



Minutes

Benchers

Date: Friday, March 04, 2022

Present: Lisa Hamilton QC, President
Christopher McPherson, QC, 1st Vice-President
Jeevyn Dhaliwal, QC, 2nd Vice-President
Paul Barnett
Kim Carter
Tanya Chamberlain
Jennifer Chow, QC
Cheryl S. D'Sa
Lisa Dumbrell
Brian Dybwad
Brook Greenberg, QC
Katrina Harry
Sasha Hobbs
Lindsay R. LeBlanc
Dr. Jan Lindsay

Geoffrey McDonald
Steven McKoen, QC
Jacqueline McQueen, QC
Paul Pearson
Georges Rivard
Kelly H. Russ
Gurminder Sandhu
Thomas L. Spraggs
Barbara Stanley, QC
Michael Welsh, QC
Kevin B. Westell
Sarah Westwood
Guangbin Yan
Gaynor C. Yeung

Unable to Attend: Not Applicable

Staff: Don Avison, QC
Avalon Bourne
Barbara Buchanan, QC
Jennifer Chan
Lynwen Clark
Lance Cooke
Natasha Dookie
Jackie Drozdowski
Su Forbes, QC
Andrea Hilland, QC
Kerryn Holt
Jeffrey Hoskins, QC
Alison Kirby

Jason Kuzminski
Michael Lucas, QC
Claire Marchant
Tara McPhail
Jeanette McPhee
Cary Ann Moore
Rose Morgan
Doug Munro
Michelle Robertson
Lesley Small
Michael Soltynski
Adam Whitcombe, QC
Vinnie Yuen

Guests:	Dom Bautista	Executive Director & Managing Editor, Law Courts Center
	Aleem Bharmal, QC	First Vice President, Canadian Bar Association, BC Branch
	Michelle Casavant	Vice-Chair, Aboriginal Lawyers Forum
	Christina Cook	Member, Aboriginal Lawyers Forum
	Dr. Cristie Ford	Professor, Allard School of Law
	Derek LaCroix, QC	Executive Director, Lawyers Assistance Program of BC
	Jamie Maclaren, QC	Life Bencher
	Dr. Val Napoleon	Interim Dean of Law, University of Victoria
	Caroline Nevin	CEO, Courthouse Libraries BC
	Josh Paterson	Executive Director, Law Foundation of BC
	Michèle Ross	President, BC Paralegal Association
	Linda Russell	CEO, Continuing Legal Education Society of BC
	Kerry Simmons, QC	Executive Director, Canadian Bar Association, BC Branch
	Jocelyn Stacey	Associate Dean of Graduates Studies, Peter A. Allard School of Law
	Katie Sykes	Associate Professor, Thompson Rivers University
	Ron Usher	General Counsel and Practice Advisor, The Society of Notaries Public of British Columbia

CONSENT AGENDA

1. Minutes of January 28, 2022, meeting (regular session)

The minutes of the meeting held on January 28, 2022 were approved unanimously and by consent as circulated.

2. Minutes of January 28, 2022, meeting (*in camera* session)

The minutes of the *In Camera* meeting held on January 28, 2022 were approved unanimously and by consent as circulated.

3. Rule Amendments: Delegation to Discipline Committee Chair

The following resolution was passed unanimously and by consent:

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

1. In Rule 1, the definition of “vice-chair” is rescinded and the following substituted:

“**vice chair**” means a person appointed to preside at meetings of a committee in the absence of the chair;

2. In Rules 3-6, 3-81 (3) and (4) and 3-86:

(a) “the Discipline Committee” *where it occurs is struck and* “the chair of the Discipline Committee” *is substituted, and*

(b) “in its discretion” *where it occurs is struck and* “in the chair’s discretion” *is substituted.*

3. Rule 3-7.1 (3) and (4) is rescinded and the following is substituted:

(3) A consent agreement is not effective unless it is

(a) signed by the Executive Director,

(b) personally signed by the lawyer or, where the complaint is made against a law firm, by the representative of a law firm, and

(c) approved by the chair of the Discipline Committee.

(4) Under subrule (3) (c), the chair of the Discipline Committee may

(a) approve the agreement as proposed, or

(b) decline to approve the agreement.

4. Rule 4-2 (4) is rescinded and the following is substituted:

- (4) Any function of the chair of the Discipline Committee under these rules may be performed by the vice chair or by another Bencher member of the Committee designated by the chair.

4. Rule Amendments: Indigenous Intercultural Course – Late Fee

The following resolution was passed unanimously and by consent:

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

1. The following rule is added:

Late completion of Indigenous intercultural course

3-28.11 (1) A practising lawyer who fails to comply with Rule 3-28.1 [*Indigenous intercultural course*] by the date by which the lawyer is required to comply is deemed to be in compliance with the Rule if the lawyer does all of the following within 60 days following that date:

- (a) completes the Indigenous intercultural course;
- (b) certifies the completion of the Indigenous intercultural course as required in Rule 3-28.1 (2) (b);
- (c) pays the late completion fee specified in Schedule 1.

(2) A practising lawyer who complies with Rule 3-28.1 (2) (a) [*Indigenous intercultural course*] by the date by which the lawyer is required to comply but fails to comply with Rule 3-28.1 (2) (b) by that date is deemed to be in compliance with the Rule if the lawyer does both of the following within 60 days following that date:

- (a) certifies the completion of the required professional development as required in Rule 3-28.1 (2) (b);
- (b) pays the late reporting fee specified in Schedule 1.

2. Schedule 1, section L is amended by adding the following:

- 6. Indigenous intercultural course late completion fee (Rule 3-28.11 (1) (c) [*Late completion of Indigenous intercultural course*]) 500.00
- 7. Indigenous intercultural course late reporting fee (Rule 3-28.11 (2) (b)) 200.00

REPORTS

5. President's Report

Lisa Hamilton, QC confirmed that no conflicts of interest had been declared.

Ms. Hamilton began her report by speaking about the announcement made by the Ministry of the Attorney General regarding the development of a single legal regulator. She indicated that this announcement would have implications for the consideration of the recommendations made by Harry Cayton in his Report on the Law Society's governance.

Ms. Hamilton informed Benchers of a letter she had received from a member expressing gratitude for the Law Society's recognition of the member's 70 years of service. Ms. Hamilton expressed her appreciation at receiving such positive feedback and expressed her congratulations to the member.

Ms. Hamilton concluded her report with an overview of her upcoming activities, including attending the Rule of Law lecture featuring Marie Henein on April 4 and co-chairing a virtual event on April 29 regarding the retention of women in the law that will be jointly hosted by the Law Society, the CBABC, and the International Association of Women Judges.

6. CEO's Report

Don Avison, QC began his report by informing Benchers that the Law Society had been named one of BC's Top 100 Employers for 2022. Mr. Avison noted that this was a significant achievement, and a tribute to Law Society staff.

Mr. Avison informed Benchers that call ceremonies for entrants into the profession would likely be starting in May, if the BC Supreme Court would be able to accommodate, with a number of ceremonies to take place over the course of the summer to address the backlog.

Mr. Avison spoke about the sessions the Canadian Bar Association of BC (CBABC) is holding to solicit feedback from the profession regarding the recommendations made in the Cayton Report. Mr. Avison indicated that CBABC would provide the Law Society with the input received from the profession.

Mr. Avison updated Benchers on plans for the upcoming Bencher Retreat taking place in Kelowna in May. Arrangements are well underway, and Mr. Avison noted that the Retreat conference would focus on lawyer formation, and discussions on the evolution of the Law Society Tribunal would continue.

Mr. Avison introduced Claire Marchant and Rose Morgan, who then presented an overview of the new Practice Advice online system, the Advice Decision-Making Assistant (ADMA). Mr. Avison also thanked Quinn Ashkenazy, Research Assistant at the Peter A. Allard School of Law, and Katie Sykes, Associate Professor at Thompson Rivers University for their assistance with the development of ADMA. Mr. Avison noted that ADMA is one of a number of initiatives that are being developed to increase the effectiveness of engagement with the profession and public.

Mr. Avison introduced Jeanette McPhee and Lynwen Clark, who then presented on the Member Services Department, and its current priorities. Benchers discussed the timelines for reporting Continuing Professional Development (CPD) credits and annual fee payments. Ms. Clark noted that the profession could report CPD credits at any time, though the bulk of reporting occurs towards the end of the year.

Mr. Avison indicated that the Lawyers Indemnity Fund would provide an update at the April 22 Bencher meeting.

UPDATES

8. National Discipline Standards Report

Natasha Dookie provided background information on the National Discipline Standards and then presented the findings of the 2021 Report. She indicated that in 2021, the Law Society met 21 of the 23 standards, a performance similar to previous years; the two standards not met were 9 and 10.

Ms. Dookie noted that Standard 10 requires 90% of hearing panel decisions to be rendered within 90 days of the last submission, and the Law Society is currently at 58% for 2021. Ms. Dookie spoke about the challenges in meeting this standard, particularly in the timeliness of delivering decisions. Christopher McPherson, QC, Tribunal Chair, reiterated the importance of Benchers delivering decisions in a timely matter. Alison Kirby, Tribunal Counsel, provided some statistical information related to the submission of decisions.

Ms. Dookie noted that Standard 9 requires 75% of hearings to be commenced within 9 months of the citation being authorized. Tara McPhail spoke about the challenges in meeting this standard, which include an increase in the total number of hearings, as well as addressing a backlog of files.

Benchers discussed the provision of mental health resources to members of the profession who are awaiting decision. Ms. Dookie noted that the Mental Health Task Force would be developing a recommendation on this matter to be presented to Benchers later this year.

Mr. Avison reported on the number of complaints over the last five years. He indicated that the number of closed complaints had increased significantly within the last two years.

DISCUSSION/DECISION

7. Governance Reform: Further Discussion

Ms. Hamilton spoke about the approach to categorizing the recommendations in Mr. Cayton's report, which involved identifying those items that would likely already have consensus from Benchers to implement and those that would require more consideration. She also spoke about the impact the development of a single legal regulator would have on the consideration of some of Mr. Cayton's recommendations.

Mr. Avison presented on a number of recommendations from Harry Cayton's Report on the Law Society's Governance, which were either in place prior to his report, or on which work had started since. He also spoke about the recommendations for which he thought there was consensus and, unless the board disagreed, staff would begin, and in some cases continue, to implement those recommendations.

There was general consensus amongst the Benchers on recommendations related to procedural matters; board agendas and meetings; declaring and recording any conflicts of interest at the beginning of Bencher meetings; board effectiveness; identifying and responding to risk; modernizing the complaint process; implementing regulatory impact assessments; the reduction, establishment, and appointment processes of committees; reviewing the terms of reference of committees; committee reports; changing the term member to "licensee"; and implementing an optional induction day for candidates for election.

Benchers agreed that before any decisions could be made, further discussion was required on those recommendations related to the establishment of a register of conflicts of interest; requiring that committees justify their value at an annual review; making legislative changes to sections 12 and 13 of the *Legal Profession Act*; bringing about an end to the annual presentation of awards; creating a nominations committee; disallowing a member who is under investigation to stand for election; amending the terms of office for Benchers, Presidents, and Vice-Presidents; and changing the size and composition of the board.

Recommendations regarding limits on the roles of Benchers and reformation of the Law Society's electoral structure were not discussed, and will likely be discussed at a later meeting.

9. Report on Outstanding Hearing & Review Decisions

Ms. Hamilton provided an update on outstanding hearing and review decisions and thanked Benchers for their efforts to get decisions in on time, as timeliness is important to the public and those involved in proceedings.

FOR INFORMATION

10. Minutes of February 17, 2022, Executive Committee Meeting

There was no discussion on this item.

11. Law Society Appointment: Law Foundation of BC

There was no discussion on this item.

12. Update on Access to Justice Advisory Committee Recommendations from December 2021

There was no discussion on this item.

13. Three Month Bencher Calendar – March to May 2022

There was no discussion on this item.

The Benchers then commenced the *In Camera* portion of the meeting.

AB
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