



The Law Society of
Upper Canada

Barreau
du Haut-Canada

Tab 7

Report to Convocation November 28, 2014

Report on the Federation of Law Societies of Canada Annual Meeting and Conference, Halifax, Nova Scotia October 7-10, 2014

Purpose of Report: Information

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Policy Secretariat**

**ANNUAL MEETING AND CONFERENCE OF THE
FEDERATION OF LAW SOCIETIES OF CANADA**

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INTRODUCTION

1. The Federation of Law Societies of Canada (the “Federation”) is the national coordinating body for Canada’s 14 law societies. It operates the National Committee on Accreditation (“NCA”), a Standing Committee at the Federation whose primary mandate is to assess the legal education and professional experience of persons whose legal education and professional experience were obtained outside of Canadian common law jurisdictions and who wish to be admitted to a common law bar in Canada. It provides administrative support to the National Criminal Law Program and the National Family Law Program. The Federation additionally engages in a number of national initiatives on which reports are received at its annual and semi-annual meetings.
2. The Federation also organizes two conferences a year at the times of its business meetings for Council members, benchers and law society staff addressing regulatory themes of national importance.¹
3. Former Treasurer Thomas Conway is the Federation’s President for 2014-2015. Former Treasurer Laurie Pawlitzka serves as the Federation Council member representing the Law Society of Upper Canada.
4. More information about the Federation can be found on its website at www.flsc.ca/.

The Halifax Meetings

5. The Federation held its Annual Conference, Council Meeting and related meetings in Halifax, Nova Scotia from October 7-10, 2014. All 14 Canadian law societies were represented. Treasurer Janet Minor, Federation Council member Laurie Pawlitzka, benchers Cathy Corsetti, Susan Hare, Julian Falconer, Brian Lawrie, Malcolm Mercer, and staff Robert Lapper, Zeynep Onen, Josée Bouchard, Jim Varro, and Marisha Roman attended on behalf of the Law Society of Upper Canada.
6. Thomas Conway attended in his Federation capacities. Sophia Sperdakos and Juda Strawczynski, currently seconded part time to the Federation, also attended as Federation Policy Counsel.

¹All of the Federation’s national regulatory initiatives are funded by a levy assessed to each member law society. The levy is based on the number of “full-time equivalent” (“FTE”) members in the jurisdiction. In 2013-2014, the levy was \$25 per FTE in common law jurisdictions. The amount was raised to \$28.50 for 2014-2015, in part in order to develop appropriate resources for the Federation to meet its mandate.

COUNCIL MEETING

7. The Council met on October 10. The agenda and related events addressed, among other general issues, the following matters.

2014– 2015 Federation Priorities Approved

8. Council adopted the Federation priorities for the 2014-2015 year, which were developed to advance the Federation's strategic objectives for 2012-2015. The priorities include completing a draft national good character standard for admission to the legal profession, developing an implementation plan for the national competency and good character standards, conducting a review of the National Requirement for approving Canadian common law degrees, and ensuring the effectiveness of the Federation's Standing Committee on the Model Code of Conduct as the central body for law society and other stakeholder recommendations for improvement to the Model Code, with a view to ensuring that the Model Code is implemented in a consistent fashion across Canada.

Federation Financial Matters

9. Jonathan Herman, CEO of the Federation, reported on the Federation's financial affairs and presented the proposed 2015-2016 budgets for the Federation's general operations and for its NCA program.
 - (i) Consolidation of Funds for Presentation Purposes
10. Council approved consolidating the Federation's general fund and its NCA fund for presentation purposes. This more accurately reflects that the NCA is a committee of the Federation whose operations are completely integrated within the Federation.
 - (ii) Approval of Audited Financial Statements
11. Council approved the Federation's draft audited financial statements for the year ending June 30, 2014.
 - (iii) Allocation of the Federation's Cumulative Surplus
12. The Federation has accumulated surpluses over the years, largely through the operations of the NCA. In 2014, the Federation Executive established the Surplus Working Group which considered how to allocate the surplus. The Law Society's Robert Lapper serves on the Surplus Working Group.

13. Based on the recommendations of the Surplus Working Group, Council approved a contingency reserve and a special projects reserve which will be used to fund a number of ongoing projects.

(iv) Approval of the 2015-2016 Budget

14. Council approved the proposed 2015-2016 budgets for the Federation's general operations and for its NCA program. Increased revenues will enable the Federation to hire additional required policy and technology staff.

Governance Review

15. In June 2014, Federation Council approved the creation of a Governance Review Committee to conduct a governance review of the Federation. Several factors led to the determination that there is presently a need for a broad governance review, including growing demands on the Federation to lead national regulatory initiatives and the expectation that the Federation will perform at high standards.
16. In July, Council approved the composition of the Committee, which includes the Law Society of Upper Canada's Robert Lapper, as well as Marie-Claude Bélanger-Richard, Federation President (Chair); Jeff Hirsch, Federation Vice President; Sheila Greene, Council member for the Law Society of Newfoundland & Labrador; Sheila MacPherson, Council member for the Law Society of the Northwest Territories; Steve Raby, Council member for the Law Society of Alberta; Johanne Brodeur, former Bâtonnière of the Barreau du Québec, and Tim McGee, CEO, Law Society of British Columbia.
17. The Governance Review Committee will review a range of issues including matters regarding best governance practices. It will endeavor to bring proposals for change to Council and law societies later in 2015.

National Committee on Accreditation (NCA)

18. The NCA reports that in financial year 2013/2014 it:
 - a. received 1,294 applications for assessment (down 2% from the previous year);
 - b. issued 779 Certificates of Qualification;
 - c. considered 24 appeals of NCA assessments; and
 - d. delivered 5,700 examinations, which were written both in Canada and in locations around the world.
19. The NCA also reported on two issues raised by Ontario's Fairness Commissioner regarding the NCA. These were brought forward by the Law Society of Upper Canada. The first concern related to a longstanding exception that enabled students at Australia's Bond University to have their Canadian courses being taught at Bond as equivalent. This practice was unfair to students elsewhere in the world. As previously reported, the NCA

has rescinded the Bond exception. The second concern related to distance education. The NCA policy is consistent with the National Requirement.

20. In September 2014, the Fairness Commissioner advised the Federation that both concerns were “diligently addressed by the NCA”.

The National Action Committee on Access to Justice and Access to Legal Services

21. Jeff Hirsch, Council member from the Law Society of Manitoba, reported on the work of the National Action Committee on Access to Justice (“NAC”) and the Standing Committee on Access to Legal Services (“SCALS”), of which he is the Chair.

(i) The National Action Committee on Access to Justice (“NAC”)

22. Mr. Hirsch reported that the NAC Steering Committee has been focusing its work on establishing local action committees in each Canadian jurisdiction. Ontario, Nova Scotia, Alberta, Saskatchewan and Manitoba were identified as jurisdictions where such initiatives are progressing “particularly well”.

(ii) The Standing Committee on Access to Legal Services (“SCALS”)

23. The SCALS members are Robert Lapper (Ontario), Kevin Feth (Alberta), Sheila Green (Newfoundland and Labrador), Tim McGee (British Columbia), Darrel Pink (Nova Scotia), Nicolas Plourde (Barreau) and Nalini Vaddapalli (Nunavut).
24. The SCALS’ mandate is to facilitate the exchange of information among law societies on access to legal services initiatives and provide guidance for the Federation’s participation in the NAC. It met on October 7, 2014 in Halifax, and, based on this meeting, and the outcomes of the Federation Annual Conference that focused on access to legal services and access to justice issues, it will be developing its strategic and work plans and reporting further in due course.

Standing Committee on the Model Code of Professional Conduct – Omnibus Amendments

25. At the Council meeting, omnibus amendments regarding the rules of conflicts of interest, language rights, and a new rule on incriminating evidence were approved for adoption in the Model Code.
26. The amendments followed a consultation launched in October 2013 on proposed amendments to the rules on conflicts of interest and certain other rules. The proposed changes to the conflicts rules involve rules on doing business with clients, short-term limited legal services, and some of the commentary under the conflicts rules as a result of the Supreme Court of Canada’s decision in *Canadian National Railway Co. v.*

[McKercher LLP, 2013 SCC 39 \(CanLII\)](#).

27. The Committee's members include Gavin Hume, Chair of the Standing Committee on the Model Code of Professional Conduct, Jim Varro (Ontario), Susanne Boucher (Nunavut), Sheila Greene (Newfoundland & Labrador), Robert Lebeau (Barreau), Darrel Pink (Nova Scotia) Steve Raby (Alberta), and Kristin Dangerfield (Manitoba).

National Requirement Review

28. The National Requirement was approved in 2010, and takes effect in 2015. In June 2014, Federation Council approved the establishment of a National Requirement Review Committee, and at its October meeting Council approved this Committee's Terms of Reference for it to:
 - a. Conduct an initial evaluation of the National Requirement focusing on identifying immediate issues that have become evident as part of early implementation; and
 - b. Consider and make recommendations on whether to include a non-discrimination provision in the National Requirement.
29. Seven individuals will be appointed to the National Requirement Review Committee and will include those with experience in law society regulation, experience in the Canadian legal academy, and a senior person at a law society specific expertise in admissions-related issues.
30. In addition, the Chair of the Approval Committee or his or her designate will be appointed an *ex officio* member without voting rights so as to ensure effective dialogue between the Canadian Common Law Program Approval Committee and the National Requirement Review Committee.

Canadian Common Law Program Approval Committee

31. Laurie Pawlitza, Chair of the Canadian Common Law Program Approval Committee (the "Approval Committee"), presented a report on the Approval Committee's recent activities. Approval Committee members include Catherine S. Walker (Nova Scotia), Steve Raby (Alberta), Alan Treleaven (British Columbia), Dean Lorne Sossin (Osgoode Hall Law School), Dean Mary Anne Bobinski (University of British Columbia) and Dean Daniel Jutras (McGill University). Law Society of Upper Canada policy counsel Sophia Sperdakos and Juda Strawczynski are providing policy and operational support to the Approval Committee.
32. The Approval Committee is engaged in the iterative process of determining law school program compliance with the Federation's national requirement for entry to law society admission programs in Canadian common law jurisdictions (the "[National Requirement](#)").

33. Over the past several months, the Approval Committee's work has included:
 - a. considering the Université de Sherbrooke's proposal for a common law J.D. program;
 - b. continuing to consider joint and dual law degree programs; and
 - c. finalizing the 2014 Report Form.
34. The Approval Committee determined that it needs to develop specific criteria for determining whether joint and dual degree programs meet the National Requirement. In order to ensure that sufficient time is provided within which to make any necessary changes to law school programs to meet the criteria developed, Council approved the deferral of the application of the National Requirement to joint and dual degree programs until January 2017. The Law Society of Upper Canada approved this deferral at October 2014 Convocation.
35. As described above, the Approval Committee will work closely with the National Requirement Review Committee, in addition to continuing with its regular mandate.

National Admission Standards Project (NASP)

(i) Assessing National Admission Standards

36. The NASP developed the National Competency Profile, a profile competency required upon entry to the profession. It has been adopted by 13 law societies subject to the development and approval of a plan for implementation, including developing an appropriate assessment mechanism. To that end, the NASP retained the services of third party provider which reviewed the range of methods for assessing the competencies. The Federation then consulted with 10 law societies through the first half of 2014 regarding assessment options.
37. The NASP Steering Committee met in Toronto in early November to further consider next steps in this project, and will be reporting to Federation Council in due course.

(ii) A National Suitability to Practice / Good Character Standard

38. The NASP's Suitability to Practice Working Group comprised of staff from several law societies has been leading on the consideration of the development of a national Suitability to Practice / Good Character Standard. The Law Society of Upper Canada's Sophia Sperdakos and Naomi Bussin serve on this Working Group.
39. The Suitability to Practice Working Group has considered feedback received in response to a fall 2013 consultation report on the Suitability to Practice / Good Character standard. It has identified additional areas requiring further input from law societies, and expects to circulate a further consultation report to law societies.

Election of Federation Executive Officers 2014-2015

40. The Federation's Executive Officers for 2014-2015 were elected at the Halifax Council meeting, and took office effective November 15, 2014. They are:
 - a. Thomas G. Conway, President
 - b. Jeff Hirsch, Vice President and President-Elect (Manitoba)
 - c. Maurice Piette, Vice President (Chambre des notaires du Québec) and
 - d. Marie-Claude Bélanger-Richard, Q.C., Past President.

CanLII REPORT

41. The Federation is the sole member of the Canadian Legal Information Institute (CanLII), which is financed by a separate membership levy paid through the Federation. CanLII President and CEO Colin Lachance reported on CanLII's activities and plans to Federation Council.
42. Lachance reported that CanLII continues to provide free access to law, and is in the process of adding historical cases and legal texts to its database. It is also adding connections to the legal community through its new site, CanLII Connects (<http://canliiconnects.org/>). Since being launched earlier in 2014, CanLII Connects has grown organically, with a range of contributors adding over 3,000 commentaries.

CONFERENCE PROGRAM

43. The conference portion of the meeting took place on October 8 and 9, 2014. The conference theme was "Access to Justice and Legal Services: Developing Practical Strategies". The conference was a truly innovative and collaborative experience, and a model in how organizations can all work together towards common purposes.
44. On the first day of the conference, the United Way led participants through a poverty sensitization exercise that tangibly demonstrated how poverty impacts on all aspects of life, including how individuals interact with our justice system.
45. On the second day of the conference, participants went on field trips to visit organizations in the Halifax community where access to justice issues complement the organization's core mandate. Sites visited included legal aid offices, courts, immigrant settlement services, the Mi'kmaw Native Friendship Centre and other organizations. Based on these experiences, participants then regrouped to contemplate new initiatives or what ideas could be incorporated into current initiatives to facilitate access to justice.