

# Minutes

Law Society  
of British Columbia

## Benchers

Date: Saturday, June 03, 2023

Present: Christopher A. McPherson, KC, President  
Jeevyn Dhaliwal, KC, 1<sup>st</sup> Vice-President  
Brook Greenberg, KC, 2<sup>nd</sup> Vice-President  
Paul Barnett  
Kim Carter  
Tanya Chamberlain  
Jennifer Chow, KC  
Cheryl S. D'Sa  
Tim Delaney  
Lisa Dumbrell  
Brian Dybwad  
Katrina Harry, KC  
Sasha Hobbs  
Lindsay R. LeBlanc  
Dr. Jan Lindsay

Geoffrey McDonald  
Steven McKoen, KC  
Paul Pearson  
Georges Rivard  
Michèle Ross  
Gurminder Sandhu  
Thomas L. Spraggs  
Barbara Stanley, KC  
Natasha Tony  
Michael Welsh, KC  
Kevin B. Westell  
Sarah Westwood, KC  
Guangbin Yan  
Gaynor C. Yeung

Unable to Attend: Kelly H. Russ

Staff: Don Avison, KC  
Avalon Bourne  
Jennifer Chan  
Natasha Dookie  
Kerryn Holt  
Jeffrey Hoskins, KC  
Aara Johnson

Michael Lucas, KC  
Claire Marchant  
Jeanette McPhee  
Lesley Small  
Christine Tam  
Adam Whitcombe, KC

Guests:	Andrea Argue, KC	President, Law Society of Saskatchewan
	Katie Armitage	Legal Counsel, Ministry of Attorney General
	Chief Justice Robert J. Bauman	Chief Justice of BC, Chief Justice of the Court of Appeal for BC, and Chief Justice of the Court of Appeal for Yukon
	Dom Bautista	Executive Director, Courts Center & Executive Director, Amici Curiae Friendship Society
	Tim Brown, KC	Executive Director, Law Society of Saskatchewan
	Barbara Carmichael, KC	Deputy Attorney General of British Columbia
	Christina Cook	Vice-Chair, Aboriginal Lawyers Forum
	Chief Judge Melissa Gillespie	Chief Judge of the Provincial Court of British Columbia
	Bill Hendsbee, KC	President, Law Society of Alberta
	Jonathan Herman	CEO, Federation of Law Societies of Canada
	Amelia Hill	Ministerial Advisor, Office of the Attorney General
	Chief Justice Christopher E. Hinkson	Chief Justice of the Supreme Court of British Columbia
	Mark Meredith	Treasurer and Board Member, Mediate BC
	Scott Morishita	First Vice President, Canadian Bar Association, BC Branch
	Dr. Val Napoleon	Interim Dean of Law, University of Victoria
	Elizabeth J. Osler, KC	CEO & Executive Director, Law Society of Alberta
	Josh Paterson	Executive Director, Law Foundation of BC
	Jill Perry, KC	President, Federation of Law Societies of Canada
	Ngai Pindell	Dean of Law, Peter A. Allard School of Law
	Linda Russell	CEO, Continuing Legal Education Society of BC
	Hon. Niki Sharma, KC	Attorney General of British Columbia
	Lana Walker	Assistant Dean of Law, Thompson Rivers University & Continuing Legal Education Society of BC Board Director

## **CONSENT AGENDA**

### **1. Minutes of April 28, 2023, meeting (regular session)**

The minutes of the meeting held on April 28, 2023 were approved unanimously and by consent as circulated.

### **2. Minutes of April 28, 2023, meeting (*in camera* session)**

The minutes of the *in camera* meeting held on April 28, 2023 were approved unanimously and by consent as circulated.

### **3. 2023 KC Appointments Advisory Committee**

The following resolution was passed unanimously and by consent:

**BE IT RESOLVED** that the Benchers appoint President Christopher A. McPherson, KC and First Vice-President Jeevyn Dhaliwal, KC as the Law Society's representatives on the 2023 KC Appointments Advisory Committee.

## **REPORTS**

### **4. President's Report**

President Christopher A. McPherson, KC confirmed that no conflicts of interest had been declared.

Mr. McPherson began his report by speaking about the impending retirement of Chief Justice Robert J. Bauman. He spoke about the strong working relationship between the Chief Justice and the Law Society, and the many issues that had been faced together over the past several years. Mr. McPherson indicated that the Chief Justice's retirement celebration would take place on September 8, 2023.

Mr. McPherson then announced the results of the recent Executive Committee election and the election for Benchers' Nominee for 2024 Second Vice-President. He congratulated Jennifer Chow, KC and Lindsay LeBlanc, respectively, and thanked all those who put forward their names for consideration. Mr. McPherson also congratulated the recent King's Counsel appointees, including Sarah Westwood, KC and Katrina Harry, KC.

Mr. McPherson spoke about the Law Society's retreat conference, which had taken place the day before. He indicated that the debate format of the conference had worked well and thanked First Vice-President, Jeevyn Dhaliwal, KC for organizing. Mr. McPherson also spoke about the theme of the conference, which had focused on AI and the regulation of AI, and he indicated that the

conference discussions had brought up some profound issues for consideration in regard to the regulation of legal services in the future.

Mr. McPherson then spoke about the current status of the single legal regulator initiative and the Ministry's What We Heard report, which had been developed in response to the Ministry's Intentions Paper regarding the single legal regulator initiative. He indicated that based on the responses received to the Ministry's Intentions Paper and referenced in the What We Heard report, there is a great deal of concern from lawyers regarding what effects the single legal regulator initiative will have on the independence of the profession. Mr. McPherson spoke about the importance of the independence of the profession and the Law Society's position that for the profession to be independent, the regulator must also be independent. He spoke about *Canada (Attorney General) v. Federation of Law Societies in Canada* and *Jabour v. Law Society of British Columbia*, which both reaffirm the importance of the independence of the profession, both of which were referenced in the report. He referenced the Commonwealth Law Conference, which he had attended in Goa, India, and the significant declaration that had come out of the conference regarding the importance of preserving and strengthening the independence of the judiciary and of the profession. Mr. McPherson indicated that the Law Society's position has consistently been that in order for the profession to continue to be independent, the regulator must also be independent, which would require a majority of lawyers on the board of the new entity. He spoke about the importance of the profession having confidence in its regulator to understand the role that lawyers play in the preservation of the public's constitutional rights, which is necessary to have a free and democratic society. Mr. McPherson also spoke about the question of proportionality, indicating that there are over 14,000 lawyers in BC in comparison to 500 notaries. He spoke about the importance of the board of the new entity having the necessary knowledge and expertise to understand the varied work of lawyers in order to protect the public. Mr. McPherson concluded his remarks by speaking about the Law Society's important work in maintaining the public interest in the administration of justice.

## **5. CEO's Report**

Mr. Avison began his report by updating Benchers on the Law Society's recent appearance before the Standing Committee on Finance, which hears from people across the province in relation to what should be included within the provincial budget. Mr. Avison indicated that the Law Society's focus for the provincial budget was on access to justice, including improving eligibility for support in family law matters. The single legal regulator initiative was also discussed, and Mr. Avison indicated that he had spoken about the impact that licensing paralegals would have on increasing access to justice.

Mr. Avison spoke about the Law Society's upcoming Annual General Meeting (AGM), which would be taking place on June 27. He indicated that several member resolutions had been received, including one following upon the member resolution received last year expressing opposition to any proposed changes to the *Legal Profession Act*.

Mr. Avison updated Benchers on a recent meeting with the CBABC and Aboriginal Lawyers Forum, which was also attended by Terri-Lynn Williams-Davidson, KC, Co-Chair of the Indigenous Engagement in Regulatory Matters (IERM) Task Force. He indicated that the meeting had focused on the final report of the IERM Task Force, a key priority in the strategic plan of Law Society.

Mr. Avison informed Benchers that he had received a request for a meeting from the First Nations Justice Council to discuss a number of items, including improving the numbers of Indigenous lawyers in BC.

Mr. Avison then spoke about the number of reforms the Law Society had recently implemented to the Tribunal and discipline processes. He indicated that Herman Van Ommen, KC, Tribunal Chair, would likely present on some additional proposed areas of reform at a future Bencher meeting.

Benchers discussed displaying the completion of the Indigenous Intercultural Course on the CPD page within the Member Portal. Mr. Avison advised that this would be done over the course of the next few months.

## **6. Remarks**

Mr. McPherson welcomed Attorney General Niki Sharma, KC to the meeting.

Ms. Sharma began her remarks with an acknowledgement of the work of the Law Society and the Benchers, as well as the members of the judiciary in attendance. She spoke about the importance of a strong independent profession, as well as the need to address access to justice challenges in BC. Ms. Sharma also spoke about the work the Law Society has done thus far to prepare for the licensing of paralegals. She informed Benchers that as previously indicated, it would not be possible to both proclaim 2018 amendments to the *Legal Profession Act* to allow for the licensing of paralegals and to implement the single legal regulator initiative, so the focus would be on the latter. She then reviewed with Benchers some of the key considerations from the What We Heard Report, including the importance of fulfilling obligations regarding Indigenous engagement, the importance of protecting the independence of the profession, and continuing the inclusion of publicly appointed board members. Ms. Sharma then reviewed with Benchers the Ministry's principles in considering the implementation of the single legal initiative, including protecting the independence of the profession, considering proportionality in terms of board composition, the use of an electoral model, ensuring a diversity of representation on the board, access to justice, and Indigenous engagement. She indicated that the size of the board of the new entity would likely be smaller than the Law Society's board. She concluded her remarks by indicating that the Ministry's intention was to introduce legislation in the fall, and that the Ministry would be sharing ideas with the Law Society regarding plans for the legislation.

Benchers engaged in discussions with Ms. Sharma on a number of matters related to the single legal regulator initiative, including the involvement and participation of the new entity in the Federation of Law Societies of Canada; whether or not the new entity would be able to license paralegals on a case by case basis; the revision of principles expressed in the Intentions Paper based on the submissions and feedback received; the timeline for legislation and the transition; the next steps for those in the Innovation Sandbox once the legislation is implemented; the extent of consultation with Indigenous groups; and the importance of having a large enough board to reflect the diversity of those regulated and the population of BC, while also maintaining a majority of lawyers.

Ms. Sharma indicated that the intention would be for the legislation to allow the regulator to be flexible and to evolve to serve better the needs of the population of BC. She also indicated that the goal of the single legal regulator initiative would be to allow greater access to justice, and that the work the Law Society has already done to address the barriers and impediments to access to justice would be continued.

Mr. McPherson thanked Ms. Sharma for attending the meeting and for engaging with Benchers on their questions and concerns related to the single legal regulator initiative.

## **DISCUSSION**

### **8. Federation of Law Societies of Canada and Law Societies of Alberta and Saskatchewan Roundtable Discussion**

Mr. McPherson introduced Jill Perry, KC, President of the Federation of Law Societies of Canada, Jonathan Herman, CEO of the Federation of Law Societies of Canada, Bill Hendsbee, KC, President of the Law Society of Alberta, Elizabeth J. Osler, KC, CEO and Executive Director of the Law Society of Alberta, Andrea Argue, KC, President of the Law Society of Saskatchewan, and Tim Brown, KC, Executive Director of the Law Society of Saskatchewan.

Ms. Perry and Mr. Herman provided an update on the work of the Federation of Law Societies of Canada. Ms. Perry indicated that the Federation's fall conference would be focused on AI and the challenges and opportunities provided by this new technology. She highlighted four main strategic priorities for the Federation, including the National Committee on Accreditation's lawyer competency profile, anti-money laundering and solicitor client privilege and the joint working group with the federal government on these matters; mental health and implementing the recommendations of the National Survey; and truth and reconciliation. Mr. Herman spoke about the role of the Federation in bringing together Canada's law societies to support the regulation of the legal profession in the public interest. He indicated that the other law societies are watching carefully what is happening in BC regarding the single legal regulator initiative.

Mr. Hendsbee and Ms. Osler provided an update on the work of the Law Society of Alberta. Mr. Hendsbee highlighted the Law Society of Alberta's strategic priorities, including a new licensure plan and experiential learning competency framework, as well as a new CPD profile. He also spoke about The Path, the Law Society of Alberta's mandatory cultural competence course. He indicated that only nine lawyers failed to complete the course, which resulted in some administrative suspensions, following which a group of lawyers called for a special meeting to put forward a resolution preventing the Law Society from mandating any mandatory training, which was soundly defeated. Ms. Osler spoke about entry to practice and the experiential learning competency framework. She indicated that this work would help with creating alternatives to the traditional articling practice. She also spoke about the part-time practice initiative pilot, which allows lawyers to take part-time practice status and pay a part-time fee. She indicated that the pilot had been approved by Benchers and the program would start officially next year. Mr. Hendsbee provided an update on the Law Society of Alberta's strategic planning process and reviewed with Benchers the plan's strategic pillars, including innovation and proactive regulation; competence and wellness; access; and equity, diversity and inclusion.

Ms. Argue and Mr. Brown provided an update on the work of the Law Society of Saskatchewan. Ms. Argue spoke about the value of discussing and collaborating on inter-provincial priorities and common issues facing legal regulators. Mr. Brown spoke about shared issues being addressed by the law societies, then spoke about particular priorities for Saskatchewan, including addressing gaps in the articling process and working on alternative approaches to licensure. He also spoke about the value in having a consistent approach to accreditation across Canada. Mr. Brown concluded his remarks with comments regarding the single legal regulator. He urged caution with changes to the regulator's governance model.

## **7. Proactive Practice Assessments Pilot Project**

Chief Legal Officer Natasha Dookie gave a presentation updating Benchers on the status of the Law Society's new regulatory processes. She reviewed the impact of pre-citation consent agreements, administrative penalties, and the alternative discipline program.

Ms. Dookie then provided some background on the recommendation to amend the Law Society Rules to allow for the creation of a proactive practice review program to be administered by the Practice Standards department. She indicated that the program, proposed as a two-year pilot project, would enable the Law Society to conduct a type of practice assessment targeting at-risk lawyers prior to their involvement in the complaints investigation and committee-based professional conduct process.

Benchers discussed the proposal with some Benchers raising concerns regarding the selection process for the pilot project. Following some discussion, the Benchers agreed to defer this matter to a later meeting due to time constraints.

**FOR INFORMATION**

**9. External Appointments: Continuing Legal Education Society of BC**

There was no discussion on this item.

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

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2023-07-05