



Benchers Meeting: Minutes

To: Benchers

Purpose: Approval (Consent Agenda)

Date: Friday, February 7, 2025

Present:

Brook Greenberg, KC, President	James A. S. Legh
Thomas L. Spraggs, 1st Vice-President	Benjamin D. Levine
Michael Welsh, KC, 2nd Vice-President	Dr. Jan Lindsay
Simran Bains	Jaspreet Singh Malik
Paul Barnett	Marcia McNeil
Aleem Bharmal, KC	Jay Michi
Tanya Chamberlain	Georges Rivard
Nikki L. Charlton	Michèle Ross
Jennifer Chow, KC	Gurminder Sandhu, KC
Christina J. Cook	Barbara Stanley, KC
Cheryl S. D'Sa, KC	James Struthers
Tim Delaney	Natasha Tony
Brian Dybwad	Kevin B. Westell
Katrina Harry, KC	Gaynor C. Yeung
Ravi R. Hira, KC	Jonathan Yuen
Sasha Hobbs	

**Staff
present:**

Avalon Bourne
 Kim de Bruijijm
 Barbara Buchanan, KC
 Gigi Chen-Kuo
 Sarah Conroy
 Jackie Drozdowski
 Su Forbes, KC
 Kerry Holt
 Jeffrey Hoskins, KC
 Alannah Korf
 Jane Ladesma
 Kaflin Lee
 Michael Lucas, KC
 Alison Luke
 Claire Marchant
 Tara McPhail
 Jeanette McPhee
 Cary Ann Moore

Michael Mulhern
 Doug Munro
 Mandana Namazi
 Sara Pavan
 Andrea Rayment
 Michelle Robertson
 Carrie Robinson
 Gregory Sexton
 Lesley Small
 Arrie Sturdivant
 Christine Tam
 Maddie Taylor
 Adam Whitcombe, KC
 Leanne Wood
 Carol Xu
 Charlene Yan
 Vinnie Yen

Guests:

Dom Bautista	Executive Director, Courts Center & Executive Director, Amici Curiae Friendship Society
Ian Burns	Digital Reporter, The Lawyer's Daily
Jeevyn Dhaliwal, KC	Life Bencher
Natasha Dookie	Chief Legal Counsel, BC College of Nurses & Midwives
Freya Kodar	Dean of Law, UVic
Eric C.H. Ledding	Representative, Canadian Bar Association, BC Branch
Jamie Maclaren, KC	Executive Director, Access Pro Bono Society of BC
Desmond MacMillan	Assistant Dean of Law, Thompson Rivers University
Mark Meredith	Board Member, Mediate BC
Shawn Mitchell	CEO, Trial Lawyers Association of BC
Caroline Nevin	CEO, Courthouse Libraries BC
Linda Russell	CEO, Continuing Legal Education Society of BC
Zak Vescera	Journalist, Investigative Journalism Foundation
Greame Wood	Legal Reporter, Glacier Media

Oath Of Office

1. Administer Oaths of Office

The Honourable Chief Justice Leonard S. Marchand administered oaths of office (in the form set out in Rule 1-3) to President Brook Greenberg, KC, First Vice-President Thomas L. Spraggs, and Second Vice-President Michael F. Welsh, KC and to newly elected Benchers Katrina Harry, KC and Marcia McNeil.

Chief Justice Marchand congratulated Mr. Greenberg, Mr. Spraggs, Mr. Welsh, Ms. Harry, and Ms. McNeil. He spoke about their service to the Law Society and the importance of this responsibility in supporting the administration of justice in BC by advancing the Law Society's mandate to protect and serve the public interest. He wished them all the best in discharging their important duties.

2. Indigenous Welcome

Chief Janice George, a member of the Squamish Nation, introduced herself to Benchers and welcomed them to the meeting and to the ancestral lands of the Squamish people. She spoke about the oath of office and the dedication to serving the people, as well as the importance of connecting to the land and the water and the gifts they bring.

3. Introduction of New Law Society Chief Executive Officer and Executive Director

President Brook Greenberg, KC welcomed and introduced Gigi Chen-Kuo, the Law Society's new Chief Executive Officer and Executive Director.

Consent Agenda

4. Minutes of November 29, 2024, meeting (regular session)

The minutes of the meeting held on November 29, 2024 were approved unanimously and by consent as circulated.

5. Minutes of November 29, 2024, meeting (*in camera* session)

The minutes of the *in camera* meeting held on November 29, 2024 were approved unanimously and by consent as circulated.

6. Terms of Reference Revisions: Access to Justice Advisory Committee

The following resolution was passed unanimously and by consent:

BE IT RESOLVED the Benchers adopt the amendment to the Access to Justice Advisory Committee's Terms of Reference, by removing item 7 under "Duties and Responsibilities" which states:

"Meet with representatives of the Law Foundation annually to discuss the potential allocation of the access to justice funding the Law Society provides to the Law Foundation as delegated to the Committee by the Benchers."

Reports

7. President's Welcome and Report

Mr. Greenberg welcomed Benchers, staff, and guests to the first Bencher meeting of 2025.

He confirmed Brian Dybwad, KC would recuse himself for item 17a *in camera*, and that no other conflicts of interest had been declared.

Mr. Greenberg began his report by speaking about his plans and priorities for the year. He indicated that a number of priorities remain consistent, including the single legal regulator initiative, truth and reconciliation, and access to justice.

Mr. Greenberg then spoke about the Committee composition and mandate letters for 2025. He indicated that the Ethics and Lawyer Independence and Access to Justice advisory committees had been re-populated this year, and that while the intent in 2024 was to have these discussions at the Bencher table, this was disrupted by the *Legal Professions Act*, which took up a significant amount of Bencher time and focus. Mr. Greenberg further indicated that the advisory committees and task forces had been issued mandate letters, which were available on the Law Society website, and that the regulatory committees had not been issued mandate letters, as their mandates are already set.

Mr. Greenberg highlighted the mandate letter for the Access to Justice Advisory Committee, emphasising the importance of trying to ensure and increase access to justice. However, he also noted the role of the provincial government in addressing barriers to access to justice and expressed concerns about the provincial government's lack of action in authorizing the Law Society to license other legal service providers and in not eliminating the tax on legal services, or dedicating the full amount of the tax collected on legal services to addressing barriers to access to justice. Mr. Greenberg expressed his concerns about the expectation that the Law Society take

full responsibility for solving access to justice problems without support from the provincial government.

Mr. Greenberg then provided an overview of the two new task forces that had been created: one focusing on bullying, harassment, and discrimination within the legal profession, and one focusing on discipline processes. Mr. Greenberg reviewed the mandates for both of these task forces, with the former investigating ways to address issues outside of the traditional discipline processes that are less adversarial and more likely to be utilized by those who have experienced bullying, harassment, or discrimination, and the latter reviewing the Law Society's current discipline processes and assessing what these processes should aim to do, how the Law Society can best satisfy those aims, and if more or better metrics could be identified and utilized.

Mr. Greenberg concluded his report by thanking a number of Benchers for chairing committees and representing the Law Society at welcoming ceremonies. He indicated that he was looking forward to working with everyone over the year ahead, and thanked Benchers for their service.

8. CEO's Report

Ms. Chen-Kuo began her report by speaking about the importance of the work of the Law Society and what a privilege it was to be joining an organization dedicated to serving the public interest. She thanked Mr. Greenberg and staff for welcoming her into the role. She spoke about the Law Society's foundation of excellence, and that her focus as the new CEO and Executive Director would be to infuse customer service orientation, innovation, and responsiveness further into the culture.

Ms. Chen-Kuo informed Benchers that a tentative agreement had been reached with the Professional Employees Association (PEA), subject to ratification by the Benchers and by the PEA. She indicated that further information regarding this matter would be provided *in camera*.

Ms. Chen-Kuo indicated that communications would be forthcoming to the profession regarding the implementation of multi-factor identification within the Member Portal.

Ms. Chen-Kuo updated Benchers on the recent changes to the technology and AV in the Benchers Room, noting that today's meeting was the first meeting with the new set-up, and Ms. Chen-Kuo indicated that feedback from Benchers would be welcomed following the meeting. She thanked all those involved in the project.

Ms. Chen-Kuo concluded her report by acknowledging Michael Lucas, KC, General Counsel and Senior Policy Counsel, as it was his 30th anniversary with Law Society.

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

Mr. Greenberg provided a brief overview of the written report he provided for Benchers' information, which included an overview of the December 2024 Federation of Law Societies of

Canada (Federation) meeting. He indicated that the next Federation Council meeting would take place on March 4, 2025.

Benchers discussed the work of the Federation's Indigenous Advisory Council, with some Benchers raising the issue of exploitative legal fee structures for Indigenous clients, and whether or not this matter is being considered by the Federation. Mr. Greenberg advised that he would inquire about this matter at the upcoming Federation meeting and report back to Benchers.

Update

10. Lawyers Indemnity Fund: The Journey to the Present

Ms. Chen-Kuo introduced this item and Su Forbes, KC, Chief Operating Officer, Lawyers Indemnity Fund, who provided the presentation.

Ms. Forbes presented on the history of the establishment of the Lawyers Indemnity Fund (LIF), including the various iterations of the program, historical challenges, and the origins of LIF. She provided an overview of LIF, including its program structure and rebrand, cost efficiencies and advantages, and cyber insurance program, as well as some of LIF's challenges and mitigation strategies. She concluded her presentation with an overview of the LIF team and structure, feedback from the profession regarding the program, and future plans, particularly in regard to the single legal regulator initiative.

Benchers engaged in discussions regarding Ms. Forbes' presentation with a focus on how claims with ethical breaches or discipline aspects are handled in terms of reporting, types of claims and coverage caps, the cyber insurance program, the implications of the single legal regulator on LIF, and the overall number of payments provided as a result of claims. Ms. Forbes provided some additional information regarding the overall trend of the number of payments increasing, and she advised the increase was trending at a reasonable level.

Discussion

11. Trust Review Task Force Final Report

Mr. Greenberg introduced the item and provided some background regarding the establishment of the Trust Review Task Force and the development of its final report and recommendations. He also thanked the Task Force members and staff for their work. He informed Benchers that the report would be for discussion only at the current meeting, with a decision to come at a subsequent meeting. Mr. Greenberg provided a broad overview of the report, including background, purpose, and the Task Force's process. He also spoke about the Cullen Commission, and how the Task Force was created to address the recommendations arising from

the Cullen Commission regarding rule amendments and to assess the current trust accounting rules against the objectives of those rules, and assess any concerns expressed about the rules and their enforcement. Mr. Greenberg then reviewed each of the recommendations within the Task Force's report in conjunction with the related recommendations from the Cullen Commission report.

Benchers engaged in discussions regarding the Trust Review Task Force's final report and recommendations with a focus on the need for training and guidelines for the profession not only in regard to money laundering prevention, but also in regard to managing trust accounts and cash transactions. Benchers also discussed self-reporting and the mandatory reporting provisions in the *Code of Professional Conduct for British Columbia*, as well as the need to clarify when disbursements are incurred, as contemplated in Recommendation 23. Mr. Greenberg advised that these matters could be incorporated into the training, and that further consideration would be given to Recommendation 23.

Benchers discussed whether or not additional consultation from the profession should be sought due to the nature of the recommendations and how they could impact standards, education, and overall practice. Mr. Greenberg advised that a consultation period had taken place prior to the development of the recommendations, but further thought would be given as to an additional consultation period regarding the recommendations themselves.

Benchers also discussed the implementation of the recommendations should they be accepted by Benchers and the timeline for implementation. Mr. Lucas advised that should the recommendations be accepted and approved by Benchers, they would be referred back to staff to operationalize and draft rules as needed for Benchers review and approval.

Benchers discussed Recommendation 38, which would contemplate a policy change so that TAF would apply to all client matters with a trust transaction, without exemptions. Jeanette McPhee, Chief Financial Officer & Senior Director of Trust Regulation, clarified that this recommendation would envision a one-time application per client matter, so TAF would only be applied once per file.

Benchers discussed the recommendations related to maintaining a general account and how this would apply for those who are engaged primarily in pro bono or low bono work, or other types of services with a low payment threshold. Mr. Lucas advised that the general principle of the recommendations was that if services are being provided for a fee, both a trust account and general account should be in place, but that further consideration would be given to this matter to address the concerns raised by Benchers.

Benchers also discussed the recommendation related to increasing the fees and assessments for late filing of a trust report, with some Benchers of the view that further information regarding the number of lawyers who are not filing in time would be helpful. Mr. Greenberg advised that these

matters would likely be referred to the Finance and Audit Committee for review, before coming back to Benchers for consideration, so there would be the opportunity to address any concerns.

Mr. Greenberg thanked everyone for their suggestions and input, which would be taken under consideration and further discussed with the Executive Committee, prior to the report coming back to Benchers for approval at a subsequent meeting.

For Information

12. Indigenous Engagement in Regulatory Matters Annual Report and Implementation Update

Ms. Chen-Kuo updated Benchers regarding plans to replace the Senior Advisor, Indigenous Engagement position with a Director, Indigenous Initiatives position, which would continue to report to the CEO and Executive Director. Ms. Chen-Kuo indicated that this role would continue to deliver on the implementation of truth and reconciliation initiatives. She further indicated that all existing as well as new employees of the Law Society would be required to take the Indigenous Intercultural Course.

Benchers discussed the importance of cultural safety for Indigenous staff at the Law Society, and Ms. Chen-Kuo indicated that this was a priority for her.

13. External Appointment: Continuing Legal Education Society of British Columbia

There was no discussion on this item.

14. Minute of Approval: Reappointment of Tribunal Chair

There was no discussion on this item.

15. 2025 Schedule of Bencher and Executive Committee Meetings

There was no discussion on this item.

16. 2026 Schedule of Bencher and Executive Committee Meetings

There was no discussion on this item.

The Benchers then commenced the *in camera* portion of the meeting.

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2025-04-03