

Governing in the Public Interest

President's Report for July 19, 2013

The Nova Scotia Barristers' Society regulates the practice of law in the public interest. At this first meeting of the newly elected Council we must be conscious of this obligation as we begin to tackle the aggressive Strategic Framework that we have adopted for the Society. I urge members of Council to consider the nature of the public interest that is addressed or affected by the decisions we make and the discussions in which we engage at this Council meeting, and at those to follow over the course of the year.

We have the great pleasure, at this meeting, of hosting Gerald Tremblay, QC, CM, OQ, President of the Federation of Law Societies of Canada and Jonathon Herman, CEO. To begin this Council year we will hear from Gerald and have a chance to discuss with him the work of the Federation and how Nova Scotia can contribute to best practices and national initiatives, in accordance with our strategic plan. Gerald and Jonathon will benefit from hearing the dialogue at our meeting about our commitment to transform regulation in the public interest and to improve the administration of justice for Nova Scotians.

Council will be asked at this meeting to approve the awarding of the Society's Distinguished Service Award. The committee that brings the recommendation is chaired by Past President, Ron Creighton, QC, and includes a number of recognized members of the profession, who together review comprehensive nominations received from members of the profession. The public interest is well served by this award in the sense that the accomplishments of lawyers within the profession and in volunteer efforts within the community make a significant difference to our province. The nominees for this award represent the many contributions of our profession to the betterment of our province and country.

The key component of our work at this meeting will be to consider two significant aspects of our Strategic Framework. First we will review the plan that has been developed to assess the feasibility and steps necessary to transform regulation and governance of the profession. This will be your opportunity as a member of Council to think strategically about how we can actually accomplish the aggressive goal that we have set for ourselves for the year. I suggest that you consider your level of comfort that the plan does indeed provide a realistic path forward, with appropriate oversight and engagement of Council, and that the public interest in effective regulation and governance will be well served by this effort. I must also emphasize that, if we are to accomplish our objectives, we have no time to waste because Council will need to be well informed, engage deeply in the topic, and ready to begin making

decisions as early as the Fall. At our meeting I will be asking each of you to take personal responsibility for the success of our work and to reach out to your own network over the coming weeks and months to engage others in a deliberate dialogue about changes that are affecting our profession and how we adapt to those influences.

The second key aspect of our Strategic Framework that needs to be promptly addressed is our Access to Justice priority. In June, a small group of interested participants from the profession, the judiciary and the community gathered in a workshop format, coinciding with the visit of Dr. Julie MacFarlane for our AGM. That group identified common themes and certain opportunities that are available to the Society to demonstrate its leadership in access to justice in Nova Scotia. Council is being asked at this meeting for feedback about the results of that workshop, but importantly we need to discuss how we can bring focus to our efforts in order to bring the results of the workshop into alignment with our Strategic Framework and the decisions that Council has previously made about our access to justice mandate and about the mandate of the equity office. This is an important topic and directly advances the public interest in the administration of justice.

In other matters, Council will consider the Activity Plan and calendar for the year. It is important to have a clear view of our expectations for the year – as we ask our Committees and staff to establish goals and develop work plans, we simply must lead by example. We can hold each other accountable by developing realistic plans, pursuing them with diligence, and measuring our performance. We are asking each Society Committee to do the same, so one of the items for discussion will be the way in which we communicate with and work together with Society Committees in order to achieve the goals set out in the Strategic Framework.

Please make sure you complete the 2-minute evaluation – I will use your input to make improvements in our governance processes and meetings.

I hope that you come to this first meeting of the new Council with enthusiasm for the work ahead and a strong commitment to making a positive difference for the public and for lawyers. We have much work to do if we are to achieve our goals. We have the necessary plans in place to do so. It will take leadership from Council, and your personal commitment to the work as a member of Council, if we are to be successful.

I am looking forward to seeing everyone!

Key activities since June 15:

June 24 – meeting with Judiciary regarding Law Courts Library

June 27 – Council orientation session

June 28 – planning lunch with D. Pink

July 4 – meeting re ED Performance goals.Meeting of Committee Chairs.

July 5 – Executive committee meeting, starting with representatives of LISNS

July 16 – meeting with China Legal Aid representatives

July 18 – dinner with President, CEO of Federation, and representatives of NSBS



NOVA SCOTIA
BARRISTERS' SOCIETY

COUNCIL AGENDA

Friday, July 19, 2013

11:00 am - Individual + Group Photo

11:30 Lunch - 12:00 Meeting

Nova Scotia Barristers' Society

The Borden Room

1. CONSENT AGENDA MATTERS

- Minutes: June 15, 2013 (p. 9)
- *Resignations:* Christopher John Forbes, Gregory Allan Cann, James Gerald Elliott Ball, Kenneth Jenner Carlyle Armour, L. Edward Hicks, Michael Hicks, Stephen Michael Hellsten, Thomas Thompson, Carolyn Dawn Baglole, Cynthia Joy Matthews Hellsten, Elizabeth Lorna Soria, Shannon Webb, Susannah Margison
- Regulation 10.3.6 – Requirements for all withdrawals - Memo G. Greencorn July 11, 2013 (p. 11)
- Amendment to Regulation 2.9.1 to create the Law Office Management Standards Committee and to create the Criminal Law Standards Committee - Memo D. Pink July 11, 2013 (p. 13)
- Renewal of a temporary practice permit fee (addition to Schedule A April 2013) - Memo G. Greencorn July 11, 2013 (p. 15)
- Regulation 10.5.6 Application for Registration – Memo D. Pink July 10, 2013 (p. 19)
- Professional Standards (Real Estate) Committee – Standard 3.18 Builders' Liens – Memo M. M. McGrath July 11, 2013 and side-by-side Standards (p. 37)

2. GREETINGS

Gerald Tremblay QC, CM, OQ, President, and Jonathan Herman, CEO - Federation of Law Societies of Canada

3. BUSINESS ARISING

4. MATTERS FOR APPROVAL

- (a) **Matter:** Distinguished Service Award – *Ron Creighton QC to present*
Material: Memo from Committee *to be provided at meeting*
Action: Approve awarding of Distinguished Service Award
- (b) **Matter:** 2013-2016 Strategic Plan – **Transforming Regulation and Governance in the Public Interest**
Material: Memo June 13, 2013 D. Pink, Strategic Plan
Action: Approve Plan
Page: 23

5. MATTERS FOR DISCUSSION

- (a) **Matter:** Access to Justice – Goals relating to Strategic Plan
Material: Memo July 9, 2013 D. Pink
Action: Discussion
Page: 41
- (b) **Matter:** Activity Plan 2013-2014
Material: Draft Activity Plan
Action: Discussion
Page: 49
- (c) **Matter:** 12 Month Calendar Review
Material: Draft
Action: Discussion
Page: 57
- (d) **Matter:** Committee Work Plans
Material: Template of Work Plan
Action: Review Council's expectations
Page: 59

6. REPORTS

President's	Page: 1
Executive Director	Page: 61
Changes in Category	Page: 65

7. MONITORING/LIAISON REPORTS

None

8. OTHER BUSINESS

9. IN CAMERA

Executive Director Evaluation

10. COUNCIL MEETING EVALUATION

2 Minute Evaluation - Form provided — Complete and return to S. Shane (Handout)

11. FOR YOUR INFORMATION

12. FUTURE MEETING DATES

Meetings commence at 12h with lunch available at 1130

- Friday, September 27, 2013 – followed by Annual Recognition Reception
- Thursday, October 24, 2013 - Regulatory Reform Workshop
- Friday, November 22, 2014

- Friday, January 24, 2014
- Friday, February 28, 2014
- Friday, March 28, 2014
- Friday, April 25, 2014
- Friday, May 23, 2014
- Saturday, June 13, 2014 - *Annual Meeting (Schulich School of Law)*



NOVA SCOTIA
BARRISTERS' SOCIETY

COUNCIL MINUTES

Saturday, June 15, 2013

12:30 pm

Schulich School of Law

Room 104

Present:

J. René Gallant, *President*
Tilly Pillay QC, *First Vice-President*
Jill Perry, *Second Vice-President*
Nancy Barteaux
David Bartol
Robert Gregan
Carolyn MacAulay
William Mahody
Annette Marshall
Diane McGrath
Stephen McGrath
Kenneth Nason
Robert Pineo

Alonzo Wright
Darrel Pink *Executive Director*

Regrets:

Mike Baker
Dean Kimberley Brooks
Christa Brothers
Heidi Foshay Kimball
Gavin Giles QC
Darren MacLeod
Naiomi Metallic
Richard Rafuse QC, *Honorary President*
Catherine Walker QC

Staff:

Victoria Rees

1. **UPON MOTION** (*Pillay/Mahody*) it was resolved to approve the consent agenda with the addition of Kenneth White to the list of resignations.

Motion carried.

2. Appointment of Public Representatives

UPON MOTION (*Pillay/Perry*) it was resolved to appoint Ken Nason, Annette Marshall, and Mike Baker as Public Representatives for a two-year term.

Motion carried.

3. Council Committees 2013-2014 Appointments

UPON MOTION (*Marshall/Nason*) it was resolved to appoint the Regulatory and Council Committees as well as Representatives on Outside Bodies as reflected on the Committee List attached to the agenda.

Motion carried.

4. Adjournment

There being no further business the President declared the meeting adjourned.



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Glen Greencorn

Date: July 11, 2013

Subject: Amendment to Regulation 10.3.6

Date – 2013-07-19	Council	For Approval
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Recommendation/Motion:

That regulation 10.3.6 be amended as described on the attached regulation amendment presentation.

Analysis:

When the trust account regulations were approved in November of 2012 part of the intent was to allow the regulations to be effective regardless of what form of deposit or withdrawal was used. Regulation 10.3.5 sets out the requirements for all withdrawals without specifying a separate set of regulations for cheques, wire transfers, electronic funds transfers, etc. Regulation 10.3.6 modifies one of the requirements in regulation 10.3.5 (the need for two signatures) for sole practitioners. Inadvertently, old language was left in Regulation 10.3.6 which would appear to limit the means by which withdrawals could be made. The proposed amendment removes that language.

Existing Regulation	Proposed Regulation	Rationale
<p>Requirements for all Withdrawals 10.3.5 Any withdrawal of funds from a trust account must</p> <ul style="list-style-type: none"> (a) be made to a named payee; (b) be made by two persons, at least one of whom must be a practising lawyer; (c) identify the trust account from which the funds are withdrawn and the date on which the funds are withdrawn; (d) not be released or effected until the practising lawyer or law firm is in possession of sufficient funds for the credit of the client on whose behalf the withdrawal is made; and (e) not be released or effected until the practising lawyer has sufficient knowledge of the withdrawal to ensure that the client's interests are protected. 	<p>Requirements for all Withdrawals 10.3.5 Any withdrawal of funds from a trust account must</p> <ul style="list-style-type: none"> (a) be made to a named payee; (b) be made by two persons, at least one of whom must be a practising lawyer; (c) identify the trust account from which the funds are withdrawn and the date on which the funds are withdrawn; (d) not be released or effected until the practising lawyer or law firm is in possession of sufficient funds for the credit of the client on whose behalf the withdrawal is made; and (e) not be released or effected until the practising lawyer has sufficient knowledge of the withdrawal to ensure that the client's interests are protected. 	No Change
<p>One Signature Permitted for Sole Practitioner 10.3.6 If the practising lawyer is a sole practitioner, a withdrawal of funds from a trust account may be made by the lawyer only by means of a cheque signed only by the lawyer or an electronic transaction approved by password or access code held only by the lawyer.</p>	<p>One Signature Permitted for Sole Practitioner 10.3.6 If the practising lawyer is a sole practitioner, a withdrawal of funds from a trust account may be made by the lawyer only.</p>	This amendment brings the language of the sole practitioner exception for withdrawals in line with regulation 10.3.5. The amendment removes references to the forms of withdrawal.

MEMORANDUM TO COUNCIL

From: Darrel Pink

Date: July 11, 2013

Subject: Amendment to Regulations to create the Law Office Management and the Criminal Law Standards Committees

Date – July 19, 2013	Council	For Approval
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Recommendation/Motion:

Be it resolved to amend Regulation 2.9.1 as reflected below

Executive Summary:

The amendments are to add the Law Office Management Standards Committee and to create the Criminal Law Standards Committee that Council appointed in June.

Existing Regulation	Proposed Regulation	Rationale
None	2.9.1. (w) PROFESSIONAL STANDARDS (Criminal) COMMITTEE, develops professional standards for the area of criminal law	This is the new committee that Council agreed to appoint. Its Terms of Reference are being developed and will come to Council with its work plan in September
None	2.9.1 (x) PROFESSIONAL STANDARDS (Law Office Management) COMMITTEE develops professional standards in the area of law office management.	This Committee has been appointed for a year but inadvertently was never actually created as a Council Committee by regulation. This amendment will rectify that previous oversight.



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Glen Greencorn

Date: July 11, 2013

Subject: Schedule A Amendment

Date – 2013-07-19	Council	For Approval
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Recommendation/Motion:

That Schedule A be amended to include “Other Fees (i)” – a fee for renewal of a temporary practice permit.

Analysis:

During the preparation of Schedule A in April 2013, the fee for renewing a temporary practice permit was overlooked and not included on the schedule.

SCHEDULE A		2013/14		
Society Fees and Assessments		Net Fee	HST	Total
Annual Fee				
(a)	Practising fee, if paid in one lump sum by <i>June 30, 2013</i> , which amount is subject to a credit of \$164.00 for a net amount due of	\$ 1,959.00		
		\$ 1,795.00	\$ 269.25	\$ 2,064.25
(b)	if paid by preauthorized withdrawal			
	June 20, 2013 (includes \$60.00 administration fee)	508.75		
	September 20, 2013	448.75		
	December 20, 2013	448.75		
	March 20, 2014	448.75		
(c)	the non-practising member fee	250.00	37.50	287.50
(d)	The retired member fee	50.00	7.50	57.50
(e)	The Canadian Legal Advisor Fee	2,777.00	416.55	3,193.55
Amount due to the Association				
(a)	for members other than those referred to in subregulations 4.7.3 which amount is subject to a surplus credit of \$694.00 from the mandatory insurance program for a net amount due of	\$ 2,154.00		
		1,460.00	219.00	1,679.00
(b)	if paid by preauthorized withdrawal			
	June 20, 2013 (includes \$20.00 administration fee)	385.00		
	September 20, 2013	365.00		
	December 20, 2013	365.00		
	March 20, 2014	365.00		
(c)	members employed by the Nova Scotia Legal Aid Commission or Dalhousie Legal Aid Service , which amount is subject to a surplus credit from the mandatory insurance program of \$347.00 for a net amount of	1,077.00	730.00	109.50
				839.50
(d)	members employed in the civil service of the Province of Nova Scotia and not including members employed by provincial government agencies, commissions, or corporations, or employed as counsel for municipalities within the province which amount is subject to a surplus credit from the mandatory insurance program of \$188.50 for a net amount of	538.50	350.00	52.50
				402.50
(e)	The net amount payable to the association is subject to a surcharge if, in the period after May 1, 2000, a claim payment was made by the Association on behalf of the member, which surcharge is calculated on each paid claim in the twelve month period from May 1 to the next April 30 as follows: 40 percent of the gross assessment in (a) above, for each of the five years following the date of the claim payment.		861.60	129.24
				990.84

SCHEDULE A		2013/14		
Society Fees and Assessments		Net Fee	HST	Total
Reinstatement Fees				
(a)	reinstatement of a practising member	250.00	37.50	287.50
(b)	reinstatement of non-practising member	20.00	3.00	23.00
(c)	reinstatement of a retired member	20.00	3.00	23.00
Articled Clerk Fees				
(a)	enrolment as an articled clerk	225.00	33.75	258.75
Bar Admission Course Fees				
(a)	enrolment in the Bar Admission Course	3,500.00	525.00	4,025.00
(b)	writing the Bar Examination outside Halifax	75.00	11.25	86.25
(c)	rewriting the Bar Examination	500.00	75.00	575.00
(d)	request to have exam results reviewed	200.00	30.00	230.00
(e)	Assignment of articles	75.00	11.25	86.25
Other Fees				
(a)	transfer from another law society:			
	(i) application fee	1,250.00	187.50	1,437.50
	(ii) the Bar Admission Course	3,500.00	525.00	4,025.00
(b)	application for readmission after disbarment	1,000.00	150.00	1,150.00
(c)	application for readmission after resignation under subregulation 5.10.1	500.00	75.00	575.00
(d)	application for temporary practice under subregulation 6.4.6	250.00	37.50	287.50
(e)	application for temporary practice by a member of a non-reciprocating governing body under subregulation 6.4.4	250.00	37.50	287.50
(f)	an application to change membership category from non-practising to practising under Regulation 5.6 if out of practice less than three years	250.00	37.50	287.50
(g)	an application to change membership category from non-practising to practising under Regulation 5.6 if out of practice longer than three years and not practising elsewhere (includes the cost of writing the Bar Examination)	1,000.00	150.00	1,150.00
(h)	an application to apply as a Canadian Legal Advisor	1,250.00	187.50	1,437.50
(i)	<i>a renewal of a temporary practice permit</i>	150.00	22.50	172.50

SCHEDULE A		2013/14		
Society Fees and Assessments		Net Fee	HST	Total
Law Corporation Fees				
(a)	application for permit under subregulation 7.5.2	300.00	45.00	345.00
(b)	annual renewal of permit under subregulation 7.5.7	150.00	22.50	172.50
(c)	changes to permit under subregulation 7.5.15	25.00	3.75	28.75
(d)	reinstatement of permit under subregulation 7.5.19	250.00	37.50	287.50
Foreign Legal Consultant Fees				
(a)	application fee under subregulation 6.5.2	1,000.00	150.00	1,150.00
(b)	annual renewal of the permit under subregulation 6.5.6	250.00	37.50	287.50
Certificate Fees				
(a)	Certificate of Standing	100.00	15.00	115.00
(b)	any other confirmation of standing	25.00	3.75	28.75
(c)	a certified copy of a resolution of Council or a decision of a committee	25.00	3.75	28.75
Limited Liability Partnerships				
(a)	an application for registration under subregulation 7.4.2 an amount per Nova Scotia partner of	50.00	7.50	57.50
(b)	an application for registration under subregulation 7.4.4, an amount per Nova Scotia partner of	50.00	7.50	57.50
(c)	an application for renewal under subregulation 7.4.13, an amount per Nova Scotia partner of	50.00	7.50	57.50

MEMORANDUM TO COUNCIL

From: Darrel Pink

Date: July 10, 2013

Subject: Regulation 10.5.6

July 19, 2013	Council	Introduction and Approval
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Recommendation/Motion:

Be it resolved that Council waives the breach of Regulation 10.5.6 by lawyers and law firms relating to the requirement to have a Notification of E-Submission Receipt for an Application for Registration, after June 1, 2013 until the Land Registration electronic document submission system has been corrected.

Summary and Analysis

When the *Land Registration Act* was implemented 10 years ago, various processes were implemented to allow the electronic submission of documents and the electronic payment of fees by lawyers to Service Nova Scotia & Municipal Relations. As part of that process, various controls were implemented through the trust account regulations pursuant to the *Legal Profession Act* in order to allow an automatic debit of a lawyer's SNSMR trust account. The regulations authorize the automatic debit with very specific sets of requirements in place that allow a lawyer to verify all transactions and to allow for an independent audit trail of all deposits and withdrawals

Specifically, the Regulations require as follows:

Notification of Withdrawal Required

10.5.6 A practising lawyer or law firm shall not authorize the Government of Nova Scotia to withdraw from the trust account established under this Regulation money required to pay registration fees and deed transfer tax unless the Government of Nova Scotia agrees to provide to the practising lawyer or law firm advance notification of the amount to be withdrawn in the form of the Notification of E-Submission Receipt and E-Submission Pre Authorized Payment Notice.

The Regulations further require:

Requirements on Receipt of Notification

10.5.10 No later than the close of the banking day immediately following the day on which the Notification of ESubmission Receipt is sent to the practising lawyer or law firm, the practising lawyer or law firm must

(a) produce a printed copy of the notification;

(b) confirm the amount shown on the notification is the correct amount to be withdrawn from the account and, in the event of any discrepancy, immediately notify the Government of Nova Scotia of the discrepancy; and

(c) indicate on the printed copy of the notification, the date the notification is received, the name of the client, and any file number in respect of which trust money is to be withdrawn from the trust account.

10.5.11 The notification must be maintained with the practising lawyer or law firm's trust accounting records.

10.5.12 No later than the close of the banking day immediately following the day on which the E-Submission Pre Authorized Payment Notice is sent to the practising lawyer or law firm, the practising lawyer or law firm must

(a) produce a printed copy of the notification; and

(b) confirm the amount shown on the notification is the correct amount to be withdrawn from the account and, in the event of any discrepancy, immediately notify the Government of Nova Scotia of the discrepancy.

10.5.13 The E-Submission Pre-Authorized Payment Notice must be maintained with the practising lawyer's or law firm's trust accounting records

The first document received, the Notification of E-Submission Receipt is an acknowledgement of receipt of the e-submission (not a receipt of funds) and is provided to the submitting lawyer as soon as the documents are submitted for processing. The lawyer is then immediately able to verify that the system received the submission and can also verify that the proper amount of funds has been calculated as due on that specific transaction. Presumably in a firm, the lawyer would then take steps to provide a copy of that document to the accounting department to justify the transfer of funds out of the trust account to the SNSMR trust account. The lawyer would also file it in that specific real estate file.

At some later point, usually several days later, after that document, and other documents on other transactions are processed, the lawyer – or in a firm, more likely the finance department – will receive the E-Submission Pre-authorized Payment Notice. There then follows a check and balance between all of the “receipt of e-submission” forms and the transactions listed on the “pre-authorized payment notice” before the funds actually get debited from the trust account.

It is the existence of the two documents which provides the check and balance which is important to the integrity of the system and which provides the independent audit trail.

In the spring of 2013, the Province of Nova Scotia made various changes to costs and fees that it charged. At the same time, it amended its legislation which had previously exempted a specific document, an Application for Registration (“AFR”) from requiring fee. As of June 1, 2013, practitioners filing an AFR are now required to remit a \$100 fee with that document.

However, the government did not make the corresponding change to the system to ensure that the Notification of E-Submission Receipt was generated at the same time. Therefore, since June 1, 2013, lawyers practising real estate law and filing an AFR have technically been in breach of Regulation 10.5.6.

When this matter was brought to the attention of government, they agreed to contact their third party provider to correct the system so that the proper forms are remitted to lawyers. The change has not yet been made but it is anticipated that the system will be corrected in the relative short term.

In the meantime, Council is requested to waive the breach of Regulation 10.5.6 for lawyers and law firms, as it relates to the requirement to have a Notification of E-Submission Receipt for an Application for Registration, after June 1, 2013 until the system has been corrected.



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Darrel Pink

Date: July 18, 2013

Subject: Transforming Regulation and Governance

DATE	CONSIDERED BY	ACTION
June 10, 2013	Executive Committee	Approved for submission to Council
July 18, 2013	Council	Approval

Introduction

How do we know that our regulatory model, one that has been in effect for generations, achieves our statutory goal of protecting the public interest? What is the best means for oversight of a profession where 661/1874¹ = 35.8% of lawyers practise in a corporate or government law department, and where a 510/1874 = 27.2% practice in firms of ten+ lawyers²?

Year	Government Lawyers	Corporate	Large Firms (10+)	Small Firm and solos
1993 (1410 lawyers in NS)	238 – 16.9%	95 – 6.7%	347 – 24.6%	730 – 51.8%
2013(1874 lawyers in NS)			510 – 27.2%	

Contrast this with the profession in 1993 when there were 1410 lawyers: 24.6 % practiced in large firms (of 10+ lawyers), only 6.7 % practiced in government or corporate law departments for a total of 680/1410 or 48.2% whereas 730 practiced in small forms or sole practices i.e. 51.8%

¹ There are currently 1958 Practising members of the NSBS. Of those, 1874 are in NS.

² The totals are 510+661=1171. Therefore 1171/1874=62.5% of Practising Lawyers in NS are either not in private practice or are a member of a firm of 10 or more.

Do lawyers in private practice – whether a sole practitioner, in a small or large firm, or with many clients, present a different risk than lawyers who serve a single client? What is the relationship between the legal entities for which a lawyer works, e.g. a partnership, a law corporation, a corporation and risk to clients and the public? What are the risks of various types of practice, and what should be the regulatory mechanism used to manage the associated risks by the Society? What can or should the Society’s role be in policing the delivery of legal services over the internet, or by experienced (but unqualified) individuals who appear before administrative tribunals or the Small Claims Court? Do we really care if a non-lawyer has an ownership interest in a law firm and if so, why? Can we demonstrate that what we do makes a measureable difference to anyone or anything, i.e., that we really do protect the public by virtue of our regulatory system?

These have been just some of the questions that have prompted Council to commit to a complete review of our regulatory model. Expanding the list of issues will be an important early part of this project, but it is also clear that each question raises a number of issues for consideration, and we may not, at least in Phase One, of a multi-phase project, be able to address every possible matter that gets identified¹.

Process

Excellence in Regulation and Governance*	
Transforming regulation and governance in the public interest	
Examine and approve an outcomes focused regulatory model	Examine and approve a framework for risk identification and management
Implement and evaluate the outcomes focused regulatory model	Implement and evaluate the approved framework for risk management

*Excerpt 2013-2016 Strategic Framework

As Council’s strategic direction indicates, it is proposed that this initiative move forward through a number of stages. At the early stage (feasibility), we will be exploring through research and otherwise (details to follow) a number of issues to assist Council in scoping this project. That will be followed by a development stage in which we consider a number of options, identify priorities and identify which options need further consideration. This will occur at the development stage. Following that, we will want to embark on further definition and design work that will move us from concepts to something more specific in the nature of programs and activities that we would want to undertake. At that stage, we will also identify what needs to be done in order to move in the direction that is agreed upon by Council.

Finally, we will move to an implementation stage that may involve changes to legislation, detailed regulatory reform, program design and the myriad of other things that must be accomplished in order to make such significant change.

As noted, the initial part of this project will entail research, fact gathering, identification of issues, and generally scoping what is reasonable for us to undertake.

Over the past decade the means used for lawyer regulation have been transformed in England, Australia, and New Zealand with changes coming in the near future in Scotland and Ireland. We have colleagues in each of these jurisdictions who have offered us assistance in our work both in terms of human resources and access to material/methods/policies, etc. that they have developed. At this point, there is no suggestion that any one model that has already been developed will be appropriate for Nova Scotia, but we certainly want to learn more, for example, about outcome-focused regulation that is used in England; the concept of compliance officers for law firms; about entity regulation; about a more restorative and resolution-oriented approach for complaints; about risk management and tools developed to improve the quality of practise for law firms; and any other significant initiatives that are designed and have been demonstrated to better protect the public.

The result of this initial work will be a research paper that will be shared with Council in the fall. We are anticipating a full-day Council workshop October 24 that will allow Council to work through many of the issues identified above and others, and provide direction as we begin to develop a new regulatory model. Key to this project will be early and ongoing communications and engagement with the Bar and those otherwise impacted.

Engagement

Early in this work it will be essential to begin a series of discussions with a wide range of parties including:

- Members of Council
- Various – present, future and diverse - leaders across the Bar
- Law firm leaders
- Outside community leaders in business and regulation
- Government, at least to keep them informed of our early thinking so that they are aware of the type of considerations we are looking at
- Certain key stakeholders

It is too early to know how dramatic any changes will be. That will be for Council to determine. The project work products must give Council what it needs to consider how public interest regulation is best cast in today's world and for the future of the legal profession. Though there are some preliminary assumptions (based on the range of issues noted at the outset) no decisions have been made. It is crucial to the project that we use fact-based decision making as a guiding principle and that we ensure whatever is proposed is doable and our success measureable.

Governance

It is proposed that the Executive Committee have the primary governance responsibility for this project. The timing and extent of reporting to Council will be determined by them. They will also be the champions for whatever is recommended and will be connected to all aspects of member/firm/public engagement. The Executive Director's office can do the work, but the success of this work will require extensive involvement from the Society's leadership. We have learned from previous projects that if this is not present from the outset, success of any change, be it minor or major, is unlikely.

Costs/Resources

It is proposed to do this work with currently available resources. Victoria Rees, Director of Professional Responsibility, will undertake the initial research, fact finding, and development of a discussion paper for Council. Darrel Pink will, in conjunction with the officers, institute the engagement process with facilitation support from Jackie Mullenger. The attached plan suggests costs in the range of \$50,000, which we believe is reasonable based on current information. However, if we determine that a different kind of resource (perhaps dedicated to this work for some period) is required we will bring recommendations forward to have appropriate funds allocated and approved by the Finance Committee and Council.

National Context

We are not alone in beginning to look at these issues. All law societies have the same information available to them (some of which has actually been developed and presented by us) and a couple have begun to look at the very issues we are considering. See the end-note below. We will collaborate with them as much as we can through shared resources, ensuring that we talk to them and hopefully have them participate with us and vice versa, as we debate and consider the broad public interest issues involved in rethinking our regulatory model. The Law Society of Manitoba is on the same timetable as we are. Some limited aspects of this (particularly with regard to entity regulation) are being pursued by the other western law societies. Ontario is looking at the ABS issue and that will involve consideration of a number of related matters.

The Work Plan

Attached to this memo is a detailed work plan for the first phase of this project that has been reviewed and approved by the Executive Committee. Council is requested to reflect on this as we work through the particulars. Following the Council discussion, we will ramp up our activities to meet the very ambitious timetable that has been set.

ⁱ In a process that is parallel to ours, the Law Society of Manitoba put forward its questions as:

- Why do we want to prevent trained paralegals from delivering legal services on a stand alone basis?
- Should we develop a new model for trust account safety (Paris(CARPA)/ Alberta/ or Chambre models)?
- Why do we limit ownership of law firms to lawyers?
- Why don't we work with firms to regulate lawyers (and regulate the firms)?
- Why don't we have processes to resolve "consumer" complaints, including awarding compensation where appropriate (Legal Ombudsman)?
- Why do we elect benchers?
- Why do we have regional representation?
- Can we take a remedial approach to more serious conduct e.g. theft?
- Do we need an independent hearing process?
- Why do we prohibit referral fees and fee sharing with non-lawyers?
- Could we use ODR to resolve some types of complaints (Mondria model)?
- Why don't we require lawyers to recertify periodically?
- Can we develop measurable outcomes for our performance?
- Why do we require a law degree or equivalent as the only basis for admission? Could we test skill and knowledge as another entry option?
- Do we need to move toward national regulation in some areas in order to manage a mobile/national/global profession?
- Why do we not certify specialists? Why do we not limit scope of practice of those who are specialists?
- Why do we call ourselves a "law society," "benchers," and have "members"?
- Can we justify having an in-house insurer?
- Should we require all lawyers to have and use email?
- Do we need a more robust system of practice reviews?

APPENDIX A

**PROJECT PLAN
Nova Scotia Barristers' Society**

**Transforming Regulation and Governance in the Public
Interest**

2013-05-27 draft v.4

Prepared by Victoria Rees, Darrel Pink and Glen Greencorn

Project Overview

1.1 Purpose, Scope and Objectives

Rapid changes in the manner by which lawyers provide legal services, including the use of technology, the emergence of alternate business structures and virtual law firms, and demographic changes impacting where and how law is practiced, requires a regulatory model by the Nova Scotia Barristers Society that is responsive to change and forward-thinking. It is essential that our regulation incorporates best practices and considers emerging ones. The ‘one size fits all’ regulatory model, the one we currently use, may no longer be appropriate for the profession we regulate or the public we serve, for it was developed in a dramatically different era when the profession and the practice bore little resemblance to what we have today.

Council has adopted two new strategic directions for 2013-2016, and this project plan addresses one: to transform the regulation and governance for the Nova Scotia Barristers’ Society in the public interest.

To achieve the first phase of this direction for 2013-2014, Council has agreed to examine and approve a new outcomes-focused regulatory model, and to examine and approve a framework for risk identification and management as part of this new model.

This project plan provides a roadmap to assist in planning for and implementing the first research and development phase during 2013-2014. A further project plan will be required by May 2014, to provide the roadmap for implementation and evaluation of the new model and risk framework anticipated to be approved by Council in May 2014.

Consideration of this fundamental change in governance is driven by the desire to provide the best means available to protect and serve the public in relation to the practice of law in Nova Scotia. Service of the public as a self-governing and regulatory body requires the legal profession to be fully accountable. In order to effectively achieve this direction, Council must:

- i) Establish clear outcomes and means for consistently and effectively measuring the Society’s performance against identified benchmarks and/or standards;
- ii) Adopt best practices, and both contribute to and emulate national regulatory initiatives and standards; and
- iii) Have meaningful, transparent and deliberate engagement with lawyers, other members, the public and stakeholders throughout the research, development,

implementation and evaluations stages of the new regulatory model to ensure that it is effective, efficient, fair and truly serving the best interests of the public.

A related desired outcome driving this initiative is to adopt a regulatory model that is outcomes-focused, more proactive than reactive, better able to identify and manage risk, is agile and able to adapt to future changes in the practice of law, and which sets the future direction and focus for the Society with regard to whether in the public interest its role is to regulate lawyers as individuals, lawyers in law firms, law firms themselves, the practice of law, and/or the provision of legal services. Determining the scope of its regulation in this regard will be an essential place to start, as this decision will be a critical driver of the new model for regulation.

1.2 Inclusions and Exclusions

For purposes of this plan, it is assumed that at the very least, the regulatory model will encompass lawyers as individuals those practicing within law firms, law firms as entities, and compliance issues relating to the practice of law. It does not contemplate at this time expanding regulation to encompass all aspects of the provision of legal services, as this would necessarily include regulation of independent paralegals and other non-lawyers in a more proscribed manner, though it is recognized that this is occurring elsewhere.

The plan encompasses all aspects of public protection and compliance by lawyers and law firms with the *Legal Profession Act*, regulations, *Code of Professional Conduct* and practice standards, and identifying and managing risks related to these areas of governance, including use of trust accounts, law corporations, matters of conduct and professional responsibility.

Excluded from this plan are matters relating to the regulation of articling and admissions, given the scope of the national initiatives taking place in this area already.

1.3 Relationship to Second Strategic Direction: Enhancing Access to legal Services and the Justice System

Concurrent with moving forward with this plan will be development and implementation of Council's second strategic direction: to enhance access to legal services and the justice system for all Nova Scotians. Council has agreed that one key objective in this regard will be the examination and application of regulatory changes to enhance access to legal services. There is therefore a symbiotic relationship between the two strategic directions which will to some extent be carried out in concert: one can meaningfully support the other.

It is anticipated that one essential step in achieving these combined directions will be amendments to the *Legal Profession Act*. Any such amendments should be developed and executed in a consistent and cohesive manner, and in tandem.

2. Assumptions, constraints and risks

2.1 Assumptions

This project plan assumes the following:

- That Council fully supports the need, in the public interest, for a new regulatory model
- That Council is prepared to engage in development of a new model, to support its implementation, and to commit to engage with members and stakeholders during the course of this major transition to seek input and obtain support
- That adequate staff, volunteer and external resources, where necessary, can and will be devoted to this three year project. A detailed human resource plan and budget will be developed once this plan is approved.
- That during the period of transition, the Society will be able to continue to maintain high standards of governance and regulation, and that there will be no public or government outcry for more rapid change necessary

2.2 Constraints

The Society is committed to maintaining a balanced budget and minimizing the need for any additional financial or long-term human resource needs as part of development and implementation of a new regulatory model. It is understood that any new regulatory model should cost no more than the existing practice.

2.3 Risks

The ability to achieve this strategic direction relies to a great extent on the vision, skills and experience of Society staff, the leadership and support of Council and the Society's officers, and a willingness to be bold, future-thinking, adaptable to change, and resilient.

It is critical to the success of the new model that there be effective, meaningful and timely communications and engagement with lawyers, law firms, other members, the public and stakeholders in order to minimize fear of change, reinforce the Society's public protection mandate, ensure ongoing relevancy of the Society, and encourage member understanding and support for changes. Lawyer commitment and compliance are essential components for success of an outcomes-focused model, which may include enhanced obligations including risk identification and management, and which will seek to engage law firms in supporting and oversight of compliance.

Staff resources for this project may be impacted by unforeseen events. The Executive Director must be able to effectively harness staff resources to meet these challenges, and new priorities.

Any new regulatory model may result in consequential changes to such things as committee structures and mandates, as well as Society programs and services. The Society and Council needs to remain agile, adaptable and creative.

Consideration will at a later stage of implementation need to be given to the risks and benefits of phasing in regulatory changes, rather than making all changes at one time. Part of this consideration will be whether a phased-in approach allows space for periodic evaluation and adjustment of expected outcomes before moving to the next phase. Evaluation of outcomes and measurements throughout the implementation process will be key to success in the long term.

3.0 Workplan and Cost Estimates for Phase One

3.1 Workplan

Date	Outcome	Tasks
May 2013	Project plan is finalized	<ul style="list-style-type: none">✓ Draft plan✓ Consultation with ED/Officers✓ Identify benefits of change✓ Identify the principles to drive the new model✓ Identify role for Executive Leadership and project governance

May – August 2013	Research and discussion paper prepared	<ul style="list-style-type: none"> • VR/DP identify and research current models, best practices in governance and risk management • Lay out detailed workplan to Executive June 10th (VR/DP) • Complete a “readiness assessment” in consultation with Senior Management • Create list of human and written resources/experts • Begin conversations with local and international experts, and local stakeholders and identify potential champions • Introduce plan to Council, and concept to membership, July 19 • VR prepares discussion paper and options • Consider retention of consultant to begin identifying how to measure effectiveness of model options
September 2013	Exec Committee reviews discussion paper and options; Council approves mandate and workplan	<ul style="list-style-type: none"> • Meeting with Executive • Constitution of lawyers and non-lawyers to work with Executive Officers to lead project; i.e. project champions

October 2013	Council considers options for regulatory model (special meeting)	<ul style="list-style-type: none"> • Introduction of research and options to Council • Posting of highlights to the membership and stakeholders • Meeting of champions to reflect on Council's discussion • Staff begin design process
November 2013	Council completes initial 'designing' stage	<ul style="list-style-type: none"> • Council considers options for design of new model • Meeting of champions to flush out design details, and plan consultation phase
December 2013 – February 2014	Consultation with members and stakeholders on regulatory model draft and preliminary design	<ul style="list-style-type: none"> • Staff and champions engage in consultations with public, lawyers and law firms, managing partners, government and other stakeholders • VR prepares report based on consultations • Executive/champions reviewsconsultation report and prepares revised design for Council

March 2014	Council reviews consultation results and fine-tunes design of new regulatory model	<ul style="list-style-type: none"> • Champions present design details and options to Council • Report to members on consultation results • Facilitated discussion with Council of ‘details’ including specific outcomes and measurements • Council considers budgetary and resource impact, if any • Meeting of champions
April 2014	Council refines details and budget re new model in principle	<ul style="list-style-type: none"> • Staff prepares new project plan for second phase – implementation and evaluation
May 2014	Council approves new regulatory model and second phase project plan	<ul style="list-style-type: none"> • Preliminary identification of amendments to LPA required with new model • Presentation of details of new regulatory model to Council

3.2 Cost Estimates for Phase One

1. Governance leaders – meetings, consultation travel	\$ 5,000
2. Staff and others – research, travel	20,000
3. Facilitator for ‘design options’ stage with Council	5,000
4. Consultation costs	5,000
5. Consultant for outcomes/performance measurement outcome	15,000

Estimated budget for Phase One **\$50,000**

MEMORANDUM TO COUNCIL

From: Melanie McGrath

Date: July 11, 2013

Subject: Professional Standards (Real Estate) Committee – Standard 3.18 – Mechanics’ (Builders’) Lien

May 24, 2013	Council	Introduction
July 19, 2013	Council	Approval

Recommendation/Motion:

Be it resolved that Real Estate Standard 3.18 (Mechanics’ Liens – being renamed to Builders’ Liens) be amended as reflected in Appendix A to this memorandum.

Executive Summary:

Amendments to Real Estate Standard 3.18 are recommended by the Professional Standards (Real Estate) Committee. The purpose of the revision is to update the Standard to reflect the name of the legislation, to clarify lawyers’ duties under the LRA and LRAR as well as to include reference to some academic papers. Practice notes have also been added for the benefit of real estate practitioners.

Following introduction to Council in May, the amendments were communicated to the membership for review and consultation and are now being brought back to Council for approval.

Exhibits/Appendices:

Real Estate Standard 3.18 as amended with the rationale for the changes.

Existing Standard	Proposed Standard	Rationale
<p>STANDARD 3.18 – <u>Mechanics’ Lien</u></p> <p>When a lawyer is acting for a buyer in a new construction transaction, the lawyer must consider the applicability of the <u>Builders’ Lien Act</u>¹ with particular emphasis on the hold back provisions, and advise the client accordingly.</p> <p>A lawyer must check for any un-discharged liens filed relating to the parcel.</p> <p>When vacating a claim for lien for which a <i>lis pendens</i> has been filed, the lawyer must ensure a court order is obtained, unless the lawyer determines that the lien ceases to exist pursuant to legislation, common law or equity. The order should also vacate all liens claimed by others sheltering under the principal action. A lawyer must, in a timely fashion, record a discharge or order vacating a lien.</p> <hr/> <p>Note:</p> <p>¹ <u>Builders’ Lien Act</u>, R.S., c.277, s.1:2004, c.14, s.2</p> <p>Additional Resources:</p> <ul style="list-style-type: none"> • <u>Land Registration Act</u>, S.N.S. 2001, c. 6 - “lien” defined: s. 3(1)i) - interest may be recorded: s. 47(1) - certificate of <i>lis pendens</i> expires [“may be removed”] after five years: s. 58(2)(d) - filing lien under <u>Registry Act</u>, R.S.N.S. 1989, c. 392 has no effect on migrated parcel: s. 70 	<p>STANDARD 3.18 – <u>Builders’ Lien</u></p> <p>A lawyer who acts in a transaction must consider the applicability of the <u>Builders’ Lien Act</u>¹, with particular emphasis on the hold back provisions, and advise the client accordingly.</p> <p>A lawyer must check for any undischarged liens and certificates of <i>lis pendens</i> filed relating to the parcel.</p> <p>A lawyer who vacates a lien for which no <i>lis pendens</i> has been filed, but for which a lawyer has determined that the lien has ceased to exist pursuant to legislation or common law, should take the necessary steps to have the lien removed from the parcel register at the appropriate land registration office. A lawyer who vacates a claim for lien for which a certificate of <i>lis pendens</i> has been filed must ensure a court order is obtained and recorded to remove the <i>lis pendens</i> from the parcel register.</p> <hr/> <p>Note:</p> <p>¹ <u>Builders’ Lien Act</u>, R.S.N.S. 1989, c. 277</p> <p>Additional Resources:</p> <ul style="list-style-type: none"> • <u>Land Registration Act</u>, S.N.S. 2001, c. 6 - “lien” defined: s. 3(1)(i) - interest may be recorded: s. 47(1) - certificate of <i>lis pendens</i> expires [“may be removed”] after five years: s. 58(2)(d) - filing lien under <u>Registry Act</u>, R.S.N.S. 1989, c. 392 has no effect on migrated parcel: s. 70 • “Liening in a New Direction”: Recent Amendments and Case Law on Construction Liens by John Kulik dated 	<p>Rationale for Proposed Revision of STANDARD 3.18 – <u>Builders’ Lien</u></p> <p>The Committee is recommending a revision to the name of this Standard to reflect the amended name of the legislation, and changes in the wording to clarify the requirements of the Act and their impact on the practice of real estate law. The Committee has also included the addition of practice notes for guidance.</p>

January 28, 2005.

Practice Note:

The *Builders' Lien Act* ("the Act") requires the person primarily liable on the contract to holdback 10% of the value of the contract price or actual value of work, service, and/or materials provided (referred to as "the work").

Where the work is ongoing or substantial performance of the work occurred less than 60 days before the money is being advanced, a buyer or owner of property on such a transaction is required to retain the holdback as described above.

The Act also extends the liability to a person who has any estate or interest in the land upon or in respect of which the work or service is done, or materials are placed or furnished. This will usually include a buyer of a newly constructed or renovated home.

The holdback is deducted each time a payment is made. The accumulated holdback amounts are held for a period of 60 days after the work has been substantially performed.

A lawyer has an obligation to advise the client of the holdback provisions. If there is no lender, the holdback fund may be retained by the client or solicitor.

In the vast majority of transactions, there will be a lender involved. Lawyers must consider the applicability of the Act when dealing with lenders and whether the holdback provisions of the Act are applicable. If the lender's instructions specifically direct that a holdback must be maintained, the lawyer must follow such instructions.

MEMORANDUM TO COUNCIL

From: Darrel Pink, Executive Director

Date: July 5, 2013

Subject: Access to Justice – Strategic Priority

July 5, 2013	Executive Committee	Approved for submission to Council
July 18, 2013	Council	Consider
September 27, 2013	Council	Provide Policy Direction

Recommendation/Motion:

None at this time

Executive Summary:

The outcome of the June 14, 2013 Access to Justice Workshop is attached in the Report as *Appendix 1*.

This work needs to be considered by Council in light of the strategic framework and the strategic priority of **enhancing access to legal services and the justice system for all Nova Scotians**.

In particular, initiatives are to be undertaken to:

Examine and approve regulatory changes to enhance access to legal services

Advocate for enhanced access to legal services and to the justice system for equity-seeking and economically disadvantaged groups

Following the Workshop, with the assistance of Emma Halpern and Shanisha Grant, a law student working with us this summer, I have developed what I believe are a series of initiatives that would allow the Society to advance its access to justice and access to legal services priorities. They are outlined below.

It is contemplated that in September, Council will have a full discussion on these matters and give its directions on the work to be undertaken.

Analysis:

In analyzing the discussions at the workshop and the ideas and comments from participants, I have identified the following five areas of possible focus to enhance and promote access to justice:

- Advocacy
- Education
- Delivery of legal services
- Collaboration
- Legislation

In keeping with the 2013-2016 Strategic Directions of Council to advocate for enhanced access to legal services to equity seeking and economically disadvantaged groups a variety of work of the Society as a whole could be considered in light of these five areas of focus with an evaluation of the activities undertaken to be priority.

Advocacy

Central to successfully moving forward on access to justice initiatives will be to raise the profile and awareness of access to justice issues within the province. Our commitment to this work would likely require us to advocate for increased partnerships and collaboration, greater access to legal education and information, increased support for dispute resolution opportunities, and increased access for all Nova Scotians to legal professionals and court services.

Our liaison work with equity seeking communities may help to identify particular areas or initiatives requiring this type of support and we will be open to potentially playing an advocacy role.

Education

If a major priority in order to achieve demonstrable results is a 'paradigm shift' within the legal community that would require a focus on the delivery of legal services and the specific needs of the users. This would entail a shift away from our traditional way of delivering services which generally required the user to fit into the system and not vice versa. This was very much the approach that Dr. Macfarlane addressed when she spoke at the Annual Meeting. In order to facilitate this we would need to support the re-education/re-learning of lawyers. Similarly, it would be essential to educate the public on what to expect from lawyers, courts and other justice system providers.

Projects in this area may include: a review of our education curriculum for the Skills Course, increased partnerships with the Schulich School of Law at Dalhousie in the area of student education and CPD delivery, and increased education opportunities for lawyers through innovative and meaningful CPD programming. We will also continue to work with the Legal Information Society of Nova Scotia and other partners on the delivery of legal education and information to the public. Some possible considerations are: increased partnerships in the creation of web portals in the areas of consumer protection, employment law and other possible areas (using nsfamilylaw.ca as a model), consideration of legal triage models, and opportunities to deliver education programs in communities.

Delivery of legal services

New and innovative models for the delivery of legal services would be an essential component of any access to justice strategy. At the Society, our look at a number of possible regulatory models could result in changes that dramatically change the delivery of legal services and address:

1. The expansion of the role of supervised paralegals and other non-lawyers in the delivery of legal services.
2. Support for lawyers who are interested in offering limited scope retainers and unbundled legal services.
3. Contemplating new business structures and law firm ownership models

Collaboration

Access to justice initiatives must be developed through the collaborative efforts, ideas, and resources of lawyers, service users, government officials, legal academics, judges, social services agencies, health services agencies, community agencies and others in order to develop strong sustainable and innovative programming and to address the underlying issues that create barriers to access to justice. Thus, collaboration is the key to designing a comprehensive and effective response to the complex problem of access to justice.

Over the past few years, the Society has prioritized collaboration and cooperation through the creation of a number of liaison committees and through a commitment to bring all stakeholders to the table when important issues arise. Throughout the next iteration of this work, this commitment will continue and the Society will seek to regularly bring justice stakeholders together to work on issues of access to justice.

Legislation

In order to ensure that access to justice priorities can be adequately undertaken, it may be necessary to address some needed legislative reforms and the Society may be well placed to take the lead on this work. In the past, Council has taken on this type of project and has offered important suggestions on a number of important pieces of legislation such as the *Limitations of Actions Act* and *The Class Proceedings Act*.

In keeping with our access to justice work in the area of family law, the Society may be well placed to consider some particular family law reforms. It was suggested at the workshop that the *Child and Family Services Act* would be appropriate for legislative review. The Society may want to look at this and at a minimum is committed to supporting the Department of Community Services and the Department of Justice in any review process that government might undertake.

Conclusion

The Strategic Planning Workshop represented the beginning of an important process of examining and re-examining the challenges of access to justice and the commitments required to begin to bring about substantive change. Council will have to reflect on the work undertaken and apply its own views of the issues facing Nova Scotians and the role the Society can play at this time.

This matter will return to Council in September for a full discussion and Policy direction.

Appendices:

1. Report from Access to Justice Workshop and list of participants

Appendix 1

STRATEGIC PLANNING WORKSHOP: Enhancing Access to Legal Services for all Nova Scotians

Introduction:

On June 14, 2013 the Nova Scotia Barristers' Society hosted a workshop to assist in identifying the Society's priorities for its access to justice work and to consider how justice sector participants can enhance their collaboration to improve access to justice and the administration of justice in Nova Scotia. A broad range of justice sector players were involved in the workshop. A list is attached as Appendix A. Dr. Julie Macfarlane¹ facilitated the workshop by drawing out the individual knowledge and insights of participants in order to address the goals of the workshop. This report highlights and summarizes the key issues and themes that emerged from the workshop exercises and discussions.

Section One: Defining our Terms

Establishing a common vocabulary by defining 'access to justice', 'legal needs' and 'legal services' and then challenging some common myths about access to justice was the first task of those attending the workshop. This work was done in small groups.

What do we mean by "access to justice"?

Access to justice was commonly defined as "just, meaningful and timely resolution (of legal issues) for clients," or "the ability to get disputes resolved in a reasonable and fair manner." Participants acknowledged that knowledge of legal rights, acceptance of legal obligations and responsibilities, prevention, proactive assistance, equality and the amelioration of power differentials are all aspects of any full definition of access to justice. One group commented that access to justice is not just about legal or monetary barriers to the system, but also about the underlying social issues that individuals face in the legal system, such as racism, discrimination and or poverty.

What do we mean by "legal needs"?

One group defined legal needs as "something needed to access the justice system" and noted that there are barriers to accessing the system which are often caused by illiteracy, language, cultural differences, transportation issues, lack of a support system, poverty and discrimination. For example, one participant demonstrated how literacy issues can negatively impact access to justice when she described a situation where not being able to read or write or having a low level of education hinders one from being able to articulate a problem to a lawyer or makes someone afraid to ask questions out of fear of sounding stupid. Thus responses and services are needed to counter these barriers. Those present then discussed possible responses to these barriers such as improving communication between lawyers and clients (lawyers have to take the time to explain legal process and legal terms to clients in a way that is understandable to them), multiple legal service entry points, unbundling of legal services and system redesign to make it more user friendly.

¹ Julie Macfarlane is a professor on the Faculty of Law of the University of Windsor and a fellow at the Kroc Institute for International Peace Studies, University of Notre Dame. She has researched and written extensively on dispute resolution and in particular the role of lawyers.

She recently completed the first comprehensive study of self-represented litigants in Canada. To find out more, read the report at representing-yourself.com and follow her blog at drjuliamacfarlane.wordpress.com.

Understanding how to access appropriate information, services and support and how to navigate the complex court processes were also identified as a legal need.

The need for legal advice was identified as one of, if not the most pressing or urgent, legal need. One participant spoke of a self represented litigant who was seeking guidance from a lawyers to review a will and the lawyer not wanting to assist and noted this as a major legal need and wondered if situations such as this suggest that other professionals such as paralegals or social workers (and even the Nova Scotia Barristers' Society) should take on the role of giving legal advice. Promoting a multidisciplinary approach to addressing legal needs of individuals was a possible solution that was identified.

What do we mean by “legal services”?

Participants challenged the assumption that equates legal services with the services provided only by lawyers. A broader understanding of legal services was proposed to include those services which connect and refer clients to appropriate agencies or programs based on clients' needs. An observation was made that currently available legal services are not being fully utilized and that these services must be vigorously advertised and promoted to increase awareness of them.

Section Two: Core Issues in A2J

What are the core issues in access to justice? To name a few, participants identified affordability; the public's failing support for or trust in the legal system; the rise of self-represented litigants, the lack of legal advisory services (either stand alone or in conjunction with other justice services) and promoting legal practice in underserved communities as core issues in access to justice.

Participants discussed the issue of effectiveness of lawyer referral and public legal education and information programs, commenting that some of the challenges of these programs are that the websites are difficult to navigate, especially for those with limited English literacy.

Participants discussed the issue of “non-lawyers” who give summary advice. There is ambiguity about where legal information stops and legal advice starts and whether there is a line at all. They suggested that this fine line (between legal advice and legal information) often causes individuals and institutions who provide these services to be overly cautious and guarded about the information and guidance they disseminate to clients. This results in confusion and frustration and contributes to the lack of access to both legal advice and to legal services.

Participants discussed possible responses such as developing a better delivery framework/model that involves collaboration with other disciplines and the breaking down of silos, fixed fees/limited services agreements, student clinics, pre-paid legal insurance, unbundling of services by lawyers to name a few.

For an in-depth review of the core issues in access to justice see background documents provided at the workshop which have been attached.

Section Three: Setting Priorities

Where can the Nova Scotia Barristers' Society have the greatest impact and how can it best allocate and direct resources? The overarching theme that emerged in this section was that a transformative shift in thinking within the legal community has to occur before we can adequately meet the needs of the public and impact or eliminate the access to justice problem. The legal community has to move from “fitting the person into the system to fitting the system to the person”. Participants spoke of ways this shift in practice could be achieved. Suggestions included developing concrete tools to support this change and promote a re-learning of roles in the delivery of

justice; reform of law school curriculum and changing the school of thought in law schools; providing young lawyers with mentorship opportunities in order to promote the re-learning; and re-focusing of the role of lawyers and public education and engagement. It was also suggested that a fundamental change in legal workplaces in terms of organizational and structural make up of firms and the culture of lawyers is also required in order to foster this shift in thinking.

The promotion of collaboration between various disciplines was also identified as a priority. Participants, recognizing the importance of creating more options for the public in terms of legal services, suggested opening the delivery field up to paralegals and turning our minds to how non-lawyers can contribute to enhancing access to justice. They also stressed that consultation with system users and other disciplines is necessary to start to develop an agreed upon framework for the effective and efficient delivery of legal services which spans across disciplines. One participant suggested that providing a trained person to triage and direct service users in the right legal direction at the intake point in the system would be very cost effective. The Family Law Information Centre was cited as an example of this. In synthesizing the suggestions and comments made by the participants three clear priorities emerged; the need for innovation, the need to share the territory and to collaborate and the need to commit to acting in the best interest of the public.

Participants discussed what concrete initiatives by the Society could address the priorities and identified the following:

1. Establish an A2J committee where stakeholders and public representatives would implement actual initiatives
2. Regulatory changes to facilitate permission of legal services by paralegals (whether they are to be independent or supervised was not determined)
3. Create some regulatory parameters for summary advice service providers
4. Alternative billing practises by lawyers
5. Advocacy for non-lawyer services by the Nova Scotia Barristers' Society
6. The creation of a single information referral portal with referral to collaborative agencies
7. Agency legal training of community organization who service those with legal needs on a regular basis
8. Community benefit corporations, which might allow a not-for-profit to charge for services
9. Reset public expectations through better public communication
10. Incentivizing innovation among lawyers
11. Increase awareness of services to public
12. Developing a comprehensive justice policy for Nova Scotia

Workshop Participants

Christa Brothers, lawyer at Stewart McKelvey, Member NSBS Council, Chair, Court of Appeal Liaison Committee

Tim Daley QC, Past President of the NSBS

Prof. Richard Devlin, Professor at Schulich School of Law

Donna Franey, Executive Director Dalhousie Legal Aid Service

Rene Gallant, President of the NSBS

Shanisha Grant, summer student for the NSBS Equity Office

Emma Halpern, Equity Officer NSBS

Michelle Higgins, President, Legal Information Society Nova Scotia

Jeff Hirsch, Past President of the Law Society of Manitoba, Chair, Federation of Law Societies of Canada Access to Legal Services Committee, Member, National Action Committee on Access to Justice in Civil and Family Matters

Pamela Kachafanas, Family Law Lead, Nova Scotia Department of Justice

Robert MacKeigan QC, Chair, Law Foundation of Nova Scotia

Margaret MacKenzie, Member, Board of Directors Law Foundation of Nova Scotia

Claire McNeill, lawyer Dalhousie Legal Aid Service

Jackie Mullenger, Director Credentials & Education, NSBS

Ken Nason, Public Representative on NSBS Council

Associate Chief Justice Lawrence O'Neill, Supreme Court of Nova Scotia Family Division

Jill Perry, Nova Scotia Legal Aid, Second Vice-President of the NSBS

Tilly Pillay QC, First Vice-President of the NSBS

Darrel Pink, Executive Director NSBS

Fiona Traynor, Community legal worker Dalhousie Legal Aid Service

Wendy Turner, Manager, Legal Information Society Nova Scotia

Chief Judge Pamela Williams, Chief Judge of the Provincial and Family Court of Nova Scotia

ACJ James Wilson, Associate Chief Judge of the Family Court

Kenneth Winch, Executive Director, Court Services at Department of Justice (Nova Scotia

Robert Wood, Former Deputy Minister, Department of Community Services, CEO Housing Nova Scotia



NOVA SCOTIA BARRISTERS' SOCIETY

ACTIVITY PLAN 2013-2014

INTRODUCTION

The Activity Plan for 2013-2014 outlines those activities that Council has mandated to address the initiatives approved by Council in furtherance of its approved Strategic Framework. Council will also monitor certain activities that are assigned to the Executive Director. Council Committees will carry on with their work in accordance with their Terms of Reference and work plans that will be approved by Council.

STRATEGIC DIRECTION 1 – EXCELLENCE IN REGULATION & GOVERNANCE

Transforming regulation and governance in the public interest

ACTIVITY 1.1.0 – Examine and approve an outcomes focused regulatory model

Through research and engagement with lawyers, will evaluate all aspects of the regulatory structures in order to determine what the optimum regulatory model is regarding oversight of lawyers and the delivery of legal services.

Outcome – A thorough review of all aspects of legal regulation and a determination of what changes ought to be made

Responsibility – ED, Council

Workplan

May 2013 – Council approves Strategic Framework, planning begins
 July 2013 – Project plan being submitted to Council for approval
 July-August – Research and preparation of discussion paper; begin engagement
 October – Council Workshop
 November – Council completes “feasibility” phase
 November to February – Engagement and consultation with lawyers and stakeholders; development work ongoing
 March – April – Council considers stakeholder input, budget implications, risk analysis, implementation plan; further engagement as required
 May – Council approves model and plan for next phase of implementation

Status

July 2013 – Planning and engagement of expert advisors has begun, Phase 1 workplan submitted to Council for approval

**ACTIVITY 1.2.0 –
Examine and approve a framework
for risk identification and management**

Risk in operations: Introduce concept of risk and its role in the Society’s operations and develop a framework and policies that ensure the risk is properly assessed and mitigated

Risk in regulation: Introduce concept of risk and its role in the Society’s regulation and develop a framework and policies that ensure the Society’s regulation properly assesses and mitigates risk

Outcome – There is a framework for risk identification and management

Responsibility – ED, Exec., Council

Workplan

July 2013 – research being undertaken on aspects of risk.
September – Council education about organizational risk management
November to March – Development of risk management framework;
Council engagement in initial risk assessment
April – May – Council consideration and approval of framework for risk identification and management

Status

July – initial research and planning has commenced

**ACTIVITY 1.2.1 –
Admissions & Credentials**

The Credentials C’tee and E&C staff will begin to examine the skills taught at the Skills Course and during articling to ensure that they address the competencies lawyers will need in the future and not only ‘yesterday’s skills.’ The Society will contribute its learnings to the National Admissions Project.

Outcome – The Society identifies the skills newly admitted lawyers will require to begin practice in a dynamic legal marketplace

Responsibility – E&C, Credentials C’tee

Workplan

September – Credentials C’tee will begin its work and this portion of AP will be updated with committee’s plan
January – Credentials C’tee will provide interim report to Council

Status

STRATEGIC DIRECTION 2 – IMPROVING THE ADMINISTRATION OF JUSTICE

Enhancing access to legal services and the justice system for all Nova Scotians

**ACTIVITY 2.1.0 –
Examine and approve regulatory changes to enhance access to legal services**

Council and the ED will ensure that a regulatory review is conducted to identify changes that could enhance access to legal services, in accordance with the Strategic Framework and Council Policies 2.5 and 18.27.

Outcome – Council adopts regulatory changes aimed at enhancing access to legal services and the justice system, with an established evaluation plan for those changes

Responsibility – Council, ED

Workplan

July – To be discussed at Council
And direction to be given
September – workplan to be brought to Council based upon input

Status

July – on Council Agenda

**ACTIVITY 2.2.0 –
Advocate for enhanced access to legal services and to the justice system for equity-seeking and economically disadvantaged groups**

Following consultation, analysis of the situation in NS and evaluation of the Society’s capacity to lead, convene and partner on various A2J matters, the Society will develop a plan that identifies areas for advocacy and complementary activities to promote access.

Outcome – Council adopts an advocacy plan to

Workplan

July – To be discussed at Council
and direction to be given
September – A2J plan to Council, and workplan to be updated

Status

enhance access to legal services and the justice system, and an evaluation framework for that plan

Responsibility – Council, ED, Equity committees

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STRATEGIC DIRECTION 3 - FOUNDATIONAL ACTIVITY

ACTIVITY 3.1.0 – Establishing outcomes and consistently measuring performance

Develop an understanding of how outcomes and performance measurement can be applied to its work and then apply their learnings to Society activities/programs in a purposive and deliberate way in order to both learn from experience and to be able to apply those learnings when expanding the use.

Outcome – 1. An understanding of performance assessment; 2. A performance measurement model will be adopted

Responsibility – ED, Executive, Council, + required outside resources

Workplan

Status

September – Council education about outcomes measurement November - Council will be presented with specific information about potential performance measurement steps and models for the Society for discussion January – continued Council dialogue about performance measurement implementation March – specific implementation plan presented to Council for input and discussion April – Council approval of a performance measurement model	July – n/a
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**ACTIVITY 3.2.0 –
Building effective relationships and promoting
partnerships through meaningful, transparent and
deliberate engagement**

A plan for involvement of lawyers, law firms and law departments In each aspect of the strategic framework is to be developed. This will include visits to County Bars, meetings with justice stakeholders, communication with all members as well as other activities

Outcome – A strategic engagement and communications plan, including an evaluation framework for the plan

Responsibility – ED, Executive, Council

Workplan

July – September – incorporation of strategic lawyer and stakeholder engagement in Council workplans and Committee workplans
September – Council education about Society (ED) Liaison Committees and other stakeholder engagement opportunities
November – March – Council members engage with lawyers and stakeholders about Strategic Framework initiatives;
March – Council reviews draft Strategic Engagement and Communications Plan
April – Council approves Plan and evaluation framework for plan effectiveness

Status

July – Council workplan for transforming regulation incorporates strategic engagement

**ACTIVITY 3.3.0 -
Adopting best practices and contributing to
national regulatory initiatives**

Committees identify in their work plans the best practices they will apply and how they will report on them to Council

Outcome – Best practices in each area of the Society’s work are identified and adopted

Responsibility – C’ttee Chairs, ED, President

Workplan

July – Council to consider as part of its consideration of c’ttee work plans
September – Committee Work plans to be approved
February – President to report to Council on status of Committee Workplans
April - May – Council receives Committee year-end progress reports against workplans

Status

**ACTIVITY 3.3.1 -
Best Practices – Developing Criminal Law**

Practice Standards

Research and development and lawyer consultation will precede the introduction of new practice standards

Outcome – – Best practices by way of standards and practice guidance for criminal law are adopted

Responsibility – Prof. Standards (Criminal Law) Committee and Council

Workplan

July – Council to create committee
September – Committee work plan to be approved and this portion of AP will be updated with committee's plan.

Status

STRATEGIC INITIATIVES 2014-2016

EXCELLENCE IN REGULATION AND GOVERNANCE

Transforming regulation and
Governance in the public interest

IMPROVING THE ADMINISTRATION OF JUSTICE

Enhancing access to legal services and
the justice system for all Nova Scotians

Implement and evaluate the
outcomes focused regulatory model

Implement and evaluate the
approved framework for risk
management

Evaluate effectiveness of regulatory
changes designed to enhance
access to legal services

Evaluate the effectiveness of
advocacy activities and the
experience of equity-seeking groups
in the justice system



2013 – 2016 Strategic Framework

Purpose	The purpose of the Society is to uphold and protect the public interest in the practice of law.						
Vision	The Society is an independent, trusted and respected regulator of the legal profession. Acting in the public interest, we provide leadership, value and support to a competent, ethical, inclusive and engaged legal profession. We enable the legal profession to enhance access to justice and uphold the rule of law.						
Strategic Directions	Excellence in Regulation and Governance			Improving the Administration of Justice			
Priorities	Transforming regulation and governance in the public Interest			Enhancing access to legal services and the justice system for all Nova Scotians			
Strategic Initiatives 2013-2014	Examine and approve an outcomes focused regulatory model	Examine and approve a framework for risk identification and management		Examine and approve regulatory changes to enhance access to legal services	Advocate for enhanced access to legal services and to the justice system for equity-seeking ¹ and economically disadvantaged groups		
Strategic Initiatives 2014-2016	Implement and evaluate the outcomes focused regulatory model	Implement and evaluate the approved framework for risk management		Evaluate effectiveness of regulatory changes designed to enhance access to legal services	Evaluate the effectiveness of advocacy activities and the experience of equity-seeking groups in the justice system		
Foundational Activity	Establishing outcomes and consistently measuring performance Building effective relationships and promoting partnerships through meaningful, transparent and deliberate engagement Adopting best practices and contributing to national regulatory initiatives						
Values	Commitment to Excellence	Fairness	Respect	Integrity	Visionary Leadership	Diversity	Accountability

The Society achieves this Strategic Plan through the work of dedicated professional staff, elected members of Council and volunteers in Committees. The Society follows a written Annual Activity Plan, which establishes the specific outcomes, initiatives and timeline to achieve the Society's strategic objectives. The Society strives to work collaboratively and in partnership with justice system participants.

¹ Equity-seeking groups include women, Aboriginal peoples, racialized peoples, persons with disabilities and persons seeking equality on the basis of their sexual orientation and gender identity.

EXECUTIVE DIRECTOR 2013

JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
Arrange for meeting for officers with AG A2J work confirm dates for liaising with communities Activity Plan - Develop Plan Prep of A2J goals Equity Office Plan Publish Report to the Community – <i>'Making a Difference'</i>	Set Activities for Review Draft ToR for ED's HR Advisory C'tee for Finance Start to organize County Bar visits A2J Plan	Set meetings with NSLA, PPS, DoJ (NS) Legal Services, County Bars, Large Firms, LRC, Law Foundation, LISNS Recognition reception	Invite Minister to address Council in January Notices re election process – 2 nd VP Organization Review RPM Program – jointly with LIANS Complete research paper on regul reform	Plan meeting with CBA Exec Joint Meeting – How to broaden agenda? Present to Council NSBS CPD work Briefing of Council on law firm ownership	

EXECUTIVE COMMITTEE 2013

JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
Review Activity Plan-identify areas for attention Consider draft goals for A2J work – Recognition Reception – Review plans ED Evaluation Committee Chairs meeting – prep of work plans RPWG – Discuss how we move forward with this	Report on MCPD Access to Justice work plan How to proceed with outcomes measurement?	Meeting with LIANS Board Review committee work plans Report on MCPD Joint Meeting – where is it?	Meeting with AJEFNE Exec Prep for Council workshop on regulatory reform	Format for 2043 Annual meeting Organization Review RPM Program – jointly with LIANS - report	Managing Partners Meeting with CBA Exec

COUNCIL 2013

**Matters in italics are reports from the ED*

JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
<i>12 Month Calendar Review*</i> Committee Work Plans - review expectations Regulatory Reform – Review Plan A2J – Review draft goals ED Evaluation Report	No meeting	<i>Report on 2013 ALR and MCPD*</i> Review committee work plans A2J Plan to Council Outcomes Measurement and Evaluation Workshop Recognition Reception Work Plans	Regulatory Reform workshop National Action Committee on Access to Justice - Workshop	<i>Trust Account Monitoring Report*</i> <i>Admissions Monitoring Report*</i> <i>LIANS Report to Council*</i> <i>ED Review of Exec. Expectations</i> Set date for 2013 Annual Meeting Organization Review RPM Program – jointly with LIANS - report	No meeting

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EXECUTIVE DIRECTOR 2014

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
Prepare for 2 nd VP elections Strategic Plan changes Elections – Call for nominations	Budget preparation NSBS regulations review ED Performance Review	Introduce budget Elections - District 2 nd VP – election or orientation Draft activity plan NSBS regulations review Begin looking at 2013-14 Committees and implement process for selection	Staff evaluations including Directors Elections – At-large Begin Annual Report prep C'tee Report prep for May Council	Audit Directors evaluations Annual Report and Annual meeting Fee invoicing and collection Joint Meeting – Orientation for new Council DSA selection	Annual meeting Fee collection Main Call to Bar

EXECUTIVE COMMITTEE 2014

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
Meet with Schulich School of Law Dean Meeting with Criminal Lawyers Assoc Activity Planning – timing?	Set budget priorities National Admissions Standards Change of Category Regs Review draft Activity Plan Elections – Council to consider ‘needs/gaps’ for new Council	Budget Introduction Review draft Activity Plan Law Reform Executive joint meeting		Managing Partners NSBS regulations review Joint Bench and Bar	C'tee appointments for Council and by ED, outside appointments by Council/ED

COUNCIL 2014

** Matters in italics are reports from the ED*

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
<i>Equity Office Monitoring Report*</i> Min. Landry to address Council TBC Begin 2013-2014 Annual Plan	Election Process. Council input Change of Category Regs <i>Admin Monitoring Report</i> <i>+ HR Policies*</i>	<i>Budget Introduction*</i> 2014-15 Activity Planning	Budget Approval	<i>PR Monitoring Report*</i> All committee reports on work plans Approve 2014-15 Annual Activity Plan	DSA Awarded Annual Meeting – June ??, 2014

[Click here and type name] Committee	
Committee Mandate and Responsibilities	
Mandate:	
Responsibilities:	
Committee Chair:	
Sub-committees, if any, and names of Chairs:	
Matters assigned to Committee by Council's Activity Plan	
Details for each Project/Initiative	
1.	Name of project:
	Goal/outcome of project:
	Timeframe for completion:
	Resources required (volunteer, staff):
2.	Name of project:
	Goal/outcome of project:

	Timeframe for completion:
	Resources required (volunteer, staff):
3.	Name of project:
	Goal/outcome of project:
	Timeframe for completion:
	Resources required (volunteer, staff):
4.	Name of project:
	Goal/outcome of project:
	Timeframe for completion:
	Resources required (volunteer, staff):
Additional Comments on Committee's Plans or Progress	

Executive Director's Report

July 11, 2013

By the Numbers

Member Category

	Today	May 2013	April 2013	Feb. 2013	Jan. 2013
Practising Lawyers	1921	1908	1904	1915	1911
Non-practising Members	710	733	736	729	729
Retired Members	101	99	99	94	94
Articled Clerks	67	65	64	65	64

Operational Matters

Twenty Year Comparisons

Council has before it a memo regarding our regulatory reform work. It is worth noting the change in the profile of the profession that is reflected in that memo.

June Year End issues

We completed the end of June (fee period) with only 2 suspensions of practicing lawyers and a handful of NP member suspensions. As always there is a significant effort by staff to follow-up on (chase) unpaid fees. Though some were late, assurances that they were 'in the mail' allowed us to take some comfort and we did not suspend those where we had then within a few days of June 30.

The issue of payment by credit card has been raised by several members and we will be reviewing this again and will likely make some proposals for the 2014 fees that will allow credit card use. Our approach will be reviewed with the Finance Committee once it is developed.

Overall my impression is that the changes to the fees payment timelines, i.e. eliminating the 2 dates we previously had, made little difference to lawyers or firms. Fees were received slightly later this year but not so much as to indicate anything significant.

Annual Meeting

We had about 160 lawyers at the Annual Meeting and the CPD that followed. By most accounts it was a very valuable program. For those of you who were not able to be present, the presentation by Dr. Julie Macfarlane is posted on our YouTube channel together with an interview of Rene Gallant as well as his remarks at the Meeting. Visit <http://www.youtube.com/user/nsbarristersociety/videos>

Following the Annual Meeting, for the first time, we distributed our Annual Report to a number of key stakeholders including all Members of the Legislature, the chief justices and judges and all law societies in Canada.

Renovations at the Law Courts

The Library will be returning to the Library on the week-end of July 20th. Most of the work on the renovations has been completed. However, though several requests have been made, there is no update on the costs. We expect that we will have some further information over the summer.

Regulatory Reform

Transforming Regulation and Governance

Our work in this area is being lead by Victoria Rees. It will be discussed at Council in some detail. What I want Council to know is the significant support we are receiving from others as we undertake our work. Prof Laurel Terry (http://law.psu.edu/faculty/resident_faculty/terry) has agreed provide her advice to us as we undertake our work. Victoria will be travelling to London later this month for a week of meetings and interviews that have been organized for her by the Solicitors' Regulatory Authority. Not only will she visit the SRA's office in Birmingham, but she will meet with the Legal Services Board (the super regulator), the Law Society of England & Wales and at least one of the large international firms. In August I have arranged to interview the Legal Services Commissioner from New South Wales when I present at the International Legal Regulators Conference in San Francisco.

As well the Federation of Law Societies of Canada will be having as the topic for its conference in October 'Re-visioning Legal Regulation'. I have been asked to lead the planning committee for this program so again we will benefit from the views of many as we prepare for our initial discussion about this work in October.

Access to Justice

Provincial Court Efficiencies

This has been a topic that has been the subject of numerous discussions and meetings over the last several years. With among the longest court processing times in the country, there has been more public attention paid to this topic since the recent decisions in *R. v. MacIntosh* and *R. v. Murtha* which were dismissed for delay. When Chief Judge Williams was sworn in she stated that the 'eradication of the culture of delay' must be a priority for all justice sector participants.

On July 9 and 10, I participated in a workshop, hosted by CJ Williams, involving senior officials from the Department of Justice, the PPS, and NSLA where we reviewed the work done previously to address the challenges of processing cases in the Provincial Court and the solutions that can be devised for Nova Scotia in general, with a focus on Halifax, which has the largest volumes, but not always the longest delays. Decisions were made to move forward with detailed plans to revise the whole intake process involving the Crown and how cases move from their offices to the Court, the arraignment process with a focus on a separation of the administrative from the judicial work, and a means for the Court to address certain matters much more quickly when certain pre-determined requirements are met.

Deadlines for completion of the next piece of design work have been set for the end of the year.

National Action Committee

The National Access Committee on Access to Justice in Civil and Family Matters chaired by Justice Cromwell of the Supreme Court of Canada will be releasing its report in the next month or so. To address the Report there will be a series of meetings across the country in the fall, where Justice Cromwell and members of the NAC's Steering Committee will be in attendance. Their goal is to work with local justice sector leaders to advance the issues they have addressed and to encourage local leadership and collaboration. The Society was asked to host this event in Nova Scotia and we will do so on October 31st. The invitation list will include leaders from government, the Courts and other key sector players. We will also be inviting the other Atlantic Law Societies to participate as there will not be workshops in their provinces, but we do want the message from the NAC readily available to them.

We will ensure Council has a copy of the Report and the workshop program so all members are aware of the plan, even though not all will be able to attend.

Pride Reception

One of the equity seeking groups that we work with is the LGBT community. Though great strides have been made in addressing issues affecting gay, lesbian and transgendered people, our commitment is to continue to promote awareness of emerging or less well-known issues. The annual Pride Reception, which we co-host with the CBA, will be held on Thursday, July 25 at 4:30 – 6:30 pm at Gallery Page & Strange on Granville Mall.

Special guest will be Michael Battista who has been practising immigration and refugee law since 1992 and is certified by the Law Society of Upper Canada as a Specialist in Citizenship and Immigration Law (Immigration and Refugee Protection).

The focus of his practice is immigration and sexual orientation/HIV issues. Michael served as Chair of the Board of Directors of the AIDS Committee of Toronto and worked with Canada's national LGBT equality group EGALE in successfully lobbying the Canadian government to extend recognition to same sex couples under IRPA before same sex marriage was recognized in Canada. He was admitted to the Ontario AIDS Network's (OAN) Honour Roll in 2007 and has been adjunct faculty member of the University of Toronto's Faculty of Law since 2003. Michael is also Chair of Rainbow Railroad, an organization dedicated to assisting LGBT refugees to find routes to safety.

Other Matters

Service Nova Scotia and SNS Trust Account

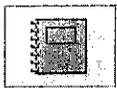
On the Consent Agenda for Council there is a memo from me dealing with the current situation affecting real estate practitioners and their forced non-compliance with our trust regs as they relate to their Service Nova Scotia Trust Accounts. Melanie McGrath has been the lead for us in dealing with SNSMR on this. It is indeed unfortunate that changes were made to the Property on Line system that have had this impact and that they have not been rectified in as timely a way as we had hoped. I am advising Council of this and our assessment that on an interim basis the risk is relatively low but that we would not want the current situation to last indefinitely, as it does not allow for the requisite degree of control and audit on the SNS Trust Account that the regulations were designed to provide.

Fair Registration Practices Act

The Society has recently been the subject of the first review of our admissions work by the Review Officer appointed under this legislation. Though we (primarily Jackie Mullenger) have been very involved in the design of the review process and the questionnaire, it has taken a considerable effort to comply with all the requests for information. The goal of FARPA is to ensure that we have open, fair and transparent processes governing our admissions of lawyers. Both locally and internationally trained lawyers are the target of the review. We know that we will need to make further changes to our website to improve its clarity. That work will take place over the next several months. One issue that we have not yet reached a final agreement on relates to the National Committee on Accreditation of the Federation of Law Societies of Canada. Since we do not control the NCA we are not able to make representations about their work, at least to the extent the Review Officer would like. We will share the results of the review with Council.

China Legal Aid

On July 16 we are hosting a delegation of Chinese legal aid deliverers. They are working with the CBA, who are responsible for their visit, and are carrying out a study tour in Canada. During their time here, in addition to learning about the independent regulation of the profession (a very foreign concept to them) they will be meeting with Nova Scotia Legal Aid, the Chief Justices and some government officials. Our presentation is being done by Rene, Tilly and me.



Copy of Changes in Category for EC and Council

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FULL_NAME	NOTE	TRANSACTION_DATE
Ms. Helenanne Carey, QC	NP to LIFE	07/01/2013
Mr. Russell Gregoire MacLellan, QC	PRAC (Insured - Full Rate) to RET	07/01/2013
Mr. Stuart F. Davison	NP to RET	06/01/2013
Mr. Alan E. Mitchell	NP to RET	07/01/2013
Mr. Peter Robert Covert, QC	PRAC (Insured - Full Rate) to NP	06/01/2013
Mr. Alan McKay Crowe, QC	PRAC (Insured - Full Rate) to RET	07/01/2013
Mr. Michael William Stokoe, QC	PRAC (Insured - Full Rate) to RET	07/01/2013
Mr. James Andrew Douglas Armour, QC	PRAC (Exempt - Small Claims Adjudicator) to RET	07/01/2013
Mr. Richard Kinghorn Jones, QC	PRAC (Insured - Full Rate) to RET	07/01/2013
Mr. David Hugh Christie, QC	NP to RET	06/01/2013
Mr. Andrew Watt	NP to RES	06/19/2013
Ms. Marian F.H. Tyson, QC	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Kenneth Robert White	NP to RES	06/19/2013
Mr. Ronald B. Mitton	NP to RET	06/01/2013
Mr. W. Wylie Spicer, QC	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Richard J. Smith	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Marilyn Deborah MacNair	NP to RES	06/19/2013
Mr. Robert Paul Dexter, QC	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Wendell Joseph Sanford	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Thomas Joseph Khattar	PRAC (Insured - Full Rate) to NP	06/01/2013
Mr. Bernard J. Butler	PRAC (Exempt - Fed Govt) to NP	07/01/2013
Mr. Alfred J. Dinaut	PRAC (Insured - Full Rate) to RET	07/01/2013
Mr. Donald A. (Rollie) Thompson, QC	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Malcolm Shaughan Jeffcock, QC	NP to PRAC (Insured - Full Rate)	07/01/2013
Mr. Kenneth N. Langley	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Margaret M. MacKenzie	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Johnette Royer	PRAC (Insured - Legal Aid Rate) to NP	06/01/2013
Mr. Frederick Garnet Angus	PRAC (Insured - Full Rate) to RET	06/01/2013
Mr. Cameron Stanley McKinnon, QC	PRAC (Insured - Full Rate) to NP	06/01/2013
Mr. Robert James McCleave	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Arthur Andrew Oskar von Kursell	NP to PRAC (Insured - Full Rate)	06/01/2013
Mr. Erroll Gordon Treslan	NP to RES	06/19/2013

FULL_NAME	NOTE	TRANSACTION DATE
Ms. Susan Margaret McKinney	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Jason Edward McQuaid	NP to PRAC (Insured - Full Rate)	06/01/2013
Ms. Katherine Janine Kerr	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Jennifer Joy Biernaskie	NP to RES	05/24/2013
Mr. Scott MacKenzie Hughes	PRAC (Exempt - Fed Govt) to NP	07/10/2013
Ms. Amy Gladys Gibson Saab	PRAC (Insured - Full Rate) to NP	06/01/2013
Mr. Blake Wright	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Jennifer Lynn Young	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Melanie Dawn Young	PRAC (Insured - Full Rate) to NP	06/01/2013
Mr. Robert Keith Ward	PRAC (Insured - Full Rate) to RET	06/01/2013
Mr. Christopher Charles Harmes	PRAC (Insured - Full Rate) to NP	06/01/2013
Mr. Christopher Charles Harmes	NP to RET	07/01/2013
Mr. Jeffrey Michael Larsen	PRAC (Insured - Prov Govt Rate) to NP	07/01/2013
Ms. Noelle Christine England	PRAC (Insured - Full Rate) to NP	06/01/2013
Mr. Jonathan Aaron Shapiro	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Robert Paul Thorne	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Amanda May Dillman	PRAC (Insured - Full Rate) to NP	06/01/2013
Mr. Jarvis Patrick Googoo	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Misty Rose Morrison	NP to PRAC (Insured - Full Rate)	07/01/2013
Mr. Nathan Andrew Baines	NP to RES	05/24/2013
Mr. William Murray Wilson	NP to PRAC (Insured - Full Rate)	06/01/2013
Mr. Antonios Charbel Amoud	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Dary Laughlin Robert Jessome	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Mr. David Michael Halley	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Susanna Elizabeth Ashley	AC (NS) to PRAC (Exempt - Fed Govt)	06/07/2013
Ms. Charys Noelle Payne	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Ms. Charys Noelle Payne	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Daniel Franklin Roper	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Ms. Hayley Victoria Smith	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Gavin Henry Howes Leitch	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Ms. Sarah Laretta Greenwood	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Ms. Denika Pamela Heaton	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Paul Gregory McNeil	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Mr. Paul Gregory McNeil	PRAC (Insured - Full Rate) to NP	07/01/2013

FULL_NAME	NOTE	TRANSACTION DATE
Mr. Aaron David Martens	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Mr. Benjamin Paul Carver	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Mr. Shane F. Westin	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Noah Michael Landry	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Mr. Conor Patrick Doyle	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Jeffrey David Clewin Waugh	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Ms. Shannon Leigh McEvenue	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Adam Bata	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Mr. John Todd Martin	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Kaitlin Lenora MacMillan	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Dr. Angus Hugh MacLennan	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Mr. David C. Hamel-Smith	PRAC (Insured - Full Rate) to NP	07/01/2013
Mr. Alexander C. Grant	AC (NS) to PRAC (Insured - Full Rate)	06/07/2013
Ms. Ashley Dawn Anne Dutcher	PRAC (Insured - Full Rate) to NP	07/01/2013
Ms. Sarah Ann Robicheau	PRAC (Exempt - Outside Insurance) to NP	07/01/2013
Mr. Vikaas Bansal	PRAC (Exempt - Outside Insurance) to NP	07/01/2013
Ms. Fiona Kathleen Orr	PRAC (Insured - Full Rate) to NP	07/01/2013