM and Axiom infrastructure funds.

Summary of Financial Highlights - May 2020 (\$000's)

2020 General Fund Results - May 2020 (Excluding Capital Allocation & Depreciation)

	Actual	Budget	\$ Var	% Var
Revenue (excluding capital)				
Practice fees	9,571	9,584	(13)	0%
PLTC and enrolment fees	526	560	(34)	-6%
Electronic filing revenue	267	292	(25)	-9%
Interest income	288	243	45	19%
Credentials & membership services	251	282	(31)	-11%
Fines, penalties & recoveries	167	249	(82)	-33%
Insurance Recoveries	-	242	(242)	-100%
Other revenue	113	55	58	105%
Other cost recoveries	13	6	7	117%
Building revenue & tenant cost recoveries	601	610	(9)	-1%
	11,797	12,123	(326)	-3%
Expenses (excluding depreciation)*	10,201	11,601	1,400	12%
	1,596	522	1,074	

*Summary of Expense Variance to Date - May 2020

Permanent Savings:

Compensation savings	625
Meetings and Travel savings	271
Other miscellaneous permanent savings (HR, consultants, etc.)	84
	980

Timing Differences:

External Counsel Fees timing differences	239
Other miscellaneous timing differences	181
	420
	1400

Trust Assurance Program Actual

	2020 Actual	2020 Budget	Variance	% Var
TAF Revenue	1,004	1,010	(6)	-0.6%
Trust Assurance Department	1,282	1,480	198	13.4%
Net Trust Assurance Program	(278)	(470)	192	

2020 Lawyers Indemnity Fund Long Term Investments - YTD May 2020* Before investment management fees

Performance	-1.16%
Benchmark Performance	0.95%

*Quarter end June investment results not yet available.

The Law Society of British Columbia
General Fund
Results for the 5 Months ended May 31, 2020
(\$000's)

	2020 Actual	2020 Budget	\$ Variance	%
REVENUE				
Practice fees (1)	11,803	11,825	(22)	0%
PLTC and enrolment fees	526	560	(34)	-6%
Electronic filing revenue	267	292	(25)	-9%
Interest income	288	243	45	19%
Credentials and membership services	251	282	(31)	-11%
Fines, penalties and recoveries	167	249	(82)	-33%
Insurance Recoveries	-	242	(242)	0%
Other revenue	113	55	58	105%
Other Cost Recoveries	13	6	7	117%
Building Revenue & Recoveries	601	610	(9)	-1%
Total Revenues	14,029	14,364	(335)	-2.3%
EXPENSES				
Benchers Governance and Events				
Bencher Governance	279	486	207	43%
Board Relations and Events	130	152	22	14%
	409	638	229	36%
Corporate Services				
General Office	261	306	45	15%
CEO Department	178	208	30	14%
Finance	433	452	19	4%
Human Resources	156	230	74	32%
Records Management	79	92	13	14%
	1,107	1,288	181	14%
Education and Practice				
Licensing and Admissions	618	712	94	13%
PLTC and Education	960	1,119	159	14%
Practice Standards	142	266	124	47%
Practice Support	14	14	-	-
	1,734	2,111	377	18%
Communications and Information Services				
Communications	207	251	44	18%
Information Services	706	786	80	10%
	913	1,037	124	12%
Policy and Legal Services				
Policy and Legal Services	577	634	57	9%
Tribunal and Legislative Counsel	215	258	43	17%
External Litigation & Interventions	-	10	10	100%
Unauthorized Practice	124	149	25	17%
	916	1,051	135	13%
Regulation				
CLO Department	384	387	3	1%
Intake & Early Assessment	806	868	62	7%
Discipline	892	918	26	3%
Forensic Accounting	370	506	136	27%
Investigations, Monitoring & Enforcement	1,310	1,333	23	2%
Custodianships	648	692	44	6%
	4,410	4,704	294	6%

The Law Society of British Columbia
General Fund
Results for the 5 Months ended May 31, 2020 Continued...
(\$000's)

	2020 Actual	2020 Budget	\$ Variance	%
Building Occupancy Costs	712	772	60	8%
Depreciation	420	489	69	14%
Total Expenses	10,621	12,090	1,469	12.2%
General Fund Results before Trust Assurance Program	3,408	2,274	1,134	
Trust Assurance Program (TAP)				
TAF revenues	1,004	1,010	(6)	-0.6%
TAP expenses	1,282	1,480	198	13.4%
TAP Results	(278)	(470)	192	
General Fund Results including Trust Assurance Program	3,130	1,804	1,326	

(1) Membership fees include capital allocation of \$2.23m (Capital allocation budget = \$2.41m)

The Law Society of British Columbia
General Fund - Balance Sheet
As At May 31
(\$000's)

	2020	2019
	Actual	Actual
Assets		
Current assets		
Cash and cash equivalents	17,223	15,231
Unclaimed trust funds	2,300	2,163
Accounts receivable and prepaid expenses	431	8,577
Due from Lawyers Insurance Fund	15,061	5,772
	<u>35,015</u>	<u>31,743</u>
Property, plant and equipment		
Cambie Street property	11,874	12,597
Other - net	1,790	1,600
	<u>13,664</u>	<u>14,197</u>
Long Term Loan	446	365
	<u>49,125</u>	<u>46,306</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	2,603	2,436
Liability for unclaimed trust funds	2,300	2,163
Current portion of building loan payable	500	500
Deferred revenue	14,189	13,737
Deposits	56	60
	<u>19,648</u>	<u>18,896</u>
Building loan payable	100	600
	<u>19,748</u>	<u>19,496</u>
Net assets		
Capital Allocation	4,429	3,000
Unrestricted Net Assets	24,948	23,810
	<u>29,377</u>	<u>26,810</u>
	<u>49,125</u>	<u>46,306</u>

The Law Society of British Columbia
General Fund - Statement of Changes in Net Assets
For the 5 Months ended May 31
(\$000's)

	<i>Invested in Capital</i>	<i>Working Capital</i>	<i>Unrestricted Net Assets</i>	<i>Trust Assurance</i>	<i>Capital Allocation</i>	<i>2020 Total</i>	<i>Year ended 2019 Total</i>
	\$	\$	\$	\$	\$	\$	\$
Net assets - At Beginning of Year	12,849	8,409	21,258	1,990	3,000	26,247	23,663
Net (deficiency) excess of revenue over expense for the period	(818)	1,993	1,175	(277)	2,231	3,130	2,584
Contribution to LIF				-		-	
Repayment of building loan	500	-	500	-	(500)	-	-
Purchase of capital assets:						-	
LSBC Operations	243	-	243	-	(243)	-	-
845 Cambie	59	-	59	-	(59)	-	-
Net assets - At End of Period	12,833	10,402	23,235	1,713	4,429	29,377	26,247

The Law Society of British Columbia
Special Compensation Fund
For the 5 months ended May 31
(\$000's)

	2020 Actual	2020 Budget	\$ Variance
Revenue			
Annual assessment	-	-	-
Recoveries	-	-	-
Interest income	-	-	-
Loan interest expense	-	-	-
Other income	-	-	-
Total Revenues	<u>-</u>	<u>-</u>	<u>-</u>
Expenses			
Claims and costs, net of recoveries	46	-	46
Total Expenses	<u>46</u>	<u>-</u>	<u>46</u>
Special Compensation Fund Results	<u><u>(46)</u></u>		

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

	2020 Actual	2019 Actual
Assets		
Current assets		
Due from Lawyers Insurance Fund	13	127
	<u>13</u>	<u>127</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	-	-
	<u>-</u>	<u>-</u>
Net assets		
Unrestricted net assets	13	127
	<u>13</u>	<u>127</u>

The Law Society of British Columbia
Special Compensation Fund - Statement of Changes in Net Assets
For the 5 months ended May 31
(\$000's)

	2020	Year ended 2019
	\$	\$
Unrestricted Net assets - At Beginning of Year	59	159
Net excess of revenue over expense for the period	(46)	-
Unrestricted Net assets - At End of Period	<u>13</u>	<u>(100)</u>

The Law Society of British Columbia
Lawyers Indemnity Fund
For the 5 months ended May 31
(\$000's)

	2020 Actual	2020 Budget	\$ Variance	% Variance
Revenue				
Annual assessment	6,683	6,700	(17)	0%
Investment income	(2,323)	3,787	(6,110)	-161%
Other income	46	27	19	70%
Total Revenues	<u>4,406</u>	<u>10,514</u>	<u>(6,108)</u>	<u>-58.1%</u>
Expenses				
Insurance Expense				
Provision for settlement of claims	7,413	7,413	-	0%
Salaries and benefits	1,285	1,509	224	15%
Contribution to program and administrative costs of General Fund	532	612	80	13%
Provision for ULAE	-	-	-	-
Insurance	63	189	126	67%
Office	269	551	282	51%
Actuaries, consultants and investment brokers' fees	282	393	111	28%
Premium taxes	-	8	8	100%
Income taxes	-	-	-	0%
	<u>9,844</u>	<u>10,675</u>	<u>831</u>	<u>8%</u>
Loss Prevention Expense				
Contribution to co-sponsored program costs of General Fund	289	367	78	21%
Total Expenses	<u>10,133</u>	<u>11,042</u>	<u>909</u>	<u>8.2%</u>
Lawyers Insurance Fund Results	<u><u>(5,727)</u></u>	<u><u>(528)</u></u>	<u><u>(5,199)</u></u>	

The Law Society of British Columbia
Lawyers Indemnity Fund - Balance Sheet
As at May 31
(\$000's)

	2020	2019
	Actual	Actual
Assets		
Cash and cash equivalents	7,816	10,453
Accounts receivable and prepaid expenses	546	378
Current portion General Fund building loan	500	500
LT Portion of Building Loan	100	600
Investments	188,948	181,775
	<u>197,911</u>	<u>193,706</u>
Liabilities		
Accounts payable and accrued liabilities	111	2,850
Deferred revenue	1,575	8,970
Due to General Fund	15,061	5,772
Due to Special Compensation Fund	12	127
Provision for claims	77,098	76,239
Provision for ULAE	11,860	10,779
	<u>105,717</u>	<u>104,738</u>
Net assets		
Internally restricted net assets	17,500	17,500
Unrestricted net assets	74,694	71,468
	<u>92,194</u>	<u>88,968</u>
	<u>197,911</u>	<u>193,706</u>

***The Law Society of British Columbia
Lawyers Indemnity Fund - Statement of Changes in Net Assets
For the 5 months ended May 31***

	Unrestricted \$	Internally Restricted \$	2020 Total \$	2019 Total \$
Net assets - At Beginning of Year	80,421	17,500	97,921	76,921
Net excess of revenue over expense for the period	(5,727)	-	(5,727)	21,000
Net assets - At End of Period	74,694	17,500	92,194	97,921



2020 Mid-Year Reports

Access to Justice Advisory Committee
Equity, Diversity and Inclusion Advisory Committee
Mental Health Task Force
Rule of Law and Lawyer Independence Advisory Committee
Truth and Reconciliation Advisory Committee

July 10, 2020

Prepared for: Benchers

Purpose: For information

Introduction

1. This report is a compilation of the work undertaken so far this year by the four Advisory Committees as well as by the Mental Health Task Force.

I. Access to Justice Advisory Committee

2. The Access to Justice Advisory Committee has met regularly and has worked on the following matters.

Terms of reference

3. The Committee reviewed and revised the mandate and terms of the reference for the Committee.

Legal Aid Strategy

4. The Committee developed a legal aid strategy for the Law Society, which the Benchers have adopted. The strategy allows the Law Society to remain engaged in active monitoring of legal aid and scale engagement to the topic as required.

Law Foundation and Access to Justice Fund

5. The Committee met with representatives of the Law Foundation of British Columbia as part of the annual discussion regarding the \$60,000 access to justice fund. The Law Foundation provided three potential projects for consideration, and the Committee sought additional information regarding a project designed to improve access to legal services in the coastal communities near Bella Coola. In addition, the Committee raised the question of the fund sponsoring an articling position in a public interest clinic. In June, the Law Foundation provided additional information, which the Committee considered at its July meeting. It is possible the Committee can provide an oral update to the Benchers.

Development of an Access to Justice Vision

6. The Committee is also developing a draft access to justice vision for the Law Society. As part of its analysis the Committee has reviewed a range of existing policies that are directed towards improving access to justice, such as the Vision for Publicly Funded Legal Aid, the policy for funding pro bono, and the work on designated paralegals and unbundling, to name a few. From these various initiatives, the Committee has identified several core principles that might inform an access to justice vision. Following this preliminary stage of analysis, the Committee has discussed what some of the primary barriers are and what role – if any – the Law Society has in addressing the barriers. In

July, the Committee will review the work of Dr. Gillian Hadfield and explore issues related to improving access to justice through changing to regulation. The Committee anticipates providing the Benchers with a draft vision statement in the fall. The Committee expects this work will support the efforts at developing a Strategic Plan for 2021-2023.

II. Equity, Diversity and Inclusion Advisory Committee

7. The Equity, Diversity and Inclusion Advisory Committee's work this year has been centered on the following matters.

Demographic Data

8. This year, the Committee has been mandated to “update the equity, diversity, and inclusion data on the legal profession in BC and consider how this data can be kept current in the future.”¹ The Committee has analyzed the data from the demographic self-identification survey that has been distributed with the annual practice declaration (APD) over the past five years to determine whether there are any notable trends thus far. A report is being prepared for publication on the Law Society's website. Briefly, although the proportion of Indigenous, racialized², and disabled lawyers within the legal profession of BC has increased, the proportions remain below the demographic composition of the broader population. The proportion of LGBT lawyers in BC appears to be slightly above the proportion of LGBTQ people within the population of Canada, but Canada's data does not include information about transgendered people. Twenty-three percent of respondents choose not to answer the survey.
9. The Committee is considering possible updates to the survey to gather additional information regarding entry, retention, and advancement characteristics of survey respondents, as well as the possibility of distributing the survey to non-practicing and retired members.

¹ Letter Re: 2020 Mandate for Equity Diversity and Inclusion Advisory Committee, dated January 17, 2020.

² The terminology regarding race is unsettled. The Ontario Human Rights Commission guidelines indicate that using the terminology “racialized person” or “racialized group” is more accurate than “racial minority”, “visible minority”, “person of colour” or “non-White”. Race is the socially constructed differences among people based on characteristics such as accent or manner of speech, name, clothing, diet, beliefs and practices, leisure preferences, places of origin, and so forth. Racialization is the “process by which societies construct races as real, different and unequal in ways that matter to economic, political and social life”. (See: <http://www.ohrc.on.ca/en/racial-discrimination-race-and-racism-fact-sheet>). The BC Human Rights Tribunal followed the OHRC's lead on using the term “racialized” in a recent judgment (see: <https://www.canlii.org/en/bc/bchrt/doc/2019/2019bchrt136/2019bchrt136.html#document>).

Maternity Leave Benefit Loan Program Review

10. In 2009, based on a recommendation from the Women in Law Task Force, the Benchers established the Maternity Leave Benefit Loan Program (“Program”) as a pilot program aimed at assisting self-employed women lawyers to take maternity leaves and return to practice after giving birth. The Committee has undertaken a Program review, including a telephone survey of Program users. The review has revealed that the Program is failing to meet its key objectives. The Committee is committed to identifying and implementing more effective measures to meet the needs of new parents who are trying to maintain their legal practices. A report and recommendations will be presented to the Benchers in the fall.

Consultation on Model Code Discrimination and Harassment Amendments

11. The Committee has reviewed proposed amendments to discrimination and harassment provisions of the Federation of Law Societies’ *Model Code of Professional Conduct*. The Committee will collaborate with the Ethics Committee to prepare a response to the consultation for submission to the Federation’s Model Code Committee before the September 30, 2020 deadline.

Work Plan

12. The Committee is preparing a work plan to identify concrete steps that the Law Society can take to address racial injustice in the legal profession. The Committee Chair will provide a report on the proposed work plan at the July 2020 Bencher meeting.

III. Mental Health Task Force

13. Over the past six months, the Task Force’s focus has been threefold: finalizing the recommendations contained in the Second Interim Report, monitoring the implementation of the recommendations contained in the First and Second Interim Reports, and engaging in a variety of outreach activities.

New recommendations

14. The Task Force’s Second Interim Report, approved by the Benchers on January 30, 2020, contained seven recommendations that fall into two broad categories: strategies that aim to enhance the manner in which the Law Society shares information about mental health and substance use issues and related supports within the legal community, and regulatory

strategies that focus on how these issues are most appropriately addressed in the regulatory context.

15. The information-sharing strategies adopted by the Benchers include:

- working 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 to assist students as they transition to practice
- revising the Benchers Orientation Manual and expanding Benchers training in relation to mental health and substance use issues
- hosting a forum for the profession to discuss mental health and substance use issues and the role that legal employers can play in improving lawyer wellness
- updating the Law Society style guide and practice resource for the profession regarding the use of non-discriminatory and non-stigmatizing language
- conducting a voluntary, confidential member survey exploring mental health and substance use among BC lawyers

16. The regulatory recommendations adopted by the Benchers include the amendment of the *BC Code* duty to report provisions and the removal of the medical fitness questions from the Admission Program Application Form.

17. After considerable work on the development of an alternative discipline process last year, the Task Force has asked staff to continue the detailed work of developing a framework for the program, which they are expected to share with the Task Force for review and input in the fall.

Implementation activities

18. Implementing the recommendations contained in the Task Force's First and Second Interim Reports remains a priority. During the first half of 2020, this work, which has been largely undertaken by staff, has included:

- commencing the development of the respectful language practice resource for the profession;
- providing mental health-related training opportunities for staff, including the Mental Health Commission's Mental Health First Aid certification;
- exploring options for Benchers mental health training;
- developing wellness-related content for the law firm regulation's self-assessment tool;
- preliminary planning for the mental-health forum for the profession;

- exchanging information with the Federation on the development of a pan-Canadian mental-health survey;
- participating in the Bell Let's Talk Day and CMHA's Mental Health Week.

Outreach activities

19. Task Force members have also been involved in a number of educational outreach activities over the last six months, including participating in podcasts on mental health issues and making presentations to firms, the provincial government's Legal Services Branch and law school classes.

Next Steps

20. Moving into the second half of this year, the Task Force will continue to focus on implementation and outreach activities, as well as developing additional recommendations for new initiatives. The Task Force will also work with staff to develop an alternative discipline process for lawyers affected by mental health or substance use disorders.

IV. Rule of Law and Lawyer Independence Advisory Committee

21. The Rule of Law and Lawyer Independence Advisory Committee's focus to date this year has been on the following matters.

Essay Contest

22. Another high school essay contest was undertaken. Two topics were identified for this year:
 - (1) Does government and/or corporate monitoring of social media adversely affect the rule of law? and
 - (2) How is the rule of law affected by a global pandemic?
23. 24 essays were submitted in total.
24. One essay winner and one runner-up has now been chosen for each category. Winners and runners up have now been advised. Arrangements will be made for the awards at a future in-person meeting with benchers, or the award will be mailed, depending on how conditions play out over the summer.

Rule of Law Lecture

25. The Rule of Law Lecture, normally held in May or June, was postponed due to the pandemic. The Committee is currently giving consideration to how the Lecture might be undertaken in the fall, likely through virtual means.

Publications

26. The Committee has drafted an article outlining concerns about comments from the Prime Minister's mandate letters to his Minister of Justice and how they could adversely affect the principle of judicial independence. The article is expected to be published in the next edition of the *Benchers Bulletin*.

Matters in Light of the Current Pandemic

27. The Committee has discussed effects on the rule of law arising both domestically and internationally from the COVID-19 pandemic, including the possibility of increased surveillance and the use of emergency powers.
28. The discussion on the current state of the rule of law has lead the Committee to conclude that a Podcast series would be a helpful way to engage both lawyers and members of the public on topics of the rule of law in a timely way. Consistent with the general direction the Benchers have given to the Committee to find ways to publicize and educate on the rule of law, the Committee is currently working on developing a series of Podcasts that will focus on (a) why does the rule of law matter; (b) the pandemic and the rule of law; (c) the rule of law, but which laws; and (d) the rule of law, not the law of rules.

Work Identified From Mandate Letter

29. The Committee is currently working on matters identified for its mandate relating to the development of the law on "lawyer independence" arising from the Federation money laundering case.

V. Truth and Reconciliation Advisory Committee

30. The Truth and Reconciliation Advisory Committee has over the past 6 months been working on the following matters.

Indigenous intercultural competence course

31. The Committee has spent the majority of its time overseeing the development of the Indigenous intercultural competence course that was approved at the December 6, 2019 Benchers meeting, with the targeted release date of January 1, 2021. The Law Society has retained an external consultant who is an Indigenous lawyer with extensive experience in developing online courses focused on Indigenous content. The Co-Chairs of the TRC Committee met with the consultant on May 6, 2020, and the Committee met with her on June 15, 2020 to discuss options for subject matter for the course, a mix of possible presentation styles and format for the Course, and that the Course will consist of six modules. It is anticipated that the pilot for the course will be ready in the fall, although there have been some delays caused pandemic disruption.

Progress Report

32. The Committee has considered methods of identifying issues within the Law Society's mandate to better support Indigenous lawyers and law graduates, with a view to increasing the number of practicing Indigenous lawyers in the province. The Committee intends to prepare a progress report with respect to the Law Society's "Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers Report" from 2000³ to determine the extent of progress on previous recommendations, whether there are any outstanding issues that the Law Society might help to address, and whether any new or updated recommendations are necessary. The Committee intends to seek input from other organizations, individual lawyers, and Indigenous law graduates to inform the progress report.

BC First Nations Justice Strategy

33. The Committee has reviewed the BC First Nations Justice Strategy (Strategy), which makes specific reference to the Law Society as a partner organization to work with in relation to: 1) advancing the implementation of the Strategy; 2) developing and promoting a recruitment strategy to increase the number of Indigenous people in roles of authority and responsibility within the justice system; and 3) identifying and encouraging potential First Nations candidates for judicial appointments. The Co-Chairs of the Committee had a teleconference with representatives of the BC First Nations Justice Council on March 24, 2020. The Committee's efforts to identify and implement measures to increase the number of Indigenous lawyers in the province corresponds with Law

³ <https://www.lawsociety.bc.ca/Website/media/Shared/docs/publications/reports/AboriginalReport.pdf> (Report).

Society's role as envisioned in the Strategy. The Law Society will continue to collaborate with the BC First Nations Justice Council to advance the implementation of the Strategy.

Joint meeting of Co-Chairs of Law Society and CBA BC TRC Committees

34. The Co-Chairs of both the Law Society and CBA BC's TRC Committees participated in a videoconference meeting on May 14, 2020 to share their current priorities with the goal of identifying opportunities for collaboration. There was some discussion of tracking the number of Indigenous lawyers, and supporting the retention and advancement of Indigenous lawyers and law graduates in BC.

Federation of Law Societies TRC Calls to Action Committee

35. Dean Lawton, QC serves as the Western Representative of the Federation of Law Societies' TRC Calls to Action Committee. The Federation's Committee met in person on February 24, 2020, and by videoconference on April 6, 2020. On June 8, 2020, Federation Council voted unanimously to accept the Committee's recommendations regarding actions the Federation and individual law societies should consider in responding to the TRC calls to action.⁴

⁴ See: <http://www.lawsociety.nu.ca/sites/default/files/AGM/FLSC%20TRC%20Report%20on%20Rec%20-%20Memo%20to%20Executive%20-%20Apr%202020%20-%20FINAL.PDF> .



Memo

To: Benchers
From: Rule of Law and Lawyer Independence Advisory Committee
Date: July 2, 2020
Subject: Rule of Law Secondary School Essay Contest

The Law Society's essay contest that is overseen by the Rule of Law and Lawyer Independence Advisory Committee has recently completed. This year, two topics were identified, and students were given the choice on which topic to write. Despite the wrench thrown into the school year by the COVID-19 pandemic, 24 students managed to submit essays, which was an increase over last year, and the winners have now been chosen. The topics and winners are:

Topic 1: Does government and/or corporate monitoring of social media adversely affect the rule of law?

Winner: Tristan Byrne, "*Protecting the Rule of Law: Emerging threats against the principles of the Rule of Law*"

Runner-up: Yuwen Zhang, "*Rule of Law: Under Surveillance*"

Topic 2: How is the rule of law affected by a global pandemic?

Winner: Shayel Fisher, "*Are we equal in the eyes of disease?*"

Runner-up: Amelia Hadfield, "*How Rule of Law is Affected by a Global Pandemic*"

It is usual that the winners and runners-up are invited to attend a Benchers meeting where a certificate and cheques are presented. That is currently not possible as Benchers meetings are still being held virtually. We will investigate the opportunities to have the winners and runners-up attend at a future meeting. In the meantime, the essays will be published in the *Benchers Bulletin*, and steps will be taken to have the cheques and the certificates issued to the winners and runners-up through mail.

MDL/al