



# Minutes

## Benchers

Date: Friday, April 07, 2017

Present:

Herman Van Ommen, QC, President	Jamie Maclaren
Miriam Kresivo, QC, 1 <sup>st</sup> Vice-President	Sharon Matthews, QC
Nancy Merrill, QC, 2 <sup>nd</sup> Vice-President	Christopher McPherson
Jasmin Ahmad	Greg Petrisor
Satwinder Bains	Claude Richmond
Jeff Campbell, QC	Phil Riddell
Pinder Cheema, QC	Elizabeth Rowbotham
Barbara Cromarty	Mark Rushton
Jeevyn Dhaliwal	Carolynn Ryan
Thomas Fellhauer	Daniel P. Smith
Craig Ferris, QC	Michelle Stanford
Martin Finch, QC	Sarah Westwood
Brook Greenberg	Tony Wilson, QC
Lisa Hamilton	
J.S. (Woody) Hayes, FCPA, FCA	
Dean P.J. Lawton, QC	

Unable to Attend: Steven McKoen, Lee Ongman

Staff Present:

Tim McGee, QC	Michael Lucas
Deborah Armour	Alison Luke
Taylor Ashlie	Jeanette McPhee
Renee Collins	Doug Munro
Lance Cooke	Lesley Small
Su Forbes, QC	Alan Treleaven
Andrea Hilland	Adam Whitcombe
Jeffrey Hoskins, QC	Vinnie Yuen
David Jordan	

Guests:	Dom Bautista	Executive Director, Law Courts Center
	Mark Benton, QC	Executive Director, Legal Services Society
	Johanne Blenkin	CEO, Courthouse Libraries BC
	Aseem Dosanjh	Past President, Trial Lawyers Association of BC
	Ron Friesen	CEO, Continuing Legal Education Society of BC
	Grand Chief Edward John	Co-Chair, Truth and Reconciliation Advisory Committee
	Derek LaCroix, QC	Executive Director, Lawyers Assistance Program
	Prof. Bradford Morse	Dean of Law, Thompson Rivers University
	Caroline Nevin	Executive Director, Canadian Bar Association, BC Branch
	Wayne Robertson, QC	Executive Director, Law Foundation of BC
	Bill Veenstra	Vice President, Canadian Bar Association, BC Branch
	Prof. Jeremy Webber	Dean of Law, University of Victoria
	Rolf Warburton	Board Chair, Continuing Legal Education Society of BC

## INTRODUCTION

### 1. Administer Oath of Office

Mr. Van Ommen opened the meeting with an acknowledgment of the Coast Salish peoples, including the Squamish, Tsleil Waututh and Musqueam, on whose traditional territories the meeting was being held.

He then introduced newly elected Kootenay County Bencher Barbara Cromarty and administered her oath of office.

He also noted that item 2.3 “Rule 1-9 – Voting at General Meetings by Internet” was being removed from the Consent Agenda by request by a Bencher, and would be adjourned to next meeting.

## CONSENT AGENDA

### 2. Minutes

#### a. Minutes

The minutes of the meeting held on March 3, 2017 were approved as circulated.

The *in camera* minutes of the meeting held on March 3, 2017 were approved as circulated

#### b. Resolutions

The following resolution was passed unanimously and by consent.

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

#### 1. *In Rule 2-16*

(a) *in subrule (3), by rescinding paragraphs (a) and (b) and substituting the following:*

(a) maintain professional liability insurance that

(i) is reasonably comparable in coverage and limits to that required of lawyers under Rule 3-39 (1) [*Compulsory professional liability insurance*], and

(ii) extends to the visiting lawyer’s temporary practice in British Columbia,

(b) maintain trust protection insurance or other defalcation compensation coverage from a governing body that extends to the visiting lawyer’s temporary practice in British Columbia., ***and***

- (b) in subrule (6), by striking the phrase “exempt from compulsory liability insurance” and substituting “exempt from professional liability insurance”;**
- 2. In Rule 2-19, by rescinding subrule (3) (e) and substituting the following:**

  - (e) proof that the visiting lawyer maintains the trust protection insurance or other defalcation coverage required under Rule 2-16 (3) (b) [*Inter-jurisdictional practice without a permit*];;
- 3. In Rule 2-22, by rescinding subrule (3) (b) and substituting the following:**

  - (b) fails to maintain professional liability insurance as described in Rule 2-19 (3) (d) [*Inter-jurisdictional practice permit*],
  - (b.1) fails to maintain the trust protection insurance or other defalcation coverage described in Rule 2-16 (3) (b) [*Inter-jurisdictional practice permit*], or;
- 4. In Rule 2-32, by striking the phrase “the lawyer holds liability insurance” and substituting “the lawyer maintains professional liability insurance”;**
- 5. In Rule 2-40 (2) (d), by striking the phrase “maintains liability insurance” and substituting “maintains professional liability insurance”;**
- 6. In Rule 2-49 (1), by rescinding paragraph (d) and substituting the following:**

  - (d) professional liability insurance maintained by non-lawyers under Rule 2-47 [*Liability insurance*];;
- 7. In Rule 2-77 (1), by rescinding paragraph (b) and substituting the following:**

  - (b) a professional liability insurance application or exemption form,;
- 8. In Rule 2-79 (1), by rescinding paragraph (d) and substituting the following:**

  - (d) a professional liability insurance application or exemption form,;
- 9. In Rule 2-82 (1), by rescinding paragraph (d) and substituting the following:**

  - (d) a professional liability insurance application or exemption form,;
- 10. In Rule 2-117 (1), by rescinding paragraph (e) and substituting the following:**

  - (e) reimbursement for payment made on behalf of the lawyer or former lawyer under trust protection insurance.;

11. *In Rule 3-39, by rescinding the heading and substituting the following:*

**Compulsory professional liability insurance;**

12. *By adding the following rule:*

**Compulsory trust protection insurance**

**3-39.1**(1) A lawyer must maintain trust protection insurance on the terms and conditions offered by the Society through the Lawyers Insurance Fund and pay any fee for trust protection insurance set under Rule 3-40 [*Annual insurance fee*].

- (2) A lawyer is bound by and must comply with the terms and conditions of trust protection insurance maintained under subrule (1).;

13. *In Rule 3-43, by rescinding the heading and substituting the following:*

**Exemption from professional liability insurance;**

14. *In Rule 3-44 (2), by rescinding paragraph (b) and substituting the following:*

- (b) if the payment was made under trust protection insurance, reimburse the Society in full on demand, for all amounts paid.;

15. *In Rule 3-46*

*(a) by rescinding subrules (1) and (2) and substituting the following:*

- (1) In this rule, “**claim**” means a claim or potential claim reported under the policy of professional liability and trust protection insurance.
- (2) Unless permitted by this rule, no one is permitted to disclose any information or records associated with a claim.,

*(b) by rescinding the preamble to subrule (3) and substituting the following:*

- (3) The Executive Director may do any of the following; *and*

*(c) by rescinding the preamble to subrule (5) and substituting the following:*

- (5) In the case of a claim under trust protection insurance, the Executive Director may do any of the following:.

## GUEST PRESENTATIONS

### 3. Begbie Symbolism

Mr. Van Ommen introduced Grand Chief Edward John, Hereditary Chief of Tl'azt'en Nation and Co-Chair of the Truth and Reconciliation Advisory Committee (TRC Committee), noting Chief John's recent re-appointment as North American Representative to the United Nations Permanent Forum on Indigenous Issues.

Chief John acknowledged the Squamish, Tsleil Waututh and Musqueam peoples on whose lands the meeting was being held, and underscored the importance of doing so. He expressed his honour at being invited to speak with the Benchers, and in particular acknowledged appointed Bencher Dan Smith whom he has known for years, and newly elected Bencher Barbara Cromarty. He also thanked the Benchers for their establishment of the TRC Committee, which he noted as an important leadership step by the Law Society towards reconciliation. Steps such as these are important building blocks toward a deeper understanding of the truth of our past, upon which we can move to a better future.

As part of this understanding, the TRC Committee has discussed and provided recommendations regarding the statue of Justice Begbie residing in the lobby of the Law Society building. To help provide a better understanding of the symbolism of this statue to Indigenous peoples in BC, Chief John spoke of the history of the Tsilhqot'in people and their lands, the 19<sup>th</sup> Century colonizing principles that authorized taking "newly discovered" lands, the Tsilhqot'in's defense of their lands and the subsequent execution of 6 Tsilhqot'in Chiefs ordered by Justice Begbie. This latter event had a profound impact on the Tsilhqot'in people, and all Indigenous peoples in BC that persists today.

To Indigenous people, the statue is a reminder of this Province's colonial past and the hanging of the 6 Tsilhqot'in Chiefs. The TRC Committee recommends replacement of the statue with a more unifying symbol, which represents a small but important step toward reconciliation

Chief John thanked the Benchers for putting their trust in him to co-chair the TRC Committee, and for inviting him to speak to them today.

Following Chief John's remarks, Mr. Van Ommen noted Benchers' earlier discussions on the proposal to replace the Begbie statue with a more unifying symbol, inviting further discussion on that proposal as well as on the details of any statement the Law Society might make to that effect.

Given the historical context provided, and the wish to ensure that members of the community feel comfortable and included on the premises, it was generally agreed that the statue would be removed and replaced with a more unifying symbol.

Discussion ensued regarding the wording of the Law Society statement advising members and the public of the decision. Opinion was divided regarding the extent to which historical context should be included. Many suggested the inclusion of strong support for the work of the Truth and Reconciliation Commission's Calls to Action and the acknowledgment of difficult truths in our

history to help us work toward reconciliation. Benchers were united in their gratitude to Chief John for his eloquent articulation of historical events, their impacts and their symbolism.

Mr. Smith provided particular thanks to Chief John for all of the work he has done for Indigenous peoples in Canada. Mr. Smith also noted the challenges associated with systemic change, with revisiting principles and policies we were not there to create, but stressed the importance of bringing difficult truths forward to move toward true reconciliation.

Mr. Van Ommen summarized the Benchers' comments and general agreement with the proposal to replace the statue, while also acknowledging the challenges of trying to draft by consensus.

Motion was made (Ms. Merrill, seconded by Mr. Greenberg) to accept the following recommendations of the TRC Committee:

- 1) The statue of Judge Begbie in the foyer of the Law Society building should be removed;
- 2) A new and unifying symbol to promote reconciliation should be placed in the foyer of the Law Society building;
- 3) The miniature Begbie statue given to recipients of the Law Society Award should be replaced with a more appropriate gift; and
- 4) A new code word to trigger safety procedures in the Law Society building should be

selected.

The motion was passed unanimously.

Taking into account the comments and suggestions of the Benchers, Mr. Van Ommen would draft a statement and circulate it to Benchers.

He thanked Chief John for coming and speaking with Benchers on this important issue.

## **DISCUSSION/DECISION**

### **4. Strategic Plan Review Process**

Before addressing the strategic planning review process, Mr. McGee provided 2 notes for Benchers' reference: first, the 2016 Annual Report on Performance has now been posted, review of which Mr. McGee recommended as this is the most comprehensive public expression of the Law Society's work in the last year; second, April 9 will mark the 100<sup>th</sup> anniversary of the Battle of Vimy Ridge, and our website will post the names of Law Society members who participated in that battle to commemorate their contributions.

- **Introduction to Process**

Mr. McGee provided the Benchers with an overview of the strategic planning process, referring to his memo on the role of Benchers in strategic planning generally. For the Law Society, strategic planning begins with the threshold question: in the next 3 years, what are the strategies that will be most important in advancing our statutory mandate? It is the opportunity to ask fundamental questions about what we need to do differently going forward to sustain success. Over the next few months, staff will provide Benchers with presentations on potential topics of focus to provide context for the formal strategic planning process that will begin in the Fall. He then introduced the Director, Education and Practice Alan Treleaven to begin the first of these presentations on the Admissions Program.

- **Admission Program – Focus on Articling**

Mr. Treleaven was accompanied by Deputy Director of PLTC Annie Rochette and Manager, Member Services and Credentials Lesley Small.

Mr. Treleaven provided an overview of the Admission Program, beginning by noting that in March 2016 Benchers approved recommendations for the Admission Program related to articling which included review of articling placement, unpaid or poorly paid articles and upcoming changes at the Law Society of Upper Canada (LSUC) which will impact all Canadian jurisdictions given open lawyer mobility.

Admission programs and requirements differ across the country. Our own program is a combination of a 10 week Professional Legal Training Course (PLTC) and a 9 month articling placement. Though availability of articling positions and the pay provided is of perpetual concern, we currently do not have any Benchers approved policy outlining the Law Society's commitment to ensuring articles are available or appropriately paid.

The practice varies both nationally and internationally. The growing gap between the number of law graduates and available articling positions is a major factor in LSUC's current admissions program review. Having tested experiential learning alongside its traditional bar admission training course/articling program, it is now investigating options such as Bar Exams (without training or articling) or restricted licencing.

Ms. Small then provided some statistics of trends over the last 10 years. There has been an increase in articling placements, from 385 in 2007 to a peak of 501 in 2014. It has since leveled off to 480 for 2015 and 2016, and will likely be 500 in 2017. Our biggest intake is from the three BC law schools; the biggest increase in PLTC students from outside the province comes from the National Committee on Accreditation (NCA) Certification program. In 2007, 34 NCA certified students from outside the country came to BC; in 2015 that number was 115. The largest number of articling placements is with firms of 6-20 lawyers, and there has been a recent increase in articling placements with sole practitioners and firms of 2-5 lawyers.



In 2015, one of the questions on the Lawyer Education Advisory Committee survey of 2-3 year Calls related to articling remuneration. Of the 104 responses, 3 received no pay, 7 received \$2000 a month or less, 51 received \$2000-\$3500 a month, and 43 received greater than \$3500 per month. The Committee has recommended we continue to collect information and monitor this situation, particularly with regard to unpaid articles.

In response to a question regarding how the law schools calculate articling placement rates, Dean Jeremy Webber from UVic confirmed that the different universities have different data collection methods. He also noted that there can be a fairly long period between graduation and articling placement, so survey results may differ depending on whether they are sent immediately post-graduation, at 3-6 months, 6-9 months or 9-12 months. In his estimation, by one year post-graduation, most indicate a greater than 90% placement rate for students seeking articles. He also noted that placement rates may differ if data includes responses from students using their law degrees for activities other than articling.

Bencher also asked questions regarding information on BC students using programs outside of BC due to lack of articles here, statistics on rural versus urban placements, job placements after unpaid articles and retention rates on completion generally, and statistics on the number of newly Called lawyers leaving BC or practice generally. Ms. Small will follow up to provide as much of this information as it is currently available.

Ms. Rochette then briefed Bencher on current issues and trends, including the quality of the articling experience. She encouraged Bencher to think about PLTC and articling in tandem when considering learning outcomes and perspectives. In other words, we should be considering what we want students to achieve on completion of the program as a whole.

She noted 3 recent developments impacting admissions training:

- Federation National Competency Profiles
- TRC Calls to Action
- The Institute for the Advancement of the American Legal System's (IAALS) recent Foundations for Practice report.

The latter is the result of a large study aimed at identifying skills and traits necessary for tomorrow's lawyer. Added to the traditional skills associated with lawyers are communications skills, emotional intelligence, passion and ambition and commitment to the rule of law, amongst others. She characterized this study as a "game changer", noting that educators will need to consider these '21<sup>st</sup> Century skills' when considering legal education.

Mr. McGee summarized the topic, noting that it presented the Admission Program through the lens of availability, pay and quality. He invited Bencher to consider these issues from a strategic planning perspective, to think about what articling should look like in 3 years, to query what our

paramount issues are in BC, and indeed to ask whether we want to address them at all with our plan.

## 5. Financial Matters

Finance and Audit Committee Chair Miriam Kresivo, QC introduced this item beginning with thanks to Committee members, and Chief Financial Officer Jeanette McPhee and her knowledgeable and helpful staff for all their hard work. She underscored the importance of this work to Benchers, given their fiduciary responsibilities as directors. Financial Reports, Risk Management Plans and Investment Reviews provide necessary information to enable Benchers to assure themselves that finances are being reviewed properly, risks are being managed reasonably and we are investing appropriately.

- **2017 First Quarter Financial Report**

Ms. McPhee summarized the 2017 First Quarter Financial Report which shows the Law Society appears to be on track at this early juncture. Actual results show a small positive variance of approximately \$330,000 which is due mainly to the timing of fees and expenses. Membership is approximately 11600, with 11760 budgeted, indicating that we should be close to the projected amount by the end of the year. We do not yet have First Quarter revenue from Trust Assurance but expenses are on track. The Lawyers Insurance Fund (LIF) also appears on track, and investment returns are 2.6% compared to the benchmark of 1.6%.

- **Finance & Audit Committee: 2016 Enterprise Risk Management Plan (ERM) – Overview**

Ms. McPhee provided this annual update for Benchers. She noted that review of the ERM ensures we are identifying major risk events and putting mitigation strategies in place to provide reasonable assurance we can achieve our strategic objectives. Comprehensive, detailed reviews of the ERM are done every 3 years; a detailed review of the ERM will be conducted this year.

The process of review involves identifying, assessing, prioritizing and mitigating risks, and developing, implementing, measuring and monitoring an action plan. The 2016 ERM identifies 32 risks in the regulatory, financial, insurance and operational areas, the latter of which includes staff and working environment. These risks are then assessed and prioritized according to a ranking of likelihood of occurrence and consequence or impact. The annual review examines whether there has been any change to risk or ranking; there are no major changes to report in 2016, although some new management strategies have been highlighted in the report.

The top 10 risks include two core regulatory risks: actual or alleged failure to fulfill the statutory duties under the *Legal Profession Act* (R6), and actual or alleged failure to appropriately sanction, or deal with a lawyer in a timely way (R5). Two new strategies aimed at mitigating these risks include the Law Firm Regulation Task Force and the

Early Intervention Task Force. The recently implemented Counsel Resource Project is aimed at improving our timely response to issues.

Ms. McPhee reiterated that a more detailed review will take place this year.

- **Investment Review**

Ms. Kresivo briefed Benchers on the Law Society's long term investment portfolio, noting that our investment goals include generating sufficient returns to pay for insurance claims and keeping fees reasonable. The Benchers have delegated this responsibility to the Finance and Audit Committee, which makes decisions and provides recommendations on changes to the investment plan, hires independent expertise on investment management, receives quarterly reporting from investment managers, including compliance reports, and holds meetings with managers to compare investment return performance with benchmarks. The Committee also conducts searches for and selection of new managers as and when required.

Long term investment strategy involves maximizing the long term rate of return subject to an acceptable degree of risk, taking into account the length of time needed to invest.

Following the sale of 750 Cambie in 2015, the decision was made to hire two specialty managers for investment in real estate and mortgages who each invest 10% of the fund, in addition to the existing balanced fund managers who each invest 40% of the fund. This mix of managers ensures diversity which in turn reduces risk.

Balanced fund manager Beutel Goodman exceeded the benchmark rate last year, achieving an approximately 10% return. However, over 4 years their added value is 1.4%; while this exceeds benchmarks, they recently sought to improve by revising their investment strategies. The other core manager, Fiera, has not performed as well in the past year as previously. However, over 4 years they have exceeded the benchmark by 1.3%.

There is only a one year performance history for the mortgage fund manager ACM, who has added 1.4% compared to the index. While mortgages are currently a safe, alternative investment, real estate has not done as well over the short term.

Recent returns over the last 4 years shows a 9.6% rate for the total fund; last year showed a 7.1% return compared to the benchmark of 6%. This fluctuates from year to year, with most years above the benchmark but some below. This meets the expectation of the investment plan.

To close, Ms. Kresivo reminded Benchers of the next Finance and Audit Committee meeting July 6, at which it would be looking at the year to date and reviewing the first draft of budget and fees recommendations.

## **6. Professional Regulation Department – Overview**

Chief Legal Officer Deb Armour provided Benchers with an overview of the Professional Regulation Department as background for the upcoming strategic review process.

She noted that 60 of the approximately 200 Law Society employees work in professional regulation. The department is divided into these areas: Intake and Early Resolution; Investigations, Monitoring and Enforcement; Discipline; Unauthorized Practice; Custodianships; and Litigation Management. These departments work closely with the Discipline, Complainants Review and Unauthorized Practice Committees. The presentation focused on the first three areas.

86% of complaint files were closed at the staff level in 2016. We receive approximately 1200 complaints per year, 248 of which last year involved no further action, 78 were resolved by Intake and Early Resolution, 27 cases were referred to Practice Standards and 88 cases were taken to the Discipline Committee.

The process involves staff reviewing complaints to see if investigation is warranted; the pertinent questions are: do we have substantiation; and, is there an alleged violation. This is challenging work, in which both the complainant and the lawyer involved are unhappy and often under stress. We are fortunate to have a very good team who bring compassion to their work and who are committed to protection of the public while ensuring appropriate fairness to lawyers.

### **Intake and Early Resolution:**

The Intake group acts as a call centre of sorts, receiving approximately 1500 calls or inquiries a year in addition to the complaints we receive. Some of these calls involve people in distress. Our Intake staff are very experienced in directing these people to the appropriate resources.

Staff in the Intake and Early Resolution group are the front lines of the complaint process. As noted above, many incoming complaints are determined to require no further action. However, for those that do, all the lawyers in the Early Resolution group have mediation training, which enables them to resolve many complaints received through informal mediation, in an attempt to repair relationships wherever possible. If a matter warrants further investigation, it is referred to our Investigations group.

### **Investigations:**

Staff in the Investigations group have discretion to close complaints, however, they must refer to the Discipline Committee in four instances: alleged misappropriation, criminal conviction, breach of the 'no cash' rule and breach of undertaking. Staff work in tandem with auditors, practice standards, custodianship staff and discipline lawyers on these often complex cases to ensure we are gathering the best evidence available. Through interviews with lawyers and careful review of file materials, Investigations staff now uncover evidence that previously would surface only at the hearing stage.

**Discipline:**

Lawyers in the Discipline group represent the Law Society at hearings, review board cases, appeals and interim proceedings. We use both in house and external resources to administer the conduct review process. In 2016, 21 citations were issued which is the lowest number in years. 22 hearings and 6 reviews were also completed. Though typically there are 1 or 2 per year, there were no disbarments last year; there were 6 suspensions, 12 fines, 1 reprimand and 2 dismissals.

In response to a question, Ms. Armour clarified that, in situations of multiple citations, staff do not track the outcomes individually, but did confirm that there are many discussions at the staff level to try to capture all allegations appropriately. In response to another question, Ms. Armour noted that, as Chief Legal Officer, it is her responsibility to instruct on appropriate sanctions and confirmed that there is no current plan to review our system of sanctions.

**Custodianships:**

We take custody and control of all files, bank accounts and accounting records when a lawyer is unable to continue their practice as a result of disciplinary process, illness, disability or death. Our staff liaise with clients and act on their behalf if there is something imminent. The majority of this work is now done in house.

**Statistics and trends:**

Reviewing complaint frequency by area of law, Ms. Armour confirmed that family cases comprise 27% of all complaints, which is disproportionate to the 11% of lawyers practicing in this area. There were disproportionately fewer complaints in civil litigation, with just 17% compared to the 32% of civil litigation practitioners. 22% of all lawyers practice in the corporate commercial area but there are relatively few complaints.

Reviewing frequency by origin, she noted that 33% originate with the client, 29% with the opposing party, most of whom are self-represented litigants, 4% come from compliance audits, 2% from the other lawyer and .5% from judges, AGBC or courts.

Since 2013, the number of files remaining open after 1 year has increased, due in large part to the increasing complexity of files. Our Counsel Resource Plan has been implemented to assist with the timely resolution and closure of files.

File complexity, more challenges to our processes and a general increase in litigiousness has caused an overall increase in our number of hearing days, which in turn has also impacted timeliness. This pattern appears to be consistent across the country.

At file closure, lawyers are surveyed regarding the process. In the last year, survey results from lawyers were positive. Of the 140 people surveyed, 99% felt the complaint was dealt with fairly, 93% felt it was dealt with quickly and 100% agreed the process was thorough and staff was courteous throughout. 99% were satisfied with communications by staff, and 98% agreed that they were kept informed of developments.

Anecdotal trends show that we have an aging population of lawyers who are practicing longer, in many cases for economic reasons, and often with health issues that leave their practices vulnerable. There is also a decline of lawyers in rural or small communities, and an increasing social or practice isolation.

Challenges for Professional Regulation staff include increasing volume and complexity of work, difficult litigation, more ongoing forensic audits than ever, increased hearing days and more interim proceedings. Incidence of mental health and addiction issues are disproportionately higher in the lawyer population than the population generally and issues related to mental health are disproportionately represented in our processes.

Ongoing recent proactive regulation initiatives, such as our Law Firm Regulation Task Force and Early Intervention Working Group, are aimed at preventing the problems that lead to complaints and discipline. Outreach to the profession remains paramount, with the continual development of informational tools and proactive measures.

Mr. McGee noted that more information on proactive measures, including consideration of diversion and practice audits, will be presented to Benchers in June as a Strategic Planning topic.

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

## **7. Implementation of Electronic Transfer of Funds Using Online Banking**

Having reviewed the Agenda materials supporting this item, Benchers were in agreement with the recommendations provided, specifically, that the Rules should be amended to permit the online transfer of trust funds, including the transfer of funds from a trust account to a client or third party, the transfer of funds from trust to a lawyer's general account and the transfer of funds between trust accounts.

Mr. Van Ommen confirmed the matter would be referred to the Act and Rules Committee to provide a draft Rule amendment for approval by Benchers.

## **8. Appointment to the Legal Services Society Board (LSS)**

Mr. Riddell excused himself from this discussion.

Mr. Van Ommen provided Benchers with the background for the appointment to LSS, noting that the Law Society also consults with the CBABC. Given the Law Society's current focus on more active involvement in legal aid, the Executive Committee was recommending the appointment of a qualified Bencher to the LSS Board; at issue before the Benchers was consideration of the appointment of Bencher Philip Riddell. Following consultation, LSS Executive Director Mark Benton, QC confirmed that the LSS Board would have no objections to such an appointment; Mr. Benton echoed that confirmation to Benchers at the meeting as well.

This recommendation marks a change in focus, as our current policy presumes against the appointment of a Bencher to external boards except in limited circumstances.

Concern was noted by one Bencher, who expressed reticence to speak where the matter involved a fellow Bencher, that Mr. Riddell's appointment would not be consistent with the current policy. It was stressed that the comments were not personal to Mr. Riddell, who was highly qualified for the post. Rather it was intended to highlight that the objective of the current policy is to appoint qualified individuals who will serve the outside organization, rather than the Law Society. Our goal of cross engagement with LSS was recognized, but the suggestion was made that such a goal could be met through means other than this appointment. Further, we have had an unprecedented number of well-qualified applicants who meet both the competency requirements provided by LSS and our own equity and diversity considerations. Appointment of a Bencher would appear to be at odds with our goal of increasing the pool of applicants from which we appoint.

Other Benchers expressed agreement with these sentiments. However, others noted that the current policy provides discretion to appoint Benchers in certain exceptional circumstances. Others expressed support for Mr. Riddell's appointment, noting that consideration for the priorities of our organization should be included; the Law Society has spent the last year focusing on the legal aid and access to legal services crisis in this province and closer engagement with LSS could only assist in those efforts.

Following discussion, Ms. Merrill moved (seconded by Mr. Fellhauer) that Philip Riddell be appointed to the LSS Board for a 3 year term beginning May 1, 2017.

The motion passed by a vote of 21 for, 5 opposed, with 1 abstention (with 2 Benchers not present for the vote).

## **9. Recruitment and Nomination Advisory Committee: Terms of Reference**

Mr. Van Ommen introduced this item, noting that the creation of a Recruitment and Nominating Committee was aimed at the active recruitment of qualified individuals from all regions of BC for appointment to both external and internal bodies. The efforts of this committee are meant to augment the current system of providing notice of opportunities and relying on volunteers to come forward. It is hoped that active recruitment will increase the pool of diverse, qualified applicants from which we appoint.

He also noted that such a committee would be an appropriate one to review the current Governance Policy concerning appointment of Benchers to external boards and committees.

Ms. Merrill moved (seconded by Mr. Fellhauer) that a Recruitment and Nominating Advisory Committee be established upon the terms of reference set out at Appendix 3 of the accompanying memo.

The motion was passed unanimously.

## EXECUTIVE REPORTS

### 10. President's Report

Mr. Van Ommen briefed the Benchers on various Law Society matters to which he has attended since the last meeting, including:

- TRC Advisory Committee Update:

The main portion of this report was provided in the context of item 3 Begbie Symbolism. Mr. Van Ommen also noted that the next scheduled TRC Committee meeting was in 2 weeks.

- Bencher Calendar:

Mr. Van Ommen invited Renee Collins, Manager, Executive Support to provide an update of technical improvements to the Calendar. Benchers also provided additions for the Calendar which would be added after the meeting.

- Report on Outstanding Hearing & Review Decisions

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

RTC

2017-04-07