



Bencher Meeting: Minutes

To: Benchers

Purpose: Approval (Consent Agenda)

Date: Friday, April 26, 2024

Present:

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

Absent: Gurminder Sandhu, KC

Staff present:	Jessica Abells	Meghan Maddigan
	Don Avison, KC	Claire Marchant
	Gurprit Bains	Tara McPhail
	Avalon Bourne	Jeanette McPhee
	Barbara Buchanan, KC	Cary Ann Moore
	Natasha Dookie	Michael Mulhern
	Jackie Drozdowski	Doug Munro
	Su Forbes, KC	Rashmi Nair
	Vicki George	Herman Van Ommen, KC
	Katrina Harry, KC	Maryanne Prohl
	Kerryn Holt	Michelle Robertson
	Jeffrey Hoskins, KC	Gregory Sexton
	Deb Jamison	Lesley Small
	Alison Kirby	Arrie Sturdivart
	Glen Krueger	Christine Tam
	Julie Lee	Adam Whitcombe, KC
	Michael Lucas, KC	Leanne Wood
	Alison Luke	Vinnie Yen
	David MacLean	

Guests:	Karen St. Aubin	Acting CEO & Director of Membership & Education, Trial Lawyers Association of BC
	Dom Bautista	Executive Director, Courts Center & Executive Director, Amici Curiae Friendship Society
	Ian Burns	Digital Reporter, The Lawyer's Daily
	Craig Ferris	Law Society Council, Lawson Lundel LLP
	Elizabeth Kollias	President, BC Paralegal Association
	Kyla Lee	Board Member, Trial Lawyers Association of BC
	Jamie Maclaren, KC	Executive Director, Access Pro Bono Society of BC
	Desmond MacMillan	Incoming Assistant Dean of Law, TRU
	Mark Meredith	Treasurer and Board Member, Mediate BC
	Lee Nevens	First Vice-President, CBABC
	Andrew Newcombe	Associate Dean of Law, UVic
	Josh Paterson	Executive Director, Law Foundation of BC
	Ngai Pindell	Dean of Law, Peter A. Allard School of Law
	Graham Reynolds	Associate Dean, Research and International, Peter A. Allard School of Law

Rob Seto	Director of Programs, CLEBC
Kerry Simmons, KC	Executive Director, Canadian Bar Association, BC Branch
Lana Walker	Assistant Dean of Law, Thompson Rivers University
Fiona Wong	President, Federation of Asian Canadian Lawyers, BC

Consent Agenda

1. Minutes of March 8, 2024, meeting (regular session)

The minutes of the meeting held on March 8, 2024 were approved unanimously and by consent as circulated.

2. Minutes of March 8, 2024, meeting (*in camera* session)

The minutes of the *in camera* meeting held on March 8, 2024 were approved unanimously and by consent as circulated.

3. 2024 Annual General Meeting: Advance Voting.

The following resolution was passed unanimously and by consent:

BE IT RESOLVED the Benchers authorize the Executive Director to permit members of the Society in good standing to vote by electronic means on general meeting resolutions in advance of the 2024 AGM.

Reports

4. President's Report

President Jeevyn Dhaliwal, KC confirmed that no conflicts of interest had been declared.

Ms. Dhaliwal began her report by inviting Georges Rivard to speak about the initiatives being put forward to address access to justice challenges in the Cariboo region. Mr. Rivard spoke about a lack of access to treatment facilities; a lack of youth facilities; and a lack of lawyers specializing in labour, immigration, and tax law. Ms. Dhaliwal spoke about the importance of recognizing and understanding the different types of access to justice challenges encountered by lawyers throughout the province.

Ms. Dhaliwal provided an overview of her recent meetings and activities, including attending the Federation meetings in Banff, attending the Advocate Society Gala, making remarks at the New Westminster and North Shore Bar Associations' President Dinners, attending a Law Society of Saskatchewan Bencher meeting in Regina, attending a call ceremony in Kamloops, presenting at the Through the Looking-Glass: Independence and Regulation in BC Today session organized by the CBABC, attending the KC Ceremony and Reception, and speaking at the South Asian Bar's annual women's event. She thanked Benchers for their help with the regional call ceremonies and congratulated Lindsay LeBlanc, KC, Cheryl D'Sa, KC, and Gurminder Sandhu, KC for their recent KC appointments.

Ms. Dhaliwal concluded her remarks by speaking about Sikh Heritage Month, which celebrates the many contributions that Sikh communities have made to Canada. She indicated that the theme this year is “Chardi Kala”, a concept that refers to a positive and uplifted state of mind, where adversity becomes a catalyst for growth.

5. CEO’s Report

Don Avison, KC began his report by speaking about Bill 21 and the discussions to take place at the meeting. He indicated that Benchers would hold an *in camera* session at some point in the proceedings, and if any decisions were to be made, Benchers would return to a public session to report out on those decisions. He spoke about the need to organize regional sessions across the province to discuss the implications of Bill 21, which should involve both the profession and the public. Mr. Avison indicated that discussions continued with other law societies and with the Federation regarding the changes to the Law Society’s governance model contemplated by Bill 21, as well as discussions and town halls with staff to address and respond to questions and concerns. He also shared with Benchers a statement from the Official Opposition regarding Bill 21.

Mr. Avison indicated that plans were being finalized for the Law Society Bencher Retreat, and that he hoped that Katie Rusbatch, Chief Executive Officer of the Law Society of New Zealand, would be able to attend.

Mr. Avison then spoke about the recent changes to the Law Society website, and thanked the communications team for their work on this project.

Mr. Avison provided some staffing updates, and informed Benchers that Jess Abells would be moving on from the Law Society and Alison Luke would be stepping in to take over responsibilities regarding the Alternative Discipline Program.

Mr. Avison concluded his remarks by speaking about Chief Justice Christopher Hinkson’s upcoming retirement and the Chief Justice’s extraordinary legal career and contributions.

Benchers discussed plans for the regional sessions to discuss Bill 21 and ensuring the engagement of the profession. Mr. Avison advised that the Law Society would be focusing on demonstrating the importance of the implications of Bill 21 and ensuring that the profession understands this importance.

6. Briefing by the Law Society’s Member of the Federation Council

Brook Greenberg, KC provided a brief overview of the written report he provided for Benchers’ information, which included an overview of the recent Federation meetings. He spoke about the lack of response received from the Attorney General in response to correspondence that had been sent by the Federation urging the Ministry to conduct further consultation prior to tabling Bill 21.

7. 2023 Tribunal Annual Report and 2024 Planning

Herman Van Ommen, KC, Tribunal Chair, provided a presentation on the Tribunal’s Annual Report for 2023, which included a breakdown of the types of hearings held by the Tribunal and an overview of completed files. He indicated that to improve timelines for the completion of files, the Tribunal has instituted a case management program, which requires parties to appear before the Tribunal within three months of citations being issued to discuss the status of the file and explain why the matter has not been set for hearing.

Benchers discussed issues with the timeliness of completing files. Mr. Van Ommen advised that this was a priority for the Tribunal to work with respondents to keep the process expedient. Mr. Avison advised that there have been noticeable improvements to the process and timeliness of completing files, due to the implementation of consent agreements and other process changes. He spoke about the consent agreement process and how the Federation data on completion time of files does not take into consideration the effects of consent agreements, and that he was of the view that the Law Society should develop its own data on that matter.

8. Lawyers Indemnity Fund: Program Report for 2023

Su Forbes, KC, Chief Operating Officer of the Lawyers Indemnity Fund (LIF), presented on the Program Report for 2023. She provided an overview of LIF’s operation, the indemnity program, types of coverage, the causes of claims, the cyber insurance program, and managing claims.

Benchers engaged in discussions regarding Ms. Forbes’ presentation including the process for lawyers experiencing a cyber-attack, the types of educational resources available for the profession, and the type and frequency of claims. Ms. Forbes advised that if a lawyer has been subject to a cyber-attack, then Coalition should be alerted, and further details could be found on LIF’s website.

Mr. Avison spoke about the value of LIF and ensuring that the profession understands how to avoid insurance related issues. He also spoke about the implications of Bill 21 on LIF and expressed concerns with the possibility of a third party determining scope of practice for the professions and the inherent associated risks.

Benchers discussed whether or not there should be any contemplation of reducing the fees for LIF. Mr. Avison advised that the fee has only increased by \$50 over 14 years, even with the level of coverage

increasing. Ms. Forbes added that the Indemnity Subcommittee considers this matter, and that even with greater revenue and lower expenses, it is important to have enough funds in reserves to take care of future years' claims.

Discussion/Decision

9. Financial Matters

Brook Greenberg, KC, Chair of the Finance and Audit Committee introduced the item, thanking committee members and staff for all their efforts, which led to a clean audit.

Jeanette McPhee, Chief Financial Officer & Senior Director of Trust Regulation provided an overview of the audited financial statements and highlights for 2023. She noted that the general fund operations resulted in a positive variance to budget, mainly due to the receipt of interest income. Ms. McPhee indicated that revenue was ahead of budget due to a higher number of practice fees received than planned. She indicated that the number of practising lawyers usually increased about 2.5 to 3%, but this has increased over the last few years to 3.5 to 4%. Ms. McPhee reviewed operating expenses for the year, which were under budget by 3%, mainly due to savings in external counsel fees. She then reviewed TAF-related revenue, which was down quite a bit due to market fluctuations. Ms. McPhee then reviewed the general fund net assets and reserves. She indicated that the Law Society aimed to have about six months of operating expenses within the reserves, and that currently the reserves are on the higher side of that scale; however, there are a number of projects that will need to be funded from reserves, including costs associated with the implementation of the single legal regulator. Ms. McPhee then reviewed the Lawyers Indemnity Fund, which resulted in a positive variance to budget.

Ms. McPhee reviewed the general fund forecast, which is forecasted to be at budget. She indicated that there will be some additional costs related to the Tribunal, which would be offset by higher interest income.

Bencher discussed funding of the single legal regulator initiative and the impact of Bill 21 on the Law Society's assets. Ms. McPhee advised that there will be a number of activities associated with implementation, which would be funded by reserves. Mr. Avison added that with the smaller board contemplated by Bill 21, there would be a compensation requirement that would need to be taken into consideration. He indicated that consideration would also need to be given to the financial implications of Bill 21 on the operating expenses of the Law Society and on the annual practice fee. Bencher discussed whether or not the Law Society would contemplate an increase to the practice fee as a result of Bill 21. Mr. Avison advised that this was a significant concern, particularly, as the Law Society has worked hard to keep the practice fees static year to year.

The following resolution was passed unanimously:

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BE IT RESOLVED to approve the Law Society’s 2023 Financial Statements for the General Fund, and the 2023 Consolidated Financial Statements for the Lawyers Indemnity Fund.

10. Competency Framework

Cheryl D’Sa, KC, Chair of the Lawyers Development Task Force introduced the item and provided some background on the Western Canada Competency Profile (WCCP), which would establish the competencies to be demonstrated at entry to legal practice in BC. Ms. D’Sa spoke about the process by which the WCCP was developed in collaboration with the law societies of Alberta, Saskatchewan, and Manitoba. She spoke about the development of the Task Force and Advisory Committee established by the four law societies, as well as the assumptions that were determined to guide the work. Ms. D’Sa indicated that should all four law societies approve the WCCP, the next steps would be to develop guidance for bar admissions programs and principles/supervisors, using the WCCP as a roadmap.

Benchers discussed the important work of the project, as well as the need to modernize the approach to training and education for lawyers. Benchers also discussed the importance of the public understanding what is required to become a lawyer.

The following resolution was passed unanimously:

BE IT RESOLVED that the Benchers adopt the Western Canada Competency Profile as the competencies to be demonstrated at entry to legal practice in British Columbia.

11. Bill 21 – Legal Professions Act

Ms. Dhaliwal introduced the item and noted that part of these discussions would be *in camera*, but that any decisions made by Benchers would be reported publicly later in the meeting.

Mr. Avison indicated that there would be brief discussion in the public portion of the meeting regarding Bill 21 and the Law Society’s response, followed by discussions *in camera*. He indicated that Benchers were joined by Craig Ferris, KC, who has been retained by the Law Society to provide advice and to pursue litigation on the Law Society’s behalf, should that be the decision of Benchers. Mr. Avison spoke about the status of Bill 21. He indicated that he was of the view that the profession and the public had not had the opportunity to understand the full public policy implications of the Bill, including the governance model that is contemplated by the Bill, and whether or not this model is intended to apply more broadly to other regulatory bodies, or if it will be specific only to the Law Society, and if so why that is.

Mr. Avison indicated that correspondence had been prepared to send to the Attorney General, urging the Ministry to take more time to provide for an open and thorough discussion about the implications of Bill 21, and he would be asking Benchers to sign the correspondence. He indicated that the meeting

would resume publicly to report back on any decisions made by Benchers following the *in camera* portion of the meeting.

For Information

12.2024 Bencher and Executive Committee Meetings Dates

There was no discussion on this item.

13. ADMA Turns Two

There was no discussion on this item.

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

Public Session

- **Decision Bill 21 – Legal Professions Act**

Ms. Dhaliwal confirmed that Benches have written to the Attorney General to urge that Bill 21 be subject to further consultation with the public and with the legal professions and that further debate on the Bill be suspended until a transparent consultation process can be appropriately conducted. She further confirmed that should Bill 21 be passed in its current form, pursuant to the Law Society’s public interest mandate, Benchers have instructed counsel retained by the Law Society to initiate proceedings challenging several elements of the proposed legislation.

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

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2024-05-23