



Minutes

Benchers

Date: Friday, January 27, 2012

Present: Bruce LeRose, QC, President
Art Vertlieb, QC, 1st Vice-President
Jan Lindsay, QC 2nd Vice-President
Rita Andreone, QC
Patricia Bond
David Crossin, QC
Thomas Fellhauer
Leon Getz, QC
Bill Maclagan
Nancy Merrill
Maria Morellato, QC
David Mossop, QC
Thelma O'Grady
Lee Ongman
Vincent Orchard, QC

Greg Petrisor
David Renwick, QC
Phil Riddell
Catherine Sas, QC
Richard Stewart, QC
Herman Van Ommen
Ken Walker
Tony Wilson
Barry Zacharias
Haydn Acheson
Satwinder Bains
Stacy Kuiack
Peter Lloyd, FCA
Ben Meisner
Claude Richmond

David Loukidelis, QC, Deputy
Attorney General of BC, representing
the Attorney General

Absent: Kathryn Berge, QC

Staff Present: Tim McGee
Deborah Armour
Robyn Crisanti
Lance Cooke
Su Forbes, QC
Jeffrey Hoskins, QC
Michael Lucas
Bill McIntosh

Jeanette McPhee
Doug Munro
Lesley Pritchard
Susanna Tam
Alan Treleaven
Rosalie Wilson
Adam Whitcombe

Guests: Chris Axworthy, QC, Dean, Faculty of Law, Thompson Rivers University
Dom Bautista, Executive Director, Law Courts Center

Mark Benton, QC, Executive Director, Legal Services Society
Johanne Blenkin, Executive Director, Courthouse Libraries BC
Mary Anne Bobinski, Dean, Faculty of Law, University of BC
Kari Boyle, Executive Director, Mediate BC Society
Maureen Cameron, Director of Membership, Volunteers and Public Affairs, CBABC
Donna Greschner, Dean, Faculty of Law, University of Victoria
Jeremy Hainsworth, Reporter, Lawyers Weekly
Marc Kazimirski, First Vice-President, Trial Lawyers Association of BC
Jamie Maclaren, Executive Director, Access Pro Bono
Caroline Nevin, Executive Director, CBABC
Rob Seto, Director of Programs, CLEBC
Kerry Simmons, Vice-President, CBABC

OATH OF OFFICE

The Honourable Lance Finch, Chief Justice of British Columbia, administered the swearing / affirming of:

- the President's Oath of Office by the Law Society's President for 2012, Bruce LeRose, QC
- the Vice-President's Oath of Office by the Law Society's First and Second Vice-Presidents for 2012, Art Vertlieb, QC, and Jan Lindsay, QC respectively
- the Bencher's Oath of Office by the Law Society's Benchers for 2012

CONSENT AGENDA

1. Minutes

The minutes of the meeting held on December 2, 2011 were approved as circulated.

The following resolutions were passed unanimously and by consent.

2. (And item 4) Approval of External Appointments and Nominations:

a. to the Hamber Foundation Board of Governors

BE IT RESOLVED:

- to re-appoint Emily Reid, QC to the Hamber Foundation Board of Governors, for a three-year term commencing March 1, 2012; and
- to appoint Mark Killas to the Hamber Foundation Board of Governors, for a three-year term commencing March 1, 2012.

b. to the City of Vancouver Building Board of Appeal

BE IT RESOLVED:

- to nominate Edna Cheung for Vancouver City Council's re-appointment to the Building Board of Appeal for a second three-year term, effective at such date as Vancouver City Council may direct.

3. Approval of Amendment to the Law Society Rules: Adding Proposed Rule 2-68.1 (Inactive Credentials Applications)

BE IT RESOLVED to amend the Law Society Rules by adding the following Rule:

Inactive applications

- 2-68.1**
- (1) When the Credentials Committee has ordered a hearing under this division and the applicant has taken no steps to bring the application to a hearing for one year, the application is deemed abandoned.
 - (2) When an application is abandoned under this Rule, Law Society counsel may apply for an order that some or all of the funds paid under Rule 2-62 as security for costs be retained by the Society.
 - (3) An application under subrule (2) is made by notifying the following:
 - (a) the applicant;
 - (b) the Executive Director.
 - (4) On an application under subrule (3), the President may order that some or all of the funds deposited as security for costs be retained by the Society, and the remainder, if any, be refunded to the applicant.
 - (5) The President may designate another Benchers to make a determination under subrule (4).

REGULAR AGENDA – for Discussion and Decision

5. President's Report

Mr. LeRose briefed the Benchers on some of his activities as President in the month of January, including those outlined below:

- attending a Town Hall meeting with Law Society staff
- conducting a briefing of Chairs and Vice-Chairs of the 2012 Advisory Committees regarding implementation of the 2012 – 2014 Strategic Plan
- attending the introductory meeting of the Governance Review Task Force

Mr. LeRose discussed his intention to devote much of his attention and energy as 2012 President to positive communication with the public, lawyers and other Law Society stakeholders regarding the extensive programs and services—ranging beyond professional regulation and discipline—devoted to proactive support and enhancement of lawyers' legal and practice skills.

Mr. LeRose also highlighted the importance of the Law Society governance review to be conducted over the coming year. He thanked the Benchers for their cooperation and support in making time to participate the upcoming interview process, and encouraged them to take full advantage of the opportunity to provide meaningful input. Mr. LeRose noted that he and Mr. McGee intend to provide the Benchers with regular updates on the work of the Governance Review Task Force as the year progresses, and that the task force intends to deliver its report and recommendations to the Benchers in the fall of 2012.

Mr. LeRose concluded by expressing appreciation on behalf of all the Benchers to the Law Society's dedicated staff for the value of their commitment to advancing the Society mandate to protect the public interest in the administration of justice.

6. CEO's Report

Mr. McGee provided highlights of his monthly written report to the Benchers (Appendix 1 to these minutes), including the following matters:

- a. 2009 – 2011 Strategic Plan Wrap-up
- b. Operational Priorities for 2012
 - i. Project Leo
 - ii. Continued Implementation and Assessment of our 2010 Regulatory Plan

- iii. Review of Performance Management Process and How it Ties Into Recognition
 - iv. Lawyer Advice and Support Assessment Project
 - v. National Standards and the Federation Task Forces
- c. Continuing Professional Development (CPD) Program – Update
 - d. Indigenous Lawyers Mentoring Program – Update
 - e. Core Process Review – One Year Later
 - f. 2011 Employee Survey

7. Federation of Law Societies Representative Report

Mr. Hume reported as the Law Society's FLS Council representative. He referred the Benchers to the written report of Federation President John Hunter, QC, circulated before the meeting. Mr. Hume updated the Benchers on various Council matters, including:

- a. Model Code of Professional Conduct
 - after several years of deliberation by a number of Federation committees, the Model Code of Professional Conduct is finally complete
 - the Standing Committee on the Model Code will be examining the professional conduct issues raised by the unbundling of legal services, on the recommendation of the Federation's Access to Legal Services Committee
- b. Territorial Mobility Agreement Extension
 - last fall Council agreed to an indefinite extension of the Territorial Mobility Agreement
 - at its last meeting Council committed to revisit impediments to applying the National Mobility Agreement to the territorial law societies, within three years
- c. National Discipline Standards Pilot Project
 - a two-year pilot project has been approved to measure discipline standards applied by Canada's law societies in the areas of timeliness, fairness,

transparency, public participation and accessibility in matters dealing with complaints about and discipline for members of the legal profession

Mr. Hume encouraged the Benchers to contact him any time with their questions on Federation Council matters.

8. Report on Outstanding Hearing & Review Reports

The Benchers received and reviewed a report on outstanding hearing decisions.

GUEST PRESENTATIONS

9. University of British Columbia, Faculty of Law Annual Review

Dean Mary Anne Bobinski delivered a presentation to the Benchers on behalf of the University of British Columbia's Faculty of Law and then took a number of questions.

10. University of Victoria, Faculty of Law Annual Review

Dean Donna Greschner delivered a presentation to the Benchers on behalf of the University of Victoria's Faculty of Law and then took a number of questions.

11. Thompson Rivers University, Faculty of Law Annual Review

Dean Christopher Axworthy, QC delivered a presentation to the Benchers on behalf of the Thompson Rivers University's Faculty of Law and then took a number of questions.

OTHER MATTERS – For Discussion and/or Decision

12. National Discipline Standards

Ms. Armour reported as the Law Society's Chief Legal Officer and member of the Steering Committee for the Federation's National Discipline Standards Project.

Ms. Armour outlined the background and purpose of the project, noting that the National Discipline Standards initiative is part of the following Federation strategic objective for 2010 – 2012:

To develop and implement high, consistent and transparent national standards for Canada's law societies in core areas of their mandates.

Ms. Armour reviewed a number of the standards being measured in the National Discipline Standards Pilot Project, referring the Benchers to her memorandum at page 12000 of the meeting

materials for details. She noted that the purpose of the pilot project is to test the standards, and that the Law Society is committed to participating in the project.

13. Approval of Final Report and Recommendations of the Cloud Computing Working Group

Mr. Hume reported as Chair of the Cloud Computing Working Group. He reminded the Benchers that at their July 2011 meeting they had approved the report of the Cloud Computing Working Group for purposes of publication as a consultation document. Mr. Hume confirmed that the working group's present report (at page 13002 of the meeting materials) is an amended version of its original report, taking into account feedback received during the consultation process.

Mr. Hume thanked the other members of the working group (2012 President Bruce LeRose, QC, and appointed Benchers Stacy Kuiack and Peter Lloyd, for their hard work on the project. Mr. Hume also acknowledged with thanks the crucial support provided to the working group by Staff Lawyer Doug Munro, in coordinating the group's research and deliberations, and in leading the drafting of its report.

Mr. Hume noted that in framing its report and recommendations the Cloud Computing Working Group's accepted that cloud computing is a global reality, and drew on two perspectives:

- the Law Society's regulation of professional responsibility
- lawyers' responses to the Law Society's regulatory activity.

Mr. Hume described the report's three areas of recommendations as:

- development of guidelines for lawyers to follow – attached to the report, being submitted to the Bs for approval
- proposed revisions to the Law Society Rules noted in the report
- education

Mr. Lloyd moved, seconded by Mr. Kuiack, that the Benchers adopt the Cloud Computing Working Group report and recommendations, as set out at page 13002 of the meeting materials.

The motion was carried.

Mr. Hume advised that the Cloud Computing Working Group intends to develop a simplified checklist for the use of the legal profession.

Mr. LeRose noted that the Cloud Computing Working Group will remain in place as presently constituted until its work has been completed. Mr. LeRose thanked Mr. Hume on behalf of all the Benchers for his dedication and leadership in seeing this complex and challenging matter through to its conclusion.

14. Nominations to 2012 Finance Committee

Mr. LeRose briefed the Benchers, and called for nominations of two elected Benchers (at least one of whom must not be a member of the Executive Committee), and one appointed Bencher (who must be selected by his or her fellow appointed Benchers).

a. Two Elected Benchers

Mr. Vertlieb nominated Mr. Renwick and Ms. Andreone nominated Mr. Maclagan. There being no further nominations, Mr. LeRose declared Mr. Renwick and Mr. Maclagan selected to the 2012 Finance Committee, effective immediately.

b. One Appointed Bencher

Mr. Acheson nominated Mr. Lloyd. There being no further nominations, Mr. LeRose declared Mr. Lloyd selected to the 2012 Finance Committee, effective immediately.

IN CAMERA SESSION

The Benchers discussed other matters in camera.

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The Law Society
of British Columbia



Chief Executive Officer's Monthly Report

A Report to the Benchers by

Timothy E. McGee

January 27, 2012

Introduction

This is my first CEO's report to the Benchers for 2012 and I would like to wish you all the very best for the New Year. I would also like to extend a warm welcome on behalf of all the staff to our new President Bruce LeRose, QC and to both our new and returning Benchers. We look forward to working with all of you in the coming year.

In my first report each year I present management's top five operational priorities for the ensuing year. These priorities, which for 2012 are set out below, have been developed in consultation with the Management Board and have been reviewed and discussed with President LeRose and the Executive Committee. I have also met with Bruce to review his Presidential priorities for 2012, which he will speak to at the Bencher meeting.

I am also attaching a final report on the completion of the 2009 – 2011 Strategic Plan, which has been prepared by Michael Lucas, Director of Policy and Legal Services. You will also see updates on a number of different items below, which will be covered in more detail at the meeting.

1. 2009 – 2011 Strategic Plan Wrap-up

Attached as Appendix 1 please find a document entitled "2009 – 2011 Strategic Plan – Final Report".

This report describes the final status as at December 31, 2011 of every initiative under our former three-year strategic plan. As you will see, some of the initiatives are ongoing and have been carried over by the Benchers into the new 2012 – 2014 Strategic Plan. However, the vast majority have been successfully completed. In sum, over 95% of the initiatives as originally envisaged in the plan are either complete, or ongoing. I believe that is an excellent measure of how productive the Benchers, committees and staff have been in delivering the plan since its adoption at the beginning of 2009.

2. Operational Priorities for 2012

At the start of each year, I outline management's top five operational priorities for the next twelve months. I always emphasize that these do not derogate from our day-to-day responsibility to perform all of our core regulatory functions to the highest standards. However, in each year there are items that require extra attention and focus to ensure success. The top five operational priorities for management in 2012 are as follows:

(a) Project Leo

One of the key recommendations in the 2010 Core Process Review Report was the establishment of an internal working group to design, develop and oversee the implementation of a new information management system for all Law Society operations. The compiling, recording, sharing and safeguarding of information is at the heart of what we do as the regulator of the profession. Today, we have a patchwork of systems and processes, which, while adequate for now, will not serve us well as we seek to be more effective and efficient in the future.

This important project has been given the name Project Leo. The main objective of Leo is the design, procurement and rollout of an integrated information management tool by the end of June 2013.

Project Leo is well underway under the joint executive sponsorship of Adam Whitcombe, our Chief Information and Planning Officer, Jeanette McPhee, our Chief Financial Officer, and Robyn Crisanti, our Manager of Communications and Public Affairs. Robyn is the project leader heading up a cross-organizational project team. By the end of last year, Robyn and her team had designed and completed a rigorous RFP, selected KPMG for IS/IT consulting support, finalized a scope of work and laid out a work plan to take the project through to completion in 2013. There are several important milestones for Leo in 2012 and we will be reporting to the Executive Committee, the Finance Committee and the Benchers as we progress throughout the year.

(b) Continued Implementation and Assessment of our 2010 Regulatory Plan

Throughout 2011 Deb Armour, our Chief Legal Officer, and her team have steadily implemented the features of the new Regulatory Department Plan presented to the Benchers at the end of 2010. This has included the recruitment of new staff with specific targeted skills sets, the restructuring of a number of important reporting relationships, and the adoption of new policies and investigative techniques agreed to by the Discipline Guidelines Task Force in 2011.

In developing the plan, we made a number of operational assumptions about how the changes embodied in the plan would positively impact the outcomes of our regulatory processes. In 2012 we will be focused not only on continuing to implement the plan but also on testing the accuracy of our assumptions and making assessments on its success. We plan to report back to the Benchers on an interim basis at mid-year and at year-end to share and discuss the results.

(c) Review of Performance Management Process and How it Ties Into Recognition

The Law Society's most important asset is its people. One of the most important investments we can make in our staff is to ensure that we properly and effectively set expectations, give guidance and support, provide performance assessment and feedback, and compensate fairly.

We have a comprehensive performance management process today, which involves every employee discussing roles and responsibilities with their manager and receiving an annual performance assessment. Tied to this we also administer an Employee Recognition Program under which employees are eligible for annual cash recognition awards based upon outstanding performance or exceptional contributions.

While our current performance management process has served us well for the past five years it is an area that is rapidly evolving in many external organizations and we want to ensure we are not left behind. Accordingly, we will be undertaking a full review to assess whether our performance management process can be improved to better meet our objectives. Similarly, we will be reviewing our current Employee Recognition Program to assess whether that program is in fact, aiding our efforts of incenting performance, encouraging retention and assisting with recruitment, and how, it too, can be improved.

(d) Lawyer Advice and Support Assessment Project

One of the three major strategic recommendations in the Core Process Review Report was the establishment of an internal working group to make a full assessment of the strengths and opportunities of our current model for delivering member advice and support services.

Underlying this recommendation was the realization that while we are a regulator it is very much in our interests to assist and support members to be aware of, understand, and comply with our regulatory standards. This is also very much in the interests of our members. In other words, an effective and integrated program of member support and assistance is virtuous in the regulatory context because it benefits both the regulator and the regulated.

Today we provide a wide variety of assistance and support to members including online courses for the small firm practitioner, email alerts to the entire profession about current frauds and scams, telephone practice advice about questions of ethics or professional responsibility, and in-house trust compliance seminars, to name a few.

The questions regarding these activities, which we are seeking to answer in 2012, are what is most useful, who can best deliver it and how is it best delivered?

In the fall of 2011, Alan Treleaven, our Director of Education and Practice, delivered a preliminary report of the cross-departmental working group on Lawyer Advice and Support Assessment. The preliminary findings will be shared with the Executive Committee in 2012 with a view to considering several new options for consolidating and expanding the work we do today to support and assist members with all aspects of regulatory compliance.

(e) National Standards and the Federation Task Forces

The Federation has made the work of its task forces on national discipline standards and national admission standards priorities in the Federation's current strategic plan. The Law Society is heavily involved in the work of those task forces through the contributions of several of our senior staff. We will also continue to be involved with the model code as that initiative moves to the education and communication phase across all Law Societies.

In 2012 we should expect a great deal of interest in the launch of a pilot project on national discipline standards. The Law Society will be participating in that pilot project. Deb Armour, who has been a major contributor to the task force, will be reporting more on this initiative during the year. The work on national admissions standards is less advanced but will also be an important topic for us to assess from an operational perspective in 2012.

While the foregoing are our top operational priorities for 2012, management and staff will also be supporting the Governance Review Task Force in 2012 in whatever fashion may be of most assistance.

3. Continuing Professional Development (CPD) Program - Update

I would like to provide a brief update on the statistics for our CPD program as at January 17, 2012. Of the 10,249 lawyers who had CPD requirements to report in 2011, 671 did not report completion end-of-year deadline. As of January 17, 2012

- 134 have now recorded completion;
- 445 have not yet recorded completion and are overdue; and

- 92 lawyers have a non-practicing status or ceased membership; they will be required to complete the CPD requirements if they return to practice.

We have notified all lawyers who have not completed their requirements and advised them about the deadline to complete CPD by April 1, 2012 to avoid suspension.

These results reflect an improvement over 2011, when 723 lawyers did not meet the 2010 requirement by the end-of-year deadline. This is the third consecutive year of improvement in these statistics.

Alan Treleaven will be available at the meeting to discuss these results and the steps being taken to follow up on members with incomplete results.

4. Indigenous Lawyers Mentoring Program – Update

The Law Society has undertaken as one of its strategic initiatives the development of a collaborative mentoring program to support indigenous lawyers in British Columbia.

The Law Society believes that the public is best served by a representative and inclusive legal profession. With this in mind, the mentoring program has three main objectives; first, to enhance the retention of indigenous lawyers in BC, second, to increase the diversity within the profession, and third, to improve access to legal services for indigenous people in BC.

We are fortunate that Ms. Rosalie Wilson has joined the Law Society of BC on contract as the Indigenous Lawyers Mentoring Program Coordinator. Rosalie brings an impressive background and relevant experience to this important project. Although it is still early in the year, Rosalie will update the Benchers on her work and progress to-date.

5. Core Process Review – One Year Later

It has been over a year since the Law Society's Core Process Review Report was presented to the Benchers in December 2010. Based on more than 800 suggestions made by staff during the review process, the report made a number of recommendations, including three major recommendations for improvement in the areas of information access and document management, practice support delivery, and regulatory reform.

The Core Process Review Project was very ably led by Kensi Gounden, who took on the special assignment of Project Leader during 2010. I have asked

Kensi to assess where we are “One Year Later” and to share his findings with the Benchers.

6. 2011 Employee Survey

Ryan Williams, the President of TWI Surveys Inc., will be at the meeting to provide an overview of the results of our 2011 Employee Survey and to respond to any questions.

This year’s survey (our sixth consecutive) was a little different from past years. While we repeated questions on a number of foundational topics, such as relationships with managers and satisfaction with compensation, we added a number of new questions designed to gauge how employees feel about the topics of autonomy, innovation and effectiveness. These are questions that help us understand what we consider our “culture”, and how that culture may help or hinder our efforts to build a strong working environment.

We had an excellent response rate for the survey and I think you will find the results both interesting and encouraging on several fronts.

Timothy E. McGee
Chief Executive Officer

The Law Society *of British Columbia*



2009 – 2011 Strategic Plan Final Report

For: The Benchers

Date: December 31, 2011

Purpose of Report: Information

Prepared on behalf of the Executive Committee

INTRODUCTION

The principal aim of the Law Society is a public well-served by a competent, honourable and independent legal profession. The Law Society's mandate described in s. 3 of the *Legal Profession Act* is to uphold and protect the public interest in the administration of justice.

In order to develop strategies to discharge the Law Society's mission and mandate, the Benchers have created a process to plan for and prioritize strategic policy development. This process was created to enhance the ability of the Benchers to focus on policy development that would best ensure proper fulfillment of the mandate of the Society, and to optimize staff resources in the development of those policies and strategies.

Through this process, the Benchers have identified three principal goals, and a number of policy initiatives that will achieve those goals. In identifying these goals and strategies, the Benchers have been mindful not only of what the role of the Law Society is in relation to its mandate, but also of what may be achievable within that mandate.

This Strategic Plan is aimed at achieving concrete results that will improve the public interest in the administration of justice. The process has tried to avoid simply identifying issues on which the only action would be to make general comments on matters within the mandate of the Society.

The strategic policy setting process is also to be distinguished from the operation of the Law Society's core regulatory programs, such as discipline, credentials, and practice standards. These programs are fundamental to fulfilling the Law Society's mandate and will always be priorities for the Law Society. The Benchers have established a set of Key Performance Measures against which the performance of the core regulatory programs will continue to be measured on an annual basis.

PRINCIPAL GOALS

The three principal goals of this Strategic Plan are:

1. Enhancing access to legal services.
2. Enhancing public confidence in the legal profession through appropriate and effective regulation of legal professionals.
3. Effective education, both of legal professionals and those wishing to become legal professionals, and of the public.

These goals are set out below, together with a description of the strategies to pursue the goals and the initiatives being undertaken to implement each one. Collectively, these goals, strategies and initiatives constitute the Law Society's Strategic Plan for 2009 – 2011.

STRATEGIC PLAN FOR 2009 – 2011

GOAL 1: Enhancing access to legal services

Protecting the public interest in the administration of justice requires the Law Society to work toward improving the public's access to legal services. Providing assurance about the competence and conduct of lawyers, who are able to advise clients independently of other interests, is a hollow goal if people cannot afford to retain such lawyers. Developing strategies to improve the public's ability to obtain affordable legal advice is a priority item. Finding ways to reduce the impacts of financial barriers to accessing legal services is of considerable importance and underlies the purpose of this goal. The following items were identified as desired outcomes through which the goal of enhancing access to legal services may be achieved.

Strategy 1-1

Increase the public's access to legal services by developing a new regulatory paradigm that may broaden the range of persons permitted to provide certain legal services.

Initiative 1-1

The Delivery of Legal Services Task Force has been created to identify the existing knowledge base and gaps in information that would be required for the Benchers to discuss the substantive policy issues around the scope of practice, develop a plan for acquiring the information that is missing, through (for example) consultations, surveys or other studies. The Task Force reported on the information identification issues to the Benchers in 2009.

After engaging in additional consultation as may be required, the Task Force will work in 2010 toward making recommendations about whether and how the delivery of competent legal services might be improved in a number of ways. This might be done through increasing public awareness of available legal resources and information or providing greater certainty and reliability regarding the cost of legal services. It might also involve increasing the availability of effective and affordable legal services in areas of greatest public need, including determining under what circumstances people other than lawyers might be allowed to provide legal services in circumstances that are not currently permitted.

Final Status – December 2011

The Benchers approved the Task Force's Final report in October 2010 and this initiative has therefore been completed. Subsequent to the adoption of the Report:

- *The Benchers adopted recommendations of the Credentials Committee regarding expanded roles for articulated students, with a September 1, 2011 implementation date;*
- *A Litigation Subgroup was created to liaise with the British Columbia Court of Appeal and the Provincial Court of British Columbia regarding expanded roles for articulated students and paralegals. More recently the Family Law Task Force has joined this work to identify the parameters of a potential pilot project for paralegals appearing before the Supreme Court. Consultations with the courts are ongoing.*
- *A Solicitors Subgroup has drafted a set of best practice guidelines for lawyers supervising paralegals and provided it to the Ethics Committee for their consideration. The Ethics Committee has reviewed recommendations in the Report to determine what changes to the Professional Conduct Handbook are necessary and that work continues.*

Note: the continuation of work on the initiatives raised by the recommendations of the Delivery of Legal Services Task Force, are addressed in Initiative 2-1(a) of the 2012 – 2014 Strategic Plan.

Strategy 1-2

Find ways to reduce the impact of financial barriers to accessing justice.

Initiative 1-2a

The Law Society will approach the Attorney General to discuss potential supplemental funding for legal aid and the justice system through amendments to the *Class Proceedings Act*, the *Civil Forfeiture Act* and the *Unclaimed Property Act*.

Final Status – December 2011

A letter was sent to the Attorney General in this regard raising the possibility with the government of additional funding through the amendments as proposed. This initiative has therefore been completed.

Initiative 1-2b

Alternate Business Structures (“ABSs”), by which legal services are offered through business structures differing from the standard partnership or sole-proprietorship model, have been identified in other jurisdictions as a way of reducing the cost of legal services, thereby increasing the affordability of access to legal services. However, concerns have also been identified that ABSs may adversely affect the core values of the legal profession, including the duty of loyalty to a client.

The Law Society will examine the literature on ABSs and develop a preliminary position concerning the subject.

Final Status – December 2011

The Independence and Self-Governance Advisory Committee has delivered its report on this issue in October, 2011, and this initiative has therefore been completed.

Strategy 1-3

Improve the retention rate of lawyers in the legal profession including, in particular, Aboriginal lawyers and women.

A high attrition rate combined with a growing population and the continued complexity of legislation, regulation, and common law demonstrates a need to ensure that legally trained professionals will continue to be available to provide legal advice. Moreover, business models that do not encourage segments of the lawyer population, including women lawyers and Aboriginal lawyers, to remain in practice not only discourage some lawyers from practising law, but cause law firms to lose legal talent, reducing their own effectiveness and further diminishing access to justice. Public confidence in the justice system is enhanced by ensuring that the profession does what it can to retain a diversity of lawyers. The Benchers identified the following two initiatives to accomplish the desired outcome.

Initiative 1-3a(i)

Preparing a business case for the retention of female lawyers in private practice.

Following up on a recommendation of the Retention of Women in Law Task Force, a task force has been created to prepare a business case for the retention of women in private practice.

Final Status – December 2011

The business case was adopted by the Benchers in July 2009.

Initiative 1-3a(ii)

The Retention of Women in Law Task Force recommended that the Law Society consider developing a think tank in BC, modeled after the *Justicia* project developed in Ontario, to address methods of improving the retention of women in private practice.

The Law Society will therefore conduct a feasibility assessment of a *Justicia BC* project to determine the level of interest of firms in working together with the Law Society to develop resources to retain and advance women lawyers in private practice.

Final Status – December 2011

A report on the feasibility of a Justicia project was considered and approved by the Benchers in December 2012, and this initiative has therefore been completed. Implementation of the Justicia project was approved and will form a part of the next Strategic Plan.

Note: this initiative is carried forward as Initiative 2-1(b) in the 2012 – 2014 Strategic Plan.

Initiative 1-3b

Developing a plan to deal with the aging of the legal profession and the potential regulatory and access to legal services issues that might result.

Aging in the profession is already an issue in many rural communities in the province, and barring unforeseen events, is expected to continue or worsen. It is of less concern at present in larger centres, but this may be expected to change in coming years. The Equity and Diversity Advisory Committee will review and work to define issues arising in connection with the aging of the legal profession, including the identification of what information on the subject currently exists as well as what information may need to be obtained through external consultation and research, and will make recommendations in 2010 concerning how the issue may be advanced as a strategic priority in the future.

Final Status – December 2011

While aging of the legal profession continues to be an issue of concern, the Benchers have recognized that it will not be possible to fully analyze the issue and to develop strategies to address it by the end of 2011. The Benchers therefore deferred the matter for consideration to the next Strategic Plan.

Initiative 1-3c

Prepare a business case for enhancing diversity in the legal profession and retaining Aboriginal lawyers in particular.

The Equity and Diversity Advisory Committee will review recent research regarding retention of lawyers from diverse communities, and Aboriginal lawyers in particular, and develop a business case for diversity and the retention of Aboriginal lawyers in British Columbia.

Status – December 2011

The Advisory Committee has developed a case for enhancing diversity and retaining Aboriginal lawyers, founded on recent demographic data which indicate that Aboriginal lawyers are significantly underrepresented in the profession. The case for diversity will also include current best practices related to lawyer retention. The case is currently under review and revision and will be released soon in conjunction with the demographic report on the profession.

Initiative 1-3d

Develop and deliver initiatives to support Aboriginal lawyers and students.

The initiatives will address specific barriers to lawyer retention as identified by research, and will include initiatives to address the lack of access to mentors, networks and role models. The Law Society will also consider what additional resources are needed in order to advance the strategic objective of enhancing the retention of Aboriginal lawyers.

Final Status – December 2011

The Advisory Committee developed a proposal to work with Aboriginal lawyer groups and organizations to build a collaborative mentoring initiative for Aboriginal lawyers throughout BC. Funding was obtained from the Law Foundation. A lawyer was hired in November 2011 to work on the project, beginning with a consultation phase. The initiative is therefore underway and will continue.

Note: The initiative is carried forward as Initiative 2-1(c) in the 2012 – 2014 Strategic Plan.

Strategy 1-4

Developing in collaboration with interested parties a research project, through a suitable agency, of an economic analysis of the justice system in British Columbia in order to better understand in empirical terms the economic benefit of funding justice and the systems that support the rule of law.

Final Status – December 2011

The Law Foundation and the Legal Services Society have retained a consultant to engage in preliminary research into the subject and an initial report is expected in early 2012, at which time the Committee will be better able to identify what role the Law Society might play in further research.

Note: This initiative is carried into the 2012 – 2014 Strategic Plan as Initiative 2-3(a)

STRATEGIC PLAN FOR 2009 – 2011

GOAL 2: Enhancing public confidence in the legal profession through appropriate and effective regulation of legal professionals.

Public confidence in the ability of the Law Society to effectively regulate the competence and conduct of lawyers is critical in order for the Society to fulfill its mandate. It is also of critical importance in order to maintain the public's right to retain independent lawyers. The Benchers identified several desirable outcomes through which the goal of enhancing public confidence may be achieved.

Strategy 2-1

Effectively regulate those lawyers who have received or who receive a significant number of complaints, but which complaints, individually, are not sufficiently serious to result in formal disciplinary action or referral to the Practice Standards Committee.

Initiative 2-1

Through the Discipline Committee, a staff group has been created to examine a series of projects to reduce the number of complaints that complaints-prone lawyers receive. It is currently anticipated that options will be presented to the Benchers for consideration in early 2009, and if approved, necessary rule changes would be prepared implementation would take place soon after.

Final Status – December 2011

The staff group has identified and is currently working on several projects aimed at reducing the number of complaints that complaint-prone lawyers receive.

The Benchers considered “ungovernability” and referred to the Act and Rules Subcommittee consideration and development of rules and possible Professional Conduct Handbook amendments. Rule 4-35(5) has been passed and changes to the Handbook were completed in November, 2010.

The staff group conducted the early intervention project in conjunction with the Discipline Committee. A Report on that project was made to the Benchers at the July 9, 2010 meeting. The complaint rates of the lawyers in the groups will be compared periodically with the complaint rates of a historically comparable group to determine whether the interventions had any impact on the target groups.

The staff group continues work on developing criteria for referral of lawyers to the Discipline Committee on the basis of their complaints history and referring lawyers who are Practice Standards graduates to the Discipline Committee if the lawyer repeats conduct of concern. The staff group has identified several other projects for consideration including practice reviews for client satisfaction and mentorship considerations. The work of this group is now primarily operational, and it will continue.

Strategy 2-2

Assess possible roles of an oversight or review board for Law Society core functions.

Initiative 2-2

Regulatory oversight or review boards exist in British Columbia in connection with the health professions, and have been created in some foreign jurisdictions in connection with the legal profession. Whether such boards improve public confidence is under debate. Is there a method to enhance the public confidence in the Law Society's decision making processes that does not run contrary to the fundamental constitutional principle of, and public right to, lawyer independence?

This issue formed the substantive policy program at the Benchers' June 2009 retreat. The Executive Committee discussed this topic at its September 2009 meeting and determined that the Law Society would best focus on regulatory oversight models that incorporated voluntary external review or review incorporating the Ombudsman's processes. The Committee instructed staff to develop this topic further for presentation to the Benchers at a later date, expected in the spring of 2010.

Final Status - December 2011

The Benchers considered this subject at the 2009 retreat in Whistler. The Executive Committee discussed this topic at its September 2009 meeting and determined that the Law Society would best focus on regulatory oversight models that incorporated voluntary external review or review incorporating the Ombudsman's processes should be developed further. Staff presented a further report to the Executive Committee in May 2010, and were instructed to include a policy analysis of a third model similar to the organizational audit or peer review process the accounting profession utilizes to ensure best practices. A Report to the Benchers examining the models was presented to the Executive Committee in November 2010, from which recommendations were made and presented to the Benchers in March 2011.

The initiative of assessing possible roles of oversight or review boards has been completed. Further consideration about the topic, including policy discussions about how or whether to implement any particular option will continue.

Note: This initiative is carried into the 2012 – 2014 Strategic Plan as part of Initiative 1-2(a).

Strategy 2-3

Enhance public confidence in hearing panels by examining the separation of adjudicative and investigative functions of the Law Society.

Initiative 2-3

Effective self-regulation requires the Law Society to fulfill its mandate first and foremost in the public interest, and requires public confidence. Recognizing that other lawyer regulatory bodies in Canada and elsewhere address this issue differently than in British Columbia, options for the creation or appointment of hearing panels can be developed for the Benchers to allow for a consideration of whether there are ways to enhance confidence in the processes and decisions of hearing panels.

The Benchers have created a Task Force to develop models by which the separation of the adjudicative and investigative functions of the Law Society could be accomplished and to make recommendations about which model to adopt.

Final Status – December 2011

The initiative was completed when the recommendations made by the Task Force Examining the Separation of Adjudicative and Investigative Functions of the Benchers were adopted at the July 2010 Benchers meeting. Rule changes and further policy decisions concerning the process of appointments have been approved. Non-lawyer and non-bencher lawyer tribunal members have been identified, training sessions have begun, and several hearings utilizing non-bencher tribunal members have taken place.

Strategy 2-4

Effective data gathering to inform equity and diversity issues.

Initiative 2-4

The Law Society must understand and address systemic barriers faced by members of the public needing legal services and members of the profession on the basis of gender, ethnicity, race, disability and sexual orientation in order to demonstrate leadership in building a more representative profession. However, it is unwise to develop initiatives in the absence of relevant data. Through the Equity and Diversity Advisory Committee, the Law Society will develop strategies for gathering appropriate demographic data on the profession and assess such data to inform the development of initiatives to promote equity and diversity.

Final Status – December 2011

The Equity and Diversity Advisory Committee has completed a demographic report regarding the participation of Aboriginal and visible minority lawyers in BC, based on analysis of 2006 Census data. Based on a promotional plan developed with advice from the Communications department, the demographic report will be released soon in conjunction with the case for diversity referenced in Initiative 1-3d above, as the two initiatives are very closely linked. The initiative has therefore been completed, and the data gathered will be used for future policy determinations.

Strategy 2-5

Develop and propose legislative amendments to improve lawyer regulation.

Initiative 2-5

Effective regulation and public confidence depend a great deal on having adequate tools to fulfill the Law Society's mandate. The *Legal Profession Act* has not been substantively amended for a decade. Given the particular legislative cycle, 2009 is a year in which the Law Society should consider if any amendments to legislation are needed to improve the Law Society's ability to meet its objects and duties. Together with advice from government relations consultants, the Act and Rules Subcommittee will consider whether any particular amendments are warranted at this time to achieve this outcome.

Final Status – December 2011

The Benchers approved amendments to the Act as recommended by the Act and Rules Subcommittee. A request for amendments has been made to the Attorney General's Ministry.

Strategy 2-6

Prepare a considered response to the Competition Bureau's "Study on Self-Regulated Professions."

In late 2007, the Competition Bureau published its "Study on Self-Regulated Professions", which identified several issues of concern, from the Bureau's point of view, with the regulation of the legal profession. The Federation of Law Societies commissioned an article authored by Professors Iacobucci and Trebilcock that critiqued the Bureau's study, and this has been forwarded to the Bureau. Substantive responses to specific items identified remains a desirable outcome, as described in the following initiatives.

Initiative 2-6a

Reconsidering rules relating to multi-disciplinary partnerships.

Issues relating to multi-disciplinary partnerships have been extensively debated by the Benchers, and therefore a great deal of research and consideration has already been applied to this topic. The Ethics Committee is currently considering the issue and will be presenting its conclusions to the Benchers, likely in the spring of 2009.

This Initiative has been completed and rules have been passed, to be effective July 1, 2010.

Final Status – December 2011

The Ethics Committee has completed its analysis. The issue was considered by the Benchers in July 2009 at which time the Benchers resolved in principle to permit multi-disciplinary partnerships on the Ontario model subject to the preparation of draft Rules to ensure that important values of the legal profession are not compromised, as well as liability insurance issues. Rules to implement the decision came into effect on July 1, 2010.

Initiative 2-6b

Enhancing lawyer mobility.

Through the Federation of Law Societies, all law societies in Canada have agreed to a National Mobility Agreement which facilitates the mobility of lawyers within Canada. Recently, one of the last items to be considered – mobility between members of the Barreau du Québec and members of common-law law societies – has been addressed. Rule changes will need to be approved to implement the agreement reached on this issue. The Act and Rules Subcommittee will consider

appropriate rules and present them to the Benchers for approval, which is expected happen in early 2010.

Final Status – December 2011

The Barreau du Québec has implemented provisions permitting the mobility of common law lawyers to practise the law of their home province and federal law as members of the Barreau du Québec in Québec, and through the Federation of Law Societies, the rest of the provinces are finalizing reciprocal arrangements with Québec and the preparation of model rules through which to implement that arrangement. The Benchers passed rules to implement this arrangement on April 23, 2010 and they came in to effect July 1, 2010. Reciprocal arrangements have now also been made (as of late 2011) with the Chambre des Notaires du Québec, and rule changes are expected to follow shortly.

Initiative 2-6c

Modernizing provisions relating to advertising.

Consideration of possible changes to provisions relating to lawyers' advertising is under consideration by the Ethics Committee. Also, through the Federation of Law Societies, draft model rules on advertising are being prepared. The Ethics Committee will make recommendations to the Benchers in connection with these matters in 2009.

This Initiative was completed in 2009, and new rules and amendments to the Professional Conduct Handbook have been approved.

Final Status – December 2011

The Ethics Committee presented its recommendations on this subject to the Benchers, and the Benchers approved changes to provisions relating to advertising in the Professional Conduct Handbook in May 2009.

Initiative 2-6d

Reconsidering policies regarding referral fees.

The Competition Bureau recommendations concerning referral fees were related to multi-disciplinary partnerships, which have now been addressed by the benchers. A general reconsideration of policies regarding referral fees is currently an item for consideration by the Ethics Committee, who may make recommendations to the Benchers at a later date depending on the outcome of that consideration.

Final Status – December 2011

The Ethics Committee has had this matter on its agenda for consideration, and has debated and made recommendations on fee sharing in the context of multi-disciplinary partnerships. The Committee considered fee sharing in June 2011, and noted that while there may be future merit for reconsideration of the fee sharing rule by the Federation of Law Societies in the context of its continuing review of the Model Code, for present purposes no action on the issue was required at this time.

Strategy 2-7

Re-examine the rules and internal processes of the Law Society relating to complaints, investigations and dispositions of professional conduct and competence matters in order to identify methods to improve the timely, thorough, fair and appropriate disposition of complaints and hearings.

Initiative 2-7

The timely and effective handling of complaints concerning the professional conduct or competence of lawyers resulting in appropriate disposition and sanction (as necessary) is an integral responsibility of the Law Society.

The Law Society will, through a task force designed for this purpose, re-examine Law Society rules and processes for handling complaints and discipline hearings to determine if there are methods by which to improve the timely, thorough, fair and appropriate disposition of professional conduct concerns, including the consistency of decisions and sanctions.

A staff group will also examine operational processes in connection with complaints and hearings to determine if improved operational procedures, staffing resources or the use of technology exist by which improvements to the timely, thorough, fair and appropriate dispositions of complaints and hearings can be made.

Final Status – December 2011

The Discipline Guidelines Task Force presented its interim report to the Benchers on July 9, 2010 in connection with its review and recommendations concerning holding in abeyance the investigation of a complaint.

In September 2010 the Benchers adopted the abeyance policy first presented in the Discipline Guidelines Task Force's interim report to the Benchers on July 9, 2010. In November 2010 the Benchers adopted the

Task Force's recommendations regarding the publication of Conduct Review summaries.

In June 2011, the Task Force presented its final report, in which it recommended that Guidelines to assist the Discipline Committee with its task of evaluating professional conduct matters and directing appropriate disciplinary responses be adopted. The Benchers adopted the Guidelines on June 18, 2011.

STRATEGIC PLAN FOR 2009 – 2011

GOAL 3: Effective public and lawyer education.

This goal may be divided into two parts. One is to ensure that lawyers who provide legal services are competent to do so. The public interest in the administration of justice is significantly diminished if lawyers are not competent, and the Law Society must make efforts either to ensure that lawyers obtain and retain pertinent information to improve, or at least maintain, competence. The other is to ensure that the public understands how the legal system in Canada works, and how concepts that may be less well understood or even taken for granted integrate within the legal system to provide for important public rights.

Past priority initiatives such as the Continuing Professional Development (CPD) initiative, were developed to address the first part of the education goal. Initiatives such as the public forums and the high school education unit on judicial and lawyer independence were developed to address the “public education” part of the goal. The policy development of each of those initiatives is now complete, and they will remain as operational items for the Law Society.

The Benchers have identified the development of the following items as desired outcomes through which the education goal may be accomplished. Each item will be considered by the Lawyer Education Advisory Committee who will, as appropriate, develop initiatives, or options for initiatives, to be considered by the Benchers.

Strategy 3-1

Design and implement a plan to support the mentoring of lawyers.

Initiative 3-1

Mentoring is a time-honoured method through which lawyers can be educated by other lawyers who possess certain relevant skills or experience. When the CPD Program was approved for implementation, “mentoring,” was not included as an approved CPD activity. A promise was made to consider developing criteria for a program that would address the requirements of the CPD program. A mentoring program is expected to be presented to the Benchers for consideration in the spring of 2009.

Final Status – December 2011

The Lawyer Education Advisory Committee developed and presented a mentoring program to the Benchers, which the Benchers adopted at their May 2009 meeting. Rules necessary to implement the program were approved by

the Benchers in November 2009. The program was implemented commencing January 1, 2010.

Strategy 3-2

Develop and implement initiatives to more effectively educate lawyers on the topic of professionalism.

Initiative 3-2

Professionalism lies at the heart of lawyering, yet from an education perspective it is not a topic that receives much dedicated attention. Development of initiatives that would focus on the issues of principle and values that inform or underlie specific rules of professional conduct would fill a sizable void in the education options available to lawyers, and would assist lawyers in meeting the requirements of the CPD program. An examination of programs available in other jurisdictions, together with the development of options for such programs in British Columbia, for consideration by the Benchers will be a worthwhile initiative to achieve the goal of effective education.

Final Status - December 2011

The Report of the Professionalism Working Group was presented to the Benchers in December 2010 and the recommendations were approved.

Strategy 3-3

Develop and implement initiatives to improve advocacy skills for lawyers.

Initiative 3-3

Advocacy is a particular lawyering skill. While it is a skill most commonly associated with barristers, effective advocacy skills are equally relevant to solicitors. Advocacy is however a subject on which there are few dedicated courses available. To achieve the goal of effective lawyer education, the Lawyer Education Advisory Committee will examine initiatives relating to the teaching of advocacy skills and present options to the Benchers for consideration.

Final Status - December 2011

The report of the Advocacy Working Group was presented to the Benchers with recommendations in December 2010, six of which were accepted. One was referred back for further consideration, and the Lawyer Education

Advisory Committee recommended in its 2011 Year end Report not to pursue it.

Strategy 3-4

Educate the public regarding the legal system on a variety of levels.

Initiative 3-4a

The Law Society is developing an instructional video for use in high schools. This will be completed and rolled-out in 2009.

Final Status - December 2011

The instructional video has been completed (and was shown to the Benchers in April 2009), as has the Teachers' Guide that accompanies the instructional video. The complete program has been delivered to high schools around the province. Law Society Communications staff are working with the Justice Education Society to further promote the DVD to teachers. In addition, the Law Society has completed a second-print run of 500 additional copies of the resource.

Initiative 3-4b

The 2009 President of the Law Society – Gordon Turriff, QC – will be undertaking a speaking tour across the province during 2009 to commemorate the 125th anniversary of the Law Society. He will address a variety of topics relating to the legal profession and its regulation.

Final Status - December 2011

Mr. Turriff has completed his tour.

Initiative 3-4c

The Law Society will approach the law schools within the Province to enquire about establishing a program in which a presentation takes place early in the school year at which a Bencher and Law Society staff lawyer informs students about access to justice issues and opportunities in order to promote engagement by future lawyers in criminal, family and poverty law, as well as about the possibilities of working in smaller communities.

Final Status – December 2011

The presentation contemplated by this initiative took place at the law faculties of the University of British Columbia and the University of Victoria in the fall of 2011. Thompson Rivers University was not yet ready to introduce this component. Beginning in the 201-2013 academic year, the law faculties at the Universities of British Columbia and Victoria will be eliminating special “Professional Responsibility days” and will instead be introducing mandatory Professional Responsibility courses. Staff will follow up with the law faculties of those universities to ensure that the intent of this initiative is captured in those courses, and will work with Thompson Rivers University as it develops its upper year curricula.

Strategy 3-5

The Law Society will consider qualification standards or requirements for differing types of legal services. Are there some types of legal services that could be offered without the provider qualifying as a lawyer, and if so, what qualifications would be appropriate or required?

Initiative 3-5

The Lawyer Education Advisory Committee will prepare by the end of 2011 a preliminary report to give some context to and direction on the issue.

Status – December 2011

The Lawyer Education Advisory Committee delivered its report on this topic in December 2011, and further work is expected through the next Strategic Plan.

Note: This initiative is carried forward into the 2010-2014 Strategic Plan as Initiative 1-4(b).