



Tab 9

Report to Convocation

Governance Task Force 2016

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Purpose of Report: Information

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COMMITTEE PROCESS

1. The Governance Task Force 2016 has held three meetings to date and is currently considering a number of discrete governance issues previously identified by the Governance Issues Working Group of the Priority Planning Committee and issues referred from certain standing committee deliberations.
2. This information report, which follows an oral update by the Chair at the November 9, 2016 Convocation, includes reports on two of these issues.

FOR INFORMATION

PROPOSAL FOR A SINGLE DATE FOR THE ELECTION OF BENCHERS

Issue Under Consideration

3. The Governance Task Force 2016 (the Task Force) is proposing that Convocation consider a change to the bencher election process, from the current practice of having the lawyer bencher election and paralegal bencher election in different years to holding them together on a single date. The Task Force is also proposing that the first single election as described be held on the date for the next lawyer bencher election on April 30, 2019.
4. This matter was referred to the Task Force from the Paralegal Standing Committee, which reviewed this matter at its May 2016 meeting and approved the proposal for a single date for the election of benchers.
5. Prior to reporting this matter to Convocation for decision, the Task Force proposes to issue a call for input on this proposal to give paralegal licensees in particular an opportunity to comment on the matter, given that the transition to a single bencher election date in 2019 will require a one year extension of the term of the current elected paralegal benchers.

Introduction and Background

6. Since the introduction of paralegal regulation by the Law Society in 2008, the election for the members of the Paralegal Standing Committee, and subsequently the election of paralegal benchers to Convocation, has been held in a different year from the election for lawyer benchers.
7. The *Law Society Act* provides that the election dates are to be prescribed in the by-laws. By-law 3 provides as follows for the lawyer and paralegal bencher election, respectively:

3. There shall be an election of benchers in 2007 and in every fourth year thereafter on the last day in April that is not a holiday.

136.3. There shall be an election of paralegal members¹ in 2010 and in every fourth year thereafter on the last day in March that is not a holiday.

¹ This language will be changed in the By-Law, as it currently refers to the election of licensed paralegals as members of the Paralegal Standing Committee.

8. In the Paralegal Standing Committee's report to June 2009 Convocation, it recommended the following with respect to the paralegal election (which at that time was for the election of five paralegal licensees as members of the Paralegal Standing Committee, two of whom would be elected as benchers by the paralegal and lay members of the Committee):

Date: the paralegal election should not coincide with the existing bencher election, to

- a. permit holding the first election sooner than the scheduled [lawyer bencher] election in 2011;
- b. avoid a situation where all members of the Paralegal Standing Committee are newly-elected or appointed (because the paralegal members start their term of office at the same time as the lawyer benchers and lay benchers), and
- c. avoid a hiatus where there is effectively no Paralegal Standing Committee in place during the election of benchers, and subsequently, the election of the Treasurer.

9. The most recent election of paralegal benchers was in 2014, while the most recent election of lawyer benchers was in 2015. Since both serve for four year terms, the next scheduled election for paralegals is in 2018 while that for lawyers is in 2019.

Reasons for a Change in Process

10. Apart from moving past the transitional issues discussed above, the experience of the paralegal benchers at the Law Society has evolved over the past nine years, and governance changes have also been made. As of 2014, five paralegal benchers are directly elected to Convocation and become members of the Paralegal Standing Committee. Prior to that change, all paralegal members of the Paralegal Standing Committee – the two elected benchers and the three other paralegals elected to the Committee – became engaged in committee and other work beyond that of the Paralegal Standing Committee. The three members of the Committee who were not benchers were also invited to attend Convocation. Further, all benchers engage in the strategic planning exercise of Convocation which follows the lawyer bencher election, a period of more than one year after the paralegal bencher election.
11. In the view of the Task Force, the disparity in dates for the reasons outlined in 2008 no longer serves a useful governance purpose and arguably affects the integrity of governance. Holding lawyer bencher elections and paralegal bencher elections at different times requires significant additional work and additional costs.

12. With two paralegal bencher elections now having occurred and with full integration of paralegals into the Law Society's governance processes, a single date for the election for benchers is appropriate.

The Proposed Single Election

13. In the Task Force's view, the least disruptive option to bring the elections into coordination would be to hold the election for all benchers at the time of the next lawyer bencher election on April 30, 2019 and extend the term of the existing elected paralegal benchers to 2019. The elections would occur at the same time with separate ballots for lawyers and paralegals and continue the process of lawyer licensees as the electorate for lawyer benchers and paralegal licensees as the electorate for paralegal benchers.

Opportunity for Comment

14. While the Task Force believes that it is expected that generally this change would be welcomed by paralegal licensees, it also believes it is appropriate that the paralegal community in particular be informed of the proposal and offered an opportunity to comment.
15. The Task Force proposes that the proposal be communicated to all licensees and also to paralegal organizations for comment for a period of 60 days. Notice will be published in the Ontario Reports and on the Law Society's website. Thereafter, the Task Force will prepare a report to Convocation for its decision, informed by any comments received.

REVIEW OF BENCHER ELECTION TIMING ISSUES

16. Based on information provided by the Elections Officer for the 2015 bencher election, the Task Force reviewed two issues that were raised in the results of the candidate survey following the election. The issues related to how long the campaign seemed and the fact that a long voting period, in the respondent's view, may affect voter turnout.
17. The two issues were to consider:
 - a. decreasing the voting period for voting in the bencher elections; and
 - b. implementing a shorter period between the close of nominations and the opening of voting.
18. Having reviewed the current by-law provisions that determine the voting period and the time between close of nominations and the opening of voting (using the lawyer bencher election provisions), the Task Force determined that at present, the time periods in question should remain the same, at least for the next election, for the following reasons:

- a. If the lawyer and paralegal bencher elections are merged for 2019 for the first time, from the Elections Officer's perspective, the time periods set out in the by-law are appropriate for what may be increased activity in managing two sets of nomination forms, preparing two Voting Guides, preparing, testing and administering two separate ballots and allowing enough time to deal with issues that the development may present for the first time;
 - b. The time periods set out in the by-law are established on the basis of, 'the first Friday in [a month]', or 'on or shortly after the second Friday in [a month]'. These dates will vary from election year to election year, allowing for longer or shorter periods depending on the calendar. It is important not to establish thresholds that result in too short a time period such that it would be difficult to manage the election appropriately and allow time to deal with any unforeseen issues;
 - c. For 2019, the voting period at most will be two weeks plus four days (voting would open ideally on Friday, April 12 and close on Tuesday, April 30). This is reduced by approximately one week from elections prior to 2015 as a result of reforms approved by Convocation based on the Bencher Election Working Group's Report. Considering the issues discussed above, it is suggested that this is not an overly lengthy period and should be maintained at least for 2019.
19. As such, the Task Force is proposing no changes to these time periods at this time.