



Minutes

Benchers

Date: Friday, January 26, 2018

Present:

Miriam Kresivo, QC, President	Geoffrey McDonald
Nancy Merrill, QC, 1 st Vice-President	Steven McKoen
Craig Ferris, QC, 2 nd Vice-President	Christopher McPherson, QC
Jasmin Ahmad	Claude Richmond
Jeff Campbell, QC	Phil Riddell
Jennifer Chow, QC	Elizabeth Rowbotham
Barbara Cromarty	Mark Rushton
Jeevyn Dhaliwal	Carolynn Ryan
Martin Finch, QC	Michelle Stanford
Brook Greenberg	Sarah Westwood
Lisa Hamilton, QC	Michael Welsh, QC
Dean P.J. Lawton, QC	Tony Wilson, QC
Jamie Maclaren, QC	Heidi Zetzsche
Sharon Matthews, QC	

Unable to Attend: Pinder Cheema, QC

Staff Present:

Don Avison	Michael Lucas
Deborah Armour, QC	Jeanette McPhee
Renee Collins	Doug Munro
Lance Cooke	Lesley Small
Su Forbes, QC	Alan Treleven
Jeffrey Hoskins, QC	Adam Whitcombe
David Jordan	Vinnie Yuen

Guests:	Chief Justice Robert J. Bauman	Chief Justice of British Columbia and Chief Justice of the Court of Appeal for the Yukon
	Michelle Casavant	Member, Aboriginal Lawyers Forum
	Priyan Samarakoone	Program Manager, Access Pro Bono Society of BC
	Margaret Mereigh	Vice President, Canadian Bar Association, BC Branch
	Caroline Nevin	Executive Director, Canadian Bar Association, BC Branch
	Jay Fogel	Board Chair, Continuing Legal Education Society of BC
	Linda Russell	CEO, Continuing Legal Education Society of BC
	Kensi Gounden	CEO, Courthouse Libraries BC
	Herman Van Ommen, QC	Law Society of BC Member, Council of the Federation of Law Societies of Canada
	Dom Bautista	Executive Director, Law Courts Center
	Wayne Robertson, QC	Executive Director, Law Foundation of BC
	Dr. Catherine Dauvergne	Dean of Law, University of British Columbia
	Prof. Bradford Morse	Dean of Law, Thompson Rivers University
	Prof. Jeremy Webber	Dean of Law, University of Victoria

CONSENT AGENDA

1. Administer Oaths of Office

Chief Justice Bauman administered oaths of office to President Miriam Kresivo, QC, First Vice-President Nancy Merrill, QC and Second Vice-President Craig Ferris, QC, and the additional Benchers, whose terms began January 1, 2018 with their recent election or appointment.

The Chief Justice thanked Benchers for the invitation to attend, noting the importance of nurturing and continuing to build upon the strong, respectful relationship between the Bar and the Judiciary. He also thanked the Law Society for its continuing leadership on truth and reconciliation with Indigenous peoples, noting that this leadership has helped highlight the need for further awareness and education amongst the Bench. He had the pleasure of meeting with new CEO Don Avison on this and other issues, and looks forward to continuing to work together.

He thanked the profession and the Benchers for supporting and defending the judiciary where appropriate, given that the judiciary's own ability to defend itself is constrained. He also thanked Benchers for their countless hours of service to the profession, stressing the value of their voices at the table during these often difficult times.

2. President's Welcome

Ms. Kresivo began by acknowledging and thanking our First Nations hosts, the Squamish, Musqueam and Tsleil-Waututh Nations, on whose traditional territories the meeting was being held.

She thanked the Chief Justice for administering their oaths, and for his continuing work to nurture and strengthen the relationship between the judiciary and the Law Society.

Ms. Kresivo noted that Appointed Bencher Claude Richmond would continue to sit as a Bencher, pursuant to our Rules, until such time as his successor is appointed, and thanked him for his continued service.

She welcomed all Benchers to the table for this first meeting of the year, noting its significance to her as her first meeting as President. She also welcomed Mr. Avison, who brings a wealth of knowledge and experience to the organization, to his first meeting as CEO of the Law Society.

Noting the many organizations who have an interest in the Benchers' proceedings and who regularly attend Bencher meetings, she welcomed representatives in attendance, stressing the importance of continued collaboration amongst organizations on issues of shared interest.

She also congratulated newly appointed Queen's Counsel, Benchers Lisa Hamilton, QC, Jamie Maclaren, QC, Chris McPherson, QC and Michael Welsh, QC and Chief Legal Officer Deb Armour, QC. The ceremony to celebrate these appointments will be held March 2 at Government House.

Framing the work of the Benchers and the Law Society as a whole, Ms. Kresivo underscored the importance of section 3 of the Legal Profession Act. Its broad and inspiring mandate and vision to protect the public interest in the administration of justice acts as a guide to all that we do. She stated that the broad goal of her presidency is to make a difference; specifically, her hope is to carry out the work of this year's strategic plan priorities in concert with the mandate and vision, continuing to be guided by how the work protects and serves the public interest.

3. Minutes & Resolutions

a. Minutes

The minutes of the meeting held on December 8, 2017 were approved as circulated.

The *in camera* minutes of the meeting held on December 8, 2017 were approved as circulated.

b. Resolutions

The following resolution was passed unanimously and by consent.

Law Society Representation on the 2018 QC Appointments Advisory Committee

BE IT RESOLVED to appoint President Miriam Kresivo, QC and First Vice-President Nancy Merrill, QC as the Law Society's representatives on the 2018 QC Appointments Advisory Committee.

Proposed Amendment to Terms of Reference of Truth and Reconciliation Advisory Committee

BE IT RESOLVED the terms of reference should be amended to state that:

The Committee will have two co-chairs: a member of the Executive Ladder (i.e. the President, First Vice-President or Second Vice-President) of the Law Society of British Columbia and an Indigenous representative.

Alternate Legal Service Provider Working Group

BE IT RESOLVED that the Benchers create an Alternate Legal Service Provider Working Group, the members of which are to be appointed by the President. The Working Group will:

1. consider and identify the qualifications necessary for family law legal service providers other than lawyers to be able to provide family law legal services directly to the public;
2. make recommendations to the Benchers for a regulatory framework to: (i) qualify other legal service providers to provide family law legal services; (ii) set standards for the legal service providers to provide family law legal services; (ii) set standards for the provision of such services; and
3. ensure that the framework developed is consistent with a unified regulatory regime for legal services.

The Working Group is to provide a report to the Benchers by the end of the year on its progress and any recommendations on the specific mandate items or other recommendations the Working Group may consider necessary.

Annual Fee Review Working Group

BE IT RESOLVED that the Benchers create an Annual Fee Review Working Group, the members of which are to be appointed by the President. The Working Group will investigate and duly consider providing public interest practitioners with reduced rates of practice fees and insurance fees and will report back to the Benchers before the 2018 annual general meeting.

Mental Health Task Force

BE IT RESOLVED that the Benchers create the Mental Health Task Force, the members of which are to be appointed by the President. The Task Force will, at its first meeting, develop draft terms of reference consistent with the two goals in the 2018 – 2020 Strategic Plan for consideration and approval by the Benchers. The Task Force will present the draft terms of reference at the Benchers meeting next following the first meeting of the Task Force and provide the Benchers with a mid-year report and a year-end report on the Task Force's progress.

EXECUTIVE REPORTS

4. President's Report

Ms. Kresivo outlined her intentions for her President's Report this year, indicating that she will report on how the Law Society is moving forward with its vision and mandate. She will also note the activities she is undertaking to represent Benchers in the community, and any new developments in the work being undertaken at the Law Society.

In her first three weeks as President she has been involved in the coordination of the Executive Meeting, Bencher meeting, and the Welcome Farewell Dinner. She has also begun to organize speaking engagements and bar association visits for the months to come, including the Kootenay Bar Association meeting in February. She recently attended the New West Bar Association dinner to welcome new judges, and provided an introduction to newly appointed Mr. Justice David Crossin, recent Past President.

Ms. Kresivo noted that she is looking forward to speaking on January 27, 2018 at the CBA Provincial Council Meeting, and intended to focus on Law Society initiatives. She noted that two new judges will be welcomed in Kamloops in February and thanked Bencher Michelle Stanford who will be introducing and welcoming them on her behalf. On that note, she invited Benchers with personal connections to new judges in their area to provide remarks on her behalf, acknowledging that the welcome is that much more meaningful when a friend or close colleague provides it.

She is also looking forward to participating in the CBA Ethics seminar with CBA(BC) President Bill Veenstra in February, and to meeting with law firm managers to discuss upcoming Law Society regulatory initiatives.

Noting that she will discuss specifics of strategic planning priorities later in the meeting, Ms. Kresivo emphasized her own focus on the alternate legal service providers initiative. The 2014 task force struck to review the issue recommended regulation of alternate legal services providers as a means of increasing access to justice. Since then, the Law Society has worked closely with government to obtain legislative amendments. In anticipation of those amendments, Ms. Kresivo has created a working group, approved by Benchers on the Consent Agenda for this meeting, to review implementation issues. She will chair the working group, with Jeff Campbell, QC as vice-chair.

She also noted the importance of the strategic initiative to destigmatize mental health and consider proactive ways to improve mental health and wellness in our profession. To that end, she has struck a task force, also approved by Benchers on this Consent Agenda, to focus on

practical, achievable and timely goals. The task force will be chaired by Bencher Brook Greenberg, with Michelle Stanford as vice-chair.

The calls to action of the Truth and Reconciliation Commission (TRC) always remain a priority; work must continue towards increased awareness, education and reconciliation with Indigenous peoples.

Ms. Kresivo noted that the Ladder and the Executive Committee have also discussed the Law Society's approach to communications. She indicated that Director of Communications and Public Affairs Jason Kuzminski will speak to Benchers later in the meeting regarding the development of a communications plan designed to support Law Society initiatives.

Ms. Kresivo said she was excited about the year ahead, and grateful for the support of the leadership team and Benchers.

5. CEO's Report

Mr. Avison noted that, while he had the opportunity to attend the Bencher meeting in December, this meeting represented his first opportunity to express how pleased he is to be taking on the role of CEO of the Law Society. He pledged to undertake it diligently and to be guided by the public interest. He expressed his appreciation for the time and effort spent by Past President Herman Van Ommen, QC to brief him extensively on Law Society matters, and to current President Miriam Kresivo, QC for the already successful working relationship they have established since the start of the year. He also thanked the staff of the Law Society, with particular thanks to the Executive Team, for the welcome and exceptional support he has received since his start.

He referred to his first report in the Agenda package, noting that many of the areas of priority have also been identified by Ms. Kresivo in her report. He also noted that presentations on Key Performance Measures (KPM's) and the annual Employee Survey, which would ordinarily happen at this first meeting of the year, will be included on a future meeting agenda. This year the employee survey was conducted in January, rather than the very busy late Fall as in the past, with the result that participation has increased by 10%. Additional work is also being done on the KPM's to ensure the right measures are in place.

Briefly, he also reported on the budget, noting that we appear to be on track to finish positively for 2017. A more detailed report will also be provided to Benchers at an upcoming meeting.

6. Briefing by the Law Society's Member of the Federation Council

Herman Van Ommen, QC reported as the Law Society's member of the Federation Council. He briefed Benchers on the focus of the December meeting, which included consideration of the

Federation's proposed amendments to the Model Code. He conveyed to Council the concerns of our own Ethics Committee on the proposal; consideration of the proposed amendments has been postponed to allow the Federation to consult further on the amendments in light of the concerns expressed.

He also reported that Bencher Dean Lawton, QC has been nominated to replace Past President and newly appointed Justice Crossin as a member on the Federation's Truth and Reconciliation Calls to Action Advisory Committee.

The next Federation meeting will be in March, at which there will also be a Presidents' meeting and a CEOs' meeting. A focus of the Council meeting will be discussion of the NCA program review, to provide greater definition to the planned review process.

Finally, he proposed for his March report a "Federation 101" presentation to Benchers to provide new Benchers with some background information on the Federation, and returning Benchers with a refresher on Federation structure and operations.

GUEST PRESENTATIONS

7. Presentation by Continuing Legal Education Society of BC (CLE) – Upcoming Initiatives

Ms. Kresivo welcomed and introduced CLE CEO Linda Russell and Board Chair Jay Fogel. Speaking on behalf of both, Ms. Russell thanked Ms. Kresivo and the Benchers for the invitation to speak today. She provided some background information on her experience leading the Continuing Education of the Bar (CEB) for the California Bar, and briefed Benchers on trends in continuing legal education, legal technology and the future direction of CLE.

CLE is a not for profit, self-sustaining legal education organization that is financially sound with a carefully balanced budget. Its board is comprised of members appointed from stakeholder organizations, including the Law Society, from across the province. Its mission is to provide high quality, relevant, and practical content that is readily accessible. CLE conducts over 80 in person courses and over 50 online courses, and produces over 50 practice guides both in print and online. All of its content is available through the courthouse library for free, and CLE conducts a number of free courses throughout the year, all in an effort to ensure all lawyers have access to continuing legal education. She noted that there were approximately 1100 contributors last year, without whom CLE could not offer the same breadth and quality of product. She also noted that over 60% of Benchers were contributors, and thanked them for providing their time and expertise.

Ms. Russell also noted the importance of ongoing collaborations, such as with the Lawyers Insurance Fund (LIF) on the production of the LIF resource "Under the Covers", and the Law

Society on the TRC Symposium last Fall. Significantly, the CLE website has received more ‘hits’ on the “But I Was Wearing a Suit” video than any other material. She looks forward to working with Mr. Avison and others with a goal of learning from Indigenous partners and integrating that learning into the CLE catalogue, as well as towards the support of new initiatives focused on mental health and wellness.

Looking at the trends in legal learning, she noted that the statistics indicate an increase in online attendance and a slight drop in face to face attendance. There is also a shift away from print towards more online content. These shifts represent increasing opportunities for learning using new interactive technological platforms. However, the corresponding need to help facilitate increased technological competence amongst lawyers has also emerged, with assessment being a key piece. Increased competition has also emerged, with the addition of accounting firms, AI and predictive analytics. CLE’s response will include the redevelopment of the large practice guides to provide “quick content” for specific searches, in keeping with trends toward “Google search” type trends.

Looking ahead, the future direction of CLE will include increased online technology and tech infrastructure. Using “design thinking”, CLE will engage in dialogue with its customers to try to understand their needs and challenges and develop products in response. She has begun that process, and has talked with new lawyers and solo practitioners, hearing that newer lawyers still feel lacking in skills despite their recent PLTC completion and solo lawyers feel burdened by the management of the business of law. Moving forward, this design strategy will require investment in adequate research and development.

She will also lead outreach to law schools, to raise awareness of CLE’s services amongst law students. Many remain unaware of CLE, or that they are able to attend some CLE courses for free.

When asked by a Bencher how the California Bar reacted to the imposition of mandatory continuing professional development (CPD), Ms. Russell confirmed that mandatory CPD was implemented some time ago. Currently there is little to no resistance, which she attributes to the cultural shift that has occurred; lawyers simply accept that ongoing CPD is part of being a lawyer.

In response to another question, she confirmed that CLE is currently developing course offerings associated with wellness, dealing with topics like mindfulness and work life balance. Such courses have been well received in other jurisdictions.

Ms. Kresivo thanked Ms. Russell for her presentation, which underscored the importance of continued collaboration between our two organizations.

DISCUSSION/DECISION

8. Finance & Audit Committee: Updated Enterprise Risk Management Plan (ERM)

Chair Craig Ferris, QC introduced this item, noting that, as a governance tool, the ERM aimed to identify enterprise risks that may impact the achievement of strategic goals, prioritize the likelihood of their occurrence and provide management tools to reduce, avoid or transfer those risks. The framework for monitoring and managing risk is reviewed by Management, the Finance and Audit Committee and then presented to Benchers.

Mr. Avison noted his familiarity with risk assessment work in other organizations, and has been impressed with the quality of work being done by the Law Society which surpasses most.

Chief Financial Officer Jeanette McPhee provided an overview of the updated plan for Benchers, reiterating that the goal of the process is to identify risks impacting strategic planning goals, assess them to determine priority, identify and implement mitigation strategies, monitor regularly and reassess. The first plan was developed in 2011. Reviews are done annually, with a comprehensive review which includes ranking and prioritization, done every 3 years. The most recent comprehensive review was in 2017, during which 4 new risks emerged, and 11 risks were eliminated or combined with other risks, bringing the total number to a more manageable 24 risks.

The plan identifies 5 categories: regulatory risks, which contains 11 risks; financial risks, containing 2 risks; operational, containing 3; staff and working environment containing 3; and, insurance, containing 5. The likelihood of the risk occurring is ranked on a scale of 1-4, with 4 being the highest. Potential consequences of the risk occurring are ranked on a scale of 1-5.

Ms. McPhee identified for Benchers the top 8 risks, beginning with the misuse of trust funds or other facilitation of financial misconduct by members. This is a top risk given its likelihood and consequences. The area of anti-money laundering falls within this risk. A number of strategies exist to manage this risk, including strong conduct and trust rules, our trust assurance program, strong investigation and prosecution procedures, which include a significant amount of education, and Part B coverage for defalcation. Other strategies being explored include a policy review regarding reporting of potential criminal conduct to law enforcement, and a potential review of employee theft insurance for lawyers with trust accounts. The Federation of Law Societies has also created an anti-money laundering working group which are reviewing current rules and developing education and guidance materials for lawyers, as well as a working group to facilitate information sharing amongst law societies' trust safety groups.

The next risk listed in the top 8 is natural disaster, which includes fire, flood and earthquake. She noted we have comprehensive safety plans in place, offsite servers and storage to help minimize operational disruption and applicable insurance coverage.

Following that is an emerging risk of emerging technologies and their impact which may challenge our ability to regulate legal services. This risk includes such innovations as block chain technology and bit coin which could impact general practice and may also impact trust accounts and the transfer of money. Paperless offices and cloud storage also present challenges that require awareness and development of applicable policies.

Next on the list is another emerging risk, the perceived failure to enable, or the hindrance of, access to legal service providers. Access to legal services is a key element of our strategic plan; in addition to our 3 internal committees, we support and fund pro bono and access to justice initiatives in the larger legal community.

The next risk is the loss of key personnel, or the inability to recruit qualified candidates. Perpetually, key employees will move on; to mitigate this risk we need to focus on ongoing professional development, cross training, market driven compensation and succession planning.

Next is a failure to appropriately sanction or deal with a lawyer in timely way. This is one of our core responsibilities, and as such, demands our continued time, money and focus. We are continually reviewing our investigation and prosecution procedures, our hearing panel constitution is balanced and we measure ourselves against national standards.

Conflict of interest is the next on the list. This is highly rated given the reputational risk involved. Strategies in place to mitigate this risk include our Bencher Governance policies, which require any investigation of perceived conflict, as well as our balanced hearing panel membership.

Last on this list of top risks is a significant breach of confidential or private information. This has been a major focus in the last few years, with many procedures being implemented to protect privacy and confidentiality. Our comprehensive privacy policies and procedures include encryption and password protection of agendas and agenda materials, and privacy training for staff. We conduct an annual security review of our IT systems for external threats and we have obtained cyber insurance in the event of a cyber breach.

Ms. McPhee welcomed feedback and invited Benchers to provide suggestions on any risks that may have been missed, or mitigation strategies to consider.

The issue of misleading or unprofessional ads promoting lawyers on social media was raised. Ms. Armour offered that such concerns should be directed to her; in turn, she will ensure they are referred to the appropriate department. Mr. Ferris noted that the Ethics Committee had

considered this issue last year, and marked it as one to review more in depth in the future. Mr. Avison noted that this issue is under active discussion, particularly given recent activity in Ontario.

Another issue raised was that of self-assessment of potential conflict, particularly with regard to hearing panels or the credentials committee. Queried was whether the Law Society has considered the development of a conflicts advisor position. Mr. Whitcombe advised that the Governance Committee had reviewed the possibility earlier, and recommended against it as the most effective option. He confirmed that the issue could be brought back to the Governance Committee for consideration of the best course of action. Mr. Hoskins added that if there were any conflict concerns with hearing panelists, they should discuss this with him as Tribunal Counsel.

Ms. Kresivo thanked Mr. Ferris and Ms. McPhee for the effective presentation and commended the important work that continues to be done to avoid, reduce and mitigate risks.

9. Law Firm Regulation Task Force – Update

New Task Force Chair Steve McKoen reported to Benchers on the newly reconstituted task force, comprised of himself, Jasmin Ahmad as vice-chair, Martin Finch, QC, William Maclagan, QC, Sharon Matthews, QC, Angela Westmacott, QC and Henry Wood, QC. He noted that Benchers at their last meeting had approved the registration process and the pilot project. Moving forward, he anticipated shortly the completion of materials and the self-assessment tool. Both the Equity and Diversity Advisory Committee and the Act and Rules Committee will continue their associated work and the Task Force will meet for the first time in March to discuss implementation of the self-assessment and the pilot.

The remaining portions of the legislation associated with the law firm regulatory regime have been proclaimed, effective April 2, 2018. Draft rules are being prepared with a view to being ready in the spring after the remaining legislation comes into effect. Once Rules are approved by the Benchers, registration can begin. Once registration is complete, firms can be identified to participate in the self-assessment pilot project, which will likely start in July and extend until September, after which the information obtained from the self-assessments will be reviewed by the Task Force. Benchers can expect a report in November or December.

In response to a question, Mr. McKoen confirmed that decisions around pilot participation remain uncertain, however it is acknowledged that it makes sense to have wide participation amongst a variety of firm sizes and types from a variety of geographical areas.

Ms. Kresivo confirmed the importance of Bencher participation in the pilot, but noted that those in government service or corporate employ would be exempt.

REPORTS

10. Strategic Plan Priorities for 2018

Ms. Kresivo recalled for Benchers the new approach taken to strategic planning last year, beginning with a review of strategic goals as they applied to our mandate. The new plan was developed following a series of presentations to and consultations with Benchers, culminating in a strategic plan framework built on our section 3 mandate. She noted it is an ambitious plan, but also observed that we aim to complete it over 3 years, prioritizing some aspects each year. Recognizing the significant contributions of staff, she provided her thanks in anticipation of the hard work Law Society staff will do to help achieve the strategic plan goals.

Mr. Avison confirmed that, after discussion, this year's strategic planning work will focus on access to justice, which will include work on development of a regulatory regime for alternate legal service providers and will require close interaction with the government and the profession. Work will also focus on mental health and wellness, and will continue on law firm regulatory innovations.

Work around the TRC calls to action remain an ongoing priority as well, as does work in follow up to the Law Society's successful symposium. TRC Committee member Michael Macdonald has stressed the importance of continuing to engage in consultation as we continue in our work. On a personal note, he shared with Benchers the importance of this work to him, having had the great fortune to work with First Nations in this province and other parts of Canada throughout his career. He looks forward to identifying goals on the path forward, and to making real progress and achieving real results, both in this and all areas of the strategic plan.

11. Communications Approach

Ms. Kresivo introduced Director of Communications and Public Affairs Jason Kuzminski, noting that Mr. Kuzminski had attended the Executive Committee meeting earlier in the month to brief the Committee on his proposed approach to communications planning and the opportunities a new approach may provide.

Mr. Kuzminski provided for Benchers his "SWOT" analysis (strengths, weaknesses, opportunities and threats) of Law Society communications issues. Noting the complexity of the strategic plan, the multiplicity of driving forces and the variety of audience, he remarked on the challenge of moving forward with a unified voice and message.

As a strength, the Law Society speaks with authority as the regulator and a respected partner in the justice sector. That authority helps provide a mandate to successfully drive change. As regulator, the Law Society fulfills the important role of protecting the public against lawyers who need help to become compliant, which gives it an important voice on public protection issues.

Additional strengths include the ability of the organization to be a thought leader, recognizing that each Bencher has achieved a leadership position in their communities, as well as the valuable asset of a highly dedicated and hard-working staff.

The status of regulator of a profession that enjoys a monopoly also presents a potential weakness. Additional weaknesses include the multiple constituencies of focus for the Law Society; some messages are more appropriately directed at the public, rather than the profession or the judiciary. It is important to evaluate the message we want to deliver, and consider the impact on the audience we want to reach. Conservative and process-focused organizational policy decision-making could also be perceived as a weakness. The sheer complexity of the organization and its mandated responsibilities also presents a potential weakness; there are multiple departments and branches engaged in at least five or six major components whose breadth of scope includes regulation, teaching, accreditation, and policy work. This requires a collaborative awareness of how and when we are communicating and to which audience.

It also important for the Law Society to be aware of the challenge presented by the public perception of a “bad apple” lawyer colouring the perception of the legal profession as a whole. A related challenge is the Law Society’s lack of credibility by association; it is important to recognize that we may not have the same credibility with the public as we do in the justice sector. We must continue to ask the question of how we build credibility with the public to pursue change.

In this complex organization, the necessary time and capacity to build initiatives also presents a challenge. Prioritization of initiatives must be a reflection of both capacity and time constraints; communication of how and when decisions are implemented should be a coordinated effort that is also mindful of these constraints.

Recognition of strengths and awareness of challenges presents and creates opportunities. Shifting our approach from a transactional, reactive one to a coordinated, longer term one will enable us to set priorities, plan for opportunities to work with partners to help advocate for initiatives and engage in related community events to create awareness and keep the conversation going. Examples of the latter include participation in mental health awareness events such as Bell’s Let’s Talk Day, or May’s designation as Mental Health Month to advance our own mental health initiatives.

Our clear commitment to a vision on debates of public interest has shifted our messaging focus outward, and necessitates a change in tone on what we do. This presents an opportunity to speak more to the public and adopt new modes of communication; strategic use of social media platforms such as Twitter, for example, can be used to drive our audience to staged content such as Law Society sponsored short documentaries or videos. In certain areas, this may also

necessitate a shift in perspective away from traditional written narrative forms of media towards vehicles more frequently used by a 21st century public to generate discussion.

With this shifted focus comes increased opportunities to build relationships and networks with government and others. Our communications strategies will be strengthened by creating a continuum between ourselves and law schools, bar associations, advocacy organizations and other interested groups.

In response to a question regarding who our main audience is, Mr. Kuzminski observed that we are currently oriented to the legal profession as our main audience, but that our shift in mandated focus appears to be toward the wider audience of government and the public. He recognized, however, that we must always remain aware of our justice sector audiences.

When asked how we conclude that our credibility with the public does not match our credibility with the justice sector, Mr. Kuzminski noted a recent study of the legal profession in 2017 indicating only a 14% favourability rating of lawyers. As their regulator, the Law Society will be associated with lawyers. He acknowledged that the 2011 Law Society study yielded positive results regarding trust in the regulator, but suggested that it was appropriate to consider an updated, refined review.

Suggestion was made that Benchers can use their student interviews as an opportunity to present to the profession a view of a more approachable, accessible organization, in contrast to the stereotypical view of the regulator. Mr. Kuzminski agreed that many view the regulator with trepidation, focusing solely on its disciplinary function, and are not used to thinking of this as an organization that educates lawyers and cares about their wellbeing. Advancement of initiatives like that focused on mental health and wellness should help raise awareness of this view of the Law Society. He was mindful of the work of advocacy organizations and the need to work in concert with them, but also noted that our efforts will differ, as organizations like the CBA and the Trial Lawyers Association are focused on the profession, while the Law Society's mandated focus is the public interest.

In response to the question of whether other regulatory bodies have successfully changed a negative public perception, Mr. Kuzminski noted that his review to date has been predominantly inward focused, but also observed that the Barreau de Quebec is successfully using more contemporary modes of communications to reach wider audiences. He also noted the importance of setting reasonable targets to begin to facilitate change; we are unlikely to change public opinion of lawyers completely, but we may be able to shift perspective somewhat. He also observed the challenge of trying to do so in a difficult cultural climate. Unlike other professionals, lawyers have continued to use the same tools and methods from a century ago; if we hope to overcome these challenges, we need to modernize and communicate in ways that are responsive to the current audience.

Some also observed that lawyers are perceived as elites. While people tend to be positive about their own lawyers, many simply do not have access to lawyers. Others observed that our primary goal is protection of the public interest; we should not be spending time improving the image of lawyers, we should focus on initiatives that lead to improvements, which in turn will improve our image.

Ms. Kresivo noted the importance of the Law Society coordinating its communications efforts amongst Bencher and committees and speaking with one voice. She thanked Mr. Kuzminski for his thought-provoking and insightful presentation.

12. National Discipline Standards Report

Chief Legal Office Deb Armour, QC recalled for Benchers that the National Discipline Standards were an initiative of the Federation, begun in 2010 as coordinated standards relating to investigations, discipline and adjudication with transparency, fairness and timeliness. The standards set are aspirational, and only one law society has succeeded, only once, in meeting them all. Last year the Law Society of BC had its best year and met 18 of 21 standards, and was in the upper level of all law societies across Canada. She noted that one of the standards is to report annually on the measurement of our processes against the standards set which was the purpose of her report at this meeting. Last July she provided Benchers with the annual report for 2015 and 2016 for all law societies in Canada.

She reported that we have fallen from meeting 18 to 17 of the standards; last year we met the standard of commencing hearings within 9 months of authorization 75% of the time, whereas this year we achieved only 62%. She attributed this to staff vacancies within the discipline group.

We have never met the standard of rendering hearing panel decisions within 90 days of the hearing, 90% of time. We are currently at 65%, and were at 70% last year. This requires ongoing work and focus. Neither have we met the standard associated with the ability to share information about lawyers with other law societies in a manner that protects solicitor client privilege. This is currently the subject of policy review and on completion will be brought back before Benchers for discussion.

Lastly, we have not met the standard aimed at transparency which requires easily accessible information on lawyer discipline in our lawyer directory. We have met this standard with respect to information after 2003 when that information was digitized, but given resource limitations, have been unable to collect and post earlier decisions.

She noted that the issue of the length of time needed to complete investigations is also one for further consideration. We are currently meeting the standard for closed files, which cannot be

said for all law societies, but she acknowledged that as older files are closed it is expected that the percentage of files closed within a year will decrease.

In response to a question, Ms. Armour confirmed that the standards were set by a committee of the Federation of Law Societies, of which she is a member. Ms. Armour was also asked if any consideration had been given to revising the standard for issuing hearing decisions, given that complexity of files is greater now than at the time the standard was set. She noted that this standard is actually being met by most Law Societies; in an effort to increase our own efficiencies, a proposed change from 7 panel members to 5 will be coming to the Benchers for consideration. Legislative and Tribunal Counsel Jeff Hoskins, QC confirmed that the proposed change would likely be before Benchers at the next meeting.

13. Report on Outstanding Hearing & Review Decisions

Mr. Ferris reported as the President's designated Tribunal Chair. He noted the importance of not just meeting but where possible exceeding the applicable standards set for providing hearing decisions, but acknowledging increasing complexities, also queried whether the standards in place remain realistic.

FOR INFORMATION

14. Three Month Bencher Calendar – January to March

Ms. Kresivo noted that moving forward a six month calendar view will be available on the Bencher package for reference.

RTC
2018-01-26