The Law Society of British Columbia

Agenda

Benchers

Date:	Friday, July 10, 2015
Time:	**7:30 am** Continental breakfast **8:30 am** Call to order
Location:	Bencher Room, 9th Floor, Law Society Building
Recording:	***Benchers, staff and guests should be aware that a digital audio recording is made at each Benchers meeting to ensure an accurate record of the proceedings.***

CONSENT AGENDA:

The Consent Agenda matters are proposed to be dealt with by unanimous consent and without debate. Benchers may seek clarification or ask questions without removing a matter from the consent agenda. Any Bencher may request that a consent agenda item be moved to the regular agenda by notifying the President or the Manager, Executive Support (Renee Collins Goult) prior to the meeting.

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
1	Consent Agenda • Minutes of June 12, 2015 meeting (regular session) • Minutes of June 12, 2015 meeting (*in camera* session) • Lawyers' Notification Obligations on Withdrawal: Rule Amendments	1	President	Tab 1.1 Tab 1.2 Tab 1.3	Approval Approval Approval
EXECUTIVE REPORTS					
2	President's Report	15	President	Oral report (update on key issues)	Briefing

The Law Society of British Columbia

Agenda

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
3	CEO's Report	15	CEO	(*To be circulated electronically before the meeting*)	Briefing
4	Briefing by the Law Society's Member of the Federation Council	5	Gavin Hume, QC		Briefing
DISCUSSION/DECISION					
5	Governance Committee Mid-Year Report	15	Miriam Kresivo, QC	Tab 5	Discussion/ Decision
REPORTS					
6	Report on Outstanding Hearing & Review Decisions	4	President	(*To be circulated at the meeting*)	Briefing
7	Financial Report – May YTD 2015	15	CFO & Peter Lloyd, FCA	Tab 7	Briefing
8	Mid-Year Reports from the 2015 Advisory Committees • Access to Legal Services Advisory Committee • Equity and Diversity Advisory Committee • Rule of Law and Lawyer Independence Advisory Committee • Lawyer Education Advisory Committee	20	 Phil Riddell Satwinder Bains David Crossin, QC Tony Wilson	 Tab 8.1 Tab 8.2 Tab 8.3 Tab 8.4	Briefing

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ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
9	2015-2017 Strategic Plan Implementation Update • Rule of Law and Lawyer Independence Advisory Committee Initiative: Public Commentary on Rule of Law Issues	15	President / David Crossin, QC	Tab 9	Briefing
FOR INFORMATION					
10	Letters from Ken Walker, QC to House of Commons and Senate re Patent Agents and Privilege (Bill C-59)			Tab 10.1 Tab 10.2	Information
11	Letter from Ken Walker, QC to Board Resourcing and Development Office re Appointment of Benchers			Tab 11	Information
IN CAMERA					
12	Law Society Litigation Report	15	CLO	Tab 12	Briefing
13	Notaries Discussions: Update and Next Steps	45			Discussion
14	*In camera* • Bencher concerns • Other business	15	President/CEO		Discussion/ Decision

The Law Society of British Columbia

Minutes

Benchers

Date: Friday, June 12, 2015

Present:
Ken Walker, QC, President
Herman Van Ommen, QC, 2nd Vice-President
Haydn Acheson
Joseph Arvay, QC
Satwinder Bains
Pinder Cheema, QC
David Corey
Jeevyn Dhaliwal
Lynal Doerksen
Thomas Fellhauer
Craig Ferris, QC
Martin Finch, QC
Miriam Kresivo, QC
Dean Lawton
Peter Lloyd, FCA
Jamie Maclaren
Sharon Matthews, QC
Nancy Merrill
Maria Morellato, QC
David Mossop, QC
Lee Ongman
Greg Petrisor
Phil Riddell
Elizabeth Rowbotham
Sarah Westwood
Tony Wilson

Excused:
David Crossin, QC, 1st Vice-President
Edmund Caissie
Claude Richmond
Cameron Ward

Staff Present:
Tim McGee, QC
Deborah Armour
Taylore Ashlie
Renee Collins Goult
Su Forbes, QC
Andrea Hilland
Jeffrey Hoskins, QC
David Jordan
Michael Lucas
Jeanette McPhee
Doug Munro
Jack Olsen
Tim Travis
Alan Treleaven
Adam Whitcombe

Guests:	Dom Bautista	Executive Director, Law Courts Center
	Prof. Janine Benedet	Associate Dean of Academic Affairs, University of British Columbia
	Caroline Cassidy	Scottish Civil Litigation Solicitor
	Anne Chopra	Equity Ombudsperson, Law Society of BC
	Jennifer Chow	Vice President, Canadian Bar Association, BC Branch
	Gavin Hume, QC	Law Society Member of the Council of the Federation of Law Societies of Canada
	Carmen Marolla	Vice President, BC Paralegal Association
	Susan Munro	Director of Publications, Continuing Legal Education Society of BC
	Caroline Nevin	Executive Director, Canadian Bar Association, BC Branch

INTRODUCTION

1. President Walker presentation of the 2015 Law Society Scholarship Yun Li-Reilly

Mr. Walker acknowledged Ms. Yun Li-Reilly who was in attendance to receive her award of the 2015 Law Society Scholarship, which will help further her study of privacy laws and the "right to be forgotten".

Though unable to attend, Mr. Darcy Lindberg was also acknowledged as the winner of the Law Society Aboriginal Scholarship.

Magna Carta celebrations

Mr. Walker remarked on 800th Anniversary of the original signing of the Magna Carta, calling it a watershed moment in the development of our constitutional structure, and a foundational document to the rule of law and basic human rights. He noted the celebrations planned in both Victoria and Vancouver, and invited Benchers to attend.

CONSENT AGENDA

2. Minutes

a. Minutes

The minutes of the meeting held on May 9, 2015 were approved as circulated.

The *in camera* minutes of the meeting held on May 9, 2015 were approved as circulated

b. Resolutions

The following resolution was passed unanimously and by consent.

RESOLUTION 1

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

1. In Rule 2-32.01

(a) in subrule (1) by striking out "Subject to any prohibition in law,***" and substituting "***Subject to subrule (2) or any other prohibition in law,***",***

(b) by rescinding subrule (2) (a) (iii) and substituting:

(iii) a proceeding by way of indictment***, and***

(c) by adding the following subrule:

(3) Despite subrule (2)(a)(iii), an articled student may appear without the student's principal or another practising lawyer in attendance and directly supervising the student in a proceeding

(a) within the absolute jurisdiction of a provincial court judge, or

(b) by way of indictment with respect to

(i) an application for an adjournment,

(ii) setting a date for preliminary inquiry or trial,

(iii) an application for judicial interim release,

(iv) an application to vacate a release or detention order and to make a different order, or

(v) an election or entry of a plea of Not Guilty on a date before the trial date.***;***

2. By rescinding Rule 2-43 and substituting the following:

Court and tribunal appearances by temporary articled students

2-43(1) Despite Rule 2-32.01 *[Legal services by articled students]*, a person enrolled in temporary articles must not appear as counsel before a court or tribunal without the student's principal or another practising lawyer in attendance and directly supervising the student except

(b) in the Supreme Court of British Columbia in Chambers on any

(i) uncontested matter, or

(ii) contested application for

(A) time to plead,

(B) leave to amend pleadings, or

(C) discovery and production of documents, or

(iii) other procedural application relating to the conduct of a cause or matter,

(c) before a registrar or other officer exercising the power of a registrar of the Supreme Court of British Columbia or Court of Appeal for British Columbia,

(d) in the Provincial Court of British Columbia

(i) on any summary conviction proceeding,

(i.1) on any matter that is within the absolute jurisdiction of a provincial court judge,

(ii) on any matter in the Family Division or the Small Claims Division, or

(iii) when the Crown is proceeding by indictment or under the *Youth Criminal Justice Act* (Canada) in respect of an indictable offence, only on

(A) an application for an adjournment,

(B) setting a date for preliminary inquiry or trial,

(C) an application for judicial interim release,

(C.1) an application to vacate a release or detention order and to make a different order, or

(D) an election or entry of a plea of Not Guilty on a date before the trial date,

(e) on an examination of a debtor,

(f) on an examination for discovery in aid of execution, or

(g) before an administrative tribunal.

(2) A person enrolled in temporary articles is not permitted to do any of the following under any circumstances:

(a) conduct an examination for discovery;

(b) represent a party who is being examined for discovery;

(c) represent a party at a pre-trial conference.

RESOLUTION 2

BE IT RESOLVED to amend the Law Society Rules 2015 as follows:

1. In Rule 2-60

(a) in subrule (1) by striking out "Subject to any prohibition in law,***" and substituting "***Subject to subrule (2) or any other prohibition in law,***",***

(b) by rescinding subrule (2) (a) (iii) and substituting:

(iii) a proceeding by way of indictment***,, and***

(c) by adding the following subrule:

(3) Despite subrule (2) (a) (iii), an articled student may appear without the student's principal or another practising lawyer in attendance and directly supervising the student in a proceeding

(a) within the absolute jurisdiction of a provincial court judge, or

(b) by way of indictment with respect to

(i) an application for an adjournment,

(ii) setting a date for preliminary inquiry or trial,

(iii) an application for judicial interim release,

(iv) an application to vacate a release or detention order and to make a different order, or

(v) an election or entry of a plea of Not Guilty on a date before the trial date.***;***

2. By rescinding Rule 2-71 and substituting the following:

Court and tribunal appearances by temporary articled students

2-71(1) Despite Rule 2-60 *[Legal services by articled students]*, a person enrolled in temporary articles must not appear as counsel before a court or tribunal without the student's principal or another practising lawyer in attendance and directly supervising the student except

(a) in the Supreme Court of British Columbia in Chambers on any

(i) uncontested matter, or

(ii) contested application for

(A) time to plead,

(B) leave to amend pleadings, or

(C) discovery and production of documents, or

(iii) other procedural application relating to the conduct of a cause or matter,

(b) before a registrar or other officer exercising the power of a registrar of the Supreme Court of British Columbia or Court of Appeal for British Columbia,

(c) in the Provincial Court of British Columbia

(i) on any summary conviction proceeding,

(ii) on any matter that is within the absolute jurisdiction of a provincial court judge,

(iii) on any matter in the Family Division or the Small Claims Division, or

(iv) when the Crown is proceeding by indictment or under the *Youth Criminal Justice Act* (Canada) in respect of an indictable offence, only on

(A) an application for an adjournment,

(B) setting a date for preliminary inquiry or trial,

(C) an application for judicial interim release,

(D) an application to vacate a release or detention order and to make a different order, or

(E) an election or entry of a plea of Not Guilty on a date before the trial date,

(d) on an examination of a debtor,

(e) on an examination for discovery in aid of execution, or

(f) before an administrative tribunal.

(2) A person enrolled in temporary articles is not permitted to do any of the following under any circumstances:

(a) conduct an examination for discovery;

(b) represent a party who is being examined for discovery;

(c) represent a party at a pre-trial conference**..**

BE IT RESOLVED to authorize the Benchers to amend the Law Society Rules 2015 to allow appointed Benchers to

a) attend general meetings as of right;
b) speak at a general meeting as of right;
c) act as a local chair at a general meeting if appointed by the Executive Director.

EXECUTIVE REPORTS

3. President's Report

Mr. Walker announced the upcoming election of the nominee for Second Vice-President, noting the receipt of Miriam Kresivo's candidacy, and called for any other candidates. Hearing none, Mr. Walker confirmed Ms. Kresivo as the Benchers' nominee for Second Vice-President, with the formal election to take place at the Annual General Meeting in October.

Mr. Walker also briefed the Benchers on matters discussed at the Executive Committee meeting May 27, 2015. Federation governance was discussed, and Mr. Hume attended to receive direction from the Executive in advance of the Federation Council meeting June 1, 2015. Mr. McGee provided his CEO Mid-Year Report on operations, and the Executive reviewed the draft Bencher Agenda as a regular part of its mandate to determine which projects are ready for Bencher consideration, and which require further staff input. Finally, the Executive received in camera reports from Ms. Morellato and Ms. Kresivo regarding the Notaries Working Groups.

Mr. Walker also reported on various Law Society matters to which he has attended since the last meeting. He thanked everyone for their attendance and participation in the 2015 Law Society Retreat, and particularly thanked David Crossin, Michael Lucas and Lance Cooke for their excellent work organizing the Retreat Agenda.

He attended at UBC to award the 2014-2015 Gold Medal to recipient Kayla Strong, and thanked Master McDiarmid for attending at TRU to award the Gold Medal to Lou Hamel. He also noted the Victoria and Vancouver Calls to the Bar, at which there were 199 admissions to the Bar collectively; Mr. Walker thanked numerous Benchers for their attendance.

Mr. Walker attended the CBA Benevolent Society's AGM to appoint the Law Society's representative on that Board for the coming year, and Mr. Van Ommen was thanked for his attendance at the Prince George Continuing Professional Development event. Finally, Mr. Walker provided highlights of the Law Society of Alberta's annual Retreat in Jasper attended by both himself and Mr. McGee.

4. CEO's Report

Mr. McGee provided highlights of his monthly written report to the Benchers (attached as Appendix 1 to these minutes) which was a Mid-Year Report on operations. In clarifying the relevance of the operational review for Benchers, he expanded on the relationship between operations and strategy, noting that operational policies evolve from the Bencher's focus on strategic direction and priority. As examples, he referred to the Trust Assurance Program, which took three years to design and develop, and now leads the country, the Continuing Professional Development program that is now engrained in operations and provides the model adopted by most other jurisdictions, and the Small Firm Online Course, which originated from a Bencher Task Force and is now a fully implemented course.

He specifically reviewed the five elements of this year's Operational Plan:

- Knowledge Management Project, to aid staff in accessing information quickly and efficiently;

- Law Society Precedents system, to consolidate and oversee the development, access and use of precedents used by Law Society lawyers;

- Computer Literacy working group, to ensure and enhance a level of technological literacy required by modern standards;

- Public issues voice working group, to give voice to the many talented and diverse staff who have interest in participating in issues of social importance; and

- Core Values working group, to ensure our Code of Conduct reflects the dynamics of the current work force and the people who make up the Law Society

Mr. McGee also noted that staff and the Governance Committee are working on the possibility of electronic voting and webcasting at the 2015 Annual General Meeting.

Additionally, he reviewed financial information, confirming that the Law Society is on budget for all areas of discretionary spending, but is experiencing budgetary pressure in the area of work supported by external counsel. Flexibility is required around such work which has required more time and proven more complex than in years past. Managers are working to offset this pressure in other areas. In answer to questions, Mr. McGee confirmed that the use of external counsel is a necessary tool to address issues of capacity, conflict or expertise that cannot be substituted internally.

Finally, he echoed Mr. Walker's observations of the Alberta Retreat, noting that collaboration and engagement with other Law Societies assists us in finding our own ways to improve.

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

Gavin Hume, QC briefed the Benchers as the Law Society's member of the FLSC Council, confirming that the Council met June 1 to discuss issues raised by the Federation's Interim Report on Governance (attached as Appendix 2). The draft report articulated two potential structures for decision making: one that improves the status quo; and, a second that creates a different structure, consisting of a general assembly of Presidents and a skills-based Board of Directors.

Points that have been identified for consideration include: the need for an enhanced role for Law Society Presidents; the recognition and better utilization of CEO expertise; the formalization of the Council Agenda process; the need to ensure the commitment and competencies of Council members; and the review of the Presidential rotation system, including consideration of a merit-based system to replace or enhance the current geographical rotation.

Mr. Hume noted that no decisions were made in the June meeting; rather, the discussion and feedback will result in a fuller, revised report for the October Federation Council meeting. Mr. McGee reiterated that the report will focus on articulating both what the role of the Federation is, and how the Federation should operate to fulfill that role.

Additionally, Mr. Hume reported that the Federation has taken initiative to encourage further debate of legislation that will impact patent and trade mark agents, has been requested to add its support of a stalled Quebec Mobility Agreement, and has been called upon by the Truth and Reconciliation Commission to ensure that lawyers receive more comprehensive training on cultural and aboriginal issues.

Mr. Van Ommen, the Law Society's representative on the Federation's National Requirement Review Committee, reported on the first meeting of the committee, at which it began development of a work plan to:

- consider a non-discrimination requirement for approval of common law degrees;

- review the requirements for approving common law degrees, including how the requirements are implemented; and

- review generally the overall continuity of the admission process (law degree approvals, National Committee on Accreditation, National Admission Standards).

He anticipates a further committee meeting in the Fall, and will continue to report and circulate materials amongst those interested. Upon the request, Mr. Van Ommen confirmed the Terms of Reference of the National Requirement Review Committee will be circulated to Benchers, together with a listing of its members.

DISCUSSION/DECISION

6. Amendment to BC Code Rule 3.6-3: Statement of Account

Mr. Walker opened discussion of this item with the acknowledgment of Mr. Caissie's request to further consult the members before discussing this Agenda item, and with the recognition of the consensus reached amongst Benchers to continue with the item on the strength of the consultation that had already occurred. Mr. Van Ommen, as Chair of the Ethics Committee, noted that this issue last appeared before Benchers in 2013; thus, Benchers elected or appointed since that time may not have been aware of the previous consultation.

On the issue itself, Mr. Van Ommen reported that the proposed amendments are to the commentary accompanying the Rule, rather than to the rule itself. Consultation with the profession revealed a lack of support for the 2013 revision to the commentary requiring a different form of account. A revised commentary articulating specific requirements for disbursements on accounts was drafted by the 2014 Ethics Committee, but rejected by the 2015 Ethics Committee which favoured a more general approach; given that the Law Society does not regulate fees, it would be anomalous to require specific rules around disbursements.

The result is a proposed amendment to the commentary that acknowledges a lawyers' general duty of candour, which in turn requires transparent communication of how a client will be charged on an account.

Mr. Van Ommen moved, seconded by Ms. Merrill, for acceptance of the following resolution:

BE IT RESOLVED to amend the Code of Professional Conduct for British Columbia by adding the following as commentary [1] to rule 3.6-3:

> A lawyers' duty of candour to a client requires the lawyer to disclose to the client at the outset, in a manner that is transparent and understandable to the client, the basis on which the client is to be billed for both professional time (lawyer, student and paralegal) and any other charges.

In response to subsequent questions, Mr. Van Ommen clarified that, while it may not be strictly necessary to articulate a duty of transparency with regard to accounts given the overarching duty of candour required of lawyers generally, the Ethics Committee felt it was important enough to specifically mention. Further, he clarified that the earlier consultation took the form of meetings with and input from a collection of law firm managing partners, rather than a member-wide consultation. Mr. Felhauer noted that the proposed amendment satisfied all the concerns he had received regarding the 2013 revision.

The motion was passed unanimously.

7. Revised Statement of Investment Policy and Procedures

On behalf of the Finance and Audit Committee, Mr. Lloyd briefed the Benchers on the recent review of the Statement of Investment Policy and Procedures and Lawyers Insurance Fund ("LIF") portfolio, which examined the investment structure, the current manager performance and the asset mix. The Committee recommends revising the benchmark asset mix to improve diversification of the LIF portfolio, retaining the current investment managers and management structure for equities, bonds and short term securities, but at a lower percentage of the fund (40% each for the two balanced managers), and hiring additional managers with a real estate fund and a mortgage fund, each holding 10% of the LIF investment fund.

The Finance and Audit Committee, along with Management and independent investment advisors George & Bell, undertook a review of the Law Society Statement of Investment Policies and Procedures and the LIF long term investment portfolio. The review consisted of examining the investment structure, the current manager performance and the asset mix, following the recent sale of 750 Cambie Street.

Following questions relating to the particular asset mix suggested, as well as how our managers respond to market forces, Mr. Lloyd moved that the Benchers adopt the Statement of Investment Policies and Procedures (attached as Appendix 3) which replaces Appendix 1 of the Investment Guidelines of the Bencher Governance Policies, as recommended by the Finance and Audit Committee. The motion was seconded by Mr. Felhauer, and passed unanimously.

8. Report on the Outstanding Hearing & Review Reports

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

RCG
2015-06-12

The Law Society of British Columbia

CEO's Report to the Benchers

June 2015

Prepared for: Benchers

Prepared by: Timothy E. McGee

Introduction

As this is my mid-year report I would like to update the Benchers regarding progress on our 2015 Operational Priorities Plan and on the 2015 – 2017 Strategic Plan as well as some additional items described below.

2015 Operational Priorities Plan

At the beginning of each year I present management's top 5 operational priorities for the ensuing year. When I present these to the Executive Committee and the Benchers I always emphasize that these priorities do not derogate from our day-to-day responsibility to perform our core regulatory functions to the highest standards. However, in each year there are certain items that are designed to enhance our operational capabilities and which require extra attention and focus to ensure success. The priorities for 2015 (in no particular order) are set out below with a brief status update at mid-year.

1. Knowledge Management Project

We are committed to the development and implementation of an organization wide knowledge management system. Knowledge management involves capturing and sharing knowledge with the goal of making that knowledge easily accessible through a range of distribution methods. Knowledge includes facts, information, expertise and skills, as well as the theoretical and practical understanding of a subject, acquired by a person through experience or education.

Because so much of what we do at the Law Society involves the development, evaluation and sharing of knowledge having a modern, effective system for doing so is a critical operational tool and also part of the Law Society's strategic goal to be a more innovative and effective regulator. The knowledge management project is looking at this capability from a broad perspective including, for example, our practice support and advice group, our PLTC program, our policy group and communications.

In 2014, the working group researched knowledge management systems and set the mandate and definition of the project. In May 2015, a Senior Project Management Specialist was appointed and detailed project planning began. In a staff wide contest to name the Knowledge Management project we received over 170 entries and the winner will be announced next week. We are expecting that the implementation of a new knowledge management capability will take several phases with initial roll-out commencing in 2016.

2. Computer Literacy Working Group

We believe that computer literacy and being able to fully exploit the benefits of technology in everything we do will enhance our effectiveness as an organization. Consequently, we have established a cross departmental working group to develop a plan which will have as one of its goals the attainment of a new, high minimum standard of computer/technical literacy for all our staff.

We recognize that this direction might be daunting for some staff who have less training and skill in this area today. This is why we are focusing on a cooperative, supportive approach so that, no matter what an individual's current skill level may be, they will be supported in achieving a new higher competency level within an achievable timeframe.

I can report that the Computer Literacy Working Group has been busy so far this year in defining a base skill level as well as the competencies expected above and beyond this level based upon the requirements of specific positions. This work has included examining the models of other organizations and evaluating the learning platforms used to achieve the goals. The working group is planning to deliver a report on its findings and provisional recommendations for discussion this fall.

3. Public Issues Voice Working Group

The Public Issues Voice Working Group was created as one of the means to support Initiative 3-2 (b) of the Strategic Plan namely "Identify strategies to express a public view on the justice system, including public forums". The working group is focusing on how to communicate more effectively with the public regarding the role of the Law Society and broader justice system topics and issues.

This working group is comprised of staff with diverse interests and backgrounds and is chaired by Michael Lucas our Manager of Policy and Legal Services. The group has had two meetings to date and more are scheduled. We are hopeful that the perspectives of the working group and any recommendations from it will complement and be useful to the Rule of Law and Lawyer Independence Advisory Committee as it follows up on this topic of discussion at last month's Bencher retreat.

4. Core Values Working Group

All staff adhere to a code of conduct as part of their employment with the Law Society. The code refers to workplace values and our mission and is incorporated into our annual performance review process. But we are aware that since the code of conduct was established almost 15 years ago we have seen shifts in our demographic profile and changing workplace habits and expectations. With those

changes we felt now was a good time to reexamine, refresh and perhaps restate the values under which we agree to serve as Law Society staff.

The mandate of the working group is to identify and develop a set of values that are aligned with and support the Law Society's mandate, mission and strategic plans and create a common bond for staff. The group has consulted broadly within the organization and has conducted workshops and discussion forums as part of its work. At the time of writing the working group is finishing its report and recommendations. I look forward to sharing this with you at the meeting in July.

5. E-Voting and Webcasting Capability

We are committed to the development of a highly reliable and resilient e-voting and webcasting capability for our annual general meetings. In the past several months, we have been actively addressing issues such as the need for voting security, verification and audio/visual quality across different platforms and receiving devices. In addition, both the Governance Committee and the Act and Rules Committee have been working with staff to ensure that our plans are within the ambit of the existing member authorization to move in this direction. I understand the Governance Committee expects to make recommendations regarding the conduct of this year's 2015 annual general meeting and future general meetings in its mid-year report to the Benchers in July.

Strategic Plan Progress – Mid-Year Report

I am attaching a chart entitled "Strategic Plan 2015 – 2017 Implementation Plan" for your review and information. We use this document as a quick reference guide to track the nature and status of work pursuant to the strategic plan. As this is the first year of the new 3 year plan progress is not even across all initiatives and, indeed, some initiatives are not scheduled to commence until 2016/2017. However, you will see that initiatives to evaluate PLTC, to develop a framework for the regulation of law firms, to examine the meaning and scope of section 3 of the Legal Profession Act and to consider whether the Manitoba Family Law Project might assist access to justice here in BC, are all on track.

Our work in support of the initiatives to amend the Legal Profession Act to create new classes of legal service providers and to pursue a merger with the Society of Notaries Public of BC are each underway but in the formative stages. We will have more to report on those significant undertakings at the meeting.

Financial Update

As reported at the last Bencher meeting the financial results for the first fiscal quarter were on track. However it is still early in the year and we will have a better sense of our year end budget forecast when the second quarter results are available in early July.

Our main concern at this stage is the increasing pressure on our budget due to greater than expected external counsel costs associated with professional conduct, discipline and credentials matters. Secondarily, we are concerned with our ability to attain the level of savings forecasted this year due to staff vacancies. Each year our annual budget builds in an estimate for savings in the year due to unplanned staff vacancies in the year. So far this year we are not seeing those savings as per our estimate and this is creating budget pressure. While this can change without notice at any time it is largely beyond our control.

To help mitigate these pressures management is reviewing all opportunities to realize cost savings in operations without adversely impacting our regulatory obligations. This is an ongoing process and we will be making adjustments and reassessing our position as the year progresses.

External Relationships

I recently reviewed with the Executive Committee the various events I have attended and/or participated in so far this year on behalf of the Law Society in connection with the profession and the legal community. I have listed these events and future plans below for your information.

January 16 – UVIC Law Student Awards and Donor Recognition Reception
I attended a reception recognizing UVIC Law student award winners and donor organizations on behalf of LSBC, which was well attended by the local and Vancouver bars.

January 19 & 20 - Federation CEO's Strategic Issues Roundtable
I organized and hosted a meeting of all Federation CEO's at the Law Society, with the purpose of reviewing key initiatives under our respective strategic plans, including the timing and prospects for implementation in 2015.

February 10 – New Westminster Bar Association Meeting and Dinner
Ken and I attended this meeting and dinner together with Phil Riddell and Martin Finch, QC, and a strong turnout from the New Westminster bar.

February 22 & 23 - CSAE -Tecker Symposium for Chief Elected and Chief Staff Officers

Ken and I attended the 2015 CSAE Symposium for Chief Elected and Chief Staff Officers in Toronto on February 21-23, 2015 given by Glenn Tecker. This symposium is a very well attended and useful conference for Presidents and CEOs of organizations like ours. In attendance in Toronto were also the Presidents and CEOs of the Law Societies of Nova Scotia, New Brunswick, and Saskatchewan as well as the Society of Notaries Public of BC and the Law Foundation of BC. This gave us an extra opportunity to compare notes on common governance issues with our sister and related organizations.

February 26 – IONA Campagnolo Lecture in Restorative Justice in Courtney

Ken and I attended a reception and dinner with a large turnout from the local bar, at which Chief Justice Beverley McLachlin was the keynote speaker.

March 16 – Speaking engagement at UVIC Law School

As I have done in past years, I was a guest presenter at Professor Pirie's Legal Ethics and Professionalism class at UVIC Law School.

March 25 – 29 FLSC Semi-Annual Conference in Ottawa

I attended this conference together with Gavin Hume, QC (Council member), Ken Walker, QC, David Crossin, QC, Herman Van Ommen, QC, Miriam Kresivo, QC, Lynal Doerksen, Alan Treleaven and Adam Whitcombe. The major theme of the meeting was Federation Governance Review.

April 16 - Victoria Bar Association Spring Dinner

I attended this event which had an excellent turnout, particularly among younger members of the local bar. Benchers Pinder Cheema, QC and Dean Lawton were on hand as well as Life Bencher Kathryn Berge, QC.

April 21 - UBC Alumni Association Lunch for Dean Bobinski

The Law Society purchased a table at the UBC Law Alumni Association celebration luncheon for Dean Mary Anne Bobinski to celebrate her many accomplishments prior to her upcoming retirement. I attended as part of a 10 person contingent from the LSBC in a sold out Hotel Vancouver ballroom.

April 23 – CBABC Women Lawyers Forum Awards Luncheon

Along with several others from the Law Society, I attended the CBABC Women Lawyers Forum Awards luncheon honoring the BC WLF Award of Excellence recipients as well as the recipients of the Debra Van Ginkel, QC Mentoring Award.

May 27 - Commemorative Certificate Luncheon
I attended together with President Walker and several Benchers, the annual 50 and 60 year Commemorative Certificate luncheon hosted by LSBC at the Hotel Vancouver. The event is always a highlight of the calendar for me and others as the honorees are very gracious and have wonderful stories of their many years of practice.

May 28 - Victoria Call Ceremony
I attended a Victoria Call Ceremony together with President Walker, QC organized by Benchers Pinder Cheema, QC and Dean Lawton. Chief Justice Hinkson presided over the ceremony which was inspiring and very well attended by friends, relatives and the local bar.

June 3 to 5 - Alberta Law Society Retreat
President Walker and I attended the Law Society of Alberta retreat on June 3-5 in Jasper. The theme of the retreat was “Embracing Sustainable Change” and focused on the need for law regulators to show leadership in initiating and supporting change which will serve the public interest. In addition to the Alberta contingent, in attendance were Presidents and CEOs from 4 law societies and the Federation. This made for excellent exchanges of ideas and conversation.

Upcoming Events

Below is a list of upcoming events, which I plan to attend:

July 27 – FLSC International Conference of Regulators in Toronto
July 29 – Attorney General’s Magna Carta Event in Vancouver
September 9 to 13 – IILACE Conference in Washington D.C.
September 18 to 20 - Kootenay Bar Association Fall Meeting in Kaslo

PLTC Update

I would like to thank the Benchers and Life Benchers who taught Professional Ethics to PLTC students on May 27:

Kathryn A. Berge, QC (Vancouver) – Life Bencher
Elizabeth Rowbotham (Vancouver) – Elected Bencher
Terence E. La Liberté, QC (Vancouver) – Life Bencher
Cameron Ward (Vancouver) – Elected Bencher
Pinder Cheema, QC (Victoria) – Elected Bencher

Richard S. Margetts, QC (Victoria) – Life Bencher
Thomas Fellhauer (Kamloops) – Elected Bencher

As always, your contributions to PLTC and to the students themselves is greatly appreciated.

Timothy E. McGee
Chief Executive Officer

Strategic Plan 2015 - 2017 Implementation Plan

Goals	*Strategies*	*Initiatives*	*Group*	*Assigned To*	*Start*	*Status*
GOAL 1: THE PUBLIC WILL HAVE BETTER ACCESS TO JUSTICE	***Strategy 1-1: Increase the availability of legal service providers.***	Initiative 1–1(a) Continue the Legal Services Regulatory Framework Task Force and its work in developing a framework for regulating non-lawyer legal service providers to enhance the availability of legal service providers while ensuring the public continues to receive legal services and advice from qualified providers.	Legal Services Regulatory Framework Task Force	Michael Lucas, Doug Munro	Ongoing	Letter has been sent to government requesting statutory amendment. Work will be done at staff level addressing legislative amendment issues. Once confirmation is given, newly constituted task force will begin examining mandate items 4- 6 of Task Force mandate.
		Initiative 1-1(b) Continue work on advancement of women and minorities including through the Justicia Program and the Aboriginal Mentoring Program.	Equity and Diversity Advisory Committee	Andrea Hilland	Ongoing	Initiatives on both Aboriginal and Gender continue through the Aboriginal Mentoring Program and the Justicia Program. Efforts have been made to improve diversity on the bench and work is underway to consider ways to encourage more involvement of equity seeking groups in Law Society governance.
	Strategy 1-2: Increase assistance to the public seeking legal services	Initiative 1-2(a) Evaluate the Manitoba Family Justice Program and determine if it is a viable model for improving access to family law legal services in British Columbia.	Access to Justice Advisory Committee or New Task Force	Doug Munro, Jeanette McPhee	early 2015	The Access to Justice Committee has examined this program and considered whether it is viable in BC. The Committee is expected to make recommendations later in 2015.
		Initiative 1-2(b) Examine the Law Society's role in connection with the advancement and support of Justice Access Centres.	Access to Justice Advisory Committee	Doug Munro	Ongoing	This work has been ongoing for some time through the Access to Legal Services Advisory Committee. Next stages will involve consultations with government and examining the use of technology to facilitate JACs in rural locations. Policy discussions will likely complete in 2015.
		Initiative 1-2(c) Examine the Law Society's position on legal aid, including what constitutes appropriate funding and whether other sources of funding, aside from government, can be identified.	New Task Force	Doug Munro	Preparatory Work could start in 2015, Task Force could aim to start September 2015	The topic is complex and engages political considerations as well as the Law Society's own positions in the past. At present, there is no work underway on this issue. A dedicated task force with a limited mandate and timeframe would be the most effective way to address this initiative.
GOAL 2: THE PUBLIC WILL BE WELL SERVED BY AN INNOVATIVE AND EFFECTIVE LAW SOCIETY	***Strategy 2-1: Improve the admission, education and continuing competence of students and lawyers***	Initiative 2-1(a) Evaluate the current admission program (PLTC and articles), including the role of lawyers and law firms, and develop principles for what an admission program is meant to achieve.	Lawyer Education Advisory Committee	Alan Treleaven Andrea Hilland/ Charlotte Ensminger	01/01/2015	The Lawyer Education Advisory Committee is currently considering the PLTC portion of the bar admission program. It is examining whether there is a role for online learning in the delivery of PLTC. It has also identified several issues related to articles that it will examine in more detail once it completes its PLTC review. The Committee expects to issue a report with recommendations later in the year.

Goals	Strategies	Initiatives	Group	Assigned To	Start	Status
		Initiative 2-1(b) Monitor the Federation's development of national standards and the need for a consistent approach to admission requirements in light of interprovincial mobility.	Credentials Committee Lawyer Education Advisory Committee, and staff	Alan Treleaven, Michael Lucas, Lesley Small, Lynn Burns	early 2015	When the Lawyer Education Advisory Committee receives consultation reports and recommendations from the Federation, the Committee will review them, and report to the Benchers and Credentials Committee as appropriate.
		Initiative 2-1(c) Conduct a review of the Continuing Professional Development program.	Lawyer Education Advisory Committee	Alan Treleaven, Charlotte Ensminger	2015(?)	This topic will be considered in 2016. In the interim, user enhancements are being made to the CPD website.
		Initiative 2-1(d) Examine Practice Standards initiatives to improve the competence of lawyers by maximizing the use of existing and new data sources to identify at-risk lawyers and by creating Practice Standards protocols for remediating high risk lawyers.	Practice Standards Department	Kensi Gounden	01/01/2015	Work on this project is underway. It is expected to complete before the end of 2015.
		Initiative 2-1(e) Examine alternatives to articling, including Ontario's new legal practice program and Lakehead University's integrated co-op law degree program, and assess their potential effects in British Columbia.	Lawyer Education Advisory Committee	Alan Treleaven , Charlotte Ensminger	Ongoing	The Lawyer Education Advisory Committee's discussions about these programs are underway as part of its examination of the current admission program. The Committee's conclusions will form part of its Report under Initiative 2-1(a).
	Strategy 2-2: Expand the options for the regulation of legal services	Initiative 2-2(a) Consider whether to permit Alternate Business Structures and, if so, to propose a framework for their regulation.	New Task Force	TBD	early 2016	The Law Society has done a preliminary report, and information has been gathered from Ontario, which is undertaking its own analysis of ABSs, and the UK and Australia, which have permitted ABSs. The Law Society is monitoring consideration of ABSs currently taking place in the Prairie provinces. No task force has yet been created to examine the subject independently in BC.
		Initiative 2-2(b) Continue the Law Firm Regulation Task Force and the work currently underway to develop a framework for the regulation of law firms.	Law Firm Regulation Task Force	Lance Cooke (Deb Armour, Kerryn Garvie, Michael Lucas)	Ongoing	The Law Firm Regulation Task Force has been created. Staff is currently developing a framework for consideration by the Task Force.
		Initiative 2-2(c) Continue discussions regarding the possibility of merging regulatory operations with the Society of Notaries Public of British Columbia.	Chief Executive Officer/Executive Committee	Tim McGee, Adam Whitcombe	Ongoing	Discussion on this topic continues. Working Groups have been created to (1) examine educational requirements for increased scope of practice for notaries (as proposed by the notaries) and (2) examined governance issues that would arise in a merged organization.

Goals	Strategies	Initiatives	Group	Assigned To	Start	Status
GOAL 3: THE PUBLIC WILL HAVE GREATER CONFIDENCE IN THE RULE OF LAW AND THE ADMINISTRATION OF JUSTICE	***Strategy 3-1: Increase public awareness of the importance of the rule of law and the proper administration of justice***	Initiative 3-1(a) Develop communications strategies for engaging the profession, legal service users, and the public in general justice issues.	Communications Department, Policy Department Rule of law and Lawyer Independence Advisory Committee	Taylore Ashley, Michael Lucas	early 2015	The Communications department has developed a communications plan, and it is being engaged to, for example, obtain interviews on local radio stations on relevant issues.
		Initiative 3-1(b) Examine the Law Society's role in public education initiatives.	TBD	TBD	01/01/2017	Work on this initiative is expected to begin no earlier than the fall of 2015
		Initiative 3-1(c) Identify ways to engage the Ministry of Education on high school core curriculum to include substantive education on the justice system.	TBD	TBD	01/01/2017	Some work has begun by. for example, creating the high school essay competition on Magna Carta as developed by the Rule of Law and Lawyer Education Advisory Committee and promoted through the Communications Department. Work on engaging in the Ministry of Education has not yet begun.
	Strategy 3-2: Enhance the Law Society voice on issues affecting the justice system	Initiative 3-2(a) Examine and settle on the scope and meaning of s. 3 of the Legal Profession Act.	Rule of Law and Lawyer Independence Advisory Committee	Lance Cooke, Michael Lucas	Ongoing	This topic was introduced for discussion at the Bencher Retreat in May, 2015. The information gathered at that retreat will be considered by the Rule of Law and Lawyer Independence Advisory Committee, which will provided some further direction and guidance to the benchers later in 2015
		Initiative 3-2(b) Identify strategies to express a public voice on the justice system, including public forums.	Communications Department	Taylore Ashlie, Michael Lucas	early 2015	A proposal from the Rule of Law and Lawyer Independence Advisory Committee has been prepared and will be considered by the benchers in June 2015. A staff working group has been struck by the Chief Executive Officer in order to engage staff on how the Law Society may express a public voice on issues.

Federation of Law Societies of Canada

Fédération des ordres professionnels de juristes du Canada

FEDERATION GOVERNANCE REVIEW 2015

Interim Report of the Governance Review Committee

May 13, 2015

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INTRODUCTION

In June of 2014, the Council of the Federation established a Governance Review Committee with a mandate to undertake a broad-based review of governance and to bring forward proposals for change where warranted.

We have now completed the first two phases of our work program. Since our Committee's inception[1] we have met over a dozen times and carried out a work program consisting of:

- A series of preparatory meetings during the fall, combined with the development of a program of field visits encompassing every jurisdiction;
- Drafting of an extensive package of briefing material that was made available to all law societies through the Federation's intranet;
- Field consultations across the country;
- Publication in March of a report on the results of those consultations;
- Planning and implementation of the workshop held at the end of March in Ottawa to discuss the findings in that report; and
- Further interviews during April with a range of current and past leaders and committee members to ensure that we have touched all relevant bases.

ABOUT THIS REPORT

It was anticipated from the start of our work that further discussions related to governance reform would be held in June 2015. Up to this point, our Committee has refrained from making any recommendations. Our entire work program from September 2014 through to May 2015 was designed simply to elicit the widest possible range of views from within the Federation, and to provide us with the opportunity to listen carefully to what others had to say.

The present report opens up a major new phase in our work program, in which we start to move towards specific recommendations aimed at addressing issues revealed through our

[1] The committee members are:
(a) Marie-Claude Bélanger-Richard, Federation Past-President (Chair);
(b) Jeff Hirsch, Federation Vice President;
(c) Sheila Greene, Council member for the Law Society of Newfoundland and Labrador;
(d) Sheila MacPherson, Council member for the Law Society of the Northwest Territories;
(e) Steve Raby, Council member for the Law Society of Alberta;
(f) Johanne Brodeur, former Bâtonnière of the Barreau du Québec;
(g) Robert Lapper, CEO, Law Society of Upper Canada; and
(h) Tim McGee, CEO, Law Society of British Columbia.
The Committee is supported by Jonathan Herman, Federation CEO and by Tim Plumptre and Associates, a consulting firm specializing in governance work with particular expertise in the governance of federations.

consultations. However, as in our two earlier phases of work, in this third phase we wish to proceed carefully in steps suited to the complexity of the issues we are dealing with and to ensure that we respond to what we heard from the Federation's member law societies.

It seems clear to us that some adjustments to the governance of the Federation are warranted. However, we are not providing any firm proposals in this document. Rather, we outline the orientation of our thinking in a number of areas. Where appropriate, we also set forth options designed to prompt discussion at the next Council meeting to be held this coming June.

Overall, the good news arising from our work is that our Committee has the sense that in several areas, the beginnings of a consensus regarding the direction of reform are becoming visible. This report is divided into several sections each of which addresses an important dimension of Federation governance. Toward the beginning of each section, we outline some principles where we think that consensus may be starting to emerge. We are hoping that readers of this report will review these orientations carefully, discuss or reflect upon them, and let us know if indeed they are prepared to endorse these initial directions for change.

In addition, in some sections of the report, we outline additional areas where we believe agreement may be more difficult to achieve. In these areas, we set forth questions or options for the consideration of law society leaders and others. We look forward to hearing feedback on these matters and further exchanges of views among leaders.

Reference points for reform

The Federation is extraordinarily diverse in terms of the size, geography, resources, culture and level of sophistication of its members. So one might expect that there would be a very diverse range of opinions regarding Federation governance, and indeed this has proven to be the case. This diversity has presented our Committee with a challenge as we work towards reform proposals.

For instance, on the matter of the mode of appointment of the President of the Federation, some members are firmly of the view that the existing system of rotation by region has been satisfactory. They are of the view that a rotation is more appropriate for a federation of member organizations. They look forward to their "turn" to insert someone from their region into this leadership position.

On the other hand, other individuals believe with equal conviction that the method of selecting the President needs to be re-thought. In their view, the complex and demanding nature of the President's responsibilities has to be taken into account in the process itself. The incumbent selected for the position needs to have the experience and attributes that will enable him or her to perform the President's role with distinction. A new method of appointment is needed as a result. These members may also incline to the view that the job is now full time or close to it, and that changes to the term and compensation of the position may need to be considered.

When there are divergences of opinion of this nature with respect to a critical governance issue such as the appointment of the President, it is clear that whatever approach our Committee may recommend is likely to leave some Federation members pleased and others unhappy. One way

of dealing with this situation would be for our Committee to simply recommend whatever approach seems to be supported by the greatest number of members.

However, we do not think "majority rule" should serve as the guiding philosophy for decision-making, particularly since many law society leaders with whom we spoke during our field visits told us they knew very little about the Federation. Rather, our Committee has used two main criteria to guide its thinking. First, we have borne in mind the fiduciary responsibilities that, in law, are incumbent upon any board of directors. These call upon us to ask, not, “What approach to governance would be most popular?” but rather, “What approach would best serve the interests of the Federation as an organization, and enable it to discharge its responsibilities most effectively on behalf of member law societies?”

Second, in seeking answers to this question, we have taken account of recent research into effective governance, and have drawn upon principles and standards of sound governance that are observed by non-profits recognized as top performers in their field.

THE ROLE OF THE FEDERATION

The point of departure for any consideration of governance modalities needs to be the Federation's role. Here are areas where we believe most if not all law society leaders may be able to agree:

1. The Federation is a valuable instrument, and if it did not exist, it would have to be invented as a way of promoting conversation and collaboration among law societies on issues of common interest.

2. The ultimate responsibility for regulation of the legal profession rests with each member law society.

3. A key function of the Federation is to act as a coordinator or facilitator among members, establishing forums such as conferences, committees and other meetings where members may be brought together to discuss issues of mutual interest.

4. Members look to the Federation, as part of its facilitative function, to bring to their attention important emerging issues that may warrant the attention of the governors of the legal profession. The Federation may likewise provide recommendations for members’ consideration regarding initiatives that might be taken to deal with such issues.

5. There may be instances when it makes sense for the Federation to take on certain responsibilities on behalf of law societies, as it has in the past on issues such as mobility or approval of international credentials. When the Federation does so, it is more appropriate to describe it as an agent of the law societies rather than as “regulator” which is a term that more aptly describes the role of law societies themselves.

6. When law societies wish the Federation to assume a responsibility of this kind, including taking action on their behalf, all parties must be clear that it is doing so on the basis of a

mandate accorded by all law societies.

7. Asymmetry: There may be occasions when it is appropriate for the Federation to assume certain responsibilities on behalf of some, but not all, law societies. Action will then depend upon what kind of specific mandate is accorded by the participating law societies.

8. The Federation is the national and international spokesgroup for the law societies but only in respect of such matters for which consent has been provided by all law societies.

Question: Is there agreement with the foregoing principles? Are there any areas where modifications or improvements might be desirable?

Issues Requiring Further Reflection and Discussion

The Committee believes that a number of issues would benefit from further reflection and discussion before knowing where additional opportunities for consensus may emerge. The following questions are among them:

- If members confirm that in principle, asymmetrical initiatives may be accommodated within the Federation, should the agreement of all law societies be required to authorize the Federation to act in relation to some of its members, even though the others may not wish to participate at that time?

- How should the financial burden associated with such initiatives be shared?

- Is it possible to develop a list of initiatives that require consensus among all members for the Federation to take action, or criteria for the identification of such initiatives?

- Could another list be developed outlining areas where the Federation could move forward with the approval of only some of its members?

COUNCIL AND DECISION-MAKING

The key decision-making body for the Federation is the Council. During our visits to law societies, we received many comments about how it works, most of them indicating that changes should be made. It is apparent to us that there are many opportunities for improvement here.

As a point of departure, we would hope that there may be agreement with respect to the following principles as they relate both to Council and the general practice of decision-making at the Federation.

1. Federation decision-making procedures should be predictable and transparent.

2. The roles and relationships of key players in respect of decision-making need to be clearly articulated.

3. Federation governance structures or practices must provide for the engagement of political leaders of law societies on highly important or sensitive matters. These include the major priorities of the Federation and the levy.

4. Presidents' role in respect of important decisions should be articulated either through structural arrangements, revised processes, or a combination of both.

5. A formal place should be provided in the governance structures or processes of the Federation to allow for law society CEOs to assist in decision-making. However the accountability for decisions in respect of major issues should be reserved for elected representatives of law societies.

6. In general, the role of CEOs should be both to provide advice on strategic issues and major policies, and also to assume responsibilities with respect to implementation within their law societies of decisions taken at the political level of the Federation.

7. Particularly on important matters, the structures and processes related to the representation of each law society at the Federation need to ensure, insofar as possible, that there is seamless communication from the Federation to the leadership of each law society, and in some instances, to the Bencher or council table in each jurisdiction.

8. Reciprocally, appropriate measures must be taken to ensure that views expressed at the Federation on behalf of each law society accurately represent the opinions of law society leaders, and when necessary, of the Benchers or council in the relevant jurisdiction.

9. The quality of Federation governance is dependent on the individuals put forward by law societies to take part in decision-making. In the interests of effective governance at the Federation, law societies should ensure that individuals designated to act on their behalf have the experience and attributes to perform their governance responsibilities effectively.

Question: Is there agreement with the foregoing principles? Are there any areas where modifications or improvements might be desirable?

Issues Requiring Further Reflection and Discussion

One of the factors giving rise to difficulties at Council is that there is a lack of clarity and consistency in the way in which its members may interpret its role. On the one hand, Council members are encouraged to see themselves as emissaries from their law society, or

spokespersons for it. Under this interpretation of their role, there is little or no room for independent judgment. This view seems to be quite strongly rooted in some quarters. It is apparent when, at a Council meeting, a member may preface a comment on an issue by saying, "The view of my law society in respect of this issue is…." or when in the course of an electronic vote, support is expressed as " the law society of x votes in favour of the motion".

The alternative interpretation of Council members' role is that they have a fiduciary duty to the Federation itself. What is in the best interests of the Federation, as a national body, may not always accord with the particular interests of a member law society. In such circumstances, Council members who give precedence to their fiduciary role may not consider it necessary or even desirable to seek instruction from "home base" on how to deal with a particular issue. We suspect that this ambivalence may contribute to the reluctance of some members to engage in debate around the Council table.

To improve Federation governance, we need to adopt a broad lens. Council cannot be viewed in isolation. In our view, there are multiple factors contributing to its deficiencies. They reside not only in Council's ***structure***, but also in the prevalent ***culture*** surrounding decision-making, the *processes* involved in it and the ***lack of clarity surrounding the roles of key players***, including not only Council members but also law society leaders.

Our Committee has developed two options as to how these issues might be addressed. We believe that the adoption of one of these options, or perhaps some variation thereof, is needed. We look forward to comments and advice on them.

Option One – A Better Status Quo

This option maintains many of the features of the existing governance arrangements of the Federation, but incorporates various adjustments aimed at improving decision-making.

Council:

- Council would remain in place, more or less as currently constituted.
- Council members would continue to be nominated by their law society, but law societies would be encouraged to ensure they put forward nominees who have the experience and attributes necessary to the effective performance of their responsibilities.
- Law societies would agree on a list of competencies considered desirable in Council members and the list would serve as guidance for the law societies, but the decision regarding nominations would rest solely with each law society.
- Processes would be improved to ensure that there is excellent communication from the Council members to law society leaders, and from the law societies to the Federation, particularly in relation to matters of a strategic nature.

- Law societies would agree to appoint Council members for a term of three years, renewable once, in order to ensure consistency and the ability to effectively develop knowledge and understanding about what the Federation does and how it works.

- A comprehensive orientation program would be put in place for incoming Council members to train them about the Federation, as well as about their role and responsibilities.

- Opportunities for more meaningful debate at Council would be built-in through an improved agenda-setting process that would include an annual calendar for meetings that would forecast topics for discussion, thereby allowing for better meeting preparation.

- The role of Council as a place for strategic discussion would be emphasized and reflected in how meeting agendas are set.

- Council would meet four times a year, once or twice in concert with the Presidents of law societies in order to enhance discussions involving strategic or political issues.

- A cultural shift would be encouraged that would value debate and embrace the possibility of dissent.

- As is currently the case, the President of the Federation and other members of the Executive Committee would not have a vote at Council meetings.

- A Nominating Committee, accountable to the Council and appropriately constituted with qualified individuals, would recommend appointments to Federation committees.

- A Finance and Audit Committee, accountable to the Council and appropriately constituted with qualified individuals, would be established.

Law Society Presidents:

- At the same time as Council meetings, a "President's Forum" would be convened once or twice a year; CEOs would be present at the table. This Forum would replace the current informal "President's Roundtable" which typically occurs during Federation conferences, and would have a more structured agenda and purpose than does the current Roundtable, which takes place over a lunch.

- The Forum would provide an opportunity for Presidents to discuss the priorities of the Federation and to provide input on major issues with political sensitivity, and also to discuss the annual levy, as required. However, the Forum would play an advisory role vis-à-vis Council and would have no decision-making function.

- Presidents would be able to attend Council meetings and take part in debate but would not have voting rights.

Law Society CEOs:

- In recognition of the valuable role that law society CEOs play in supporting the work of the Federation, the practice of having occasional informal CEO meetings would be replaced by the establishment of a "CEOs' Forum".

- This Forum would be convened from time to time to discuss issues pertinent to the Federation, and would in particular, once a year, provide collective advice to law society Presidents and to Council with regard to the Federation's strategic plan and its priorities.

- As in the case of the Presidents Forum, the CEOs' Forum would play an advisory role vis-à-vis Council.

Pros and Cons of Option One

Pros:

- If effectively implemented by both law societies and the Federation, this option should effect some improvements in the functioning of Council.

- It somewhat clarifies the role of both law society Presidents and CEOs in decision-making.

- It does not involve significant change to existing Federation structures, which may make it attractive to some individuals.

Cons:

- This option does not deal with the basic lack of clarity in the role of Council members (fiduciary vs. representative functions).

- Restricting Presidents to an advisory role vis-à-vis Council may be seen as paradoxical.

- It is not clear whether this option would deal effectively with the problem of "corridor decision-making" or "rubberstamping" which were concerns raised with respect to Council as currently constituted.

- This option relies heavily on law societies to adopt new practices with respect to appointments and communication. There may be a risk that these practices will erode over time, leading to a recurrence of problems now facing the Federation with respect to its governance.

- This option may not adequately address concerns expressed with regard to the need for more transparency and clarity in Federation decision-making.

Option Two – A New General Assembly and Board of Directors

This option involves a restructuring of Federation decision-making with a view to more clearly delineating responsibilities for different types of decisions. Those that are more strategic in nature, and thus appropriately taken by representatives of law societies, are assigned to a General Assembly. Those that are more fiduciary or operational in nature, having to do with ongoing oversight of the Federation as an organization and its key initiatives, would be assigned to a new entity that we are provisionally calling the Federation Board of Directors. Under this option, Council would be discontinued in favour of these two bodies.

General Assembly of Law Societies:

- The Federation currently has an Annual General Meeting of members as required by law, but it is only a pro forma process. Under this option, the role of the General Assembly would be amplified or extended. This would be the forum for members to exercise strategic control of the Federation.

- The role of the General Assembly would be to determine the major priorities of the Federation, to approve its strategic plan, to determine how to deal with major policy issues, and to approve the annual levy of the Federation.

- Opportunities for meaningful debate at the General Assembly would be built-in through an agenda-setting process that would include an annual calendar for meetings (as in Option One) that would forecast topics for discussion, thereby allowing for effective meeting preparation.

- The General Assembly would meet twice per year.

- As a General Assembly of members, each law society would be entitled to one vote exercised by the law society President or delegate.

- The Presidents would be joined at the General Assembly table by their CEOs who would have the right to speak and take part in debate, but not the right to vote.

- Members of the Board of Directors (see below) and the Federation CEO would be present at the General Assembly with the right to speak and take part in debate, but not the right to vote.

- The Federation President would be the Chair of the General Assembly.

- Law society Benchers or council members, as well as designated law society and Federation personnel would be entitled, indeed encouraged, to observe meetings of the General Assembly without the right to take part in debate or to vote.

Federation Board of Directors:

- Under this option, Council would be replaced by a new decision-making body, which might be called the Federation Board of Directors. This Board would closely resemble the conventional board of directors of any non-profit organization.

- The new Board would be smaller than the current Council with no more than seven members, would be skills-based and not representative of the law societies.

- Three Board members would be the officers on the presidential ladder: the President, the Vice-President and President-elect and the Vice President.

- The Past-President would not be a member of the Board.

- The current Executive Committee would no longer be required since the entire Board would be small and nimble enough to effectively oversee the Federation on an ongoing basis and implement the priorities set by the General Assembly.

- The four members of the Board that are not on the Presidential ladder would be appointed on the basis of their competency and experience, not on the basis of where they came from. These board members would serve staggered three-year terms.

- A Nominating Committee, accountable to the General Assembly, would recommend any elections or replacement candidates, as required, among the merit-based appointments to the Board based on a competency matrix in a way that is comparable to how the CanLII Board Nominating Committee currently functions.

- The role of Board members would be more clearly fiduciary in nature. Its role would be to carry out ongoing oversight of the administration and operations of the Federation, implement the strategic plan and priorities set by the General Assembly, and oversee the performance of the Federation CEO.

- The Board would ensure that Federation committees are appropriately mandated and constituted on the advice of a Nominating Committee.

- Committees, once appointed, would be accountable to the Board. There may be exceptions where the reporting function of a Committee may be to the General Assembly.

- A Finance and Audit Committee, accountable to the Board of Directors and appropriately constituted with qualified individuals, would be established. This committee's terms of reference would be subject to approval by the General Assembly.

Law Society CEOs:

- A CEOs' Forum would be established with responsibilities similar to those outlined in Option One, adapted as required.

Pros and Cons of Option Two

Pros:

- This option directly addresses the issue of Presidents' ill-defined role in decision-making by providing for greater clarity as to who does what. It more clearly situates strategic decision-making in the hand of the political leaders of the Federation's members without creating a confusing role for Council members as "messengers" for their law societies.

- Likewise the Board of Directors that would replace Council would have a more clearly defined mandate, and its role would be more in line with recent legislative developments related to non-profit organizations in Canada.

- It addresses directly the issue of board competence.

- It removes the issue of role confusion that plagues current Council members.

- This Option provides more opportunity than does Option One to address issues of gender balance and diversity in Federation governance.

Cons:

- Change is often seen as leading to too much uncertainty. This option involves a restructuring of Federation governance that some may find unsettling.

- This option more clearly illustrates the challenges of leaving strategic decisions in the hands of a body (the General Assembly) whose membership is frequently changing (law society Presidents).

If Option Two is considered worthy of exploration, more work will be required to elaborate on its details, and answer any questions that might be raised with respect to its composition or functioning.

Question: Which of these options appears to be more promising? Are there modifications that might strengthen one or the other? Would there be merit in doing further work to flesh out the details of Option Two?

LEADERSHIP OF THE FEDERATION

When the Governance Review Committee was established, some individuals perceived the issue of presidential rotation as the most important governance issue facing the Federation. However in our consultations, others saw this issue as somewhat less important relative to other areas of concern. Either way, it seems clear that the leadership of the Federation has a significant impact on its effectiveness.

The President

In our Committee's view, the job of the President involves complex and demanding responsibilities that make very significant demands upon the incumbent's time. While a President may be able to keep his or her legal practice going, doing the President's job certainly requires at least a half time commitment and may well require much more. The job involves the following responsibilities:

- Developing and maintaining key relationships with law society leaders;
- Building and maintaining political connections external to the Federation;
- Acting as a spokesperson for the Federation with the media;
- Representing the Federation at international meetings and at other legal forums;
- Providing overall leadership to the Federation;
- Guiding the deliberations of the Federation's key decision-making bodies, including the development or refinement of the strategic plan, the setting of priorities, and the establishment of agendas for governance meetings in concert with the CEO;
- Chairing Council or other governance meetings;
- Liaison with Executive Committee members;
- Crisis management as necessary; and
- Objective setting and performance evaluation for the CEO.

In principle, the incumbent of this position would seem to require the following capabilities or competencies:

- Strong leadership skills and personal credibility;
- An ability to foster and build effective relationships;
- Excellent political antennae;

- An effective public speaker;
- A broad understanding of the major issues facing the legal profession in Canada; and
- If possible, reasonable fluency in both of Canada's official languages.

Question: Can we agree on this as a valid description of the responsibilities and basic competencies for the Federation President?

We suggest for consideration two options with regard to the President's role and the method of his or her appointment.

Option A – A Clearer Regional Rotation

This option is reasonably close to the current status quo.

- The process would be a slightly modified regional rotation system for the position of Vice President based on a selection from a region that would rotate over a nine year cycle, where the four southern regions (West, Ontario, Quebec and Atlantic) would rotate twice per cycle and the northern region would rotate once per cycle.
- The current provision for a "wildcard" year would be removed.
- The policy with respect to what happens if a region defers its turn would be clarified.
- The policy with respect to what happens in the case of a vacancy would be clarified.
- The selection of the candidate would be determined within each region.
- A policy would be added to deal with situations where the law societies within a region cannot reach consensus as to who their candidate should be in a given year.
- The President would continue to serve for a one year term.
- The President would likely receive an increased honorarium based on benchmarking against similar organizations.
- The role would not formally be considered a full-time position.
- An agreed list of presidential competencies and eligibility criteria (such as that outlined above) would be recommended to law societies as guidance for the relevant region.

Pros and Cons of Option A

Pros:

- The path of least resistance with which many people will feel comfortable.
- The rotation will guarantee that a region will "see itself" reflected in the Presidency from time to time over a fixed number of years.
- The selection process will be made clearer and more predictable even in situations that are not routine, such as when vacancies or other unforeseen circumstances arise.
- The merit concept, though not dominant, will be addressed by competency guidelines.

Cons:

- The status quo will not satisfy those who believe that the best qualified candidates may be overlooked because it is not the turn of the region or jurisdiction where the best candidate is thought to be located.
- The use of a competency guideline, though an improvement over the status quo, may not be seen as having enough weight since its application is left to the discretion of the jurisdictions putting forward potential candidates.

Option B – Merit Applied to Regional Rotation

This option goes further towards ensuring that the individual selected as Vice President (and ultimately President) has the appropriate mix of attributes and capabilities to be able to perform the job effectively. There may be other permutations of this option to consider as well.

- A Vice Presidential Nominating Committee is convened to make a recommendation of one or more candidates who are put forward by designated regions according to a rotation sequence agreed to by the law societies.

  Sub-Option 1 – the system is designed in a way that each region continues to have a guaranteed nominee over a period of time such that it may be possible for the overall preferred candidate to be overlooked in a given year because of the operation of the guarantee that year in favour of a different region than the one where the overall preferred candidate is located; or

  Sub-Option 2 – the system is designed in a way where there is a guarantee for a region to be considered but no guarantee for a region to be selected over a period of time since the overall preferred candidate can come from any region.

- The Nominating Committee would be composed of the Vice President and President elect of the Federation, the Past President and possibly one member at large with no political stake in the outcome.

- A candidate whose name is put forward would be evaluated on the basis of a list of competencies agreed upon by the law societies.

- The Nominating Committee recommends one or more candidates.

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- The final selection rests with all of the law societies.

- The President would continue to serve for a one-year term.

- The President would likely receive an increased honorarium based on benchmarking against similar organizations.

- The role would not formally be considered a full-time position.

Pros and Cons of Option B

Pros:

- This option will satisfy those who wish to place more emphasis on the merit principle than the regional rotation.

- It may be possible to devise a system that results in selecting the best candidate most of the time, and still preserve the regional rotation principle.

Cons:

- This option is more complicated than Option A and would make the presidential selection process less predictable.

- Depending on the pool from which potential candidates may be drawn, having regard to whether we preserve the current Council structure, the unpredictability of the process may affect who might be willing to allow their name to be considered for the position.

- Unless a culture of healthy competition for the position takes hold, individuals may prefer to opt out in order to favour another candidate deemed more “deserving” of a turn, something which could defeat the idea of the best candidate being selected.

Question: Which of these options appears to be more promising? Are there modifications that might strengthen one or the other? Would there be merit in doing further work to flesh out the details of Option B?

The Executive

Questions around effective leadership of the Federation also involve what if any improvements can be made with regard to the Executive Committee. We believe some of these answers are linked to the overall decision-making structures that are ultimately agreed upon.

In Option One (A Better Status Quo), the overall functioning of the Council would be improved by more clearly focusing its role on strategic matters and encouraging effective communication between the Council member and law societies. In this scenario, we do not envisage significant change in the role or composition of the Executive Committee. Given its relatively small size, it continues to be practical for such a body to have day-to-day oversight of the Federation with accountability to the Council. Concerns around matters relating to appointment of Committees or financial oversight would be addressed by the addition of a Nominating Committee and a Finance and Audit Committee.

Option Two (A New General Assembly and Board of Directors) would eliminate the Executive Committee concept entirely, since the smaller Board that includes all of the officers would carry out all of the functions now performed by the Executive. The current Executive consists of four individuals plus the CEO and the new Board would consist of seven. It may be marginally more cumbersome for the new Board to meet compared to the current Executive given the realities that come with involving a few more people with busy schedules across Canada's time zones. Option Two will also benefit from the addition of a Nominating Committee and a Finance and Audit Committee.

When reflecting on which options to prefer, whether in respect of decision-making generally or ongoing leadership of the Federation, it will be important to bear in mind the practical matter of ensuring solid and effective ongoing stewardship of the organization in between the meetings of deliberative bodies, whether Council or the General Assembly, whose primary focus will be on strategic issues.

MORE SPECIFIC ISSUES

In addition to the foregoing areas related to broad aspects of the Federation's governance, we identified a number of areas related to more specific improvements that we believe most members will agree should be implemented. These are set forth below.

- A more effective and accessible Federation intranet site.
- A formalized CEO performance review.
- Implementation of a Federation orientation program for individuals in leadership positions (in both Option One and Option Two).
- Refinement of role statement and development of competencies for the Federation President.

- Refinement of role statement and development of competencies for Council members (Option One) or Board members (Option Two).

- An evaluation process for the members of Council or the Board, as the case may be.

CONCLUSION

It is our hope that with further discussion, we will continue to be able to shape the contours of the governance improvements that are required. Our next conversation will take place in June in Ottawa. At that time, the Committee will still be in listening mode, and it may be that we will come close to arriving at a consensus on many, but not all, issues. Hopeful as we may be, we are also mindful that progress will depend on the level of comfort and buy-in expressed by law societies with the direction in which we are headed. We are committed to taking all perspectives into account, and respecting individual law society deliberative processes as we move forward with our reflection and analysis through the summer.

Appendix 1 – Bencher Governance Policies

Statement of Investment Policies and Procedures

For

The Law Society of British Columbia

Adopted: July 18, 2005

Revised: May 8, 2009

Revised: March 5, 2010

Revised: June 30, 2015

Table of Contents

1. General

1.1 Application

These investment guidelines ("Investment Guidelines") apply to the investment funds (the "Funds") owned and controlled by the Law Society of British Columbia (the "Law Society") for which the Law Society has retained external investment management.

An investment manager providing services in connection with the Law Society's investment assets must adhere to these guidelines.

1.2 Compliance

All Funds will be managed in accordance with all applicable legal requirements notwithstanding any indication to the contrary which may be construed from these guidelines.

All investment activities by the investment managers will be made in accordance within the scope of the Code of Ethics and Standards of Practice of the CFA Institute and the Code of Ethics established by the investment management firms retained to manage the Fund assets.

1.3 Pooled Funds

Pooled funds are managed under guidelines established by the investment manager for each pooled fund approved for use within the Investment Guidelines. It is recognized that from time to time, when pooled funds are used, it may not be entirely possible to maintain complete adherence to the Investment Guidelines. However, the investment manager is expected to advise the Finance Committee if a pooled fund exhibits, or may exhibit, any significant departure from the Investment Guidelines. The Finance Committee may accept the non-compliance, or take such further action as may be required, and the Finance Committee shall report any such action to the Benchers on a quarterly basis.

1.4 Effective Date

A reasonable transition period is expected to bring assets, now subject to these Investment Guidelines, into compliance.

2. Responsibilities

2.1 Plan Administration

The Benchers have the sole power to amend or terminate the application of the Investment Guidelines.

2.2 Delegation

The Benchers may delegate all of their responsibilities related to the Investment Guidelines, except for changes to these Investment Guidelines, to a Committee, to Law Society staff or to investment managers.

2.3 Investment Managers

The investment managers are responsible for:

- Selecting securities within the asset classes assigned to them, and the mix of asset classes, subject to applicable legislation and the constraints set out in these Guidelines;
- Providing the Law Society with a monthly report of portfolio holdings;
- Providing the Law Society with a quarterly compliance report and a review of investment performance and future strategies;
- Attending meetings at the Law Society at least twice per year, at the discretion of the Law Society, to review performance and to discuss investment strategies;
- Informing the Law Society promptly of any investments which do not comply with these guidelines and what actions will be taken to remedy this situation; and
- Advising the Law Society of any element of these Guidelines that could prevent attainment of the Law Society's investment objectives.

2.4 Standard of Care

In exercising their responsibilities the Benchers, Committees, and Law Society staff shall exercise the degree of care, diligence and skill that a person of ordinary prudence would exercise in dealing with the property of another person.

In exercising their responsibilities, the investment managers, as persons who possess, or because of their profession, business or calling, ought to possess, a particular level of knowledge or relevant skill, shall apply that particular knowledge to the administration of these guidelines.

3. Account Management

3.1 Overview of Accounts

The Law Society maintains several investment accounts for which different portions of the Investment Guidelines have application.

3.2 Lawyers Insurance Fund - LT Account

The Lawyers Insurance Fund - LT Account is subject to all of the provisions of the Investment Guidelines.

3.3 Courthouse Libraries BC Account

The Courthouse Libraries BC Account is subject to all of the provisions of the Investment Guidelines, except Sections 4 and 5. In lieu of those sections, the investments are invested as directed by the Courthouse Libraries BC.

3.4 Unclaimed Trust Funds Account

The Unclaimed Trust Funds Account is subject to all of the provisions of the Investment Guidelines, except Sections 4 and 5. In lieu of those sections:

- the investment objective is to earn a rate of return of 3.0% per year
- the Benchmark Portfolio shall consist of 100% fixed income investments.

3.5 Captive Insurance Company Account

The Captive Insurance Company Account is subject to all of the provisions of the Investment Guidelines, except Sections 4 and 5. In lieu of those sections:

- the investment objective is to earn a rate of return of 3.0% per year
- the Benchmark Portfolio shall consist of 100% fixed income investments.

3.6 Lawyer Insurance Fund - ST Account

The Lawyers Insurance Fund – ST Account is subject to all of the provisions of the Investment Guidelines, except Sections 4 and 5. In lieu of those sections:

- the investment objective is to earn a rate of return of 1% per year
- the Benchmark Portfolio shall consist of 100% short term investments.

4. Fund Objectives

4.1 Investment Philosophy

The overall investment philosophy of the Funds is to maximize the long-term real rate of return subject to an acceptable degree of risk.

4.2 Investment Objectives

The primary objective of the portfolio is inflation-adjusted capital growth to meet the Law Society's future errors and omission and defalcation claim funding requirements and operational costs. Over the 10-year period 2015 to 2024, the target rate of return of the investments is at least 5.5% per year, net of investment management expenses.

The Law Society's long-term funding requirements and relatively low requirement for asset liquidity dictate a moderate risk portfolio with a mix of fixed income, equity, real estate and mortgages. It is expected that the value of the portfolio will fluctuate as market conditions and interest rates change.

4.3 Investment Constraints

- Time Horizon: The portfolio has a long-term time horizon.
- Liquidity Requirements: Liquidity requirements are expected to be low.
- Tax Considerations: The Law Society is a non-taxable entity.
- Legal and Regulatory Considerations: Other than regulations governing the tax-exempt status of the Society, there are no legal constraints on the portfolio outside the provisions of the Legal Profession Act.
- The Law Society has no unique preferences in regard to its investment approach.

5. Asset Allocation and Investment Management Mandates

5.1 Benchmark Portfolio and Asset Allocation Ranges

The Benchmark Portfolio is the portfolio consisting of specified asset class indices combined in specified percentages that is intended to meet the investment objectives. The Law Society has established the following Benchmark Portfolio that is expected to achieve the investment objectives. Each asset class shall be maintained within the minimum and maximum, as set out below.

		Asset Class Percentages (market value)		
Asset Class	**Asset Class Benchmark Index**	**Minimum**	**Benchmark**	**Maximum**
Canadian Equities	S&P / TSX Composite Index	8%	17.5%	24%
Foreign Equities	MSCI-World Index (CAD)	16%	27.5%	36%
Total Equities		**24%**	**45%**	**56%**
Bonds	FTSE TMX Canada Universe Bond Index	24%	30%	56%
Cash and Short Term	FTSE TMX Canada 91-Day Treasury Bill Index	0%	5%	16%
Mortgages	FTSE TMX Canada Short Term Bond Index + 1%	8%	10%	12%
Real Estate	REALpac / IPD Canada Quarterly Property Index	8%	10%	12%

5.2 Investment Management Structure

As of approximately July 2015, the Funds will be invested by four managers as follows:

	Asset Class Percentages (market value)		
Manager	**Minimum**	**Benchmark**	**Maximum**
Balanced Manager 1	37%	40%	43%
Balanced Manager 2	37%	40%	43%
Real Estate Manager	8%	10%	12%
Mortgage Manager	8%	10%	12%

a. Balanced Managers' Asset Mix

Each Balanced Manager shall have the following Balanced Benchmark Portfolio and shall manage its assets within the following allowable ranges for each asset class.

		Asset Class Percentages (market value)		
Asset Class	**Asset Class Benchmark Index**	**Minimum**	**Benchmark**	**Maximum**
Canadian Equities	S&P / TSX Composite Index	10%	22%	30%
Foreign Equities	MSCI-World Index (CAD)	20%	34.5%	45%
Total Equities		**30%**	**56.5%**	**70%**
Bonds	FTSE TMX Canada Universe Bond Index	30%	37.5%	70%
Cash and Short Term	FTSE TMX Canada 91-Day Treasury Bill Index	0%	6%	20%

b. Real Estate Manager Asset Mix

The Real Estate Manager shall invest its assets in a Real Estate Pooled Fund.

c. Mortgage Manager Asset Mix

The Mortgage Manager shall invest its assets in a Mortgage Pooled Fund.

5.3 Investment Manager Mandates

a. Balanced Managers

Each Balanced Manager's target rate of return, on average over rolling four-year periods, after the deduction of investment management fees, is the rate of return of the Balanced Benchmark Portfolio over that period, plus 1%.

b. Real Estate Manager

The Real Estate Manager's target rate of return, on average over rolling four-year periods, after the deduction of investment management fees, is the rate of return of the REALpac / IPD Canada Quarterly Property Index for real estate.

c. Mortgage Manager

The Mortgage Manager's target rate of return, on average over rolling four-year periods, after the deduction of investment management fees, is the rate of return of the FTSE TMX Canada Short Term Bond Index + 1%.

5.4 Active Asset Mix Management

Each Balanced Manager shall maintain the asset mix of their portion of the Funds within the ranges set out in Section 5.2a.

5.5 Re-Balancing

The Law Society will review the Funds' allocation to each manager on a quarterly basis. Periodically, the Law Society shall consider whether to re-balance the Funds so that the manager assets are in line with the targets in Section 5.2.

Further, periodically, the Law Society may re-balance through cash flows: providing net cash to managers in underweight positions and taking needed cash from managers in overweight positions.

6. Permitted Investments

6.1 List of Permitted Investments

a. Canadian Equities:

Common and preferred stocks, income trusts, debt securities that are convertible into equity securities, rights and warrants.

b. Foreign Equities:

- Common and preferred stocks, depository receipts, debt securities that are convertible into equity securities, rights, warrants; any of which may be denominated in foreign currency

c. Short-term instruments, subject to limitations in Section 7.3:

- Cash;
- Demand or term deposits;
- Short-term notes;
- Treasury Bills;
- Bankers acceptances;
- Commercial paper; and
- Investment certificates issues by banks and insurance and trust companies

d. Fixed Income instruments, subject to limitations in Section 7.3:

- Bonds, debentures and other evidence of indebtedness issued or guaranteed by Canadian federal, provincial and municipal governments and agencies, Canadian corporations, non-Canadian government and corporate issuers, issued in Canadian or non-Canadian currency;
- Private Placements;
- Debentures (convertible and non-convertible);
- Mortgages, mortgage-backed securities; and
- Any other securities with debt-like characteristics that are constituents of the FTSE TMX Canada Universe Bond Index.

e. Real estate investments made either through closed or open-ended pooled funds, or through participating shares or debentures of corporations or partnerships formed to invest in commercial real estate.

f. Pooled funds and closed-end investment companies in any or all of the above permitted investment categories are allowed.

6.2 Derivatives

Investment in derivative instruments and futures contracts may be used for replication or hedging purposes to facilitate the management of risk or to facilitate an economical substitution for a direct investment. Under no circumstances will derivatives be used for speculative purposes or to create leveraging of the portfolio.

6.3 Prohibited Transactions

Investment managers will not engage in the following unless first permitted in writing by the Benchers:

- Purchase of securities on margin;
- Loans to individuals;
- Short sales; and
- Investments in venture capital, resource properties, hedge funds and commodity funds.

6.4 Securities Lending

Securities lending is permitted only in pooled funds, and only if the investment manager has disclosed to Law Society the terms and conditions that apply to securities lending within each pooled fund.

7. Investment Restrictions

7.1 Canadian Equities

a. No more than 10% of the market value of the assets of a Canadian equity portfolio may be invested in the equity securities of any one company.

b. At any given time, a Canadian equity portfolio is expected to be invested in no less than seven subsectors of the S&P/TSX Composite Index. The portion of a Canadian equity portfolio invested in a subsector shall not exceed the lesser of 40% or the subsector weight of the index plus 10%.

c. No more than 10% of the market value of the assets of the Canadian equity portfolio may be invested in companies with a capitalization of less than $1 billion.

d. The 10 largest stocks by market capitalization of a Canadian equity portfolio may not account for more than 50% of the market value of the assets of that equity portfolio.

7.2 Foreign Equities

a. No more than 10% of the market value of the assets of a foreign equity portfolio may be invested in the equity securities of any one company.

b. No more than 30% of the market value of the assets of a foreign equity portfolio may be invested in a single country, except the United States.

c. No more than 60% of the market value of the assets of a foreign equity portfolio may be invested in the United States.

d. No more than 10% of the market value of the assets of a foreign equity portfolio may be invested in companies with a capitalization of less than $2 billion.

e. The 10 largest stocks by market capitalization may not account for more than 40% of the market value of the assets of the foreign equity portfolio.

7.3 Fixed Income, including Short-Term Securities

a. No more than 15% of a fixed income portfolio shall be invested in bonds with a BBB rating. Short-term and fixed income instruments rated below BBB are not permitted.

b. Maximum holdings for the fixed income portfolio by the issuer are: 100% for Government of Canada, 50% for Provincial bonds A-rated or higher, 50% for Corporate bonds, 15% for investment-grade asset-backed securities of which 10% will be rated at least A, 15% for

domestic bonds denominated for payment in non-Canadian currency and 10% for real return bonds.

c. All debt ratings refer to the ratings of the Dominion Bond Rating Service (DBRS), Standard & Poor's or Moody's. In the event that a security is rated differently by one or more of the rating agencies, the highest rating shall apply.

d. No more than 10% of the market value of the fixed income portfolio may be invested in a single short term or fixed income instrument that is not issued by the Government of Canada or a Provincial government (including government guaranteed issuers and agencies).

f. Private Placements are permitted subject to the following conditions:

i. The restrictions and limitations identified in the Investment Guidelines for publicly traded securities must be adhered to,

ii. Maximum 3% of the market value of any one private placement,

iii. Sufficient liquidity to ensure the sale of the private placement in a reasonable time and a reasonable price.

g. The minimum rating for short-term securities is R1 (low).

8. Other Matters

8.1 Valuation of Investments

a. Investments in publicly traded securities shall be valued no less frequently than monthly at their market value.

b. Investments in pooled funds comprising of publicly traded securities shall be valued according to the unit values published at least monthly by the investment manager.

c. If a market valuation of the investment is not readily available, then the investment manager shall determine a fair value. For each such non-traded investment, an estimate of fair value shall be provided by the investment manager quarterly. In all cases, the methodology should be applied consistently over time.

d. The Benchers shall be provided with a qualified independent appraiser's evaluation of all such non-traded investments not less frequently than every three years, or annually where the investments represent more than 2% of the invested assets.

8.2 Conflict of Interest

a. It is a conflict of interest for anyone with authority or control over the invested assets to have an interest in the invested assets of sufficient substance and proximity to impair their ability to render unbiased advice or to make unbiased decisions affecting the investments.

b. Anyone who has a potential or actual conflict of interest as defined in section 8.2.a must disclose it as soon as possible to the President who, in turn, shall disclose it all to the Benchers at an appropriate time.

8.3 Proxy Voting Rights

a. Proxy voting rights on securities held are delegated to the investment manager.
b. The investment manager maintains a record of how voting rights of securities in each fund were exercised.

9. Monitoring

9.1 Monthly Investment Reports

Each month, each investment manager will provide an investment report containing the following information:

a. Portfolio holdings at the end of the month;

b. Portfolio transactions during the month;

c. Rates of return for the portfolio, compared to relevant indices or benchmarks; and

d. Commentary on any material changes with the investment manager.

9.2 Quarterly Investment Reports

At the end of each calendar quarter, each investment manager will provide an investment report containing the following information:

a. Rates of return for the portfolio and each asset class;

b. The rate of return of the Benchmark Portfolio;

c. Details of all asset-backed securities held;

d. A commentary on the investment performance, including a comparison to the rate of return of the Benchmark Portfolio; and

e. A commentary on the markets including market outlook and management strategy.

9.3 Quarterly Compliance Reports

Each investment manager will provide the Law Society with a report at the end of each quarter. Such report will contain:

a. Confirmation that each pooled fund managed by the investment manager complies with the Investment Guidelines established by the investment manager, and, if not, an explanation of the areas of non-compliance and the plan by the investment manager to put the pooled fund into compliance;

b. Confirmation that each pooled fund managed by the investment manager agrees with these Investment Guidelines, and, if not, an explanation of the areas of non-compliance; and

c. Confirmation that the Funds have been managed in accordance with these Investment Guidelines.

9.4 Meetings with the Law Society

Each investment manager will meet at least twice per year with the Law Society. At these meetings, the investment manager will:

a. Review the rate of return achieved by the funds;

b. Review capital market performance and expectations of future returns;

c. Discuss any areas of non-compliance with the Investment Guidelines, and comment on the implications of such non-compliance;

d. Provide any information concerning new developments affecting the firm and its services; and

e. Comment on the continued appropriateness of the Investment Guidelines.

10. Investment Guidelines Review

10.1 Review

The Investment Guidelines will be reviewed within three years of each previous review.

10.2 Material Changes

Material changes in the following areas may require a need for a revision of the Investment Guidelines:

a. Long-term risk/return/correlation tradeoffs in capital markets;
b. Risk tolerance of the Benchers;
c. Legislation or regulation; and
d. Shortcomings of the Investment Guidelines that emerge in its practical application or significant modifications that are recommended to the Benchers by the investment managers
e. Change in objectives and/or constraints of the funds.

11. Investment Guidelines Approval

The Benchers have approved the Investment Guidelines originally at the Benchers meeting in November 2001 and updated in July 2005 and April 2009, as amended with approval of the Audit Committee in January 2002 and May 2005, and as amended with approval of the Finance Committee in May 2009, March 2010 and June 2015.

REDACTED MATERIALS

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The Law Society of British Columbia

BC Code Rule 3.7-9: Lawyers' Notification Obligations on Withdrawal

June 9, 2015

Purpose of Report: **Recommendation for Change to BC Code**

Prepared by: **Ethics Committee**

The Law Society of British Columbia

Memo

To: Benchers

From: Ethics Committee

Date: June 9, 2015

Subject: **Rule 3.7-9: Lawyers' notification obligations on withdrawal**

I. Background

A group of representatives from the Professional Conduct Department and Discipline departments meets regularly to identify potential gaps in the BC Code compared to the old *Professional Conduct Handbook*. The group has brought to our attention a gap in the current rules relating to a lawyer's obligation to notify the court, opposing parties and counsel of the lawyer's withdrawal that we believe ought to be closed.

The old *Professional Conduct Handbook* in Chapter 10, Rule 8 required lawyers to immediately notify parties, in writing, of their withdrawal. In contrast, rule 3.7-9 of the *BC Code* and commentary [3] to rule 3.7-1 arguably treat this step as non-urgent and discretionary. In Section 3.7-9 the word "immediate" is not present and commentary [3] of rule 3.7-1 states that a lawyer "should" (rather than "must") notify the court and opposing parties of the withdrawal, but does not specify when or how. The *Cod*e is silent with respect to a lawyer's responsibility to notify opposing counsel or adjudicators in non-court matters such as administrative law litigation or solicitor's work.

II. Relevant *BC Code* Rules

Rule 3.7-1 currently states

3.7-1 A lawyer must not withdraw from representation of a client except for good cause and on reasonable notice to the client.

Commentary

[1] Although the client has the right to terminate the lawyer-client relationship at will, a lawyer does not enjoy the same freedom of action. Having undertaken the representation of a client, the lawyer should

complete the task as ably as possible unless there is justifiable cause for terminating the relationship. It is inappropriate for a lawyer to withdraw on capricious or arbitrary grounds.

[2] An essential element of reasonable notice is notification to the client, unless the client cannot be located after reasonable efforts.-No hard and fast rules can be laid down as to what constitutes reasonable notice before withdrawal and how quickly a lawyer may cease acting after notification will depend on all relevant circumstances. When the matter is covered by statutory provisions or rules of court, these will govern. In other situations, the governing principle is that the lawyer should protect the client's interests to the best of the lawyer's ability and should not desert the client at a critical stage of a matter or at a time when withdrawal would put the client in a position of disadvantage or peril. As a general rule, the client should be given sufficient time to retain and instruct replacement counsel. Nor should withdrawal or an intention to withdraw be permitted to waste court time or prevent other counsel from reallocating time or resources scheduled for the matter in question. See rule 3.7-8 (Manner of withdrawal).

[3] Every effort should be made to ensure that withdrawal occurs at an appropriate time in the proceedings in keeping with the lawyer's obligations. The court, opposing parties and others directly affected should also be notified of the withdrawal.

[4] When a lawyer leaves a law firm to practise alone or to join another law firm, the departing lawyer and the law firm have a duty to inform all clients for whom the departing lawyer is the responsible lawyer in a legal matter that the clients have a right to choose who will continue to represent them. The same duty may arise when a firm is winding up or dividing into smaller units.

[5] This duty does not arise if the lawyers affected by the changes, acting reasonably, conclude that the circumstances make it obvious that a client will continue as a client of a particular lawyer or law firm.

[6] When this Chapter requires a notification to clients, each client must receive a letter as soon as practicable after the effective date of the changes is determined, informing the client of the right to choose his or her lawyer.

[7] It is preferable that this letter be sent jointly by the firm and any lawyers affected by the changes. However, in the absence of a joint announcement, the firm or any lawyers affected by the changes may send letters in substantially the form set out in a precedent letter on the Law Society website (see Practice Resources).

[8] Lawyers whose clients are affected by changes in a law firm have a continuing obligation to protect client information and property, and must minimize any adverse effect on the interests of clients. This obligation generally includes an obligation to ensure that files transferred to a new lawyer or law firm are properly transitioned, including, when necessary, describing the status of the file and noting any unfulfilled undertakings and other outstanding commitments.

[9] The right of a client to be informed of changes to a law firm and to choose his or her lawyer cannot be curtailed by any contractual or other arrangement.

[10] With respect to communication other than that required by these rules, lawyers should be mindful of the common law restrictions upon uses of proprietary information, and interference with contractual and professional relations between the law firm and its clients.

Rule 3.7-9 currently states:

3.7-9 On discharge or withdrawal, a lawyer must:

(a) notify the client in writing, stating:

(i) the fact that the lawyer has withdrawn;

(ii) the reasons, if any, for the withdrawal; and

(iii) in the case of litigation, that the client should expect that the hearing or trial will proceed on the date scheduled and that the client should retain new counsel promptly;

(b) subject to the lawyer's right to a lien, deliver to or to the order of the client all papers and property to which the client is entitled;

(c) subject to any applicable trust conditions, give the client all relevant information in connection with the case or matter;

(d) account for all funds of the client then held or previously dealt with, including the refunding of any remuneration not earned during the representation;

(e) promptly render an account for outstanding fees and disbursements;

(f) co-operate with the successor lawyer in the transfer of the file so as to minimize expense and avoid prejudice to the client; and

(g) comply with the applicable rules of court.

Commentary

[1] If the lawyer who is discharged or withdraws is a member of a firm, the client should be notified that the lawyer and the firm are no longer acting for the client.

[3] The obligation to deliver papers and property is subject to a lawyer's right of lien. In the event of conflicting claims to such papers or property, the lawyer should make every effort to have the claimants settle the dispute.

[4] Co-operation with the successor lawyer will normally include providing any memoranda of fact and law that have been prepared by the lawyer in connection with the matter, but confidential information not clearly related to the matter should not be divulged without the written consent of the client.

[5] A lawyer acting for several clients in a case or matter who ceases to act for one or more of them should co-operate with the successor lawyer or lawyers to the extent required by the rules and should seek to avoid any unseemly rivalry, whether real or apparent.

III. Former Rules from the *Professional Conduct Handbook*

The old *Professional Conduct Handbook* identified a procedure for withdrawal in Chapter 10, Rule 8:

Procedure for withdrawal

8. Upon withdrawal, the lawyer must immediately:

(a) notify the client in writing, stating:

(i) the fact that the lawyer has withdrawn,

(ii) the reasons, if any, for the withdrawal, and

(iii) in the case of litigation, that the client should expect that the hearing or trial will proceed on the date scheduled and that the client should retain new counsel promptly,

(b) notify in writing the court registry where the lawyer's name appears as counsel for the client that the lawyer has withdrawn and, where applicable, comply with any other requirements of the tribunal,[2]

(c) notify in writing all other parties, including the Crown where appropriate, of the severance or withdrawal,

(d) account to the client for:

(i) any money received for fees or disbursements, and

(ii) any valuable property held on behalf of the client, and

(e) take all reasonable steps to assist in the transfer of the client's file.

IV. Recommendation

We recommend that rule 3.7-9 be modified according to the attached proposal to require that lawyers promptly notify the client, other counsel and the court or tribunal of the lawyer's withdrawal.

Attachments:

- Draft changes to rule 3.7-9. [844042 & 844050]
- Suggested resolution. [847443]

[843437/2015]

3.7 Withdrawal from representation

3.7-1 A lawyer must not withdraw from representation of a client except for good cause and on reasonable notice to the client. -

Commentary

[1] Although the client has the right to terminate the lawyer-client relationship at will, a lawyer does not enjoy the same freedom of action. Having undertaken the representation of a client, the lawyer should complete the task as ably as possible unless there is justifiable cause for terminating the relationship. It is inappropriate for a lawyer to withdraw on capricious or arbitrary grounds.

[2] An essential element of reasonable notice is notification to the client, unless the client cannot be located after reasonable efforts.-No hard and fast rules can be laid down as to what constitutes reasonable notice before withdrawal and how quickly a lawyer may cease acting after notification will depend on all relevant circumstances. When the matter is covered by statutory provisions or rules of court, these will govern. In other situations, the governing principle is that the lawyer should protect the client's interests to the best of the lawyer's ability and should not desert the client at a critical stage of a matter or at a time when withdrawal would put the client in a position of disadvantage or peril. As a general rule, the client should be given sufficient time to retain and instruct replacement counsel. Nor should withdrawal or an intention to withdraw be permitted to waste court time or prevent other counsel from reallocating time or resources scheduled for the matter in question. See rule 3.7-8 (Manner of withdrawal).

[3] Every effort should be made to ensure that withdrawal occurs at an appropriate time in the proceedings in keeping with the lawyer's obligations. The court, opposing parties and others directly affected should also be notified of the withdrawal.

[4] When a lawyer leaves a law firm to practise alone or to join another law firm, the departing lawyer and the law firm have a duty to inform all clients for whom the departing lawyer is the responsible lawyer in a legal matter that the clients have a right to choose who will continue to represent them. The same duty may arise when a firm is winding up or dividing into smaller units.

[5] This duty does not arise if the lawyers affected by the changes, acting reasonably, conclude that the circumstances make it obvious that a client will continue as a client of a particular lawyer or law firm.

[6] When this Chapter requires a notification to clients, each client must receive a letter as soon as practicable after the effective date of the changes is determined, informing the client of the right to choose his or her lawyer.

[7] It is preferable that this letter be sent jointly by the firm and any lawyers affected by the changes. However, in the absence of a joint announcement, the firm or any lawyers affected

by the changes may send letters in substantially the form set out in a precedent letter on the Law Society website (see Practice Resources).

[8] Lawyers whose clients are affected by changes in a law firm have a continuing obligation to protect client information and property, and must minimize any adverse effect on the interests of clients. This obligation generally includes an obligation to ensure that files transferred to a new lawyer or law firm are properly transitioned, including, when necessary, describing the status of the file and noting any unfulfilled undertakings and other outstanding commitments.

[9] The right of a client to be informed of changes to a law firm and to choose his or her lawyer cannot be curtailed by any contractual or other arrangement.

[10] With respect to communication other than that required by these rules, lawyers should be mindful of the common law restrictions upon uses of proprietary information, and interference with contractual and professional relations between the law firm and its clients.

Optional withdrawal

3.7-2 If there has been a serious loss of confidence between the lawyer and the client, the lawyer may withdraw.

Commentary

[1] A lawyer may have a justifiable cause for withdrawal in circumstances indicating a loss of confidence, for example, if a lawyer is deceived by his client, the client refuses to accept and act upon the lawyer's advice on a significant point, a client is persistently unreasonable or uncooperative in a material respect, or the lawyer is facing difficulty in obtaining adequate instructions from the client. However, the lawyer should not use the threat of withdrawal as a device to force a hasty decision by the client on a difficult question.

Non-payment of fees

3.7-3 If, after reasonable notice, the client fails to provide a retainer or funds on account of disbursements or fees, a lawyer may withdraw.

Commentary

[1] When the lawyer withdraws because the client has not paid the lawyer's fee, the lawyer should ensure that there is sufficient time for the client to obtain the services of another lawyer and for that other lawyer to prepare adequately for a hearing or trial.

[2] In criminal matters, if withdrawal is a result of non-payment of the lawyer's fees, the court may exercise its discretion to refuse counsel's withdrawal. The court's order refusing counsel's withdrawal may be enforced by the court's contempt power. See *R.* v. *Cunningham*, 2010 SCC 10.

[3] The relationship between a lawyer and client is contractual in nature, and the general rules respecting breach of contract and repudiation apply. Except in criminal matters involving non-payment of fees, if a lawyer decides to withdraw as counsel in a proceeding, the court has no jurisdiction to prevent the lawyer from doing so, and the decision to withdraw is not reviewable by the court, subject to its authority to cite a lawyer for contempt if there is evidence that the withdrawal was done for some improper purpose. Otherwise, the decision to withdraw is a matter of professional responsibility, and a lawyer who withdraws in contravention of this Chapter is subject to disciplinary action by the Benchers. See *Re Leask and Cronin* (1985), 66 BCLR 187 (SC). In civil proceedings the lawyer is not required to obtain the court's approval before withdrawing as counsel, but must comply with the Rules of Court before being relieved of the responsibilities that attach as "solicitor acting for the party." See *Luchka* v. *Zens* (1989), 37 BCLR (2d) 127 (CA)."

Withdrawal from criminal proceedings

3.7-4 If a lawyer has agreed to act in a criminal case and the interval between a withdrawal and the trial of the case is sufficient to enable the client to obtain another lawyer and to allow such other lawyer adequate time for preparation, the lawyer who has agreed to act may withdraw because the client has not paid the agreed fee or for other adequate cause provided that the lawyer:

(a) notifies the client, in writing, that the lawyer is withdrawing because the fees have not been paid or for other adequate cause;

(b) accounts to the client for any monies received on account of fees and disbursements;

(c) notifies Crown counsel in writing that the lawyer is no longer acting;

(d) in a case when the lawyer's name appears on the records of the court as acting for the accused, notifies the clerk or registrar of the appropriate court in writing that the lawyer is no longer acting; and

(e) complies with the applicable rules of court.

3.7-5 If a lawyer has agreed to act in a criminal case and the date set for trial is not such as to enable the client to obtain another lawyer or to enable another lawyer to prepare adequately for

trial and an adjournment of the trial date cannot be obtained without adversely affecting the client's interests, the lawyer who agreed to act must not withdraw because of non-payment of fees.

3.7-6 If a lawyer is justified in withdrawing from a criminal case for reasons other than non-payment of fees and there is not a sufficient interval between a notice to the client of the lawyer's intention to withdraw and the date on which the case is to be tried to enable the client to obtain another lawyer and to enable such lawyer to prepare adequately for trial, the first lawyer, unless instructed otherwise by the client, should attempt to have the trial date adjourned and may withdraw from the case only with the permission of the court before which the case is to be tried.

Commentary

[1] If circumstances arise that, in the opinion of the lawyer, require an application to the court for leave to withdraw, the lawyer should promptly inform Crown counsel and the court of the intention to apply for leave in order to avoid or minimize any inconvenience to the court and witnesses.

Obligatory withdrawal

3.7-7 A lawyer must withdraw if:

(a) discharged by a client;

(b) a client persists in instructing the lawyer to act contrary to professional ethics; or

(c) the lawyer is not competent to continue to handle a matter.

Manner of withdrawal

3.7-8 When a lawyer withdraws, the lawyer must try to minimize expense and avoid prejudice to the client and must do all that can reasonably be done to facilitate the orderly transfer of the matter to the successor lawyer.

3.7-9 On discharge or withdrawal, a lawyer must, as soon as practicable:

(a) notify the client in writing, stating:

(i) the fact that the lawyer ~~has withdrawn~~is no longer acting;

(ii) the reasons, if any, for the withdrawal; and

(iii) in the case of litigation, that the client should expect that the hearing or trial will proceed on the date scheduled and that the client should retain new counsel promptly;

(a.1) notify in writing all other parties, including the Crown where appropriate, that the lawyer is no longer acting;

(b) subject to the lawyer's right to a lien, deliver to or to the order of the client all papers and property to which the client is entitled;

(c) subject to any applicable trust conditions, give the client all relevant information in connection with the case or matter;

(d) account for all funds of the client then held or previously dealt with, including the refunding of any remuneration not earned during the representation;

(e) promptly render an account for outstanding fees and disbursements;

(f) co-operate with the successor lawyer in the transfer of the file so as to minimize expense and avoid prejudice to the client; and

(g) notify in writing the court registry where the lawyer's name appears as counsel for the client that the lawyer is no longer acting and comply with the applicable rules of court and any other requirements of the tribunal.

Commentary

[1] If the lawyer who is discharged or withdraws is a member of a firm, the client should be notified that the lawyer and the firm are no longer acting for the client.

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by the changes may send letters in substantially the form set out in a precedent letter on the Law Society website (see Practice Resources).

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[3] The relationship between a lawyer and client is contractual in nature, and the general rules respecting breach of contract and repudiation apply. Except in criminal matters involving non-payment of fees, if a lawyer decides to withdraw as counsel in a proceeding, the court has no jurisdiction to prevent the lawyer from doing so, and the decision to withdraw is not reviewable by the court, subject to its authority to cite a lawyer for contempt if there is evidence that the withdrawal was done for some improper purpose. Otherwise, the decision to withdraw is a matter of professional responsibility, and a lawyer who withdraws in contravention of this Chapter is subject to disciplinary action by the Benchers. See *Re Leask and Cronin* (1985), 66 BCLR 187 (SC). In civil proceedings the lawyer is not required to obtain the court's approval before withdrawing as counsel, but must comply with the Rules of Court before being relieved of the responsibilities that attach as "solicitor acting for the party." See *Luchka* v. *Zens* (1989), 37 BCLR (2d) 127 (CA)."

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(a) notifies the client, in writing, that the lawyer is withdrawing because the fees have not been paid or for other adequate cause;

(b) accounts to the client for any monies received on account of fees and disbursements;

(c) notifies Crown counsel in writing that the lawyer is no longer acting;

(d) in a case when the lawyer's name appears on the records of the court as acting for the accused, notifies the clerk or registrar of the appropriate court in writing that the lawyer is no longer acting; and

(e) complies with the applicable rules of court.

3.7-5 If a lawyer has agreed to act in a criminal case and the date set for trial is not such as to enable the client to obtain another lawyer or to enable another lawyer to prepare adequately for

trial and an adjournment of the trial date cannot be obtained without adversely affecting the client's interests, the lawyer who agreed to act must not withdraw because of non-payment of fees.

3.7-6 If a lawyer is justified in withdrawing from a criminal case for reasons other than non-payment of fees and there is not a sufficient interval between a notice to the client of the lawyer's intention to withdraw and the date on which the case is to be tried to enable the client to obtain another lawyer and to enable such lawyer to prepare adequately for trial, the first lawyer, unless instructed otherwise by the client, should attempt to have the trial date adjourned and may withdraw from the case only with the permission of the court before which the case is to be tried.

Commentary

[1] If circumstances arise that, in the opinion of the lawyer, require an application to the court for leave to withdraw, the lawyer should promptly inform Crown counsel and the court of the intention to apply for leave in order to avoid or minimize any inconvenience to the court and witnesses.

Obligatory withdrawal

3.7-7 A lawyer must withdraw if:

(a) discharged by a client;

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Manner of withdrawal

3.7-8 When a lawyer withdraws, the lawyer must try to minimize expense and avoid prejudice to the client and must do all that can reasonably be done to facilitate the orderly transfer of the matter to the successor lawyer.

3.7-9 On discharge or withdrawal, a lawyer must, as soon as practicable:

(a) notify the client in writing, stating:

(i) the fact that the lawyer is no longer acting;

(ii) the reasons, if any, for the withdrawal; and

(iii) in the case of litigation, that the client should expect that the hearing or trial will proceed on the date scheduled and that the client should retain new counsel promptly;

(a.1) notify in writing all other parties, including the Crown where appropriate, that the lawyer is no longer acting;

(b) subject to the lawyer's right to a lien, deliver to or to the order of the client all papers and property to which the client is entitled;

(c) subject to any applicable trust conditions, give the client all relevant information in connection with the case or matter;

(d) account for all funds of the client then held or previously dealt with, including the refunding of any remuneration not earned during the representation;

(e) promptly render an account for outstanding fees and disbursements;

(f) co-operate with the successor lawyer in the transfer of the file so as to minimize expense and avoid prejudice to the client; and

(g) notify in writing the court registry where the lawyer's name appears as counsel for the client that the lawyer is no longer acting and comply with the applicable rules of court and any other requirements of the tribunal.

Commentary

[1] If the lawyer who is discharged or withdraws is a member of a firm, the client should be notified that the lawyer and the firm are no longer acting for the client.

[3] The obligation to deliver papers and property is subject to a lawyer's right of lien. In the event of conflicting claims to such papers or property, the lawyer should make every effort to have the claimants settle the dispute.

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[5] A lawyer acting for several clients in a case or matter who ceases to act for one or more of them should co-operate with the successor lawyer or lawyers to the extent required by the rules and should seek to avoid any unseemly rivalry, whether real or apparent.

June 9, 2015

Re: BC Code Rule 3.7-9: Lawyers' Notification Obligations on Withdrawal

SUGGESTED CODE OF PROFESSIONAL CONDUCT FOR BRITISH COLUMBIA AMENDMENT RESOLUTION

BE IT RESOLVED ***to amend rule 3.7-9 of the Code of Professional Conduct for British Columbia as follows :***

i. In the first line, by inserting the following words at the end of the sentence:

"as soon as practicable"

ii. In paragraph (a) (i) by striking the words "has withdrawn" and substituting:

"is no longer acting"

iii. by adding the following paragraph:

"(a.1) notify in writing all other parties, including the Crown where appropriate, that the lawyer is no longer acting;"

iv. At the beginning of paragraph (g), by adding the following words:

"notify in writing the court registry where the lawyer's name appears as counsel for the client that the lawyer is no longer acting and"

v. At the end of paragraph (g) by adding the following words:

"and any other requirements of the tribunal"

The Law Society of British Columbia

2015 Mid-Year Report

Governance Committee

Miriam Kresivo, QC (Chair)
Haydn Acheson (Vice-Chair)
Pinder Cheema, QC
Sharon Matthews, QC
Elizabeth Rowbotham
Herman Van Ommen, QC

July 10, 2015

Prepared for:	Benchers
Prepared by:	Adam Whitcombe
Purpose:	Information and Decision

Committee Activity

1. Since the beginning of the year, the Governance Committee has met three times.

2. On January 30, the Committee met and reviewed the results of the year-end 2014 Bencher and Committee evaluation process.

3. The Committee provided its report on the 2014 Bencher and committee evaluations at the February Bencher meeting and made several recommendations which were accepted by the Benchers.

4. In particular, the Committee recommended that:

    - A reminder go out to Benchers in the month before the Bencher evaluation survey is sent to the Benchers informing them of the importance of completing the evaluation and that it is not intended to be optional.

    - The Committee undertake a review of the Bencher evaluation survey in light of two years of experience with the current evaluation form.

    - A comments section be provided in conjunction with all of the evaluation forms.

    - The Executive Committee follow up on Mr. McGee's memorandum regarding CEO succession and bring the matter of succession planning forward to the Benchers so that the Benchers can meet their obligation to ensure there is an adequate CEO succession plan in place.

    - The President make the Benchers aware of the detailed and formal evaluation process in place for the CEO and the results of the annual evaluation.

    - Interested Benchers attend budget briefing sessions offered by the Chief Financial Officer and that the Finance and Audit Committee present the budget and practice fees to the Benchers in a manner that encourages discussion.

    - The Benchers continue to receive at least an annual report on enterprise risks and the enterprise risk management plan.

    - The Chairs of committees and task forces ensure that members of their respective committees or task forces understand what is expected of them, how and why matters are placed on the agenda and ensure that presentations are appropriate in terms of content and length.

5. The recommendations were adopted by the Benchers at the February meeting.

6. On April 24, the Committee met and considered several issues.

7. During consideration of the Committee's report on the 2014 Bencher evaluations, it was suggested that the Governance Committee look at whether increased training and education should be provided to Benchers on an annual basis. The Committee reviewed some options for providing the Benchers with training and education regarding their governance obligations. Both Rita Andreone, QC and Glenn Tecker were suggested as possible providers. Subsequently, the Committee has agreed to retain Rita Andreone to provide training and determined that the training be held on the Thursday before the Bencher meeting on December 4th. The Committee was of the view that this would be the most appropriate date as all the Benchers are usually in Vancouver and would also provide the opportunity for any newly elected Benchers to participate.

8. The Committee also followed up on its October 2014 report to the Benchers suggesting that the Rules regarding general meetings be amended to provide for:

    - Conduct of general meetings from one physical location with additional member participation by webcast so that members participating via the webcast could communicate with the meeting;

    - Voting by members electronically; and

    - Providing notices of meetings, and perhaps other matters, electronically rather than by mail, as the present Rules require.

9. The Committee was advised of progress in finding a service provider willing to undertake real-time electronic voting during the course of the annual general meeting. In particular, the Committee was advised that our webcasting provider had never provided real-time voting in conjunction with a webcast for the large number of potential participants that might attend the meeting virtually and were reluctant to commit to providing the service. Other electronic voting providers we approached had never provided the service in conjunction with the requirements for our annual general meeting. The Committee also considered whether member approval was necessary to recommend to the Benchers that the Rules be revised to provide for electronic voting for Benchers and for electronic distribution of information regarding candidates for election. Staff were asked to look into this.

10. Following on the recommendation from the 2012 governance review, the Committee intends to follow up on the advice that all committees, task forces and working groups should have written terms of reference that should contain the purpose; composition and quorum; accountability; duties and responsibilities; meeting practices; reporting requirements and staff support for each committee, task force and working group. The Governance Committee intends to consider its own terms of reference as part of the review.

11. At its June 12 meeting, the Committee considered three recommendations for resolutions for the agenda for the 2015 Annual General Meeting.

12. The first recommendation was that provision be made for distribution of electronic notices of general meetings in lieu of paper notices. Currently the Rules provide that such notices be mailed, which is understood to mean delivery on paper by Canada Post. The Committee agreed to recommend that the Benchers put the following to the members at the AGM

    BE IT RESOLVED to authorize the Benchers to amend the Rules respecting general meetings to provide that the required notices of general meetings may be distributed by electronic means instead of by mail as presently required.

13. The second recommendation was to provide for one physical location for the AGM if members could participate by way of the Internet.

    BE IT RESOLVED to authorize the Benchers to amend the Rules respecting general meetings to require only one physical location for a general meeting provided that members are able to participate and vote by way of the Internet.

14. The authority to amend the Rules to provide for participation by the Internet was provided in a referendum in 2003. The referendum authorized amending the Rules respecting general meetings to allow members to attend and vote by way of the Internet.

15. The Committee was advised that webcasting general meetings does not present a technical challenge but provision of real-time electronic voting during the course of a general meeting raises issues that need to be overcome. In particular, the Committee was advised that, at present, there is only one provider we have identified who is prepared to provide the real-time functionality to enable electronic voting within the timeframe that would be available during the meeting. While the provider has not enabled real-time voting during the course of a physical meeting, they were willing to try. In order to make the voting possible, members would have to open a separate window from the one in which the webcast would be viewed. Both the time available and the separate voting window raised concerns about providing technical assistance to those members who were unable to open or use a second window and had other technical problems with using the voting application.

16. A solution to the real-time issues was discussed. It was suggested that permitting electronic voting on resolutions at general meetings for a period of time after the conclusion of the physical meeting would address the separate window and technical support concerns. The Committee considered whether the 2003 referendum result would authorize after-the-meeting voting. Mr. Hoskins was of the view that the referendum result did not go that far and, as a result, the members would have to authorize a Rule change to permit after-the-meeting voting.

17. The Committee concluded that after-the-meeting voting was not an option and that until such time as real-time voting during the course of the meeting could be reliably provided, we should webcast the general meetings and continue with the current physical locations

18. The Committee also concluded that it would continue to work towards providing an electronic voting option in conjunction with the webcasting of general meetings and was hopeful that this could be done in the next year.

19. At the June 12 meeting, the Committee also considered whether to recommend to the Benchers that the Rules be revised to provide for electronic voting for Bencher elections and for electronic distribution of information regarding the election and candidates for election. Mr. Hoskins was of the view that member approval is not required for any proposed changes to the means for conducting the election.

20. The Committee was of the view that the Law Society should be moving to enable electronic Bencher elections.

21. The Committee was advised of some practical matters regarding implementation for the 2015 general election, including change management issues for members and staff. It was suggested that the first implementation of electronic voting be arranged to coincide with the by-election in 2016 which involves only one Bencher being elected in place of the outgoing President. Although the election would be in the Vancouver electoral district and hence involve more than 7000 potential voters, it would be a simpler introduction of electronic voting as it would involve only one position and one electoral district.

22. While both Alberta and Ontario law societies now conduct entirely electronic Bencher elections, both jurisdictions provided a hybrid model involving both paper and electronic balloting in the initial implementation.

23. In the 2007 Ontario Bencher election, 51% of the members voted using paper ballots, 44% voted electronically and 5% voted by phone. The most recent Ontario Bencher election was conducted entirely electronically. The most common issues encountered were member spam filters preventing registration emails from getting through, help lines being too busy, inability to access the voting website and losing the voting webpage before being able to vote

24. In Alberta, for the 2011 Bencher election, 60% of the members voted online and 40% voted using paper ballots. The 2014 Alberta Bencher election marked the first year the election was held entirely online and resulted in the 39% of the profession voting, down slightly from 42.4% in 2011.

25. The Committee acknowledged the issues involved in implementing electronic voting this year but wished to move ahead as quickly as possible. The Committee agreed to put the question of the timing of the implementation to the Benchers as part of this report.

For Decision

26. The Committee recommends that the 2015 annual general meeting be webcast

27. The Committee recommends that the Benchers put the following resolution to the members at the 2015 annual general meeting.

    BE IT RESOLVED to authorize the Benchers to amend the Rules respecting general meetings to provide that the required notices of general meetings may be distributed by electronic means instead of by mail as presently required.

28. The Committee recommends that the Benchers direct the Act and Rules Committee to develop amendments to the Rules to permit the Benchers to conduct Bencher elections using electronic voting and electronic distribution of election material, including information about the candidates.

29. Should the Law Society conduct the 2015 Bencher elections electronically?

The Law Society of British Columbia

Financial Report

May 31, 2015

Prepared for: Finance & Audit Committee Meeting – July 9, 2015

Bencher Meeting – July 10, 2015

Prepared by: Jeanette McPhee, CFO & Director Trust Regulation

The Law Society of British Columbia

Summary of Financial Highlights - May 2015
($000's)

2015 General Fund Results - YTD May 2015 (Excluding Capital Allocation & Depreciation)

	Actual*	Budget	$ Var	% Var
Revenue (excluding Capital)				
Membership fees	7,225	7,218	7	0%
PLTC and enrolment fees	383	351	32	9%
Electronic filing revenue	308	301	7	2%
Interest income	188	134	54	40%
Other revenue	648	482	166	34%
Building revenue & recoveries	477	476	1	0%
	9,229	8,962	267	3%
Expenses (excl. dep'n)	8,412	8,529	117	1%
Results before spending on reserve items	**817**	**433**	**384**	
Approved spending from Reserves	69	-	69	
	748	433	315	

* Note: Actuals include $69,000 in costs related to Bencher approved items to be funded from the reserve

2015 General Fund Year End Forecast (Excluding Capital Allocation & Depreciation)

Practice Fee Revenue	**Avg # of Members**
2011 Actual	10,564
2012 Actual	10,746
2013 Actual	10,985
2014 Actual	11,114
2015 Budget	11,310
2015 YTD Actual	**11,268**

	Actual Variance
Revenue	
Membership revenue projected to be at budget	-
PLTC - 15 student more than budget of 485	40
Law Foundation Grant to PLTC - Kamloops	100
Miscellaneous	(10)
	130
Expenses	
External Counsel Fees - Regulation/Credentials	(545)
Forensic Accounting Fees - fewer files	100
Vacancy savings not realized	(200)
Hearing costs - more hearing days	(25)
AGM Webcasting - unbudgeted	(30)
IT security review review	(35)
Building cost savings	45
Miscellaneous savings - various areas	190
	(500)
2015 General Fund Variance (excluding reserve funded items)	(370)

Reserve funded amounts (Bencher approved):	**Approved**	**Spent**
2015 - CBA REAL contribution ($50K approved) - first payment in April	50	45
2015 - Year 2 - Articling student ($58K approved) - started at end of May	58	-
2015 - Practice standards program review ($65K approved)	65	19
2014 - Update to on-line courses ($30K remaining unspent)	30	5
2014 - Knowledge Management program set up costs - ($235K approved)	235	-
	438	69

Trust Assurance Program Actual

	2015 Actual	2015 Budget	Variance	% Var
TAF Revenue**	793	645	148	22.9%
Trust Assurance Department	959	1,008	49	4.9%
Net Trust Assurance Program	(166)	(363)	197	

** Q1 only, Q2 revenue not due until July 31st

2015 Lawyers Insurance Fund Long Term Investments - YTD May 2015 *Before investment management fees*

Performance	6.74%
Benchmark Performance	6.08%

Financial Report – To May 31, 2015

Attached are the financial results and highlights to May 31, 2015.

General Fund

General Fund (excluding capital and TAF)

The General Fund operations resulted in a positive variance to budget of $384,000 to May 31, 2015.

Revenue

Revenue is $9,229,000, $267,000 (3%) ahead of budget due to the timing of recoveries, interest and miscellaneous revenue.

Operating Expenses

Operating expenses for the first five months were $8,412,000, $117,000 (1%) under budget due to the timing of various operating expenses.

2015 Forecast - General Fund (excluding capital and TAF)

We are forecasting the General Fund to be behind budget for the year, projecting a negative variance of $370,000, due primarily to higher than expected external counsel fees in the Professional Conduct, Discipline, Custodianships and Credentials areas.

Operating Revenue

Practicing membership revenue is budgeted at 11,310 members and we are projecting to be at budget. PLTC revenue will be slightly higher than budgeted, with 500 students, compared to a budget of 485. Additionally, we have received a Law Foundation grant of $100,000 in relation to the delivery of PLTC at TRU.

Operating Expenses

At this time, operating expenses are projected to be over budget by approximately $500,000.

We are projecting higher than expected professional conduct, discipline, custodianships, and credentials external counsel fee costs of $545,000 and additional hearing costs of $25,000. In addition, we are projecting a shortfall of savings due to staff vacancies of $200,000, and we will also be webcasting the AGM, resulting in unbudgeted costs of $30,000. In addition, in relation to our privacy program, we will be doing an external review of the IT system security, with estimated costs of $35,000.

These higher costs will be offset by savings in forensic accounting fees of $100,000 and lower building occupancy costs of $45,000. In addition, we are looking at all discretionary spending to evaluate any opportunities to reduce costs. At this time, we are projecting additional savings of $190,000.

TAF-related Revenue and Expenses

The first quarter TAF revenue was above budget by $148,000 and the second quarter TAF revenue will be received in the July/August time period. Trust assurance program costs are under budget $49,000, due to the timing of travel costs.

Special Compensation Fund

There has been little activity in the Special Compensation Fund.

Lawyers Insurance Fund

LIF operating revenues were $6.2 million for the first five months, slightly above budget by $139,000.

LIF operating expenses were $2.5 million, $352,000 below budget. There were staff salary savings of $170,000 due to vacancy savings. Insurance costs are under budget as the stop loss refund from the stop loss insurance policy was received in the first quarter in the amount of $118,000, which was not known at the time the budget was set.

The market value of the LIF long term investments held by the investment managers is $127 million, an increase of $8 million in the first five months. The related year to date investment returns were 6.74%, compared to a benchmark of 6.08%.

The sale of the Law Society's interest in the 750 Cambie building closed in the first quarter of 2015, resulting in a book gain of $10.7 million. The proceeds have been invested in short term securities and will be reinvested in the third quarter according to the updated asset mix as set out in the Bencher approved Statement of Investment Policies and Procedures – Investment Guidelines.

The Law Society of British Columbia
General Fund
Results for the 5 Months ended May 31, 2015
($000's)

	2015 Actual	2015 Budget	$ Var	% Var
Revenue				
Membership fees **(1)**	9,213	9,215		
PLTC and enrolment fees	383	351		
Electronic filing revenue	308	301		
Interest income	188	134		
Other revenue	648	482		
Building Revenue & Recoveries	477	476		
Total Revenues	11,217	10,959	258	2.4%
Expenses				
Regulation	3,019	3,082	63	
Education and Practice	1,375	1,279	(96)	
Corporate Services	1,178	1,177	(1)	
Bencher Governance	377	422	45	
Communications and Information Services	849	800	(49)	
Policy and Legal Services	995	1,018	23	
Occupancy Costs	918	992	74	
Depreciation	136	133	(3)	
Total Expenses	8,847	8,903	(56)	-0.6%
General Fund Results before TAP	**2,370**	**2,056**	**314**	
Trust Administration Program (TAP)				
TAF revenues	793	645	148	
TAP expenses	959	1,008	49	4.9%
TAP Results	**(166)**	**(363)**	**197**	
General Fund Results including TAP	**2,204**	**1,693**	**511**	

(1) Membership fees include capital allocation of $1.99m (YTD capital allocation budget = $2.00m).

The Law Society of British Columbia
General Fund - Balance Sheet
As at May 31, 2015
($000's)

	May 31 2015	Dec 31 2014
Assets		
Current assets		
Cash and cash equivalents	162	111
Unclaimed trust funds	1,898	1,781
Accounts receivable and prepaid expenses	7,601	1,494
B.C. Courthouse Library Fund	575	568
Due from Lawyers Insurance Fund	9,083	24,127
	19,319	28,081
Property, plant and equipment		
Cambie Street property	12,653	12,691
Other - net	1,276	1,331
	33,248	42,103
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	3,413	5,671
Liability for unclaimed trust funds	1,898	1,781
Current portion of building loan payable	500	500
Deferred revenue	10,388	18,807
Deferred capital contributions	30	34
B.C. Courthouse Library Grant	575	568
Deposits	26	28
	16,830	27,389
Building loan payable	2,600	3,100
	19,430	30,489
Net assets		
Capital Allocation	3,766	1,841
Unrestricted Net Assets	10,052	9,773
	13,818	11,614
	33,248	42,103

The Law Society of British Columbia
General Fund - Statement of Changes in Net Assets
For the 5 Months ended May 31, 2015
($000's)

	Invested in capital	*Working Capital*	Unrestricted Net Assets	Trust Assurance	Capital Allocation	2015 Total	2014 Total
	$	$			$	$	$
Net assets - December 31, 2014	10,676	(1,941)	8,735	1,038	1,841	11,614	9,908
Net (deficiency) excess of revenue over expense for the period	(449)	829	380	(165)	1,989	2,204	1,706
Repayment of building loan	500	-	500	-	(500)	-	-
Purchase of capital assets:							-
LSBC Operations	(116)	-	(116)	-	116	-	-
845 Cambie	(320)	-	(320)	-	320	-	-
Net assets - May 31, 2015	10,291	(1,112)	9,179	873	3,766	13,818	11,614

The Law Society of British Columbia
Special Compensation Fund
Results for the 5 Months ended May 31, 2015
($000's)

	2015 Actual	2015 Budget	$ Var	% Var
Revenue				
Annual assessment	-	-		
Recoveries	(1)	-		
Total Revenues	(1)	-	(1)	100%
Expenses				
Claims and costs, net of recoveries	-	-		
Administrative and general costs	-	-		
Loan interest expense	(11)	-		
Total Expenses	(11)		(11)	-100%
Special Compensation Fund Results	**10**	**-**	**10**	

The Law Society of British Columbia
Special Compensation Fund - Balance Sheet
As at May 31, 2015
($000's)

	May 31 2015	Dec 31 2014
Assets		
Current assets		
Cash and cash equivalents	1	1
Accounts receivable	-	-
Due from Lawyers Insurance Fund	1,344	1,334
	1,345	1,335
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	-	-
Deferred revenue	-	-
	-	-
Net assets		
Unrestricted net assets	1,345	1,335
	1,345	1,335
	1,345	1,335

The Law Society of British Columbia
Special Compensation Fund - Statement of Changes in Net Assets
Results for the 5 Months ended May 31, 2015
($000's)

	2015 $	2014 $
Unrestricted Net assets - December 31, 2014	1,335	1,287
Net excess of revenue over expense for the period	10	48
Unrestricted Net assets - May 31, 2015	1,345	1,335

The Law Society of British Columbia
Lawyers Insurance Fund
Results for the 5 Months ended May 31, 2015
($000's)

	2015 Actual	2015 Budget	$ Var	% Var
Revenue				
Annual assessment	6,201	6,062		
Investment income *	18,661	2,244		
Other income	69	70		
Total Revenues	24,931	8,376	16,555	197.6%
Expenses				
Insurance Expense				
Provision for settlement of claims	6,126	6,126		
Salaries and benefits	1,019	1,231		
Contribution to program and administrative costs of General Fund	551	582		
Insurance	95	179		
Office	134	182		
Actuaries, consultants and investment brokers' fees	134	154		
Allocated office rent	103	102		
Premium taxes	4	3		
Income taxes	-	-		
	8,166	8,559		
Loss Prevention Expense				
Contribution to co-sponsored program costs of General Fund	435	394		
Total Expenses	8,601	8,953	352	3.9%
Lawyers Insurance Fund Results	**16,330**	**(577)**	**16,907**	

* Investment income includes the book gain on the sale of the 750 Cambie Street building, of $10.7m

The Law Society of British Columbia
Lawyers Insurance Fund - Balance Sheet
As at May 31, 2015
($000's)

	May 31 2015	Dec 31 2014
Assets		
Cash and cash equivalents	32,845	26,984
Accounts receivable and prepaid expenses	344	745
Due from members	3,661	1,194
General Fund building loan	3,100	3,600
Investments	123,537	126,301
	163,487	158,824
Liabilities		
Accounts payable and accrued liabilities	1,046	1,755
Deferred revenue	8,162	7,198
Due to General Fund	9,083	24,127
Due to Special Compensation Fund	1,344	1,334
Provision for claims	54,480	51,368
Provision for ULAE	7,231	7,231
	81,346	93,013
Net assets		
Unrestricted net assets	64,641	48,311
Internally restricted net assets	17,500	17,500
	82,141	65,811
	163,487	158,824

The Law Society of British Columbia
Lawyers Insurance Fund - Statement of Changes in Net Assets
For the 5 Months ended May 31, 2015
($000's)

	Unrestricted $	Internally Restricted $	2015 Total $	2014 Total $
Net assets - December 31, 2014	48,311	17,500	65,811	59,429
Net excess of revenue over expense for the period	16,330	-	16,330	6,382
Net assets - May 31, 2015	64,641	17,500	82,141	65,811

The Law Society of British Columbia

Access to Legal Services Advisory Committee - Mid-Year Report 2015

Phil Riddell, Chair
Nancy Merrill, Vice-Chair
Joe Arvay, QC
David Mossop, QC
Lawrence Alexander
Claire Hunter
Raymond Phillips, QC

July 10, 2015

Prepared for:	Benchers
Prepared by:	Access to Legal Services Advisory Committee / Doug Munro
Purpose:	Information

Contents

Purpose of the Report

1. Advisory Committees are required to provide the Benchers status reports twice a year. In this report the Committee summarizes the work it has done from January-July 2015.

2. The Committee was asked to consider and advance at least two access to justice / legal services topics for consideration by the Benchers in 2015. One of the topics was assigned to the Committee based on the Strategic Plan.

3. The Committee was asked to undertake Strategic Plan Initiative 1-2(a):

   Evaluate the Manitoba Family Justice Program and determine if it is a viable model for improving access to family law services in British Columbia.

4. The other concepts the Committee is exploring this year are:

   - What can the Law Society do to help the Legal Services Society advance and improve access to justice for Aboriginals?

   - What can the Law Society do to foster retired lawyers and judges providing *pro bono* and acting as mentors for practicing lawyers?

   - Should contingency fee agreements in family law matters be permitted with fewer restrictions than exist at present under the *Legal Profession Act*?

5. In addition to these tasks, each year the Committee is required to meet with representatives of the Law Foundation of British Columbia to discuss potential uses for the $60,000 the Law Society provides to the Foundation to fund the access to justice initiatives (the "Fund"). This year, the discussion about the potential use of the Fund is linked to the work the Committee is doing regarding its analysis of Strategic Plan Initiative 1-2(a). The current status of that work is detailed in this report.

Strategic Plan Initiative 1-2(a): Evaluate the Manitoba Family Law Access Centre ("FLAC")

6. At the April 10th Benchers meeting the Committee provided a status update of its work on Strategic Plan Initiative 1-2(a). The Committee divided the work into two parts. Part One involved collecting detailed information about the Manitoba Family Law Access Centre Pilot Project (FLAC), and analyzing the FLAC as a discrete concept. The Committee concluded that the FLAC is not appropriate for BC, so Part Two involved identifying the sort of project that might work in British Columbia, and what the Law Society should do to support such a project. **Note:** The work on Part 2 is ongoing, so this does not represent the final report on this issue.

Part 1: Evaluation of the FLAC

7. Although the Committee concluded that the FLAC is not a viable model for British Columbia, it does not wish for its conclusions to be read as a criticism of the Law Society of Manitoba. The Law Society of Manitoba saw a pressing access to justice need and developed an innovative project to address it. While the Committee does not recommend that the Law Society of British Columbia adopt the FLAC, it commends the Law Society of Manitoba for taking action and being innovative. The access to justice challenges in society require action and leadership. In addition, the Committee is grateful for the considerable assistance staff at the Law Society of Manitoba provided, and particularly wish to thank Debbie Rossol, Leah Kosokowsky and Colleen Malone for their efforts.

8. In 2010 the Law Society of Manitoba launched the FLAC. The purpose of the FLAC is to help people who do not qualify for legal aid get access to a lawyer to resolve family law disputes. The Law Society of Manitoba set aside $250,000 to establish the FLAC. The Law Society established a roster of lawyers who were prepared to provide family law services at a reduced rate, provided the Law Society paid their bills as rendered.

9. The Law Society of Manitoba developed an in-take model, through which potential clients are screened and their ability to meet minimum monthly payments is assessed. If a potential client meets the eligibility criteria, they can then be connected to a roster lawyer. If a retainer results, the Law Society collects monthly payments from the client and the lawyer bills the client (via the Law Society) from time to time. The Law Society pays the lawyer's bills. When the matter concludes or the retainer terminates, if money is owing to the lawyer, the Law Society pays the bill and continues to collect from the client; if a refund is owing the client, the Law Society pays the refund. If the client ceases paying, the Law Society is responsible to pay the lawyer and will try and collect from the client. The program has an administrator, who also performs other duties at the Law Society, and the Law Society also runs its collections project in-house.

10. The FLAC proved very popular. For the past two years, the Law Society has not been admitting new clients. There are at least 300 people on the waiting list. There are 24 people currently in the program receiving assistance from lawyers. To date, 40 people have had their legal matter resolved. Four matters have proceeded to collections.

11. The concept behind the FLAC was that it would not cost money as long as people continue to pay. The project was also intended to be a one year pilot project. The FLAC does have costs, however, as would any project operated in BC. The Committee is concerned about the costs of attempting to run a similar project here. Given the population demographics in BC, it is safe to assume that a proportionately scaled project would cost more here than the FLAC costs. Part of the challenge in evaluating the FLAC is that the costs are difficult to quantify. There are several reasons for this.

12. First, we do not know if the Law Society of Manitoba will successfully find someone to take over operation of the FLAC. Responsibility for the project may last many years, and could become permanent. This uncertainty amplifies risk, in particular when one considers that the FLAC also does not cap the Law Society's exposure on files. What this means is that at any point in time, the client files might lead to bills with considerable future liability. If one imagines a protracted litigation scenario that amasses $25,000 in fees over five years, we know that the Law Society will pay out $25,000 over that time. However, if the client has signed up to pay $200 a month, it will take 125 months (just over 10 years) to collect the fees.[1] This can have several possible outcomes. If the size of the fund is capped, the program eventually risks having no active clients while people continue to pay down debt on large files. Alternatively, the program could continue to serve people while, year after year, the balance owing grows. At present the Law Society of Manitoba has $62,569.44 owing, with $21,674 being in collections. We don't know what those numbers would be had intake to the program not been shut down two years ago.

13. Secondly, we don't know what the administrative and collections costs would be to operate such a program in BC. The Law Society of Manitoba has reached the point where their administrator does not spend much time per week managing the FLAC (perhaps an hour), but intake has been closed for two years. At the start of the program, more administrative time was required. Also, during intake and evaluation of clients, more time is required. When collections occur, staff time is required as well. Operating a similar project in BC would either require taking staff away from existing work, or hiring new staff to operate the program. This would come at a cost that is not recoverable under the FLAC model, because the Law Society of Manitoba does not recover a fee for operating the FLAC.

14. Thirdly, we don't know what the opportunity and interest costs would be on the money required to set up such a program. The adult population of British Columbia is approximately 3.68 times that of Manitoba. For the simple benefit of establishing a ball park initial cost, assuming FLAC scaled to British Columbia based on that variable alone, we would be looking at $920,000 in seed money.[2] The Law Society does not have that money, and so there would be a cost to obtaining and carrying that money.

15. Lastly, one of the challenges of analyzing the FLAC for BC is to try and account for some of the differences in debt-to-assets, debt-to-income and debt servicing costs for people in BC even though their incomes might match (or slightly exceed) incomes in Manitoba. This is likely magnified when comparing Vancouver to Winnipeg, and certainly Vancouver to other parts of British Columbia. It is significant that during the

[1] The actual amount of fees in a protracted family law litigation scenario will likely eclipse this by a considerable amount.

[2] The Committee reviewed extensive statistical data from Statistics Canada, including population, income, marriages, divorce, length of family proceedings, family size, etc., and is not suggesting that the analysis would be as simple as multiplying the seed money by 3.68.

course of the FLAC we have experienced historically low interest rates. If the FLAC is to continue indefinitely, at some point rates will rise and people who have qualified for the FLAC based on income and expenses at intake will be pushed into high debt service ratios by virtue of the interest charges on other debt obligations.

16. Concerns about cost is only one of the factors that led the Committee to conclude the FLAC is not viable in British Columbia. A fundamental difference between Manitoba and BC relates to legal aid coverage. In Manitoba, legal aid covers a wide range of family law matters if one meets the financial eligibility requirements. In BC, legal aid in family matters is all but non-existent, covering only situations where domestic violence has been alleged and/or denial of access to children. Because the FLAC is premised on picking up where legal aid leaves off, there is no comparable set of services in BC to Manitoba.

17. In addition, the financial criteria to qualify for legal aid is different in each province. The Committee concludes that providing coverage for the Manitoba services in BC starting at the Legal Services Society cut-off would be arbitrary. It would not provide a bridge for the types of services covered in BC to a higher income; it would introduce subsidized coverage for a range of services that are not covered in BC. Without forming a rational basis for such a decision it would be arbitrary to adopt the FLAC model and commence coverage based on the BC family law income cut-off for legal aid.

18. There are a host of other factors that complicate any effort to assess whether the FLAC is suitable for BC. While there are some similar demographics between Manitoba and BC, such as median income, there are several notable difference. For example:

    - Aboriginals make up approximately 5% of the BC population and 15% of the Manitoba population. This is significant for several reasons, including the fact that in 2005 the national median income of non-Aboriginals was $33,394 and the median income of Aboriginals was $22,366.[3] When the Committee consulted with Manitoba about the FLAC it was clear that the majority of Aboriginals would not qualify economically to participate.

    - Nine out of ten new immigrants to Canada live in the major urban centres in BC, Ontario, Alberta and Quebec.[4] In fact, Vancouver accounts for 13.5% of Canada's total immigrant population, and 40% of that city's population.[5] Recent immigration to Winnipeg appears to be growing, however.

    - "Factors associated with having a high debt load or debt-to-asset ratio of 80% or more included being born outside Canada, having lower levels of household income,

[3] Statistics Canada, Chart 11, *Median total income in 2005 by Aboriginal identity, population aged 25 to 54.*
[4] See http://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-010-x/99-010-x2011001-eng.cfm
[5] *Ibid.*

and living in a CMA with high housing prices."[6] Vancouver's housing cost and immigrant population make it more likely that these debt considerations will be present and this can affect the viability of a FLAC-style model.

- 16% of BC lawyers indicate practicing some family law, whereas 25% of Manitoba lawyers indicate some family law.
- Approximately 85% of Manitoba lawyers practice in Winnipeg whereas approximately 60% of BC's lawyers practice in the Lower Mainland. Interestingly, approximately 90% of lawyers participating in the FLAC work in Winnipeg, which tracks closely to the professions distribution, but not the general population's distribution.
- Approximately 54% of Manitoba's population is in Winnipeg and 59% of BC's population is in the Lower Mainland.

19. These are only some of the various factors the Committee considered in attempting to understand how the legal needs in Manitoba and BC are similar and how they differ.

20. The Committee thinks what needs to be done is consider a *made in BC* approach. To do this the Committee considered:

- The problem the Law Society ought to address;
- The approach to addressing the problem; and
- The outcomes that are sought.

21. Having concluded that the FLAC is not an appropriate program to implement in BC, the Committee is considering an alternative concept.

Part 2: Improving Access to Independent Legal Advice in Family Mediations ("ILA Proposal")

22. As of the time of this report, the Committee's work on Part 2 is ongoing, so this section consists of an overview of the concept and a status report.

23. One area of access to justice and legal services that merits consideration is finding ways to facilitate access to independent legal advice for people who are engaged in family law mediations. This concept arose out of the discussion about the FLAC. Rather than trying to facilitate access to lawyers in a traditional litigation setting, the Committee is interested in how to improve access to legal services that support family law mediation. The reason for this focus is twofold: 1) a focus on out of court dispute resolution

[6] Matt Hurst, *Debt and family type in Canada* (Statistics Canada: April 21, 2011) p. 47.

processes is consistent with the public policy direction of the *Family Law Act;* and 2) for the family law mediation process to work optimally, participants will benefit from legal advice.

24. The Committee commenced its exploration of this topic by inviting Kari Boyle, Executive Director of Mediate BC and Carol Hickman, QC, Life-Bencher to the May 6th meeting.[7] The Committee's initial concept was to find a way to support access to court appointed mediators, but were informed by Ms. Boyle and Ms. Hickman that the real area of need is getting people unbundled ILA before and during the mediation process, as well as access to a lawyer to convert the mediator's minutes into an enforceable agreement.

25. Mediate BC has two programs that were seen to be suitable to a new project that focused on unbundled ILA. In conjunction with Legal Services Society, Mediate BC has a family law mediation program that offers the first six hours of mediation for free, provided at least one person in the couple qualifies for the Legal Aid income cut-off. After the first six hours, mediation is available on a sliding scale, based on combined income. Independent of this program, Mediate BC also offers a sliding scale fee mediation program based on family income, which tops out at a full rate for families earning $140,000 a year.[8]

26. Ms. Boyle and Ms. Hickman said that many people would benefit from receiving some ILA about mediation and their rights and obligations before and during the mediation process. However, lawyers are hesitant to provide unbundled ILA in family law. They proposed an exploratory project, which would have Mediate BC attempt to establish a roster that matched family law mediators with lawyers prepared to do unbundled ILA for family law mediation. The proposal involved an assessment at the front-end, meeting with various stakeholders to work out the logistics and concerns. Essentially, the concept proposed by Ms. Boyle and Ms. Hickman envisioned Mediate BC developing and overseeing the start-up of the roster, with it eventually being a self-operating model with some oversight by the Law Society. In addition, the concept was that the Law Society would also provide some sample retainers for lawyers performing the unbundled work and some plain language guides.

27. The discussion led the Committee to request a more detailed budget, recognizing it would likely take three years to get such a project up and running and have sufficient time to evaluate its uptake. This request led to Ms. Boyle and Ms. Hickman providing a revised budget estimate and further details in response to some questions from the Committee. The "ILA Proposal" reflects the initial proposal as modified by the additional information.

[7] Prior to this a preparatory meeting took place with Phil Riddell, Nancy Merrill, Doug Munro, Monique Steensma, Ms. Boyle and Ms. Hickman.
[8] This is a very simplified description of the program, and more details can be provided if requested.

28. At the June meeting the Committee discussed the ILA Proposal further. The Committee likes the idea of a roster that facilitates access to lawyers willing to provide unbundled ILA to people participating in family law mediation through the Mediate BC programs free or sliding scale family law mediation programs. The Committee sees the value in the Law Society providing some resource materials for such a roster, such as tailored retainer agreements and plain language resources. Potential participation by Law Society staff in the early stage consultations and analysis might also prove beneficial. If such a project is to advance, it will be important to speak with the managers of various Law Society departments (such as Practice Advice and Policy and Legal Services) to ascertain resource requirements to support development of the ILA Proposal.

29. The Committee also discussed what the proper role of the Law Society might be in helping establish the ILA Proposal and what role, if any, the Law Society should have long-term. The Committee favours providing funding to support the ILA Proposal, as well as some in-kind support to develop resources, but sees this as something that should be done at the developmental stage. The Committee does not see the ILA Proposal as something that requires the ongoing involvement and oversight of the Law Society. There are several reasons for this, including that the Law Society is not well suited to evaluate a pilot project of this sort and also, it is unclear if the Law Society should operate (or be seen to be operating) a roster matching program that pairs ILA lawyers with family law mediators. To the extent the project needs ongoing oversight, groups like Mediate BC and/or the CBA BC might be more logical hosts, but the Committee has not reached a conclusion on this point.

30. The next stage of the Committee's analysis was to ask: how should the ILA Proposal be funded? The Committee approached this enquiry through a staged process, where progression to subsequent stages only takes place if the matter is not resolved by the analysis at a prior stage. The first stage of the process was to explore whether the ILA Proposal is best funded (and overseen) through the Fund provided on an annual basis to the Law Foundation. Because the meeting with the Law Foundation is a fixed requirement of the Committee each year, it is detailed in the next section of this report and the current status of the Committee's exploration of the ILA Proposal is further discussed.

31. When the Benchers increased access to justice funding to $340,000,[9] they adopted a set of principles to govern this funding. The preamble to the funding policy states:

> *The societal conditions that give rise to the need for pro bono are best addressed through proper funding of legal aid and social benefit programs by the provincial and federal governments and primary funders such as the Law Foundation of British Columbia. Law Society funding of pro bono is not a substitute for these governmental obligations. Nor does*

[9] This funding includes the $60,000 access to justice funding and the principles, therefore, are broader than pro bono.

> *the Law Society have the broad funding mandate of the Law Foundation of British Columbia. Despite this, the Law Society is committed to encouraging lawyers to provide pro bono legal services to people of limited financial means and to find innovative ways to facilitate such pro bono legal services.*

32. The Committee considered the funding policy and, *at this point in its analysis*, the Committee is of the view the Law Foundation is the proper funder of the ILA Proposal. Should discussions with the Law Foundation not result in the ILA Proposal being funded through the Law Foundation, the Committee will revisit the topic and work through the subsequent stages of the process (as are applicable). The Committee has not reached a final conclusion on the ILA Proposal, as more details need to be explored and discussions need to take place.

Meeting with the Law Foundation

33. Each year the Law Society provides $340,000 to the Law Foundation of British Columbia to support organized pro bono in the province, and access to justice initiatives more generally. $60,000 of this funding is dedicated to an access to justice fund which is intended to be directed at projects other than pro bono. In developing the Fund, the Benchers tasked the Committee with meeting with the Law Foundation each year to discuss potential initiatives. The meetings are intended to be exploratory, good faith discussions, with the discretion as to the ultimate recipient(s) of funding resting with the Law Foundation.

34. Last year the Fund went to support a two year, Family Law Advocacy Pilot Project in Kelowna and Quesnel. The pilot is funded by the Law Foundation to the amount of $150,000 per year, so the amount arising from the Law Society's contribution to date is $60,000 of $150,000. The pilot uses family law advocates who, under lawyer supervision, provide information and referral services, education and support for court and ADR, as well as assist with document preparation and public legal education. The project will be evaluated to determine whether it merits ongoing support.

35. On May 6th the Committee met with Wayne Robertson, QC to discuss potential uses for the next installment of the Fund, and to discuss the family law pilot. Because of the order in which topics were discussed by the Committee, the meeting with Mr. Robertson did not focus on the ILA Proposal. As of May 6th, the Committee had not decided about the particular merit of the ILA Proposal or how such a project should properly be funded. In light of this, the May 6th meeting involved a general discussion of access to justice funding, without reaching a conclusion as to what should be recommended to the Law Foundation regarding the Fund.

36. The Committee will meet with Mr. Robertson again on July 9th to continue its discussion of the Fund. This will include exploring the potential for the Fund to support the ILA Proposal.

37. Because these discussions involve multiple groups, they remain ongoing. If the ILA Proposal is covered through Law Foundation Funding, the only decisions that remains for the Law Society is the potential allocation of staff resources to support generating material. If the ILA Proposal is something that does not get covered through the Law Foundation process, the Committee will have to consider alternative approaches and sources of funding. In either event, the Committee will report to the Benchers in the second-half of 2015 with its conclusions about the Manitoba FLAC and the results (or recommendations) regarding the 2015 allocation of the Fund.

Aboriginal Access to Justice

38. To date, the Committee has only held preliminary discussions on this topic. At the April 9, 2015 meeting the Committee met with Mark Benton, QC, Executive Director of the Legal Services Society. The Committee invited Mr. Benton to see if he had any ideas for how the Law Society might support improved access to justice for Aboriginals.

39. Aboriginal access to justice has long been an important focus for the Legal Services Society (LSS), but the society's board intends to make it an area of even greater focus moving forward. To facilitate this, LSS has been liaising with the Provincial Court. Mr. Benton informed the Committee that The Honourable Chief Judge Crabtree is also very interested in seeing improvements in the area of Aboriginal access to justice.

40. The LSS and the Provincial Court are at the early stage of considering a province-wide consultations with Aboriginal communities and the service providers within those communities to get their input as to how Aboriginal access to justice can be improved. The initial focal point includes First Nations Courts and to get a better sense of how they are working for Aboriginal communities, but is not limited to those courts. The hope is to learn from the consultations and make the case for more funding in this area and development of initiatives designed in a manner that they are embraced by Aboriginals who come into contact with the justice system.

41. Contemporaneous to this meeting, the Committee was provided a letter that highlighted efforts of the Law Society of the Yukon to reach out to the Barreau du Quebec regarding the Barreau's efforts to consult with Aboriginal Communities, particularly around the topic of *Gladue* Reports. That letter had also been referred to the Equity and Diversity Advisory Committee, and some preliminary discussions were held regarding whether the Law Society should engage in similar consultations, perhaps in concert with the LSS and the Provincial Court.

42. Some concerns had been raised at the Committee level, and by Satwinder Bains in her capacity as Vice-chair of Equity and Diversity, about engaging in yet another consultation with Aboriginal communities if there was any risk that no action would get taken, or if the process was not reflective of best practices. In light of this, the Committee sought better particulars from Mr. Benton regarding what is envisioned. The Committee has not had the chance to follow up with Mr. Benton, but takes this opportunity to advise the Benchers that it thinks that improving Aboriginal access to justice is an important topic and one it hopes to be able to report on at an upcoming meeting of the Benchers, ideally with some ideas as to how to move forward in a constructive fashion.

Retired Lawyers and Judges

43. A project that the Committee intends to explore in the second half of the year is how the Law Society might better facilitate retired lawyers and judges providing pro bono and acting as mentors. The Committee intends to liaise with the Lawyers Education Advisory Committee to canvas issues related to continuing professional development for mentees. The Committee will also liaise with the Lawyers Insurance Fund to discuss any related professional liability insurance issues.

Contingent Fee Agreements in Family Law Matters

44. As the Benchers are aware, family law matters are one of the most common types of legal problems people encounter, and are very disruptive in people's lives. Family Law is consistently identified in legal needs reports as an area where there is an access to justice and legal services problem. Self-representation has been rising in this area, and the benefit of facilitating access to legal services has been identified in a number of past Law Society reports as well as studies and reports from other sources.

45. Contingency fee agreements are a recognized way of facilitating access to justice and legal services by allowing people to access the services of a lawyer without needing to meet traditional retainer requirements or pay hourly rate bills as a matter progresses. The *Legal Profession Act* contains limitations on the ability to have a contingency fee agreement in family law matters. The Committee intends to review the purpose of these restrictions and consider whether it is in the public interest to modify the present restrictions on the use of contingency fee agreements in family law matters. The Committee intends to report to the Benchers with recommendations by December 2015 on this issue.

Conclusion

46. By the end of the year, the Committee intends to report back to the Benchers on all of the projects highlighted in this mid-year report.

/DM

The Law Society of British Columbia

Mid-Year Report for 2015

Equity and Diversity Advisory Committee

June 17, 2015

Cameron Ward, Chair
Satwinder Bains, Vice Chair
Linda Locke, QC
Jamie Maclaren
Daniele Poulin
Michelle Stanford
Lisa Vogt, QC
Sarah Westwood

Prepared for: Benchers

Prepared by: Equity and Diversity Advisory Committee / Andrea Hilland

Purpose: For information

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Introduction

1. The Equity and Diversity Advisory Committee ("Committee") is one of the four advisory committees appointed by the Benchers to monitor issues of importance to the Law Society and to advise the Benchers in connection with those issues.

2. From time to time, the Committee is also asked to analyze policy implications of Law Society initiatives, and maybe asked to develop the recommendations or policy alternatives regarding such initiatives.

3. The mandate is to:

    - monitor and develop effective equity and diversity in the legal profession and the justice system in British Columbia;

    - report to the Benchers on a semi-annual basis on those developments;

    - advise the Benchers annually on priority planning in respect of issues affecting equity and diversity in the legal profession and the justice system in British Columbia; and

    - attend to such other matters as the Benchers or Executive Committee may refer to the advisory committee from time to time.

Topics of Discussion: January to June 2015

4. The Committee met on January 29, March 5, April 9, May 6, and June 11, 2015. The following items have been addressed by the Committee between January and June, 2015.

1. Aboriginal Lawyers

Aboriginal Lawyers Mentoring Program

5. The Aboriginal Lawyers Mentorship Program was launched in 2013 and has matched 22 mentorship pairs in 2015. The Committee helps to facilitate networking events to support existing mentorship pairs, and to further promote the Program so that it can be readily accessed by members throughout the Province. To that end, a networking event was held in Victoria, BC in January of 2015. The Committee continues to support, monitor and assess the Program.

Aboriginal Recommendations

6. In 2000, the Law Society of BC generated a report entitled "Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers," which contains a number of recommendations. In 2015, the Law Society is revisiting the report to identify which recommendations have been implemented, which remain outstanding, and whether additional recommendations are required.

7. The Committee is also considering how to implement the Truth and Reconciliation Commission's recommendation that:

> …the Federation of Law Societies of Canada…ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

8. The Committee would like to meet with representatives of the law schools in British Columbia in an effort to identify potential synergies that may be helpful in updating the Law Society's recommendations from 2000, and implementing the Truth and Reconciliation Commission's recommendations regarding cultural competency training and legal education.

Aboriginal Access to Justice

9. The Access to Legal Services Advisory Committee has started considering what the Law Society might do to improve access to justice for Aboriginal communities, and the Equity and Diversity Advisory Committee has advanced a number of equity seeking initiatives for Aboriginals. Both committees are at the initial stages of collaborating to explore how the Law Society of BC might work to improve access to justice in remote Aboriginal communities, and how this work might align with initiatives being developed by the Federation of Law Societies.

Aboriginal Graduate Scholarship

10. On the recommendation of the Executive Committee, the Benchers created a scholarship for Aboriginal law students pursuing graduate legal studies. The scholarship of $12,000 was awarded to Darcy Lindberg, an Aboriginal LL.M. student attending the University of Victoria.

2. Women Lawyers

Justicia Project

11. The Justicia Project is a voluntary program (facilitated by the Law Society of British Columbia and undertaken by law firms) to identify and implement best practices to retain and advance women lawyers in private practice. It has been actively underway in British Columbia since 2012. The Project is proceeding in BC in two phases. Phase one is directed at national firms with offices in BC, as well as large regional firms. Phase two will be directed at all other BC firms.

12. All seventeen firms that were targeted for participation in phase one have selected Diversity Officers who have been meeting regularly to develop recommendations in six areas:

    i) Enhancing flexible work arrangements;
    ii) Improving parental leave policies;
    iii) Tracking gender demographics;
    iv) Adopting initiatives to foster women's business development;
    v) Promoting leadership skills for women; and
    vi) Developing paths to partnership initiatives.

13. The recommendations for the first three topics were approved by the Benchers in December, 2014. The Diversity Officers are developing recommendations for the last three topics, and intend to present them to the Benchers for consideration in September of 2015.

14. Preliminary work on phase two of the Project, which will encourage smaller and regional firms to implement the recommendations developed in phase one, has already begun. The Justicia Diversity Officers and Law Society staff are developing a communications strategy

to raise awareness about the resources developed by Justicia, and to encourage the implementation of the recommendations in the smaller firm and regional context.

15. The law firms participating in Justicia invited Steve Robbins, a preeminent unconscious bias scholar, to conduct a training session in Vancouver on April 30, 2015. Two hours of ethics credit toward continuing professional development requirements was approved by the Law Society. Approximately 200 managing partners, Benchers, and representatives responsible for recruitment and advancement at law firms participating in Justicia attended the session.

Respectful Workplace Model Policy

16. In December of 2014, the Benchers endorsed the "Respectful Workplace Model Policy" which incorporates the new anti-bullying legislation contained in the BC *Workers Compensation Act*. The updated policy is available on the Law Society's website, and the Law Society's Equity Ombudsperson is collaborating with the Continuing Legal Education Society to develop an online educational module regarding the updated policy.

Review of the Maternity Leave Loan Benefit Program

17. Law Society staff has completed a review of the Maternity Leave Loan Benefit Program, and is currently preparing recommendations for consideration by the Benchers.

3. Diversity

Enhanced Demographic Question

18. On the recommendation of the Committee, the Executive Committee amended the Annual Practice Declaration to include a question that seeks further information on the demographic make-up of the legal profession. As of January, 2013, the Annual Practice Declaration includes the enhanced demographic question. The results for 2013 and 2014 are:

Response	2013	2014	Difference
I do not identify with any of these characteristics	6887	6578	-309
I choose not to answer	2439	2383	-56
Visible minority/Racialized/Person of colour	1291	1304	+13
Lesbian/Gay/Bisexual/Transgender	273	287	+14
Aboriginal/Indigenous/First Nations, Metis, Inuit	256	249	-7
Person with a Disability	170	164	-6
N/A	3	27	+24
Total number of lawyers (practicing, non-practicing, retired)	13,192	13,520	+328
Total number of survey responses	11,319	10,992	-327
Non-responses	1873	2528	+655

The Committee will continue to monitor the statistics.

Diversity and Inclusion Award

19. The Committee is in the process of developing a description and criteria for an award to honour a lawyer who has made positive contributions to diversity and inclusion in the legal profession in British Columbia. The intention is for the award to be given in acknowledgement of individuals and groups who were historically excluded from the practice of law due to discriminatory barriers.

Diversity in Law Society Appointments

20. The Committee is aware of the need to improve the representation of equity seeking groups in the Law Society's internal and external appointments, and is considering ways of encouraging more involvement of equity seeking groups in Law Society governance.

Legal Equity and Diversity Roundtable

21. The Committee has taken a lead role in chairing the Legal Equity and Diversity Roundtable which includes a number of CBA BC Equality and Diversity subgroups representing diverse lawyers in British Columbia (such as the Women Lawyers Forum, Canadian Association of Black Lawyers, Federation of Asian Canadian Lawyers, Aboriginal Lawyers Forum, Sexual Orientation and Gender Identity Conference, and the South Asian Bar Association). The participants have developed terms of reference and held a strategic planning session in January, 2015. The purpose of the group is to foster dialogues and initiatives that relate to the advancement of diversity, equality, and inclusion in the legal profession in BC by collaborating, supporting each other, sharing best practices and issues of common concern, and identifying opportunities to make the legal profession more inclusive and welcoming. This work is ongoing.

Equity Ombudsperson Program Review

22. Work on a formal review of the Equity Ombudsperson Program is currently underway.

The Law Society of British Columbia

Annual Report of the Law Society of British Columbia Equity Ombudsperson Program for the Period January 1, 2014 to December 31, 2014

For: The Benchers
Dated: April 27th, 2015

Purpose of Report: For Information

Prepared by: Anne Bhanu Chopra, Equity Ombudsperson, LSBC
B. Comm., MIR, LL.B

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PREFACE

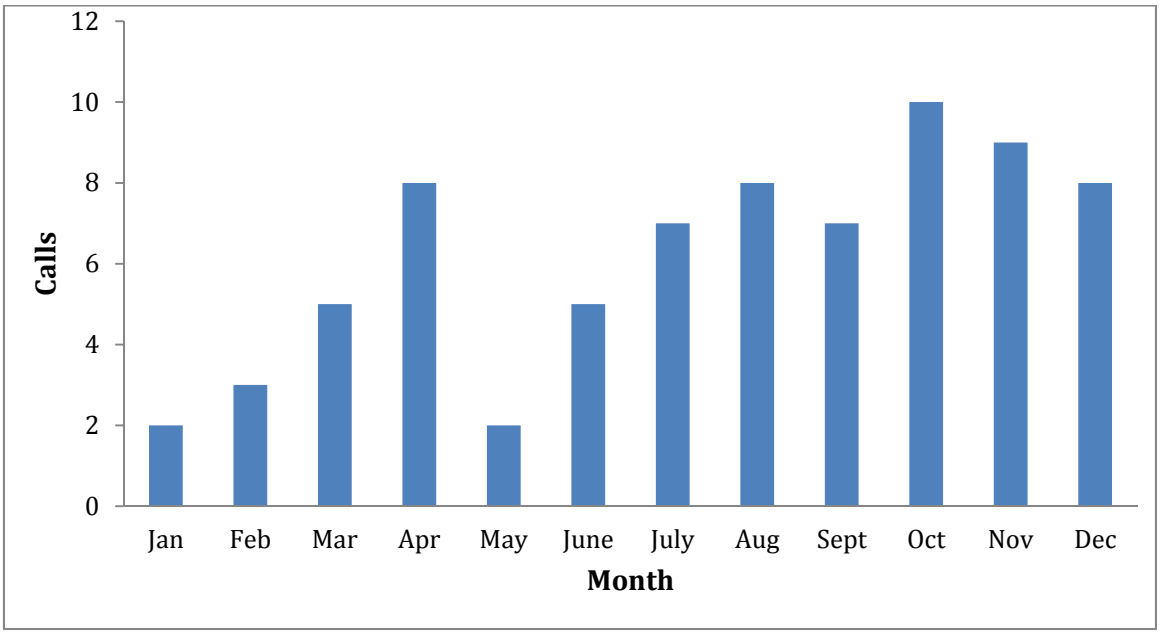
The following report is prepared by Anne B. Chopra, the Equity Ombudsperson (the "Ombudsperson") on an annual basis and disseminated to the Law Society of British Columbia for informational purposes. Should the reader have any questions about the report and/or comment contained in same, please feel free to email the Equity Ombudsperson at achopra1@novuscom.net.

A. OVERVIEW OF NEW CONTACTS

1. The Law Society of British Columbia (the "LSBC") Equity Ombudsperson Program (the "Program") reports there were 74 new contacts made by individuals during the reporting period January 1 to December 31, 2014 (the "Reporting Period or Period"). These were contacts made by individuals with a new matter. Of the 74 new contacts, 58 of these contacts were within the Mandate (as defined below) of the Program. Further, each individual who made contact with the Ombudsperson may have contacted the Program on the new matter on a number of occasions. As a result, the total number of contacts made with the Program during the Period was 248.

2. Table 1 displays the distribution of the 74 new contacts made with the Program during the Reporting Period:

TABLE 1: 74 New Contacts—2014 (Including outside the Mandate)



[1] Mandate = Calls from lawyers, articling students and staff dealing with issues arising from the prohibited grounds of discrimination, including bullying/workplace harassment.

3. The means of initial contact used by these individuals is distributed as follows: 27 (36%) made in person, 28 (37%) used the telephone, 16 (23%) used email; and 3 (4%) used regular mail. It is noted that there is a continued increase in initial contact by email. In the

Reporting Period, there was a 5% increase from 2013 and a 13% increase in contact made by email from 2012. Similarly, this trend is noted with contacts made in person after a presentation or an event. In 2014, there was an 8% increase in the initial contact being made in person, following a 13% increase in year prior. The Ombudsperson notes that this increase of initial contact being made in person is a result of the Ombudsperson's presentations and attendance at events/conferences in 2014 (see outreach and education section, page 12). For the purposes of this report, the Ombudsperson may refer to the individual who makes contact as the "Caller" regardless of how the individual made initial contact.

4. Further, of the 74 new contacts with the Program, 60 (81%) were made by women and 14 (19%) were made by men. There is no significant change in the percentage of contacts made by either gender.

5. Table 2 notes the total new contacts made with the Program since 2010 and the geographic distribution throughout the Province of British Columbia:

TABLE 2: Geographic Distribution of the Contacts—2010-2014

	2010	**2011**	**2012**	**2013**	**2014**
Total Contacts:	260	256	261	245	248
Vancouver (GVRD[2]):	135	140	133	122	142
Victoria:	65	60	58	54	60
Rest of BC	32	24	31	39	30
Outside the Mandate[3]:	28	32	39	30	16

[1]Contacts = All email, phone, in person (meeting and/or after a presentation), fax and mail contacts made with the Program. Some contacts may have resulted in more than one issue.
[2]Greater Vancouver Regional District (GVRD) = the municipalities and cities that make up the GVRD of Vancouver, West Vancouver, North Vancouver, the District of North Vancouver, Burnaby, Richmond, New Westminster, Surrey, Delta, White Rock, the City of Langley, Coquitlam, Port Coquitlam, Port Moody, Anmore, Pitt Meadow, Maple Ridge and the University Endowment Lands.
[3]Outside Mandate = Callers are from the public and/ or lawyers dealing with issues not within the Mandate of the Program.

6. Table 3 identifies the profile of the 232 contacts (248 total calls – 16 calls outside Mandate) made within the Mandate by 58 Callers, based on position, gender and size of firm:

TABLE 3: Profile Distribution of total contacts made by Callers in the Mandate—2010-2014

Profile Distribution:	**2010**	**2011**	**2012**	**2013**	**2014**
Position					
Associates	58	56	54	51	56
Partners	26	21	23	16	19
Students	16	19	20	17	20
Articling Students	58	52	56	58	68
Support Staff	74	76	69	73	69
Gender					
Females	191	189	179	176	186
Males	41	35	43	39	46
Size of Firm in (Percent %)					
Small (1-10)	51%	42%	40%	43%	36%
Medium (10-50)	20%	28%	35%	36%	35%
Large (50+)	29%	30%	25%	21%	29%

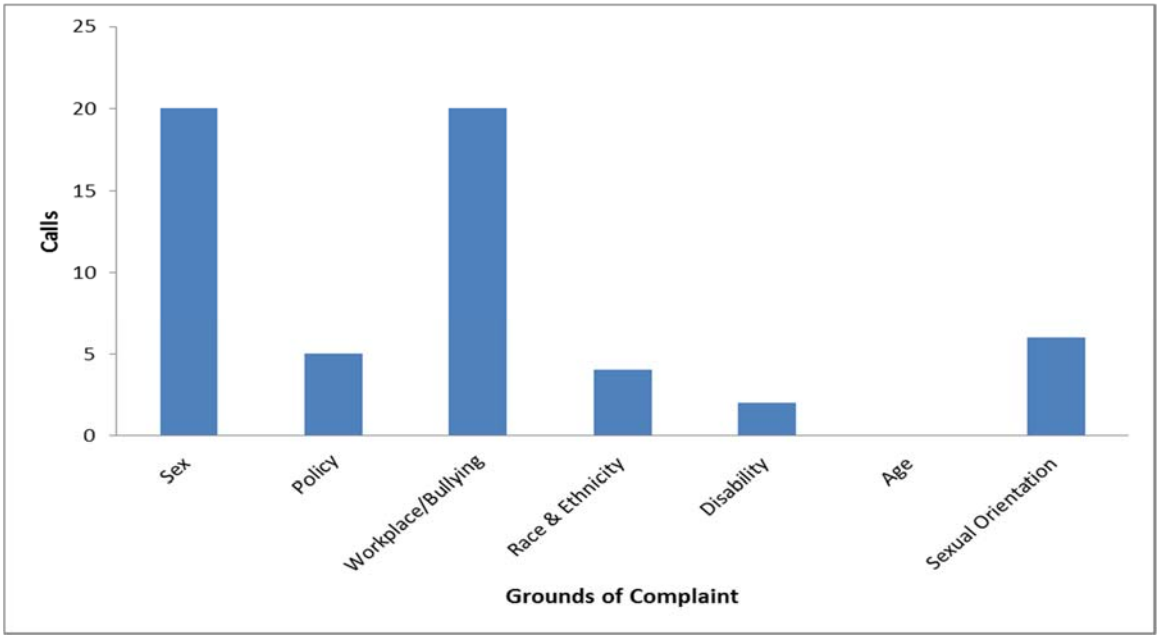
7. The Ombudsperson notes that compared to last year, there was a 8% increase in Callers from large firms and a 7% percent decrease in Callers from small firms.

B. GROUNDS OF COMPLAINT, NARRATIVE EXAMPLES AND THE OMBUDPERSON'S OBSERVATIONS:

1. In order for the reader to appreciate the nature and types of complaints, the Ombudsperson has included the following: **a)** Table 4, which displays the grounds of discrimination raised by the Caller, based on the following categories: sex/gender, disability, race/ethnicity, religion, age, sexual orientation, policy, and workplace harassment/bullying; **b)** narrative examples that illustrate the nature and types of complaints. (These examples are taken from the last 5 years of the Program to ensure anonymity and confidentiality for the Caller.); and **c)** the Ombudsperson's observations.

a) The following Table 4 displays the various grounds of discrimination raised by the Callers and the number of complaints in each category:

TABLE 4: Grounds of Discrimination raised by the Caller—2014



b) The Ombudsperson provides the following narrative examples:

Based on sex/gender:

- One female lawyer complained that when she returned from her maternity leave her significant clients and files were moved to another lawyer and were not given back to her upon her return;

- One female lawyer complained that when on maternity leave all her colleagues received a pay increase and she was the only one who did not, despite having received a positive performance appraisal from the firm;

- One female lawyer complained that in the course of her articles she was subjected to sexual innuendos (personal compliments on her appearance and dress consistently) and sexual advances (dinner and drink invitations) and when she sought legal advice she was persuaded to not pursue her case due to the close legal community; and

- One female support staff complained that a senior associate intentionally rubbed himself against her at a Christmas party. She was shocked, insulted and a partner at the firm

witnessed this also. When she pursued this with human resources she was faced with impractical solutions, which resulted in her leaving the firm.

Policy:

- One male lawyer complained that when he approached the firm about not having adopted an anti-bullying policy, the partner advised him that there was no need, as everyone knew everyone else in the firm. He called the Ombudsperson, seeking advice as how to implement an anti-bullying/harassment policy at the firm.

Based on disability:

- One male lawyer asked for accommodation for his disability and the firm continuously agreed to assist. Eventually, the firm accommodated the lawyer (within 6 months of his request), but this negatively impacted his ability to perform and affected his billings for the year.

Based on race and ethnicity:

- One female lawyer complained that when she entered the firm lunch room there were racial comments/jokes being made. She was uncomfortable, and let the others know by leaving the room in a disapproving manner. In response, the lawyers stated to her as she left: "*you are taking it too seriously, they did not mean any harm"*.

Based on bullying/workplace harassment:

- One paralegal was given consistent conflicting instructions, tests (subjected to psychological games) and verbally abused in front of other staff members. The owner was aware of this issue and told all the employees to work it out. He permitted the bullying to continue, knowing that there was consistent staff turnover when working with this particular lawyer. Staff members were left to deal with the situation on their own, without any management support.

c) Observations made by the Ombudsperson:

- There was a small drop in calls from the public. No specific measure was undertaken in the Period by the Ombudsperson to influence this result;
- There was a 3% increase in calls from articling students as compared to 2013;

- Discrimination based on sex/gender continues to be the greatest source of complaints. It should be noted that two Callers in the Period referred to their particular situation as *rape* and *sexual assault*, respectively and intended to launch formal complaints. The Ombudsperson is not certain of the status of these two possible complaints. However, the Ombudsperson brings this to the attention of the reader and the LSBC as feedback of the tone and the type of issues the Ombudsperson has addressed in the Period with some of the Callers.

- Discrimination based on workplace bullying is the second greatest source of complaints. The Ombudsperson notes that in the Period, more Callers referred to their issue as *bullying* rather than *harassment*. Callers wanted assistance in implementing an anti-bullying policy and the Ombudsperson directed these Callers to LSBC model. Callers found it to be an excellent resource;

- The Ombudsperson received a number of calls concerned about the Trinity Western University and the LSBC's position with respect to the school. These calls were re-directed to the LSBC as soon as possible. Further, these calls were recorded under the category of sexual orientation for statistical purposes;

- The Ombudsperson notes a change in the tone of the Callers. The Caller is more aware of his or her rights and less tolerant with respect to bullying and sexual harassment. For example, in the Period, two Callers advised the Ombudsperson that they were going to pursue a formal complaint with the LSBC with respect to sexual harassment and workplace bullying. In the last 14 years, the Ombudsperson has only been advised by one other Caller that she was considering launching a formal complaint. The Ombudsperson believes the Caller attempted to pursue a complaint. However, there is no public data available at this time to confirm whether the complaint was pursued and the status of such complaint; and

- No other significant and or tangible change in the nature and number of the complaints is noted, as compared to 2013, other than as noted above. The narrative examples above, follow a similar factual pattern from year to year.

C. SERVICES PROVIDED TO CALLERS

Table 5 denotes the services provided to the Caller. These services are advertised on the LSBC website and in the Ombudsperson pamphlet. Pamphlets are provided to articling students, lawyers and support staff by the Ombudsperson at presentations, training sessions, conferences, events, and at information tables.

TABLE 5: Services Provided —2004-Present

CALLERS:	SERVICES:
LAW FIRMS	• Advise parties of their obligations under the Human Rights Act, the LSBC Code of Conduct and Workers Compensation Act • Confidentially assist them with the particular problem, including discussing strategies, obligations and possible training • Provide information to firms on education seminars or training workshops
COMPLAINANTS	• Listen to the complainant and provide safe haven for their personal story • Assist in identifying and clarifying the issues for the complainant • Provide the complainant with his or her options, such as: 1) internal complaints process in their firm (as applicable), 2) formal complaint process at the LSBC, 3) mediation, 4) civil litigation, 5) Work Safe BC; and 6) the BC Human Rights Tribunal including any costs, references for legal representation, remedies that may be available and time limits for the various avenues, as relevant • Mediation is offered to the complainant, where feasible. To date, only informal mediation sessions have taken place • Provide the complainant information on resources, such as Optum (EAP) and Lawyers Assistance Program (LAP) • Direct them to relevant resource materials available from other organizations, including the LSBC, the BC Human Rights Tribunal and Work Safe BC.
GENERAL INQUIRER	Providing the inquirer with information about: • The Program Mandate • Services offered by the Program • An information seminar on the Program • Reporting statistics gathered by the Program
CALLER (outside Mandate)	• All Callers outside the Mandate are re-directed. Minimum time is spent by the Ombudsperson on these callers • The Program has a detailed telephone voice mail, in order that calls outside the Mandate are properly screened • The Ombudsperson does not assist the Callers beyond the initial contact

D. SUMMARY OF THE CALLS

1. Table 6 notes the distribution of all the issues, as raised by a Caller, within the Mandate, during the Reporting Period:

TABLE 6: Issue Distribution—2010-2014

Issues addressed	2010	2011	2012	2013	2014
1. Information, direction or referral:					
a) General Information	30	24	20	24	28
b) Office Policy Concerns	16	15	14	18	24
2. Discussion/Request:					
a) Article, Training or Presentation	14	21	25	18	15
3. Discuss specific issue or concern:					
Discrimination:					
a) Gender	24	20	21	29	29
b) Race/Ethnicity	14	14	9	13	15
c) Disability	10	10	14	12	7
d) Sexual Orientation[1]	0	4	0	9	12
e) Age[2]	n/a	n/a	4	0	0
[1] New Category in 2009, [2] New Category in 2012					
Harassment:					
a) Sexual harassment	60	55	59	51	57
b) Complaints of sexual harassment[3]	10	7	9	10	11
b) Workplace harassment (Bullying)	38	37	33	38	42
[3] Subsequent to the initial call, the complainant may have contacted the Program several times depending on the complexity of the issue and service required. This break down will allow the reader to track the numbers and trend of this serious issue.					
Specific Policy Concern:					
a) Maternity leave policy	15	13	14	12	13
b) Other policies	2	1	3	2	6
Inappropriate questions in interview	9	10	6	7	5

E. OUTREACH AND EDUCATION:

1. In 2014, the Ombudsperson travelled to:

   - Kelowna, BC, attended, presented and networked with 80 + lawyers from Vernon, Vancouver, Kelowna;
   - Smithers, BC, attended and presented to a CBA section meeting arranged by Linda Locke and the Ombudsperson;
   - Nanaimo, BC, attended, presented and provided outreach to 110+ Female attendees at the Trial Lawyers Association of British Columbia (TLABC) Conference for Women; and
   - Victoria, BC, attended and presented to articling students at PLTC (approx.85+ PLTC students).

2. The Ombudsperson attended, delivered pamphlets and/or presentations and followed up with:

   - Women's Lawyer Forum/CBA (the "WLF") members at the WLF launch;
   - WLF members at their AGM;
   - WLF members at a networking potluck dinner (*these listed WLF events are predominately attended by female lawyers and each event has 50-100 attendees. They are a great venue for the Ombudsperson to market the Program and the resources)*;
   - Federation of Asian Canadian Lawyers, FACL annual dinner, (*great venue to market the Program to the Asian Community, over 75 attendees);* and
   - PLTC students in Vancouver at the LSBC.

3. The Ombudsperson is continuing to work with the Continuing Legal Education Society of British Columbia (CLE) to develop the eLearning module on harassment for the Program (the "Module"). Filming of the script has taken place. CLE has reviewed and evaluated the script and has recommended that the Module be re-taped and a different approach taken. The Ombudsperson has been relying on the expertise of the CLE for the development of the Module. The deployment of the Module is dependent upon CLE's resources and schedule around CLE's on-going work. As CLE has volunteered to assist in the development of the Module with no cost to the Program, the exact date for the completion of the Module is uncertain. Given the sensitivity of the issues being addressed, CLE and the Ombudsperson have expended significant time on ensuring the method and approach utilized is appropriate, meets the target audience's needs and is practical. CLE has undertaken the development of this type of Module as a pilot project. CLE would like to assess the design and development involved in creating original content for scenario-based eLearning courses. Additional content has been designed with the Ombudsperson's input and depending on the feedback received, that content may be added in 2016 by CLE.

For ease of reference, the Ombudsperson provides the purpose of the Module, as stated in the 2012 Annual Report of the Equity Ombudsperson. The purpose of the Module is to: a) inform members, articling students and support staff on the important issues facing Callers; b) enhance awareness of the Program and the LSBC's commitment to a respectful workplace for all; c) be available for use by firms to educate their lawyers and staff internally; and d) assist the Program to reach a larger and remote target audience.

F. LSEN- TRANING AND EDUCATION FOR OMBUDSPERSON:

1. The Law Societies Equity Network, LSEN group did not meet in 2014. However, they engaged in a number of telephone conferences in the Period and have scheduled a meeting in May 2015 in Winnipeg to share their knowledge, information and experiences. This formalized group has been very successful in providing support and education to the ombudspersons. The group specifically arranges time for the ombudspersons to meet exclusively, so that they are able to learn from the sharing and exchange of sensitive and challenging issues in a safe environment. This has resulted in the law societies benefiting by eliminating costs associated with duplication of resources.

G. OBJECTIVES ACHIEVED DURING 2014:

1. The Ombudsperson achieved the following objectives during the Period:

- Raised awareness and knowledge of the Program;
- Assisted the Callers with their issues when within the Mandate. On occasions, the Callers have decided to leave the practice of law and the Ombudsperson has assisted them through coaching to keep them in the profession and seek another environment to practice law;
- Provided general support/education to the legal profession in British Columbia about respectful workplace issues;
- Provided consultation on workplace policies and initiatives, as requested;
- Continued to disseminate the Ombudsperson informational brochure;
- Followed up on contacts made through seminars, presentations, the confidential phone line, e-mail and mail;
- Exchanged information with provincial Equity Ombudsperson counterparts and other equity experts with the other law societies;
- Worked on developing the Module (an e-learning CLE anti- harassment module) focused on respectful workplace behaviour;

- Developed and maintained a relationship with the Equity Staff Lawyer, Policy and Legal Services, so there is enhanced communication between the Ombudsperson and the LSBC;

- Served as liaison/resource for the LSBC's Equity and Diversity Advisory Committee so as to ensure and encourage exchange of information; and

- Delivered the information sessions to various locations in British Columbia (outside of the GVRD) as time and the budget permitted.

H. CONCLUSIONS:

1. The Ombudsperson is pleased to report that the Program has been enhanced as a result of the resources allocated to the Program. The Ombudsperson's is now able to travel outside the GVRD and also meet the other objectives of the Program. This year she has travelled to Kelowna, Nanaimo, Smithers and Victoria. She attended two conferences that allowed her to capture the attention of a larger group from various remote geographic locations in British Columbia. This was a very effective means of outreach as the Ombudsperson received various questions from participants at each conference and also calls subsequent to the conferences. A number of individuals she met in the conferences lacked the knowledge of the Program and were pleased there was such a resource.

2. The PLTC resource panel lecture is an effective means of outreach for the Ombudsperson to those students who are experiencing problems around the time of the presentation, or shortly thereafter. Calls tend to be in close proximity to the panel presentation. However, the information provided by the panel (including those of other resources, such as LAP and OPTUM) do not seem to be a primary source of calls once the student becomes a lawyer. Upon speaking to the Callers (second year and third year call) the Ombudsperson has concluded that generally, the student's attention is placed on the completion of articles, firm work and passing PLTC courses; and some of them do not anticipate the information provided in the presentation as being necessary. Junior lawyer Callers, when asked how they learned about the service, stated: by referral, a presentation of the Ombudsperson at a WLF event, or searching the LSBC website. The Ombudsperson was expecting the Callers to recall the Program through the PLTC presentation. When the Caller was prompted, the Caller eventually recalled the panel presentation and the various resources presented at PLTC. The Ombudsperson was concerned and discussed this issue with the other service providers who presented on the panel. These service providers reported that they experienced a similar challenge. Accordingly, during the presentation to PLTC students, the Ombudsperson has emphasized the lack of awareness of the Program by young lawyers as they embark on their careers, and encouraged them to access the

resources available to help them when facing challenges in the workplace. Also, she intends to follow up with the head of PLTC to discuss whether each of the instructors could re-acquaint the students with the various service providers and their resources upon the student passing PLTC. Further, this feedback also re-confirms the importance of continuing to conduct presentations at WLF events and conferences where there is a significant target audience of new calls, in order to maintain and enhance the awareness of the Program.

3. At this time, the Ombudsperson reports that she is committed to continue to work on the goals as noted in section G of this report and will continue to travel to a minimum of two geographic locations outside the GVRD on an annual basis.

4. She will continue to attend and support the Equity Diversity Advisory Committee and members by working with them on their annual initiatives. Currently the ombudsperson position is being reviewed by the LSBC and the Ombudsperson has advised the committee that she is available to assist the committee in this review, so the LSBC can benefit from her experience from the last 14 years.

5. The Ombudsperson will continue to work with CLE in 2015 to complete the Module. CLE has advised that it anticipates that the Module will be made available in the fall of 2015, or earlier. The nature of the material and the new format of this Module have required many hours of design and production around ongoing CLE work, resulting in a longer than expected development phase. The Ombudsperson is keen to use the Module to enhance the awareness of the Program (in Vancouver and remote areas) and assist the legal community with challenging issues of harassment at no cost to the LSBC and to members.

6. The Ombudsperson is pleased that there are greater number of benchers, with a variety of backgrounds, sitting on the Equity and Diversity Advisory Committee. The Ombudsperson encourages this approach and is of the opinion that there is great value in having Benchers taking this experience to other LSBC bencher committees. Taking these *lenses of diversity* to other committees, such as “Credentials”, allows the Bencher to be mindful of systemic biases, benefiting the committee’s decision-making process and fostering a commitment to diversity throughout the LSBC.

I. APPENDIX A: Background to the Program- Prepared by LSBC - *Provided for New Benchers*

Background

The Law Society of British Columbia (the "Law Society") launched the Discrimination Ombudsperson program in 1995, the first Canadian law society to do so. It is now referred to as the Equity Ombudsperson Program, (the "Program") to reflect its pro-active and positive approach. The purpose of the program was to set up an informal process at arms-length to the Law Society, which effectively addressed the sensitive issues of discrimination and harassment in the legal profession as identified in the various gender and multiculturalism reports previously commissioned by the Law Society.

In the past thirteen years, the Program has been challenged with funding. Accordingly, it has undergone a number of reviews and revisions to address program efficiency, cost-effectiveness and the evolving understanding of the needs of the profession. In 2005, ERG Research Group ("ERG") was retained to conduct an independent study of the Program. ERG concluded that the complainants who accessed the Program "were overwhelmingly satisfied with the way the complaint or request was handled."

The Program has been divided into the following five (5) key functions:

1. Intake and Counseling: receiving complaints from, providing information to, and discussing alternative solutions regarding complaints with members, articled students, law students and support staff working for legal employers;

2. Mediation: resolving complaints informally with the consent of both the complainant and the respondent;

3. Education: providing information and training to law firms about issues of harassment in the workplace;

4. Program Design: at the request of a law firm, assisting in the development and implementation of a workplace or sexual harassment policy; and

5. Reporting: collecting statistics on the types of incidences and their distribution in the legal community, of discrimination or harassment and preparing a general statistical report to the Law Society, on an annual basis.

The original intention of the Law Society was to apportion these key functions among several parties, as follows:

A. The Ombudsperson would be responsible for: 1. Intake and Counselling and 5. Reporting

B. A Panel of Independent Mediators would be responsible for: 2. Mediation

C. The Law Society and the Ombudsperson would both be responsible for: 3. Education and 4. Program Design

From a practical perspective, the above responsibilities have not been apportioned to the intended parties.

With regard to education, the Law Society is not actively involved, other than to distribute model policies on demand. Further, from an operational side, it has become quite evident that it is very impractical to call on mediators from a roster. When a situation demands attention, it is on an expedited and immediate basis. Further, no evidence exists to date that there is a need for a mediator on a regular basis. For example, over the last two years mediators were called on four occasions but they were unavailable due to various reasons: delay in returning the call; a conflict made them unable to represent the client; one did not have the capacity to take the work; and another was on vacation. Accordingly, it was concluded that it was challenging to retain a qualified mediator with the requisite expertise, in an appropriate length of time. The costs and inefficiencies to retain a mediator to address highly stressed, emotional and potentially explosive situations was also a concern and consequently the Ombudsperson has been directly handling the conflict by using her mediation skills. As a result, all components of the Program are currently being handled, primarily, by the Ombudsperson.

Description of Service since 2006

The Equity Ombudsperson:

- Provides confidential, independent and neutral assistance to lawyers, support staff working for legal employers, articling students and clients who have concerns about any kind of discrimination or harassment. The Ombudsperson **does not** disclose to anyone, including the Law Society, the identity of those who contact her about a complaint or the identity of those about whom complaints are made;

- Provides mediation services to law firms when required to resolve conflict or issues on an informal and confidential basis;

- Is available to the Law Society as a general source of information on issues of discrimination and harassment as it relates to lawyers and staff who are engaged in the practice of law. From a practical perspective, the Ombudsperson is available to provide information generally, where relevant, to any Law Society task force, committee or initiative on the forms of discrimination and harassment;

- Delivers information sessions on the Program to PLTC students, law students, target groups, CBA sub-section meetings and other similar events;

- Provides an annual report to the Law Society. The reporting consists of a general statistical nature in setting out the number and type of calls received;

- Liaises with the Law Society policy lawyer in order to keep her informed of the issues and trends of the Program; and

- Provides feedback sheets for the Program to callers who have accessed the service.

Objective of the Program

The objective of the Program is to resolve problems. In doing so, the Equity Ombudsperson maintains a neutral position and does not provide legal advice. She advises complainants about the options available to them, which include filing a formal complaint with the Law Society or with the Human Rights Tribunal; commencing a civil action, internal firm process, or having the Ombudsperson attempt to resolve informally or mediate a discrimination or harassment dispute.

The Equity Ombudsperson is also available to consult with and assist any private or public law office, which is interested in raising staff awareness about the importance of a respectful workplace environment. She is available to assist law firms in implementing office policies on parental leave, alternative work schedules, harassment and a respectful workplace. She can provide educational seminars for members of firms, be available for personal speaking engagements and informal meetings, or can talk confidentially with a firm about a particular problem. The services of the Equity Ombudsperson are provided free of charge to members, staff, articling students and law students.

Equity Ombudsperson programs have been a growing trend among Canadian law societies since 1995. Currently the Law Societies of British Columbia, Alberta, Manitoba, Ontario and Saskatchewan have Equity Ombudsperson type positions. The Nova Barristers' Society has a staff Equity Officer who fulfills a similar role.

As these law societies have established and publicized these services, it has assisted staff and lawyers, from a practical perspective, to access information and resources to assist them in learning about their options, so that they are in a position to consider and take the appropriate steps to deal with the issues of discrimination and harassment. Further, the establishment of the Program continues to send a positive and powerful reminder to the legal profession about the importance of treating everyone equally, with respect and dignity. Achieving this goal is crucial to ensure a respectful and thriving legal profession.

The Law Society of British Columbia

Rule of Law and Lawyer Independence Advisory Committee – Mid Year Report

David Crossin, QC, Chair
Leon Getz, QC, Vice Chair
Craig Ferris
Jon Festinger, QC
Jan Lindsay, QC
Gregory Petrisor
Sandra Weafer

July 10, 2015

Prepared for:	Benchers
Prepared by:	Rule of Law and Lawyer Independence Advisory Committee/ Michael Lucas, Manager, Policy and Legal Services
Purpose:	Information

Introduction

1. The Rule of Law and Lawyer Independence Advisory Committee is one of the four advisory committees appointed by the Benchers to monitor issues of importance to the Law Society and to advise the Benchers in connection with those issues. From time to time, the Committee is also asked to analyze policy implications of Law Society initiatives, and may be asked to develop the recommendations or policy alternatives regarding such initiatives.

2. The importance of lawyer independence as a principle of fundamental justice in a democratic society, and its connection to the support of the rule of law, has been explained in past reports by this Committee and need not be repeated at this time. It will suffice to say that the issues are intricately tied to the protection of the public interest in the administration of justice, and that it is important to ensure that citizens are cognizant of this fact.

3. The Committee's mandate is:

    - to advise the Benchers on matters relating to the Rule of Law and lawyer independence so that the Law Society can ensure

        - its processes and activities preserve and promote the preservation of the Rule of Law and effective self-governance of lawyers;

        - the legal profession and the public are properly informed about the meaning and importance of the Rule of Law and how a self-governing profession of independent lawyers supports and is a necessary component of the Rule of Law; and

    - to monitor issues (including current or proposed legislation) that might affect the independence of lawyers and the Rule of Law, and to develop means by which the Law Society can effectively respond to those issues. The Committee was particularly concerned about the provisions of Bill C-51 (the *Anti-Terrorism Act, 2015*) and was pleased to see the Law Society make an effort to engage in the debate on that Bill.

4. The Committee has met on January 28, March 4, April 8, and June 12, 2015.

5. This is the mid-year report of the Committee, prepared to update the Benchers on its work in 2015 and to identify issues for consideration by the Benchers in relation to the Committee's mandate.

Topics of Discussion – January to June 2015

Public Commentary on the Rule of Law

6. Following on its discussions in 2014, the Committee has completed a recommendation to the benchers (to be presented at the July 2015 Bencher meeting) that the Rule of Law and Lawyer Independence Advisory Committee be authorised to identify appropriate topics on the rule of law and to post or publish a brief article, as appropriate.

7. This recommendation is focussed on Strategy 3.1 of the Strategic Plan, to "increase public awareness of the importance of the rule of law and the proper administration of justice," and results from the Committee's conclusion that, in the course of undertaking its monitoring function, it often identifies news stories or events that bring attention to the rule of law, or lack thereof, and exemplify the dangers to society where it is either absent, diminished or, perhaps, threatened, from which the Committee could usefully select appropriate instances for comment.

8. More need not be written about this proposal here as it is described in detail elsewhere in the package of agenda materials.

Meaning of the Rule of Law in Connection with the Law Society Mandate

9. The Committee discussed in some detail the objects and duties of the Law Society as set out in Section 3 of the *Legal Profession Act* in connection with the Rule of Law in order to assist in the preparation of materials for the Benchers Retreat in May 2015.

10. The Committee has previously identified that section 3 of the *Act* engages the Rule of Law. The Committee believes that a statement of principle could clarify the meaning and practical implications of Section 3, while also taking adequate account of the relationship between the Law Society's mandate and the Rule of Law.

11. Consequently, an object of the Retreat was to build a common understanding of how the provisions of section 3 – and particularly s. 3(a) – inform the Law Society's activities, by examining developments in access to justice, exploring the scope of directives that the section presents, and discussing opportunities to advance the objectives of the section.

12. From the results of the discussion generated at the Retreat, the Committee plans to identify some principles for consideration by the Benchers, ideally to create a working definition of the section to inform the future work of the Law Society.

National Security Agency (US) and Communications Security Establishment Canada

13. As the result of an enquiry from a lawyer about a lawyer's duty with respect to communications with a client in the face of revelations that most electronic communication appears to be open to review by the National Security Agency in the United States and the Communications Security Establishment in Canada, the Committee obtained direction from the Executive to consider the topic.

14. The Committee devoted some time last year to a preliminary consideration of the matter, agreeing that for lawyers, two issues are raised by the matter:

    - section 3 and the public interest in balancing privilege and *Charter* values against the need for state surveillance for public safety; and

    - professional obligations to preserve confidences and privilege. If a state is capturing such documents but one doesn't know the parameters under which the state is viewing them, how can one advise a client about the security of information provided to a lawyer?

15. Recognising, however, that it was not expert in understanding the issues or complications that electronic monitoring of communications raised, the Committee sought some guidance from an expert. To that end, Professor Michael Geist (currently the Canada Research Chair in Internet and E-Commerce Law at the University of Ottawa) attended a meeting by conference call to give the Committee an overview of issues raised.

16. The Committee's intention is to develop and recommend to the Benchers guidelines for lawyers to follow in order to best protect professional obligations, as well as the possibility of undertaking some education or training about risks.

Alternate Business Structures

17. This Committee continues to monitor in general the development of alternate business structures in England, Australia, and the debates in other parts of the world concerning whether or not to implement such proposals.

18. The Committee is also aware of efforts being undertaken through the Law Society of Upper Canada and by the law societies of the three Prairie provinces to begin some discussion on the topic, and will continue to monitor and participate in those discussions as it is able to do.

19. The Committee is encouraged that this topic has been identified as an issue for consideration on the Law Society's Strategic Plan, and will assist in its development as required.

Judicial Appointment Process to the Supreme Court of Canada

20. The Committee discussed briefly, at its January meeting, the issue of Judicial Appointments to the Supreme Court of Canada, noting that the current approach seems to lack in process and, insofar as there is any stated process, it is not always followed.

21. It noted that the issue has not been advanced since some efforts were undertaken with the Federation of Law Societies in 2008.

22. The Committee would like to give further consideration to this issue in the Fall, perhaps with a view to developing, for consideration by the Benchers, a position on a constitutionally sound process for submission to the government.

Magna Carta – 800th Anniversary

23. The Committee itself, as well as through staff, has been involved in planning two events to commemorate the 800th anniversary of the Magna Carta. As part of its mandate, the Committee has been considering ways to celebrate that anniversary.

24. Events at Government House in Victoria and at the Law Courts Great Hall in Vancouver on, respectively, July 28 and July 29 have been planned principally through the Attorney General's Ministry, but with the support of the Law society and with some involvement through staff to the Committee.

25. With the approval of the Executive Committee, the Committee created an essay contest for high school students writing on Magna Carta, the rule of law, and its importance to Canadian society and values. Unfortunately, response to the contest in the time planned was not sufficient, and plans are being undertaken to extend the deadline to December 31.

The Law Society of British Columbia

Lawyer Education Advisory Committee 2015 Mid-Year Report

Tony Wilson, Chair
Maria Morellato, QC, Vice-Chair
Dean Lawton
Sharon Matthews
Micah Rankin

July 10, 2015

Prepared for: Benchers

Prepared by: The Lawyer Education Advisory Committee

Purpose: Information

Introduction

1. The Lawyer Education Advisory Committee's Mid-Year Report to the Benchers summarizes the Committee's work to-date and outlines the Committee's plans for the balance of the year pursuant to the 2015-17 Law Society Strategic Plan.

Committee Strategic Priorities

2. The applicable sections of the Strategic Plan stipulate the following.

2. The Law Society will continue to be an innovative and effective professional regulatory body.

Strategy 2-1
Improve the admission, education and continuing competence of students and lawyers.

Initiative 2-1(a)
Evaluate the current admission program (PLTC and articles), including the role of lawyers and law firms, and develop principles for what an admission program is meant to achieve.

Initiative 2-1(b)
Monitor the Federation's development of national standards and the need for a consistent approach to admission requirements in light of interprovincial mobility.

Initiative 2-1(c)
Conduct a review of the Continuing Professional Development [CPD] program.

Initiative 2-1(e)
Examine alternatives to articling, including Ontario's new law practice program and Lakehead University's integrated co-op law degree program, and assess their potential effects in British Columbia.

Admission Program Review Update

3. The Committee began by reviewing the work of the former 2014 Committee, which had commenced its consideration of the Admission Program pursuant to the previous Law Society Strategic Plan. The Committee agreed to build on the former Committee's work, rather than redoing its work or revisiting its conclusions.

4. This year, the Committee's work has included consideration of

a) PLTC's history and mandate,
b) PLTC's teaching and training: strengths and weaknesses, and options for change,
c) PLTC's skills assessments and examinations: strengths and weaknesses, and options for change,

d) the potential role of online learning,
e) PLTC and articling's administrative challenges, including cost, space, and rising student numbers,
f) surveys of two and three year lawyers,
g) responses to Committee Chair Tony Wilson's *BarTalk* article,
h) articling's strengths and weaknesses, and options for change,
i) articling remuneration, and unpaid articles,
j) bar admission systems in other jurisdictions, and
k) the impact of the Federation of Law Societies' anticipated national admission standards proposals.

Admission Program Principles

5. The Committee has concluded that the Federation's *Entry to Practice Competency Profile for Lawyers and Quebec Notaries*, approved by the Benchers on January 24, 2013, and the *Report on Admission Program Reform*, approved by the Benchers on June 28, 2002, articulate the principles that the Admission Program is meant to achieve. The following are relevant excerpts from the 2002 *Report on Admission Program Reform*.

> *11. … the mandate of the Admission Program is to ensure that students admitted to the Bar of B.C. are competent and fit to begin the practice of law. Therefore, a student, to complete the Admission Program successfully, must demonstrate such competence and fitness.*
>
> *12. … the profession needs, in the public and its own interest, to be satisfied that newly called lawyers possess:*
> - *legal knowledge,*
> - *lawyering and law practice skills,*
> - *professional attitude,*
> - *experience in the practice of law, and*
> - *good character.*
>
> *17. There are important reasons for supporting an effective Admission Program, including both a teaching and articling component. These reasons include:*
> - *narrowing the competence gap that otherwise exists between law school graduation and admission to the Bar, by providing supervised practical experience with actual clients,*
> - *teaching the "how-to" of the practice of law, including practical application of substantive law, procedure, skills, professional responsibility, loss prevention and office management,*
> - *socializing students to their role in the profession and responsibility to the public, the*

profession and the administration of justice,

- *assisting and preparing the students who may soon be in sole practice or otherwise largely unsupervised, and mitigating through teaching and mentoring any disadvantage that may be faced by students from groups under-represented in the profession.*

Consultations with the Profession

6. The Committee has administered an Admission Program survey to lawyers called to the bar for two to three years. The responses, attached as Appendix A, indicate strong support for PLTC maintaining its current small group/workshop format as a live in person course, and continuing to focus on skills, ethics, practice management, and practice and procedure. The responses also strongly indicate that articling should continue but be strengthened.

7. Tony Wilson's June 1, 2015 *BarTalk* article, *I'm Conducting an Opinion Poll!!! - How can we improve Articling and PLTC?,* solicited the profession's input on the Admission Program, both articling and PLTC, and in particular on the question of whether in person PLTC should be replaced with online education. The article, to date, has elicited over 25 written responses from newly called, mid-level and senior lawyers. Other respondents have chosen to communicate by telephone, and additional responses are anticipated. Although one might anticipate criticisms of the Admission Program, and particularly PLTC, from those who have voiced their opinions, the responses to date do not support replacing PLTC with an online program. In fact, they are supportive of the program.

8. The following significant themes emerge from the *BarTalk* article responses.

a) PLTC

-PLTC's strengths

- strong support for PLTC
- transition to articling and to practice
- skills training
- quality of teaching
- value of small group learning
- collegiality – development of professional relationships
- meeting with volunteer senior lawyers as guest instructors

-Suggestions for PLTC

- retain the in person format
- some suggestions for additional / reframed skills
- strengthen practice management / business of law training
- try to minimize disruption to articles

b) Articling
-valuable, but uneven quality
-should be retained and enhanced
-students should be paid

9. The few concerns about the Admission Program are from lawyers in smaller firms, who find PLTC to be disruptive when it is scheduled for their articling students in the middle of the articling term. (As a follow up, the Communications Department is publishing information for the profession and prospective articling students explaining how firms can minimize the disruption.)

About PLTC

10. Lynn Burns, PLTC's Deputy Director, provided the Committee with a description of PLTC. PLTC is a ten week course held live in small group classes, three times per year in Vancouver and once per year in Kamloops and Victoria. The lesson plans are for inter-active participatory workshops, not lectures. The focus is on skills, ethics, practice management, and practice and procedure in several common areas of entry-level practice. The skills taught and assessed are Drafting, Writing, Interviewing/Oral Advising, and Oral Advocacy. The practice and procedure areas examined in two 3-hour examinations are Business, Real Estate, Criminal, Civil, Wills, and Family, in addition to Ethics and Practice Management. Interactive participatory classes also focus on mediation, negotiation, criminal and civil advocacy, and legal research, and assignments include client interviews, civil trial analysis, Notice of Claim and affidavit drafting, statements of adjustments, trust accounting, financial statement analysis, letter writing, and drafting contracts. Throughout PLTC students are taught, discuss, debate and are challenged on their professionalism including ethics, practice management and problem solving.

11. PLTC is taught by a combination of Law Society staff instructors, sessional contract instructors, and hundreds of volunteer guest instructors. Although the course is delivered in person, the Practice Materials, statutes, rules, daily lesson plans, daily schedule, and assignments are accessible by the students through the online student portal. Students submit their completed written assignments and assessments electronically. Feedback on written assignments is provided electronically, and student results are posted online. PLTC does not yet have the capacity to post videos online, but that is being planned.

Bar Admission in Manitoba, Saskatchewan, Alberta

12. The Committee met with Sheila Redel, the first Executive Director and course designer for the Canadian Centre for Professional Education (CPLED). CPLED, since 2004, has been the bar admission training program for the law societies of Manitoba, Saskatchewan and Alberta. There are no formal written examinations. The students' skills and knowledge are demonstrated through assignments and assessments.

13. CPLED is a mixed online and in person bar admission skills and practice training program. It is substantially online, with seven 3-week online modules and three 3-day in person modules (Negotiation, Oral Advocacy, and Interviewing) for a total length of 21 weeks online and 9 days in person. The seven online modules are Drafting Contracts, Drafting Pleadings, Legal Research and Writing, Practice Management, Written Advice and Advocacy, Ethics and Professionalism, and Client Relationship Management.

14. All ten CPLED modules are delivered throughout the articling year, with students expected to devote approximately one day per week to the seven online modules. Law firms are asked to permit the articling students one day off per week to complete the online modules and time off to attend the three 3-day in person modules. In many articling settings, particularly in private practices, this has proven to be inconsistent, and students must frequently find their own time to meet their CPLED obligations.

15. CPLED's technology is now out of date and asynchronous. While CPLED's course content is regularly updated, the online platform is basic, consisting mostly of written material, including file documents, written instruction, assignments, and other written practice material, with an Instructor available by email. The asynchronous nature of CPLED makes the medium of instruction less helpful to students than synchronous programs such as E-Live (now Blackboard Collaborative Learning). If the CPLED program is to be continued, the online platform requires a substantial and expensive upgrade. CPLED is awaiting the Federation's National Admission Standards proposals before deciding how to proceed.

16. The Committee engaged with Sheila in an informative discussion about online learning and face-to-face learning. Having designed and directed CPLED and recently taught PLTC, Sheila described PLTC as "the gold standard." Although some things could be taught online, such as drafting, Sheila advised that this type of change would be complex because the PLTC program is intertwined rather than modularized, with activities, lessons and assignments building on one another. Removing an element of PLTC from "live instruction" to online instruction would not be as easy as one would hope, and would involve expenditure of money and staff resources to create and administer an online component.

17. Sheila indicated that Manitoba had been originally motivated to replace its former in person bar course with an online course because on a weekly basis throughout the articling year the Law Society had been flying out-of-town students to Winnipeg and accommodating them in hotels to attend the Friday bar course. This was costly and problematic, especially in winter.

18. Sheila also said that the prairie provinces had different "drivers" than BC to develop an online program, because the Law Society of BC maintains its own classroom space. It was Sheila's understanding that a key reason for Saskatchewan and Alberta's move to an online approach was the increasing difficulty and cost of booking teaching space in hotels.

Bar Admission in Ontario

19. The Committee has considered the new four month Ryerson University online Law Practice Program (LPP), as well as the new integrated co-op JD and bar admission practical training program Lakehead University.

20. The Committee concludes that although the Strategic Plan calls for the Committee to examine alternatives to articling, including Ontario's new Law Practice Program and Lakehead University's integrated co-op program, and to assess their potential impact in BC, it is premature to reach any conclusions on their effectiveness or their likely impact in BC because the programs are in their infancy.

Bar Admission in Australia and New Zealand

21. The Committee has reviewed information on bar admission in Australia and New Zealand, including the Practical Training Courses and their online aspects.

Research: Online Learning and Small Group In-person Collaborative Learning

22. The Committee reviewed a discussion paper by Policy Lawyer Charlotte Ensminger summarizing research and assessments of online learning, including how online learning is used in training student lawyers in the United Kingdom, Australia, New Zealand, and four Canadian provinces (Nova Scotia and the prairie provinces). The discussion paper elaborates on the characteristics, advantages and disadvantages of an online learning model as well as a blended learning (hybrid) model.

23. The Committee also reviewed research assembled by PLTC Deputy Director Lynn Burns on small group collaborative learning, and heard from Lynn Burns about the pros and cons of this method of delivery. The positives include peer support, team work, mentoring from Instructors and Guest Instructors, contacts, relationship building that continues into practice and reduces isolation for students who article or will practice in small or remote firms, immersion in an environment focusing on ethics and professional values, daily discussion, debate, feedback and reflection. Negatives include the need for bricks and mortar and live instructors, the increase in student numbers from 340 to 500 over the past five years needing to be accommodated by expansion to Kamloops, the recent construction of an additional classroom in Vancouver, and recruitment of more contract instructors. Class sizes have frequently increased from approximately 18 to 22, although there is space for additional students and classrooms in Kamloops and Victoria as needed. For some students, their articles are disrupted to attend PLTC, and some must travel and incur additional cost to relocate to attend PLTC in Kamloops, Victoria or Vancouver. Fewer than 5% of students relocate for PLTC, as they are mostly either articling or graduating from law school in the three PLTC cities. A new Law Foundation PLTC Travel and Accommodation grant is available for those students.

Articling

24. The Committee considers the following observations in the 2002 *Report on Admission Program Reform* about the principles that articling is meant to achieve, as well as articling's shortcomings in satisfying those principles, to be applicable today.

> *36. The articling term should fulfil a significant role in preparing students, in a practical way, to apply their legal knowledge, acquire and enhance practical skills and know-how, and develop a sense of professionalism that encompasses the attitudes and values of the legal profession. Articling is a key building block in the preparation for becoming a competent lawyer. It provides the real-life part of the student's professional training.*
>
> *37. … for some students, the articling term is too often the weak link in the professional legal education process. Articling functions in isolation, and the quality of experience for some students can provide inadequate preparation for the competent practice of law. The articling term is the only part of the pre-call education and qualification process, from the first day of law school to call to the bar, dedicated to assisting students to acquire, in an actual law practice context, the competence to practise law. As such, it is analogous to the teaching hospital experience for medical students, but too often can fall far short. The 1997 and 2001 surveys of articling principals and students, supplemented by interviews, confirm the perception that the most significant shortcomings of the articling term include:*
>
> - *inconsistent quality in articling experiences,*
> - *inconsistent supervision and feedback,*
> - *inconsistent instruction about professional values and attitudes, and*
> - *powerlessness of students to ensure they receive a satisfactory quality of articles.*

25. The Committee continues to consider articling, with a focus on identifying enhancements and means to ensure a higher level of consistency in articling experiences.

Next Steps in the Admission Program Review

26. The Committee plans to submit a report to the Benchers by year end, with recommendations that will include

- principles on which the Admission Program ought to be based,
- enhancements to PLTC and articling generally,
- enhancements to PLTC's practice management component,
- role of online learning in enhancing PTC and articling,
- estimates of the anticipated cost of proposed enhancements to PLTC and articling,
- estimates of the anticipated cost to replace PLTC with an online program,
- proposals for limiting small firm disruption when their articling students attend PLTC,

- proposals relating to students with unpaid articles,
- whether BC can anticipate a problem with increasing numbers of students seeking articles, including out of province and NCA students, and how to be ready to respond,
- timing for implementing the Committee's recommendations,
- impact of the Federation's anticipated national admission standards proposals, and
- costs associated with implementation of changes.

Federation National Admission Standards Project

27. The Committee continues to monitor the Federation's ongoing National Admission Standards Project through which the Federation is developing proposals for national admission standards and related implementation.

28. On the competencies for admission aspect of the National Admission Standards Project, the first phase was to develop a national profile of the competencies required for entry to the profession. The Benchers have approved the *National Entry-Level Competency Profile for Lawyers and Quebec Notaries* pursuant to the following resolution.

    RESOLVED: to approve the Competency Profile on the understanding that implementation will be based on a nationally accepted implementation plan, and to support the development of that plan.

29. The current phase of the National Admission Standards Project focuses on developing proposals for implementing the national competency profile, with an emphasis on national testing. The Federation anticipates providing a proposal to law societies by mid to late summer, and then consulting with law societies in the fall.

30. Ultimately, law societies will be asked to approve how the competency standards are implemented. The Lawyer Education Advisory Committee, in consultation with the Credentials Committee, will consider the Federation proposals and formulate recommendations for the Benchers' consideration. The Lawyer Education Advisory Committee recognizes that the Admission Program may be impacted by the Federation's National Admission Standards Project.

CPD Program Review – Recommendation for the Next Strategic Plan

31. The Strategic Plan includes Initiative 2-1(c), requiring the Committee to conduct a review of the CPD program.

32. The Committee, with the informal agreement of the Executive Committee, is deferring its CPD review until 2016. In the meantime, a staff working group has implemented interim CPD website enhancements to make the CPD website more user friendly, pending the full CPD review.

……

APPENDIX A

Survey of 2 to 3 year BC lawyers (104 responses to 605 survey invitations)

PLTC

1. **Should PLTC continue as a LIVE course?**
   Yes - 94 No - 7

2. **Is ten weeks the correct length for PLTC?**
   Yes - 74 No - 27

3. **Should PLTC maintain its current small group/workshop format?**
   Yes - 98 No - 5

4. **Should PLTC's teaching continue to focus on skills, ethics, practice management, practice and procedure?**
   Yes - 101 No - 1

5. **Should PLTC continue to assess student competence in the following skills?**
   Interviewing: Yes - 89 No - 15
   Drafting: Yes - 98 No - 6
   Writing: Yes - 89 No - 15
   Advocacy: Yes - 93 No - 10

6. **Should PLTC continue to assess student competence by written examinations covering practice, procedure, law, ethics and practice management?**
   Yes - 89 No - 13

LAW OFFICE INFORMATION

1. **Type of office where you articled**
   Law Firm - 94
   Government Dept. - 7
   Other - 3

2. **Number of lawyers in the firm (if a corporate/government department, state number in department)**

1	7
2-5	25
6-20	25
21-50	11
51-100	18
100+	18

3. **Number of articling students who worked in the firm (or corporate/government department) in the year you articled**

1	39
2	19

3-5 15
6-10 17
10+ 12

4. **During articles, your monthly salary range was**
   Greater than $3,500 - 43
   $2,000 - $3,500 - 51
   Under $2000 - 7
   Nil - 3

5. **Were you paid a salary while at PLTC?**
   Yes - 92 No - 10

6. **Were your PLTC fees paid by your articling firm?**
   Yes - 98 No - 6

GENERAL OPINIONS ABOUT ARTICLING

1. **Does articling need improving?**
   Somewhat - 68
   Not at All - 22
   Very Much - 14

2. **Could your Articling Principal have done more to improve your experience?**
   Somewhat - 51
   Not at All - 32
   Very Much - 21

3. **Could the Law Society do more to improve articling?**
   Somewhat - 62
   Very Much - 22
   Not at All - 20

4. **Were you valuable to the firm?**
   Very Much - 50
   Somewhat - 47
   Not at All - 6

5. **Were you prepared to commence the practice of law upon admission to the bar?**
   Somewhat - 61
   Very Much – 34
   Not at All - 9

The Law Society of British Columbia

Memo

To:	The Benchers
From:	Rule of Law and Lawyer Independence Advisory Committee
Date:	February 25, 2015
Subject:	Proposal for Engaging More Publicly on Rule of Law Issues

Proposed Motion

That, as part of its mandate, the Rule of Law and Lawyer Independence Advisory Committee be authorised to identify appropriate topics on the rule of law and to post or publish a brief article for publication, as appropriate.

Introduction

1. The Rule of Law is a fundamental principle underlying Canadian democracy and, as stated in the preamble to the Charter of Rights and Freedoms, is one of the principles upon which Canada is founded. In *Roncarelli v. Duplessis* [1959] S.C.R. 121 the Supreme Court of Canada held that the rule of law was a "fundamental postulate of our constitutional structure."

2. Described in the most basic way, the rule of law means that everyone is subject to the same laws. The rule of law means that the law is supreme over officials of the government as well as private individuals, and is thereby contrary to the influence of arbitrary power.

3. The rule of law is frequently referred to in the media as a positive feature of western democracies. It is not often explained, however. It often is simply used as a phrase connoting a benefit. Societies that are troubled are often referred to as lacking the rule of law, or that they are struggling to develop it. However, what this means is not always clear.

4. The justice system exists as society's implementation of the rule of law. The proper administration of the justice system is of central importance in the Law Society's mandate. However, the Law Society is not currently taking an active role in educating the public on the benefits of the rule of law, nor is it offering comments to engage its

members on issues of importance to the rule of law. The Committee has been given a specific mandate by the Benchers. The second part of its mandate is:

> to monitor issues … that affect or might affect the independence of lawyers and the rule of law, and to develop means by which the Law Society can effectively respond to those issues.

5. The Committee considers that identifying some method by which the Law Society, as an organization or through its committees can effectively respond to rule of law issues is something that has been missing from its work.

6. Strategy 3.1 of the current Strategic Plan is for the Law Society to "increase public awareness of the importance of the rule of law and the proper administration of justice." "Public awareness" can be directed at both society at large, and also the bar itself. The Committee has been identified as one of the groups through which this strategic objective can be realized.

7. In the course of its monitoring activity, the Committee comes across news stories or events that bring attention to the rule of law, or lack thereof, and exemplify the dangers to society where it is either absent, diminished or, perhaps, threatened.

8. The Committee also monitors statements made by other legal bodies, such the International Bar Association, Commonwealth Lawyers Association, International Commission of Jurists, and others that periodically comment on transgressions of the rule of law. Other legal regulatory bodies whose mandate is similar to ours (including the Law Society of Upper Canada and the Law Society of New Zealand) will, from time to time, support or explain these statements.

9. The Committee believes that public education and commentary on the meaning and value of the rule of law is advisable. Canada has a legal system that is based on the rule of law, but what does this mean to our society? What might happen if the rule of law were weakened, as can be exemplified by reference to events in other parts of the world?

10. The Committee has therefore developed this proposal through which it could, in the course of its monitoring activities, identify events in which the rule of law is at issue and prepare and disseminate commentary that would educate readers on the values and benefits of the rule of law. In particular, the Committee has considered how this could be done in a timely way, where events are of immediate interest and before public interest in them wanes.

Proposal

11. The Committee has settled on a proposal that it wishes to present to the Benchers for consideration and approval.

12. The Committee proposes that the benchers authorize it, in the course of its monitoring activities, to selectively identify appropriate topics relating to the rule of law and to post a comment or brief article about them.

13. In short, the Committee proposes that it be designated by the Benchers to comment, occasionally and as appropriate, on rule of law issues.

14. The Committee would not be expressing the Law Society's official opinion on the topics it would address. The Committee proposes to provide its own commentary, as a group of informed benchers and committee members appointed by the President. It proposes that such commentary be posted to a location on the Law Society website when the Committee considers that a useful point could be made explaining the benefits or significance of the rule of law. It will over time identify matters on which it could write more broadly, such as for the Advocate, academic publications, or, where an appropriate opportunity presented itself, for an "op-ed" piece in news media

15. In order to engage readers, the Committee suggests that it could post its commentary on a topic in the form of an "online discussion forum" or, perhaps as a "blog." This approach would permit – indeed, encourage – commentary (including from other Benchers) on matters related to the rule of law and lawyer independence.

16. The topics of the envisioned commentaries would come from news items monitored by the Committee. In order to be relevant, the Committee believes it is important that commentary be as timely as possible.

17. To recognize that no organization-wide decisions on a response to the issues identified by the Committee will have been obtained, the Committee proposes that the commentary be specifically noted as coming from the Committee itself. It would encourage commentary from readers, thereby promoting issue engagement and discussion among those who have read the Committee's posting. The Committee recognizes that this may be more likely to engage the bar than the public at large, at least initially, but believes it is a reasonable first step toward a wider public engagement on these important issues.

Conclusion

18. The Committee seeks the approval of the Benchers for its proposal as outlined in the resolution proposed above.

The Law Society of British Columbia

June 4, 2015

Sent via email and post

The Honourable Joseph A. Day, Senator
Standing Senate Committee on National Finance
The Senate of Canada
Ottawa, ON K1A 0A4

Ken Walker, QC
President

Dear Sir:

Re: Review of Bill C-59, the *Economic Action Plan 2015 Act*, No. 1

I am writing on behalf of the Law Society of British Columbia, concerning the study by the Standing Committee on Finance of Bill C-59, the *Economic Action Plan 2015 Act*, No. 1 ("Bill C-59").

The Law Society of British Columbia is an independent organization whose origins date back to 1869. Its membership comprises all of the approximately 13,000 lawyers who have been called to the Bar in British Columbia who remain in good standing pursuant to the *Legal Profession Act* S.B.C. 1998, Chapter 9, and the Law Society Rules. It is governed by the Benchers, being 25 lawyers who have been elected by the membership, together with up to 6 persons who are not members of the Law Society appointed by the Lieutenant Governor in British Columbia, as well as the Attorney General of British Columbia.

Pursuant to s. 3 of the *Legal Profession Act*, the Law Society of British Columbia's object and duty is to "uphold and protect the public interest in the administration of justice by (inter alia) preserving and protecting the rights and freedoms of all persons."

The Law Society of British Columbia is also a member of the Federation of Law Societies in Canada.

The Law Society of British Columbia wishes to raise certain concerns about the proposed amendments to the *Patent Act*, and the *Trade Marks Act*

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contained in Bill C-59 that would grant statutory privilege to confidential communications between patent and trademark agents and their clients.

We supported submissions made the Federation of Law Societies to Industry Canada in the early 2000s. Submissions made by the Federation at that time questioned whether providing protection from disclosure for communications between intellectual property agents and their clients was either necessary or appropriate, noting that there was no empirical evidence to suggest that the lack of such protection caused a harm that required a remedy. We further note that in a November 2013 discussion paper prepared by Industry Canada, that observation was echoed. We suggest, as does the Federation, that this indicates that there is still not yet "evidence of the harm that is to be countered by granting this privilege."

We also supported correspondence from the Federation to Industry Canada in October 2014, which commented that the proposal to protect from disclosure the communications between patent and trade mark agents and their clients raises complex issues and would have significant implications not only for the patent and trade marks system, but also for the legal profession, other professions, and for the administration of justice.

In discussing solicitor-client privilege, the Supreme Court of Canada has held that the privilege is essential to the proper functioning of our legal system. The Court has also recognized that the privilege is an exception to the principle of full disclosure in the pursuit of truth and is justified only by the greater public interest it protects. In the absence of evidence of a similarly compelling public interest in protecting communications between intellectual property agents and their clients, extending solicitor-client privilege in a manner contemplated by the proposed amendments may be unwarranted. At the very least, given the complexity of the issue and the possible ramification that extending privilege might have for the administration of justice and for other professions equally interested in acquiring such protection (such as the accounting profession), careful study of the issue should be undertaken.

It is our understanding that Industry Canada did not complete its consultation of the proposal to protect communications between patent and trademark agents and their clients that it began last year, and we understand that no final report has been published. It would, in our view, be inappropriate to proceed with the proposed legislative amendments until a full consultation has been undertaken and the implications of extending solicitor-client have been very carefully studied.

In all these circumstances, we urge the members of the Committee to remove the proposed amendments to the *Patent Act* and the *Trade Mark Act* contained in Division 3, Part 3 of Bill C-59 and refer them for comprehensive study and a full consultation with interested stakeholders.

Yours truly,

Ken Walker, QC
President

KW/al

c. Jodi Turner, Clerk of the Committee
via email: nffn@sen.parl.gc.ca

The Law Society of British Columbia

June 4, 2015

Sent via email and post

James Rajotte, M.P.
Chair, Standing Committee on Finance
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, ON K1A 0A6

Ken Walker, QC
President

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Yours truly,

Ken Walker, QC
President

KW/al

c. Christine Lafrance, Clerk of the Committee
via email: fina@parl.gc.ca

The Law Society
of British Columbia

June 30, 2015

Sent by mail

Board Resourcing and Development Office
730 – 999 Canada Place
Vancouver, BC V6C 3E1

Attention: Natalya Brodie, Director

Ken Walker, QC
President

Dear Ms. Brodie:

Re: Appointment of Benchers

Further to your conversation with our Manager of Executive Support, Renee Collins Goult, the Law Society of British Columbia will be seeking four new appointments to our Bencher table. These new appointments would replace Haydn Acheson and Peter Lloyd, who will reach our term limits at the end of this year, David Corey, who will not be seeking reappointment, and Ben Meisner, who recently passed away. We expect that current appointed Benchers, Claude Richmond and Satwinder Bains would welcome reappointment, and will forward their Performance Appraisal forms with a separate letter.

We are hopeful that the appointments and reappointments can be effective January 1, 2016. We would also appreciate if the new appointments could be made known as soon as you are able, but in any event, by the end of November so that the incoming public Benchers could take part in our orientation for new Benchers planned for the end of November.

If the new appointments cannot be made for January 1, 2016, we ask that you consider extending the appointments of Mr. Acheson, Mr. Lloyd and Mr. Corey until such time as their replacements are appointed. We note for your reference that under our Rules, an appointed Bencher continues to hold office until a successor is appointed.

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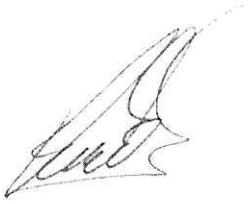
We have attached our current Notice of Appointment to assist in your process.

Thank you for your assistance. Should you have any additional questions, please contact Ms. Collins Goult at 604 443-5706.

Yours truly,



Ken Walker, QC
President, Law Society of BC

cc Timothy E. McGee, QC
Chief Executive Officer, Law Society of BC

BRITISH COLUMBIA
The Best Place on Earth

Board Resourcing and Development

Notice of Position
Law Society of BC
May 2015

Business and Structure

The Law Society of British Columbia ('The Law Society ' or 'The Society') is the regulatory body for the legal profession in BC. The Law Society was first formed as an association in 1869, and was incorporated by statute in 1884.

The mandate of the Law Society under the *Legal Profession Act* (the Act) is to protect the public interest in the administration of justice by ensuring that the public is well served by a legal profession that is honourable, competent and independent.

Governance Structure

The Law Society operates under the authority of the *Legal Profession Act*, S.B.C. 1998, c. 9 (last revised January 2013) and the Law Society Rules. The Society is accountable to the public through its statutory mandate, which is set out in section 3 of the Act:

> **3** It is the object and duty of the society to uphold and protect the public interest in the administration of justice by
>
> (a) preserving and protecting the rights and freedoms of all persons,
> (b) ensuring the independence, integrity, honour and competence of lawyers,
> (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,
> (d) regulating the practice of law, and
> (e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.

The Law Society is governed by 25 elected lawyers (known as Elected Benchers) and six appointed non-lawyers (known as Appointed Benchers). Elected Benchers serve two-year terms and may serve for up to four terms. The six Appointed Benchers are appointed by the Lieutenant Governor in Council for a two-year term and may be re-appointed up to three times. The Chairperson of the Benchers is the President, who serves a one-year term.
The Benchers establish the Law Society Rules and policies, and they oversee the

implementation and administration of programs carried out by the Law Society staff, which is approximately 180 staff members.

The Law Society staff is responsible to the Chief Executive Officer, who is the Executive Director of the Law Society. The Executive Director works with the Benchers to implement the Law Society's policies and programs.

The Law Society is funded exclusively by fees paid by approximately 13,000 members. The annual budget is approximately $22 million.

Core Mandate

The Law Society's core regulatory programs involve the development and enforcement of standards for the education, professional responsibility and competence of its members and applicants for membership. The Discipline, Credentials and Practice Standards Committees serve crucial roles in fulfilling the regulatory mandate of the Law Society and the staff, and resources dedicated to these functions, along with other programs such as audits and investigations, trust assurance and custodianships, comprise the largest part of the Law Society operations. The Benchers have established a set of key performance measures against which the outcomes achieved by the Society's core regulatory programs are measured on an annual basis.

Strategic Priorities

In addition to fulfilling the core regulatory mandate, the Benchers have developed a knowledge-based planning process to set strategic priorities for other aspects of the Law Society's mandate. This planning process was created to enhance the ability of the Benchers to focus on issues relating to the public interest in the administration of justice and the protection of the rights and freedoms of the public.

The three principal goals of the Law Society's 2015-2017 Strategic Plan are:

1. The public will have better access to legal services.
2. The public will be well served by an innovative and effective Law Society.
3. The public will have greater confidence in the administration of justice and the rule of law.

Board Responsibilities and Accountabilities

Responsibilities

The Benchers' responsibilities fall into the following general categories:

Oversight: As the governors of the Law Society, the Benchers provide oversight of the financial and operational results of the organization.

Strategic direction: The Benchers set the strategic direction of the Law Society, communicate that direction clearly to management, and oversee the implementation of that direction.
Setting rules and standards: The Benchers set rules and requirements for governance of the

Law Society, admission to the practice of law, discipline of members, management of trust accounts and ensuring financial responsibility.

Hearings: The Benchers sit on hearing panels to adjudicate in cases of professional misconduct of lawyers, and fitness for admission to the Law Society.

Accountabilities

Like the Law Society itself, the Benchers are accountable to the public, in that the Society's statutory mandate is to protect and uphold the public interest in the administration of justice, with the means and within the boundaries of law set out in the *Legal Profession Act* and The Law Society Rules.

The Law Society is subject to the jurisdiction of the British Columbia Ombudsperson.

The Law Society is subject to the *Freedom of Information and Protection of Privacy Act*.

Decisions made by hearing panels in discipline or credentials matters may be subject to judicial review in the Supreme Court of British Columbia.

The Appointed Benchers play a major role in Law Society accountability. Twenty-seven Appointed Benchers, including 14 women, have provided more than 110 years of service to the Society over the past 25 years: contributing broad expertise and sound judgment to Bencher decision-making and enhancing transparency and public accountability in Bencher governance. All committees with regulatory functions, and most other committees as well, have at least one Appointed Bencher. The Complainants' Review Committee is normally chaired by an Appointed Bencher. Appointed Benchers serve on hearing panels and review boards in rotation with other public representatives after completing a minimum of two days of training, which is required of all Benchers before sitting on hearing panels.

Composition of the Law Society's Appointed Benchers

The Appointed Benchers should, collectively, have the necessary personal attributes and competencies to:

- add value and provide direction for management in establishing Law Society strategy and reviewing risks and opportunities;
- oversee the management's performance effectively; and
- adjudicate discipline and credentials matters fairly and without bias.

Personal Attributes

All Appointed Benchers should possess the following attributes:

- High ethical standards and integrity in professional and personal dealings;
- Business judgment;
- Appreciation of responsibilities to the public;

- Ability and willingness to raise potentially controversial issues in a manner that encourages dialogue;
- Flexible, responsive and willing to consider others' opinions;
- Capable of a wide perspective on issues;
- Ability to listen and work as team member;
- No direct or indirect conflict of interest with the Benchers' responsibility to the Law Society;
- Strong reasoning skills; and
- Able and willing to fulfill time commitment to carry out responsibilities.

Competencies

Collectively, the Appointed Benchers should demonstrate the following core competencies:

- Operational or technical expertise relevant to the operation of the Law Society, including
    - Financial expertise and acumen
    - Investment expertise
    - Insurance expertise
    - Communication/media/ public affairs expertise
    - Risk management expertise
    - Understanding and familiarity with audits and the audit process
    - Expertise regulating or managing professionals
    - Interest in the justice system, and
- Knowledge of current and emerging issues affecting the Law Society and the legal profession.

Governance Experience

Previous experience on this or similar boards is preferred; candidates should understand the roles and responsibilities of a board director and have the necessary experience and demonstrated skills to enable them to contribute to board decisions and oversight.

Other Considerations

Within the context of the required board skills requirements, consideration is given to diversity of gender, cultural heritage and knowledge of the communities served by the Law Society.

Vacant Positions

There are potential vacancies on the board. The attributes sought are described in the above 'Competencies' section.

Time Commitment

The Benchers meet nine times each year. Meetings take place in Vancouver, with the exception of one meeting each year, which is held in conjunction with a weekend retreat at a different location in the province. Benchers' meetings are generally held on Fridays and generally run from 8:30 am to early-afternoon.

In addition to attendance at Bencher meetings, all Benchers (including Appointed Benchers) are expected to serve on at least two Bencher committees or task forces. Most committees and task forces meet monthly for two to three hours (generally the day before the monthly Bencher meeting).

Appointed Benchers also sit on several hearing panels each year. The timing and duration of hearings are variable.

As a rough estimate, Appointed Benchers may expect to spend 30 days per year on Law Society affairs.

Term

Pursuant to the *Law Society Rules*:

1-1 (1) The term of office for an appointed Bencher begins on the date that the appointment is effective and ends on January 1 of the next even-numbered year.

(1.1) Despite subrule (1), an appointed Bencher continues to hold office until a successor is appointed.

(2) An elected Bencher holds office for 2 years beginning on January 1 following his or her election.

1 (1) A Bencher is ineligible to be elected or appointed as a Bencher if

(a) at the conclusion of the Bencher's term of office, he or she will have served as a Bencher for more than 7 years, whether consecutive or not, or

(b) the Bencher has been elected Second Vice-President-elect.

Remuneration and Reimbursement

All Appointed Benchers are eligible to receive a per diem of $250 for every day—or portion thereof—during which they attend any meeting, hearing or other event at the request of the

Law Society ("Law Society Event"), inclusive of preparation and travel. In addition, all Appointed Benchers are eligible to receive $125 for every day—or portion thereof—when circumstances require them to travel for the purpose of attending a Law Society Event prior to or following the day of the event. The Law Society also reimburses all reasonable expenses incurred in connection with Law Society business, including travel and transportation expenses, meals, and the cost of necessary child-care. The Law Society will also reimburse Appointed Benchers for the purchase of a personal computer, laptop or tablet for the conduct of Law Society business.

Current Appointed Benchers

Name	Position	Location	Appointed	Expiry/Terminate*
Haydn J. A. Acheson	Appointed Bencher	RICHMOND	8 May 2008 Re-1 Jan 2014	1 Jan 2016
Satwinder Kaur Bains	Appointed Bencher	ABBOTSFORD	27 May 2010 Re-1 Jan 2014	1 Jan 2016
David Corey	Appointed Bencher	VICTORIA	1Jan 2014	1 Jan 2016
Peter B. Lloyd	Appointed Bencher	VICTORIA	1 Jan 2008 Re-1 Jan 2014	1 Jan 2016
Claude H. Richmond	Appointed Bencher	KAMLOOPS	2 Jul 2010 Re-1 Jan 2014	1 Jan 2016

Process for Submitting Expressions of Interest

You may submit an Expression of Interest in serving as an Appointed Bencher of the Law Society of BC by clicking on the "Apply Online Now" button at the bottom of this page.

British Columbia Appointment Guidelines

Appointments to British Columbia's public sector organizations are governed by written appointment guidelines. For more information about the appointment process, and to view a copy of the guidelines, refer to the Board Resourcing and Development Office website (http://www.brdo.gov.bc.ca/) and link to the page "The Appointment Process".

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