



Minutes

Benchers

Date: Friday, March 03, 2017

Present: Herman Van Ommen, QC, President
Miriam Kresivo, QC, 1st Vice-President
Nancy Merrill, QC, 2nd Vice-President
Jasmin Ahmad
Satwinder Bains
Jeff Campbell, QC
Pinder Cheema, QC
Jeevyn Dhaliwal
Craig Ferris, QC
Martin Finch, QC
Brook Greenberg
J.S. (Woody) Hayes, FCPA, FCA
Dean P.J. Lawton, QC
Jamie Maclaren
Sharon Matthews, QC
Steven McKoen
Christopher McPherson
Lee Ongman
Claude Richmond
Phil Riddell
Elizabeth Rowbotham
Mark Rushton
Carolynn Ryan
Daniel P. Smith
Michelle Stanford
Sarah Westwood
Tony Wilson, QC

Unable to attend: Thomas Fellhauer
Lisa Hamilton

Greg Petrisor

Staff Present: Tim McGee, QC
Deborah Armour
Taylore Ashlie
Renee Collins
Lance Cooke
Su Forbes, QC
Andrea Hilland
Jeffrey Hoskins, QC
David Jordan

Michael Lucas
Alison Luke
Jeanette McPhee
Doug Munro
Lesley Small
Alan Treleaven
Adam Whitcombe
Vinnie Yuen

Guests:	Hon. Suzanne Anton, QC	Attorney General and Minister of Justice
	Dom Bautista	Executive Director, Law Courts Center
	Mark Benton, QC	Executive Director, Legal Services Society
	Johanne Blenkin	CEO, Courthouse Libraries BC
	Carolyn LeFebvre	Director of Communications & Strategic Initiatives, Canadian Bar Association, BC Branch
	Dr. Catherine Dauvergne	Dean of Law, University of British Columbia
	The Honourable Lance Finch, QC	Legal Aid Task Force
	Ron Friesen	CEO, Continuing Legal Education Society of BC
	Richard Fyfe, QC	Deputy Attorney General of BC, Ministry of Justice, representing the Attorney General
	Derek LaCroix, QC	Executive Director, Lawyers Assistance Program
	Martyn Lafrance	Chief of Staff to Minister Anton
	Prof. Bradford Morse	Dean of Law, Thompson Rivers University
	Wayne Robertson, QC	Executive Director, Law Foundation of BC
	Bill Veenstra	Vice President, Canadian Bar Association, BC Branch

INTRODUCTION

Mr. Van Ommen opened the meeting with an acknowledgement of the hospitality of the Coast Salish peoples, specifically the Squamish, Musqueam and Tsleil Waututh nations, on whose territories the meeting was being conducted.

He also introduced special guests of the meeting, the Honourable Suzanne Anton, QC, Attorney General and Minister of Justice, and the Honourable Lance Finch, QC, member of the Legal Aid Task Force.

Regarding the Consent Agenda, he noted two amendments to the Draft Bencher Meeting Minutes for January 27, 2017:

- The phrase “and secured” should be deleted from the revised definition of “Member Contact Information” in Rule 2-9
- The phrase “Excused” should be amended to read “Unable to attend” in the Attendance section

CONSENT AGENDA

1. Minutes

a. Minutes

The minutes of the meeting held on January 27, 2017 were approved as circulated and amended.

The *in camera* minutes of the meeting held on January 27, 2017 were approved as circulated

b. Resolutions

The following resolution was passed unanimously and by consent.

BE IT RESOLVED to amend Rule 3-34 of the Law Society Rules by striking the phrase “rule 4.3” and substituting “section 4.3”

BE IT RESOLVED to amend the Law Society Rules by rescinding Rule 2-85 (3) and substituting the following:

(3) On an application under subrule (2) (c), the Executive Director may waive payment

of all or part of the application fee on any conditions that the Executive Director considers appropriate.

Be it resolved to amend the Code of Professional Conduct for British Columbia by inserting into the commentary for Rules 3.7-9 and 5.1-2 additional paragraphs as follows:

To be added to the commentary on Rule 3.7-9:

[6] In the absence of a reasonable objection, a lawyer who is discharged or withdraws continues to have a duty to promptly sign appropriately drafted court orders that have been granted or agreed to while the lawyer was counsel. This duty continues, notwithstanding subsequent instructions of the client.

To be added to the commentary on Rule 5.1-2:

[5] In the absence of a reasonable objection, lawyers have a duty to promptly sign appropriately drafted court orders that have been granted or agreed to. This duty continues, notwithstanding subsequent instructions of the client.

DISCUSSION/DECISION

2. Legal Aid Task Force Report

Nancy Merrill, QC, Chair of the Legal Aid Task Force (the Task Force), began by thanking the members of the Task Force, Vice-Chair Richard Peck, QC, Pinder Cheema, QC, Tom Christensen, QC, David Crossin, QC, the Honourable Lance Finch, QC, Judge Patricia Stark (Task Force member prior to her elevation to the Bench), Linda Thomas, Sarah Westwood, and Janet Winteringham, QC, for their time and commitment to this project, as well as staff Michael Lucas and Doug Munro for their invaluable hard work and support. She also thanked the Attorney General for her interest in the work of the Task Force, and her attendance at the colloquium held in late 2016.

In briefing Benchers on the Task Force's final report and recommendations, she observed that while historically the Law Society had been instrumental in the creation of legal aid, it had been notably silent until it assumed its leadership role once again last year. It bestowed upon the Task Force a mandate to:

- Develop a principled vision for the Law Society concerning publicly funded legal aid;
- Identify ways the Law Society could promote and improve lawyer involvement in delivering legal services through legal aid plans;
- Identify ways to enhance Law Society leadership concerning legal aid; and

- Develop the best methods for engagement with other organizations to coordinate the efficient use of resources in improving publicly funded legal aid.

Since its creation, the Task Force has held 12 meetings, a half day retreat and a full day colloquium. Its initial task was to develop a principled vision for legal aid, which would form the basis for moving forward. With a vision articulated, the Task Force proceeded to outline ideas for mandate items 2-4, and recommended the creation of a permanent advisory committee to continue this work.

Ms. Merrill then introduced the Honourable Lance Finch, QC, and invited him to speak. Mr. Finch congratulated the Benchers on their decision to strike this Task Force to undertake this important work. He echoed Ms. Merrill's thanks of Task Force members and staff, and noted that the draft vision set out in the Task Force report articulates reasons why access to legal advice and access to lawyers is essential to the rule of law. The proper functioning of our legal system depends upon both sides having professionally trained legal representation. One needs to fully understand the areas of practice in which legal aid is required before proposals can be made to the government seeking improvement to the legal aid system. To that end, Mr. Finch urged Benchers to adopt the vision and recommendations articulated by the Task Force.

Following the remarks of the Attorney General, outlined below, Mr. Van Ommen opened the discussion to Benchers, who were united in their praise for the Task Force and its thoughtful report, which can provide a meaningful foundation for moving forward. Some noted the importance of accepting the recommendations in order to move these issues to the forefront of public consciousness. Others noted that this work is consistent with the Law Society's mandate to uphold and protect the public in the administration of justice, and is synchronous with the work of the CBA highlighting the needs of the justice sector. Also noted was the burden being placed on the lawyers who continue to practice legal aid work despite the myriad challenges, some of whom cannot afford an office from which to work.

During discussion, Mr. Maclaren proposed that the language of the vision be amended to include the recognition of legal aid as an essential service that must be adequately funded by the government. Ms. Matthews also suggested an addition to the suggestions of how to advance mandate items 2-1 that includes articulation of a commitment to advocate for improvements to the legal aid system.

Ms. Merrill then moved (seconded by Ms. Rowbotham) the adoption of the vision articulated in Appendix 1 to the report, the dissolution of the current Task Force, and the establishment of an advisory committee with the mandate proposed at paragraph 64 of the report.

Some Benchers expressed support for adoption of the vision as articulated in the report, noting that ideas of how best to carry out the vision could be left to the advisory committee; others supported an amendment to include the suggestions made by Mr. Maclaren and Ms. Matthews.

Mr. Maclaren then moved (seconded by Ms. Stanford) that the following language be inserted at the end of the vision statement on page 22: “legal aid is an essential public service and, as such, governments bear the responsibility to fund legal aid to the degree necessary to achieve these purposes and objectives”.

After calling for discussion and hearing none, Mr. Van Ommen called for a vote on the amendment which was passed, with 16 for and 6 opposed.

Ms. Matthews then moved (seconded by Mr. Maclaren) for the addition of a recommendation 2(b)(iv) on page 19 of the report as follows: “advocating with the government and the public for improvements to legal aid”.

During discussion of this proposed amendment, Ms. Merrill confirmed that it was consistent with the recommendations of the Task Force, which had discussed the benefit of having regular meetings with both the Attorney General and the Minister of Finance. In response to the suggestion that the Law Society should be looking to public advocacy groups given its limited avenues for public consultation, Ms. Merrill observed that the way in which the Law Society advocated could be left to the advisory committee to discuss.

Following a vote, the amendment passed unanimously.

Mr. Van Ommen then called for a vote on the main motion to adopt the vision and recommendations, as amended: the motion passed unanimously.

3. Honourable Suzanne Anton, QC, Minister of Justice and Attorney General of British Columbia

Following Ms. Merrill’s and Mr. Finch’s remarks, Minister Anton spoke to Benchers, beginning by offering her compliments to the Law Society for undertaking the important work of advocating for legal aid reform, which is deserving of increased public attention and discussion. She was pleased to be invited and to attend the Task Force colloquium.

Citing the government’s goal of innovation to increase access to justice, she outlined many of the government’s current initiatives, including the Civil Resolution Tribunal (CRT), and criminal justice reform, for which BC has been lauded as a leader. She noted the challenges of operating in a financially constrained environment, which requires smarter rather than more expensive innovation, but observed that the fourth consecutive budget surplus has allowed for investment in health and childcare and capital spending.

She noted other government legal services initiatives, including creating Make a Will Week, amending the Human Rights Code to prohibit discrimination against transgendered people, working with the National Inquiry into Missing and Murdered Indigenous Woman and Girls (the National Inquiry), establishing a Family Information Liaison Unit to help those families who have lost loved ones interact with the National Inquiry, and celebrating 100 years of women getting the vote.

She provided additional detail of the recently launched CRT, the only online dispute resolution tribunal in the world that is linked to the court system. Currently open to strata disputes, the CRT will soon announce the start of Small Claims resolutions for claims under \$5000. She also noted the Justice and Public Safety Council which is responsible for coordinating the Justice Summits, the Provincial Court scheduling project, and the additional funding of the Legal Services Society (LSS).

Given the significant overrepresentation of Indigenous peoples in the criminal justice system, the Justice Services Branch has also engaged in numerous initiatives to assist, such as participation in the social determinants of health Regional Caucuses through the First Nations Health Council, establishment of 4 First Nations Courts (in the context of which she applauded the ingenuity and commitment to justice of Chief Judge Tom Crabtree and the Provincial Court), commission of Grand Chief Ed John's outstanding and insightful report on indigenous children in care, and development of such projects as the Aboriginal Family Healing Court Conference Pilot Project (akin to a First Nations Court for children in care) and the Parents Legal Centre for parents of children in care (developed through LSS).

Returning to the issue of legal aid, Minister Anton noted that approximately 20% of her Ministry's budget is allocated to legal services, through its funding of the traditional legal aid services provided by LSS as well as other legal services run by the government. She cited as examples of initiatives the expanded criminal and family duty counsel, the expanded Law Line, and the aforementioned Parents Legal Centre. She also noted the success of the government's Justice Access Centres which direct people to sources of legal advice, assist with the preparation of documents and provide information on resources for cases of domestic violence, residential tenancy disputes, child protection mediation and parenting after separation.

She also noted the need for more capital investment in courthouses and the personnel who staff them, such as crown counsel and sheriffs, particularly at the Supreme Court level. While BC has fewer cases of unreasonable delay than jurisdictions such as Alberta and Ontario, she observed that delay generally is a problem for justice and public confidence in our justice systems. To that end, she expressed her appreciation for the involvement and work of the Law Society, an important partner in justice.

Mr. Van Ommen thanked the Minister for attending and speaking.

4. Governance Committee: 2016 Bencher and Year End Survey Report

Steve McKoen, Chair of the Governance Committee briefed the Benchers on the results of the 2016 Bencher and Year End Survey Report, noting that, of the 26 responses received last year, most were in agreement with the survey statements; only 4% of responses expressed disagreement with the survey statements. Of all of the statements, the highest level of agreement was with the statement “Benchers are actively engaged with each other on issues”; the least agreement was with the statement “Benchers are up to date on the latest developments in the market for legal services”. Mr. McKoen also noted a decrease in agreement with the statements “Benchers have no hesitation raising issues” and “the meeting allows for candid conversation”.

Given these results, and the low level of disagreement with the statements in general, the Governance Committee will review and revise the survey to elicit more informative responses and make it a more useful tool. Mr. McKoen also noted that since 2007, Governance reviews have been conducted approximately every 5 years; accordingly, the Committee will be reviewing the recommendations made in the Governance review of 2012 to determine whether it remains useful to advance the goals set out then, or whether the goals should be refreshed. It will report back to Benchers following that review.

Mr. Van Ommen expressed concern over the decline in agreement with the statements concerning hesitation raising issues and candid meeting discussion. He emphasized the importance to him of open discussion, including the encouragement of dissent, and welcomed suggestions from Benchers to help achieve that openness.

One Bencher questioned whether the survey statistics accurately reflected the tone in the room, as there does not appear to be hesitation to raise issues or to dissent in the meetings. Another queried whether the results were more a reflection of the wording of the questions, rather than representative of Benchers’ attitudes generally.

Mr. Van Ommen noted that there were no decisions for approval in the report; he also noted that the Executive Committee would be looking at providing more information to Benchers on the market for legal services in BC.

5. Review of the Law Society’s 2016 Audited Financial Statements and Financial Reports

Miriam Kresivo, QC, briefed Benchers as Chair of the Finance and Audit Committee, beginning by thanking the hardworking members of the Committee, and the staff who so ably support it.

She recalled for Benchers the Committee’s mandate, which is to provide recommendations on annual fees, review budgets, review financial and investment results on a quarterly basis, review audit information and recommend approval of audited financial statements.

The presentation of the 2016 Audited Financial Statements and Financial Reports represents a significant part of that mandate. She noted the auditor's acknowledgment of staff's clear understanding of the organization and its needs, and the excellent job they are doing.

Jeanette McPhee, Chief Financial Officer, detailed the results of the 2016 Audited Financial Statements as compared to the 2015 results.

Beginning with the General fund, she noted a positive year in operations, with revenue at \$23.1 million or 3% over budget. One of the main areas over its projected budget was Juricert fees at \$976,000, which is the most since the inception of the program and a 14% increase over 2015. This variance of \$200,000 over budget is largely related to the increase in the real estate market during the year. Another area over budget was Practice Fee revenue, which exceeded its budget slightly with a 2% increase in members. The area of Recoveries, Fines and Penalties was also over budget by \$150,000. PLTC fees were below budget, with 470 students rather than the projected 500; however, Ms. McPhee noted that this does not appear to be a trend, as more than 500 students are expected in 2017. She also noted that the history of practicing membership over 11 years appears to be increasing at a rate of about 2% per year, and in 2016 there were 11,620 full time equivalent lawyers. The budget for 2017 is 11,760; the current number is 11,600 so we expect to be close to budget.

Operating expenses had a positive variance this year, at 21.4 million or 4% under budget. Savings were achieved in the areas of external fees within Credentials and Forensic Accounting, Human Resources (HR) and staff related expenses. External fees were down due to fewer files sent out in Credentials and Forensic Accounting. She noted that HR professional recruitment fees were under budget by \$125,000, with lower costs for skills training and professional development, which may be attributable in part to the development of our technical skills enrichment program and also staff workload issues. This is not necessarily a desired result, however, and staff will continue to be encouraged to focus on their professional development needs.

Overall, external fees in Regulation were under budget by \$80,000, which is a good achievement. Ms. McPhee noted that this is an area that is very difficult to project with any certainty due to pressures and complexity of files.

In the area of Trust Assurance Ms. McPhee noted a TAF revenue of \$4.5 million in 2016 which is approximately \$1 million over its budget of \$3.5 million, and 12% over 2015. As 75% of TAF revenue is due to real estate transactions, this figure is largely the result of demand in the real estate market in 2016. She also noted that the market is projected to decrease in 2017, which may correlate with a decrease in TAF revenue. Operating expenses were slightly below budget.

Reviewing the General Fund Balance sheet, Ms. McPhee noted assets of \$52 million and liabilities of \$32 million, leaving \$19.8 million in net assets. This consists of 4 main items. The first is Capital Projects funding of \$2.6 million, which is money set aside to pay for capital projects to maintain the building and operations. The second is the TAF reserve of \$4.8 million, which increased as a result of the increase in TAF related transactions in 2016 and the last half of 2015. The Finance and Audit Committee will be reviewing the TAF reserve this year as the current reserve policy is to transfer any excess funding over the required reserve to the Lawyers Insurance Fund (LIF). The third item is the investment in capital assets of \$11 million, which largely consists of the 845 Cambie building, leasehold improvements and operational capital items. The final item is \$1.4 million in unrestricted net assets, or working capital. This represents less than a month of operating expenses so it is a reasonable reserve.

Ms. McPhee then reviewed LIF, noting its assessment revenue of \$14.7 million was 2% over budget, and operating expenses, excluding claims, were under budget at \$6.7 million, due in large part to savings from staff vacancies. There was a considerable increase in Claims Provision in 2016, which is based on the actuarial valuation for claims. This is adjusted at the end of each year based on new claims in the year, and changes in claims from prior years. The provision was adjusted upward as there has been higher claims experience this year. She noted that this increase is not a reflection of actual payments, but a projection by the actuary.

The LIF investment Portfolio performance was reviewed, with the 2016 returns at 7.1%, which is above the benchmark by 6.0%.

The LIF Net Assets are \$70.4 million, which is a decrease due to the higher claims provision. LIF reserve levels have been reviewed by our actuarial and are deemed to be adequate for our insurance program.

The Special Compensation Fund has had no significant activity, although there was a small recovery of \$75,000 on a past file. There are a few more files to be finalized and the remaining reserve before the recoveries will be transferred to LIF mid-year.

After hearing no questions, Ms. Kresivo moved (seconded by Mr. Van Ommen) the following resolution:

BE IT RESOLVED to approve the Law Society's 2016 Combined Financial Statements for the General & Special Compensation Funds, and the 2016 Consolidated Financial Statements for the Lawyers Insurance Fund.

The motion was passed unanimously.

Ms. Kresivo reminded Benchers of the next Finance and Audit Committee meeting scheduled for April 6 at 12:00, at which Benchers are always welcome.

REPORTS

6. Lawyers Insurance Fund: Program Report for 2016

Su Forbes, QC, Director of LIF provided the LIF Program Report for 2016. She began by noting important aspects of LIF's role: to help and support lawyers to competently and ethically serve their clients and to discharge their financial obligations when they are negligent and cause loss to a client. This helps ensure the honour and integrity of the legal profession – all part of the Law Society's mandate set out in s. 3 of the *Legal Profession Act*.

Of the 14,000 lawyers in BC, 8700 are in private practice. LIF insures and manages the claims of this group. 1200 of these lawyers are part time and 7500 are full time. This proportion has remained relatively unchanged over the last 10 years and represents a steady state of insured membership.

Over a 5 year period, the frequency and number of reports has remained fairly consistent. The program saw an increase of approximately 10% in 2015, but that number dropped in 2016. However, we have seen an increase in the size or severity of claims in the same period.

Ms. Forbes then reviewed the risk of each practice area, noting that civil litigation (plaintiff) and motor vehicle (plaintiff) represent approximately 33% of reports; approximately 70% of all reserves are for these areas and real estate. She also noted that the 10 areas of practice that give rise to the lowest number of reports and dollars reserved, (each less than 5%), have remained the same during the last many years.

She next reviewed expense and claim settlement payments. Total payments are typically in the \$12-14 million range. There was a dip in 2015, likely due to timing, and 2016 saw the highest number of total payments since beginning of the program in 1986. As noted by Ms. McPhee earlier, our actuary is projecting an upward trend in the size of payments moving forward.

Typically the program closes as many files as it opens, however, last year 30 more files were closed than opened. Approximately 73% of closed files are closed with no payment, which reflects the skill of our claims counsel and early reporting by lawyers. Reviewing last year's closed reports, a consistently high level of repair (being the elimination, reduction or mitigation of loss) is demonstrated. Over the last 15 years, the level of repairs is approximately 15-20%, which again is the result of timely reporting and proactive steps taken by claims counsel.

From 2015 to 2016, the number of settlements increased, with 3 settlements over \$1 million (paid by excess carriers) in 2016. In 2016 LIF made 6 risk management presentations and, with the support of CLE, completed the significant undertaking of producing the YouTube video "The Naked Lawyer: big data reveals why you are at risk". Through those live forums, a video link of the "Naked Lawyer" on our website, and several PLTC sessions where we presented by video,

we have been able to reach over 1000 lawyers and students. Finally, LIF took an unprecedented 13 matters to trial in 2016 and won all; it appealed 2 trials it had earlier lost and also won those.

Regarding Part B, since the beginning of the program in 2004, we have received 228 reports of claims and potential claims under Part B and have paid claims involving 24 lawyers. Last year saw 7 claims paid for a total of \$94,000, \$6000 of which has already been recovered under payment plans.

Reviewing the insurance fee history, Ms. Forbes noted that 31 years ago the insurance fee for a \$200,000 policy was \$1750, and \$2600 represented the highest fee paid, in 1990. Fee stability was reached in 2000, but the economic recession, increased claims, and poor investment returns in 2008 pushed the fee back up to where it started at \$1750 – but by that time, for a \$1 million policy. Thereafter, improved market returns resulted in LIF maintaining the fee at \$1750 for the last 8 years. Finally, although LIF is the third largest program in Canada, we have the 9th largest fee.

The program is evaluated by users through its service evaluation surveys. Within 206 completed surveys, there are 183 positive comments and only 7 “grumbles”. Approximately 96% were satisfied with the outcome of their claim and 97% were happy with LIF staff counsel service.

Ms. Forbes then reviewed examples of comments made by lawyers experiencing claims, including suggestions of how to avoid such risks in the future. The risks included failure to communicate effectively, failure to manage the client relationship, failure to know or properly analyze the pertinent law, as well as simple oversights and unavoidable risks.

Ms. Forbes concluded her presentation to Benchers by noting that this year’s risk management focus will have a coverage theme and will be presented in 2 parts: the first will be a publication detailing how effective risk management starts by knowing what a policy does and does not cover, and making informed decisions about whether additional coverage is needed; the second will be a live presentation called “Under the Covers” which will help underscore the point. Both the publication and a video of the live presentation will be available on our website as tools to help lawyers protect themselves and better serve their clients.

Following the presentation, Ms. Forbes was asked about whether our insurance covers data theft and fraud, and what a cyber policy might cover. She highly recommended the purchase of a commercial “cyber liability policy” which would provide third party coverage in case client information is misused by a third party, and first party coverage for business interruption, “ransomware” extortion, notification costs, and other costs a firm might incur. Our policy does not cover situations in which a client’s information, housed on a laptop for example, falls into the hands of a third party and is misused. The policy does provide coverage where the lawyer might

lose information that could cause a loss directly related to the legal services to be provided to the client.

Mr. Van Ommen thanked Ms. Forbes for her informative presentation.

EXECUTIVE REPORTS

7. President's Report

Mr. Van Ommen briefed the Benchers on various Law Society matters, beginning by reminding Benchers that the Executive Committee Meeting Minutes from the February 16, 2017 meeting are now posted on Bencher Resources.

He noted his attendance last weekend at the Kootenay Bar Association meeting, at which he met all of the candidates in the Kootenay County Bencher By-election. He will report to Benchers with results after the election on March 15.

At the invitation of the Attorney General, he attended the Budget speech in Victoria; observing the myriad items being addressed in the Budget underscored for him the importance of raising the profile of access to justice issues.

- **Bencher Calendar**

Mr. Van Ommen also reviewed with Benchers events appearing in the 3 month Calendar excerpt, encouraging Benchers to become engaged as much as possible. He highlighted the New West Bar Dinner on March 14, and the reception for the National Action Committee on Access to Justice, hosted by the Law Society on March 23.

He also reminded Benchers to continue to advise of events as they become aware of them, to help populate the Calendar and make it a truly useful tool.

- **TRC Advisory Committee**

As Co-Chair of the Committee, Mr. Van Ommen provided an update on the Committee's progress to date. He invited Deputy Director of PLTC Annie Rochette to brief Benchers on the implementation of the TRC's Calls to Action into the PLTC curriculum. There has been an increase in Aboriginal cultural content in classroom instruction, which covers Canadian law as it pertains to Aboriginal peoples. PLTC has also included a whole day of instruction on criminal procedure which covers bail and sentencing, and therefore includes a review of Gladue rights. Ms. Rochette acknowledged that these are small steps, and stressed the importance of moving forward in a consultative manner with the Indigenous community, the

TRC Advisory Committee and law schools in looking at integrating cultural competency in a meaningful manner throughout the whole curriculum.

Committee member Dean Lawton also stressed the importance of coordinating with other entities, and continuing to consult with everyone concerned with this common interest, in an effort to use our collective energies effectively.

Mr. Van Ommen also noted that opportunities for further cultural competency training for Benchers were being explored, to follow up on the meaningful experiences gained at the 2016 Bencher Retreat.

He also briefed Benchers on an issue that has been discussed by the TRC Advisory Committee and will be raised at the next Bencher meeting: that of the status of the statue of Sir Matthew Begbie currently installed in the Law Society building lobby. The Committee has been reviewing the symbolism of the statue, and querying whether it remains appropriate for the Law Society to display the controversial symbol at a time when it is engaged in a process of reconciliation. The Committee is recommending the replacement of the statue with a more unifying symbol; Grand Chief Ed John will attend the Bencher meeting to present the Committee's recommendations. A statement regarding this replacement, which will be submitted to Benchers for approval, will be circulated in advance of the Bencher meeting for review and consideration. He noted that these recommendations will also be made public prior to the Bencher meeting, to enable the inclusion of any views expressed by the profession.

- **Briefing by the Law Society's Member of the Federation Council**

Mr. Van Ommen briefed the Benchers as the Law Society's member of the FLSC Council, providing an outline of the upcoming Federation Council Spring Meetings to be held March 13 and 14 in Quebec City. The meetings will include a special session on law firm regulation, which will give the Law Society an opportunity to compare our approach with that of other provinces. A major item on the Federation Council agenda will be the development of its Strategic Plan.

He was also pleased to report that Council will approve the membership of the Federation TRC Working Group, which will include Past President David Crossin, QC.

- **Report on Outstanding Hearing & Review Decisions**

Written reports on outstanding hearing decisions and conduct review reports were received and reviewed by the Benchers.

8. CEO's Report

Mr. McGee provided highlights of his monthly written report to the Benchers which included a review of the Operational Priorities for the year. Though staff remain meaningfully engaged in their day to day priorities across all departments, each year we identify 5 operational priorities to receive special attention, focus and oversight by the management leadership group.

- Review of the Key Performance Measures: this will include an examination of department goals and an assessment of whether our current targets continue to accurately reflect and measure those goals.
- Review of the Enterprise Risk Management (ERM) plan: the ERM plan is a comprehensive view of risks at the operational level across all departments, a categorization of those risks as high, medium, or low, and an assessment of our ability to mitigate those risks. The plan is reviewed annually to track any changes to ratings year over year but this review is a full substantive review conducted every 3 years.
- Resourcing analysis: the annual employee survey indicates that resources for staff could be improved in certain areas. We will analyze our resource needs, including the types of resources required, and assess those needs on the basis of anticipated impact and cost effectiveness.
- Cultural competency and diversity training: our goal is to develop and deliver a strong base program this year for staff in general cultural competency training with a particular focus on Indigenous matters.
- Outstanding file reduction initiative: we have set an important target to significantly reduce over 2 years the number of files being carried forward in Professional Conduct from year to year. We will be recruiting more resources to assist, ensuring we are matching the right skills to the right tasks. We will be reporting back to Benchers as this project progresses.

Mr. McGee also briefed Benchers on the progress of the LIF restructuring. He thanked Ms. Forbes and Ms. McPhee for their outstanding work on this important project. He also reminded Benchers of the upcoming strategic planning set for the Fall of this year, and noted that staff will be providing a series of educational sessions at Bencher meetings to provide background on possible strategic planning topics.

Additionally, Mr. McGee noted that the new website would be going live Monday, March 6 following the recent testing done and feedback received. He also noted that leave to appeal had been granted by the Supreme Court of Canada in the TWU matter.

Following Mr. McGee's report, Benchers commented on the importance of cultural competency training, and a suggestion was made regarding a possible presentation to Benchers on intercultural fluency. Another Bencher queried whether internal complaint processes could be reviewed to ensure we are presenting an open and welcoming entry point for members of the Indigenous community; Mr. Van Ommen confirmed that this is currently part of the TRC Advisory Committee work plan.

Concern was expressed regarding the apparent delay in addressing the file reduction initiative; in response Mr. McGee noted that recruiting of the resources had begun and that once in place tracking and reporting would commence. While it was a timing issue it should not affect meeting the 2 year reduction target which has been set. Indeed, Ms. Armour noted that file reduction had already begun, and that a report will be provided to the Executive Committee at its next meeting.

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