



NOVA SCOTIA BARRISTERS' SOCIETY

COUNCIL MEETING AGENDA
BLACK CULTURAL CENTRE, CHERRY BROOK

Date	Friday, May 17, 2019
Time	9:00 am
Chair	Frank E. DeMont QC, President

ITEM	TOPIC	TIME ALLOTTED	SPEAKER	MATERIALS (Pg #)	ACTION
1. IN CAMERA					
1.1	One <i>in-camera</i> item	15	B. Mahody		
2. INTRODUCTORY MATTERS/CALL TO ORDER					
2.1	Introductory Remarks	5	F. DeMont		
3. POLICIES/PROCESSES					
3.1	Draft Annual Lawyer Report 2019 <i>Director of Finance & Administration, Kate Shewan, will present the proposed draft Annual Lawyer Report to go out to the membership in June 2019</i>	20	K. Shewan		Discussion; Approval
3.2	Client ID Rules <i>Council will review the memo prepared by Elaine Cumming in this matter and consider approval to distribute this information to the membership. Regulatory amendment required – Regulation 2.9.1</i>	20	T. Pillay F. DeMont		Discussion; Approval
3.3	High Level Overview of Next Strategic Plan	20	F. DeMont T. Pillay		Presentation; Discussion
3.4	Committee Changeover <i>Council will discuss how new Council members will be appointed to committees and how best to determine whether non-returning Council members wish to stay on their current committees</i>	10	F. DeMont T. Pillay		Discussion, Decision
4.					
4.1	Appointment of Council member from the Southwestern District <i>Council will review GNC's recommendation</i>	5	All		Discussion; Approval
4.2	Appointment of Public Representative to Council <i>Council will review GNC's recommendation for the appointment of a Public Representative to Council</i>	5	All		Discussion; Approval
5. DISCUSSION OF BIG ISSUE – LSS and E&A Status Updates; Next Strategic Plan					

5.1	LSS Update <i>LSS Manager, Jennifer Pink, and LSS Officer, Rob McCleave, will present the LSS Update to Council</i>	30	J. Pink R. McCleave		Presentation; Discussion
5.2	Update from the Equity & Access Office <i>Angela Simmonds, Equity & Access Manager, will present the Equity & Access Office Update to Council</i>	60	A Simmonds		Presentation; Discussion
There will be a working lunch with the members of the African Nova Scotian Community Following lunch there will be an opportunity to debrief and reflect on the discussions (30 minutes)					
6. FOR INFORMATION					
6.1	2018-2019 Council Calendar				Information
6.2	Activity Plan				Information
6.3	Executive Director Report				Information
6.4	President's Report				Information
6.5	PR Monitoring Update				Information
6.6	FLSC Report				Information
6.7	Grey Areas – Clayton Report: The Wolf Finally Arrives				Information
7. CONSENT AGENDA					
<i>The Consent Agenda matters are proposed to be dealt with by unanimous consent and without debate. Council members may seek clarification or ask questions without removing a matter from the consent agenda. Any Member may request that a consent agenda item be moved to the regular agenda by notifying the President or the Governance Officer (Julia Schabas) prior to the meeting.</i>					
7.1	Minutes of March 15, 2019, meeting	5	F. DeMont		Approval of all
7.2	Minutes of April 26, 2019, meeting				
7.3	Committee Appointments: Appointment of Tim Matthews QC (Chair), Tanya Butler, Jeanne Desveaux, Erin O'Brien Edmonds QC, Trinda Ernst QC, Lawrence Graham QC, Shannon Ingraham-Christie, Jessica Lyle, Benjamin Carver and Mary Jane Saunders to the Wills, Power of Attorney and Personal Directives Standard Committee Appointment of Dr. Ian Reid to the Hearing Committee				
8. The 2 Minute Evaluation <i>Council members are asked to complete the evaluation.</i>					
9. MEETINGS					
	<ul style="list-style-type: none"> • June 14, 2019 Council Orientation & Dinner • June 15, 2019 Council Annual Meeting 				



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Lawyers' Fund for Client Compensation Committee and
Professional Responsibility Policies and Procedures Committee

Date: May 15, 2019

Subject: Lawyers' Fund for Client Compensation

For: **Approval** X
 Introduction □
 Information □

Recommendation/Motion:

It is recommended that the amendments to Part 11 of the Regulations regarding the Lawyers' Fund for Client Compensation be approved.

Executive Summary:

Over the last several months, the Society has received an unprecedented number of compensation claims related to the alleged misappropriation of client funds by Jason Boudrot. As a result, the regulations that guide the work of both staff and the Committee that is tasked with reviewing these claims have been reviewed in an effort to ensure that the authority for the work that is required is clearly set out. It has been determined that some changes to the Regulations are required so that this critical public protection work can be carried out more efficiently.

Analysis:

The bulk of the claims that have recently been received by the Society exceed the \$5000 limit set out in the Regulations for approval by the Lawyers' Fund for Client Compensation Committee (LFCCC). As a result, they must all be referred to Council for approval. This is a duplication of work. Council has delegated decision making authority at this level to the LFCCC on the understanding that is a specialized and well-resourced Committee. As such, there is no rational connection between the skill of this Committee to review claims and the requirement that all claims over \$5000 to be determined by Council. With respect, Council does not have the detailed facts and experience with claims review that the LFCCC possesses, and the dollar threshold appears arbitrary.

The following table shows the number and dollar values of claims that have been received relating to Jason Boudrot to date:

Number of Claims Received	Amount Claimed	Total Amount Claimed
8	\$0.00 to \$4,999.00	\$21,000.11
14	\$5,000 to \$9,999.99	\$99,230.71
5	\$10,000 to \$24,999.99	\$77,393.65
4	\$25,000 to \$49,999.99	\$121,952.26
7	\$50,000 +	\$808,186.98
38		\$1,127,763.71

The proposed regulatory amendments include the recommendation that only claims exceeding \$50,000 be referred to Council for approval, and anything below that dollar value can be properly left to the LFCCC which has the time, training and resources, including the authority to conduct interviews, to properly review and assess these claims. In addition, with respect to the Boudrot claims, each claim file is being reviewed by a lawyer familiar with the area of practice involved in order to value any work completed by Mr. Boudrot, and recommend appropriate compensation.

At this level, Council will still make decisions relating to over 75% of the funds paid from the Compensation Fund, and the majority of lower level claims will be addressed solely by the LFCCC, with regular reports to Council for information.

The other amendments proposed are generally of a housekeeping nature and include some grammatical changes, threshold clarifications and procedural guidance.

Exhibits/Appendices:

Appendix A – draft amendments to Part 11 of the Regulations



NOVA SCOTIA
BARRISTERS' SOCIETY

REGULATION AMENDMENTS

Existing Regulation	Proposed Regulation	Rationale
<p>PART 11 LAWYERS' FUND FOR CLIENT COMPENSATION</p> <p>11.1 Interpretation</p> <p>11.1.1 In this Part:</p> <p>(a) "claim" means a claim for compensation from the Fund,</p> <p>(b) "claimant" means a person who is making a claim,</p> <p>(c) "claim's year" means the period from May 1 to the following April 30</p> <p>(d) "committee" means the Client Compensation Fund Committee</p> <p>(e) "pecuniary loss" includes, but is not limited to, taxes, interest, late charges and similar penalties required to be paid by a claimant as a result of the conduct giving rise to a claim, but does not include general damages.</p> <p>11.2 Purpose of Fund</p> <p>11.2.1 The Fund established under Part IV of the Act is to compensate claimants who have sustained pecuniary losses because of misappropriation or wrongful conversion of the claimant's money or property by a member of the Society or a Law Corporation.</p>	<p>PART 11 LAWYERS' FUND FOR CLIENT COMPENSATION</p> <p>11.1 Interpretation</p> <p>11.1.1 In this Part:</p> <p>(a) "claim" means a claim for compensation from the Fund;</p> <p>(b) "claimant" means a person who is making a claim;</p> <p>(c) "claim's year" means the period from May 1 to the following April 30;</p> <p>(d) "committee" means the Client Compensation Fund Committee Lawyers' Fund for Client Compensation Committee;</p> <p>(e) "pecuniary loss" includes, but is not limited to, taxes, interest, late charges and similar penalties required to be paid by a claimant as a result of the conduct giving rise to a claim, but does not include general damages.</p> <p>11.2 Purpose of Fund</p> <p>11.2.1 The Fund established under Part IV of the Act is to compensate claimants who have sustained pecuniary losses because of misappropriation or wrongful conversion of the claimant's money or property by a member of the Society or a Law Corporation.</p>	

Existing Regulation	Proposed Regulation	Rationale
<p>Payment of Premiums 11.2.1.1 If the Fund is insured, the premiums for such coverage may be paid from the Fund.</p> <p>Establishment of LRA Compensation Fund 11.2.2 There is hereby established a fund, to be called the LRA Compensation Fund, for the purpose of reimbursement in the event the Minister of Finance is required to pay compensation pursuant to the Land Registration Act for claims arising out of dishonesty, fraud or criminal acts in the certifying of title by a practising lawyer.</p> <p>11.3 Application for Compensation 11.3.1 A claimant may claim for compensation from the Fund or the fund established pursuant to Section 60 of the Act.</p> <p>Content of Application 11.3.2 A claim for compensation in the prescribed form shall be submitted to the Executive Director within six months after the loss came to the knowledge of a claimant and shall contain:</p> <ul style="list-style-type: none"> (a) contact information for the claimant, (b) information about the member of the Society whose alleged misappropriation or conversion give rise to the claim, (c) detailed facts supporting this claim, including the date on which the claimant had knowledge of the loss, (d) the nature of the relationship with the member of the Society whose alleged misappropriation or conversion gave rise to the claim, 	<p>Payment of Premiums 11.2.1.1 If the Fund is insured, the premiums for such coverage may be paid from the Fund.</p> <p>Establishment of LRA Compensation Fund 11.2.2 There is hereby established a fund, to be called the LRA Compensation Fund, for the purpose of reimbursement in the event the Minister of Finance is required to pay compensation pursuant to the Land Registration Act for claims arising out of dishonesty, fraud or criminal acts in the certifying of title by a practising lawyer.</p> <p>11.3 Application for Compensation 11.3.1 A claimant may claim for compensation from the Fund or the fund established pursuant to Section 60 of the Act.</p> <p>Content of Application 11.3.2 A claim for compensation in the prescribed form shall must be submitted to the Executive Director within six months after the loss came to the knowledge of a claimant and shall must contain:</p> <ul style="list-style-type: none"> (a) contact information for the claimant; (b) information about the member of the Society whose alleged misappropriation or conversion gives rise to the claim; (c) detailed facts supporting this claim, including the date on which the claimant had knowledge of the loss; (d) the nature of the relationship with the member of the Society whose alleged misappropriation or conversion gave rise to the claim; 	

Existing Regulation	Proposed Regulation	Rationale
<p>(e) such other information as may be required by the Executive Director or the Committee.</p> <p>Supporting Material 11.3.3 In addition to the information provided in the claim for compensation, the claimant shall provide to the Executive Director supporting material and documentation to substantiate the loss.</p> <p>Additional Information 11.3.4 The Executive Director at any time may require additional information, additional proof of information or additional evidence to support the claim.</p>	<p>(e) such other information as may be required by the Executive Director or the Committee.</p> <p>Supporting Material 11.3.3 In addition to the information provided in the claim for compensation, the claimant shall must provide to the Executive Director supporting material and documentation to substantiate the loss.</p> <p>Additional Information 11.3.4 The Executive Director at any time may require additional information, additional proof of information or additional evidence to support the claim.</p> <p>Failure to cooperate 11.3.5 The Executive Director may deny the claim if (a) the claimant refuses or fails to comply with a requirement of the Executive Director; or (b) the statutory requirements as set out in section 57 of the Act and subregulation 11.4.1 are not met.</p>	<p>Borrowed from the Law Society of Alberta</p>
	<p>11.4 Review of claims 11.4.1 On receipt of a claim, the Executive Director must determine if the claim meets the criteria for consideration by the Committee, specifically whether: (a) money or other property was entrusted to or received by a member of the Society in the member's capacity as a lawyer;</p>	<p>Reflects the criteria set out in s. 57 of the LPA.</p>

Existing Regulation	Proposed Regulation	Rationale
<p>11.4 Application goes to Committee 11.4.1 The Executive Director shall (a) Upon receipt of a claim, advise the Society’s insurer of the claim in accordance with the requirements of the applicable insurance policy; and (b) Forward the completed claim for compensation to the Committee with all information and supporting material that have been received</p>	<p>(b) the member of the Society misappropriated or wrongfully converted the money or other property; and (c) the claimant sustained a pecuniary loss as a result of that misappropriation or wrongful conversion.</p> <p>Application goes to Committee 11.4.2 Upon receipt If the claim meets the criteria set out in section 57 of the Act and subregulation 11.4.1, then the Executive Director shall must (a) Upon receipt of a claim, advise the Society’s insurer of the claim in accordance with the requirements of the applicable insurance policy; and (b) Forward provide a report the completed claim for compensation to the Committee with all relevant information about the claim and any relevant supporting materials that have been received.</p> <p>Timing of claim 11.4.3 No payment will be made out of the Fund unless notice of the claim is received by the Executive Director within six months after the loss comes to the knowledge of the claimant.</p> <p>11.4.4 Notwithstanding subregulation 11.4.3, the Committee may extend the time for making a claim to a maximum of twenty-four months after the loss came to the knowledge of the claimant.</p>	<p>These amendments reflect the actual process followed by PR staff in investigating these claims.</p> <p>The new regulations regarding timing allow the ED/Committee to make decisions regarding timing of claims. Currently, all requests for time extensions must be reviewed by Council. The involvement of Council at this stage seems arbitrary and unnecessary.</p>

Existing Regulation	Proposed Regulation	Rationale
<p>Consideration by Committee 11.4.2 Following consideration of the claim for compensation, the committee may:</p> <p>(a) if the facts indicate that the date on which the claim at first had knowledge of the loss was more than six months before the claimant gave notice of the claim to the Society, determine if the time for making the claim should be extended pursuant to Section 57(5) of the Act,</p> <p>(b) if the claim is for less than \$5,000.00, dismiss or approve the claim in whole or in part.</p> <p>(c) if the claim is for \$5,000.00 or more, report to Council with its recommendations regarding the claim.</p> <p>(d) meet with a claimant or a claimant’s representative about the claim,</p> <p>(e) conduct a hearing to determine the facts the Committee must decide before approving or dismissing a claim or making a recommendation to Council, which hearing shall be conducted in accordance with the rules of natural justice.</p>	<p>Consideration by Committee 11.4.5 Following the receipt of a report under subregulation 11.4.2(b), the Committee may</p> <p>(a) meet with a claimant or a claimant’s representative about the claim; or</p> <p>(b) conduct a hearing to determine the facts the Committee must decide before approving or denying a claim or making a recommendation to Council, which hearing shall must be conducted in accordance with the rules of natural justice.</p> <p>Decision of Committee 11.4.6 Following consideration of the claim for compensation, the Committee may:</p> <p>(a) if the facts indicate that the date on which the claim at first had knowledge of the loss was more than six months before the claimant gave notice of the claim to the Society, determine if the time for making the claim should be extended pursuant to Section 57(5) of the Act;</p> <p>(a) deny or approve any claim, in whole or in part, if the claim is for less than \$5,000.00 \$50,000; dismiss or approve the claim in whole or in part; or</p> <p>(b) if the claim is for \$5,000.00 \$50,000 or more, report to Council with its recommendations regarding denial or approval of the claim.</p> <p>(c) meet with a claimant or a claimant’s representative about the claim;</p> <p>(d) conduct a hearing to determine the facts the Committee must decide before approving or dismissing a claim or making a recommendation to Council, which hearing shall must be</p>	<p>These investigative provisions have been split out from the current reg 11.4.2. That reg currently includes both investigative and adjudicative roles for the Committee which do not belong together in one regulation.</p> <p>Council has delegated decision making authority to this Committee on the understanding that is a specialized and well-resourced Committee. As such, there is no rational connection between the skill of this Committee to review claims and the requirement that all claims over \$5000 to be determined by Council. With respect, Council does not have the expertise that we expect of the LFCC, and the dollar threshold appears arbitrary.</p>

Existing Regulation	Proposed Regulation	Rationale
<p>Application goes to Committee 11.4.3 A decision by the Committee under subregulation 11.4.2(b) and 11.4.2(e) is final and not subject to appeal.</p>	<p>conducted in accordance with the rules of natural justice.</p> <p>Application goes to Committee Decision is final 11.4.7 A decision by the Committee under subregulations 11.4.2(a) and 11.4.2(d) is final and not subject to appeal.</p>	
<p>11.5 Consideration by Council 11.5.1 On receipt of a report from the Committee, Council may: (a) approve, reject or alter the recommendation of the committee; (b) determine that additional information is required before it can consider the report and request that the information be provided; (c) take such other steps as it considers appropriate to allow for a determination of a claim; and (d) place conditions that it deems advisable upon any payment.</p>	<p>11.5 Consideration by Council 11.5.1 On receipt of a report from the Committee pursuant to subregulation 11.4.5(b), Council may: (a) approve, reject or alter the recommendation of the Committee; (b) determine that additional information is required before it can consider the report and request that the information be provided; (c) take such other steps as it considers appropriate to allow for a determination of a claim; and (d) place conditions that it deems advisable upon any payment.</p>	
	<p>Decision is final 11.5.2 A decision by Council under subregulations 11.5.1(a) or (d) is final and not subject to appeal.</p>	<p>New addition to make clear that there is no right of appeal from a decision of Council, which mirrors reg. 11.4.7 re decisions of the Committee.</p>
<p>11.6 Assignment and Release of Information 11.6.1 If a claim for compensation is approved, prior to the payment, the Society shall receive: (a) an assignment by the claimant to the extent</p>	<p>11.6 Assignment and Release of Information 11.6.1 If a claim for compensation is approved, prior to the payment, the Society shall must receive:</p>	

Existing Regulation	Proposed Regulation	Rationale
<p>of the payment, of whatever rights the claimant has against a member of the Society or any other person, which assignment shall entitle the Society to claim on its own behalf to recover payments made out of the Fund,</p> <p>(b) a release of any future claim which the claimant may have against the Society and the Fund,</p> <p>(c) such other documentation as may be required by the Committee or Council,</p> <p>(d) consent from the claimant to allow the Society to release the claimant’s name and information about the claim to law enforcement authorities, unless Council consents to the withholding of such information.</p> <p>11.6.2 The claimant who requests Council to consent to the withholding of information shall include with the claim for compensation a letter to the Executive Director requesting that information not be released to law enforcement authorities and explaining the reason for the request.</p> <p>11.6.3 On receipt of a request from a claimant pursuant to sub-regulation 11.6.2, Council may:</p> <p>(a) approve the request in whole or in part, with conditions;</p> <p>(b) reject the request;</p> <p>(c) determine that additional information is required and request that the information be provided; or take such steps as it considers appropriate to allow for a determination of the request.</p>	<p>(a) an assignment by the claimant to the extent of the payment, of whatever rights the claimant has against a member of the Society or any other person, which assignment shall must entitle the Society to claim on its own behalf to recover payments made out of the Fund;</p> <p>(b) a release of any future claim which the claimant may have against the Society and the Fund;</p> <p>(c) such other documentation as may be required by the Committee or Council;</p> <p>(d) consent from the claimant to allow the Society to release the claimant’s name and information about the claim to law enforcement authorities, unless Council consents to the withholding of such information.</p> <p>11.6.2 The claimant who requests Council to consent to the withholding of information shall must include with the claim for compensation a letter to the Executive Director requesting that information not be released to law enforcement authorities and explaining the reason for the request.</p> <p>11.6.3 On receipt of a request from a claimant pursuant to subregulation 11.6.2, Council may:</p> <p>(a) approve the request in whole or in part, with conditions;</p> <p>(b) reject the request;</p> <p>(c) determine that additional information is required and request that the information be provided; or</p> <p>(d) take such steps as it considers appropriate to allow for a determination of the request.</p>	

Existing Regulation	Proposed Regulation	Rationale
<p>11.6.4 Notwithstanding Council’s approval of a request pursuant to sub-regulation 11.6.3(a), the Society shall respond fully to lawful demands made by law enforcement authorities for claimant names and claimant information, except the Society shall not disclose information that is subject to solicitor-client privilege.</p>	<p>11.6.4 Notwithstanding Council’s approval of a request pursuant to subregulation 11.6.3(a), the Society shall must respond fully to lawful demands made by law enforcement authorities for claimant names and claimant information.</p> <p>11.6.5 The ,except the Society shall will not disclose information that is subject to solicitor-client privilege except as may be required by law.</p>	<p>The current reg 11.6.4 does not accurately reflect the fact that the Society does provide information that is or may be sol-client privileged to law enforcement, but does so in compliance with current common law practices (ie following a Lavallee process).</p>



NOVA SCOTIA
BARRISTERS' SOCIETY

2019 Annual Lawyer Report

Regulation 4.3.1

Please note: The deadline for submission of this report is June 30, 2019 (Regulation 4.3.1). We thank you for taking the time to complete this report. The Annual Lawyer Report is the means by which the Society gathers information related to lawyers that is essential for the Society to fulfill its mandate. The information we have on file is shown here and need not be changed if it is correct.

MEMBERSHIP INFORMATION

First name	
Middle name	
Last name	
Designation(s)	

WORK ADDRESS INFORMATION *(The Society makes this information public)*

Firm/company name	
Civic address	
P.O. Box #	
City	
Province	
Postal code	
Country	
Phone	
Cell Phone	
Fax	
Email	

HOME ADDRESS INFORMATION *(Optional — for Society use only)*

This information, if provided, is only for the use of the Society if it is necessary to communicate with a lawyer at a home address. It is NOT made available to the public.

Civic address	
Address 2	
City	
Province	
Postal code	
Country	
Phone	
Cell Phone	

Fax	
Email	

NOTARY PUBLIC

To ensure the Society has up-to-date information in our records, please confirm whether you are a notary public.

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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As a Practising Lawyer or Law Corporation, please choose one of the following employment types to best describe your status:

Note: ‘Employment type’ relates to the nature of the employing organization, not to the work undertaken by the employed lawyer.

- For example, a lawyer who operates as a sole practitioner, but provides contractual legal services to the Crown, would be designated as Private Practice / Sole Practitioner (vs. Provincial Government).
- A lawyer employed as a civil servant would be designated as Federal (or, Provincial) government, regardless of whether they deliver legal services to the public or otherwise in their role.

PRIVATE PRACTICE: <input type="checkbox"/> Sole practitioner firm <input type="checkbox"/> Multi-lawyer firm (A) <input type="checkbox"/> NS Legal Aid <input type="checkbox"/> Dalhousie Legal Aid Service	IN-HOUSE: <input type="checkbox"/> Municipal <input type="checkbox"/> ABCs (Agencies, Boards, Commissions) <input type="checkbox"/> Corporate Bodies <input type="checkbox"/> NFPs (Not-for-profits) <input type="checkbox"/> Regulators (i.e., professional regulators) <input type="checkbox"/> Unions <input type="checkbox"/> Band Council <input type="checkbox"/> International (i.e., in-house lawyers employed outside of Canada)
<input type="checkbox"/> FEDERAL GOVERNMENT	
<input type="checkbox"/> PROVINCIAL GOVERNMENT	
<input type="checkbox"/> I hold a practising certificate, but I am not currently practising law (<i>boards, educators, administrators, etc.</i>)	
<input type="checkbox"/> Other (<i>please explain</i>)	

(A) For those who identified as working in a firm, please choose your status within the firm:

<input type="checkbox"/> Partner / principal / owner of law firm	<input type="checkbox"/> Otherwise associated with a law firm (<i>including counsel</i>)
<input type="checkbox"/> Associate in law firm	

The following question allows the Society to understand the demographics of the profession and how they change over time.

I identify with one of the following communities (check all that apply):

<input type="checkbox"/> I choose not to answer this question	<input type="checkbox"/> Indigenous	<input type="checkbox"/> Mi'kmaq	<input type="checkbox"/> African Nova Scotian
<input type="checkbox"/> Black	<input type="checkbox"/> Racialized	<input type="checkbox"/> Acadian/Acadien	<input type="checkbox"/> 2SLGBTQ+
<input type="checkbox"/> Person with a disability	<input type="checkbox"/> Other _____	<input type="checkbox"/> None of the above	

I identify my gender as:

<input type="checkbox"/> Male	<input type="checkbox"/> Female
<input type="checkbox"/> Other (please specify) _____	<input type="checkbox"/> I choose not to answer this question

I speak, read and write in these languages and I am able to provide legal services in the following languages:

<input type="checkbox"/> French	<input type="checkbox"/> German	<input type="checkbox"/> Mi'kmaq	<input type="checkbox"/> Arabic	<input type="checkbox"/> English	<input type="checkbox"/> Other (please specify)
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Declaration regarding trust funds 2019

Please choose from one of the following, which best describes your situation (at June 30, 2019):

- I hold the Practising Lawyer membership category in Nova Scotia and do not hold any money or property in trust in Nova Scotia.
- I hold the Practising Lawyer membership category in Nova Scotia and because I hold money in trust in Nova Scotia, I (my firm) will need to file a Trust Account Report (for December 31, 2019) in accordance with the Regulations.
- I hold the Practising Lawyer membership category in Nova Scotia and I hold money or property in trust, but am acting in a representative capacity as defined by the Regulations. Furthermore, I hereby confirm that I am acting in compliance with the requirements of subregulation 10.1.3 (re: maintaining records that could be audited, record of appointment and cooperation with auditor if applicable).

Retention of files for former lawyers:

Please indicate if you now have or previously retained in your possession the files (i.e., wills, estates, real estate, etc.) of former practitioners from outside of your law firm (please indicate if files have been destroyed).

<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>If "yes" please provide the names of practitioners who files you have/had:</i>	
_____	Destroyed? <input type="checkbox"/>

Please define your areas of practice as below and include the approximate percentage of your practice time (not billings) associated with each area. The Society is considering adding areas of practice information for lawyers in private practice to the Member Directory in order to assist the public in choosing their legal services provider. For that reason, we have expanded some of the areas of law below.

AREA OF LAW	APPROXIMATE PERCENTAGE	NSBS USE ONLY (LAST YEAR'S ANSWER)
Aboriginal		
Administrative		
Bankruptcy and insolvency (debtor and creditor)		
Civil litigation – Corporate and Commercial		
Civil Litigation – Personal Injury – Plaintiff		
Civil Litigation – Personal Injury – Defence		
Civil Litigation – real estate / residential tenancy		
Constitutional / human rights		
Corporate / commercial / banking		
Criminal – Defence		
Criminal – Prosecution		
Elder		
Employment / labour – Employee side		
Employment / labour – Employer side		
Environmental / natural resource / energy		
Family – Child protection		
Family – Other (not Child protection)		
Government / Crown / Legislative		
Health		
Immigration and refugee		
Indigenous		
Intellectual property / franchises / patents		
Marine / shipping / fisheries		
Military / aviation		
Mediation and arbitration / alternative dispute resolution		
Municipal		
Real estate		
Privacy		
Securities		
Tax		
Wills, estates and trusts		
Other(s) <i>(please specify)</i>		

The following questions relate to membership in other jurisdictions / regulatory bodies (optional).

Please list any current memberships in other legal regulatory bodies:

Please list any current memberships in other non-legal regulatory bodies (e.g., CPA-NS, College of Physicians, etc.)

The following questions relate to continuing professional development regulations 8.3.5 - 8.3.10.

I am familiar with and to the best of my knowledge am in compliance with my obligations regarding continuing professional development, including that I implemented a written plan for continuing professional development and made a record of my plan for the period of **June 1, 2018 to May 31, 2019** (i.e., last year).

<input type="checkbox"/> Yes	<input type="checkbox"/> No	
If "No" please explain:		

I have prepared and made a record of my professional development plan for the period of **June 1, 2019 to May 31, 2020** (i.e., next year).

<input type="checkbox"/> Yes	<input type="checkbox"/> No	
If "No" please explain:		

I am familiar with and to the best of my knowledge am in compliance with my obligations regarding:

1. *The Society's regulations 8.2.1 - 8.2.10 and Real Estate Professional Standards*

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> I do not practise real estate law
If "No" please explain:		

2. *The Code of Professional Conduct*

<input type="checkbox"/> Yes	<input type="checkbox"/> No	
If "No" please explain:		

3. *Rule 3.4-31 through -34 of the Code of Professional Conduct respecting borrowing from and lending to clients*

<input type="checkbox"/> Yes	<input type="checkbox"/> No	
If "No" please explain:		

4. *Section 38(1) of the Legal Profession Act and regulation 4.4.1 respecting the requirement to report charges and convictions*

<input type="checkbox"/> Yes	<input type="checkbox"/> No	
If "No" please explain:		

5. *Regulation 4.4.1 respecting the requirement to report bankruptcies, judgments, proposals to creditors, costs orders against a lawyer, and disciplinary findings in another jurisdiction*

<input type="checkbox"/> Yes	<input type="checkbox"/> No	
If "No" please explain:		

6. *Regulation 4.13 respecting client identification*

<input type="checkbox"/> Yes	<input type="checkbox"/> No	
If "No" please explain:		

7. *Family Law Professional Standards*

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> I do not practise family law
If "No" please explain:		

8. *Criminal Law Professional Standards*

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> I do not practise criminal law
If "No" please explain:		

9. *Law Office Management Professional Standards*

<input type="checkbox"/> Yes	<input type="checkbox"/> No	
If "No" please explain:		

I am in compliance with the following provisions of the Code of Professional Conduct regarding passwords (rules 6.1-5 and 6.1-6).

A lawyer who has personalized encrypted electronic access to any system for the electronic submission or registration of documents must not

- (a) permit others, including a non-lawyer employee, to use such access; or
- (b) disclose their password or access phrase or number to others.

I have met the requirements listed in (a) and (b) above.

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If "No or N/A" please explain:		

Access to my computer / network is restricted to only people associated with my law firm.

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If "No or N/A" please explain:		

If no, I have a signed confidentiality agreement to protect my clients' information.

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
If "No or N/A" please explain:		

As part of the Society's Strategic Framework and continued focus on equity and access to justice, we are gathering the following information.

The following question deals with *pro bono* legal services in support of access to justice. These types of services include providing legal services to clients at reduced fees / rates in order to provide services to clients who otherwise might not be able to afford to hire a lawyer at regular billing rates.

I have or plan to provide this type of *pro bono* legal services to my clients.

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Choose not to answer
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Example(s) of the service(s) I provide:

The following question deals with "unbundled" legal services in support of self-represented litigants or other clients. This type of service includes situations where a person only pays for specific services or receives coaching from a lawyer while still remaining in charge of their case as a self-represented litigant.

I do or plan to provide this type of unbundled legal services to my clients.

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Choose not to answer
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Example(s) of the service(s) I provide:

GENERAL COMMENTS:



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Elaine Cumming, Professional Responsibility Counsel

Date: May 17, 2019

Subject: Client Identification/No Cash regulatory amendments

For: **Approval** X

Introduction

Information

Recommendation/Motion:

It is recommended that the Federation of Law Societies of Canada's Model Rules for client identification and verification and limits on cash transactions be adopted for use in Nova Scotia.

Executive Summary:

While lawyers are subject to the *Criminal Code*, they are exempted from the federal legislative regime under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* ("PCMLTFA") due to constitutional principles that protect the rights of clients and the obligations of legal professionals within their confidential relationships (see *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7, [2015] 1 S.C.R. 401). As a result, the legal profession has adopted model rules for lawyers and notaries to follow that are designed to reflect the government's legislative objectives under PCMLTFA, while protecting the rights of clients and the obligations of legal professionals. Following considerable consultation with the profession and with the regulators, the Federation of Law Societies' AMLTF Working Group delivered a final report and recommendations to the Federation Council in October 2018 <https://flsc.ca/wp-content/uploads/2018/10/Report-on-the-Model-Rules-1Oct2018.pdf>.

The working group recommended amendments to the current rules relating to the receipt of cash and to client identification and verification and also proposed the adoption of a new model rule regarding the use that may be made of lawyers' trust bank accounts.

At the Council meeting, every Canadian jurisdiction expressed support for the new and amended rules and the complete package of new model rules was adopted. The adoption and enforcement of consistent rules has been a critical part of the strategy of the Federation and the law societies to address the risks of money laundering and terrorism financing activities present in the practice of law.

While the next stage requires each law society to review the model rules and to determine whether to adopt the rules in whole or in part in their own jurisdictions, the Working Group notes the desirability of adopting a collective, cohesive and consistent approach and the importance of each law society adopting the package of rules, as drafted.

Analysis:

In drafting this final version of the Model Rules, the Working Group reviewed the law society rules and regulations based on the previous version of the Model Rules and related trust account rules. It also carefully reviewed the report of the FATF's mutual evaluation of Canada, released in September 2016. This review led to the conclusion that amendments were required to ensure that the Model Rules remain as robust and effective as possible. Some of the specific amendments included in the Model Rules are as follows:

Highlights of some of the amendments to the Model Rules:

"No Cash" rule:

- specify that the exceptions to the cash limit apply only where the lawyer or law firm is providing legal services
- delete the exemption for cash received "pursuant to a court order, or to pay a fine or penalty" because it was determined to be of limited value and may present a risk of money laundering and terrorist financing
- add definitions of terms used in the rule: disbursements, expenses, financial institution, financial services cooperative and professional fees

Client ID rule:

- amend definitions of the Client Identification Rule, reflecting changes to the corresponding definitions in the federal regulations
- amend definition of "financial institution" to incorporate changes in the federal regulations (referred to there as "financial entity"), including the addition of references to a "financial services cooperative" and a "credit union central"
- amend definitions of "funds", "public body" and "securities dealer" to maintain consistency with the government regulations
- add specific reference to the obligation on a lawyer to "know your client" in reg. 4.13.3 (amended 4.13.2)
delete the words "take reasonable steps to" from reg. 4.13.4 (amended 4.13.8) to match changes in the federal regulations
- amend the provisions of the Client Identification reg 4.13.7 (amended 4.13.13) to specify the documents and information that may be relied upon to verify an individual's identity; these changes reflect extensive amendments to the federal regulation
- amend the rule to incorporate new provisions in the regulations on the verification of the identity of children (amended 4.13.13)
- create a requirement to *obtain*, rather than simply to *make reasonable efforts to obtain*, the names of all directors of an organization, and the names and addresses of the owners of the organization; tracking the changes to the federal regulations, the amended rule would also introduce a requirement to "take reasonable measures to confirm the accuracy of the information obtained (amended 4.13.14 and 4.13.15)

- amend reg 4.13.9 (amended 4.13.14) to require lawyers to obtain information on beneficial owners of an organization; this change addresses a specific criticism of the law society anti-money laundering and terrorist financing rules that has been raised by the government and the FATF
- reduce the allowed time to 30 days for verification, which is in keeping with the federal regulations; this addresses concerns that a transaction could be completed before the expiration of the 60-day deadline for verification, thus undermining the purpose of the requirement (amended 4.13.20)
- add a new provision requiring ongoing monitoring of clients; such a requirement is included in the revised federal regulations (amended 4.13.30)
- add a reference to ongoing monitoring to the provision requiring a lawyer to withdraw from representation of the client if, once retained, the lawyer becomes aware that they would be assisting the client in fraud or other illegal conduct (amended 4.13.32)

The Working Group's initial report was released in October 2017, and it asked that all Law Societies seek feedback from their membership on the proposed amendments. The report was circulated to the NSBS membership with a request for feedback via our website and social media, and feedback was sought directly from a number of stakeholders including lawyers and law firm CFOs. Telephone discussions were held with some of those stakeholders.

The responses we received were positive overall about the proposed amendments, but concerned about the possibility of increased time and cost that some of the client ID changes will likely require. Those we heard from understand the risks that these regulations are trying to address and the need to ensure that Law Societies retain the oversight for this part of the practice of law.

Those we heard from agreed that more fulsome guidance documents to assist lawyers and law firms in the application and interpretation of these rules would be appreciated. The hope was expressed that the adoption of any amendments will be done with enough lead time to allow firms to amend their internal policies and forms, and they would appreciate support from an educational perspective.

The Federation has now approved guidance materials for use by all Canadian law societies that describes the responsibilities of Canada's legal professions to ensure they are not facilitating money laundering and terrorist financing (attached). It describes the context for money laundering and terrorist financing in Canada and the sources of responsibilities to avoid it. The detailed Guidance, including red flags and real-life examples, sets out the components of the legal professional's duties as contained in updated Model Rules approved on October 19, 2018 by the Federation.

Exhibits/Appendices:

Appendix A – draft amendments to Regulations 4.12 and 4.13

Appendix B - *Guidance for the Legal Profession*

2019-2022 NSBS Strategic Planning Highlights

The Foundation for our Discussion

We've embarked on a process to establish a new strategic plan commencing in June 2019. As part of this process, the Strategic Planning Steering Committee first hosted three focus groups with representatives from community and stakeholder organizations, law firm managing partners, past Society presidents, county bars, small firms and sole practitioners.

Nine themes emerged from the focus groups:

- **Advocacy**
- **Paralegals**
- **Innovation**
- **Technology**
- **Rural Legal Services**
- **Mentorship**
- **Required Cultural Competence/Sensitivity**
- **Equity, Diversity and Inclusion**
- **Member Support**

Members and stakeholders completed a survey and identified the themes (top five out of the nine) that they see as priorities for the Society. We also asked them to identify any priorities that were not captured within the nine themes.

The focus group and survey feedback and themes laid the foundation for our discussions over our two days of strategic planning. Over the two days, we shared our insight both in small groups and collectively as Council members, Strategic Planning Committee members and staff. Many of these themes emerged throughout the two days and continued to drive engaging, energized discussions.

First Thoughts: Where we are

With the nine themes and ideas from the consultation sessions in mind, we shared our first thoughts on the membership and stakeholder group feedback. It was clear that greater support for and engagement of the profession – i.e. developing new fee models, supporting rural practitioners, creating mentorship programs, establishing cultural competency training, etc. – should be key drivers of our new strategic plan.

We grappled with how the Society can increase engagement with members and provide meaningful supports, while still fulfilling our purpose to protect the public. We agreed that effective communication needs to be prioritized in the new plan so lawyers and the public have greater clarity on the Society's role.

We then looked at the Society's Purpose, Vision, Mission and Values statements and identified the strengths and determined if anything was missing. With the membership's feedback in mind, we highlighted how both lawyers and the public should see themselves within the Society's mission statement. This may enable them to engage with and recognize the value of the Society's work.

Our Future: Where we'd like to be

Next, we focused on where we want to go and what we want to accomplish in our next strategic plan. Our facilitator asked us to think about change drivers in the legal profession and their impact on how we can continue to regulate lawyers in the public interest.

Some of those drivers included:

- **changing demographics** (e.g. growing senior population; increasing influence of younger generations);
- **changing social values** (e.g. shift from rural areas to urban centres; importance of cultural competence);
- **changing political views/movements** (e.g. rise of radicalism; marginalization of at-risk groups such as women, people of colour, Indigenous peoples, etc.);
- **changing technology** (e.g. expecting services at a faster, more convenient rate via technology) and
- **changing financial priorities** (e.g. emergence of DIY legal services; increasing costs to access legal services).

We discussed how best to address these drivers in our work, such as using technology to bridge barriers between lawyers and clients in remote areas, providing cultural competency training to all lawyers and incentivizing young lawyers to move to rural regions.

Following those discussions, we created success statements based on the work that we would, ideally, have accomplished by the final year of the 2019-2022 strategic plan.

Some of those success statements included:

- every lawyer in Nova Scotia is **culturally competent**;
- the Truth & Reconciliation Commission's **Call to Action #27 is fully implemented**;
- **lawyers have full access to technology and employ those tools** in providing legal services;
- there is a **major decrease in complaints due to the Risk based, Triple-P approach**;
- **paralegals are regulated** in Nova Scotia and
- **lawyers are able to retire with an appropriate succession plan for their practice** to another lawyer.

Of course, many of these statements are very aspirational, but crafting them helped to launch our discussion on the goals and priorities we'll include on our strategic plan so that in three, five or ten years we can report these successes to members and the public.

Our Goals & Issues

To conclude our first day of strategic planning, we identified goals that we think will need to be met for our future success statements to happen. We also looked at issues – the things that are known or perceived that affect the Society's ability to deliver our goals. The same themes continued to surface and groups reiterated similar goals and issues.

We identified the following goals:

- Increased member engagement
- Established cultural competence training (upfront and ongoing)
- Gauged viability of paralegal regulation in Nova Scotia
- Meaningful response to TRC Calls to Action
- Increased diversity and inclusion in the profession
- Supporting and promoting rural practice
- Increased access to legal services and access to justice (Legal Aid funding)

- Early resolution of complaints and reduced volume of complaints
- Technology used to increase access to legal services
- Alignment of members with NSBS
- All lawyers have a succession plan

We identified issues that focused on **social changes, shifts in demographic and financial and resource constraints**. We also identified issues with current perceptions of the Society, including:

- many members are apathetic;
- some lawyers are fearful of the Society;
- there is a lack of clarity on who we are and what we do and
- some lawyers don't trust the Society and won't tell them why they're not engaged or clarify the problems with our engagement.

The second day of our planning focused on **three goals** that continued to emerge throughout our discussions:

- **Access to Legal Services:** The Society promotes & supports access to quality legal services
- **Equity, Diversity & Inclusion:** The Society is a leader in diversity & inclusion.
- **Engagement, Innovation & Proactive Regulation:** The Society regulates in a risk based manner that is innovative, principled, proactive, proportional and transparent.

Our facilitator outlined these goals with specific objectives and split us up into three groups where we explored the specific tactics we could use to achieve the goals, identified our priorities, and determined what we should do and what we could do.

Access to Legal Services

- Ensure access to technology both for lawyers and others as a way of reducing legal costs
- Work with other organizations (i.e. NS Legal Aid) to address unmet legal needs
- Advocate for increased access to legal services

Equity, Diversity & Inclusion (EDI)

- Require cultural competency training
- Remove barriers to practice
- Heed the TRC Calls to Action
- Embark on diversity and inclusion for those with disabilities
- Increase EDI resources and support
- Lead by example

Engagement, Innovation & Proactive Regulation

There was a lot of discussion over this goal and we thought it should likely be broken down into three different goals. There was also a lot of discussion over whether **transparency, engagement and innovation** are values, approaches or goals.

Member engagement and how we go about decreasing member apathy was a constant topic for discussion.

Next Steps: Where we go from here

The strategic planning session was energizing, exciting, thoughtful and challenging. Everyone was willing to share, learn and listen. While we were often separated into smaller groups for discussions, similar ideas, issues, and goals emerged across all groups.

Moving forward, with Council's approval of the directions as set out in this summary, the Strategic Planning Steering Committee will prepare a draft 2019-2022 Strategic Plan for the June 2019 Council Meeting.



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Jacqueline Mullenger and Jennifer Pink

Date: May 10, 2019

Subject: Legal Services Support – update

For: **Approval**
 Introduction
 Information x

Recommendation/Motion:

No motion required.

Executive Summary:

The two ‘soft launch’ tiers of firms testing the MSELP self-assessment tool are now complete and feedback has been collected and reviewed. Follow up calls with the majority of participating firms and a review of the assessment tools being tested by other Canadian law societies inform our recommendation that the online assessment tool (SAT) be simplified overall, and that separate Workbooks and SATs be configured for lawyers in sole and small practices.

LSS efforts are ongoing to implement a ‘Triple-P’ approach and LSS mindset across the Society’s member-facing services. Collaboration between LSS officers, credentialing, the trust account team, and the PR team continue with a focus on assisting lawyers navigate challenging practice and personal circumstances. Recent themes from this work are highlighted.

We are working to build the LSS ‘brand’ – i.e. raising awareness of various member advisory services the Society offers. Upcoming opportunities include the Annual Meeting, and a series of NSBS ‘updates’ being scheduled with the County Bars during June, July and September. Current communication efforts include developing an LSS ‘quick guide’ and providing information to new Calls (in the June Call package).

Focus continues on enhancing available practice resources. A draft Succession Planning Guide is being tested and updated together with a succession plan template. We are working to identify the best platform going forward for housing and organizing our online resources to ensure ease of use and effective search functionality.

Analysis:

MSELP soft-launch feedback and recommendations

At the end of the SAT assessment, participants were asked to provide feedback about their experience and thoughts about the tool, the workbook and the process. We noted the following things:

1. Almost all of the participants felt that the tool was not overly helpful to them but would be helpful to other lawyers; This was especially true of non-council participants;
2. Participants found the repetition in the SAT frustrating and burdensome. They did not feel that answering every question in the affirmative and negative was helpful or impactful;
3. Participants found the instructions and rating systems in the both the tool and the workbook cumbersome and vague. They indicated that having examples and less formality would be helpful. Some articulated that the wording of the rating scale did not make sense to them. They were of the view that they could only give themselves an acceptable rating if they had written policies that were formally worded;
4. Interestingly, many participants saw the tool as a review of the Code of Conduct. This was unintentional and actually not what we were aiming for. Although it may be a positive for some lawyers, others were nervous to give real answers because they were concerned they'd be "in trouble" with the Society if they gave the wrong answer;
5. It was clear that there was fatigue due to the repetition; as participants moved through the tool they chose fewer and fewer factors. When asked about this in telephone interviews, they indicated that they got tired of the repetition and stopped making effort as they moved through the tool;
6. Ironically, those from medium to large firms felt the tool would be helpful to solo or small practices, while the solos felt this tool was not relevant to them;
7. No non-council participant thought the tool would help improve the relationship between the Society and lawyers;
8. Some participants were of the opinion that having an opportunity to speak with someone would be more useful than filling out an online tool;

9. Most participants felt that the SAT process would benefit clients; while less than half felt it would protect the public better. They also thought it would reduce lawyer risk but didn't agree it would improve productivity in their firms. More than half felt it would raise standards across the Bar and that it would be a valuable use of the firm's time and resources. More than half thought LSS was helpful to other lawyers and firms;
10. One participant felt that the best help the Society could give would be to identify lawyers who would be willing to be successors, recommended precedents, recommended file retention systems, recommended legal software, opening a chat room for lawyers;
11. Some participants did not seem to realize that they did not need to have each and every indicator listed within each element in order to have an efficient and successful practice. They took the indicators as measures of what each and every firm should have and therefore when they didn't have all of the things in place they rejected the elements as irrelevant to their practices;
12. Participants found the online resource portal lacking and many found the workbook cumbersome;
13. The participants did not find the online resource portal helpful. That is not surprising given that very little time has been devoted to curating and adding relevant content as we are making decisions about the platform for storing content before populating it fully;
14. There were also many comments about the fact that neither the workbook nor the tool were particularly relevant to solo practices or practices which were more modern in nature.

In all, our conclusion is that the tool, workbook and process are not quite where we want them. We have determined that changes need to be made to simplify the tools and make the process less burdensome and more relevant to members. The main purpose of the tool is educational. The Society wants members to be able to use this tool to help them assess where they are and what they might do to help themselves make their practices more effective and satisfying.

We were not surprised by the feedback about the resources not being fulsome enough. That has not been our priority as we've been working at establishing the LSS advising service and working on getting the tool right. Work is being done to identify the right platform for the portal at which point our (growing) database will be populated online.

As a result, we are now moving to improve the tool and workbook so we are able to roll it out in the not too distant future. We are going to create a separate workbook and assessment for solos and use a separate tool and workbook for firms. In addition, we are going to ask the LOMC to work with staff to create template policies for each of the ten elements that solos or firms can adapt or use for their own purposes. We will also continue to work on both file retention/destruction and succession planning as we heard overwhelmingly that this is what lawyers need and want assistance with.

LSS advisory services – activities and themes

LSS aims to provide lawyers and firms access to timely and accurate information and advice from the Society. Since we started tracking LSS activity (in January 2018) the team has:

- Documented more than **230 advisory interactions** between lawyers / firms and LSS staff. These do not include discussions about standard credentialing or other regulatory processes. They are matters where regulatory or practice advice was sought and provided – sometimes straightforward matters, other times requiring a collaborative staff response.
- Registered **35 new law firms** (with several more in progress).

We continue to “write the book” on LSS, meaning that calls and visits are often about something different and challenge us to come up with solutions. We often collaborate as staff teams in developing a Triple-P approach to these situations.

Recent examples / themes include:

- **Bad firm break-ups:** When asked for advice in these difficult situations we keep focus on discharging the lawyer’s obligations. These matters, by their nature, take time and patience. They have involved creative responses. For example, casual / non-threatening visits or calls, listening, working with a lawyer/firm to create a detailed task list, working as a team with trust assurance and/or ethics counsel in attempting to help lawyers discharge obligations where circumstances preclude doing so the conventional way. Recently, our LSS advisor and Trust Assurance Auditor visited a rural practice with a view to helping the lawyer in crisis fulfill her trust account reporting obligations, while at the same time developing a customized list of tasks to help her work toward transition out of practice.
- **Navigating unique opportunities:** We are currently collaborating to advise a new lawyer on how to navigate a unique shared job arrangement that will see her working part time in private practice with a rural firm and part time in a funded position via a not-for-profit. PR Counsel is working with the LS manager to determine the ethical issues that might be encountered with a view to addressing those proactively. We are also advising on the unique practice infrastructure requirements for the arrangement to work. There is a strong access to legal services component to the funded project (pro bono prison law).

Succession Planning continues to be a major theme and has many aspects. NSBS requires succession plans but does not yet offer formal guidance beyond the Regulations on what to do or how. In the meantime, we focus discussions on meeting each lawyer’s obligation. Ongoing activities include:

- Visiting or chatting with lawyers contemplating sale/retirement or succession about how to clean up their practices to make it more likely to find someone to take it on;

- Reviewing AFR data over 2 years to spot trends/issues in the succession answers (e.g., has the successor really agreed, naming spouse or staff as successor, the fact people don't know what to do, etc);
- Drafting (and now testing) a Succession Planning Guide that outlines the requirements and how to accomplish the many aspects of preparation work, such as file culling using a destruction policy.
- Drafting a template succession plan, recently tested in formulating a wind-up plan for a lawyer.
- Talking lawyers through specific succession problems.

The LSS team is working with the Law Office Management Standard Committee to create appropriate tools and resources following on from their recommendation to Council. A draft Succession Planning Guide and Template are being 'tested' with lawyers seeking advice in this area and we will use it at the Annual Meeting as part of an educational session.

Mentorship is another theme that continues to surface through our advisory work. Lawyers are sometimes surprised to know that the Society can help in this area. There are existing programs but not a centralized effort to publicize them or to promote our ability to help those with 'one off' needs – e.g. guidance on a distinct practice question. In the coming weeks we'll consider further how lawyer and firm mentorship needs can be addressed in a more centralized and comprehensive way.

LSS advisory group

Increasingly, as lawyers come to know they can get practice advice and guidance from us, the matters on which we advise are increasingly complex. The breadth of topics on which lawyers are seeking staff guidance is growing. Time to time, LSS staff reach out to lawyers and firms for their input.

We seek Council's input on a proposal to set up a panel of 'practice experts' who can advise LSS staff on a one-off basis as needed. In concept, the LSS Advisory Group would function much like the Ethics Advisory Committee- via email / phone discussion, primarily. With Council's input, we can work to identify a list of desirable areas of expertise. We envision a focus on sole practitioners and small law firm / business managers and advisers. Some lawyers who served on the LSR Solo and Small Firm Working Group may be interested in this as an extension of their foundational work on the MSELP self-assessment.

Communications and engagement

The LSS team continues attending various association meetings and events to build awareness of our work and learn about current issues in practice and perceptions of the Society more generally.

As part of broader efforts to engage with Members about NSBS strategic priorities, the LSS Manager is attending several County Bar meetings over the coming months with the Equity Manager and (soon

to be) NSBS President, Carrie Ricker. We'll use these meetings as an opportunity to raise awareness of the Society's vision for Member support services.

In addition, LSS staff will deliver a session at the June Annual Meeting on Succession Planning, using the new Guide and succession plan template as tools for an interactive session focused on the realities of smaller practices.

We are working with the Society's Communications Advisor to develop the LSS brand as well as more immediate communications needs to raise awareness of the MSELP self-assessment process. A 'quick guide to LSS' is in development and will be distributed to new lawyers at the June Call to the Bar and at other opportunities / means for awareness raising.

Next steps and priorities

Priority activities for LSS over the coming months include:

1. Incorporating the feedback and recommendations from the MSELP soft launch so the online SAT is simplified and there are two versions of the Workbook and SAT (one for each of small firms/ sole practitioners and medium to large firms).
2. Updating the in-house and government consultation and Working Groups on the status of MSELP and revised timing for launching a self-assessment program in their contexts.
3. Clarifying the intended scope of use of information learned through the MSELP program and articulating those limits in a revised MSELP Policy.
4. Presenting at Society and County Bar meetings with a view to raising awareness of LSS services.
5. Identifying the best platform for the LSS resource 'hub' and populating from our resource database.
6. Addressing lawyers' requests for guidance and tools re: succession planning and file retention.
7. Develop a strategy for a holistic and centralized approach to lawyer mentorship services.

Ongoing and longer-term priorities include:

1. Continuing to develop opportunities and networks for external engagement and education (through County bar meetings, professional association conferences, law firm CPD sessions, etc).
2. Continuing to bring key 'issues' identified through LSS engagement to Council for appropriate response (e.g. file destruction, succession planning, mentorship).
3. Developing and delivering tools, resources and programs in response to priority issues.
4. Continuing to nurture an LSS culture and approach among Society staff by implementing LSS infrastructure and processes.
5. Developing an evaluation strategy for LSS programs and outcomes.

Exhibits/Appendices:

n/a



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Angela Simmonds

To: Council

Date: May 9, 2019

Subject: Council Meeting at Cherry Brook

For: **Approval** **Introduction** **Information**

I have been asked to present a plan for Council's meeting at the Black Cultural Centre located in Cherry Brook and how the day will unfold.

On May 17th we will be heading to The Black Cultural Centre for Nova Scotia to hold our Council meeting. The goals for this meeting are to:

- educate Council on some of the issues faced by members of African Nova Scotian communities;
- enhance communication between Council and African Nova Scotian communities Bar;
- allow members of the public to learn about what Council does.

The day will open with business as usual at 9:00am with a performance of the Black National Anthem. Community members have been asked to join us at 11:00. At this time Angela will provide updates from the Equity and Access Office. The Council meeting will end around 11:45 for lunch. During this time, we will have table discussions over lunch and hope to provide community members with a better understanding of what the Society is responsible for as regulators of the profession.

The goal is for Council Members to engage in meaningful discussions with members of the African Nova Scotian Communities. Our hope is that the lunch will be interactive. We hope these discussions provide insightful recommendations and suggestions on how to better establish a relationship with the Society and the African Nova Scotian community. Council will share their knowledge and roles within the Society while members have an opportunity to ask questions and share their experiences.

The attendees will probably come up with their own questions, but we will provide some sample questions on the tables. Below is a list of questions to begin with and to provide you with an idea of the types of questions you may receive:

- a) Why is it called the “Barristers’ Society”?
- b) What exactly does the Society do that would be of interest to community members?
- c) What is the Society’s role in ensuring cultural competency of all lawyers?
- d) How would one go about making a complaint about a lawyer’s services?
- e) Does the Society help direct community towards other complaint mechanisms that have to do with the law (for example, a bad experience at court)?
- f) Can I go to the Society if I am having trouble finding a lawyer to take my case?
- g) Can I go to the Society if I am denied legal aid but still can’t afford a lawyer?

It is our belief that this time will offer an opportunity for discussion and relationship-building.

Lunch will end at approximately 1:30.

If you have questions or comments, I would be pleased to discuss further.



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM

From: Angela Simmonds

To: Council

Date: May 9, 2019

Subject: Equity & Access Office Update

For: **Approval**

Introduction

Information

What follows is an update on the major work of the Equity & Access Office since the last report to Council:

The creation of a handbook for applying an equity lens:

Staff are developing a short handbook to guide lawyers, Society staff and volunteers through the application of an equity lens.

The tool leads users through a series of questions that provide a starting point for those who want to apply an equity lens in their decision making. The current draft of the tool includes the following components:

- An introduction, which defines what an “equity lens” is, explains the importance of equity, and describes the historic roots of inequity in Nova Scotia;
- The equity lens questions, which guide users through how to identify barriers where they occur, and then how to mitigate them;
- A series of activity cards that contain exercises and case studies that teacher users how to apply an equity lens in practice.

Our goal is to have this toolkit ready to launch this summer.

More details about this project will be provided at the May meeting of Council.

The creation of a handbook for prisoners about legal and court processes:

The Equity & Access Office, in cooperation with the Racial Equity Committee, and a summer student working with our office will create a handbook that seeks to improve access to legal services for people in prison by giving them basic information about legal and court processes (e.g. “how to file an appeal,” “how long do you have to wait for trial?”, “what are my rights with disclosure?”) and also to facilitate

communication by prisoners that can enable them to be more informed, to ask the questions they need, and to have reasonable and clear expectations of their lawyers (e.g. “what happens if I want to change my lawyer?” “Is a legal aid lawyer the same service as a paid lawyer?” “How often can I expect to communicate with my lawyer?”).

The content of the handbook is informed by conversations with prisoners. Conversations to date indicate that cultural competency are also listed by prisoners as an important concern, so the handbook will have questions dealing with this as well (e.g. “when should I get a cultural assessment?” “Can I get a cultural assessment and a Gladue report?” “What is challenge for cause and how does it address racial bias?”)

We hope to have a draft of this handbook complete by September 2019.

Responding to the Calls to Action of the Truth and Reconciliation Commission of Canada:

An update on this work will be provided by Angelina Amaral in a memo to Council.



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM

From: Angelina Amaral

To: Council

Date: May 9, 2019

Subject: Update on the activities of the TRC Working Group

For: **Approval**

Introduction

Information

On March 15, 2019, the draft TRC Working Group work plan, for 2019-2020, was presented to Council. The work plan was updated, based on Council's feedback, and presented to the TRC Working Group.

To date the TRC Working Group has completed the following activities:

- Finalized the TRC Working Group Terms of Reference;
- Finalized the TRC Working Group Work Plan 2019-2020;
- Finalized a short survey for lawyers as part of the environmental scan; and
- Met with community to provide an update on the TRC Working Group activities on March 29, 2019 and again on May 7, 2019.

We have also welcomed new members to the TRC Working Group. New members include:

- Rosalie Francis, RFrancis Law;
- Armond Paul, Mi'kmaw Law Student;
- Dakota Bernard, Mi'kmaw Law Student; and
- Madison Joe, Mi'kmaw Law Student.

On April 10 and 11, 2019, the Chair of the TRC Working Group and the Manager of Equity and Access, had an opportunity to attend the annual summit of the Action Committee on Access to Justice in Civil and Family Matters. The first day of the summit focused on Indigenous Legal Orders in the Context of Access to Justice. The day looked at different Indigenous laws and legal systems that are currently active in Canada. As First Nations move toward self-government, each band (or a collective of bands) will continue to draft their own laws, regulations and policies that will supersede provincial or federal laws. As this continues lawyers will need to know where they can find Indigenous laws (places include a band's website, the First Nations Gazette, Indigenous and Northern Affairs Canada).

Our Next Steps

Over the next few months, the TRC Working Group will engage in the following tasks:

- Hire a student to work with the TRC Working Group over the summer – Early June.
- Develop a strategy to complete an environmental scan that will engage the legal community, the Indigenous communities in Nova Scotia, and the First Nation leadership of Nova Scotia;
- Meet with community to begin organizing the community gathering (this gathering is intended to inform the TRC Action Plan);
- Prepare for the Annual Lawyers' meeting – June 15, 2019; and
- Set a meeting schedule for the year.

Council Year: July 2018 – June 2019

JULY	AUGUST	SEPTEMBER	OCTOBER
<p><u>Council Meeting – July 20</u> Big Issue: Equity & Access – Introduction to Year Ahead</p> <ul style="list-style-type: none"> • Credentials Monitoring Report • DSA Recipient Announced • Introduction to Regulatory Risk • Council composition discussion <p><u>Other Activities</u></p> <ul style="list-style-type: none"> • Combined CIC and Credentials Committee Professional Development Workshop – July 19 • Rhyno Hearing – July 3-23 • Pride Workshop – July 26 • Pride Reception – July 26 • Meeting between REC, GEC and Executive – July 27 	<p><u>No Council meeting</u></p>	<p><u>Council Meeting – September 21 in Millbrook First Nation</u> Big Issue: EDI & TRC</p> <ul style="list-style-type: none"> • LIANS Report to Council • Report on 2018 Annual Lawyer Report • Process and timing for Committee Reports • Introduction to Restorative Approaches <p><u>Other Activities</u></p> <ul style="list-style-type: none"> • Wickwire Memorial Lecture @ Schulich School of Law – September 21 	<p><u>No Council Meeting</u></p> <p><u>Other Activities</u></p> <ul style="list-style-type: none"> • Notice x2 re 2nd VP out to membership • FLSC Conference – Charlottetown, PEI, October 17-20 • Call to the Bar – October 19
NOVEMBER	DECEMBER	JANUARY	FEBRUARY
<p><u>Council Meeting – November 23</u> Big Issue: Next Steps for LSS</p> <ul style="list-style-type: none"> • Approval of Committee appointments • Introduction of 2019 Activity Plan • Introduction to Outcomes Measurement/Update on Regulatory Risk <p><u>Other Activities</u></p> <ul style="list-style-type: none"> • Recognition Reception – November 23 • Hearing Committee Training – November 19-20 	<p><u>No Council Meeting</u></p>	<p><u>Council Meeting – January 18</u> Big Issue: E&A Status Update</p> <ul style="list-style-type: none"> • Approval of 2019 Activity Plan • Report from GNC re 2nd VP nominee • Trust Account Regulation WG (TARGW) report with initial set of recommended amendments to the Regulations <p><u>Other Activities</u></p> <ul style="list-style-type: none"> • Committee terms for 2019-2021 begin • GNC interviews for 2nd VP (early January) 	<p><u>Council Meeting – February 15</u> Big Issue: LSS Status Update</p> <ul style="list-style-type: none"> • Committee Chairs invited to attend Council meeting • Introduction to CPLED • High level introduction of budget • CPCC Report – Recommendations re MDPs • PRPPC recommendation to amend Policy on Remuneration of Hearing Panels • Elections check-in

Council Year: July 2018 – June 2019

		<ul style="list-style-type: none"> Advertising and accepting of nominations for district elections begin Call to the Bar – January 11 Minister’s Reception Honouring IB&M Law Students – January 16 	<u>Other Activities</u> <ul style="list-style-type: none"> Nominations for district elections close – February 15
MARCH	APRIL	MAY	JUNE
<p><u>Council Meeting – March 15</u> Big Issue: Budget introduction/debate/preliminary approval</p> <ul style="list-style-type: none"> LIANS Report to Council Equity & Access Monitoring Report LFCC claims Committee work plans Education Session on Regulatory Risk (and/or Outcomes Measurement) Memo re Restorative Approaches CPLIED Presentation <p><u>Other Activities</u></p> <ul style="list-style-type: none"> 2nd VP Election – if required District Elections Call for At-Large Nominations 	<p><u>Council Meeting – April 26</u> Big Issue: Fee/Budget approval/LIANS Levy</p> <p><u>Other Activities</u></p> <ul style="list-style-type: none"> Nominations for At-Large candidates close Election for At-Large Positions – if required 	<p><u>Council Meeting – May 17 – Black Cultural Centre, Cherry Brook</u> Big Issue: LSS and E&A Status Updates; Next Strategic Plan</p> <ul style="list-style-type: none"> Draft Annual Lawyer Report presented LFCC claims PR Monitoring Report <p><u>Other Activities</u></p> <ul style="list-style-type: none"> Exit interviews for departing Council members Strategic Planning for Council May 9 – 10 Call to the Bar – May 3 Dara Gordon Event – May 2 Council Evaluation 	<p><u>Council Orientation for New Council Members – June 14 (all day)</u></p> <p><u>Other Activities</u></p> <ul style="list-style-type: none"> Main Call to the Bar – June 7 @ Pier 21 REC Event Honouring Articled Clerks from Racialized & Indigenous Communities – June (Date TBD) Council Dinner – June 14 Annual Meeting – June 15 @ Schulich School of Law Annual Lawyer Report filings due – June 30 All Fees due – June 30

NOVA SCOTIA BARRISTERS' SOCIETY

Council Activity Plan 2019

Objective	Activities	Reporting to and advising Council	Timelines	Outcomes	Indicators
<p>1. To improve the REGULATION AND GOVERNANCE of the legal profession</p>	<p>1.1 Implementation of Legal Services Regulation and Legal Services Support</p>	<p>ED</p>	<p>December 2019 – 1st Tranche of law firms completed;</p>	<p>1.1.1 MSELP Rollout continues on track for implementation of 3-year cycle for completion by all firms</p>	<p>All firms are on a three-year cycle;</p> <p>1st Tranche firms have a “Confidential Planner”</p> <p>MSELP regularly updated to reflect user feedback</p>
		<p>ED</p>	<p>February 2019 LSS Council (Update) May 2019 LSS Council Update November LSS Council Update</p>	<p>1.1.2 Legal Services Support team is established;</p> <p>1.1.3 Processes and protocols established to assess ongoing member support</p>	<p>Membership has access to and is using LSS team;</p> <p>Process for measuring usage is established;</p> <p>Council reviews and considers data</p>

					from LSS team in relation to its activities
		Council, Executive; PRPPC, COPCC, ED	December 2019 (timing dependent on legislative agenda)	1.1.3 If amendments to <i>Legal Profession Act</i> are passed in the Legislature,	Regulations in support of approved amendments to LPA are adopted by Council
		LOMC, ED	December 2019	1.1.4 Development of Succession Planning guidance and support is complete	Relevant resources, templates and education are in place to assist lawyers in creating and implementing succession plans
		LOMC	December 2019		Checklists and guidelines for file retention and destruction are created and distributed to membership
	1.2 Develop and promote restorative processes and approaches with	ED	Council update March 2019	1.2.1 An understanding of restorative approaches and when and how to use them is	Council has received training in restorative processes

	Council and Committees		Staff and Committee Chairs Education– Summer 2019 Further training by December 2019	developed and implemented within the Society, at Council and committees of Council	Training plan developed for educating committees on restorative processes
	1.3 Ensure regulatory risk issues are at the forefront in all work of the society	ED	March 2019	1.3.1 Additional education sessions around regulatory risk are offered	Education sessions and risk assessment workshop delivered to Council members
		Council, ED	May 2019	1.3.2 Preliminary risk information informs Council’s strategic planning and decision making on priorities	Risks are addressed in 2019-2022 strategic plan
		ED	November 2019	1.3.3 Tools developed for ensuring assessment of regulatory risks is considered in committee work	Tools are provided to committees and Risks are addressed in work plans and projects of committees
	1.4 Develop and promote an outcomes measurement lens in	ED	March 2019 and ongoing	1.4.1 Education session on Outcomes Measurement developed and delivered	Education sessions are

	all work of the society				delivered to all Council Members
		ED Council	May 2019	1.4.2 An outcomes measurement lens is applied by Council to strategic planning	2019-2022 Strategic Plan includes objectives and measurable outcomes
		Council and Committees	Ongoing	1.4.3 Council and Committees consider and incorporate measurable outcomes in work plans and projects.	All Committees have workplans that have clear and measurable goals and objectives
	1.5 Develop and support modernized trust accounts requirements	Finance Committee; TARWG	<p>First Report with initial Regulatory Changes to Council (January 2019)</p> <p>May 2019 TARWG report to Council:</p> <p>August 2019 Update from TARWG;</p> <p>November 2019 TARWG Report</p>	1.5.1 A Trust Assurance Program and Regulations are in place that reflect the Society's Triple-P approach.	Updated Trust Assurance Program in place.

	1.6 Continue to develop and support budgets using 3-year forecasting, sound financial management and reporting	Finance Committee	Budget approved April 2019	1.6.1 Budget approved by Council;	Budget info is available to Council, Committees, Staff and Membership
		Finance Committee	Proposed policy and regulation changes brought to Council regularly	1.6.2 Monitor and update Internal Controls; Financial, Administration and Operational Policies	Financial polices are adaptive and up-to-date
2. To promote, support and improve Administration of Justice in the Nova Scotia Legal System	2.1 Promotion of access to legal services	COPCC	February 2019 - report to Council	2.1.1 Recommendations from the Code of Professional Conduct Committee regarding multi-disciplinary practices (MDPs) are presented to council	Continued MDP work is approved by Council
		COPCC; PRPPC	June 2019 COPC recommend Draft Regs; and send to PRPPC; September 2019 Additional Research and consultation with stakeholders;	2.1.2 Recommendations made relating to regulatory and Code of Conduct provisions for permitting MDPs in Nova Scotia	Council decides whether to adopt rules permitting MDPs and if so, adopts regulatory changes

			November 2019 Report to Council		
	2.2 Promotion of Substantive Equality and Freedom from Discrimination in Delivery of Legal Services and the Justice System	Equity Committees; TRC WG; Executive; ED	September 2019	2.2.1 Tools and resources are developed and distributed to increase staff, Council, committees and membership capacity to define and apply an equity lens.	An equity lens is applied to all aspects of Council and Committee work.
		Standards Committees	December 2019	2.2.2 Standards reviewed for appropriate references to lawyer cultural competence in delivery of legal services.	Standards reflect need for cultural competence in delivery of legal services.
	2.3 Engagement with justice sector players and equity-seeking communities to enhance access to legal services and the justice system	Executive; Equity Committees; TRC; Court Liaison Committees;	December 2019	2.3.1 #TalkJustice data is collected and incorporated into the work of Council	Council decisions reflect consideration of #TalkJustice data
		ED	May 2019 EDI Council Update September EDI Council Update	2.3.2 Enhance and build meaningful engagement with communities whose legal needs and concerns fall outside the mandates of the Gender	Communities and stakeholders are regularly engaged and their input is valued in the work of Council

				Equity Committee and Racial Equity Committee	
				2.3.3 Communities and stakeholders consulted in relation to 2019-2022 Strategic Plan	
	2.4 Establishment of and support provided to the TRC Working Group in response to TRC Call to Action #27	TRCWG; FLSC TRC Working Group, REC	April 2019 - Financial support incorporated in budget	2.4.1 Planning continued for education and materials to be developed which reflect a response to Call to Action #27	Materials developed and education delivered in intercultural competency, , human rights and anti-racism
			TRCWG report is a standing item on Council agenda	2.4.2 Provide prompt, supportive and substantive support to the TRC Working Group and the Racial Equity committee as they complete their own TRC work	TRC Working and Racial Equity Committee are able to efficiently and effectively advance efforts to respond to TRC Call to Action #27.
2.5 Promotion of Equity, Diversity and Inclusion in the Legal Profession	Equity Committees, GNC; ED	May 2019 EDI Council Update September EDI Council Update	2.5.1 Council will leverage its education, experience and networks to promote equity, diversity and inclusion in the legal profession	Society activities, including nominations, promote the inclusion of members from equity-seeking communities.	

		Equity Committees, GNC; ED	<p>May 2019 -- Dara Gordon Event;</p> <p>May 2019 – Review ALR Questions</p> <p>December 2019</p>	2.5.2 Council will consider strategic direction in achieving this objective and development of outcomes measurements.	Outcomes and measurements for future success in advancing this objective are developed.
3. Additional Strategic Activities	3.1 Development of Society Strategic Plan for 2019-2021	Strategic Planning Steering Committee, Consultant	<p>March 2019 – Council session re: risk analysis</p> <p>May 9-10 2019 – Strategic Planning session</p> <p>June 2019 – Adoption of Strategic Plan</p>	3.1.1 Council will engage members, stakeholders, community organizations and others as appropriate to develop a new strategic plan which reflect the mission and values of the Society.	A new 3-year strategic plan is adopted by Council and presented at AGM.
	3.2 Review of bar admission training program	Director of Education and Credentials, Credentials Committee	<p>March 2019 – Presentation re: CPLED</p> <p>September 2019 – report to Council</p>	3.2.1 Council will determine ongoing nature of bar admission course and exam.	A decision has been reached in relation to the Society’s future participation as a member of CPLED.



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Tilly Pillay, QC

Date: May 17, 2019

Subject: Executive Director's Report

This is a very busy time of year at the Society. Here is a high level operational overview so you know what we do day in and day out.

FINANCE

Over the past several months, the folks in Finance have been busy drawing up the budget. Now that Council has approved the budget, they have been busy closing off the fiscal year, so they can get ready for Grant Thornton to do its audit. This has a very tight turnaround time frame, as the audit results have to be shared with the Finance Committee in early June, so that the audited financial statements can be ready for the Annual General Meeting (AGM) in mid-June.

They are also getting ready to send out the fee notices to our members. This process starts in mid-May and goes until the end of June, when members' fees are due. This year we are going to "tweak" the collection of fees process to try to make it more efficient. Hopefully, it will be less time consuming for everyone.

EDUCATION AND CREDENTIALS

Just as this is audit and fee season time, the folks in Education and Credentials are getting ready for the large Call to the Bar in early June. It runs so smoothly every year that people do not realize how much organization and effort it takes. Jackie and her team know what an important day it is for the new calls and their families, so they pay particular attention to the details and support the President's role at this special occasion.

And this is the group who plans the educational sessions at our AGM, so they devise a theme, plan the topics and identify speakers/presenters. If you have ever done this yourself, you know it is a huge piece of work!

PROFESSIONAL RESPONSIBILITY

Things are always hopping in this department, but of late there has been a significant increase of intake calls and from individuals who are angry, frustrated, and sometimes less than polite. This can take a toll on those who respond to these calls. A desire to help resolve issues is difficult when someone is shouting obscenities at you. We are putting processes in place whereby we will alert the public to the increased calls and that they may not hear back from us as quickly as in the past. We are also giving folks the option of sending an email, which at least can be responded to more quickly, even if on a preliminary basis. We will monitor these new strategies to ensure they do not have an adverse impact on those members of the public who may not be able to communicate other than by phone.

HUMAN RESOURCES

The newest initiative we are in the midst of establishing is an OH&S Committee, which we hope will give employees an appropriate vehicle to raise any workplace issues they may have. In the past it has been addressed on an ad hoc basis. This is in keeping with our focus on making sure employees are supported in their work and workplace.

ELECTIONS AND STRATEGIC PLANNING

Since January of this year we have had two processes unfolding simultaneously – Council elections and preparing for a new strategic plan. A lot of work was done by GNC and your Strategic Planning Steering Committee to make these happen. Council will have a recommendation at its meeting on Friday to fill the Southwestern District vacancy and will receive an update on next steps in the strategic planning process. We had good discussions and people worked hard at the sessions on May 9 and 10, so Council is in a good place to articulate its plan for the next three years.

Equity and Access and Legal Services Support are the two big issues we will focus on at our upcoming Council meeting. Reports from both teams are in your materials, so I will leave it to them to provide further updates in person.



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Frank E. DeMont, QC

Date: May 17, 2019

Subject: President's Report

Our May 17th meeting in Cherry Brook will be the final meeting in our "Council in the Community" effort. The Executive is excited about this meeting – reaching out to the various communities is an important step in ensuring we regulate the delivery of legal services in the public interest. Everyone seems to agree Millbrook was a great success. The Schulich event was important if not as well attended as we might have hoped.

This is our final regular meeting of Council for the term. The new Council will formally begin its work immediately after the Annual General Meeting on Saturday, June 15th. Over the two years of this term of Council, we have done good work. The list of our achievements under the 2016 -2019 Strategic Framework is both extensive and meaningful. I hope you are as pleased with this work as I am.

We have not been without our challenges, but I believe we have met them "head on." We have not always met with the success we would like, but seldom is that the case. And we have made a few mistakes.

One of the things I am most pleased with this year has been our reaching out to stakeholders and communities. This is only going to get better as we develop and execute the new Strategic Plan.

Three Big Focuses and a Community Discussion

The big focus of this meeting will be our update on the Equity and Access Office. Angela's memo is in the materials starting at page 26. Angela's presentation will be followed by discussions and lunch with members of the African Nova Scotian Community and a debrief.

We will also have a report from our Legal Support Services office, from Jennifer Pink and Robert McCleave.

We will discuss the Strategic Planning process and take a first view of the outcomes. This is meant to be a high-level scan, a week after the planning sessions, to confirm that we are comfortable with the directions we identified. If those directions are appropriate, the Steering Committee will prepare the full plan – subject to review and approval by Council.

LFCC

There are several Lawyers Fund for Client Compensation (LFCC) matters to address. We will deal with these claims *in camera* and therefore we will consider the claims at the very outset of the meeting. Please be ready to go at 9:00 a.m. sharp to facilitate an efficient morning of the Society's business.

Annual Lawyer Report and Client ID Rules

Director of Finance, Kate Shewan, will speak to the updated draft Annual Lawyer Report for our review and, if appropriate, approval. Likewise, we will review the Client ID Rules memo prepared by Professional Responsibility Counsel, Elaine Cumming. The decision on the memo will be whether it is ready for distribution to the membership.

Appointments

The GNC will report on its recommendations for appointment of a Southwestern District Council Member and a new Public Representative, both to take office at the conclusion of the AGM in June. We will circulate the recommendations at the meeting.

Thanks

This being my last note to you of this nature, I want to thank each of you for your support over this past year. I do not recall a single instance where anyone refused to take on a task or role when asked. That level of support made my work possible and I hope somewhat successful. It is a tough gig to take on this role as a sole practitioner. I am confident that we will continue to support Carrie in a similar manner.

Thank you, one and all.



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Victoria Rees

Date: May 17, 2019

Subject: Professional Responsibility Update

Date –	Executive Committee	N/A
Date – Friday, May 17, 2019, at 9:00 a.m.	Council	Update

Council was scheduled to receive the annual Professional Responsibility Monitoring Report in May. I requested that this be postponed until September this year because of a recent staff shortage in our department, and a heavy volume of complaints and claims over the past four months. The PR Monitoring Report requires a number of resources to produce, and our resources have necessarily been focused on public protection as a priority.

I am, however, providing this brief update on PR activities and appreciate Council waiting until September for a full report.

1. PR Staff

The PR Department was without an Executive Assistant between July – September 2018, and March – April 2019. This impacted our ability to process complaint files efficiently.

General Counsel and the paralegal began work in January under the Executive Director's office, and this has had a very positive impact on work flow and internal resources for some PR matters, particularly in light of the heavy Compensation Fund claims, and complex complaints activity.

2. Complaints Intake and Investigation

There has been a steady increase in complaint calls over the past 8 years (from 293 to 463), particularly this year, and this year we are also experiencing an uptick in return and repeat callers, high conflict individuals, and calls relating to lawyers under investigation. A number of

these callers are demonstrating a pattern of anger and in some cases abuse toward staff, and a number end up in PR even though they are not matters for which we can provide assistance.

To begin to address these problems, an internal committee with representatives from all departments and areas is being organized to consider how inquiries and requests for information are received, processed and responded to within the organization. Consideration is being given to ways to streamline these processes, including the use of inquiry forms and email instead of calls, and changing the way we communicate and manage expectations on our website and in forms. With fewer calls through the intake line, workflow can be better managed, and staff capacity will be enhanced to better serve those complainants we do have jurisdiction to help through mediation, other forms of resolution and/or investigation. In addition, these improved processes will help us better assess risk and appropriate Triple P risk responses.

We are also preparing a statement of expectations for our workplace and website highlighting what behaviours the public and lawyers can expect from us, and what we expect from them, including civil and respectful behaviour and communications. The safety and health of our working environment for staff is a high priority.

In terms of written complaints, while last year we enjoyed a brief one-year respite from the typical number of written complaints (87), this year returned to the average of 130. Typically, we receive about 10 complaints each month, but in March and April alone we received 29. This was the period in which we had no EA, and also received many Compensation Fund claims (see below). One complex investigation in particular arising from a firm break-up led to many calls from affected clients, and the filing of over a dozen written complaints against two lawyers.

Staff are undertaking an increased amount of investigations work, as planned, and engaging in direct member education, obtaining undertakings, etc., in an effort to change behaviour rather than 'punish'. This has reduced the number of special meetings of the CIC with members under s. 36(2), and the number of lower risk matters referred to them.

3. Complaints Prosecution

One matter was heard by a Hearing Panel this year, Duane Rhyno, a 17-day hearing which resulted in disbarment. The Court of Appeal heard the appeal of Lyle Howe's disbarment in April 2019, and the Court's decision is pending.

A second matter relating to Adele England, is being heard on May 13, 2019. That matter is set down for a half day. A third matter has been referred to hearing by the CIC, but public notice has been delayed due to the member's Court applications for confidentiality and judicial review. Both matters are now being handled by General Counsel. A fourth matter has been referred to hearing, and notice of referral will likely be made public in June.

There are at least two more serious investigations underway which may result in referral to hearing later in 2019/2020.

It is therefore very timely that we have General Counsel on staff to take the lead in most of these matters.

4. Compensation Fund Claims

Until this year, we had a number of years with very little claims activity. In October 2018, a large defalcation was discovered in relation to Jason Boudrot of Port Hawkesbury. This situation has generated an extremely high amount of work in terms of conducting the forensic audit, appointing a Receiver and then Custodian for the entire practice of law, which included 9 lawyers employed at four different locations, and managing calls from the public with regard to the claims process. Between January and April we have received 39 claims (with approximately 20 more expected), which is the highest number of claims from one event in the Society's history. The value of the claims filed to date is just under \$1 million.

The Legal Services Support team worked with PR, E&C and other staff to assist those lawyers and an articulated clerk previously associated with the firm to find new practice locations, which all now have.

Because of the means by which the misappropriations took place (primarily fraudulent invoices), every claim file has required review by counsel, whether volunteers on the Lawyers' Fund for Client Compensation Committee, or externally retained, to evaluate the value of work completed on each file, if any. The LFCCC is meeting monthly for between 3 and 5 hours to process these claims in as timely a manner as possible, in the public interest.

5. Committee Priorities

Council received detailed Committee updates within the past two months and I will therefore not summarize the work of the PR-related committees in this update, but will provide details in the fall.

6. Budget

Council received detailed financial information in respect of PR activities in March and April. Thanks to the CLIA Part C coverage for the Compensation Fund, the Society's exposure will be limited to \$500,000 for the Boudrot event. While there are complex investigation matters undertaken and/or underway which have been costly, the overall budgetary impact is lessened by the PR reserve. Cost savings have also been realized through our new General Counsel and paralegal positions, and the work of staff to reduce the use of external counsel.

MEMORANDUM TO COUNCIL

To: NSBS Council

From: Jill Perry, Federation of Law Societies Council representative for Nova Scotia

Date: May 9, 2019

Re: Update on FLSC activities

The Federation of Law Societies of Canada is the national coordinating body for Canada's 14 law societies. Each law society has a representative on the Council of the Federation. Council meets four times per year (October, December, March, and June). An overview of the Federation's mandate, strategic plan, and activities will be provided at the Council Orientation session in June. This memo provides an update on FLSC activities and decisions since October 2018.

There were 7 main substantive items for discussion and/or decision at the March meeting in Montreal.

1) Report from Anti-Money Laundering Working Group

Amendments to the Model Rules (changes to the rules re: no-cash, client identification, and a new trust account rule) had been approved by Council in October 2018. Federation Council was advised that most law societies will have the amended rules in place by the end of 2020. The working group has created two separate guides to support compliance: a guide for the profession and a separate guide for law societies.

Discussions between the Federation working group and the federal government (Department of Finance) are ongoing. A Federation-drafted framework for facilitating that dialogue has been circulated.

2) National Committee on Accreditation Modernization Committee

The NCA is responsible for assessing the legal education and professional experience of individuals educated/ trained outside of Canada who wish to practice law in Canada. This subcommittee of that group was formed in response to concerns about the competencies of lawyers who are licensed to practice in Canada by way of the NCA. In keeping with their work

plan, a consultant is being hired to conduct a “gap analysis” to determine how NCA candidates perform during bar admission programs as compared to graduates of Canadian law schools.

3) TRC Calls to Action Advisory Committee

This committee focusses on Calls to Action #27 (law schools) and #28 (law societies). With respect to #28, a joint meeting has been held with the Canadian Council of Law Deans to discuss how to best engage the legal academy. The goal is to mandate law schools – by way of the National Requirement – to expressly respond to this Call to Action but to leave it to individual law schools to determine the best method for so doing.

The committee is recommending a similar approach to #27; a draft proposal for navigating engagement with law societies is under review.

4) Strategic Discussion re: Federation as Voice of its Members

Council members agreed that the Federation should speak publicly on matters that are aligned with its roles where there is a consensus amongst member organizations on the issue. Council articulated a test that seeks to identify whether or not there is a fundamental principle of national interest in play, whether or not that issue with aligned – in a clear or obvious manner – with the role of legal regulators; and whether or not there is consensus amongst the member societies that the Federation should speak. Following this discussion, the Federation did publicly express concern about the dangers of public disclosure regarding the details of deliberations for judicial appointments.

5) CanLii / Lexum Report

Council received a positive report regarding the progress made since CanLii’s acquisition of Lexum. A commentary collection has been launched and search functionality is continually improving.

6) Report of Finance and Audit Committee

The Federation’s annual budget process began in December when the budget was first introduced to Council and circulated to member law societies. Council heard that no concerns were raised by the law societies. A projected increase in demand for NCA services will result in some increased revenue; however that will be offset – at least partially – by a fee reduction for NCA applicants effective May 2019. The budget was approved.

Council also decided to allocate the available money from the Special Projects Reserve Fund towards the work of the NCA Assessment Modernization Committee. A small portion of that fund has already been allocated to the National Action Committee on Access to Justice.

7) National CLE Program Advisory Group

This working group was formed to address concerns that the National Criminal and Family Law Programs were operating separately from the Federation with insufficient oversight / alignment of priorities/values. The group has presented a draft governance framework to the Co-Chairs of the Programs and it is currently under review – feedback and a response from the working group is expected by Council’s June meeting.

The Cayton Report: The Wolf Finally Arrives

by Rebecca Durcan
May 2019 - No. 236

For years observers have been saying that regulators of professions are under intense scrutiny and unless they regained public confidence then self-regulation without systematic oversight would end in Canada. Over time it has become easier to ignore these pleas as self-regulation continued to muddle along, but no longer. While the analogy to the little boy who cried wolf is imperfect (no one would call the author of the report or his agency's ideas "wolves"), the concept of snubbing previous warnings and subsequently facing real consequences is relevant.

On April 11, 2019, the long awaited report of the Professional Standards Authority (PSA) (headed at the time it was written by Harry Cayton) on the Inquiry into the College of Dental Surgeons of British Columbia was released. On the same day the Minister of Health gave the College thirty days to deliver an implementation plan for the recommendations directed at it. The Minister also announced that he has set up a steering committee to examine the recommendations related to the oversight of all regulated health professions.

Governance

Some of the key observations in the report about governance include the following:

- Boards should focus on three things:

- ensuring the College complies with its mandate and the law
 - setting strategy and monitoring performance and
 - holding the registrar and chief executive to account for delivery.
- Boards should dispense with formal rules of procedure (e.g., motions and votes) and, with rare exceptions, operate through consensus.
 - Secret ballots have no place in a public body.
 - Secret meetings (in the absence of staff) should be extremely rare and require centrally maintained minutes.
 - The Board should partner with staff to achieve the organization's mandate; staff do not just administratively implement Board directions.
 - Dysfunction in an organization occurs when Board members and staff no longer respect and trust each other.

The report's recommendations include:

- Candidates for selection to the Board from within the profession should be required to participate in an "induction programme" before being chosen.
- Officers or representatives from the professional association or similar bodies should have a three-year cooling off period before they can serve with the regulator.
- The governance committee should be abolished and Board officers should not attend audit committee meetings unless invited.
- Board members should not procure goods or services directly. Procurement should be through staff pursuant to appropriate policies.
- "The Board must stop seeing itself as the College and recognise that its role is to govern

FOR MORE INFORMATION

This newsletter is published by Steinecke Maciura LeBlanc, a law firm practising in the field of professional regulation. If you are not receiving a copy and would like one, please contact: Richard Steinecke, Steinecke Maciura LeBlanc, 401 Bay Street, Suite 2308, P.O. Box 23, Toronto, ON M5H 2Y4, Tel: 416-626-6897 Fax: 416-593-7867, E-Mail: info@sml-law.com

WANT TO REPRINT AN ARTICLE

A number of readers have asked to reprint articles in their own newsletters. Our policy is that readers may reprint an article as long as credit is given to both the newsletter and the firm. Please send us a copy of the issue of the newsletter which contains a reprint from Grey Areas.

the College and oversee its performance but that the College is run and managed by its professional staff.”

Measuring Regulatory Performance

The report assessed the performance of the College according to the criteria that the PSA uses for the bodies it oversees. The following areas were found to have not met the standard:

- Standards of practice do not identify mandatory expectations upon practitioners and are unclear in some areas.
- There is not a systematic and accountable process for identifying and developing new or revised standards.
- Standards are not clearly worded nor are they effectively communicated to the profession and to the public.
- Complaints are not appropriately assessed for risk and prioritized upon receipt.
- The complaints process is not transparent, fair, proportionate and focused on public protection because of its composition, and because of the excessive role of staff and because of the misuse of undertakings option.
- Complaints are not dealt with promptly with a view to preventing harm to the public while in process.
- Insufficient reasons are provided for actions taken on complaints.
- The regulator does not have an effective process for identifying, assessing, escalating and managing organizational risks.
- Board oversight does not include the effective use of key performance indicators and a corporate risk register.

- The regulator does not collect and use performance and outcomes information about patients and the public as a part of its strategic planning.
- The Board does not work cooperatively, with an appropriate understanding of its role as a governing body and members’ individual responsibilities.

External Relationships

The report identified a broad lack of understanding of the role of the College to regulate the profession in the public interest. This was demonstrated by the election campaign statements, the perceptions of Board members from the profession and in the history of various regulatory initiatives. Examples of the regulatory initiatives of concern was the failure to implement a standard preventing dentists from treating their spouses and the challenges faced by attempts to implement an enhanced quality assurance program. The report states:

The College needs to build a different relationship with its dentist registrants: one of both mutual respect and distance. It cannot do so when its Board is elected by registrants and partially subject to their control. It is hard for it to build a new relationship with the profession when it is so closely tied financially and through personal contact and individuals to the [professional association] and other dental organisations. An independent, effective, efficient, fair and public focussed regulator is good for the dental community as a whole. It is especially good for skilled and ethical dentists who never have a complaint.

Grey Areas

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

The report stated plainly that the relationship between the regulator and the professional association was too close and strongly recommended the severing of many of those ties (e.g., the regulator cease collecting annual fees for membership in the professional association).

The report commended the affiliation of the regulator with the other health regulators in a loose umbrella organization as a model of collaboration.

The report indicated that while the regulator had regular contact with the government, one aspect of the relationship that was not working well was the appointment of public members to the Board. The criteria used in making such appointments were uncertain and there were too many vacancies.

In terms of engaging the public, the report noted a reluctance of the Board to engage with the public and the lack of a strategy to more effectively obtain the input and perspective of the very people it is mandated to protect.

Protecting the Public

This portion of the report is perhaps the most hard-hitting. It definitively states that regulators have no advocacy role. It also says:

A concern for the well-being of dentists rather than a single-minded focus on patient safety and public protection is still a part of College culture.

After providing some quotations of statements made to the inquiry by leaders in the profession, including those working for the regulator, the report states:

I don't think these perspectives are typical but for dentists who are active in the College and dental community to express them suggests a profound misunderstanding of the purpose of professional regulation and lack of concern for the safety and well-being of patients.

The report noted that the mandate of the regulator "to serve and protect the public" was broad. The report expressed concern that the regulator was reading the mandate too broadly. The report suggests that the mandate of regulators "does not ask regulators to be responsible for public health or for access to health professionals".

The report recommends that the mandate of regulators be narrowed to read:

To protect the safety of patients, to prevent harm and promote the health and well-being of the public.

The report illustrates these concerns. One instance was the failure of the regulator to establish, as required by the legislation, a patient relations committee and a program dealing with sexual abuse. The only sexual abuse guideline developed by the regulation was permissive rather than restrictive in nature (i.e., enabling dentists to treat their spouses).

Another example provided was the failure to effectively enforce the standard related to sedation and anaesthesia. This discussion included an example where a young patient experienced permanent brain damage by a practitioner who had disregarded many of the most basic requirements yet was permitted to remain in the profession.

Legislative Reform

In addition to the recommendations described above some of the more significant recommendations for legislative reform for all health regulators include the following:

- Boards be reduced to twelve members, all of whom are appointed (not through the current government process) on the basis of demonstrated skills with only half being members of the profession.
- Smaller regulators should be merged into fewer, larger ones.
- A simplified complaints system with three components: triage, investigation, and adjudication.
- An expanded duty to report publicly on all operations of the regulator including complaints outcomes.
- The Review Board should be able to initiate, on its own, a review of a complaint outcome even if there is no appeal.

Longer term reforms would include:

- Having a single set of ethical rules and conduct expectations for all health professions.
- Removing adjudication of disciplinary disputes from the regulators, to be performed by an independent body.
- That same independent body would also maintain a single register of every health practitioner in the province.
- There should be a separate independent oversight body that reviews the performance of regulators, approves some of the standards

developed by them and manages the Board member selection process.

- The independent oversight body would also employ an occupational risk assessment process that would be used to recommend which professions require formal statutory regulation.

Conclusion

In summary, the Cayton report contains a detailed review of the performance of the College of Dental Surgeons of British Columbia. It identified serious deficiencies in the governance of the regulator. It also concluded that there were gaps in the regulatory performance of the regulator in eleven areas. It commented on a number of areas for improvement in its external relationships with various groups. It concluded that the regulator was not focussed exclusively on its public interest mandate, particularly in the area of public safety.

The report makes a number of sweeping short term and long term proposals for regulatory reform for all health professional regulators. These include a completely appointed Board of twelve people, half of whom are public members, merging regulators, separating out the adjudication of discipline matters and the operation of a single public register, and the creation of an oversight agency that would review and report on the regulatory performance of the regulators.

This report is broadly consistent with recent developments in British Columbia, and other provinces including Ontario and Nova Scotia and the regulatory regime that has existed in Quebec for many years.

Grey Areas

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A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

The Cayton Report can be found at:

<https://www2.gov.bc.ca/assets/gov/health/practitioner-pro/professional-regulation/cayton-report-college-of-dental-surgeons-2018.pdf>.



NOVA SCOTIA BARRISTERS' SOCIETY

**COUNCIL MEETING MINUTES
SCHULICH SCHOOL OF LAW**

Date **March 15, 2019**

Time **9:00 am**

Present Frank E. DeMont QC, President
 Carrie Ricker, First Vice-President
 Jim Rossiter QC, Second Vice-President
 Brian Awad
 Mike Baker
 Jillian Barrington
 Natalie Borden
 Ellen Burke
 Cheryl Canning QC
 Sheree Conlon QC
 Peggy Gates-Hammond
 David Hirtle
 Shelley Hounsell-Gray QC
 Loretta Manning QC (left at 11am)
 Andy Nickerson QC
 Jill Perry QC
 Tilly Pillay QC
 Shane Russell
 Dr. Rod Wilson
 Tuma Young

Regrets:
Deanna Frappier QC
Kelly Mittelstadt
Michelle Ward

Guests:
Angelina Amaral
Maurice Chiasson QC
Krista Hirtle
Heather McNeill QC
Dr. Kara Mitchelmore
Andy Norton
Kate Shewan

Staff:
Anne Broughm
Collette Deschenes
Jacqueline Mullenger
Victoria Rees
Lawrence Rubin
Julia Schabas, *recording*
Angela Simmonds
Darlene Trenholm
Sean Walker
Jane Willwerth

1. INTRODUCTORY MATTERS/CALL TO ORDER

1.1 Introductory Remarks

President Frank DeMont QC called the meeting to order. He acknowledged that the Council meeting was taking place on traditional Mi'kmaq territory. He asked attendees to consider what it means to share this land, with the past, present and future in mind and to think about this recognition in a meaningful way.

The President also welcomed Andy Norton, Director of Business Technology at the Law Society of Alberta, and Kate Shewan, incoming NSBS Director of Finance & Administration, to the meeting.

2. DISCUSSION OF BIG ISSUE (BUDGET)

2.1 Budget Presentation

Sean Walker, Contract Director of Finance & Administration, presented the 2019-2020 Budget to Council. He explained that all budgeting decisions were based on the Society's Triple P rationale and considered equity and access to justice lenses. He also added that the proposed budget factors in some flexibility for the new Strategic Plan. Mr. Walker stated that based on the continuation of the three-year budgeting that membership fees be kept at \$2,400 with an \$80 LFCC levy due to a potential shortage in the Reserve from significant claims against the fund.

Mr. Walker reviewed various projected expenses and revenues for the Society as well as financing for priority projects. These projects include the Society's Truth & Reconciliation project, its strategic engagement and communications review, succession planning support, training for volunteers, technology and infrastructure investment and strategic framework planning and implementation. Mr. Walker gave an overview of the various planning items for the 2019/20 Budget, such as the triennial employee compensation review, the reduction in external legal fees due to the hiring of the General Counsel and paralegal, as well as the Society's consideration of joining the CPLED bar admissions program.

There was lengthy discussion over the particulars of some of the projected departmental expenses for the year. Ultimately, Council agreed that they were comfortable with the proposed Budget and it will be brought back for final approval with the LIANS Levy in April.

2.2 Officers Honorarium Policy

Tilly Pillay QC, Executive Director, gave an overview of the Finance Committee's work on updating Council Policy 15 – Honorariums for Society Officers and Public Representatives. She explained that the Committee did a scan of other law societies in their compensation for their Presidents. They found that many jurisdictions gave additional compensation to those Presidents who resided outside of the city in which their law society is based. The Finance Committee recommends that Council allow travel stipends to Officers who live outside of HRM in addition to the Officer Honorarium. The amount would correspond with each year the Officer ascends the Executive ladder.

There were some questions relating to the compensation of Public Representatives and whether they should be compensated less than the full \$200 when they attend one to two hour Society meetings. President DeMont responded that the work the Public Representatives provide is well worth the full compensation.

UPON MOTION BY Shelley Hounsell-Gray QC and seconded by Mike Baker that the revised Council Policy 15 be approved as presented. *Motion carried.*

3. POLICIES/PROCESSES

3.1 TRC Working Group – Update, Terms of Reference Approval and Work Plan Introduction

Angelina Amaral, Chair of the Truth & Reconciliation Working Group, presented the Group's Terms of Reference and draft Work Plan. She highlighted a number of initiatives from the draft work plan, such as the revival of the Eastern Door Initiative, creating a decolonization education series, working with the Education & Credentials department to incorporate cultural competence training in the bar admissions course, among others.

There were a number of questions and suggestions from Council members on ways to further engage both Council and the membership in the Group's work, including adding a Public Representative to the group, providing Treaty Law education sessions for Council and members, among other ideas. It was emphasized that Society volunteers should learn more about the TRC and the Group's work in order to begin establishing cultural competency among lawyers.

3.2 CPLED Presentation

Dr. Kara Mitchelmore, CEO of CPLED (Canadian Centre for Legal Education) presented the Centre's new bar admissions pilot program to Council. She gave an overview of the program's four-part structure, which includes both online modules and exercises as well as in-person workshops and sessions. The program is not only meant to assess students' legal knowledge, but to also prepare them for practice management, build their lawyer skills and ensure they are aware of their professional responsibilities. Dr. Mitchelmore reported that the new program will be tested in Alberta in August 2019 and Manitoba in February 2020 before a full launch in August 2020.

As Council is currently considering whether they will adopt CPLED's program for the Society's bar admission course, they had a number of questions for Dr. Mitchelmore. The questions primarily related to whether the course could include regionally specific information as part of the program (i.e. working with African Nova Scotian or Mi'kmaq clients) and whether the online portions of the course are accessible to those with vision impairments or learning disabilities.

3.3 Professional Responsibility Policies and Procedures – Policy Recommendation regarding Remuneration of Hearing Panels

President Frank DeMont QC presented the PRPPC's policy recommendation to Council on implementing increased remuneration for Panelists in Hearings that go beyond ten days. He explained that the Hearing Committee is having difficulty finding volunteers willing to sit on panels due to the increasing time commitments.

UPON MOTION BY Loretta Manning QC and seconded by Natalie Borden that the policy recommendation regarding remuneration of hearing panels be approved as presented. *Motion carried.*

3.4 LIANS Report to Council

Lawrence Rubin, Director of LIANS, presented the LIANS Report to Council. He reviewed the department's various activities as well as the number of claims that were submitted, opened and closed over the past year. There were some questions from Council members regarding claims related to ineffective counsel.

UPON MOTION BY Tuma Young and seconded by Shane Russell that Council approve the receipt of the LIANS Report. *Motion carried.*

3.5 Equity & Access Monitoring Report

Angela Simmonds, Equity & Access Manager, presented the Equity & Access Monitoring Report to Council. She highlighted the Office's work on embedding an equity lens at the Society and providing cultural competency training to lawyers. Ms. Simmonds also reported on the Office's collaborative work with the Professional Responsibility department, particularly in relation to complaints that involve equity issues.

UPON MOTION BY Shelley Hounsell-Gray QC and seconded by Jim Rossiter QC that Council approve the receipt of the Equity & Access Monitoring Report. *Motion carried.*

3.6 Strategic Planning Session – Update

President Frank DeMont QC gave Council an update on the work of the Strategic Planning Steering Committee. The Committee is currently in the process of conducting environmental scans and gathering information from stakeholders in preparation for Council's strategic planning session on May 9-10. Stakeholders will include managing partners from a number of law firms, the Department of Justice, the CBA, PPS, county bar associations, solo practitioners, small firms, among others. A survey will also go out to all members of the Society. President DeMont will work with Council Member, Sheree Conlon QC, to gather all Council minutes from past meetings, monitoring reports, etc., and synthesize the information into a report evaluating our successes with the current Strategic Framework..

President DeMont also reminded Council that Andy Norton, Director of Business Technology at the Law Society of Alberta, will be leading Council through the strategic planning session.

4. APPROVALS

4.1 2019 Activity Plan

President DeMont presented the updated 2019 Activity Plan to Council. He explained that the Plan leaves flexibility for changes once the new strategic plan is established.

UPON MOTION BY Natalie Borden and seconded by Mike Baker that the 2019 Activity Plan be approved as presented. *Motion carried.*

4.2 Southwestern District Council Vacancy

Council Member, Andy Nickerson QC, left the room for this discussion.

Executive Director, Tilly Pillay QC, explained to Council that as a vacancy remains in the Southwestern District following the closure of nominations for the Council District Election, the Governance & Nominating Committee (GNC) recommends that Council adopt an appointments process to fill the position. Such a process is pursuant to Regulation 2.3.5 and would give the GNC the authority to put out a call for expressions of interest, vet and interview applicants, and make a recommendation to Council for appointment.

Discussion ensued. It was argued that had the vacancy been created midterm, then a byelection may be the best process. However, if a nomination period has ended and only yielded one nomination, then an appointments process may be a more successful way of encouraging members to apply. Some members of Council did not agree with the appointments route and believed that a byelection would be a more democratic process.

UPON MOTION BY Jim Rossiter QC and seconded by Carrie Ricker that the GNC's recommendation regarding the Southwestern District Council Vacancy be approved as presented. *Motion carried with 14 in favour and 1 against.*

5. EDUCATION

5.1 Regulatory Risk & Outcomes Measurement Workshop

Council and the Senior Management Team were led in a workshop on regulatory risk and outcomes measurement by Victoria Rees (Director of Professional Responsibility), Andy Norton (Law Society of Alberta) and Jane Willwerth (Strategy and Engagement Officer).

6. FOR INFORMATION

6.1 2018-2019 Council Calendar

6.2 Executive Director Report

6.3 President's Report

6.4 Restorative Approaches – Update

6.5 January 31, 2019 Summary Financial Reports

7. CONSENT AGENDA

7.1 Minutes of February 15, 2019 meeting

7.2 Resignations: Ms. Meaghan Claire Mahadeo (effective 03/15/2019)

7.3 Committee appointments: Karen Endres and Karen Quigley – Advisory Committee on Provincial Judicial Appointments

7.4 2019-2020 Committee Work Plans

7.5 Approval of Real Estate Practice Working Group

7.6 Amendments to Terms of Reference: Real Estate Standards, Criminal Standards and Family Law Standards Committees

It was raised that there was one amendment to the minutes of the February 15, 2019 meeting regarding the drafted date on the document.

There was also some discussion on the work plan for the Criminal Standards Committee. It was proposed that Council recommend that a Cultural Competence Standard be a priority of the Committee.

Subject to the amendment to the minutes, UPON MOTION BY Mike Baker and seconded by Shelley Hounsell-Gray QC that the Consent Agenda be approved as presented. *Motion carried.*

8. IN CAMERA

8.1 LFCCC Update and Approval

The Claims brought before Council were approved as presented.

8.2 Executive Director's Performance Goals Update



NOVA SCOTIA BARRISTERS' SOCIETY

COUNCIL MEETING MINUTES
BORDEN ROOM AND VIA TELECONFERENCE

Date **April 26, 2019**
Time **9:00 am**

Present Frank E. DeMont QC, President (in person)
 Carrie Ricker, First Vice-President (in person)
 Tilly Pillay QC (in person)
 Peggy Gates-Hammond (in person)
 Michelle Ward (in person)
 Mike Baker
 Jillian Barrington
 Cheryl Canning QC
 Sheree Conlon QC
 Deanna Frappier QC
 David Hirtle
 Loretta Manning QC
 Kelly Mittelstadt
 Andy Nickerson QC
 Jill Perry QC
 Shane Russell
 Dr. Rod Wilson
 Tuma Young
 Ellen Burke

Regrets:
Jim Rossiter QC, Second Vice-President
Natalie Borden
Brian Awad
Shelley Hounsell-Gray QC

Guests:
Maurice Chiasson QC (in person)

Staff:
Kate Shewan (in person)
Lawrence Rubin (in person)
Anne Broughm (in person), *recording*

1. DISCUSSION OF BIG ISSUE (BUDGET)

1.1 Fee/Budget Approval and LIANS Levy

Executive Director, Tilly Pillay QC, advised that, following the March Council meeting, the budget went back to the Finance Committee. She noted that, although the timing of some items were adjusted, there were no changes in the budget since its preliminary approval by Council in March.

Kate Shewan, Director of Finance and Administration, reviewed her memo to Council as well as Schedule "A" of the Finance package which reflected the March Council discussions.

Lawrence Rubin, Director of LIANS reviewed his memo to Council regarding the LIANS Levy and noted that the LIANS Board of Directors decided to maintain the current insurance levy. Tilly Pillay QC noted that, under the proposed new regulatory amendments, the Executive Director has the ability to waive certain fees in extraordinary circumstances. A policy defining "extraordinary circumstances" will be developed/reviewed by the Finance Committee and brought to Council.

UPON MOTION BY Peggy Gates-Hammond and seconded by Carrie Ricker that Council approve the budget, LIANS Levy, Schedule "A" and the regulatory changes. *Motion carried.*

2. UPDATES

2.1 Strategic Planning Update

President, Frank DeMont QC noted that a Strategic Planning session is scheduled for May 9 and 10, to set the 2019-2022 Strategic Plan. Andy Norton, Director, Business Technology, Law Society of Alberta, will facilitate our work. Newly elected Council members have been invited to attend alongside the current Council members. Council will consider the feedback received from the membership and the in-person focus group sessions that were held earlier this month. Council will also have materials relating to our past successes and a sense of where professional regulation may be heading in the next few years. The agenda for the May 9 and 10 will be finalized and materials sent out by Friday May 3.

2.2 Election Results and Council Orientation

Executive Director, Tilly Pillay QC, advised that the District and At-Large Elections were completed and congratulated Cheryl Canning QC and the other newly-elected members. Expressions of Interest for the Southwestern District has closed and the three applications received will be vetted by GNC on May 2.

Council Orientation will take place on June 14. A draft outline of the full-day orientation will be available prior to the May Council meeting.

3. APPROVALS

3.1 Resignation of David Raymond Thomas

UPON MOTION BY Mike Baker and seconded by Carrie Ricker that Council accept the resignation of David Raymond Thomas. *Motion carried.*

4. IN CAMERA

4.1 LFCC Claim.