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Accordingly, a notice of hearing will be published on the Law Society of Nunavut website after having been issued to the parties.

Exemptions to s66 (1)

Pursuant to further stipulations in the *Rules*, after receiving a notice of hearing, a member may make a special request to the Sole Inquirer or Committee of Inquiry to have publication of the notice withheld:

66. (2) A Sole Inquirer or Committee of Inquiry shall conduct all or portions of an inquiry *in camera* where
 - a) an application to have all or portions of the inquiry held *in camera* is made by the complainant or the member or student-at-law whose conduct is being inquired into in accordance with subsection (3); and
 - b) the Sole Inquirer or Committee of Inquiry is of the opinion, after considering the nature of the complaint and any submissions made on the issue, that the interest in holding all or portions of the inquiry *in camera* outweighs all other interests, including the public interest, that may be better served by holding the inquiry in public.
- (3) An application to have all or portions of the inquiry held *in camera* must
 - a) be in writing and signed by the applicant;
 - b) set out the reasons for the application; and
 - c) be delivered to the chairperson of the Discipline Committee not less than 14 days prior to the commencement of the inquiry.
- (4) On receipt of an application to hold the inquiry *in camera*, the chairperson of the Discipline Committee shall immediately forward a copy of the application to the Sole Inquirer or Committee of Inquiry and to
 - a) the complainant, where the applicant is the member or student-at-law whose conduct is being inquired into; or
 - b) the member or student-at-law whose conduct is being inquired into, where the applicant is the complainant.

Attendance

Use of electronic means for conducting hearings

Given the geographical and economical context of conducting hearings in Nunavut, the new policy will include direction to parties on an option to utilize electronic means if they cannot be physically present.

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Practice Directive #4 of the Nunavut Court of Justice clearly addresses this concern. It acknowledges the significant travel costs between communities in Nunavut and provides that justice is better served by attendance by telephone in civil and criminal chambers.

Ss. 25(1) of the *LPA* submits inquiries to the rules of natural justice. The right to a fair hearing commands that individuals be given a fair opportunity to answer to accusations.

As the *Rules* are silent on this matter, the LSN will in line with Practice Directive #4 extend the same courtesy to its members to attend via telephone.

Obligatory Attendance

The Disciplinary Committee will retain its power to summon any person whose physical attendance is necessary to facilitate a proper inquiry pursuant to Ss. 25(2) of the *LPA*:

Powers of Committee of Inquiry or Sole Inquirer

(2) A Sole Inquirer or Committee of Inquiry has the power to

- (a) summon and bring before the inquiry any person whose attendance the Sole Inquirer or Committee of Inquiry considers necessary to facilitate a proper inquiry into the matter complained of;
- (d) do all things that the Sole Inquirer or Committee of Inquiry considers necessary to provide a full and proper inquiry; and

The LSN executive will initiate a policy whereby the Discipline chair may impose Ss. 25(2) for sufficiently grave discipline matters only.

Public Access to a Member's Discipline History

Roll and Record

In accordance with the *Rules*, the record as maintained by the Secretary must at minimum, include: the dates of any finding of guilt and any sanctions imposed.

Rules of the Law Society of Nunavut

35. The Record pertaining to persons admitted to the Society as members must contain the following information in respect of each member.

- (e) dates of any findings of guilt for conduct deserving of discipline and any sanctions imposed;
- (h) such further particulars as the Executive may direct.

The Record and the Roll must be available for public inspection pursuant to the *LPA* Ss. 14(3):

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Inspection of Roll and record

(3) The Roll and the record pertaining to members and students-at-law shall be open for inspection by any person on reasonable notice to the Secretary.

Notice to Members

Ss. 69 (1) of the *Rules* commands that a notice be sent to all members when one has been found guilty of a discipline misconduct. This notice must include: the nature of the conduct deserving of discipline, a summary of the facts and the disciplinary measures taken (c).

Ss. 69 (2) of these *Rules* gives discretionary power to the Executive to “*set out in the notice the name of the member [...] found guilty of conduct deserving of discipline.*”

New Policy – Web Publication

The Executive has adopted a policy to publish a finding of guilt on the **LSN website** with discretion as to the amount of detail disclosed online. This decision reflects Point 20 of the NDSP:

20. There is a lawyer directory available with status information, including discipline history and information on how to access more information about that history.

[Commentary: Discipline history means any finding by the ultimate decision making body, after an adjudicative process or by consent, that a lawyer has committed conduct deserving of sanction.]

After a Notice of Direction has been issued, the member’s name, the nature of the conduct deserving of discipline, a brief summary of the facts and the disciplinary measures taken are published on the website.

In special circumstances, the Executive may use its discretionary power and decide not to publish the member’s name.

Decisions will be available on the website for 6 months after the date of posting; after which the public can access a member’s disciplinary history from the LSN directory or CanLII

CanLII

In line with the practice of other Law Societies, the LSN will adopt a new policy to publish Disciplinary Hearing Decisions in full on CanLII.

Exonerated

On receipt of a written request from a member who has been exonerated in the course of their discipline hearing, the Executive shall send a notice to the membership detailing: the name of the

member, the nature of the conduct investigated, and the findings of the disciplinary inquiry. This is pursuant with *The Rules of the Law Society of Nunavut*:

70. (1) Where the Executive receives a report of a Sole Inquirer or Committee of Inquiry under section 32 of the Act indicating that a member or student-at-law has been found not guilty of conduct deserving of discipline or where a finding of guilt is reversed on appeal under section 33 of the Act, the Secretary shall, on receipt of a written request from the member or student-at-law whose conduct was inquired into, send a notice to all members and students-at-law setting out
- (a) the name of the member or student-at-law whose conduct was inquired into;
 - (b) the nature of the conduct that was inquired into; and
 - (c) the findings of the Sole Inquirer or Committee of Inquiry or the decision of the Court of Appeal, as the case may be.
- (2) Where a request received from a member or student-at-law under subsection (1) specifies that public notice be given of the findings of the Sole Inquirer or Committee of Inquiry or the decision of the Court of Appeal, as the case may be, the Secretary shall, in addition to the notice required under subsection (1), give public notice of the findings or decision, as the case may be, in the manner and form and at the time determined by the Executive.

Compliance with the Disciplinary Process

The Executive would like to impart on members their obligation to participate in the discipline process and comply with the requests of the Discipline Chairperson and Committee. As is mandated by the *Legal Profession Act*:

Investigation

24. (1) The chairperson of the Discipline Committee shall investigate every matter that comes to his or her attention in respect of the conduct of a member or student-at-law.

Requirement to answer questions or furnish records

- (2) In the course of an investigation the chairperson of the Discipline Committee may require the member or student-at-law concerned or the complainant, if any, to answer any questions or to furnish any records that the chairperson considers relevant to the investigation, and the member or student-at-law or the complainant shall answer the questions or furnish the records. R.S.N.W.T. 1988,c.40(Supp.),s.10; S.N.W.T. 1995,c.7,s.6.