



# Indigenous Engagement in Regulatory Matters

## Task Force

### Terms of Reference

Approved: September 24, 2021

### Preamble

The decision in *Re Bronstein* raised serious questions about the ability of the Law Society's regulatory process to engage, address and accommodate marginalized complainants and witnesses, particularly Indigenous persons. In particular, the Law Society accepts the recommendation that the Law Society undertake a comprehensive review of its regulatory processes as they relate to access to justice and its responsiveness to all members of the diverse public it serves. Such a review will inform the steps to be taken by the Law Society, as contemplated within the 2021-2025 Strategic Plan, to address the unique needs of Indigenous people within our regulatory processes and to establish and maintain an interculturally competent regulatory process.

### Mandate

The Task Force will examine the Law Society's regulatory processes, specifically its complaints, investigation, prosecution and adjudication processes, as they relate to complainants and witnesses, particularly Indigenous persons, who may be experiencing vulnerability or marginalization and make recommendations to the Benchers to ensure that the Law Society's regulatory processes accommodate the full participation of such complainants and witnesses.

### Composition

The Task Force shall consist of seven members.

### Meeting Practices

1. The Task Force shall operate in a manner that is consistent with the Benchers' governance policies.
2. The Task Force shall meet as required.
3. Quorum is four members of the Task Force (Rule 1-16(2)).

## **Accountability**

The Task Force is accountable to the Benchers as a whole.

## **Reporting Requirements**

The Task Force will deliver its report containing any recommendations for future action to the Benchers within twelve months from the date on which its work plan is delivered.

## **Duties and Responsibilities**

1. Following its appointment, the Task Force will prepare a work plan which will be provided to the Benchers at their September 2021 meeting, outlining the anticipated scope of the review, including interviews and any anticipated research, and the procedures to be undertaken to gather information to complete its work. The work plan would also include any proposed changes or additions the Task Force, after consultation with the Truth and Reconciliation Advisory Committee, would recommend with respect to their mandate.
2. Consult with key stakeholders, including Law Society staff, members of the Law Society Tribunal, members of the Truth and Reconciliation Advisory Committee, Indigenous leaders, and any others that the Task Force considers necessary for the purpose of preparing its report.
3. Conduct research into the engagement, accommodation and participation of Indigenous people in regulatory processes in other professions and jurisdictions.
4. The Task Force should include the following in developing any recommendations:
  - a. An analysis of the effects on Indigenous complainants and witnesses of the processes used to gather, assess, introduce and submit evidence during investigations and hearings;
  - b. An analysis of the nature and goals of proceedings that involve Indigenous people and Indigenous communities;
  - c. Consideration and comparison of the differences that exist between Indigenous perspectives regarding conflict resolution, and the conventional approach of the Law Society and the Law Society Tribunal to investigation, discipline and adjudication;
  - d. Consideration of how to incorporate Indigenous perspectives into Law Society complaints, investigation, discipline and Tribunal processes and procedures;
  - e. An assessment of intercultural competence and trauma-informed practices at the Law Society, and identification of opportunities for training and development;
  - f. Consideration of the use of interculturally competent and trauma-informed expertise by Law Society staff, the Tribunal and outside counsel; and
  - g. Identification of actions to prevent, and remedial measures to address, the impacts of members' misconduct on Indigenous complainants, witnesses and communities.
5. The Task Force should also consider and make recommendations where lessons learned as a result of this review could have relevance to the interests of non-Indigenous complainants

and witnesses, or to enhancing trust and relationship-building between the Law Society and communities, including Indigenous communities.

## **Staff Support**

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