



## Benchers Meeting: Minutes

**To:** Benchers

**Purpose:** Approval (Consent Agenda)

**Date:** Friday, April 11, 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	

<b>Staff present:</b>	Avalon Bourne	Cary Ann Moore
	Kim de Bruijijm	Alina Morrissey
	Barbara Buchanan, KC	Michael Mulhern
	Gigi Chen-Kuo	Doug Munro
	Michaela David	Rashmi Nair
	Jackie Drozdowski	Mandana Namazi
	Su Forbes, KC	Herman van Ommen, KC
	Leanne Hargrave	Sara Pavan
	Sandra Haywood-Farmer	Shanti Reda
	Kerryn Holt	Michelle Robertson
	Jeffrey Hoskins, KC	Carrie Robinson
	Jane Ladesma	Lesley Small
	Michael Lucas, KC	Arrie Sturdivant
	Alison Luke	Christine Tam
	Claire Marchant	Maddie Taylor
	Tara McPhail	Adam Whitcombe, KC
	Jeanette McPhee	Vinnie Yen

<b>Guests:</b>	Dom Bautista	Executive Director, Courts Center & Executive Director, Amici Curiae Friendship Society
	Patricia D. Blair	First Vice-President, Canadian Bar Association, BC Branch
	Ian Burns	Digital Reporter, The Lawyer's Daily
	Paul Hargreaves	Chief Financial Officer, Courthouse Libraries BC
	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
	Ngai Pindell	Dean of Law, Peter A. Allard School of Law
	Rob Seto	Director of Programs, Continuing Legal Education Society of BC
	Kerry Simmons, KC	Executive Director, Canadian Bar Association, BC Branch

## Consent Agenda

### 1. Minutes of February 7, 2025, meeting (regular session)

The minutes of the meeting held on February 7, 2025 were approved unanimously and by consent as circulated.

### 2. Minutes of February 7, 2025, meeting (*in camera* session)

The minutes of the *in camera* meeting held on February 7, 2025 were approved unanimously and by consent as circulated.

## Reports

### 3. President's Report

President Brook Greenberg, KC confirmed that no conflicts of interest had been declared for the regular portion of the meeting

Mr. Greenberg began his report by encouraging Benchers to read a recent article written by Michael Lucas, KC, General Counsel/Senior Policy Counsel, entitled *Trump's disregard for rule of law highlights fight for independence in BC*. Mr. Greenberg spoke about the current situation in the United States with executive orders being issued barring certain lawyers and firms from federal properties and contracts, as well as calls for the impeachment of judges who do not agree with the actions of the current administration. He spoke about the importance of the rule of law and the independence of the profession and of the regulator, and that ensuring the safeguard of this independence was why the Law Society was challenging Bill 21 – the *Legal Professions Act*.

Mr. Greenberg informed Benchers that following discussions at the February Bencher meeting about the Trust Review Task Force report and recommendations, a one-month consultation period would take place in order to provide an opportunity for the public and profession to provide feedback. He indicated that the consultation period would open the following week and close on May 9.

Mr. Greenberg then reminded Benchers that the nomination period for the Law Society Award was open and would be closing on April 30, and he encouraged Benchers to submit nominations.

Nominations were also open for the position of Bencher in the County of Nanaimo, closing on May 1, and Mr. Greenberg indicated voting would take place from May 7 to 14, with the results announced on May 15.

Mr. Greenberg concluded his report with an overview of his recent and upcoming events, including attending welcome ceremonies for Judge Brian Dybwad, Justice Lindsay LeBlanc, and Justice Paul Pearson, the upcoming Mental Health Forum being held jointly with the CLEBC, and the first call ceremony of the year that took place on March 7.

#### **4. CEO's Report**

Gigi Chen-Kuo, CEO and Executive Director began her report by speaking about the new Director, Indigenous Initiatives position, which has been posted to the Law Society website. She indicated that the Law Society has also retained an executive search and international Indigenous recruitment firm to assist in finding the right candidate for this important role. Ms. Chen-Kuo also indicated that Claire Marshall had been retained as a consultant to undertake an assessment of the Law Society in a number of areas, so as to assist the Law Society in its commitment to truth and reconciliation. Ms. Chen-Kuo informed that the Director of Discipline and Director of Investigations positions had been filled.

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

Mr. Greenberg, as the Law Society of BC's representative on the Federation Council, provided a brief overview of the written report he provided for Benchers' information, which included an overview of the recent Federation meetings in Ottawa.

## **Update**

#### **6. 2024 Tribunal Annual Report and 2025 Planning**

Herman Van Ommen, KC, LSBC Tribunal Chair, provided an overview of the 2024 LSBC Tribunal's Annual Report, highlighting the timeliness of Tribunal decisions, the time between issuance of a citation and the conclusion of a hearing, and the overall workload of the Tribunal.

#### **7. National Discipline Standards Report: Implementation & Update**

Tara McPhail, Chief Legal Officer, provided background information regarding the National Discipline Standards and then presented the findings of the 2024 report. She indicated that in 2024, the Law Society met 21 of the 23 standards, a performance similar to previous years, and as in previous years, the two standards not met were 9 and 10. Ms. McPhail indicated that the Law Society's performance in regard to these two standards has improved in comparison to 2023, and she reviewed steps taken to improve performance further.

## 8. Practice Advisor Presentation

Claire Marchant, Director of Policy and Practice Support, presented on the Law Society's Practice Advice Program. She provided an overview of the program, including the history of the program, and then reviewed what services the program provides, as well as the role of Practice Advisors, the areas for which they provide advice, the confidential nature of the program, with the caveat that trust shortages need to be reported, and how to contact Practice Advisors. She then presented some highlights, including updating and expanding the Law Society's Advice Decision-making Assistant (ADMA), new and upcoming resources under development, speaking engagements at conferences and law schools, aligning resource deployment with Law Society Rule and *Code of Professional Conduct for BC* amendments, assisting with the omnibus *Code of Professional Conduct for BC* annotations project.

Bencher discussed time-sensitive matters and suggested that additional guidance could be provided to lawyers and published on the website regarding what should be done in emergency situations.

## Discussion & Decision

### 9. Confidentiality Rule - Practice Advisors & Equity Advisor

Ms. Marchant spoke to this item and provided background information regarding the proposal to create a new Rule to codify confidentiality protection, along with an articulation of limits, for Practice Advisors.

Bencher discussed the proposed Rule, in particular the disclosure requirements. Ms. Marchant advised that there would be some exceptions to confidentiality in cases of trust shortages, a requirement to disclose by law or a court order, should the lawyer seeking advice provide consent, or if there was a real risk of harm in not disclosing.

Bencher also discussed the impetus for the Rule, and whether or not there was a specific problem that was being addressed with the creation of this Rule. Ms. Marchant advised that while there was not a specific case or situation that prompted bringing forward this proposed Rule, it would be helpful for clarification purposes and to provide reassurance to lawyers to codify confidentiality practices that are already in place.

The following resolution was passed unanimously:

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

***1. In Rule 1, by***

***(a) Deleting the definition of “Equity Advisor” and replacing it with***

**““Equity Advisor”** means any person employed by the Society to provide, or to assist such Advisor in providing, advice and mediation assistance to lawyers, articulated students, law students and support staff of legal employers, regarding allegations of harassment or discrimination by lawyers;”

***(b) Adding the following definition:***

**““Practice Advisor”** means any person employed by the Society to provide, or to assist such Advisor in providing, confidential advice to lawyers and articulated students on issues of ethics, professional conduct and practice management;”

**2. *In Rule 10.2,***

***(a) by adding subrule (0.1) as follows:***

**“(0.1) For the purpose of this rule, “Advisor” means an Equity Advisor or a Practice Advisor;”**

***(b) in subrule (1), by striking out “interpreted in a way that will facilitate the Equity Advisor assisting in the resolution of disputes” and replacing it with “interpreted in a manner to facilitate an Equity Advisor in mediation”***

***(c) by deleting subrules (2) and (3) and replacing them with:***

**“(2) Communication between an Advisor acting in that capacity with any person receiving or seeking assistance from an Advisor is, subject to subsection (3), confidential and must remain confidential in order to foster an effective relationship between an Advisor and individuals who seek or receive their assistance.**

**(3) Advisors must hold in confidence and must not disclose all information acquired in their capacity as an Advisor, other than to another Advisor acting in the same capacity, unless:**

**(a) information received reveals a trust shortage that will not otherwise be reported to the Society;**

**(b) disclosure of the information is required by law or court order;**

**(c) the individual seeking assistance provides express consent, verbally or in writing, to the disclosure or release of the information provided; or**

(d) an Advisor has reasonable grounds to believe from the information provided that there is an imminent risk of death or serious bodily harm to the individual seeking advice or to another person, and disclosure is necessary to prevent such death or harm.”

## **REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT**

### **10. Exploring Practice Fee Relief**

Mr. Greenberg introduced the item and provided some background information regarding exploring practice fee relief, including an overview of past Bencher discussions regarding the matter, as well as the underlying public interest in preventing financial barriers to practising law. He indicated that the Law Society has kept the practice fee at its current level for six consecutive years; however, concerns remain regarding the viability of lawyers being able to practice in less financially lucrative areas, which is why it would be timely to consider some form of practice fee relief. Mr. Greenberg reviewed different potential models and criteria to consider for fee relief, including what had been proposed in a member resolution submitted at the 2024 annual general meeting, which contemplated fee relief based on year of call. He indicated that the Executive Committee considered this approach, but did not think it was the best option, as those new to the profession may not necessarily be those most in need of financial relief, and that an approach based on financial need would make more sense and be more in line with the fee relief provided by the Law Society during the COVID-19 pandemic.

Mr. Greenberg then reviewed the two options considered by the Executive Committee: one option contemplated undertaking licensee engagement to inform the purpose, viability, criteria, and design of a program, with a full policy work-up to come back to Benchers at a later date; and the other option contemplated launching a one-year pilot for a practice fee rebate program based on a total-income eligibility criteria, during which data would be collected to inform the purpose, viability, and design of a future program with further details of the proposed pilot program to be brought back to Benchers at a later date. He indicated that the Executive Committee had considered both options, and there had been a strong consensus to take concrete action and implement a one-year pilot program, funded through reserves, in order to gather information on the impacts of the program. He indicated that if Benchers were in agreement with proceeding with a pilot program, then a proposal with a specific outline of the proposed pilot program would be brought back for consideration and approval at the July Bencher meeting.

There was general agreement from Benchers that it would make sense to proceed with the pilot option and build upon the experiences gained from the COVID-19 pandemic fee relief program.

The following resolution was passed unanimously:

**BE IT RESOLVED** the Benchers approve, in principle, the establishment of a one-year pilot of a practice fee rebate program as described in this report, the details of which will come back to Benchers for consideration at the July 2025 Bencher meeting.

## **11. Establishing the Alternative Discipline Process as a Permanent Regulatory Program**

Ms. McPhail introduced the item and provided some background information regarding the proposal to establish the alternative discipline process as a permanent regulatory program.

The following resolution was passed unanimously:

**BE IT RESOLVED** that the Alternative Discipline Process be established as permanent Law Society program.

## **12. Financial Matters**

Jeanette McPhee, Chief Financial Officer & Senior Director of Trust Regulation, provided an overview of the audited financial statements and financial reports for 2024. She noted that the general fund operations resulted in a positive variance to budget, mainly due to cost savings, with revenues 1% below budget and operating expenses 5% below budget. Ms. McPhee indicated that the increase in lawyers in comparison to 2023 was only 2.4%, as opposed to the 3 to 3.5% increase over the last four to five years. Ms. McPhee reviewed expenses, which had savings in external counsel fees, lawyer development, and compensation; however, expenses related to the Bencher retreat and other external events were over-budget, as were costs related to the Tribunal, due to the new per diem amounts established for adjudicators. She then reviewed TAF-related revenue, which was lower than anticipated due to market fluctuations. Ms. McPhee then reviewed the general fund net assets, indicating that the Law Society aimed to have between three to six months of operating expenses in reserve. Ms. McPhee then reviewed the Lawyers Indemnity Fund, which was slightly behind budget, mainly due to the lower number of practising and indemnified lawyers. She also reviewed claims provision over the course of 2024, as well as net assets and the Lawyers Indemnity Fund investment portfolio.

Ms. McPhee reviewed the general fund forecast for 2025, which is forecasted to be under budget, mainly due to the lower number of practising lawyers. She indicated that there would likely be some savings related to external counsel costs.

Ms. McPhee concluded her remarks with an overview of the planned use of reserves for 2025, which would likely include single legal regulator transition costs, lawyer development initiatives, course development costs, technology, and planning for potential future deficit budgets, depending on whether the practice fee would be increased.



Benchers discussed the possibility of future deficit budgets. Ms. McPhee indicated that a larger deficit was projected for 2025, which would be managed by reserves; however, in order to avoid future deficit budgets, increasing the practice fee would need to be considered.

The following resolution was passed unanimously:

**BE IT RESOLVED** to approve the Law Society's 2024 Financial Statements for the General Fund, and the 2024 Consolidated Financial Statements for the Lawyers Indemnity Fund.

## For Information

### **13. News Article: *Trump's disregard for rule of law highlights fight for independence in BC***

There was no discussion on this item.

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

AB  
2025-05-22