

# Bencher Minutes

Public Minutes of the Four Hundred and Ninety-First Meeting of the Benchers of the Law Society of Alberta (Law Society)

November 29, 2018

Bell Tower, 800, 10104 – 103 Avenue NW, Edmonton, Alberta

8:30 am

<p><b>Benchers present</b></p>	<p>Don Cranston, President Rob Armstrong, President-Elect Ryan Anderson Glen Buick Arman Chak Bob Dunster Bill Hendsbee Cal Johnson Linda Long Jim Lutz Bud Melnyk Walter Pavlic Stacy Petriuk Robert Philp Kathleen Ryan Darlene Scott Deanna Steblyk Kent Teskey Margaret Unsworth Ken Warren Louise Wasylenko Nate Whitling</p>
<p><b>Regrets</b></p>	<p>Corie Flett Amal Umar</p>
<p><b>Executive Leadership Team members present</b></p>	<p>Don Thompson, Executive Director and Chief Executive Officer Elizabeth Osler, Deputy Executive Director and Director, Regulation Cori Ghitler, Director, Professionalism and Policy Andrew Norton, Director, Business Technology Drew Thompson, Chief Financial Officer David Weyant, Chief Operating Officer, the Alberta Lawyers Insurance Association</p>



<b>Staff and Guests present</b>	<p>Paule Armeneau, General Counsel &amp; Sr. Manager, Regulation          Colleen Brown, Manager, Communications          Nancy Carruthers, Manager, Professionalism &amp; Ethics          Ruth Corbett, Governance Administrator          David Hiebert, Canadian Bar Association, Alberta          Tina McKay, Manager, Membership          Nadine Meade, Manager, Accounting          Kara Mitchelmore, Chief Executive Officer, Canadian Centre for Professional Legal Education          Sandra Petersson, Executive Director, Alberta Law Reform Institute          Steve Raby, representative of the Federation of Law Societies of Canada          Christine Sanderman, Acting Executive Director, Legal Education Society of Alberta          Jody Saunders, Tribunal Counsel, Tribunal          Ryan Stephanson, Business Technology          Chioma Ufodike, Manager, Trust Safety</p>
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Secretary’s Note: The arrival and/or departure of participants during the meeting are recorded in the body of these minutes. A flexible approach was taken to the order of business.

Tab	Item
<b>I</b>	<p><b>Opening Remarks from the Chair</b></p> <p>The chair called the meeting to order at 8:40 a.m. on November 29, 2018 by acknowledging that the land on which we gathered is Treaty 6 territory and a traditional meeting ground and home for many Indigenous Peoples, including Cree, Saulteaux, Blackfoot, Métis, and Nakota Sioux.</p> <p>The Chair included the following in his opening remarks:</p> <ul style="list-style-type: none"> <li>- A mixer for Benchers and future and current Indigenous lawyers is planned for the evening.</li> <li>- Benchers were advised that the scope of <i>in-camera</i> meetings will be discussed as part of the Bencher Relations Protocol.</li> <li>- On behalf of the Benchers, the chair acknowledged Mr. Thompson’s leadership and dedication to the Law Society and the profession during his tenure as Executive Director and expressed warm congratulations to Mr. Thompson upon his retirement on December 31, 2018.</li> </ul>



	<p>- On behalf of the Benchers, the Chair thanked Mr. Thomson for his work and commitment to the Law Society as Chief Financial Officer and wished him well upon his retirement on December 31, 2018.</p>
<p><b>2</b></p>	<p><b>Election of the President-Elect and the Executive Committee</b></p> <p>Documentation circulated for this item included the Statements of Intention, approved election procedures, and the applicable Rules of the Law Society (the “Rules”). The Chair advised the Benchers that Mr. Teskey put his name forward for President-Elect. The Chair called for nominations from the floor in accordance with Rule 27(1) and there were none.</p> <div data-bbox="305 720 1458 888" style="border: 1px solid black; padding: 5px;"><p><b>Motion:</b> <b>To close the nominations for President-Elect.</b></p><p style="text-align: right;"><b>Seconded Carried</b></p></div> <p>Mr. Teskey was acclaimed as the President-Elect pursuant to Rules 27(1)(b) and 28(2)(a).</p> <p>The Chair then outlined the procedures for the election of the Executive Committee and read the Statements of Intention. The Chair called for nominations from the floor and there were none.</p> <div data-bbox="305 1247 1458 1415" style="border: 1px solid black; padding: 5px;"><p><b>Motion:</b> <b>To close the nominations for the Executive Committee.</b></p><p style="text-align: right;"><b>Seconded Carried</b></p></div> <p>The election was held and after one round of voting the following individuals each received a majority vote and were declared the four Benchers elected to the Executive Committee pursuant to Rule 27(1)(d), in alphabetical order by surname: Cal Johnson, Darlene Scott, Margaret Unsworth, and Ken Warren.</p>
<p><b>3</b></p>	<p><b>Appointment of a Lay Bencher to the Executive Committee</b></p> <p>The Lay Benchers appointed Mr. Dunster as the Lay Bencher on the Executive Committee for one year pursuant to Rule 27(1)(e).</p>



#### 4 **Appointment of a Bencher to the Nominating Committee**

The Nominating Committee consists of the Past President, President, President Elect, and one other Bencher to be recommended by the Executive Committee. Ms. Ryan put her name forward.

**Motion:**

**To appoint Kathleen Ryan as the Bencher-at-large on the Nominating Committee.**

**Seconded  
Carried**

Ms. Ryan left the meeting.

#### 5 **2019 Business Plan and Budget**

The proposed 2019 Business Plan and Budget was circulated with the meeting materials. The Chair of the Audit and Finance Committee summarized the process for the review and recommendation of the 2019 Business Plan and Budget.

**Motion:**

**To approve the 2019 Law Society of Alberta Business Plan and Budget as presented and to set the 2019 Practice Fee at \$2,600.**

**Seconded  
Carried**

#### **Canadian Centre for Professional Legal Education (CPLED) presentation**

A PowerPoint presentation was circulated with the meeting materials. The presentation focused on the financial model for CPLED 2.0. Highlights and discussion included the following:

- Start-up costs are anticipated to be approximately \$3 million which will be funded through a loan from the 3 law societies to CPLED.
- Subsidies for CPLED 2.0 are yet to be determined. The Benchers will make the final determination of the amount of the Law Society's subsidy.
- A 10-year cash flow was presented, including inflows based on enrolment, fixed and variable costs, loan repayment, and assumptions over 10 years to sustain the program. The annual CPLED budget will reflect the cash flow model presented.



	<ul style="list-style-type: none"><li>- Projected enrolment for CPLED 2.0 includes additional students joining the program from Nova Scotia.</li><li>- The program will be reviewed and refreshed every three years.</li><li>- The anticipated tuition fee of \$6100 in the first year of the program is considered to be comparable with other provinces.</li></ul>
<b>6</b>	<p><b>Board Relations Protocol (BRP) (formerly known as Leadership Team Norms)</b></p> <p>Documentation for this item was circulated with the meeting materials. The Benchers were advised that “Meeting Norm D”, regarding <i>in-camera</i> sessions, was removed from the BRP pending further work and discussion. The Benchers worked in groups to discuss the remaining norms, to ensure that they reflect Benchers’ earlier feedback and intentions. A number of additional changes were suggested and will be incorporated into the BRP.</p> <div style="border: 1px solid black; padding: 10px;"><p><b>Motion:</b> <b>To approve the Board Relations Protocol as set out in the meeting materials, subject to the amendments suggested.</b></p><p style="text-align: right;"><b>Seconded Carried</b></p></div> <p>The Benchers then discussed a set of questions in relation to Meeting Norm “D”. Management collected the responses and will prepare further work on this norm for discussion at a future Bencher meeting.</p>
<b>7</b>	<p><b>Bencher Consideration of Big Issues</b></p> <p>The document that was circulated with the meeting materials for this item laid out two possible approaches for addressing the big issues identified. The Benchers discussed the pros and cons of each approach, including:</p> <ul style="list-style-type: none"><li>- Benchers like the group meeting format and want to be engaged throughout the discussion of issues, not just at the decision point.</li><li>- The amount of Bencher time and resources the work will consume was questioned and it was suggested that the work could be scheduled into existing meetings as group discussions.</li><li>- Big issues discussions will feed into the Strategic Plan process.</li><li>- Diversity at the Bencher table had not been ranked as a big issue; however, following a discussion, a consensus of the Benchers supported the suggestion that it could be reviewed by the Policy Committee as a discrete issue.</li></ul>



	<p>- There was support for the unified theme approach. Management and the Executive Committee will proceed with planning and determining next steps.</p>
<b>8</b>	<p><b>Trust Safety Update</b></p> <p>The presentation that was circulated with the meeting materials for this item provided background on the evolution of Trust Safety at the Law Society; an update on recent changes including the implementation of a uniform annual report filing date, the late-filing fee process, and automation of the self-report; and a look to the future.</p>
<b>9</b>	<p><b>Delegation of Authority Rule Amendments</b></p> <p>Documentation for this item was circulated with the meeting materials. The proposed amendments to the Rules are intended to improve the efficiency of conduct processes under Section 53 of the <i>Legal Profession Act</i> (the Act). The Policy Committee reviewed the proposed amendments and recommended them for Bencher approval.</p> <p>The Benchers' discussion focused on gaining a better understanding of the level of transparency and oversight of files. Management advised that although the proposed delegation of authority would provide staff with the power to conduct investigations, all files are overseen by General Counsel. It was suggested that guidelines could be published to facilitate understanding among the profession of conduct processes.</p> <div style="border: 1px solid black; padding: 10px;"><p><b>Motion:</b> <b>To revoke the Benchers' resolution of December 4, 2014, delegating the Executive Director's authority under section 53 of the Legal Profession Act and Rule 89.1 of the Rules of the Law Society of Alberta.</b></p><p><b>To amend Rules 85, 86, 87, 88 and 89.1 of the Rules of the Law Society of Alberta, as set forth in Appendix "A" of the meeting materials.</b></p><p><b>To approve consequential amendments to Guidelines as set forth in Appendix "C" of the meeting materials.</b></p><p style="text-align: right;"><b>Seconded</b> <b>Carried by greater than a 2/3 majority</b></p></div>



<b>10</b>	<b>Federation of Law Societies of Canada and Process for Model Code Amendments</b>  Documentation for this item was circulated with the meeting materials. Ms. Carruthers summarized the history of the Model Code, the process for amendments, and the role of law society representatives.  Ms. Carruthers left the meeting.
<b>11</b>	<b>Adjudicator Reappointments</b>  Documentation for this item was circulated with the meeting materials. Ms. Saunders advised that the assessment of the adjudicator pool and the increase in single Bencher hearings suggest that reducing the pool from 22 to 18 adjudicators will be sufficient to meet demand.  <div data-bbox="321 968 1453 1297" style="border: 1px solid black; padding: 10px;"><p><b>Motion:</b> <b>To authorize the re-appointment of the appointed lawyer and public adjudicators, identified in Appendix A of the meeting materials, to the roster of adjudicators eligible to serve on adjudicative Committees, on the same terms and conditions as they had previously been appointed.</b></p><p style="text-align: right;"><b>Seconded Carried</b></p></div>
<b>12</b>	<b>Part-Time Fee Survey update</b>  A research report on Part-Time Membership Fees was circulated with the meeting materials. Data and demographics relating to the survey that was conducted in the fall of 2018 were presented. Highlights and discussion included the following: <ul style="list-style-type: none"><li>- The participation rate in the survey was high, with a clear majority of respondents in favour of implementing part-time membership fees.</li><li>- The survey was done on the membership side, not the insurance side; however, the insurance levy would necessarily factor into any discussion on part-time fees. Distinct challenges associated with insurance were noted, in that only 6,000 of the 10,000 Alberta lawyers are insured.</li></ul>



	<ul style="list-style-type: none"><li>- Monitoring of part-time fees would be done through an honour system with declaration, subject to audit.</li><li>- Next steps include reviewing the survey results in more detail and preparing options for moving forward.</li></ul>
<b>13</b>	<b>President's report</b>  The President's report was circulated with the meeting materials.
<b>14</b>	<b>Assurance Fund update</b>  A PowerPoint presentation was circulated with the meeting materials. Ms. Armeneau presented the update, including statutory requirements, departmental changes, elimination of the hearing backlog, and improvements to processes and the reporting structure. Statistics on the current state of the Assurance Fund demonstrate the dramatic reduction in the file inventory.  Ms. Mitchelmore left the meeting.
<b>15</b>	<b>Membership Services/Customer Service 101</b>  A memo and PowerPoint presentation were circulated with the meeting materials. Ms. McKay provided an overview of the Membership Department, key transactions being done, the customer service focus, and facts on students and lawyers. Initiatives being explored include digital identification cards and potential payment plans for membership fees.
<b>16</b>	<b>Executive Director's report</b>  The Executive Director's report was circulated with the meeting materials. The status of the Law Society's position with respect to National Discipline Standards was highlighted. The report on the Law Society Business Plan indicates timely progress on all activities. Plans are underway to evaluate the Early Intervention program and the Benchers will receive a report in due course.
<b>17</b>	<b>Consent Agenda Item: Amendment to the 2020 Jasper Retreat dates</b> Note: the amendment is shown in blackline.





	<p><b>Motion:</b> <b>To amend the 2020 Benchers meeting dates and locations:</b> <b>February 20 – 21, 2020 – Edmonton;</b> <b>April 23 – 24, 2020 – Calgary;</b> <b>June 10 – 13 June 3 – 6, 2020 – Jasper;</b> <b>October 1 – 2, 2020 – Edmonton;</b> <b>November 5, 2020 – Budget meeting via videoconference (1 – 4 pm); and</b> <b>December 3 – 4, 2020 – Calgary.</b></p> <p style="text-align: right;"><b>Seconded</b> <b>Carried</b></p>
<b>18</b>	<b>REPORTS:</b>
<b>18.1</b>	<b>Alberta Law Reform Institute (ALRI) report</b>  The ALRI report was circulated with the meeting materials. ALRI's selection process for new projects was presented and it was confirmed that the Law Society's proposal for a review of the Act was accepted by ALRI for the next step in the review process.
<b>18.2</b>	<b>Canadian Bar Association report</b>  This report was circulated with the meeting materials.
<b>18.3</b>	<b>Federation of Law Societies of Canada report</b>  This report was circulated with the meeting materials.
<b>18.4</b>	<b>Innovating Regulation Task Force report</b>  This report was circulated with the meeting materials.
<b>18.5</b>	<b>Legal Education Society of Alberta report</b>  This report was circulated with the meeting materials.
<b>Other Business</b> There being no further business the Public meeting was adjourned at 3:30 pm.	