



Agenda

Benchers

Date: Friday, April 28, 2023
Time: **9:00 am – Call to Order**

Location: Hybrid: Bencher Room, 9th Floor, Law Society Building & Zoom

Recording: *Benchers, staff and guests should be aware that the audio and video of the public portion of this Benchers meeting will be recorded to ensure an accurate record of the proceedings. Any private chat messages sent will be visible in the transcript that is produced following the meeting.*

VIRTUAL MEETING DETAILS

The Bencher Meeting is taking place as a hybrid meeting. If you would like to attend the meeting as a virtual attendee, please email BencherRelations@lsbc.org

CONSENT AGENDA:

Any Bencher may request that a consent agenda item be moved to the regular agenda by notifying the President or the Manager, Governance & Board Relations prior to the meeting.

1	Minutes of March 10, 2023 meeting (regular session)
2	Minutes of March 10, 2023 meeting (<i>in camera</i> session)
3	Rule 4-47: Amending Public Notice of Suspension or Disbarment
4	General Rule Amendments and Corrections
5	Amendments to the Code of Professional Conduct for British Columbia
6	External Appointment: Vancouver Foundation
7	Approval of 2023 Law Society Award Recipient



Agenda

8	2023 Annual General Meeting: Advance Voting	
REPORTS		
9	President's Report	Christopher A. McPherson, KC
10	CEO's Report	Don Avison, KC
11	Briefing by the Law Society's Member of the Federation Council	Brook Greenberg, KC
DISCUSSION/DECISION		
12	Indigenous Engagement in Regulatory Matters Task Force: Final Report	Christopher A. McPherson, KC Terri-Lynn Williams-Davidson, KC
13	Lawyer Development Task Force: Recommendation for Mandatory Principal Training Program	Steve McKoen, KC
14	Law Society's 2022 Audited Financial Statements and Financial Reports: Review and Approval	Jeevyn Dhaliwal, KC Jeanette McPhee
UPDATES		
15	2023 First Quarter Financial Report	Jeevyn Dhaliwal, KC Jeanette McPhee
FOR INFORMATION		
16	Minute of Approval for Compensation for Public Adjudicators	
IN CAMERA		
17	Other Business	



Minutes

Benchers

Date: Friday, March 10, 2023

Present:	Jeevyn Dhaliwal, KC, 1 st Vice-President Brook Greenberg, KC, 2 nd Vice-President Paul Barnett Kim Carter Tanya Chamberlain Jennifer Chow, KC Tim Delaney Brian Dybwad Katrina Harry Sasha Hobbs Lindsay R. LeBlanc Dr. Jan Lindsay Geoffrey McDonald	Steven McKoen, KC Jacqueline McQueen, KC Paul Pearson Georges Rivard Michèle Ross Gurminder Sandhu Thomas L. Spraggs Barbara Stanley, KC Michael Welsh, KC Kevin B. Westell Sarah Westwood Guangbin Yan Gaynor C. Yeung
Unable to Attend:	Christopher A. McPherson, KC, President Cheryl S. D'Sa Lisa Dumbrell	Kelly H. Russ Natasha Tony
Staff:	Don Avison, KC Gurprit Bains Avalon Bourne Barbara Buchanan, KC Jennifer Chan Natasha Dookie Su Forbes, KC Kerryn Holt Jeffrey Hoskins, KC Alison Kirby Julie Lee Michael Lucas, KC	Alison Luke David MacLean Claire Marchant Fiona McFarlane Tara McPhail Jeanette McPhee Cary Ann Moore Michael Mulhern Doug Munro Lesley Small Christine Tam Adam Whitcombe, KC

Guests:	Andrea Abbinante	Member of Public, Paralegal
	Katie Armitage	Legal Counsel, Ministry of Attorney General
	Karen St. Aubin	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
	Christina Cook	Vice-Chair, Aboriginal Lawyers Forum
	Dr. Cristie Ford	Professor, Peter A. Allard School of Law
	Lisa Hamilton, KC	Life Bencher; Past President
	Elizabeth Kollias	President & Education Chair, BC Paralegal Association
	Jamie Maclaren, KC	Executive Director, Access Pro Bono Society of BC
	John Mayr	Executive Director, The Society of Notaries Public of BC
	Scott Morishita	First Vice President, CBABC
	Caroline Nevin	CEO, Courthouse Libraries BC
	Mayette Ostonal	Member of Public, Paralegal
	Ngai Pindell	Dean of Law, Peter A. Allard School of Law
	Linda Russell	CEO, Continuing Legal Education Society of BC
	Kerry Simmons, KC	Executive Director, Canadian Bar Association, BC Branch
	Ron Usher	General Counsel and Practice Advisor, The Society of Notaries Public of British Columbia
	Lana Walker	Assistant Dean of Law, Thompson Rivers University & Continuing Legal Education Society of BC Director
	Ken Walker, KC	Life Bencher; Past President

CONSENT AGENDA

1. Minutes of February 3, 2023, meeting (regular session)

The minutes of the meeting held on February 3, 2023 were approved unanimously and by consent as circulated.

2. Minutes of February 3, 2023, meeting (*in camera* session)

The minutes of the *In Camera* meeting held on February 3, 2023 were approved unanimously and by consent as circulated.

3. External Appointment: Vancouver Airport Authority

The following resolution was passed unanimously and by consent:

BE IT RESOLVED the Benchers put forward Ken Kramer, KC as the Law Society nominee, as recommended by the Vancouver Airport Authority, to the Vancouver Airport Authority Board of Directors for a second three-year term commencing May 8, 2023.

REPORTS

4. President's Report

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

Ms. Dhaliwal informed Benchers that she would be chairing the meeting as President Christopher A. McPherson, KC was attending the Commonwealth Law Conference in India. She then provided an overview of recent events and activities, including attending a session regarding the Supreme Court appointment process with the Honourable David Lametti, Minister of Justice and Attorney General of Canada hosted by the Law Society; attending the UBC Indigenous Law Students Gala, attending West Coast LEAF's Equality Breakfast, and attending the Kootenay Bar Association's winter meeting. Ms. Dhaliwal also informed Benchers that she would be attending the upcoming Federation of Canadian Law Societies (Federation) spring meetings, at which Don Avison, KC and herself would be presenting an update on matters in BC.

Ms. Dhaliwal then invited Barbara Stanley, KC to speak about the initiatives being put forward to address access to justice challenges in the Kootenay region. Ms. Stanley provided an overview of issues and challenges related to access to justice that the Kootenay bar was trying to address in the region, including a lack of lawyers due to retirement, a lack of family law and criminal law lawyers, and a lack of lawyers providing legal aid. Ms. Dhaliwal spoke about the importance of understanding the different access to justice challenges throughout the province.

5. CEO's Report

Don Avison, KC began his report by thanking Ms. Stanley and the Kootenay Bar Association for inviting Ms. Dhaliwal and himself to attend the winter meeting.

Mr. Avison then provided an overview of the recent meeting with the Attorney General, the acting Deputy Attorney General and other Ministry Staff, regarding the Ministry's intention to establish a single legal regulator, which took place on February 8. Mr. Avison informed Benchers that there had been an indication from the Attorney General that the Ministry intended to release a "What We Heard" Report, which would follow upon the call for responses to the Ministry's Intentions Paper. The timeline for release of this report was not made clear, but Mr. Avison indicated that he would keep Benchers informed on any new developments. Mr. Avison informed Benchers that the message from the Attorney General is that the Ministry continues to plan to bring forward legislation regarding the single legal regulator initiative for the fall legislative session. He indicated that Law Society staff continue to make preparations for the implementation of the single legal regulator initiative with that timeline in mind. Mr. Avison further informed Benchers that the discussions with the Attorney General had also included the importance of preserving diversity at the board table, and that Benchers would welcome the opportunity to engage with the Attorney General and the Ministry on this matter, which would likely take place at the June Bencher Retreat meetings.

Mr. Avison provided some further information regarding the Bencher Retreat, which would be taking place from June 1 to 3 in Whistler. He indicated that the program would focus substantively on managing significant change, including change in relation to the governance of the profession, but also in regard to changing technology, in particular artificial intelligence.

Mr. Avison spoke about the Final Report of the Indigenous Engagement in Regulatory Matters Task Force, which would be received at the April 28 Bencher meeting. Mr. Avison indicated that the April 28 meeting would be held as a hybrid meeting due to the significance of the Final Report, and he encouraged Benchers to attend in person if possible.

Mr. Avison then spoke about the upcoming meetings of the Federation which would be taking place in Quebec City the week following the Bencher meeting. He indicated that aside from himself, Ms. Dhaliwal, Brook Greenberg, KC, and Adam Whitcombe, KC would be attending, and the discussions would likely be focused on further consideration of the National Study on the Health and Wellness Determinants of Legal Professionals in Canada.

Mr. Avison provided a further overview of the session with the Minister of Justice and Attorney General of Canada regarding the Supreme Court appointment process. He indicated that the Law Society would be developing a short video about the importance of increasing the pool of

applicants, along with information regarding the application and selection process, and what the judicial experience is actually like.

Mr. Avison then spoke about the Commonwealth Law Conference that President McPherson was attending in India. He indicated that an important declaration had come out of the conference meetings regarding the importance of preserving and strengthening the independence of judiciary and of the legal profession, and that this would be circulated to Benchers. He further indicated that the report of the independent review of the statutory framework for legal services in Aotearoa New Zealand had been released, and this would also be circulated to Benchers.

DISCUSSION/DECISION

6. Rule Amendments: Public Notification of Disciplinary Action

Michael Lucas, KC introduced the item and provided some background to the proposal to amend Rule 4-47 to remove the specific directions set out in the Rule and instead provide the Executive Director with the discretion to determine how to give immediate effective public notice of the suspension, disbarment, or resignation.

Benchers discussed the proposed rule amendments, and some Benchers encouraged staff to maintain the publication of the notice in the Gazette, as it provides an accessible public record.

The following resolution was passed unanimously:

BE IT RESOLVED that the Benchers recommend, in principle, that Rule 4-47 be amended to remove the specific directions set out in the Rule and instead provide the Executive Director with the discretion to determine how to give immediate effective public notice of the suspension, disbarment or resignation.

7. Barristers' and Solicitors' Oath Revisions

Mr. Avison introduced the item and reviewed the proposed amendment to the Barristers' and Solicitors' Oath to better incorporate and reflect the Constitution's recognition and affirmation of the Aboriginal and treaty rights of First Nations, Inuit, and Métis peoples. Mr. Avison indicated that the language was in line with a recent amendment to Canada's Oath of Citizenship.

Benchers discussed whether further amendments to the oath should be considered. Mr. Avison advised that further modifications could be considered at a later date.

The following resolution was passed unanimously:

BE IT RESOLVED that the Benchers rescind the Barristers and Solicitors’ Oath and substitute the following:

Do you sincerely promise and swear (or affirm) that you will diligently, faithfully and to the best of your ability execute the offices of Barrister and Solicitor; that you will not promote suits upon frivolous pretences; that you will not pervert the law to favour or prejudice anyone; but in all things conduct yourself truly and with integrity; and that you will uphold the rule of law and the rights and freedoms of all persons according to the laws of Canada and of the Province of British Columbia, including the Constitution, which recognizes and affirms the Aboriginal and treaty rights of First Nations, Inuit and Métis peoples.

8. Single Legal Regulator Update

Mr. Avison provided a brief update about the work being done by staff in preparation for the likely implementation of the single legal regulator initiative. He indicated that staff were currently working on identifying all of the matters that would need to be considered in preparation for the implementation of the single legal regulator initiative. Mr. Avison further indicated that the expectation was that legislation would be tabled in the fall of 2023, which would likely be followed by a period of transition prior to the implementation of the legislation and new statute.

9. Licensing Paralegals

Ms. Dhaliwal introduced the item and provided some background regarding the proposal to ask the government to permit the Law Society to license paralegals by bringing into force the amendments to the *Legal Profession Act* in Bill 57 - 2018 *Attorney General Statutes Amendment Act, 2018*. Ms. Dhaliwal spoke about the Law Society’s history with licensing paralegals and indicated that this matter was not new, but had been considered in various forms since the 1980s.

Mr. Avison reviewed the proposal with Benchers and referenced the correspondence received from the Attorney General towards the end of 2021, which indicated that the Ministry was considering bringing into force the 2018 amendments; however, these discussions evolved into consideration of the establishment of a single legal regulator. Mr. Avison indicated that he was of the view that the licensing of paralegals was an important part of the equation in addressing access to justice gaps in BC, and that it would be timely to put forward this proposal to government. He further indicated that this proposal had a strong level of support from the BC Paralegal Association. Regarding next steps, Mr. Avison informed Benchers that he had indicated to the Attorney General at the February 8 meeting that a resolution would be considered by the Benchers on this matter, and if the Benchers were in agreement with the

proposal, formal correspondence would be send to the Attorney General requesting that the 2018 amendments be brought into force.

Benchers engaged in discussions regarding the proposal with focus on the need to have an exit strategy for the Innovation Sandbox through the licensing of paralegals, the importance of providing the public with a wider range and choice of legal services provided by competent legal practitioners, the value of the experience and knowledge that exists within the paralegal profession, and how increasing both the availability and range of cost of legal service providers will help in increasing access to justice.

Benchers discussed the work that would need to be done regarding scope of practice for paralegals, as well as the importance of moving away from a once size fits all approach. Mr. Avison advised that a great deal of work was being conducted by staff in preparation. He further advised that should the proposal be approved and accepted by government, not all current paralegals would be regulated, as some would choose to continue with their current arrangements.

Some Benchers expressed concerns regarding potential backlash to the proposal, but there was general agreement amongst Benchers that the licensing of paralegals was in the public interest as an important component of addressing access to justice gaps through the provision of increasing access to legal service providers.

The following resolution was passed unanimously:

BE IT RESOLVED that:

1. the Law Society request that the licensed paralegal amendments to the *Legal Profession Act* and the related transitional provisions in *Bill 57 – 2018 Attorney General Statutes Amendment Act, 2018* be brought into force; and
2. in anticipation of the amendments being brought into force, the Executive Director is directed to take the necessary steps to provide for the licensing of paralegals, including the development of processes and procedures and proposing to the Benchers any required changes to the Law Society Rules consistent with the authority provided in the amendments once granted.

UPDATES

10. National Discipline Standards Report

Natasha Dookie provided background information on the National Discipline Standards and then presented the findings of the 2022 Report, along with Tara McPhail. She indicated that in 2022,

the Law Society met 21 of the 23 standards, a performance similar to previous years; the two standards not met were 9 and 10.

Benchers discussed the use of consent agreements and whether or not their use had an impact on the Law Society's performance in terms of meeting the standards. Ms. McPhail advised that there had been quite a bit of interest in the use of consent agreements since their implementation. She indicated that agreement had not been reached on all of them, but that respondents requesting a consent agreement are generally motivated to reach agreement. Ms. Dookie added that the consent agreements were an excellent tool to reach a more expeditious resolution. She also added that there would be value in considering using consent agreements as a regulatory tool for less serious matters.

Ms. Dhaliwal encouraged Benchers to render their decisions in a timely manner, so as to help improve the Law Society's rating for standard 10.

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

AB
2023-04-19



Amendments to Rule 4-47: Public Notice of suspension or disbarment

Date: April 19, 2023

Prepared for: Benchers

Prepared by: Staff

Purpose: Decision

DM3987487

I. Background

1. A decision, in principle, was made at the March 2023 Benchers meeting to amend Rule 4-47 of the Law Society Rules to better reflect current communication norms and permit staff to adapt communications about suspended and disbarred lawyers to the changing ways the public consumes information.
2. Attached are draft rule amendments (redlined and clean version) to implement the Benchers' approval in principle to amend Rule 4-47.

II. Drafting Notes

3. The proposed amendments provide discretion to the Executive Director about to whom or how to provide mandatory notification when a person is suspended, disbarred, resigns or otherwise ceases to be a member as a result of disciplinary proceedings.
4. The amendments to Rule 4-47 (1) ensure that the public and the profession continue to be notified about when a person is suspended, disbarred, resigns or otherwise ceases to be a member as a result of disciplinary proceedings, and simply removes the required publication of a notice in the British Columbia Gazette, a newspaper of general circulation in each municipality and the electoral district in which the person maintained a law office, and on the Law Society website as well as notification to the Registrar of the Supreme Court and the Public Guardian and Trustee.
5. Rule 4-47(2) is amended as a consequence of Rule 4-47 (1) being amended. Specifically, "take any of the steps referred to in subrule (1)" has been replaced with "give public notice of the suspension". The changes provided discretion to the Executive Director about notification to the public and profession when a member is suspended under Part 2 [Membership and Authority to Practise Law] or 3 [Protection of the Public] of the Law Society Rules.
6. The proposed amendments do not necessarily change who is currently notified. Rather the deletions simply remove the prescriptive approach in the current Rules. If the Public Guardian and Trustee or the Registrar of the Supreme Court consider it important that they continue to receive notification, that can still be done. Notification through publication on the Law Society website and the Tribunal website will not change as a consequence of these proposed amendments. Follow-up with the Public Guardian and with the Courts in light of a new Registrar having been appointed will be undertaken by staff.

7. The proposed deletions also have the effect of aligning the Law Society with the requirements at other Canadian law societies, which generally also provided more discretion to the Executive Director about how and where to publish information.

III. Decision

8. A recommended resolution is attached.

LAW SOCIETY RULES

Public notice of suspension or disbarment

4-47 (1) When a person is suspended under this part or Part 5 [*Tribunal, Hearings and Appeals*], is disbarred or, as a result of disciplinary proceedings, resigns from membership in the Society or otherwise ceases to be a member of the Society as a result of disciplinary proceedings, the Executive Director must immediately give effective public notice of the suspension, disbarment or resignation. ~~by means including but not limited to the following:~~

~~—(a) publication of a notice in~~

~~—(i) the *British Columbia Gazette*,~~

~~—(ii) a newspaper of general circulation in each municipality and each district referred to in Rule 1-21 [*Regional election of Benchers*], in which the person maintained a law office, and~~

~~—(iii) the Society website, and~~

~~—(b) notifying the following:~~

~~—(i) the Registrar of the Supreme Court;~~

~~—(ii) the Public Guardian and Trustee.~~

(2) When a person is suspended under Part 2 [*Membership and Authority to Practise Law*] or 3 [*Protection of the Public*], the Executive Director may give public notice of the suspension take any of the steps referred to in subrule (1).

LAW SOCIETY RULES

Public notice of suspension or disbarment

- 4-47 (1) When a person is suspended under this part or Part 5 [*Tribunal, Hearings and Appeals*], is disbarred or, as a result of disciplinary proceedings, resigns from membership in the Society or otherwise ceases to be a member of the Society as a result of disciplinary proceedings, the Executive Director must immediately give effective public notice of the suspension, disbarment or resignation.
- (2) When a person is suspended under Part 2 [*Membership and Authority to Practise Law*] or 3 [*Protection of the Public*], the Executive Director may give public notice of the suspension.

PUBLIC NOTICE OF SUSPENSION OR DISBARMENT**RESOLUTION:**

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

1. *Rule 4-47 (1) and (2) is rescinded and the following is substituted:*

Public notice of suspension or disbarment

- 4-47** (1) When a person is suspended under this part or Part 5 [*Tribunal, Hearings and Appeals*], is disbarred or, as a result of disciplinary proceedings, resigns from membership in the Society or otherwise ceases to be a member of the Society as a result of disciplinary proceedings, the Executive Director must immediately give effective public notice of the suspension, disbarment or resignation.
- (2) When a person is suspended under Part 2 [*Membership and Authority to Practise Law*] or 3 [*Protection of the Public*], the Executive Director may give public notice of the suspension.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



Rule Amendments: Corrections

Date: April 18, 2023

Prepared for: Benchers

Prepared by: Executive Committee

Purpose: Decision

DM3987530

I. Background and Purpose

1. A little over a year ago the Benchers adopted an extensive package of amendments to the Law Society Rules updating and reorganizing all the rules relating to the Law Society Tribunal.
2. As a result, a great many rules, whether amended or not, were re-numbered. That required that cross-references to those rules elsewhere in the Rules had to be changed to agree with the new numbering.
3. Since that time, staff have discovered a few oversights in the cross-references. These were brought to the Executive Committee's attention at its April 12, 2023 meeting and the Committee resolved to forward proposed corrections to the Benchers for approval.

II. Resolution

4. To address the oversights that have been identified, clean and redlined drafts and a resolution have been prepared and are attached.

LAW SOCIETY RULES

PART 4 – DISCIPLINE

Division 1 – Discipline Committee

Publication and disclosure

- 4-15** (4) Subject to subrule (5), the Executive Director may disclose the report of a Conduct Review Subcommittee that has been considered by a hearing panel as part of a lawyer’s professional conduct record under Rule ~~4-44~~ 5-6.4 (5) [*Disciplinary action*].

Direction to issue, expand or rescind citation

- 4-17** (3) At any time before a panel makes a determination under Rule ~~4-44~~ 5-6.4 [*Disciplinary action*], the Discipline Committee may rescind a citation or an allegation in a citation and substitute another decision under Rule 4-4 (1) [*Action on complaints*].

PART 5 – TRIBUNAL, HEARINGS AND APPEALS

Practice and procedure before a hearing panel

Disciplinary action

- 5-6.4** (2) A panel may proceed under subrule (1) before written reasons are prepared under Rule ~~5-6.3 (4) [*Submissions and determination*]~~ 4-43 (2) (b)
- (a) if the panel gives reasons orally for its decision under Rule 5-6.3 (2) (a) ~~[*Submissions and determination*]~~, or
 - (b) when the panel accepts an admission jointly submitted by the parties under Rule 5-6.5 [*Admission and consent to disciplinary action*].

PART 10 – GENERAL

Service and notice

- 10-1** (1) A recipient may be served with a notice or other document by
- (b) sending it by
 - (i) registered mail, ordinary mail or courier to the last known business or residential address of the recipient,

LAW SOCIETY RULES

- (ii) electronic facsimile to the last known electronic facsimile number of the recipient,
- (iii) electronic mail to the last known electronic mail address of the recipient,
or
- (iv) any of the means referred to in subparagraphs (ai) to (eiii) to the place of business of the counsel or personal representative of the recipient or to an address given to Law Society counsel by a respondent for delivery of documents relating to a citation, or

SCHEDULE 4 – TARIFF FOR HEARING AND REVIEW COSTS

Item no.	Description	Number of units
Citation hearing		
3.	Disclosure under Rule <u>4-345-4.6</u> [<i>Demand for disclosure of evidence</i>]	Minimum 5 Maximum 20
5.	Application to adjourn under Rule <u>4-405-5.2</u> [<i>Adjournment</i>] <ul style="list-style-type: none"> • if made more than 14 days prior to the scheduled hearing date • if made less than 14 days prior to the scheduled hearing date 	1 3

LAW SOCIETY RULES

PART 4 – DISCIPLINE

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Direction to issue, expand or rescind citation

- 4-17** (3) At any time before a panel makes a determination under Rule 5-6.4 [*Disciplinary action*], the Discipline Committee may rescind a citation or an allegation in a citation and substitute another decision under Rule 4-4 (1) [*Action on complaints*].

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Disciplinary action

- 5-6.4** (2) A panel may proceed under subrule (1) before written reasons are prepared under Rule 5-6.3 (4) [*Submissions and determination*]
- (a) if the panel gives reasons orally for its decision under Rule 5-6.3 (2) (a), or
 - (b) when the panel accepts an admission jointly submitted by the parties under Rule 5-6.5 [*Admission and consent to disciplinary action*].

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Service and notice

- 10-1** (1) A recipient may be served with a notice or other document by
- (b) sending it by
 - (i) registered mail, ordinary mail or courier to the last known business or residential address of the recipient,
 - (ii) electronic facsimile to the last known electronic facsimile number of the recipient,
 - (iii) electronic mail to the last known electronic mail address of the recipient,
- or

LAW SOCIETY RULES

- (iv) any of the means referred to in subparagraphs (i) to (iii) to the place of business of the counsel or personal representative of the recipient or to an address given to Law Society counsel by a respondent for delivery of documents relating to a citation, or

SCHEDULE 4 – TARIFF FOR HEARING AND REVIEW COSTS

Item no.	Description	Number of units
Citation hearing		
3.	Disclosure under Rule 5-4.6 [<i>Demand for disclosure of evidence</i>]	Minimum 5 Maximum 20
5.	Application to adjourn under Rule 5-5.2 [<i>Adjournment</i>] <ul style="list-style-type: none"> • if made more than 14 days prior to the scheduled hearing date • if made less than 14 days prior to the scheduled hearing date 	1 3

CORRECTIONS**RESOLUTION:**

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

1. *Rule 4-15 (4) is amended by striking “under Rule 4-44 (5)” and substituting “under Rule 5-6.4 (5)”.*
2. *Rule 4-17 (3) is amended by striking “under Rule 4-44” and substituting “under Rule 5-6.4”.*
3. *Rule 5-6.4 (2) is amended by striking “under Rule 4-43 (2) (b)” and substituting “under Rule 5-6.3 (4)”.*
4. *Rule 10-1 (1) (b) (iv) is amended by striking “referred to in paragraphs (a) to (c)” and substituting “referred to in subparagraphs (i) to (iii)”.*
5. *Schedule 4 is amended as follows:*
 - (a) *in item no. 3, “under Rule 4-34” is struck and “under Rule 5-4.6” is substituted; and*
 - (b) *in item no. 5, “under Rule 4-40” is struck and “under Rule 5-5.2” is substituted.*

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



Amendments to the *Code of Professional Conduct for British Columbia* – Addition of rules 5.1-2.2 and 5.1-2.3 on *ex parte* proceedings

Ethics and Lawyer Independence Advisory Committee:

Jacqueline McQueen, KC (Chair)

Thomas Spraggs (Vice-Chair)

Jon Festinger, KC

Paul Pearson

Georges Rivard

The Honourable Marshall Rothstein, KC

Marko Vesely

Date: April 3, 2023

Prepared for: Benchers

Prepared by: Ethics and Lawyer Independence Advisory Committee

Purpose: For Decision

Introduction and Purpose

1. One of the responsibilities of the Ethics and Lawyer Independence Advisory Committee is to make recommendations to the Benchers concerning contemplated amendments to the *Code of Professional Conduct for British Columbia* (“*BC Code*”). In recent years, many of these recommendations have their genesis in amendments or additions to the Federation of Law Societies’ Model Code of Conduct (“*Model Code*”). The most recent Model Code amendments included the addition of two new rules on *ex parte* proceedings.
2. The Committee has completed its review and recommends that the new rules on *ex parte* proceedings be added to the *BC Code*, creating rules 5.1-2.2 and 5.1-2.3. The proposed resolution is appended to this memorandum. The Committee concluded that, as far as the provisions on *ex parte* proceedings were concerned, there was nothing specific to the practice of law in British Columbia that would require a deviation from the professional ethical principles established by the Model Code. The Committee also concluded that recommending the adoption of the Model Code’s *ex parte* proceeding provisions would lend regulatory strength and demonstrate commitment toward the Federation’s goal for regulatory uniformity where possible.

Background

3. Beginning in early 2020, the Federation’s Model Code Committee consulted twice with Canada’s law societies and other legal stakeholders on the proposed rules on *ex parte* provisions, during which the Law Society of British Columbia’s Ethics Committee provided feedback. The final version of the provisions was passed by the Federation Council in October 2022 and now each law society is considering whether to adopt the amendments in their professional code of ethics.
4. The Ethics and Lawyer Independence Advisory Committee reviewed the new Model Code rules at its March 2023 meeting. The purpose of the changes to the Model Code was to address concerns noted, particularly in Alberta, regarding communications directly with the courts in the course of litigation. In the course of its review, the Committee did not believe that the concerns identified resonated as strongly in British Columbia due to British Columbia Supreme Court Practice Direction 27 on Communicating with the Court, which provides similar guidance to that proposed in the Model Code. Nevertheless, recognizing the desire to have professional code of ethics provisions that are relatively uniform across the country, recognizing that the proposed provisions were not inconsistent with practice in British Columbia, and recognizing that the Model Code provisions recognize the court’s inherent jurisdiction to provide directions in this area, the Committee concluded that implementing the Model Code provisions in British Columbia was advisable. Moreover, the Committee noted that the provisions would also

set expectations for conduct for other tribunals that may not have that guidance set out in their own rules or practice directions.

Drafting Notes

5. The rules are new additions to the Model Code, and do not amend or replace any other provisions. They have been added to Chapter 5 [Relationship to the Administration of Justice] and fall under rule 5.1 [The lawyer as advocate]. Because of some slight numbering differences between the Model Code and the *BC Code*, it is proposed to add the new provisions as rules 5.1-2.2 [*Ex parte* proceedings] and 5.1-2.3 [Single-party communications with a tribunal].

Recommendation and Resolution

The Ethics and Lawyer Independence Advisory Committee recommends that the Benchers adopt the following resolution:

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

1. *Rule 5.1-2.2 and its commentaries are added:*

Ex parte proceedings

5.1-2.2 In an *ex parte* proceeding, a lawyer must act with utmost good faith and inform a tribunal of all material facts, including adverse facts, known to the lawyer that will enable the tribunal to make an informed decision.

Commentary

[1] *Ex parte* proceedings are exceptional. The obligation to inform the tribunal of all material facts includes an obligation of full, fair and candid disclosure to the tribunal (see also rules 5.1-1 and 5.1-2).

[2] The obligation to disclose all relevant information and evidence is subject to a lawyer's duty to maintain confidentiality and privilege (see section 3.3).

[3] Before initiating *ex parte* proceedings, a lawyer should ensure that the proceedings are permitted by law and are justified in the circumstances. Where no prejudice would occur, a lawyer should consider giving notice to the opposing party or their lawyer (when they are represented), notwithstanding the ability to proceed *ex parte*.

2. Rule 5.1-2.3 and its commentaries are added:

Single-party communications with a tribunal

5.1-2.3 Except where authorized by law, and subject to rule 5.1-2.2, a lawyer must not communicate with a tribunal in the absence of the opposing party or their lawyer (when they are represented) concerning any matter of substance, unless the opposing party or their lawyer has been made aware of the content of the communication or has appropriate notice of the communication.

Commentary

[1] It is improper for a lawyer to attempt to influence, discuss a matter with, or make submissions to, a tribunal without the knowledge of the other party or the lawyer for the other party (when they are represented). A lawyer should be particularly diligent to avoid improper single-party communications when engaging with a tribunal by electronic means, such as email correspondence.

[2] When a tribunal invites or requests a communication from a lawyer, the lawyer should inform the other party or their lawyer. As a general rule, the other party or their lawyer should be copied on communications to the tribunal or given advance notice of the communication.

[3] This rule does not prohibit single-party communication with a tribunal on routine administrative or procedural matters, such as scheduling hearing dates or appearances. A lawyer should consider notifying the other party or their lawyer of administrative communications with the tribunal. Routine administrative communications should not include any submissions dealing with the substance of the matter or its merits.

[4] When considering whether single-party communication with a tribunal is authorized by law, a lawyer should review local rules, practice directives, and other relevant authorities that may regulate such a communication.



Memo

To: Benchers
From: Staff
Date: April 28, 2023
Subject: **2023 Annual General Meeting: Advance Voting**

Purpose

This memorandum seeks the Benchers' authorization to permit voting in advance of the Law Society's 2023 Annual General Meeting (AGM), pursuant to [Rule 1-13.1\(1\)](#).

Discussion

[Rule 1-13.1 \(1\)](#) provides that the Benchers may 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 general meeting.

Since 2019, advance online voting has been available for the AGM. Advance voting gives members the opportunity to vote at a time of their choosing within the period of advance voting, and does not require them to attend on the day of the AGM in order to vote, which has greatly increased overall voter turn-out since 2019. Accordingly, staff recommend that advance voting again be permitted for the 2023 AGM.

Decision

The following resolution is proposed for approval by Benchers:

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 2023 annual general meeting.

CEO Report

April 28, 2023

Prepared for: **Benchers**

Prepared by: **Don Avison, KC**



1. Single Legal Regulator Update

Discussions continue with the Ministry of the Attorney General (MAG), with the Society of Notaries Public and with the BC Paralegals Association on progress towards development of the legislative framework to support implementation of a Single Legal Regulator (SLR) for BC.

I will be meeting with senior officials of the MAG in Victoria on April 24, following which I hope to be in a better position to advise Benchers regarding the status of the MAG's "What We Heard" report, projected legislative timelines and on MAG's position regarding proclamation of the Licensed Paralegal provisions of the *Legal Professions Act*.

2. Barbara Carmichael, KC Confirmed as Deputy Attorney General

On April 12, 2023 Shannon Salter, in her capacity as Deputy Minister to the Premier and as Head of the BC Public Service, announced that Barbara Carmichael, KC was the successful candidate following a recruitment search for a new Deputy Attorney General.

In making the announcement, Deputy Salter said:

Barbara Carmichael joined the Legal Services Branch (LSB) of the Ministry of Attorney General as an articling student in 1997, after obtaining her law degree from the University of Victoria and clerking with the B.C. Supreme Court, and in 2019 she was appointed King's Counsel.

Over the past 25 years, during her time at LSB, Barbara has been involved in a number of significant matters and appeared before administrative tribunals at all levels of the B.C. Courts and the Supreme Court of Canada. Barbara has provided legal advice to government on complex policy questions and played a key mentoring role with lawyers, professional staff and articled students. Barbara's priorities have included, and will continue to include, supporting meaningful reconciliation and the implementation of the Declaration of the Rights of Indigenous Peoples Act, as well as championing efforts to make our public service more anti-racist, equitable, diverse, and inclusive.

Her past roles include ADAG, Legal Services Branch, Legal Counsel, Law Policy and Strategic Advice, and chair of the LSB Articled Student Committee. Recently, Barbara has been Acting Deputy Attorney General since October 2022.

We look forward to working with Ms. Carmichael and we hope to have her attend upcoming Bencher meetings to discuss the SLR initiative and other key MAG priorities including the implementation of the BC government's cross-ministry Indigenous Justice Secretariat ([news release link](#)) that will be housed within the Attorney General's Ministry.



3. Law Society Retreat

As Benchers know, this year's retreat, which will focus on managing change in a rapidly evolving world, is confirmed for June 1-3, 2023.

Michael Lucas, KC has the lead on this year's session which will include discussion about – and some opportunity to explore – emerging disruptive technologies that are likely to have profound implications for the practice of law, for the regulation of the profession and for the administration of justice.

I'm also pleased to advise that the Honourable Niki Sharma, KC, Attorney General of BC, will be joining us for the Friday evening event at the Squamish Lil'wat Cultural Centre and for the Bencher meeting on Saturday, June 3.

4. Benchers to Receive the Report of the Indigenous Engagement in Regulatory Matters Task Force

The Task Force report will be on the agenda for discussion at the April 28, 2023 Bencher meeting. Our plan at this point is to have the report and the recommendations of the Task Force introduced by Co-Chairs Terri-Lynn Williams-Davidson, KC and Christopher McPherson, KC.

This is an important report that will require serious consideration. Consistent with our usual practice, the report will be introduced at the April meeting and will come back to the July meeting for decisions on recommendations. That additional time will also provide the opportunity for some of the essential consultation that will also help to inform next steps.

5. Staffing and Other Updates

I hope to have some time at the April meeting to also advise Benchers on some staffing updates, on the upcoming Annual General Meeting and on what the data tells us regarding the impact that some of the reforms to our discipline/professional conduct processes appear to be generating.

Don Avison, KC
Chief Executive Officer



Memo

To: Benchers
From: Brook Greenberg, KC, Law Society Representative on the Federation Council
Date: April 5, 2023
Subject: **Report on the Federation of Law Societies of Canada (the “Federation”) March 2023 Meetings**

Purpose

1. This memorandum is intended to provide a summary of the Federation’s March 2023 meetings, which primarily comprised:
 - a. the Joint Forum held on March 13, 2023; and
 - b. the Federation Council meeting held on March 14, 2023.
2. Additional discussions took place at a CEOs’ Forum and a Presidents’ Forum following the Joint Forum on March 13th.

The Joint Forum

3. The Joint Forum involved two briefer sessions to discuss “The Future of CanLII” and “The Move to a Single Regulator in BC”, followed by lengthier sessions to discuss and explore the National Study on Health and Wellness Determinants of Legal Professionals in Canada (the “**National Study**”).

The Future of CanLII

4. CanLII’s Interim President and CEO, Francis Barragan, provided an update on CanLII’s operations and activities, with a focus on CanLII’s intention to engage in a strategic planning exercise.
5. As part of CanLII’s strategic planning, the Joint Forum session included canvassing participants’ use of, experiences with, wishes for, and value propositions of CanLII’s services.

6. In general terms, the responses, which were displayed in real-time using the Menti app, were highly favourable for CanLII.
7. The responses also indicated that participants seemed optimistic about CanLII's ability to develop new technological supports and tools for accessing and researching legal information, including the development of expert systems and AI tools.

The Move to a Single Regulator in BC

8. Our own Jeevyn Dhaliwal, KC and Don Avison, KC, provided a presentation to the Joint Forum updating everyone with respect to the latest developments in terms of the provincial government's intention to introduce legislation creating a single legal regulator.
9. Among other things, the Joint Forum heard from the presenters with respect to our engagement with the province in respect of these issues.
10. In his comments, Mr. Avison confirmed that the province had asserted again that its anticipated timeframe for introducing legislation was the fall of 2023, but noted that the province still had not released its "What we Heard" report.

The National Study

11. A significant portion of the Joint Session was dedicated to discussion of the National Study.
12. Erin Kleisinger, KC, Chair of the National Wellness Study Steering Committee summarized some of the key findings and recommendations provided in the National Study.
13. Federation staff prepared a summary of the recommendations in the National Study, a copy of which is attached to this memorandum as **Appendix A**.
14. The Joint Forum then heard from a panel comprising:
 - a. Catherine Claveau, Bâtonnière of the Barreau du Québec;
 - b. Teresa Donnelly, Federation Council Member nominated by the Law Society of Ontario;
 - c. the writer; and
 - d. Aimee Rowe, General Counsel/Deputy Executive Director, Law Society of Newfoundland and Labrador.

15. This panel’s discussion focused on what resources were available to legal professionals in the respective provinces, as well as what initiatives in response to the National Study were planned or were underway.
16. As a panel member, I was able to report to the Joint Forum on the many initiatives undertaken by the Law Society of BC, as well as explain the evidence based, public interest approach we had taken to addressing mental health and substance use issues.
17. More than one Joint Forum participant described British Columbia as, “ahead of the curve” on these issues.
18. Following the panel discussion, I then led a discussion within small groups to:
 - a. identify matters raised by the National Study that should be addressed by law societies;
 - b. discuss what law societies could do to better address these issues; and
 - c. consider the role the Federation may play in addressing these issues.
19. A number of themes emerged from the small group discussions, particularly around improving education and awareness, providing more resources, changing the “culture” of the legal profession, and reducing stigma and unintended consequences in regulatory processes.
20. Finally, Erin Kleisinger, KC and I led a session in which we canvassed the role the Federation might play by asking poll question using the Menti app.
21. From the poll answers, there appeared to be general support for the Federation acting as a facilitator to help law societies share information, resources, initiatives, and outcomes.
22. Federation staff intend to provide a synthesis and summary of the discussions that occurred in the small group sessions and in response to the poll questions.
23. Following the Joint Session, further less-formal discussions were held about a variety of topics in the CEOs’ Forum and the Presidents’ Forum.

Federation Council Meeting

24. The Federation Council met on March 14th.
25. The Council received a number of reports on a variety of Federation issues, and made decisions on related resolutions, including the following.

The Indigenous Advisory Council

26. The Federation’s Indigenous Advisory Council (the “**IAC**”) reported on its inaugural in-person meeting which had been held in Ottawa on February 8, 2023.
27. The IAC was created to provide advice and guidance to the Federation in respect of its approach to truth and reconciliation.
28. Membership for the IAC had been established in June 2022.
29. Two members of the IAC, Beth Kotierk and Wina Sioui attended the Federation Council meeting, and reported on the IAC meeting and on the plans for the IAC’s work.
30. The IAC members also reported that the IAC had been well supported by the Federation, and that they were excited about the contributions that the IAC could make.
31. The IAC will work with other Federation committees to inform and prioritize truth and reconciliation in the Federation committees’ work.

National Wellness Study

32. In addition to the extensive discussions in the Joint Forum, the Council was advised that the National Study is proceeding to Phase II, which involves interviews with legal professionals from all of the provinces and territories.
33. The target date for completion of Phase II is summer 2024.

NCA Assessment Modernization

34. The NCA Assessment Modernization Committee, in consultation with the National Requirement Review Committee, is working on creation of a new competency profile to provide a basis for changes in the process used by the NCA to assess the qualifications of those who obtained their credentials outside of Canada.
35. The competency profile is currently being reviewed and revised.
36. Law Society of BC’s Lesley Small is a member of the NCA Assessment Modernization Committee.
37. On a separate NCA related matter, the Federation Council passed amendments to the NCA Assessment Policy to address misconduct and dishonesty in the NCA application process, including with respect to falsified documents.
38. The amendments also created a corresponding appeal process in respect of any determination of misconduct or dishonesty in the NCA application process.

Money Laundering Prevention

39. The Anti-Money Laundering and Terrorist Finance Working Group (the “**AMLTFWG**”) is working to develop revised guidance focusing on mitigating the risk of money laundering activities.
40. Both Law Society of BC’s Gurprit Bains and Jeanette McPhee are members of the AMLTFWG.
41. The Federation Council passed two amendments to the Model Rule on Client Identification and Verification.
42. The first amendment revised the requirement to verify a client’s identification by referring to, “valid, original and current” documents. The amendment replaced the word “original” with the word “authentic”, and removed the prohibition on using an electronic image of a document in client verification.
43. This revision was intended to reflect amendments to federal regulations which had removed a prohibition on relying on scanned or copied documents to verify identity. The change allows lawyers to use documents that are not original, provided they are properly authenticated.
44. The AMLTFWG noted that there are now many products available that use authentication technology to verify identity without the need for an original document.
45. The second amendment removed what was considered to be a superfluous and confusing requirement in Rule 6(3) with respect to the use of an agent to verify the identity of clients located outside of Canada. The amended rule permits the use of an agent, but also allows for verification through authentication of documents through the processes contemplated by the first amendment.

Activity Plans

46. The Council also approved both the Federation’s Annual Activity Plan and its International Engagement Plan, which included attendance at the conferences which have traditionally been attended by the Federation’s President.

Next Meeting

47. The next meeting of the Federation Council will be in Ottawa on June 5, 2023.



Recommendations and suggested stakeholders outlined in the Phase I Report

1. Improve preparation of future professionals and provide them support to deal with psychological health issues

- 1.1 Ensure a balance between theory and practice in university or college curriculum
[Law schools](#)
- 1.2 Include critical and transversal skills in the education of legal professionals that will benefit them throughout their professional life
- 1.3 Promote healthy lifestyles, increase awareness about mental health issues and improve the ability of future professionals to reach out for help
[Academic and training environments](#)

2. Improve supports and guidance available at entry to the profession

- 2.1 Create a professional integration plan (pip)
[Law societies](#)
- 2.2 Promote mentoring for those entering the profession
- 2.3 Remove billable hour targets for professionals in their first two years of practice
[Legal workplaces](#)

3. Improve continuing professional development (CPD)

- 3.1 Adopt an evolving vision of professional development needs throughout one's career
[Law societies](#)
- 3.2 Better structure mandatory training hours for professionals
[Law societies](#)
- 3.3 Develop training aligned with the risk factors
[All CPD providers](#)
- 3.4 Better structure mentoring program and promote informal training
[Peers in same practice area](#)

4. Where relevant, evaluate the implementation of alternative work organization models that limit the impact of certain risk factors on health

- 4.1 Review the organization of work
- 4.2 Review billable hour system and evaluate alternative business models
[Law societies and bar associations in collaboration with law firms/legal workplaces](#)

5. Implement actions aimed at destigmatizing mental health issues in the legal profession

- 5.1 Implement a support/coaching program for professionals returning from prolonged health-related leave or experiencing a health issue without leave
[Legal workplaces and law societies](#)
- 5.2 Develop mental health awareness campaign/activities
[Federation, law societies, CBA, legal workplaces](#)
- 5.3 Where applicable, remove mental health disclosure from law society admission program applications
[Law societies](#)
- 5.4 Frame the ability of legal professionals to share mental health challenges with each other in a confidential way
[Law societies, \(Federation – implicit\)](#)
- 5.5 Where applicable, develop alternative discipline processes for professionals dealing with health issues
[Law societies](#)
- 5.6 Create a "health and wellness week in law" highlighting the importance of work-life balance
[Law societies, CBA, bar associations](#)
- 5.7 Create a wellness section on law society, professional association and legal workplace websites
[Law societies, professional associations, legal workplaces](#)

6. Improve access to health and wellness support resources and break down barriers that limit access to these resources

- 6.1 Promote the use of available resources and increase the willingness of professionals to seek help
[Law societies, bar associations, legal workplaces](#)
- 6.2 Facilitate access to relevant resources according to the problems encountered
[Law societies and bar associations](#)
- 6.3 Where applicable, improve the perception of confidentiality to increase trust in the law society's lawyer/member assistance program
[Law societies and lawyer/member assistance programs](#)



7. Promote diversity in the profession and revise practices, policies and procedures that may include or create discriminatory biases

- 7.1 Develop a national diversity policy/strategy for the legal community
[Federation, law societies, CBA, bar associations \(coalition\)](#)
- 7.2 Identify ambassadors
[law societies & CBA](#)
- 7.3 Implement diversity management policies and proactive practices that promote inclusion in legal workplaces
[Legal workplaces](#)

8. Consider the psychological health of legal professionals as integral to legal practice and the justice system

- 8.1 Include a permanent wellness component in strategic planning
[Federation, law societies, CBA, legal workplaces, all organizations](#)
- 8.2 Maintain an ongoing discussion and raise awareness about mental health in the legal profession
[Law societies, law schools, judiciary/courts, legal workplaces](#)
- 8.3 Prevent violence and incivility in the legal profession
[Legal workplaces](#)
- 8.4 Promote positive coping strategies
[Legal workplaces](#)

9. Develop a culture of measurement

- 9.1 Collect data
[Federation, law societies](#)
- 9.2 Examine the factors/sources of professional misconduct
[Law societies](#)

10. Foster a better work-life balance in the legal profession

- 10.1 Implement work–life balance programs
[Legal workplaces](#)
- 10.2 Support the right to disconnect
[Organizations](#)
- 10.3 Make work organization and teleworking arrangements more flexible
[Organizations, specifically law societies & Federation](#)
- 10.4 Taking care of ourselves
[Legal professionals](#)



FOR DISCUSSION

Report of the Indigenous Engagement in Regulatory Matters Task Force

Indigenous Engagement in Regulatory Matters Task Force

Christopher A. McPherson, KC (Co-chair)
Terri-Lynn Williams-Davidson, KC (Co-chair)
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January 10, 2023

Prepared for: Benchers

Prepared by: Indigenous Engagement in Regulatory Matters Task Force

Purpose: For Discussion and Decision

FOR DISCUSSION

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Preface

1. The Indigenous Engagement in Regulatory Matters Task Force (“Task Force”) was created in response to the *Bronstein*¹ decision from 2021. The Task Force acknowledges that many people perceive the Law Society’s penalty for Bronstein’s misconduct as inadequate and unjust. The Task Force sincerely regrets that the outcome of the decision has caused disappointment, grief, and anguish amongst the Tsilhqot’in people, in particular. The members of the Task Force all hold in common a commitment and desire to start the decolonization² and Indigenization³ of the Law Society’s regulation of the legal profession, so that the situation experienced by the Tsilhqot’in residential school survivors (Survivors) who were impacted by Bronstein and affected by the Law Society’s processes never happens again.
2. The overarching theme of this report is the Law Society’s need, and desire, to reconcile its processes with Indigenous legal principles. The Task Force understands that reconciliation requires ongoing transformation; the recommendations signal the beginning of transformation for the Law Society, not the end. Going forward, the Law Society commits to renewing the recommendations to reflect the Law Society’s progress on reconciliation, input from ongoing Indigenous engagement, and emerging issues.

Acknowledgements

3. The Law Society of British Columbia respectfully acknowledges that this review has taken place on the unceded ancestral territories of First Nations in what is now commonly known as British Columbia.
4. We express deep gratitude to all the individuals who took the time to respond to our questions, and provided valuable insights for the report.
5. We also thank Alice Joe for the graphic design of the report. [N.B. Graphic Design to be included with final report once approved]
6. The report is dedicated to all who have been deterred from bringing complaints forward due to systemic barriers posed by the Law Society’s processes, and to all who have been through the complaints process in the past, but did not experience it as welcoming or supportive, or did not receive outcomes that met their expectations.

¹ *Bronstein (Re)*, 2021 LSBC 19 (CanLII) (*Bronstein*). Bronstein is no longer licenced to practice law in BC.

² “Decolonization” is the removal or undoing of colonial elements. ([What is Decolonization? What is Indigenization?](#))

³ “Indigenization” is the addition of Indigenous elements. *Ibid.*

Executive Summary

7. The decision in *Bronstein* revealed systemic issues with the Law Society's regulatory regime's ability to engage, address, and accommodate Indigenous complainants and witnesses, particularly Indigenous persons. In response, the Task Force was created to review the Law Society's complaints, investigation, prosecution, and adjudication processes to ensure that these processes accommodate the full participation of Indigenous complainants and witnesses who may be experiencing marginalization or vulnerability.
8. The Task Force's key findings are that the Law Society is a colonial institution that relies on policies and processes that are inconsistent with Indigenous legal principles regarding dispute resolution. The Law Society needs to decolonize and Indigenize and build trust and relationships with Indigenous individuals, organizations, and communities. The Law Society must also continue its efforts to clarify and uphold standards of intercultural competence for lawyers, with a view to preventing harm to Indigenous clients.

What Happened?

9. From 2009 until February 2015, Stephen Bronstein, a non-Indigenous lawyer, acted for approximately 624 residential school survivors (Survivors) who made Independent Assessment Process (IAP) claims under the Indian Residential School Settlement Agreement. Bronstein's practice consisted almost exclusively of residential school claims from 2000 until 2017.
10. From September 2008 until July 2012, Bronstein contracted a paroled murderer, Ivon Johnny (Contractor) to recruit Survivors and support them through the IAP. In 2009, a number of people, including Survivors and Native Courtworkers, began contacting Bronstein and his firm with concerns that Johnny was requesting money from Survivors' settlement funds. Bronstein failed to adequately investigate or address their concerns.
11. Ultimately, a complaint was made to the Law Society, and an investigation was launched. During its investigation of the complaint, the Law Society hired external counsel with a high level of Indigenous intercultural competence to consult with the Survivors, and offered to hold the hearing in Tsilhqot'in territory, which the Survivors declined. Eventually, the Law Society negotiated an agreement with Bronstein, in which the Lawyer:
 - Admitted to: (i) failing to exercise due diligence prior to hiring the Contractor; (ii) inadequately investigating complaints that the Contractor was demanding money from Survivors; (iii) neglecting to inform or take instructions from certain clients; (iv) failing to advance certain claims in a timely manner; and (v) directing staff to affix clients' signatures to revised forms that the clients had not seen; and

FOR DISCUSSION

- Consented to: (i) a one-month suspension; (ii) a practice review for his files opened after January 1, 2017; (iii) a written commitment to the Discipline Committee that he will not act for any “Sixties Scoop” claimants; and (iv) costs of \$4,000.

Although the majority of the hearing panel accepted the consent agreement, Karen Snowshoe, the sole Indigenous panel member, dissented based on her view that the sanctions were too lenient.

12. At the time of Bronstein’s citation,⁴ Law Society Rule 4-30 permitted a lawyer responding to a citation to submit a conditional admission of a discipline violation to the Discipline Committee, and to consent to the imposition of a specified disciplinary action (as negotiated between the lawyer and Law Society’s discipline counsel). If the Discipline Committee accepted the proposal, it was required to instruct the Law Society’s discipline counsel to recommend acceptance of the proposal to the hearing panel. Rule 4-31 required a hearing panel to either accept or reject the lawyer’s conditional admission and the parties’ proposed disciplinary action. If the panel rejected the conditional admission and proposed disciplinary action, it could not substitute a different determination or disciplinary action, but was required to advise the Discipline Committee of its decision and proceed no further with the hearing of the citation, at which point the Discipline Committee was required to instruct Law Society discipline counsel to set a date for the hearing of the citation. In *Bronstein*, the Discipline Committee and the majority of a hearing panel accepted Bronstein’s conditional admission under Rule 4-31.
13. These rules were substantially amended in March 2021 to enable a hearing panel to impose a disciplinary action that is different from the consent agreement if the parties (i.e. discipline counsel and the respondent) are given the opportunity to make submissions respecting the disciplinary action to be substituted, or if the specified disciplinary action consented to by the respondent would be contrary to the public interest in the administration of justice.⁵

Objective

14. The objective of this report is to identify systemic barriers experienced by Indigenous complainants and witnesses, and propose solutions to establish and maintain culturally safe and trauma informed regulatory processes. The recommendations are also expected to benefit other complainants and witnesses who may be experiencing marginalization or vulnerability.

⁴ Citations are allegations against a lawyer that are considered at a discipline hearing.

⁵ Rule 5-6.5(3). Conditional admissions made under Rule 5-6.5(3) may only be used against the respondent in a proceeding if accepted by a hearing panel (see Rule 5-6.6(2)).

Approach

15. The Task Force applied a number of approaches to accomplish its work, including: analyzing the *Bronstein* decision; reviewing the Law Society's processes; researching what other entities do with respect to Indigenous complainants and witnesses; consulting with Indigenous individuals and organizations and non-Indigenous service agencies that provide services to Indigenous individuals; and hosting a summit to receive feedback from consultation participants on draft recommendations. The Law Society has yet to earn the trust of many Indigenous individuals and communities, so the Task Force was not able to engage with everyone who should have been consulted. The Task Force expects the Law Society to continue Indigenous engagement to inform the implementation and renewal of the recommendations.

What We Heard

16. Immediately following the *Bronstein* decision, Chief Joe Alphonse (Tribal Chair of the Tsilhqot'in Nation) expressed dissatisfaction on behalf of the many Tsilhqot'in citizens impacted by Bronstein's conduct:

*The failure to appropriately condemn this misconduct is yet another injustice and stain on the handling of the victims and survivors of residential schools. Bronstein failed to protect his clients and created a situation of further victimization and trauma for survivors. This outcome makes a mockery of justice. Our people have been through enough without having to contend with further ignorance and failure of the Canadian legal system. This case needed further investigation into the serious claims being made about Ivon Johnny's intimidation and extortion of clients. It took a lot of courage for witnesses to come forward, and this is what they have to show for it – nothing. Bronstein basically got off with no repercussion. Once again the system has let us down.*⁶

Chief Joe Alphonse's statement is an important starting point for analyzing the systemic issues revealed by *Bronstein* for two key reasons: 1) the Contractor was a Tsilhqot'in citizen and therefore in closest proximity to the Tsilhqot'in Survivors, so the Tsilhqot'in Survivors were more likely to be impacted by the Contractor's conduct than other Survivors; and 2) the statement raises a number of concerns about the Law Society's processes. Chief Alphonse's statement must be understood within the broader context of the colonial oppression of Indigenous Peoples,⁷ and Tsilhqot'in-specific experiences with colonial law.

⁶ [2021-06-09-Tsilhqot'in-Nation-Condemns-BC-Law-Societys-Failure-to-Reprimand-Lawyers-misconduct-in-Residential-School-Claims.pdf \(tsilhqot'in.ca\)](#) (Chief Joe Alphonse).

⁷ Indigenous Peoples" (uppercase "P") is a collective term referring to distinct social groups that share ancestral ties to specific territories, whereas "Indigenous people" (lowercase "p") is used to refer to Indigenous individuals.

FOR DISCUSSION

Issue 1: Colonialism

17. With respect to colonial oppression of Indigenous Peoples, the colonial legal system is built on the twin myths of European superiority and Indigenous inferiority. Unlike other parts of Canada, Crown authorities signed very few treaties with the Indigenous Nations in British Columbia. Instead, colonial law was unilaterally imposed on Indigenous Peoples and territories, and suppressed existing Indigenous laws, customs and governance. The disputed legitimacy of colonial law within unceded Indigenous territories is an ongoing concern in the province. Colonial law has been (and continues to be) used to justify the subordination and assimilation of Indigenous people and the dispossession of their children, territories, and resources.⁸ Violations of Indigenous rights have been authorized by colonial law and normalized within colonial society.⁹ One consultation participant conveyed:

“The legal system has contributed to the genocide of Indigenous people, when you think about the laws that forced the transfer of Indigenous people’s children, to the policies and laws and how all of that has contributed to where we are at now.”

As an influential entity within the colonial legal system, the Law Society acknowledges it has contributed to the perpetuation of colonialism.¹⁰

18. The Tsilhqot’in Nation is well-known for the Tsilhqot’in War against colonial expansion into Tsilhqot’in territory. The Tsilhqot’in War involved six Tsilhqot’in leaders who stood up against colonial violations of Tsilhqot’in law, killing 14 non-Indigenous surveyors who were trying to build a road from the coast into the interior through Tsilhqot’in territory. The Tsilhqot’in leaders were invited to discuss terms of peace, “and then in an unexpected act of betrayal, they were arrested, imprisoned and tried for murder,”¹¹ and sentenced to death. This injustice continues to impact Tsilhqot’in perceptions of the colonial justice system, of which the Law Society is a part.

19. The 1993 *Cariboo-Chilcotin Justice Inquiry*¹² (into the relationship between the Indigenous people and the justice system in the Cariboo-Chilcotin region) referenced the Tsilhqot’in War as a primary source of Tsilhqot’in distrust of the Canadian legal system. The Commissioner made a number of observations and recommendations that are relevant to the Task Force’s work, including that “[Indigenous] people must be able to lodge complaints in a simple, understandable, and non-intimidating fashion” and be supported throughout the complaints

⁸ *Honouring the Truth, Reconciling for the Future Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (The Truth and Reconciliation Commission of Canada, 2015) (*TRC Summary Report*) at 202.

⁹ [Expanding Our Vision - Cultural Equality and Indigenous Peoples' Human Rights \(bchrt.bc.ca\)](http://bchrt.bc.ca) (*Expanding Our Vision Report*) at 11.

¹⁰ For example, from 1918 until 1949, membership in the Law Society of BC was linked to registration on the provincial voters list, which effectively excluded Indigenous people with “Indian status” from practising law.

¹¹ October 23, 2014, Speech by Premier Christy Clark in the British Columbia Legislature.

¹² Sarich, Anthony. *Report of the Cariboo-Chilcotin Justice Inquiry, 1993 (Cariboo-Chilcotin Justice Inquiry)*, at 8.

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process.¹³ These recommendations from 1993 were not implemented, and in 2021 Tsilhqot'in complainants experienced systemic barriers to the Law Society's complaints and discipline processes. Given this context, Chief Joe Alphonse's exasperation is understandable. Indigenous people are frequently studied, but too often recommendations resulting from the studies are not implemented and do not lead to any noticeable changes for Indigenous people.

20. The devaluation of Indigenous people within the colonial legal system also has implications for Indigenous victims. As repeatedly demonstrated throughout the colonial justice system, Indigenous complaints are often not taken seriously or investigated thoroughly. For example, the *Missing and Murdered Indigenous Women's Inquiry* described "delayed, or a lack of, [police] responses to reports from Indigenous victims."¹⁴ Another study found that where complaints are investigated, sanctions are absent or lower when an Indigenous person is the victim.¹⁵ The low investigative efforts and sanctions have significant impacts on the level of distrust Indigenous people have with colonial systems. As one consultation participant explained:

"When [Indigenous people] make a complaint to the Law Society, their expectation is that they won't be taken seriously. Their expectation is that the dominant culture will steamroll them, and they won't have a chance. That expectation is honestly and rationally held."

21. Moreover, the colonial perspective views Indigenous people as inherently deficient. This perception influences the colonial legal system, where Indigenous victims are often perceived as unreliable witnesses based on negative biases and assumptions about Indigenous people.¹⁶ Blame for low investigation efforts and sanctions is accordingly deflected onto Indigenous witnesses. Ironically, Indigenous reluctance to engage in colonial legal processes contributes to the assumption that Indigenous witnesses are not reliable.¹⁷ Colonial devaluation of Indigenous people is a systemic inequity that erodes Indigenous perceptions of, and engagement with, the colonial legal system.

22. Negative connotations regarding Indigenous reluctance to engage with colonial legal processes are evident in *Bronstein*, where the majority reasoned that:

¹³ *Ibid*, at 40.

¹⁴ National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (June 2019), vol. 1b (MMIW), at 154. See also *Expanding Our Vision Report*, *supra* note 9, at 24.

¹⁵ [Victimization of First Nations people, Métis and Inuit in Canada \(statcan.gc.ca\)](https://www.statcan.gc.ca), [Aboriginal Victimization in Canada: A Summary of the Literature - Victims of Crime Research Digest No. 3 \(justice.gc.ca\)](https://www.justice.gc.ca) (*Aboriginal Victimization Report*), and *MMIW (ibid)* at 153. The *Aboriginal Victimization Report* states: "there are higher rates of dismissed charges or not guilty outcomes when an Indigenous person is the victim." Although these examples arise in the context of criminal justice, the experiences and implications extend beyond criminal law.

¹⁶ Such negative biases and assumptions are often described as "high risk" factors.

¹⁷ *Aboriginal Victimization Report*, *supra* note 15.

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*Absent the Respondent's admission, it will be difficult to prove the allegations in the Citation with admissible evidence, especially because the Respondent's former clients have indicated that they are not willing to testify at a contested hearing.*¹⁸

*[If the conditional admission is rejected], there is a good or real possibility that the Respondent will face no discipline at all for his misconduct.*¹⁹

The dissenting panel member perceived this reasoning as a deflection of the blame for the low sanction onto the Indigenous witnesses who declined to participate in the Law Society's adversarial hearing process, rather than on the systemic issues and procedural barriers that deterred Indigenous participation.

23. A Task Force member observed that:

Passively accepting that Indigenous witnesses are unlikely to participate in formal complaints processes reinforces barriers to participation. The facts in Bronstein would have been difficult to prove without an admission because of the power imbalances between the Lawyer and the Survivors.

The power imbalances occur on both the systemic and practical levels. At the systemic level, at a hearing into the conduct of a lawyer, the Law Society has the burden of proof to establish that the lawyer has engaged in professional misconduct, conduct unbecoming,²⁰ or is in breach of the *Legal Profession Act (Act)*, or the Law Society Rules (Rules). The Law Society decides whether and how to pursue the complaint, and the complainant's role is limited to providing information about the complaint. At the practical level, a lawyer likely has more familiarity and experience with legal processes than non-lawyer complainants.

24. Another aspect of the systemic imbalance is a colonial perception that Indigenous laws are inferior to colonial laws and that including Indigenous laws in colonial processes would deplete rather than enrich the colonial system. The Task Force advises that this perception should forever be laid to rest, and that the positive aspects of Indigenous laws should be incorporated into the Law Society's regulatory regime for the benefit of all complainants and witnesses.

¹⁸ *Bronstein*, *supra* note 1, at para. 227.

¹⁹ *Ibid*, at para. 15.

²⁰ "Conduct unbecoming" includes a matter, conduct, or thing that is considered (a) to be contrary to the best interest of the public or of the legal profession, or (b) to harm the standing [or reputation] of the legal profession. (Law Society Rules, section 1.)

Issue 2: Indigenous and Colonial Concepts

25. The Law Society’s authority comes from colonial legislation, and Indigenous laws²¹ are currently absent from the Law Society’s regulatory regime. Previous reports have explored differences between Indigenous²² and colonial worldviews, and the Bronstein matter provides tangible examples of some key concepts.
26. Indigenous perspectives are often described as “holistic” whereas colonial perspectives are described as “fragmented”. Problems with fragmentation emerge in the Law Society’s processes in a few ways:
- i. In relation to jurisdictional fragmentation, the Law Society’s authority comes from the *Legal Profession Act*, which grants the Law Society jurisdiction over lawyers and the practice of law. The Law Society’s jurisdiction does not currently extend to non-lawyers (such as the Contractor). However, Chief Joe Alphonse’s comment conveys an expectation that the Law Society could, and should, have investigated and sanctioned the Contractor’s conduct. The Law Society could not directly investigate or sanction the Contractor, and was also limited in its ability to hold the Lawyer entirely responsible for the Contractor’s conduct. This jurisdictional fragmentation of colonial law contrasts with the holistic ideals of Indigenous law. For example, the *Cariboo-Chilcotin Justice Inquiry* explains that Indigenous people may accept full responsibility (e.g. plead guilty) if they are remotely involved in an incident, even if they did not directly cause the harm at issue.²³ Chief Joe Alphonse’s statement expresses an expectation that the Lawyer should be held accountable for the Contractor’s conduct. In addition to jurisdictional fragmentation, this example also highlights colonial law’s focus on the rights and responsibilities of individuals, in contrast to Indigenous law’s focus on the rights and responsibilities at the collective level.
 - ii. The Law Society’s complaints process is subdivided into different stages, including: intake, investigation, citation, and hearing. Some of these stages also have additional “sub-stages”. Taken together, complainants may view the various stages and sub-stages as complex, difficult to comprehend and navigate, and time consuming, and may therefore be deterred from engaging with the processes.
 - iii. Subdivided processes may also pose additional barriers if complainants or witnesses are required to interact with different people and recall and repeat their experiences at each of

²¹ Law is intrinsically connected to the society, traditions, culture, and landscape from which the legal system has emerged. Indigenous laws are accordingly diverse.

²² Indigenous Peoples are diverse and dynamic, and their worldviews are not monolithic. However, previous reports have identified common aspects of Indigenous worldviews which the Task Force believes are relevant to this report.

²³ E.g. *Cariboo-Chilcotin Justice Inquiry*, *supra* note 12, at 14-15.

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the various stages. Such repetition is particularly problematic with respect to the recollection of traumatic experiences.

- iv. Another issue with subdivided processes is that witness participation may be limited to providing specific information about particular allegations at certain stages of the process (e.g. during the investigation and hearing). This compartmentalized approach to evidence gathering may prevent witnesses from sharing all of the information they believe is relevant, including how they were impacted by the conduct at issue.
 - v. With respect to the hearing process, the Law Society has made specific efforts to emphasize the independence of tribunals as a separate decision making body. Despite these efforts, the public (including Indigenous individuals) may continue to perceive tribunals as connected with the Law Society. Given the current Tribunal Chair is a former president of the Law Society, the pool of tribunal hearing members includes Benchers, and it is customary for at least one Bencher to sit on each hearing panel, the separation may seem artificial.
 - vi. If there is a deficiency with any component of the fragmented colonial processes, Indigenous holistic worldview may see “such failure as a failure of the whole system, and not just a failure of an individual component.”²⁴ Chief Joe Alphonse conveys this sentiment in his statement: “*Once again, the system has let us down.*”
27. Colonial approaches to dispute resolution are often described as “adversarial” whereas Indigenous approaches may be described as “relational”²⁵. The adversarial approach involves opposing parties presenting their positions before an impartial decision maker, who attempts to determine the truth and pass judgment accordingly. The relational approach seeks to restore relationships that have been harmed by a dispute, and involves collaboration to determine an appropriate outcome. While the adversarial approach assumes conflict, the relational approach attempts to minimize it.
28. In *Bronstein*, the dissenting panel member described the “Law Society’s current adversarial regulatory process as a barrier to the participation of vulnerable witnesses like the Respondent’s former clients.”²⁶ Previous reports have described how adversarial processes deter Indigenous participation. For example, the *Cariboo-Chilcotin Justice Inquiry* explained that Indigenous people perceive adversarial proceedings as:

²⁴ *Ibid*, at 14.

²⁵ The report uses “relational” instead of “restorative” because the term “restorative” is commonly associated with the criminal justice system. Use of the term “relational” is meant to avoid connotations of the criminal justice system with respect to the Law Society’s processes.

²⁶ *Bronstein*, *supra* note 1, at para. 414.

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“a contest in which there must be a winner and a loser, and where one party must denounce and degrade the other in order to prevail. Such a concept runs counter to their traditional values and understanding.”²⁷

29. The adversarial system generally applies interrogation and cross-examination to establish facts and determine the truth of a matter. Many Indigenous understandings of truth include an underlying presumption that individuals are only able to report an event the way they experienced it; truth depends on perspective, so it is understood as a plural concept (i.e. “truths”). Indigenous people may have strong societal expectations that everyone will share their own truth without deception. Adversarial tactics for establishing a single truth in the colonial system are contrary to Indigenous concepts that accept plural truths. Indigenous people may be apprehensive of processes that involve interrogation or cross-examination to test their recollections of the truth from their perspective.
30. The adversarial process also involves a number of institutional formalities such as hierarchical relationships, strict adherence to timelines and processes, and the use of specialized language and formal attire. Such formalities may deter Indigenous participation.

Issue 3: Trust and Relationships

31. In general (for Indigenous and non-Indigenous people alike), members of the public lack awareness about the Law Society’s mandate and role and therefore do not engage with the Law Society’s processes. Information about the Law Society’s processes is primarily conveyed through its English text-based website, which likely deters people who: a) lack the infrastructure to access the website, b) prefer verbal rather than textual communication, or c) use a primary language other than English.
32. As mentioned above, many Indigenous people do not trust the Law Society because it is a colonial institution within a legal system that has facilitated harms against Indigenous Peoples and territories.
33. A key factor in building trust and engagement with Indigenous people is the presence of Indigenous individuals within an organization. As one Indigenous consultation participant put it: *“Where I don’t see my people, I don’t feel safe.”* Indigenous individuals often prefer to interact with people with similar lived-experiences to their own. Legal Aid BC’s report entitled *Building Bridges: Improving Legal Services for Aboriginal Peoples* found that:

²⁷ *Cariboo-Chilcotin Justice Inquiry*, *supra* note 12, at 14.

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*[Indigenous clients] are uncomfortable with seeking help from [non-Indigenous people] because most of the times [non-Indigenous people] are not sensitive or aware of [Indigenous] history and culture, or do not fully understand their unique legal needs.*²⁸

The Law Society is making progress on increasing Indigenous representation at the Benchers table, on committees and task forces, and as panel members. The Law Society does not track the diversity demographics of its employees, but it seems that publicly self-identifying Indigenous employees are currently underrepresented as compared to the Indigenous population of BC. Intercultural competence training may help to increase empathy and understanding, but does not replicate the level of compassion gained through lived experiences.

Issue 4: Preventing Harm

34. Task Force members and consultation participants emphasized that preventing harm is preferable to repairing it. The Law Society has a central role in preventing lawyers from harming their clients, including Indigenous clients. The Law Society is responsible for regulating the legal profession in BC, including setting and upholding standards for lawyer competence, investigating complaints against lawyers, and disciplining lawyers who breach the set standards of conduct. The Law Society also supports lawyers to achieve the set standards of competence and ethics.

Updates

35. The Law Society has already made some improvements since the Bronstein matter arose:

- i. As mentioned above, Rules 4-30 and 4-31 were updated to enable a hearing panel to impose a disciplinary action that is different from the consent agreement.
- ii. The Law Society has adopted an Indigenous framework of principles²⁹ to guide its application of the *Act*, Rules, *Code*, policies, procedures, and practices.
- iii. An enhanced trauma informed approach to receiving and investigating complaints has now been implemented, which includes contact with a trauma informed staff member throughout the Law Society's processes for certain complainants in appropriate circumstances (e.g. complaints involving discrimination or sexual harassment).
- iv. The Discipline Department has introduced a new Witness Accommodations and Considerations Policy, with a corresponding Information Sheet that describes a number

²⁸ [Building Bridges: Improving Legal Services for Aboriginal Peoples \(legalaid.bc.ca\)](#) at 8.

²⁹ [Truth and Reconciliation Advisory Committee-Indigenous-Framework-Report.pdf](#) (Indigenous Framework).

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of protective measures and supports for witnesses in the Law Society's hearing and review panel processes.

- v. The Law Society has approved an alternative discipline process (ADP), which provides a less adversarial method of addressing alleged misconduct outside of the formal discipline stream. The ADP is currently limited to complaints in which a lawyer's health condition is a contributing factor. However, the ADP signals the Law Society's expanded focus on, and options for, individualizing the regulatory response — with a focus on support, treatment, practice interventions and other remedial measures — to address underlying health conditions, rather than imposing sanctions.
- vi. There have been developments with respect to options for consent agreements, including pre-citation consent agreements, and administrative penalties (e.g. fines) for minor contraventions of certain Law Society Rules. Consent options are meant to facilitate lawyer admissions at an early stage, thereby avoiding the need for further escalation through the formal complaints process.
- vii. All new hires to the Law Society are required to complete the Law Society's Indigenous intercultural course.

Recommendations

36. The Task Force's Terms of Reference frame the primary issue as the need to accommodate Indigenous complainants and witnesses in the Law Society's processes. However, the Task Force understands there is a deeper issue regarding the disputed legitimacy of the imposition of colonial law in Indigenous territories without Indigenous consent.³⁰ Canadian society is becoming increasingly aware of its colonial origins, and the need to reconcile with Indigenous Peoples. In 2019, British Columbia introduced the *Declaration on the Rights of Indigenous Peoples Act (DRIPA)* to align its laws with the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*. One of the actions specified in the *DRIPA* Action Plan is for the Province to: “implement improvements to public...complaints processes...and new models for including Indigenous laws in complaints resolution.” The Task Force believes that aligning the Law Society's processes with *UNDRIP* principles is key to increasing Indigenous access to and engagement with these processes.

37. Colonial laws have been, and continue to be, used to oppress Indigenous people in Canada. The Law Society acknowledges the oppressive role that the legal system plays in the lives of Indigenous people that results in ongoing disparities between Indigenous people and broader

³⁰ For example, see: John Borrows, “Sovereignty's Alchemy: An Analysis of *Delgamuukw v British Columbia*”, (1999) 37 Osgoode Hall LJ 537-596.

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Canadian society. The Law Society is in the early stages of its efforts toward reconciliation with Indigenous people. The Task Force's recommendations are meant to further advance reconciliation by identifying actions for the Law Society to reduce systemic barriers and improve Indigenous access to the Law Society's processes. Fundamental changes will be required to build the level of trust that is necessary for Indigenous complainants and witnesses to feel safe in approaching the Law Society and engaging with its processes.

38. The Task Force makes the following recommendations for decision by the Benchers:

Recommendation 1.0: The Law Society should decolonize its institution, policies, procedures, and practices.

Recommendation 1.1: The Law Society should encourage individuals at all levels of the organization to self-reflect on and remove their colonial biases, attitudes, and behaviours that are based on perceptions of Indigenous people and laws as deficient.

Recommendation 1.2: The Law Society should retain an Indigenous expert to identify and remove unnecessary colonial principles from the Rules, *Code*, policies, procedures, and practices, and should support the provincial government's efforts to remove unnecessary colonial principles from the *Act*.³¹

Recommendation 1.3: The Law Society should identify and remove unnecessary adversarial aspects of its processes.

- i. The Law Society should make it as easy as possible for lawyers to apologize without fear of further sanctions, including by increasing opportunities for consent agreements and alternative discipline processes.
- ii. The Law Society should support the use of victim impact statements more often in appropriate circumstances.
- iii. The Law Society should adopt alternative options for giving evidence, such as the use of video-conferencing, privacy screens, victim impact statements, and an inquisitive model of questioning (e.g. where a panel member instead of an opposing lawyer poses questions to witnesses).

Recommendation 1.4: The Law Society should review its processes and practices with a view to increasing efficiencies in the resolution of complaints.

³¹ Because the Law Society is a creation of British Columbia's colonial laws, the Law Society cannot completely divorce itself from its colonial legal structures and requirements. It can, nevertheless, take measures to identify and remove unnecessary colonial principles that impede Indigenous access to the Law Society's processes.

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Recommendation 1.5: The Law Society should minimize unnecessary formalities within its processes and practices, such as specialized language, hierarchical seating arrangements, formal dress codes, and colonial symbols.

Recommendation 2.0: The Law Society should Indigenize its institution, policies, procedures, and practices.

“Integrating Indigenous laws and protocols and processes into the existing process...needs to be in conjunction, consultation, and engagement with First Nations or Indigenous communities and it needs to be done in a respectful manner.”³²

Recommendation 2.1: The Law Society should apply the Indigenous Framework³³ in its application of the *Act*, Rules, *Code*, policies, procedures, and practices.

- i. The Law Society should ensure that all Law Society representatives receive training on the Indigenous Framework and its application in relation to the *Act*, Rules, *Code*, policies, procedures, and practices.

Recommendation 2.2: The Law Society should uphold its prior commitments to increase Indigenous representation throughout the organization, including at the governance, leadership, and staff levels.

- i. Given the current perceived underrepresentation of Indigenous individuals at the staff level, the Law Society should develop an Indigenous recruitment strategy to hire, promote, and support the retention of more Indigenous staff throughout the Law Society, including in executive leadership roles.
- ii. The Law Society should create an organizational culture that supports the inclusion and success of Indigenous representatives at all levels of the organization.

Recommendation 2.3: The Law Society should engage with Indigenous individuals, including Indigenous lawyers and legal academics, to incorporate Indigenous legal principles into the Law Society’s processes and practices.

Recommendation 2.4: The Law Society should continue adapting its processes to incorporate flexible, culturally relevant, and trauma informed options and resources for Indigenous complainants and witnesses.

Recommendation 2.5: The Law Society should develop a process for investigating and addressing systemic issues that may be affecting Indigenous legal clients on a broad scale, rather than relying on individuals to bring forward complaints.

³² Consultation participant.

³³ Indigenous Framework, *supra* note 29.

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Recommendation 3.0: The Law Society should build trust and relationships with Indigenous individuals, organizations, and communities.

“Trust and accountability comes back to relationships, connecting words to actions, collaborative processes, and having conversations.”³⁴

Recommendation 3.1: The Law Society should raise awareness throughout the province about the Law Society’s role and the services it provides, including supports and options available to Indigenous complainants and witnesses.

- i. The Law Society should ensure that a variety of communications tools are used, such as pamphlets, social media, in-person conversations, and videos.
- ii. The Law Society should provide clear, plain language information about:
 - a. the standards of conduct that clients should expect from their lawyers, including specific examples of the types of conduct and circumstances that may warrant a complaint against a lawyer;
 - b. how to make a complaint, steps involved, anticipated timelines, and possible outcomes; and
 - c. all supports that are available for Indigenous complainants and witnesses in the Law Society’s processes.

Recommendation 3.2: The Law Society should prioritize hiring an Indigenous “navigator” to guide Indigenous complainants and witnesses through the Law Society’s processes.³⁵

Recommendation 3.3: The Law Society should create a safe atmosphere for Indigenous individuals, including in the institution’s organizational, physical, and digital spaces.

Recommendation 3.4: The Law Society should develop connections with support agencies to identify potential resources and opportunities to assist Indigenous complainants and witnesses.³⁶

Recommendation 3.5: Subject to guidance from the Leadership of the Tsilhqot’in Nation, the Law Society should continue its efforts to make amends with the Tsilhqot’in Survivors for the outcome of the *Bronstein* decision having caused disappointment, grief, and anguish amongst the Tsilhqot’in people, and to engage with the Tsilhqot’in Survivors on how the Law Society’s processes could be improved.

³⁴ Consultation participant.

³⁵ The “navigator” should serve as a central contact person assigned across all stages of a file.

³⁶ These connections may be helpful in circumstances where the Law Society is not the appropriate entity for dealing with the complaint.

Recommendation 4.0: The Law Society should be more proactive in the prevention of harm to the public, particularly Indigenous individuals.

Recommendation 4.1: The Law Society should clarify competency requirements in the Law Society's Code of Professional Conduct to specifically include intercultural competence.

Recommendation 4.2: The Law Society should ensure Practice Advisors are equipped to provide practice support materials, resources, and guidance on intercultural competency and trauma-informed legal services.

Recommendation 4.3: The Law Society should ensure that lawyers have access to resources, leading practice guides, and educational opportunities with respect to the provision of interculturally competent and trauma informed legal services to Indigenous clients.

Recommendation 4.4: The Law Society should consult with Indigenous legal organizations to consider ways to identify lawyers who can demonstrate high levels of intercultural competence and positive professional engagement with Indigenous clients.

Recommendation 5.0: The Law Society should implement the recommendations.

Recommendation 5.1: Once the Task Force completes its mandate, the Law Society must ensure that there is effective oversight of the implementation of its recommendations.³⁷

Recommendation 5.2: To optimize implementation, an implementation plan that identifies immediate steps to be taken in the first six months following the approval of the recommendations should be developed.

- i. The Law Society should update the implementation plan annually, and track progress in its annual report.

Recommendation 5.3: In collaboration with Indigenous individuals and organizations, the Law Society should develop evaluation mechanisms to collect, review, and evaluate data regarding the experiences of Indigenous complainants and witnesses, taking privacy considerations into account.

Recommendation 5.4: The Law Society should annually assess whether revised processes and policies are working well, and make appropriate adjustments as necessary.

³⁷ The provincial government's move to modernize legal regulation may affect oversight of the recommendations in the future, but the Task Force believes that immediate oversight by the Law Society's Truth and Reconciliation Advisory Committee would be most effective.

Appendix A: Terms of Reference



Indigenous Engagement in Regulatory Matters Task Force

Terms of Reference

Preamble

The decision in *Re Bronstein* raised serious questions about the ability of the Law Society's regulatory process to engage, address and accommodate marginalized complainants and witnesses, particularly Indigenous persons. In particular, the Law Society accepts the recommendation that the Law Society undertake a comprehensive review of its regulatory processes as they relate to access to justice and its responsiveness to all members of the diverse public it serves. Such a review will inform the steps to be taken by the Law Society, as contemplated within the 2021-2025 Strategic Plan, to address the unique needs of Indigenous people within our regulatory processes and to establish and maintain an interculturally competent regulatory process.

Mandate

The Task Force will examine the Law Society's regulatory processes, specifically its complaints, investigation, prosecution and adjudication processes, as they relate to complainants and witnesses, particularly Indigenous persons, who may be experiencing vulnerability or marginalization and make recommendations to the Benchers to ensure that the Law Society's regulatory processes accommodate the full participation of such complainants and witnesses.

Composition

The Task Force shall consist of seven members.

Meeting Practices

The Task Force shall operate in a manner that is consistent with the Benchers' governance policies.

The Task Force shall meet as required.

Quorum is four members of the Task Force (Rule 1-16(2)).

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Accountability

The Task Force is accountable to the Benchers as a whole.

Reporting Requirements

The Task Force will deliver its report containing any recommendations for future action to the Benchers within twelve months from the date on which its work plan is delivered.

Duties and Responsibilities

1. Following its appointment, the Task Force will prepare a work plan which will be provided to the Benchers at their September 2021 meeting, outlining the anticipated scope of the review, including interviews and any anticipated research, and the procedures to be undertaken to gather information to complete its work. The work plan would also include any proposed changes or additions the Task Force, after consultation with the Truth and Reconciliation Advisory Committee, would recommend with respect to their mandate.
2. Consult with key stakeholders, including Law Society staff, members of the Law Society Tribunal, members of the Truth and Reconciliation Advisory Committee, Indigenous leaders, and any others that the Task Force considers necessary for the purpose of preparing its report.
3. Conduct research into the engagement, accommodation and participation of Indigenous people in regulatory processes in other professions and jurisdictions.
4. The Task Force should include the following in developing any recommendations:
 - a. An analysis of the effects on Indigenous complainants and witnesses of the processes used to gather, assess, introduce and submit evidence during investigations and hearings;
 - b. An analysis of the nature and goals of proceedings that involve Indigenous people and Indigenous communities;
 - c. Consideration and comparison of the differences that exist between Indigenous perspectives regarding conflict resolution, and the conventional approach of the Law Society and the Law Society Tribunal to investigation, discipline and adjudication;
 - d. Consideration of how to incorporate Indigenous perspectives into Law Society complaints, investigation, discipline and Tribunal processes and procedures;
 - e. An assessment of intercultural competence and trauma-informed practices at the Law Society, and identification of opportunities for training and development;
 - f. Consideration of the use of interculturally competent and trauma-informed expertise by Law Society staff, the Tribunal and outside counsel; and

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- g. Identification of actions to prevent, and remedial measures to address, the impacts of members' misconduct on Indigenous complainants, witnesses and communities.
5. The Task Force should also consider and make recommendations where lessons learned as a result of this review could have relevance to the interests of non-Indigenous complainants and witnesses, or to enhancing trust and relationship-building between the Law Society and communities, including Indigenous communities.

Staff Support

Andrea Hilland, KC

Jennifer Chan



Recommendation for Mandatory Principal Training Program

Lawyer Development Task Force

Steven R. McKoen, KC (Chair)

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Date: April 20, 2023

Prepared for: Benchers

Prepared by: Policy and Planning, Credentials and Professional Development
Departments

Purpose: For Discussion and Decision

I. Purpose

1. The purpose of this report is to propose the creation of an online mandatory principal training course.

II. Proposed Resolution

2. The Lawyer Development Task Force proposes the following resolution:

BE IT RESOLVED THAT: the Law Society of British Columbia develop an online principal training course comprising a series of modules that will be a mandatory requirement for all lawyers, regardless of experience, prior to serving as a principal to an articled student. The course will qualify a lawyer to be a principal for a five-year period, will be offered at no cost, and will be eligible for CPD credit in an amount to be determined by the Executive Director.

III. Task Force Process

3. The Lawyer Development Task Force has a mandate to review the current admission program while also looking at the pre-call education requirements and programs in light of developments in other Canadian jurisdictions as well as the Law Society's continuing professional development program. As part of the Task Force's review of the pathway to licensing, the Task Force retained Jordan Furlong to identify issues and propose possible changes to the Law Society's licensing program.
4. Jordan Furlong's final report "A Competence-Based System for Lawyer Licensing in British Columbia," ("Furlong Report") was considered by the Benchers at the Benchers Retreat in May 2022. The Furlong Report recommended that the Law Society consider developing more robust qualification standards for practice supervisors, including the creation of a mandatory online training program. The Task Force endorses this recommendation.

IV. Problem

5. Currently, there is only one pathway to becoming a licensed lawyer in British Columbia, which involves the successful completion of nine months of experiential training through articles. Although the Task Force is in the process of considering alternatives to articles for lawyer licensing, there is a pressing need and responsibility for the Law Society to address the problems within its control within the current licensing pathway.
6. Law societies across Canada have consistently reported that when surveyed about their articling experience, up to a third of articled students have shared incidences of harassment,

abuse, poor supervision or discrimination in their workplaces. While it seems unlikely that an online course alone will address all of these problems, the Task Force considers it likely that mandatory training will be able to decrease the incidence of at least some of these problems.

7. The Furlong Report highlighted that for such an integral role in a potential licensee's development, there are very few criteria for determining the minimum standards to serve as an articling principal. A lawyer who wants to be an articling principal need only: (1) demonstrate they have practiced law for the prescribed period of time and are currently practising full-time in British Columbia; (2) have a willingness to serve as a principal; and, (3) have an absence of misconduct. The lawyer is not, however, required to possess or acquire any particular skills in managing, mentoring, supervising or giving feedback to an articulated student, and there are no standards regarding the safety, support systems, ethical infrastructure or general professionalism of the principal's working environment.

V. Background

8. In addition to the Furlong Report's recommendation that the Law Society develop a mandatory principal training program, the Law Societies of Alberta, Saskatchewan, and Ontario have also recently created or are creating their own principal training programs. Each program operates slightly differently, however, there are some commonalities across the training, which are outlined below.

VI. Discussion

9. The discussion of the Task Force's proposal has been divided into the following considerations: (a) rationale for principal training program; (b) topics to be included as part of principal training program; (c) mandatory versus optional training; and, (d) pricing, credits, exemptions, and recurrence.

(a) Rationale for principal training program

10. It is essential that the Law Society supports both articulated students and principals throughout the articling period. Although most lawyers who volunteer to be a principal take care in their role, surveys have demonstrated that not all articling experiences are positive experiences for both the principal and articulated student. The public interest is served better by the Law Society improving its regulatory oversight of the supervised practice component of the licensing process.
11. The requirement for a principal to undertake an online training course before supervising an articulated student benefits the principal and the articulated student, and enhances the articling experience as a pathway to licensure. Principals are supported through the training and

provided with guidance on how to teach and supervise an articled student. Articled students benefit by undertaking their experiential training from a person who has support and guidance on how to deliver that training. And lastly, a baseline training requirement for those responsible for supervising articled students enhances the value of articling as a pathway to licensure, while also increasing consistency across articling experiences.

(b) Topics to be included as part of principal training program

12. The Law Society of Alberta's mandatory principal training program covers eight lessons including topics such as: relevant law society duties/requirements, how to be an effective mentor, dealing with difficult conversations, and cultural competency.
13. The Law Society of Saskatchewan's mandatory principal training program involves six self-directed lessons covering topics such as principal/student obligations and responsibilities, effective mentorship, setting and managing expectations, providing feedback, and communicating in a culturally safe manner.
14. The Law Society of Ontario is currently developing an optional principal orientation program, which is anticipated to address the core obligations of principals and supervisors under the Rules of Professional Conduct, applicable By-laws, and Licensing Process Policies, including obligations to ensure that employment practices do not offend human rights laws and to prevent harassment and discrimination. The orientation program may also include the relational competencies, such as managing interpersonal conflict, demonstrating cultural competence, providing timely and effective feedback, and coaching for performance.
15. The Task Force noted that the learning objectives and content should be reviewed and updated to reflect recent practice updates or current regulatory concerns. The list is not intended as prescriptive, but instead are suggested topic areas to be considered as part of the development of the initial course content:
 - Law Society duties and responsibilities for principals and articled students;
 - How to be an effective leader and mentor, including avoiding bullying, harassment, and discrimination;
 - How to set and manage expectations;
 - Understanding and discussing mental health and substance use issues, including the support resources available; and
 - How to communicate effectively, including training on cultural competencies and difficult conversations.

(c) Mandatory versus optional training

16. The Task Force debated whether the training for principals should be mandatory or optional.
17. Some Task Force members noted that making the requirement optional would likely still result in overall benefits and would encourage, rather than require, those who wanted information on how to discharge their responsibilities more effectively. It was noted that lawyers could market themselves as to that fact, and students could be able to identify those lawyers who were motivated to be better principals.
18. Other Task Force members preferred requiring the course for all principals. Because articling is still a mandatory requirement for admission to practice, the market for students remains captive. If the course were optional, those who did not take it could still have opportunities to act as principals to articulated students. Students' choices about who will be their principal are constrained. In those circumstances, making the course mandatory promotes more consistent standards overall. There were also some concerns that if the training were optional, those who needed it most might be the least likely to take it.
19. Overall, the Task Force recommends that the principal training program be mandatory. Both the Law Societies of Alberta and Saskatchewan elected to have their principal training programs be mandatory for all principals, while the Law Society of Ontario is currently developing an optional program. The Task Force thought strongly that the problem to be addressed by implementing a principal training program can only be addressed effectively if all principals, regardless of experience, take the course, so that there are no gaps in the training and regulatory oversight of the articling experience. Consistent, ongoing feedback of issues with the articling experience, is important, and an optional course could allow for principals to slip through the training gap and continue to have a negative impact on the development of licensees and the profession.
20. The Task Force considered the concern over the potential loss of articling positions if principals were required to complete a mandatory course, but concluded that the benefit of a mandatory course outweighed the potential loss of articling positions. The Law Society of Alberta, since introducing their course in February 2022, has not reported a loss of articling positions which supports the conclusion that the benefits of making this training mandatory outweigh the potential harm of reducing the number of willing principals. The Law Society of Saskatchewan only recently introduced its course, so at this point no data is available.

(d) Pricing, credits, exemptions, and recurrence

21. The considerations under this section are premised on a recommendation that the principal training program be a mandatory requirement.

22. The Law Society of Saskatchewan does not charge for access to its course, while the Law Society of Alberta charges \$125. The difference in pricing could be due to Saskatchewan developing its course in-house, while Alberta partnered with the Legal Education Society of Alberta for delivery of its course and charges a fee to cover those associated costs. Since the Law Society will develop its principal training program in-house, and due to the concern over impact on availability of articling positions, the Task Force recommends that the course be offered at no fee.
23. To encourage principals and potential principals to undertake the program, the other jurisdictions have credited the course with CPD hours, depending on the course length. This would be consistent with existing permissions in British Columbia, where “training to be a principal” qualifies for CPD credit, including potentially for Ethics and Practice Management credit.
24. The Task Force also considered whether there should be exemptions for principals who may feel burdened at having to take a mandatory program after years of experience in supervising articled students. While the Task Force recognizes that not allowing for an exemption could deter some current principals from volunteering to be a principal in the future, the benefits of the training again outweigh this potential detriment. The course would provide better training and support for the principal, and deliver better outcomes from the articling experience for both the principal and the articled student. In addition, the course would be created to be as accessible and easy to complete as possible, such as being offered online through self-directed modules, for no fee and available for CPD credits.
25. Lastly, the Task Force also recommends that principals be required to take the training program at least every five years. The rationale for this recommendation is that the content and learning objectives of the course need to reflect current professional responsibilities and legal practices in British Columbia. As outlined below in Subsequent Steps, the Task Force recommends that the Law Society review the mandatory principal training program every year, for three years, at which point enough articled students will have gone through the licensing process to evaluate the effectiveness of the program.
26. Given the potential changes to course content with the advent of a single legal regulator, the course should be reviewed and updated periodically to reflect these changes as required. Regular updates to the course content will coordinate with the requirement for principals to update their training every five years. As the rules change over time, principals will need updated training at regular intervals to keep abreast of new developments. And it is not only rules that change; best practices and expectations of a good principal change over time as well. For example, shared understandings of the skills of a good mentor and the importance of intercultural competency have changed significantly in recent times. The requirement for principals to refresh their training periodically will help to ensure that their skills stay current and relevant.

VII. Recommendation

27. The Law Society of British Columbia should develop an online principal training course comprising a series of modules. The course should qualify the lawyer to be a principal for a five-year period. The course should:

- cover the following suggested list of topics, although this list is not intended to be prescriptive, including:
 - Law Society duties and responsibilities for principals and articulated students;
 - how to be an effective leader and mentor; including avoiding bullying, harassment, and discrimination;
 - how to set and manage expectations;
 - how to understand and discuss mental health and substance use issues, including the support resources available; and
 - how to communicate effectively, including training on cultural competencies and difficult conversations;
- be mandatory as a qualification for acting as a principal; and
- be provided at no charge to the putative principal, and be eligible for CPD credit.

VIII. Cost and Organizational Implications

28. The preferred recommendation is for the mandatory principal training program to be developed in-house at the Law Society. The Law Society of Saskatchewan has pursued this option. To support this option, the Law Society should engage a subject-matter expert in instructional design to develop the course. It is difficult at present to estimate that cost. However, it is anticipated that the Law Society's costs will be reduced as it does not have to create the concept from scratch, and can model the course's content and accelerate its development by following the examples of course content and delivery produced by the Law Societies of Alberta and Saskatchewan. Law Society staff should be able to assist with the project.

29. The Law Society has a license with the online learning management system Brightspace from D2L. It is anticipated that the principal training program will be offered to lawyers through the Brightspace platform. This means that the costs for the delivery of the course will be included in the Law Society's annual license, and there will not be additional costs to the organization for delivery.

30. Lawyer Development Task Force recommendations, including the recommendation for a mandatory principal training program, were anticipated in the 2023 Fees and Budget Report. The budget sets aside a modest amount and earmarks net asset reserves for the anticipated recommendations, which includes ways to enhance the role of technology, remote learning and mentorship as part of the exploration of new pathways for lawyer licensing.

IX. Subsequent Steps

31. If the recommendation is approved by the Benchers, Law Society staff will work with subject matter experts (both content and design) to develop an online principal training course specific to the practice of law in British Columbia.
32. If the recommendation is approved, proposed amendments to the Law Society Rules to require a principal to undertake mandatory training and at what frequency will be provided for the Benchers consideration. Staff will also consider and prepare a transition plan through which to bring the new program into effect, including considering the timing of when the training will become mandatory in relation to the hiring cycle for articulated students, in order to act as a principal.
33. As principals complete the course, the Law Society will evaluate the effects and outcomes of the course through various methods, including:
 - i. Reviewing the uptake of the course measured by completion and number of articling positions;
 - ii. Seeking feedback from principals on the course content and delivery;
 - iii. Collecting and analyzing feedback on the articling experience provided through an articulated student survey; and
 - iv. Revising the course content to reflect any relevant changes to learning or practice requirements in British Columbia.
34. The Law Society should evaluate the mandatory principal training program each year for at least the first three years. An estimate of over 1,800 articulated students will enroll in the Law Society Admission Program in a given three-year period. In conjunction with the development of other recommendations from the Lawyer Development Task Force, including alternatives to articling, an annual review every three years should be sufficient to evaluate the effectiveness of the mandatory principal training program in improving articling from the perspective of both principals and students.

Regulatory Impact Assessment

The Law Society
of British Columbia



Title of Report:	Recommendation for Mandatory Principal Training Program
Committee:	Lawyer Development Task Force
<p><i>The intent of the Regulatory Impact Checklist is to provide Benchers with a high level evaluation on the impact of the policy recommendations being recommended. The “Comments” box included with each question can direct Benchers on where to find further analysis of the issues, such as the relevant pages of a Policy Analysis, Policy Report or other materials prepared by staff at the Committee level. It can also provide additional context to an answer, where required.</i></p>	

A. Impact on the Public

A.1 Public Interest	
<p>A.1.1 What aspects of the public interest are impacted or advanced through the recommendation?</p>	<p><input type="checkbox"/> Access to Justice</p> <p><input checked="" type="checkbox"/> Improved regulation of the practice of law</p> <p><input type="checkbox"/> Protection or advancement of the Rule of Law</p> <p><input checked="" type="checkbox"/> Addressing an area of identifiable risk to the public and/or justice system</p>
<p>A.1.2 How will the public benefit from the recommendation?</p>	<p>Comments:</p> <p>Although this recommendation primarily addresses the relationship between articled students and principals, there is greater public benefit to the proposal. One of the goals of this recommendation is to provide training to principals so that the articling experience is improved. A better articling experience across all articling positions may reduce the attrition rate of people on the pathway to licensure. Reports have shown that racialized and equity seeking groups experience a higher incidence rate of discrimination and harassment, including during articling. The proposed training will include modules on mental health and substance use, cultural competency, and bullying, harassment and discrimination. Future licensees will be less likely to experience “bad articles” as a result of their principal’s training, which may lead to more diversity in the profession. In addition, a principal who learns through the training about mental health and cultural competency may take those learnings and apply them to how they deliver their services to the community. Articling students who learn</p>

	under a principal who has undertaken this training may also be likely to repeat that experiential learning experience as a supervisor in the future, potentially breaking the cycle where articling is seen as a punishing rite of passage into the profession.	
A.1.3 Does the recommendation have any other regulatory impacts that will affect the public?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	Comments:

A.2 Reconciliation with Indigenous Peoples		
A.2.1 Does the recommendation extend to addressing reconciliation with Indigenous Peoples?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Comments: The proposed course is expected to include a module on cultural competency, which will include specific training on Indigenous cultural competency.
A.3 Equity, Diversity and Inclusion		
A.3.1 Does the recommendation impact the equitable treatment of diverse individuals?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Comments: Research reports, including the Université de Sherbrooke's national study on wellness in the legal profession, have found that articled students who identify as racialized or from an equity-seeking group experience more bullying, discrimination, harassment, and sexual harassment during their articles. Since articling is currently the only pathway to licensure, the Law Society has an obligation to address this behaviour, which is one of the goals of the proposed principal training course.
A.4 Transparency and Disclosure		
A.4.1 Does the recommendation impact current levels of transparency and disclosure?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	Comments:

B. External Impacts

B.1 Licensee Interest		
B.1.1 Does the recommendation impact the administrative burdens or overhead costs on lawyers?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Comments: All future principals will be required to take the course prior to acting as a supervisor. It is anticipated that the course will take approximately 3 to 4 hours to complete. Principals will be required to retake the course every 5 years, which will be a recurring burden. However, that time is intended to be eligible as CPD credit. The proposal is that the course be offered free of charge, to reduce any direct costs to lawyers.
B.1.2 Does the recommendation impact licensee perception of the Law Society?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Comments: It is anticipated that this training will be well received by potential and recent licensees as

		addressing a gap in regulatory guidance during the articling period. Some current licensees who are acting as principals may not see the need for having to undertake such a course, however, the Task Force has considered that potential and concluded that the need for such a course is pressing. Some licensees who are currently acting as principals may welcome the learning support provided through this course.
B.2 Public Relations		
B.2.1 Does the recommendation impact the public perception of the legal profession generally?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	Comments: It is unlikely that the public perception of the legal profession will change due to this proposal. If anything, the public may think more positively of a profession that is trying to reduce harm and better the training for principals to support its potential future licensees.
B.2.2 Does the recommendation impact the public perception of the Law Society?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Comments: The public may view the Law Society more favourably for addressing an identifiable gap in its regulatory guidance and for providing more training and support for the experiential portion of every licensees' training process.
B.3 Government Relations		
B.3.1 Does the recommendation impact the government perception of the legal profession?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	Comments: Similar to the public's perception, the government may view this as a positive development in the training of the legal profession.
B.3.2 Does the recommendation impact government perception of the Law Society?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Comments: This proposal demonstrates the Law Society's ability to identify areas where it can have a significant impact on licensee training experiences, and to respond to that identified need. The government will likely perceive that the Law Society is using its regulatory mandate to improve the experiential training of future licensees.
B.4 Privacy Impact Assessment		
B.4.1 Does the recommendation include the collection, use or disclosure of personal information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	Comments:
B.4.2 Was a Privacy Risk Assessment completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	Comments:

C. Internal (Organizational) Impacts

C.1 Legal		
<p>C.1.1 Does the recommendation meet legal requirements, statutory or otherwise?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	<p>Comments:</p> <p>Amendments to the Law Society Rules are needed to reflect that the course will be a mandatory requirement for qualification of all principals after a date (to be determined).</p> <p>Section 3(c) of the <i>Legal Profession Act</i> sets out that it is the object and duty of the Law Society to uphold and protect the public interest in the administration of justice by establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission. The proposed course is well within that statutory mandate. Section 20(c) allows for the Benchers to make rules that establish requirements for lawyers to serve as principals to articulated students. Section 11 of the Act permits the creation of Rules “for the carrying out of this Act.”</p>
<p>C.1.2 Does the recommendation impact outstanding legal issues or litigation?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p>	<p>Comments:</p>
C.2 Law Society Programs		
<p>C.2.1 Does the recommendation impact the current operations of Law Society programs, either by adding to the scope of work or significantly altering the current scope of work?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	<p>Comments:</p> <p>There will be an impact on the current scope of work for some employees during the development stage of the course. However, an expert in course content design will be engaged, and once the course has been developed, it is anticipated that it will operate through prior existing systems and work streams. Therefore, it is unlikely to cause significant impact to current work flow procedures. The recommendation includes reviewing the course content annually to update on any significant changes (for example, on the single legal regulator) as well as evaluating its effectiveness, which will be an additional impact on staff time, but it is not anticipated to be significant.</p>
C.3 Costs		
<p>C.3.1 Does the recommendation increase operational costs?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	<p>Comments:</p> <p>There will be an initial development cost for the course because a subject matter expert on instructional design will need to be hired. Once developed, the course will be offered through the Law Society’s online learning management system, and the costs for delivery of the course will be included in the Law Society’s annual license for that service.</p>
<p>C.3.2 Does the recommendation require additional staff or significant staff time?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p>	<p>Comments:</p> <p>An external subject matter expert will need to be hired to assist with the development of the course, but it is intended that no additional</p>

		<p>permanent staff are required to operate the proposal. Some staff time will be dedicated to assisting in the development of the course content and overseeing the rollout of the course. However, once the program is developed and running, limited staff time will be required to oversee, update and evaluate the course on an ongoing basis.</p>
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Year End Financial Report

December 2022

Prepared for: Finance & Audit Committee Meeting - April 13, 2023
Bencher Meeting - April 28, 2023

Prepared by: Finance Department

Year End Financial Report - December 2022

Attached are the financial results and highlights for the 2022 fiscal year.

The external audit was completed in March and the audited statements are presented for approval.

General Fund (excluding capital and TAF)

For the 2022 fiscal year, the General Fund operations resulted in a positive financial result of \$2.2 million compared to a deficit budget of \$825,000. As previously reported, there was strong revenue performance for the year, with a positive variance of \$2.2 million (7%), along with operating expense savings of \$900,000 (3%).

Revenue

The total revenue for the year was \$32.5 million, \$2.2 million (7%) ahead of budget due to higher than expected revenues in almost all fee categories.

Throughout 2022, the Bank of Canada increased the bank rate from 0.25% at the beginning of the year to 4.25% by December 2022 which resulted in additional interest revenue of \$507,000 compared to the budget. When the interest income budget was set, the market did not anticipate such a large increase in interest rates over the 2022 year.

The 2022 practice fee budget projected a 3% increase in the number of practicing lawyers from the 2021 projection, which was in line with historical average increases, but in 2022 the number of lawyers increased 3.9%, the highest increase in the number of lawyers ever. This resulted in practice fees exceeding budget by \$499,000.

Electronic filing revenue exceeded budget by \$447,000 for the year. Although the overall real estate unit sales declined by 35% from 2021 (which was projected) this decrease in transactions was offset by the new Land Owner Transparency Act (LOTA) filing requirements which added an unexpected new source of electronic filing revenues.

In 2022, there were 686 PLTC students compared to a budget of 605, also the higher number of students ever. The increase in the number of students was caused by a number of waitlisted students from the last few years being provided seats in 2022. This resulted in \$297,000 of additional PLTC revenue for the year.

Fines and penalties revenues were over budget \$283,000. Discipline fines and penalties, and hearing cost recoveries were over budget \$160,000. Trust reporting penalties were much higher than historical levels, finishing \$98,000 more than budget.

Registration and licensing revenues were over budget due to a higher number of transfer applications, call and admission fees, reinstatement fees, and examination fees.

Operating Expenses

Operating expenses for the period were \$30.3 million, \$900,000 (3%) below budget, with expense savings in a number of areas, which was partially offset set by higher external counsel fees.

Compensation: Overall compensation costs were \$402,000 under budget, with savings related to staff vacancies, lower benefits costs, and professional development courses and conferences costs.

Meetings, travel, and events: The 2022 budget assumed Benchers, committee and staff meetings would continue to be conducted 50% virtually, however, most committee and staff meetings during the year were conducted virtually.

Overall meetings, events, and travel costs were \$457,000 under budget as follows:

Departments	Amount
Call ceremonies	205,000
All other departments	145,000
PLTC	107,000
Total	\$457,000

As the majority of call ceremonies were deferred in 2022 or there was lower attendance at the call ceremonies, there were cost savings of \$205,000 for facilities, travel, and consulting costs.

Similarly, PLTC classes were conducted virtually resulting in facility rental and other travel and meetings costs savings of \$107,000.

All other departments incurred lower meetings and travel costs, with savings of \$145,000, with Bencher and committee meetings (\$68,000) being the largest source of savings.

Human resources: There were cost savings of \$194,000 primarily due to lower recruitment, skills development, and staff-related event costs.

Software maintenance: There was \$140,000 in savings due to the implementation of software projects being delayed to 2023.

General office and building: There were reduced costs related to cleaning, photocopying, postage, and other building operations with lower building occupancy rates.

External Counsel Fees: External counsel fees were over budget \$423,000. Discipline hearings were the largest contributor to higher spending with an increased number of complex files, and longer hearings, together with an increased number of files going to external counsel due to internal counsel vacancies. IME and IER matters also incurred higher external counsel fees due both to a larger number of files carrying over from the prior year and staff vacancies. These increases were partially offset by savings in the credentials and custodianships as requirements in these departments trended lower.

General Fund Net Assets

The General Fund total net assets at the end of 2022 were \$36.7 million, consisting of four items:

- Invested in capital assets, \$12.2 million, 845/839 buildings and other capital assets.
- Capital Fund, \$4.8 million, capital maintenance projects for buildings and operations.
- TAF reserve, \$1.8 million, 6 months of operating expenses.
- Unrestricted net assets, \$17.8 million, 6 months of operating expenses.

TAF-related Revenue and Expenses

TAF revenue was very close to budget, ending at \$4.05 million compared to a budget of \$4.06 million. Trust assurance program costs were \$373,000 below budget primarily due to staffing vacancies, along with lower travel costs with many audits being performed remotely.

With the TAF reserve policy set at 6 months of operating costs, there was a transfer of \$770,000 to LIF as required by the TAF reserve policy.

Lawyers Indemnity Fund

LIF fee revenues were \$17.5 million, compared to a budget of \$17.0 million, with a higher number of practicing indemnified lawyers.

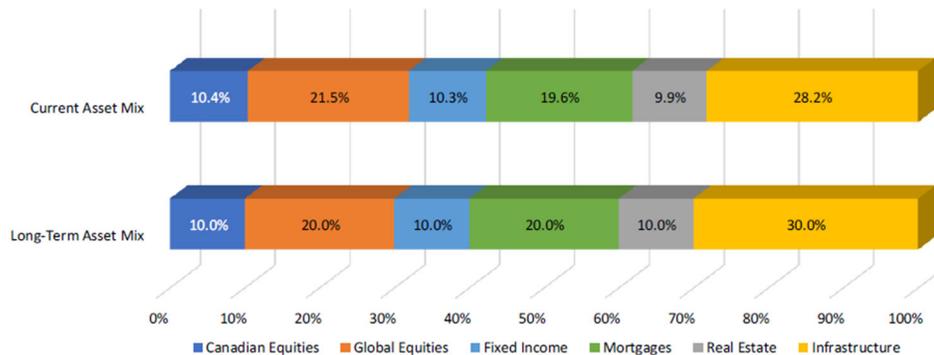
LIF operating expenses were \$10.2 million, \$600,000 under budget, with savings primarily related to lower compensation costs resulting from staff vacancies and leaves, lower general office expenses, and lower general fund allocated costs. These savings were partially offset by increased investment management fees which reflects the addition of infrastructure investment managers for a full year.

The provision for claims increased in 2022 to \$18.7 million, compared to a budget of \$17.6 million, due to lower decreases in prior year claims reserves.

With the downturn in both the equity and bond markets in 2022, there were investment losses of \$3.8 million. Overall investment returns after investment fees were -2.2%, compared to a benchmark of -3.2%. Relatively speaking, the investment performance for the year was very favorable compared to other investment portfolios due to the addition of infrastructure assets and a more diversified asset mix as noted in the following section.

With the introduction of the new asset mix targets for the LIF investment portfolio, additional infrastructure investments were made in 2022. At December 31, 2022, the final asset mix changes were complete, with the infrastructure assets at \$66.5 million, 28% of total investments. As shown below, the transition to the new asset mix is now complete and will be monitored in accordance with the investment guidelines.

Total Fund Asset Allocation (cont.)





Summary of Financial Highlights

(\$000's)

2022 General Fund Results - Year Ending December 2022 (Excluding Capital Allocation & Depreciation)				
	<u>Actual</u>	<u>Budget</u>	<u>\$ Var</u>	<u>% Var</u>
Revenue (excluding capital)				
Practice Fees	25,261	24,762	499	2%
PLTC and Enrolment Fees	2,076	1,779	297	17%
Electronic Filing Revenue	1,232	785	447	57%
Interest Income	797	290	507	175%
Registration & Licensing	857	776	82	11%
Fines, Penalties & Recoveries	558	275	283	103%
Insurance Recoveries	20	-	20	0%
Other Revenue	218	187	31	17%
Other Cost Recoveries	140	121	19	-
Building Revenue & Tenant Cost Recoveries	1,381	1,384	(3)	0%
	<u>32,540</u>	<u>30,358</u>	<u>2,181</u>	<u>7%</u>
Expenses (excluding depreciation)	<u>30,285</u>	<u>31,184</u>	<u>900</u>	<u>3%</u>
	<u>2,255</u>	<u>(826)</u>	<u>3,081</u>	

Summary of Variances - Year Ending December 2022	
Revenue Variances:	
Interest Income - BoC rate increased from 0.25% Jan 22 to 4.25% Dec 22	507
Practice Fees - 13,834 lawyers vs 13,545 budget, 3.9% actual growth vs projected 3%	499
Electronic Filing Revenue - Only down 8% from 2021 actual. Fall in real estate offset by new LOTA fees	447
PLTC and Enrollment Fees - 686 students actual vs. 605 budget (13% positive variance)	297
Fines, Penalties & Recoveries - Increased hearing fines/recoveries and late trust reporting fees	283
Registration and Licensing	82
Other	66
	<u>2,181</u>
Expense Variances:	
Compensation savings - staff vacancies and lower benefits costs	402
Call ceremonies deferred - travel and event savings	205
Human Resources - recruiting, skills development, and consulting cost savings	194
Other meetings and travel savings - excluding call ceremonies and PLTC	145
Software maintenance - Office 365 and other software deferred	140
PLTC - meetings and travel savings	107
General office and building administration savings - lower cleaning, photocopying, postage, and other costs	59
External counsel fees - Discipline hearings: increased files/longer hearings and internal counsel turnover	(423)
Other	71
	<u>900</u>

Trust Assurance Program Actual				
	<u>2022 Actual</u>	<u>2022 Budget</u>	<u>Variance</u>	<u>% Var</u>
TAF Revenue	4,050	4,055	(5)	-0.1%
Trust Assurance Department	<u>3,255</u>	<u>3,628</u>	<u>373</u>	<u>10.3%</u>
Net Trust Assurance Program	<u>796</u>	<u>427</u>	<u>368</u>	

2022 Lawyers Indemnity Fund Long Term Investments - Year ending 2022	
Performance - After investment fees of 0.67%	-2.20%
Benchmark Performance	-3.20%

The Law Society of British Columbia
General Fund
Results for the 12 Months ended December 31, 2022
(\$000's)

	2022 Actual	2022 Budget	\$ Variance	%
REVENUE				
Practice Fees (1)	26,996	26,473	523	2%
PLTC and Enrolment Fees	2,076	1,779	297	17%
Electronic Filing Revenue	1,232	785	447	57%
Interest Income	797	290	507	175%
Registration and Licensing Revenue	857	775	82	11%
Fines, Penalties and Recoveries	558	275	283	103%
Program Cost Recoveries	131	122	9	7%
Insurance Recoveries	20	-	20	0%
Other Revenue	221	187	34	18%
Other Cost Recoveries	5	-	5	0%
Building Revenue & Recoveries	1,381	1,384	(3)	0%
Total Revenues	34,274	32,070	2,204	6.9%
EXPENSES				
Benchers Governance and Events				
Bencher Governance	611	653	42	6%
Board Relations and Events	300	312	12	4%
	911	965	54	6%
Corporate Services				
General Office	612	749	137	18%
CEO Department	870	821	(49)	-6%
Finance	1,218	1,189	(29)	-2%
Human Resources	680	802	122	15%
Records Management	277	275	(2)	-1%
	3,657	3,836	179	5%
Education and Practice				
Licensing and Registration	1,731	2,305	574	25%
PLTC and Education	3,075	3,229	154	5%
Practice Standards	395	518	123	24%
	5,201	6,052	851	14%
Communications and Information Services				
Communications	654	590	(64)	-11%
Information Services	1,872	1,936	64	3%
	2,526	2,527	1	0%
Policy and Legal Services				
Policy and Legal Services	1,727	1,771	44	2%
Tribunal and Legislative Counsel	768	748	(20)	-3%
External Litigation & Interventions	-	25	25	100%
Unauthorized Practice	323	337	14	4%
	2,818	2,881	63	2%
Regulation				
CLO Department	589	945	356	38%
Intake & Early Assessment	2,425	2,318	(107)	-5%
Discipline	3,409	2,857	(552)	-19%
Forensic Accounting	759	984	225	23%
Investigations, Monitoring & Enforcement	3,887	4,019	132	3%
Custodianships	1,997	1,802	(195)	-11%
	13,066	12,925	(141)	-1%
Building Occupancy Costs				
Depreciation	2,106	2,041	(65)	-3%
	1,079	1,265	186	15%
Total Expenses	31,364	32,492	1,128	3.5%
General Fund Results before Trust Assurance Program	2,910	(422)	3,332	
Trust Assurance Program (TAP)				
TAF revenues	4,050	4,055	(5)	-0.1%
TAP expenses	3,255	3,628	373	10.3%
TAP Results	795	427	368	-86.2%
General Fund Results including Trust Assurance Program	3,705	5	3,700	
Contribution from Trust Assurance Program to Lawyers Insurance Fund				
	770			
General Fund Results	2,934			

(1) Membership fees include capital allocation of 1734k (Capital allocation budget = 1711k)

The Law Society of British Columbia
General Fund - Balance Sheet
As at December 31, 2022
(\$000's)

	Dec 31 2022	Dec 31 2021
Assets		
Current assets		
Cash and cash equivalents	30,945	31,979
Unclaimed trust funds	2,154	2,151
Accounts receivable and prepaid expenses	2,263	2,292
Short term loan receivable	535	
Due from Lawyers Insurance Fund	11,733	6,171
	<u>47,630</u>	<u>42,593</u>
Property, plant and equipment		
Cambie Street property	10,106	10,917
Other - net	2,118	2,026
	<u>12,224</u>	<u>12,943</u>
Long Term Loan		535
	<u><u>59,854</u></u>	<u><u>56,071</u></u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	5,822	5,400
Liability for unclaimed trust funds	2,154	2,151
Current portion of building loan payable		100
Deferred revenue	15,129	14,607
Deposits	89	88
	<u>23,194</u>	<u>22,346</u>
Net assets		
Capital Allocation	4,803	3,967
Unrestricted Net Assets	31,857	29,757
	<u>36,660</u>	<u>33,724</u>
	<u><u>59,854</u></u>	<u><u>56,071</u></u>

The Law Society of British Columbia
General Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2022
(\$000's)

	<i>Invested in Capital</i>	<i>Working Capital</i>	Unrestricted Net Assets	Trust Assurance	Capital Allocation	2022 Total	Year ended 2021 Total
	\$	\$	\$	\$	\$	\$	\$
Net assets - At Beginning of Year	12,842	15,073	27,915	1,842	3,967	33,724	29,998
Net (deficiency) excess of revenue over expense for the period	(1,517)	2,692	1,175	796	1,735	3,706	3,726
Contribution to LIF				(770)		(770)	
Repayment of building loan	100	-	100	-	(100)	-	-
Purchase of capital assets:						-	-
LSBC Operations	682	-	682	-	(682)	-	-
845 Cambie	117	-	117	-	(117)	-	-
Net assets - At End of Period	12,224	17,765	29,989	1,868	4,803	36,660	33,724

The Law Society of British Columbia
Lawyers Indemnity Fund
Results for the 12 Months ended December 31, 2022
(\$000's)

	2022	2022	\$	%
	Actual	Budget	Variance	Variance
Revenue				
Annual assessment	17,532	16,967	565	3%
Investment income	(3,803)	11,035	(14,838)	-134%
Other income	88	65	23	35%
Total Revenues	13,817	28,067	(14,250)	-50.8%
Expenses				
Insurance Expense				
Provision for settlement of claims	18,714	17,630	(1,084)	-6%
Salaries and benefits	3,154	3,712	558	15%
Contribution to program and administrative costs of General Fund	1,507	1,513	6	0%
Provision for ULAE	1,500	-	(1,500)	0%
Insurance	1,777	1,695	(82)	-5%
Office	740	934	194	21%
Actuaries, consultants and investment brokers' fees	1,920	1,716	(204)	-12%
Special fund - external counsel fees	36	-	(36)	0%
	29,347	27,200	(2,147)	-8%
Loss Prevention Expense				
Contribution to co-sponsored program costs of General Fund	1,111	1,252	141	11%
Total Expenses	30,458	28,452	(2,006)	-7.1%
Lawyers Indemnity Fund Results before Contributions	(16,641)	(385)	(16,256)	
Contribution from Trust Assurance Program	770		(770)	
Lawyers Indemnity Fund Results	(15,871)	(385)	(15,486)	

The Law Society of British Columbia
Lawyers Indemnity Fund - Balance Sheet
As at December 31, 2022
(\$000's)

	Dec 31 2022	Dec 31 2021
Assets		
Cash and cash equivalents	3,464	1,353
Accounts receivable and prepaid expenses	1,722	886
Current portion General Fund building loan		100
Investments	235,485	241,160
	<u>240,670</u>	<u>243,499</u>
Liabilities		
Accounts payable and accrued liabilities	1,379	2,150
Deferred revenue	8,880	8,647
Due to General Fund	11,733	6,171
Provision for claims	77,922	71,405
Provision for ULAE	13,899	12,399
	<u>113,813</u>	<u>100,771</u>
Net assets		
Internally restricted net assets	17,500	17,500
Unrestricted net assets	109,357	125,228
	<u>126,857</u>	<u>142,728</u>
	<u>240,670</u>	<u>243,499</u>

The Law Society of British Columbia
Lawyers Indemnity Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2022

	Unrestricted \$	Internally Restricted \$	2022 Total \$	2021 Total \$
Net assets - At Beginning of Year	125,228	17,500	142,728	111,134
Net excess of revenue over expense for the period	(15,871)	-	(15,871)	31,595
Net assets - At End of Period	109,357	17,500	126,857	142,728



To Benchers
From Finance and Audit Committee
Date April 13, 2023
Subject **Bencher Approval of the 2022 Audited Financial Statements**

The annual audited financial statements are to be reviewed and recommended for approval by the Finance and Audit Committee, and approved by the Benchers.

Attached are the 2022 audited financial statements for the General Fund, and the consolidated Lawyers Indemnity Fund. These statements were reviewed by the Finance and Audit Committee at their April 13, 2023 meeting.

The Finance and Audit Committee recommends the following resolution for approval by the Benchers:

BE IT RESOLVED to approve the Law Society's 2022 Financial Statements for the General Fund, and the 2022 Consolidated Financial Statements for the Lawyers Indemnity Fund.

**The Law Society of British
Columbia – General Fund**

Fund Financial Statements
December 31, 2022

DRAFT

The Law Society of British Columbia – General Fund

Fund Statement of Financial Position

As at December 31, 2022

	2022 \$	2021 \$
Assets		
Current assets		
Cash (note 2)	30,944,861	31,978,828
Unclaimed trust funds (note 2)	2,154,389	2,151,250
Accounts receivable and prepaid expenses (note 3)	2,289,313	2,292,224
Short-term loan receivable (note 5)	535,161	-
Due from Lawyers Indemnity Fund (note 9)	11,733,076	6,170,902
	<u>47,656,800</u>	<u>42,593,204</u>
Non-current assets		
Cambie Street property – net (note 4 (a))	10,105,846	10,916,561
Other property and equipment – net (note 4 (b))	1,386,668	1,540,005
Intangible assets – net (note 4 (c))	731,051	485,806
Long-term loan receivable (note 5)	-	535,161
	<u>59,880,365</u>	<u>56,070,737</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities (note 6)	5,879,060	5,430,922
Liability for unclaimed trust funds (note 2)	2,154,389	2,151,250
Building loan payable (note 8)	-	100,000
Deferred revenue (note 2)	15,128,809	14,606,765
Deposits	58,255	57,405
	<u>23,220,513</u>	<u>22,346,342</u>
Net assets		
Unrestricted (note 7)	<u>36,659,852</u>	<u>33,724,395</u>
	<u>59,880,365</u>	<u>56,070,737</u>
Commitments		

Approved by

_____ President _____ Chair of Finance and Audit Committee

The accompanying notes are an integral part of these fund financial statements.

The Law Society of British Columbia – General Fund

Fund Statement of Changes in Net Assets

As at December 31, 2022

	2022 \$	2021 \$
Net assets – Beginning of year	33,724,395	29,997,784
Net excess of revenue over expenses for the year	<u>2,935,457</u>	<u>3,726,611</u>
Net assets – End of year (note 7)	<u>36,659,852</u>	<u>33,724,395</u>

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The Law Society of British Columbia – General Fund

Fund Statement of Revenue and Expenses

As at December 31, 2022

	2022 \$	2021 \$
Revenue		
Practice fees	26,995,959	25,683,871
Trust administration fees	4,050,288	5,238,051
Enrolment fees	2,009,425	1,775,550
E-filing revenue	1,232,147	1,334,626
Fines, penalties and recoveries	689,663	677,540
Application fees	775,518	814,802
Investment income (note 9)	767,725	304,645
Other income	422,507	423,814
Rental revenue	1,053,235	1,026,505
	<u>37,996,467</u>	<u>37,279,404</u>
Expenses		
Bencher governance and support	1,134,893	1,083,536
Communications and publications	758,670	572,853
Information services	2,171,397	1,932,145
Education and practice		
Credentials	822,619	956,736
Licensee services	955,136	841,691
Licensee assistance programs	73,320	60,324
Practice advice	1,037,427	941,962
Practice standards	405,758	422,078
Professional legal training course and education	3,158,818	2,803,117
General and administrative		
Finance	1,429,572	1,313,139
Amortization of other property and equipment	540,823	505,972
General administration	1,743,660	1,556,651
Human resources	792,190	668,282
Records management and library	325,596	280,135
Policy and legal services		
Policy, ethics and tribunal counsel	2,467,904	2,103,565
External litigation and interventions	356,252	549,206
Unauthorized practice	322,700	306,394
Regulation		
Custodianship costs	1,997,009	1,753,460
Discipline	3,408,682	2,851,525
Professional conduct – intake and investigations	6,900,391	6,424,483
Forensic accounting	759,102	692,522
Trust assurance	2,953,641	2,866,796
Occupancy costs, net of tenant recoveries	2,393,067	2,142,549
	<u>36,908,627</u>	<u>33,629,121</u>
Carried forward	36,908,627	33,629,121

The Law Society of British Columbia – General Fund

Fund Statement of Revenue and Expenses ...continued

As at December 31, 2022

	2022 \$	2021 \$
Brought forward	36,908,627	33,629,121
Costs recovered from Lawyers Indemnity Fund		
Co-sponsored program costs	(1,110,747)	(1,002,286)
Program and administrative costs	(1,506,870)	(1,374,042)
	(2,617,617)	(2,376,328)
	34,291,010	31,252,793
Excess of revenue over expenses before contribution to Lawyers Indemnity Fund	3,705,457	6,026,611
Contribution from Trust Assurance Net Assets to Lawyers Indemnity Fund (note 7)	770,000	2,300,000
Net excess of revenue over expenses for the year	2,935,457	3,726,611

The Law Society of British Columbia – General Fund

Fund Statement of Cash Flows

As at December 31, 2022

	2022 \$	2021 \$
Cash provided by (used in)		
Operating activities		
Net excess of revenue over expenses for the year	2,935,457	3,726,611
Items not affecting cash		
Amortization of Cambie Street building and tenant improvements	976,791	792,270
Amortization of other property and equipment	387,859	566,046
Amortization of intangible assets	152,964	154,043
Loss on disposal of other property and equipment	167	538
Contributions to Lawyers Indemnity Fund	770,000	2,300,000
	<u>5,223,238</u>	<u>7,539,508</u>
(Increase) decrease in current assets		
Unclaimed trust funds	(3,138)	(6,834)
Accounts receivable and prepaid expenses	2,911	(421,051)
Increase (decrease) in current liabilities		
Accounts payable and accrued liabilities	448,139	(5,354)
Liability for unclaimed trust funds	3,138	6,834
Deferred revenue	522,044	887,808
Deposits	850	1,600
	<u>6,197,182</u>	<u>8,002,511</u>
Financing activities		
Decrease in building loan payable	(100,000)	(500,000)
Interfund transfers	(6,332,174)	544,432
	<u>(6,432,174)</u>	<u>44,432</u>
Investing activities		
Purchase of property and equipment	(400,766)	(783,485)
Purchase of intangible assets	(398,209)	(120,941)
Long-term loan receivable	-	(83,436)
	<u>(798,975)</u>	<u>(987,862)</u>
(Decrease) increase in cash	(1,033,967)	7,059,081
Cash – Beginning of year	31,978,828	24,919,747
Cash – End of year	<u>30,944,861</u>	<u>31,978,828</u>
Supplementary cash flow information		
Interest paid	-	2,184
Interest income received	796,535	329,723

The Law Society of British Columbia – General Fund

Notes to the Fund Financial Statements

December 31, 2022

1 Nature of operations

The Law Society of British Columbia (the Society) regulates the legal profession in British Columbia, protecting public interest in the administration of justice by setting and enforcing standards of professional conduct for lawyers. The Society is a not-for-profit organization.

The funds covered in these fund financial statements are for the Society's General Fund with the following activities:

The General Fund comprises the assets, liabilities, net assets, revenue and expenses of the operations of the Society other than those designated to the Lawyers Indemnity Fund. This includes collecting revenues associated with practice fees, trust administration fees, enrolment fees, and various other administrative fees and penalties used to cover the costs of the Society to regulate the legal profession and educate and enforce adherence of its licensees to act within the rules of professional conduct for lawyers.

Effective from May 1, 2004, Part B to the B.C. Lawyers' Compulsory Professional Liability Indemnification Policy provides defined indemnity coverage for dishonest appropriation of money or other property entrusted to and received by insured lawyers in their capacity as barristers and solicitors and in relation to the provision of professional services. Part B (Trust Protection Coverage) is recorded in the Lawyers Indemnity Fund.

The Society's Lawyers Indemnity Fund is presented separately in consolidated fund financial statements, including the Society's wholly owned BC Lawyers' Indemnity Association (BCLIA). The Lawyers Indemnity Fund underwrites the program by which errors and omissions indemnity is provided to licensees of the Society. The Lawyers Indemnity Fund's consolidated fund financial statements provide further detail on the various indemnity coverages provided.

2 Significant accounting policies

These fund financial statements are prepared in accordance with Canadian accounting standards for not-for-profit organizations (ASNPO) as issued by the Canadian Accounting Standards Board.

Allocated administrative expenses

Administrative expenses are recovered by the General Fund from the Lawyers Indemnity Fund. Recoveries are based on amounts derived either on percentage of use, the proportion of the Lawyers Indemnity Fund's staff compared to the Society's total staff costs, or a set amount.

Cash

Cash comprises cash on hand and held with a Canadian chartered bank.

Deferred capital contributions

Contributions restricted for the purchase of capital assets are deferred and recognized as revenue on the same basis as the capital assets are amortized.

The Law Society of British Columbia – General Fund

Notes to the Fund Financial Statements

December 31, 2022

Fair value of financial instruments

The fair values of cash, accounts receivable and accounts payable and accrued liabilities correspond to their carrying values due to their short-term nature.

Intangible assets

Intangible assets comprise computer software and website development. Software and website development are recorded at cost and amortized on a straight-line basis at 10% – 20% per annum for software and at 20% for website development.

Property and equipment

Property and equipment, including leasehold improvements, are recorded at cost less accumulated amortization.

The Society provides for amortization on a straight-line basis as follows:

Buildings	40 years from purchase date
Building – Envelope	7% per annum
Computer hardware	10% – 20% per annum
Furniture and fixtures	10% per annum
Leasehold improvements	10% per annum
Building improvements and equipment	10% per annum
Tenant improvements	over lease period

The Society recognizes a full year's amortization expense in the year of acquisition, with the exception of building improvements and equipment and leasehold improvements, which are amortized from their date of completion.

Revenue recognition

The Society follows the deferral method of accounting for practice fees and assessments. Fees and assessments are billed and received in advance on a calendar-year basis. Accordingly, fees and assessments for the next fiscal year received prior to December 31 have been recorded as deferred revenue for financial reporting purposes and will be recognized as revenue in the next calendar year. Revenue will be recognized on a monthly basis as earned. Surplus funds are invested in a high interest savings account periodically.

All other revenues are recognized when earned if the amount to be received can be reasonably estimated and collection is reasonably assured.

Unclaimed trust funds

The General Fund recognizes unclaimed trust funds as an asset as well as a corresponding liability on the fund statement of financial position. If these funds are claimed, the owner of the trust fund balance is entitled to the principal balance plus interest at prime rate minus 2%. Due to the historically low collection rates on these

The Law Society of British Columbia – General Fund

Notes to the Fund Financial Statements

December 31, 2022

balances, the General Fund does not accrue for any interest owing on the trust fund amounts held and recognizes income earned from the unclaimed trust fund investments in the fund statement of revenue and expenses. Unclaimed funds outstanding for more than five years are transferred to the Law Foundation of British Columbia.

Use of estimates

The preparation of fund financial statements in accordance with ASNPO requires management to make estimates and assumptions that affect the reported amounts of certain assets and liabilities and disclosure of contingent assets and liabilities as at the date of the fund financial statements and the reported amounts of certain revenues and expenses during the year. Actual results could differ from these estimates.

3 Accounts receivable and prepaid expenses

Accounts receivable are presented net of the allowance for doubtful accounts of \$1,420,775 (2021 – \$1,702,515).

4 Property, equipment and intangible assets

a) 845 Cambie Street property

	2022		
	Cost	Accumulated	Net
	\$	amortization	\$
		\$	
Land	4,189,450	-	4,189,450
Buildings and equipment	17,237,493	12,125,853	5,111,640
Leasehold improvements	7,725,118	6,954,742	770,376
Tenant improvements	826,619	792,239	34,380
	29,978,680	19,872,834	10,105,846
	2021		
	Cost	Accumulated	Net
	\$	amortization	\$
		\$	
Land	4,189,450	-	4,189,450
Buildings and equipment	17,071,416	11,374,076	5,697,340
Leasehold improvements	7,725,118	6,752,647	972,471
Tenant improvements	826,619	769,319	57,300
	29,812,603	18,896,042	10,916,561

The Law Society of British Columbia – General Fund

Notes to the Fund Financial Statements

December 31, 2022

5 Loan receivable

In 2018, the Society agreed to participate with other Canadian law societies in a collective loan of \$2 million to the Canadian Legal Information Institute (CanLII), a wholly owned subsidiary of the Federation of Law Societies of Canada (FLSC). The loan is part of the financing for the purchase by CanLII of Lexum, a corporation providing support services to CanLII for the implementation of CanLII's legal information website. The Law Society's participation in this loan was \$276,390 in 2018. Part of the Society's support of this transaction are annual repayable capital payments of \$89,079 in 2019, \$86,257 in 2020 and \$83,435 in 2021 to the vendors of Lexum as provided in a Subordination and Commitment Agreement. Amounts advanced under this agreement earn interest at the same rate as the amount advanced under the collective loan. In 2022, the Society's total participation in this loan was \$535,161 (2021 – \$535,161). The loan has a five-year term ending February 23, 2023 with an annual interest rate of 4.74%, payable annually. The interest earned in the current year relating to the loan was \$28,810 (2021 – \$25,078). Repayment of the loan is in progress and is expected by mid-April 2023.

6 Accounts payable and accrued liabilities

Accounts payable and accrued liabilities include the following amounts collected on behalf of external organizations, but not yet paid:

	2022 \$	2021 \$
Advocate	235,472	231,339
Courthouse Libraries BC	2,151,626	2,050,215
Lawyers Assistance Program	605,575	477,390
Pro bono	211,474	198,856
CanLII	280,351	259,759
Federation of Law Societies	210,560	208,202

7 Unrestricted net assets

The General Fund unrestricted net assets include \$4,802,827 (2021 – \$3,966,733), which has been allocated to capital expenditures in accordance with the capital plan.

The General Fund unrestricted net assets also include \$1,866,856 (2021 – \$1,842,249), which has been appropriated for future trust assurance expenses. During the year, \$4,050,288 (2021 – \$5,238,051) in trust administration fee revenue was collected and \$3,254,681 (2021 – \$3,167,836) in trust assurance expenses were incurred.

Pursuant to the reserve policy, \$770,000 of the net assets related to trust assurance was transferred to the Lawyers Indemnity Fund for Part B coverage in 2022 (2021 – \$2,300,000).

The remaining General Fund net assets represent \$12,224,616 (2021 – \$12,842,371) invested in capital assets, and working capital of \$17,764,552 (2021 – \$15,073,041), combining for a total unrestricted net asset amount of \$29,989,168 (2021 – \$27,915,412).

The Law Society of British Columbia – General Fund

Notes to the Fund Financial Statements

December 31, 2022

	(in 000s)					2022	2021
	Invested in capital \$	Working capital \$	Unrestricted \$	Trust assurance \$	Capital plan \$	Total \$	Total \$
Net assets – Beginning of year	12,842	15,073	27,915	1,842	3,967	33,724	29,998
(Deficiency) excess of revenue over expenses before contribution to Lawyers Indemnity Fund	(1,517)	2,692	1,175	795	1,735	3,705	6,026
Contribution to Lawyers Indemnity Fund	-	-	-	(770)	-	(770)	(2,300)
Repayment of building loan payable (note 8)	100	-	100	-	(100)	-	-
Purchase of capital assets	799	-	799	-	(799)	-	-
Net assets – End of year	12,224	17,765	29,989	1,867	4,803	36,659	33,724

8 Building loan payable

In 1992, the Benchers authorized the borrowing of monies from the Lawyers Indemnity Fund to fund the capital development of the Society's buildings at 845 Cambie Street, Vancouver, BC. The loan was secured by the buildings, had no fixed repayment terms and interest was calculated monthly at a rate equal to the stated monthly bond yield to maturity earned on the Lawyers Indemnity Fund investment portfolio. Interest paid on the building loan is disclosed in note 9. The outstanding building loan balance as at December 31, 2022 is \$nil (2021 – \$100,000). During 2022, principal of \$100,000 (2021 – \$500,000) was repaid. The loan was paid off in 2022.

	2022 %	2021 %
Weighted average rate of interest	-	1.88

9 Interfund transactions

The operations of the General and Lawyers Indemnity Funds are controlled by the management of the Society. Balances between the funds generally arise from transactions of an operating nature and are recorded at the exchange amount at the dates of the transactions. Surplus funds are kept in the General Fund bank accounts or invested in a high interest savings account.

Amounts due to and from the Lawyers Indemnity Fund are due on demand and have no fixed terms of repayment. The Lawyers Indemnity Fund has authorized a loan facility of up to \$1 million, of which \$nil has been drawn down as at December 31, 2022 (2021 – \$nil), to the General Fund to fund capital expenditures in accordance with the capital plan.

The Law Society of British Columbia – General Fund

Notes to the Fund Financial Statements

December 31, 2022

Monthly interest on the Lawyers Indemnity Fund's net loan position with the General Fund is earned at the rate equal to the stated monthly bond yield to maturity earned on the Lawyers Indemnity Fund investment portfolio. The average bond yield for 2022 was 3.72% (2021 – 1.88%). The General Fund's net loan position includes the General Fund's building loan and other operating balances with the Lawyers Indemnity Fund. The net loan position fluctuates during the year as amounts are transferred between the General Fund and the Lawyers Indemnity Fund to finance ongoing operations.

During 2022, interest revenue of \$292,681 was received from General Fund cash balances held by the Lawyers Indemnity Fund.

During 2021, interest of \$2,184 was paid on the building loan and interest revenue of \$190,071 was received from General Fund cash balances held by the Lawyers Indemnity Fund for a net interest income of \$187,887.

Other interfund transactions are disclosed elsewhere in these fund financial statements.

10 Related parties

The elected Benchers include licensees drawn from law firms across the province. These law firms may at times be engaged by the Society in the normal course of business. During the year ended December 31, 2022, expenses of \$27,030 (2021 – \$11,716) recorded at the carrying amount were incurred by the General Fund during the normal course of business with these law firms.

11 Financial instruments

The General Funds' financial instruments consist of cash, accounts receivable and accounts payable and accrued liabilities.

The significant financial risks to which the Society is exposed are credit risk and liquidity risk.

a) Credit risk

Cash, accounts receivable and the loan receivable expose the Fund to credit risk. Cash is held at Schedule 1 Canadian chartered banks, which minimizes risk. The risk of accounts receivable uncollectibility is low due to receivables being from many individual licensees rather than a few large accounts.

The maximum exposure to credit risk arising from the above-noted items is \$32,365,636 (2021 – \$33,681,343). Credit risk arises from the possibility that a counterparty to an instrument fails to meet its obligations.

b) Liquidity risk

Liquidity risk is the risk that the Fund will not be able to meet all cash outflow requirements. The Fund maintains sufficient resources and reserves to meet its obligations when due. The Fund monitors its cash requirements on an ongoing basis to ensure that there are sufficient resources for operations as well as fund anticipated capital expenditures.

**The Law Society of British
Columbia – Lawyers
Indemnity Fund**

Consolidated Fund Financial Statements
December 31, 2022

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The Law Society of British Columbia – Lawyers Indemnity Fund

Consolidated Fund Statement of Financial Position

As at December 31, 2022

	2022 \$	2021 \$
Assets		
Cash (note 2)	3,266,637	836,534
Accounts receivable – net of allowance (note 3)	501,503	338,460
Prepaid expenses	1,087,325	549,393
Short-term investments (note 4)	197,166	516,963
Member deductibles (note 9)	1,499,202	1,513,163
General Fund building loan (note 6)	-	100,000
Investments (note 5)	235,484,516	241,159,753
Long term receivable (note 7)	133,153	-
	<u>242,169,502</u>	<u>245,014,266</u>
Liabilities		
Accounts payable and accrued liabilities (notes 8)	1,379,221	2,151,511
Deferred revenue (note 2)	8,879,893	8,646,759
Due to General Fund (note 10)	11,733,076	6,170,902
Provision for claims (note 9)	79,420,883	72,917,766
Provision for ULAE (note 9)	13,899,000	12,399,000
	<u>115,312,073</u>	<u>102,285,938</u>
Net assets		
Unrestricted net assets	109,357,429	125,228,328
Internally restricted net assets (note 11)	17,500,000	17,500,000
	<u>126,857,429</u>	<u>142,728,328</u>
	<u>242,169,502</u>	<u>245,014,266</u>

Approved by

_____ President _____ Chair of Finance and Audit Committee

The accompanying notes are an integral part of these consolidated fund financial statements.

The Law Society of British Columbia – Lawyers Indemnity Fund

Consolidated Fund of Revenue and Expenses

For the year ended December 31, 2022

	2022 \$	2021 \$
Revenue		
Annual assessments	17,605,045	17,051,823
Investment income (note 5)	11,692,132	6,609,753
Other income	45,741	85,200
	<u>29,342,918</u>	<u>23,746,776</u>
Indemnity expenses		
Actuary, consultant and investment manager fees	1,910,880	1,119,439
Allocated office rent from General Fund	323,505	323,505
Contribution to program and administrative costs of General Fund	1,506,870	1,374,042
Insurance	1,776,803	1,067,773
Office	460,745	276,846
Provision for settlement of claims (note 9)	18,714,099	6,487,841
Provision for ULAE (note 9)	1,500,000	177,000
Salaries, wages and benefits	3,185,442	3,149,622
	<u>29,378,344</u>	<u>13,976,068</u>
Loss prevention expenses		
Contribution to co-sponsored program costs of General Fund	1,110,747	1,002,286
	<u>30,489,091</u>	<u>14,978,354</u>
Excess of revenue over expenses before the following	(1,146,173)	8,768,422
Fair value (decrease) increase in investments (note 5)	(15,494,726)	20,525,641
	(16,640,899)	29,294,063
Provision (recovery of) for income taxes	-	(545)
	(16,640,899)	29,294,608
Contribution from Trust Assurance Net Assets in General Fund (note 10)	770,000	2,300,000
Excess of revenue over expenses for the year	<u>(15,870,899)</u>	<u>31,594,608</u>

The Law Society of British Columbia – Lawyers Indemnity Fund

Consolidated Fund Statement of Changes in Net Assets

For the year ended December 31, 2022

	2022			2021
	Unrestricted \$	Internally restricted \$	Total \$	Total \$
Net assets – Beginning of year	125,228,328	17,500,000	142,728,328	111,133,720
Excess of revenue over expenses for the year	(15,870,899)	-	(15,870,899)	31,594,608
Net assets – End of year	109,357,429	17,500,000	126,857,429	142,728,328

The Law Society of British Columbia – Lawyers Indemnity Fund

Consolidated Fund Statement of Cash Flows

For the year ended December 31, 2022

	2022 \$	2021 \$
Cash provided by (used in)		
Operating activities		
Excess of revenue over expenses for the year	(15,870,899)	31,594,608
Items not affecting cash		
Unrealized loss (gain) on investments	21,486,729	(11,509,114)
Realized gain on disposal of investments	(5,992,003)	(9,016,527)
Pooled distributions from investments	(11,935,271)	(6,783,814)
Contribution from the General Fund	(770,000)	(2,300,000)
	<u>(13,081,444)</u>	<u>1,985,153</u>
(Increase) decrease in assets		
Accounts receivable	(163,044)	100,879
Prepaid expenses	(537,932)	(492,959)
Short-term investments	319,796	(1,525)
Corporate shares held	1,003,390	(1,003,390)
Long term receivable	(133,153)	-
Member deductibles	13,961	(242,659)
(Decrease) increase in liabilities		
Accounts payable and accrued liabilities	(772,291)	170,385
Deferred revenue	233,133	275,370
Provision for claims	6,503,118	(3,457,854)
Provision for ULAE	1,500,000	177,000
	<u>(5,114,466)</u>	<u>(2,489,600)</u>
Investing activities		
Decrease in General Fund building loan	100,000	500,000
Purchase of investments	(43,855,753)	(22,812,788)
Proceeds from investments	44,968,148	23,153,421
	<u>1,212,395</u>	<u>840,633</u>
Financing activities		
Interfund transfers (note 10)	6,332,174	(544,368)
Increase (decrease) in cash	<u>2,430,103</u>	<u>(2,193,335)</u>
Cash – Beginning of year	<u>836,534</u>	<u>3,029,869</u>
Cash – End of year	<u>3,266,637</u>	<u>836,534</u>
Supplementary cash flow information		
Interest paid	292,681	185,703
Interest income received	49,542	15,914

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

1 Nature of operations

The Law Society of British Columbia (the Society) regulates the legal profession in British Columbia, protecting the public interest in the administration of justice by setting and enforcing standards of professional conduct for lawyers.

The Society's fund covered in these consolidated fund financial statements is for the Lawyers Indemnity Fund (the Fund) and the Society's wholly owned subsidiary, BC Lawyers Indemnity Association (BCLIA) that together comprise the Society's indemnification program. Effective January 1, 1990, the Fund underwrites the program by which professional liability indemnity is provided to eligible members of the Society.

The Society's General Fund is presented in separate fund financials.

The Fund is maintained by the Society pursuant to Section 30 of the Legal Profession Act. BCLIA is not subject to regulation by the BC Financial Services Authority (BCFSA).

Part A

The Society's licensees have limits of coverage for claims and potential claims arising from negligent acts, errors or omissions under Part A of the BC Lawyers Compulsory Professional Liability Indemnification Policy (the Policy) as follows:

	\$		\$
The Fund	995,000	or	990,000
Deductible – applicable to indemnity payments only	5,000	or	10,000
			<hr/>
Limit per error or related errors			1,000,000
			<hr/>
Annual aggregate limit for all errors per covered lawyer			2,000,000
			<hr/>

The amount of the member deductible is \$5,000 for each initial claim resulting in an indemnity payment and \$10,000 for each additional claim within a three-year reporting period resulting in an indemnity payment.

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

For the 2022 and 2021 policy years, the Society and BCLIA have obtained stop-loss reinsurance in the amount of \$12 million to cover aggregate payments over \$26 million for Parts A and C of the Policy. This limit is co-indemnified 80/20 with the reinsurer paying 80% of losses over \$26 million to a maximum of \$12 million and the Fund paying 20%.

Part B

Effective May 1, 2004, Part B of the Policy provides defined indemnity coverage for dishonest appropriation of money or other property entrusted to and received by covered licensees in their capacity as lawyers and in relation to the provision of professional services.

For the 2022 and 2021 policy years, there is a \$300,000 per claim limit and a \$17.5 million profession-wide annual aggregate limit. There is no deductible payable by the covered lawyer. The Society and BCLIA have obtained insurance in the amount of \$5 million to cover a portion of the annual aggregate limit. This insurance is subject to a \$4 million group deductible (\$3 million in 2021) and is co-insured 80/20 with the insurer paying 80% of losses over \$4 million (\$3 million in 2021) to a maximum of \$5 million, and the Fund paying 20%.

Part C

Effective January 1, 2012, Part C of the Policy provides defined indemnity coverage for trust shortages suffered by covered lawyers as a result of relying on fraudulent certified cheques. Effective January 1, 2017, Part C was expanded to include coverage for certain other social engineering frauds.

For the 2022 and 2021 policy years, there is a limit of \$500,000 per claim, and per lawyer and firm annually, a profession-wide annual aggregate of \$2 million, and a default deductible of 35% of the client trust fund shortage (reduced by the amount of any overdraft paid). Coverage, for relying on fraudulent certified cheques, is contingent upon compliance with the Society's client identification and verification rules.

2 Significant accounting policies

These consolidated fund financial statements are prepared in accordance with Canadian accounting standards for not-for-profit organizations (ASNPO) as issued by the Canadian Accounting Standards Board.

Basis of consolidation

These consolidated fund financial statements include the accounts of the Fund and BCLIA.

Allocated administrative expenses

Administrative expenses are recovered by the General Fund of the Society from the Fund. Recoveries are based on amounts derived either on percentage of use or the proportion of the Fund's staff compared to the Society's total staff cost.

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

Cash

Cash comprises cash on hand and held with a Canadian chartered bank.

Fair value of financial instruments

The fair values of cash, accounts receivable, short-term investments and accounts payable and accrued liabilities correspond to their carrying values due to their short-term nature.

The fair values of the provision for claims correspond to their carrying values because they are discounted.

The interfund balances including the building loan receivable and other interfund transactions are recorded at their carrying amounts which approximate their exchange amounts.

Short-term investments

Short-term investments consist of pooled money market funds, whose investments have original maturities of less than 90 days. The carrying amount approximates the fair value at the reporting date due to their short-term maturities.

Investments

The Fund's investments consist of units in pooled equity, available for sale equities, bond pooled funds, real estate and mortgage funds, and infrastructure funds and are initially and subsequently measured at fair value. Changes in fair value are recognized in the consolidated fund statement of revenue and expenses in the year incurred. Transaction costs that are directly attributable to the acquisition of these investments are recognized in the consolidated fund statement of revenue and expenses in the year incurred.

Investment income

Investment income and pooled fund distributions are recorded on an accrual basis. Dividends are recorded on the date of record. Gains and losses realized on the disposal of investments are taken into revenue on the date of disposal.

Provision for claims

The provision for claims and unallocated loss adjustment expenses (ULAE) represents an estimate for all external costs of investigating and settling claims and potential claims reported prior to the date of the consolidated fund statement of financial position. The provision is adjusted as additional information on the estimated amounts becomes known during the course of claims settlement. All changes in estimates are expensed in the current period. The provision for unpaid claims is established according to accepted actuarial practice in Canada. It is carried on a discounted basis and therefore reflects the time value of money. To recognize the uncertainty in establishing best estimates, the Fund includes a provision for adverse deviations (PFAD).

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

Revenue recognition

The Fund follows the deferral method of accounting for annual assessments. Assessments are billed and received in advance on a calendar-year basis. Accordingly, assessments for the next fiscal year received prior to December 31 have been recorded as deferred revenue for financial reporting purposes and will be recognized as revenue in the next calendar year.

All other revenue is recognized when receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Use of estimates

The preparation of financial statements in conformity with ASNPO requires management to make estimates and assumptions which affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as at the date of the consolidated fund financial statements and revenues and expenses for the period reported.

The determination of the provision for claims and ULAE involves significant estimation. Actual results could differ from those estimates and the differences could be material.

Financial instruments

The Fund's financial instruments consist of cash, accounts receivable, short-term investments, investments and accounts payable and accrued liabilities.

The significant financial risks to which the Fund is exposed are credit risk, market risk, price risk and liquidity risk.

Credit risk

Cash, short-term investments, accounts receivable, members' share of provision for claims, bond pooled funds, the investment in real estate funds, infrastructure funds, and mortgage funds indirectly expose the Fund to credit risk.

The maximum exposure to credit risk arising from the above-noted items is \$165,805,496 (2021 – \$142,097,295).

Credit risk arises from the possibility that a counterparty to an instrument fails to meet its obligations.

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

The cash deposits are held only with Schedule I banks. The accounts receivable balances are spread across the broad membership base with no significant exposure to any one individual. The guidelines of the Society's statement of investment policies and procedures (SIPP) mitigate credit risk by ensuring the investments in the bond pooled funds have an adequate minimum credit rating and well-diversified portfolios.

Market risk

Market risk is the potential for loss to the Fund from changes in the value of its financial instruments due to changes in interest rates, foreign exchange rates or equity prices.

The Fund manages market risk by diversifying investments within the various asset classes and investing in pooled funds as set out in the Society's SIPP.

Price risk

Price risk is the risk that the fair value of the Society's investments will fluctuate due to changes in the market prices, whether these changes are caused by factors specific to the individual financial instrument, its issuer, or factors affecting all similar financial instruments traded in the market. It arises primarily on pooled equity, bond, real estate and mortgage fund investments.

To manage price risk, the Society has guidelines on the diversification and weighting of investments within pooled funds that are set and monitored against the Society's SIPP.

As at December 31, 2022, if pooled fund prices increased or decreased by 10% with all other factors remaining constant, net assets would have increased or decreased by approximately \$23.5 million (2021 – \$24.0 million).

Liquidity risk

Liquidity risk is the risk that the Fund will not be able to meet all cash outflow requirements. As at December 31, 2022, the sum of the Fund's cash, short-term investments and pooled fund investments, at fair value, which are available to settle the liabilities of the Society as they come due, exceeded the sum of the liabilities by \$123 million, or 107% (2021 – \$140 million, or 137%).

3 Accounts receivable

	2022 \$	2021 \$
Member deductibles	809,736	687,346
Allowance for doubtful accounts	(493,634)	(455,206)
Claim recoveries settlements receivable (note 7)	64,737	-
GST/HST/PST receivable	120,664	106,320
	<u>501,503</u>	<u>338,460</u>

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

4 Short-term investments

Short-term investments comprise pooled money market funds and equities with the following balances:

	2022 \$	2021 \$
Money market funds	197,166	516,963

5 Investments

	2022 \$	2021 \$
Investments – at fair value	235,484,516	241,159,753

	2022			
	Carrying cost \$	Gross unrealized gains \$	Gross unrealized losses \$	Estimated fair value \$
Bonds				
Pooled Funds	29,474,220	-	5,252,723	24,221,497
Equities				
Canadian Pooled Funds	19,179,199	5,374,627	-	24,533,826
International Pooled Funds	26,916,024	23,673,679	-	50,589,703
	46,095,223	29,048,306	-	75,143,529
Real Estate Fund	14,521,175	8,872,341	-	23,393,516
Mortgage Fund	47,361,950		1,285,570	46,076,380
Infrastructure	62,802,599	3,846,995	-	66,649,594
	124,685,724	12,719,336	1,285,570	136,119,490
	200,255,167	41,767,642	6,538,293	235,484,516

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

	2021			
	Carrying cost \$	Gross unrealized gains \$	Gross unrealized losses \$	Estimated fair value \$
Bonds				
Pooled Funds	53,079,370	-	2,231,002	50,848,368
Equities				
Canadian Pooled Funds	20,191,344	13,229,357	-	33,420,701
International Pooled Funds	31,371,087	37,473,628	-	68,844,715
Corporate Shares held	1,003,390	-	-	1,003,390
	52,565,821	50,702,985	-	103,268,806
Real Estate Fund	14,521,175	7,298,952	-	21,820,127
Mortgage Fund	42,480,873	198,709	-	42,679,582
Infrastructure	21,796,436	746,434	-	22,542,870
	78,798,484	8,244,095	-	87,042,579
	184,443,675	58,947,080	2,231,002	241,159,753

The effective yield on the bonds, mortgages and equities portion of the investment portfolio was 4.32% (2021 – 2.21%).

Investment risk management

The Society has adopted policies that establish the guidelines for all investment activities. These guidelines apply to the investment funds controlled by the Fund.

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

The Society's long-term funding requirements and relatively low level of liquidity dictate a portfolio with a mix of fixed income, equities and infrastructure, as well as real estate and mortgages. The Society invests in bonds, equities, infrastructure, real estate and mortgages through pooled funds.

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

Net investment income

	2022 \$	2021 \$
Interest on cash	49,542	13,729
Pooled distributions	11,935,271	6,783,910
Net interfund loan interest expense (note 10)	(292,681)	(187,886)
	<u>11,692,132</u>	<u>6,609,753</u>

Fair value changes in investments

	2022 \$	2021 \$
Realized gain on disposal of investments	5,992,003	9,016,527
Unrealized gain (loss) on investments measured at fair value	(21,486,729)	11,509,114
	<u>(15,494,726)</u>	<u>20,525,641</u>

6 General Fund building loan

In 1992, the Benchers authorized the lending of monies from the Fund to support the capital development of the Society's buildings at 845 Cambie Street, Vancouver, BC. The loan has no fixed repayment terms and bears interest calculated monthly at a rate equal to the stated monthly bond yield to maturity earned on the Fund's investment portfolio. During 2022, principal of \$100,000 (2021 – \$500,000) was repaid and the loan was paid off in 2022.

	2022 %	2021 %
Weighted average rate of return	<u>-</u>	<u>1.88</u>

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

7 Long term receivable

During the year ended December 31, 2022, current accounts receivable of \$64,737 (2021 - \$nil) and long term receivables of \$133,153 (2021 - \$nil) were recorded for Part A claims recoveries settlements. These claims recoveries are backed by enforceable settlement agreements and have demonstrated consistent collections.

8 Accounts payable and accrued liabilities

	2022 \$	2021 \$
Trade payables	1,209,223	1,555,058
Accrued trade expenses	167,937	596,453
Sales taxes payable	2,061	-
	<u>1,379,221</u>	<u>2,151,511</u>

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

9 Provision for claims and unallocated loss adjustment expenses (ULAE)

The changes in unpaid claims recorded in the consolidated fund statement of financial position are as follows:

	2022 \$	2021 \$
Part A Indemnity Coverage		
Provision for claims – Beginning of year	72,437,605	75,211,258
Provision for losses and expenses for claims reported in the current year	21,212,000	18,571,141
Decrease in estimated losses and expenses for losses reported in prior years	(6,194,000)	(11,806,141)
	<u>87,455,605</u>	<u>81,976,258</u>
Provision for claims liability		
(Subtract) add:		
Payments on claims reported in the current year	(1,131,439)	(965,972)
Payments on claims reported in prior years	(9,121,924)	(9,782,526)
Recoveries on claims	426,650	953,071
Change in due from members	(15,411)	256,774
	<u>(9,842,124)</u>	<u>(9,538,653)</u>
Claim payments – net of recoveries		
Part A Provision for claims – End of year	<u>77,613,481</u>	<u>72,437,605</u>
Part B Indemnity Coverage		
Unpaid claims – Beginning of year	288,857	455,169
Provision for losses and expenses for claims	3,376,169	211,550
	<u>3,665,026</u>	<u>666,719</u>
(Subtract) add:		
Payments on claims	(2,363,557)	(390,757)
Recoveries on claims	35,287	12,895
	<u>(2,328,270)</u>	<u>(377,862)</u>
Claim payments – net of recoveries		
Part B Provision for claims – End of year	<u>1,336,756</u>	<u>288,857</u>
Part C Indemnity Coverage		
Provision for claims – Beginning of year	191,304	709,193
Provision for losses and expenses for claims reported in the current year	319,930	(488,709)
	<u>511,234</u>	<u>220,484</u>
(Subtract) add:		
Payments on claims	(42,038)	(15,065)
Change in due from members	1,450	(14,115)
	<u>(40,588)</u>	<u>(29,180)</u>
Part C Provision for claims – End of Year	<u>470,646</u>	<u>191,304</u>
Total provision for Parts A, B and C Indemnity Coverage	<u>79,420,883</u>	<u>72,917,766</u>

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

The determination of the provision for unpaid claims and adjustment expenses requires the estimation of two major variables or quanta, being development of claims and the effect of discounting, to establish a best estimate of the value of the respective liability or asset.

The provision for unpaid claims and adjustment expenses is an estimate subject to variability, and the variability could be material in the near term. The variability arises because all events affecting the ultimate settlement of claims have not taken place and may not take place for some time. Variability can be caused by receipt of additional claim information, changes in judicial interpretation of contracts, significant changes in severity of claims from historical trends, the timing of claims payments and future rates of investment return. The estimates are principally based on the Fund's historical experience. Methods of estimation have been used that the Society believes produce reasonable results given current information.

The provision for ULAE is an actuarially determined estimate of the Fund's future operational costs relating to the administration of claims and potential claims reported up to the consolidated fund statement of financial position date.

The Fund discounts its best estimate of claims provisions at a rate of interest of 3.58% (2021 – 1.91%). The Fund determines the discount rate based upon the expected return on its investment portfolio of assets with appropriate assumptions for interest rates relating to reinvestment of maturing investments.

A 1% increase in the discount rate will have a favourable impact on the discounted claims liability of \$2.538 million (2021 – \$2.490 million) and a 1% decrease in the discount rate will have an unfavourable impact on the discounted claims liability of \$2,798 million (2021 – \$2.675 million).

To recognize the uncertainty in establishing these best estimates, to allow for possible deterioration in experience, and to provide greater comfort that the actuarial estimates are adequate to pay future claims liabilities, the Fund includes a PFAD in some assumptions relating to claims development and future investment income. The PFAD is selected based on guidance from the Canadian Institute of Actuaries.

The effects of discounting and the application of PFAD, net of members' share of provision for claims, are as follows (in thousands of dollars):

	2022	2021
	\$	\$
Undiscounted	86,866	75,914
Effect of present value	(8,881)	(4,395)
PFAD	13,834	12,285
	<u>91,819</u>	<u>83,804</u>

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

Part C indemnity claims (in thousands of dollars)

Claims year	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Estimate of undiscounted ultimate claims costs											
At end of claims year	-	-	-	-	-	65	650	91	56	17	
One year later	-	-	-	-	423	65	723	91	365		
Two years later	-	-	-	-	923	65	692	91			
Three years later	-	-	-	-	923	65	522				
Four years later	-	-	-	-	923	65					
Five years later	-	-	-	-	423						
Six years later	-	-	-	-							
Seven years later	-	-	-	-							
Eight years later	-	-	-	-							
Nine years later	-	-	-	-							
Current estimate of cumulative claims	-	-	-	-	423	65	522	91	365	17	1,483
Cumulative payments to date	-	-	-	-	(423)	(65)	(522)	-	(66)	-	1,076
Undiscounted unpaid liability	-	-	-	-	-	-	-	91	299	17	407
Undiscounted unpaid liability in respect of 2010 and prior years											-
Undiscounted unallocated loss adjustment expense reserve											81
Total undiscounted unpaid claims liability											488
Discounting adjustment (includes claim PFAD)											10
Total discounted unpaid claims liability											498

The expected maturity of the unpaid claims provision is analyzed below (undiscounted and gross of reinsurance):

(in thousands of dollars)	Less than one year	One to two years	Two to three years	Three to four years	Four to five years	Over five years	Total
	\$	\$	\$	\$	\$	\$	\$
December 31, 2022	22,334	17,486	13,649	9,508	6,522	17,367	86,866
December 31, 2021	19,634	15,416	11,685	8,027	5,927	15,225	75,914

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

Role of the actuary

With respect to preparation of these consolidated fund financial statements, the actuary is required to carry out a valuation of the Fund's policy liabilities and to provide an opinion regarding their appropriateness as at the date of the consolidated fund statement of financial position. The factors and techniques used in the valuation are in accordance with accepted actuarial practice, applicable legislation and associated regulations. The scope of the valuation encompasses the policy liabilities, which consist of a provision for unpaid claims and adjustment expenses. In performing the valuation of the liabilities for these contingent future events, which are by their very nature inherently variable, the actuary makes assumptions as to future loss ratios, trends, expenses and other contingencies, taking into consideration the circumstances of the Fund and the nature of the indemnity policies.

The valuation is based on projections for settlement of reported claims and claim adjustment expenses. It is certain that actual claims and claim adjustment expenses will not develop exactly as projected and may, in fact, vary significantly from the projections.

The actuary relies on data and related information prepared by the Fund. The actuary also analyzes the Fund's assets for its ability to support the policy liabilities.

10 Interfund transactions

The operations of the Fund and the General Fund are administered by the management of the Society. Balances between the funds arise from transactions of an operating nature and are recorded at exchange amounts at the dates of the transactions. Amounts due to and from the General Fund are due on demand and have no fixed terms of repayment. The Fund has authorized a loan facility of up to \$1 million to the General Fund to fund capital expenditures in accordance with the 10-year capital plan.

Pursuant to reserve policy, \$770,000 of the net assets related to trust assurance was transferred during 2022 (2021 – \$2.3 million).

Monthly interest on the Fund's net loan position with the General Fund is paid to the Fund at a rate equal to the stated monthly bond yield to maturity earned on the Fund's investment portfolio. The average bond yield for 2022 was 3.72% (2021 – 1.88%). The Fund's net loan position as at December 31, 2022 was \$11.7 million (2021 – \$6.1 million) which includes the General Fund building loan and other operating balances with the General Fund. This net loan position fluctuates during the year as amounts are transferred between the General Fund and the Fund to finance ongoing operations.

During the year ended December 31, 2022, interest revenue of \$nil (2021 – \$2,184) was received on the General Fund building loan, interest of \$292,681 (2021 – \$190,070) was paid on General Fund cash balances held by the Fund.

Other interfund transactions are disclosed elsewhere in these consolidated fund financial statements.

The Law Society of British Columbia – Lawyers Indemnity Fund

Notes to Consolidated Fund Financial Statements

December 31, 2022

11 Internally restricted net assets

The Benchers have allocated one annual, profession-wide, policy limit of \$17.5 million (2021 – \$17.5 million) of the net assets to Part B coverage for dishonest appropriation of trust funds or property.

12 Related parties

The elected Benchers include members drawn from law firms across the province. These law firms may at times be engaged by the Society in the normal course of business. During the year ended December 31, 2022, expenses of \$185,730 (2021 – \$229,723) were incurred by the Fund with these law firms.

13 Comparative Figures

Certain comparative figures have been reclassified to conform to the current year's financial statement presentation.

2022 Audited Financial Statements - Management Discussion and Analysis

The Law Society of British Columbia accounts for its financial activities through two separate funds: the General Fund and the Lawyers Indemnity Fund. Society management has the responsibility for assisting the Benchers in fulfilling the Society's mandate, while ensuring that operating expenditures are closely controlled and that appropriate accounting and internal controls are maintained. The 2022 audited financial statements for the two funds are set out in this report. The statements are presented in accordance with the presentation and disclosure standards of the Chartered Professional Accountants of Canada.

During 2022, in addition to the general oversight by the Benchers, the Finance and Audit Committee assisted the Benchers in ensuring that management and staff properly managed and reported on the financial affairs of the Society. The oversight by the Benchers and the Finance and Audit Committee included:

- Reviewing periodic financial statements of the General and Consolidated Lawyers Indemnity Fund
- Reviewing investment performance as managed by the appointed investment managers
- Reviewing with the Law Society's auditors their approach, scope and audit results
- Reviewing the annual Audit Report prepared by the Law Society auditors
- Reviewing the reporting from the Law Society's actuary on the provision for settlement of indemnity claims
- Recommending the 2023 practice fees and indemnity assessments, and reviewing corresponding budgets
- Reviewing the enterprise risk management plan

General Fund

Overview

Overall, the 2022 results for the General Fund resulted in an operating surplus of \$2.9 million, after the transfer of net assets from the trust assurance program to the Lawyers Indemnity Fund. Revenues were higher than expected, particularly in interest income and practice fees, while partially offset by a decrease in trust administration fees. Operating expenses increased over the prior year primarily due to increases in external counsel costs over 2021 with the increased number and complexity of discipline and professional conduct files.

Revenues

General Fund revenue was \$38.0 million, \$0.7 million (1.9%) higher than 2021 primarily due to higher practice fees due to the growth in the number of lawyers and higher interest income.

Net growth in 2022 in the number of full-time equivalent practicing lawyers was 3.9% resulting in a total of 13,834 full fee-paying equivalent lawyers for the year, compared to 13,317 in 2021, with a resulting increase in practice fee revenue of \$1.3 million.

Throughout 2022, the Bank of Canada increased its overnight policy rate from 0.25% at the beginning of 2022 to 4.25% by December 2022 which resulted in additional interest revenue of \$0.5 million compared to 2021.

Enrollment fees were up \$0.2 million from 2021 in line with a 13% increase in PLTC students.

These increases in revenue were partly offset by the trust administration fees revenue decrease of \$1.2 million as a result of the 35% drop in real estate market activity in the year.

The Lawyers Indemnity Fund contributed \$2.6 million to the General Fund for co-sponsored program costs and for general program and administrative expenses attributable to operations.

Expenses

The 2022 General Fund expenses increased by \$3.3 million (9.8%) to \$36.9 million, compared to \$33.6 million in 2021.

Benchers Governance and Support expenses increased by \$51,000 over 2021 due to an increase in travel and meeting costs with COVID restrictions being lifted.

Communications costs exceeded 2021 by \$186,000 due to general wage increases, staff resource changes and the use of external consultants for web site design.

Information Services costs increased \$239,000 due to increased software maintenance expenses, along with general wage increases and staffing costs.

Education and Practice expenses were higher than 2021 by \$427,000 resulting from an increase in PLTC students from 616 to 686 in 2022, along with general wage increases and staffing costs.

General and administration costs increased \$509,000 over 2021 due to general wage increases, higher recruiting expenses, increased insurance costs, and travel and meetings expenses.

Policy and Legal Services expenses increased \$188,000 over 2021, mainly due to general wage increases and increased staffing resources in privacy and information management functions, partially offset by decreased external litigation costs.

Regulation operating expenses increased \$1.43 million over 2021, primarily due to higher external counsel fees as a result of increased file complexity and the number of files in discipline and professional conduct, combined with staff turnover and vacancies, and general wage increases.

Occupancy costs in 2022 were \$251,000 higher than in 2021 due to higher property taxes, utilities, and building insurance costs.

Net Assets

Overall, the General Fund remains financially sound. As of December 31, 2022, net assets in the General Fund were \$36.7 million. The net assets include \$4.8 million in capital funding for planned capital projects related to the 845 Cambie Street building and workspace improvements

for Law Society operations. Pursuant to reserve policy, during the year \$0.8 million of net assets related to trust assurance was transferred to the Lawyers Indemnity Fund for Part B coverage. After this transfer, at December 31, 2022, the net assets include \$1.9 million of trust assurance net assets. The remaining General Fund net assets are \$30.0 million, of which \$12.2 million is invested in capital assets, mainly the 845 Cambie Street building, and \$17.8 million is working capital.

Lawyers Indemnity Fund

Overview

The Lawyers Indemnity Fund remains in a strong financial position at the end of 2022 despite the market value decreases experienced in the equity and fixed income sectors of the investment portfolio. Revenue from annual assessments was \$0.5 million higher than 2021 due to additional covered members, the provision for claims was higher than 2021, and other operating expenses were as expected.

Revenues

The 2022 indemnity assessment was \$1,800 per full-time lawyer, resulting in total revenue of \$17.6 million, compared to \$17.1 million in 2021.

During 2022, due to the downturn in equity and bond markets, the long term investment portfolio recorded a -2.2% net loss after fees compared to a benchmark loss of -3.2%. All the increases and decreases in the market value of the investment portfolio have been recognized through the statement of revenue and expenses in accordance with Canadian accounting standards for not-for-profit organizations.

Expenses

In 2022, the Lawyers Indemnity Fund general operating costs, including the \$0.8 million contribution to the General Fund, but excluding claims payments and unallocated loss adjustment expenses (ULAE), were \$10.3 million, compared to \$8.3 million in 2021. The increase is mainly due to of the cost of cyber coverage in the indemnity program for a full year in 2022 compared to 2021 when the coverage started mid-year and an increase in investment management fees due to the change in asset mix in the investment portfolio mix to increase infrastructure investments.

The net actuarial provision for settlement of claims for the year was \$18.7 million, an increase of \$12.2 million from 2021. The 2022 claims provision was higher than 2021 partly because the 2021 provision was lower with favourable developments in claims reserves from prior years. The provision for claims liabilities on the Balance Sheet at the end of 2022 was \$79.4 million, compared to \$72.9 million at the end of 2021.

Net Assets

As of December 31, 2022, LIF net assets were \$126.9 million, which includes \$17.5 million internally restricted for Part B claims, leaving \$109.3 million in unrestricted net assets.

Other Matters

Effective January 1, 2020, Section 30 of the *Legal Profession Act* was amended to convert the “insurance” program to an “indemnification” program. New Section 30.1 provides that the Law Society or any subsidiary (except for a captive insurer) that operates such a program is not an insurer as defined in the *Financial Institutions Act* or the *Insurance Act*, nor are they carrying on insurance business in B.C.

Effective January 1, 2020, the Lawyers Insurance Fund became the Lawyers Indemnity Fund. The LSBC Captive Insurance Company Ltd. was wound up on December 31, 2020, and all of its assets and liabilities have been transferred to the Law Society.

As of January 1, 2021, BCLIA was incorporated to issue the indemnity policies to covered lawyers. As a subsidiary of the Society that is exempt from regulation by the BC Financial Services Authority, BCLIA will assume from the Society the rights and obligations of the Captive under all outstanding professional liability policies, except the Business Innocent Covered Party (BIC) policies.



Quarterly Financial Report

February 2023

Prepared for: Finance & Audit Committee Meeting - April 13, 2023
Bencher Meeting - April 28, 2023

Prepared by: Finance Department

Quarterly Financial Report - End of February

Attached are the financial results and highlights to the end of February 2023.

General Fund (excluding capital and TAF)

To the end of February 2023, the General Fund operations resulted in a positive variance to budget. This is due to higher interest income outweighing small negative variances in other revenues and from lower operating expenses primarily due to timing differences.

Revenue

As noted on the attached financial highlights, total revenue for the period was \$5.2 million, \$89,000 (2%) ahead of budget.

This increase is mainly due to interest rates in Q1 being four times higher than Q1 2022 while the 2023 budget projected that interest rates double.

Operating Expenses

Operating expenses for the period were \$4.6 million, \$415,000 (8%) below budget due to timing differences in spending. The timing differences mainly include \$147,000 in compensation savings and \$105,000 for reduced meetings and travel costs.

As noted, the Single Legal Regulator project is being funded from net assets/reserves, with \$30,000 spent on a year to date basis.

TAF-related Revenue and Expenses

First quarter TAF revenue is not received until the April/May time period. The \$20,000 credit to TAF revenue debit is the reversal of an error from December 2022 results.

It should be noted that the BCREA forecasts that real estate unit sales will decline 7% from 2022 levels. We are expecting that this decline may result in a slightly reduced TAF revenue for the year.

Trust assurance program costs are close to budget.

Lawyers Indemnity Fund

LIF assessment revenues were \$2.9 million, at budget. LIF operating expenses were \$1.7 million, \$260,000 under budget, with savings in compensation costs and external fees.

All investment sectors for LIF investments have been close to break even in Q1 with commercial mortgage investments and infrastructure investments having positive returns that outweighed small losses in other funds. As a result, the market value of the LIF long term investment portfolio has increased by \$3.7 million since December 2022. The portfolio returns for the period were 1.55%, slightly below the benchmark of 1.79%.



Summary of Financial Highlights

(\$000's)

2023 General Fund Results - YTD Feb 2023 (Excluding Capital Allocation & Depreciation)				
	<u>Actual</u>	<u>Budget</u>	<u>\$ Var</u>	<u>% Var</u>
Revenue (excluding capital)				
Practice Fees	4,262	4,306	(45)	-1%
PLTC and Enrolment Fees	19	38	(19)	-51%
Electronic Filing Revenue	107	151	(44)	-29%
Interest Income	287	114	173	152%
Registration & Licensing	126	141	(14)	-10%
Fines, Penalties & Recoveries	51	76	(25)	-33%
Insurance Recoveries	18	5	13	0%
Other Revenue	38	28	10	36%
Other Cost Recoveries	45	21	23	-
Building Revenue & Tenant Cost Recoveries	249	233	16	7%
	<u>5,201</u>	<u>5,112</u>	<u>89</u>	<u>2%</u>
Expenses (excluding depreciation)				
	<u>4,578</u>	<u>4,993</u>	<u>415</u>	<u>8%</u>
	<u>624</u>	<u>119</u>	<u>504</u>	

Summary of Variances - YTD Feb 2023

Revenue Variances:

Permanent Variances

Interest Income - Rates are 4x higher since early 2022 while the budget projected that rates would be 2x	173
Practice Fees - 2022 Budget 14,128, 2023 Actual 13,974, 2023 Forecast 14,306 practicing lawyers	(30)
Electronic Filing Revenue - Forecasted 7% reduction in real estate market in 2023	(44)
	<u>99</u>

Timing Differences

Other timing differences	(10)
	<u>89</u>

Expense Variances:

Permanent Variances

Single Legal Regulator - project costs funded from net assets	30
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Timing Differences

Compensation savings - staff vacancies and lower benefits costs	147
Meetings and travel timing	105
Investigations - professional services and dues timing	30
Practice review files - program expenses	25
Building occupancy costs	19
Other timing variances	59
	<u>415</u>

Trust Assurance Program - YTD Feb 2023

	<u>Actual</u>	<u>Budget</u>	<u>Variance</u>	<u>% Var</u>
TAF Revenue	(20)	-	(20)	0.0%
Trust Assurance Department	603	610	7	1.1%
Net Trust Assurance Program	<u>(623)</u>	<u>(610)</u>	<u>(13)</u>	

2023 Lawyers Indemnity Fund Long Term Investments - YTD Feb 2023

Performance - Before investment fees	1.55%
Benchmark Performance	1.79%

The Law Society of British Columbia
General Fund
Results for the 2 Months ended February 28, 2023
(\$000's)

	2023 Actual	2023 Budget	\$ Variance	%
REVENUE				
Practice fees (1)	4,266	4,306	(40)	-1%
PLTC and enrolment fees	19	38	(19)	-50%
Electronic filing revenue	107	151	(44)	-29%
Interest income	287	114	173	152%
Registration and Licensing revenues	126	140	(14)	-10%
Fines, penalties and recoveries	51	76	(25)	-33%
Program Cost Recoveries	45	21	24	114%
Insurance Recoveries	18	5	13	260%
Other revenue	38	28	10	36%
Building Revenue & Recoveries	249	233	16	7%
Total Revenues	5,206	5,112	94	1.8%
EXPENSES				
Benchers Governance and Events				
Bencher Governance	140	146	6	4%
Board Relations and Events	54	46	(8)	-17%
	194	192	(2)	-1%
Corporate Services				
General Office	109	125	16	13%
CEO Department	141	133	(8)	-6%
Finance	212	195	(17)	-9%
Human Resources	104	129	25	19%
Records Management	36	43	7	16%
	602	625	23	4%
Education and Practice				
Licensing and Admissions	262	310	48	15%
PLTC and Education	419	472	53	11%
Practice Standards	56	88	32	36%
Practice Support	-	8	8	100%
	737	878	141	16%
Communications and Information Services				
Communications	109	100	(9)	-9%
Information Services	425	419	(6)	-1%
	534	519	(15)	-3%
Policy and Legal Services				
Policy and Legal Services	204	243	39	16%
Tribunal and Legislative Counsel	145	135	(10)	-7%
External Litigation & Interventions	-	-	-	0%
Unauthorized Practice	48	53	5	9%
	397	431	34	8%
Regulation				
CLO Department	121	159	38	24%
Intake & Early Assessment	384	402	18	4%
Discipline	324	359	35	10%
Forensic Accounting	119	150	31	21%
Investigations, Monitoring & Enforcement	527	605	78	13%
Custodianships	303	318	15	5%
	1,778	1,993	215	11%
Building Occupancy Costs	336	355	19	5%
Depreciation	172	202	30	15%
Total Expenses	4,750	5,195	445	8.6%
General Fund Results before Trust Assurance Program	456	(83)	539	
Trust Assurance Program (TAP)				
TAF revenues	(20)	-	(20)	0.0%
TAP expenses	603	610	7	1.1%
TAP Results	(623)	(610)	(13)	-2.1%
General Fund Results including Trust Assurance Program	(167)	(693)	526	
Contribution from Trust Assurance Program to Lawyers Insurance Fund	-			
General Fund Results	(167)			

The Law Society of British Columbia
General Fund - Balance Sheet
As at February 28, 2023
(\$000's)

	Feb 28 2023	Feb 28 2022
Assets		
Current assets		
Cash and cash equivalents	20,789	22,983
Unclaimed trust funds	2,151	2,154
Accounts receivable and prepaid expenses	1,648	1,495
Short Term Loan Receivable	535	
Due from Lawyers Insurance Fund	15,296	9,684
	<u>40,419</u>	<u>36,316</u>
Property, plant and equipment		
Cambie Street property	9,975	10,748
Other - net	2,169	2,002
	<u>12,144</u>	<u>12,750</u>
Long Term Loan		535
	<u>52,563</u>	<u>49,601</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	2,662	2,663
Liability for unclaimed trust funds	2,151	2,154
Deferred revenue	11,168	9,963
Deposits	89	88
	<u>16,070</u>	<u>14,868</u>
Net assets		
Capital Allocation	4,643	4,803
Unrestricted Net Assets	31,850	29,930
	<u>36,493</u>	<u>34,733</u>
	<u>52,563</u>	<u>49,601</u>

The Law Society of British Columbia
General Fund - Statement of Changes in Net Assets
Results for the 2 Months ended February 28, 2023
(\$000's)

	<i>Invested in Capital</i> \$	<i>Working Capital</i> \$	Unrestricted Net Assets \$	Trust Assurance \$	Capital Allocation \$	2023 Total \$	Year ended 2022 Total \$
Net assets - At Beginning of Year	12,223	17,766	29,989	1,868	4,803	36,660	33,724
Net (deficiency) excess of revenue over expense for the period	(244)	695	451	(623)	5	(167)	2,934
Contribution to LIF				-		-	
Purchase of capital assets:						-	
LSBC Operations	132	-	132	-	(132)	-	-
845 Cambie	32	-	32	-	(32)	-	-
Net assets - At End of Period	12,143	18,461	30,604	1,245	4,644	36,493	36,660

The Law Society of British Columbia
Lawyers Indemnity Fund
Results for the 2 Months ended February 28, 2023
(\$000's)

	2023	2023	\$	%
	Actual	Budget	Variance	Variance
Revenue				
Annual assessment	2,913	2,906	7	0%
Investment income	3,866	1,940	1,926	99%
Other income	44	11	33	300%
Total Revenues	6,823	4,857	1,966	40.5%
Expenses				
Insurance Expense				
Provision for settlement of claims	2,642	2,642	-	0%
Salaries and benefits	525	632	107	17%
Contribution to program and administrative costs of General Fund	278	261	(17)	-7%
Insurance	359	387	28	7%
Office	87	163	76	47%
Actuaries, consultants and investment brokers' fees	263	307	44	14%
	4,154	4,392	238	5%
Loss Prevention Expense				
Contribution to co-sponsored program costs of General Fund	185	210	25	12%
Total Expenses	4,339	4,602	263	5.7%
Lawyers Indemnity Fund Results before Contributions	2,484	255	2,229	
Contribution from Trust Assurance Program	-			
Lawyers Indemnity Fund Results	2,484	255	2,229	

The Law Society of British Columbia
Lawyers Indemnity Fund - Balance Sheet
As at February 28, 2023
(\$000's)

	Feb 28 2023	Feb 28 2022
Assets		
Cash and cash equivalents	1,644	1,588
Accounts receivable and prepaid expenses	1,460	1,048
Investments	239,224	232,289
	<u>242,328</u>	<u>234,925</u>
Liabilities		
Accounts payable and accrued liabilities	473	282
Deferred revenue	6,014	5,849
Due to General Fund	15,296	9,683
Provision for claims	77,305	73,368
Provision for ULAE	13,899	12,399
	<u>112,987</u>	<u>101,581</u>
Net assets		
Internally restricted net assets	17,500	17,500
Unrestricted net assets	111,841	115,844
	<u>129,341</u>	<u>133,344</u>
	<u>242,328</u>	<u>234,925</u>

The Law Society of British Columbia
Lawyers Indemnity Fund - Statement of Changes in Net Assets
Results for the 2 Months ended February 28, 2023

	Unrestricted \$	Internally Restricted \$	2023 Total \$	2022 Total \$
Net assets - At Beginning of Year	109,357	17,500	126,857	142,728
Net excess of revenue over expense for the period	2,484	-	2,484	(15,871)
Net assets - At End of Period	111,841	17,500	129,341	126,857



2023 General Fund Forecast

February 2023

Prepared for: Finance & Audit Committee Meeting - April 13, 2023
Bencher Meeting - April 28, 2023

Prepared by: Finance Department

Forecast - as at February 2023

Attached is the General Fund forecast to the end of the fiscal year.

Overview

Although it is early in the year, we are projecting to finish the year ahead of budget by \$639,000 mainly due to additional revenues. As the 2023 budget set a \$775,000 deficit budget, this will result in a \$136,000 deficit result.

Revenue Forecast

Total revenue is currently projected at \$33.1 million, \$669,000 (2%) ahead of budget, mainly due to higher interest rates, slightly higher than budgeted practicing lawyers, and additional fines and penalties.

Practice Fees: The 2023 practice fee budget was set at 14,128 practicing lawyers. As noted in the 2022 financial reports, the number of practicing lawyers increased 3.9% in 2022, leading to a higher number of practicing lawyers based for 2023. Growth in net additional practicing lawyers has also been strong in Q1 2023. With the current level of practicing lawyers, we are projecting 14,306 practicing lawyers in 2023, 3.4% over 2022 levels, resulting in additional practice fee revenue of \$287,000.

PLTC Revenue: We are projecting 633 PLTC students this year compared to 627 budgeted.

Electronic Filing Revenue: We are currently projecting electronic filing revenue to be \$68,000 under budget. Electronic filing revenue is related to the real estate market activity which is expected to decline 7% in 2023 from 2022 levels.

Interest Revenue: Interest rates since early 2022 have quadrupled while the 2023 budget allowed for a doubling of interest rates. This results in the 2023 interest revenue forecast to be \$290,000 over budget.

Fines, penalties, and recoveries: This revenue source is projected to be over budget \$178,000 as a result of higher trends in recent years.

Operating Expenses Forecast

As it is early in the year, regular operating expenses are projected to be at budget for 2023. Forecasting completed by all departments have projected that external counsel fees will be within budget, although this is an early assessment for the year.

Single Legal Regulator (including licensed paralegals): Actual spending was \$30,000 in Q1 for this project, which will be funded from net assets/ reserves. This spending will continue in 2023 and will be updated on a quarterly basis.

The Law Society of British Columbia
General Fund
For the 12 Months ending December 31, 2023
(\$000's)

	Forecast	Budget	Forecast vs Budget	
			\$	%
			Variance	
REVENUE				
Practice fees	26,125	25,838	287	1%
PLTC and enrolment fees	1,874	1,856	18	1%
Electronic filing revenue	898	966	(68)	-7%
Interest income	975	685	290	42%
Credentials and membership services	843	843	-	0%
Fines, penalties and recoveries	632	454	178	39%
Program Cost Recoveries	126	126	-	0%
Insurance Recoveries	20	20	-	0%
Other revenue	193	193	-	0%
Building Revenue & Recoveries	1,361	1,397	(36)	-3%
Total Revenues	33,061	32,392	669	2%
EXPENSES				
Benchers Governance and Events				
Bencher Governance	600	600	-	0%
Board Relations and Events	294	294	-	0%
	894	894	-	0%
Corporate Services				
General Office	767	767	-	0%
CEO Department	871	871	-	0%
Finance	1,238	1,238	-	0%
Human Resources	826	826	-	0%
Records Management	326	326	-	0%
	4,028	4,028	-	0%
Education and Practice				
Licensing and Admissions	2,232	2,232	-	0%
PLTC and Education	3,554	3,554	-	0%
Practice Standards	546	546	-	0%
	6,332	6,332	-	0%
Communications and Information Services				
Communications	612	612	-	0%
Information Services	2,119	2,119	-	0%
	2,731	2,731	-	0%
Policy and Legal Services				
Policy and Legal Services	1,795	1,795	-	0%
Tribunal and Legislative Counsel	820	820	-	0%
External Litigation & Interventions	25	25	-	0%
Unauthorized Practice	331	331	-	0%
	2,971	2,971	-	0%
Regulation				
CLO Department	1,162	1,162	-	0%
Intake & Early Assessment	2,586	2,586	-	0%
Discipline	2,978	2,978	-	0%
Forensic Accounting	920	920	-	0%
Investigations, Monitoring & Enforcement	4,254	4,254	-	0%
Custodianships	2,078	2,078	-	0%
	13,978	13,978	-	0%
Building Occupancy Costs	2,233	2,233	-	0%
SLR and LP initiatives	30	-	(30)	
Total Expenses	33,197	33,167	(30)	0%
General Fund Results	(136)	(775)	639	
Trust Assurance Program (TAP)				
TAF revenues	3,534	3,822	(288)	-8%
TAP expenses	3,722	3,722	-	0%
TAP Results	(188)	100	(288)	
General Fund Results including Trust Assurance Program	(323)	(675)	352	

(1) Membership fees include capital allocation of \$1.64m (Capital allocation budget = \$2.41m)