

Ethics and Lawyer Independence Advisory Committee

Terms of Reference

January 2022

Mandate

The Ethics and Lawyer Independence Advisory Committee identifies and considers issues of professional responsibility and develops recommendations for consideration by the Benchers, interprets existing rules and provides advice to individual members and to the members at large on matters of professional responsibility. The Committee also monitors, considers and advises the Benchers on matters relating to ethics and 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 the independence and effective self-governance of lawyers.

Composition

The Committee is appointed each year by the incoming President and generally consists of nine to twelve members, with a Bencher as Chair. The majority of the committee is generally comprised of Benchers and Life Benchers, and should, if possible, include an appointed bencher. Usually there are at least two lawyers who are not benchers on the Committee. Composition of the Committee should reflect best practices for diversity.

Meeting Practices

1. The Committee operates in a manner that is consistent with the Benchers' Governance Policies.
2. The Committee meets as required in order to fulfill its responsibilities and carry out its mandate, and meetings may take place in-person or virtually.
3. At least half the members of the Committee constitutes a quorum.
4. Decisions of the Committee are usually reached by consensus, but in circumstances where consensus cannot be achieved, the Committee will vote on issues. Any disputes in process are resolved in accordance with the Law Society Rules with reference to the latest edition of Roberts Rules of Order (Newly Revised).
5. The Committee may, from time to time, invite guests.

Accountability

The Committee is accountable to the Benchers. The Committee makes proposals for change to the Code of Professional Conduct for British Columbia (“the Code”) to the Benchers, who have final responsibility for changes to the Code. The Committee also monitors, identifies, considers and advises the Benchers on issues relating to the rule of law and lawyer independence. The Benchers are responsible for any decision-making, unless the Benchers have delegated, where permissible, specific tasks to the Committee that are to be discharged by the Committee. If a matter relating to the Committee’s mandate arises that the Committee believes requires immediate attention by the Law Society, the Committee will advise the Executive Committee.

Reporting Requirements

The Committee will bring matters to the Benchers for approval or for their attention as needed or in accordance with the terms of a specific task that the Benchers have assigned to the Committee.

Duties and Responsibilities

1. The Committee’s duties and responsibilities are advisory in nature.
2. The Committee maintains communications with the Federation of Law Societies of Canada’s Standing Committee on the Model Code of Professional Conduct, observes developments in the Model Code, and makes recommendations to the Benchers concerning contemplated amendments to the Code of Professional Conduct for British Columbia.
3. The Committee considers ethical issues referred for its review by the Benchers or by the Executive Committee. In some cases the Committee considers issues raised by individuals and it may, where appropriate, issue ethics opinions for the purpose of providing guidance to lawyers.
4. The Committee is also responsible for some of the annotations to the Code of Professional Conduct, either by issuing opinions to stand as annotations or by reviewing case summary annotations at the request of staff.

5. The Committee monitors, considers and advises 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 the independence 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. The Committee may develop the means by which the Law Society can effectively respond to those issues. This can either be to keep the Benchers informed of key matters, to assist in setting policy, or to recommend that specific action be taken by the Benchers; and
 - it develops means to be able to respond to issues that might affect the public interest in the independence of lawyers and rule of law.
6. Discharge any specific tasks that the Benchers delegate to the Committee.
7. Discharge all work in a manner consistent with the Law Society's public interest mandate.

Staff Support

Director, Policy and Planning
Staff Lawyer, Policy and Planning