### Date
- September 15, 2017

### Time
- 9:00 am Kairos Blanket Exercise
- 12:00 Lunch
- 12:30 pm Council meeting

### Chair
- Julia Cornish QC

#### 1. INTRODUCTORY MATTERS
- Welcome to new members

#### 2. CONSENT AGENDA MATTERS
- i. Meeting Minutes June 17, 2017 Approved by Council July 21, 2017
- ii. Committee appointments
- iii. Appointment to Nova Scotia Legal Aid Commission: Ronald Chisholm, (March 29, 2018), George Ash (April 30, 2018) and Trinda Ernst QC (March 29, 2018)
- iv. By-Election for Halifax District
  - Memo from GNC

#### 3. EXCELLENCE IN REGULATION AND GOVERNANCE
- a) Items for approval
- b) Items for discussion
  - i. Succession Planning Working Group
    - Report to Council – Heidi Foshay QC to present
  - ii. Legal Services Support — Implementation Plan — J. Mullenger to present
  - iii. Legal Services Regulations - policies and draft regulations — D. Pink to present
    - Memo from D. Pink re LSR Policies and regulations
    - Draft policies – Designation of law firms, MSELP self-assessment
    - Presentation *handouts*
  - iv. Review Committee Work Plans:
    - Code of Professional Conduct Committee
    - Finance
    - Governance & Nominating Committee
    - PRPPPC
    - In-house and Government Lawyers Working Group
    - Professional Standards Committees:
      - Law Office Management *handout*
      - Criminal *handout*
      - Family
      - Real Estate *handout*
Solo and small firms Working Group
  • Racial Equity Committee (memo)

c) Items for information

4. IMPROVING THE ADMINISTRATION OF JUSTICE

a) Items for approval

b) Items for discussion

c) Items for information
  i. A2J activities Update
     • Memo from E. Halpern, Equity and Access Officer

5. FOUNDATIONAL ACTIVITIES

a) Items for approval

b) Items for discussion
  i. Report on 2017 Annual Lawyer Report – S. Walker CPA CGA to present

c) Items for information
  i. Financial statements to July 31, 2017

6. IN CAMERA

i. Update on Executive Director search
ii. CanLII Report
iii. 2017 Jasper Retreat Summary
iv. Other matters

7. ITEMS FOR INFORMATION / REPORTS

i. Council Calendar

ii. Executive Director’s Report

iii. LIANS Report to Council


v. Why the Legal Industry Must Embrace Diversity, Technology, and Collaboration (Mark Cohen)

8. MEETINGS

- November 17, 2017
- January 19, 2018
- March 23, 2018
- April 27, 2018 to be confirmed
- May 18, 2018
- June 16, 2018 - Annual Meeting
1. INTRODUCTORY MATTERS

The President welcomed the new Council to its first meeting of the 2017-2018 Council year.

2. CONSENT AGENDA MATTERS

i. Minutes of May 26, 2017 meeting

ii. Resignations: Mr. Marc J. Belliveau, Mr. Peter A. McInroy, Mr. Ronald W. McCabe, Ms. Candace Joan Seddon

iii. Revocation of Resignation of Leanne MacMillan
    • Memo J. Mullenger

IT WAS MOVED by Diane McGrath and seconded by John Bodurtha that the consent agenda be approved for adoption.

Motion carried.

A brief discussion took place on providing draft Council minutes in the public package for review prior to the meetings. It was noted that the Council material including minutes are now posted online prior to Council. This should be avoided and the ED will take steps to meet this goal.

3. EXCELLENCE IN REGULATION AND GOVERNANCE

a) Items for approval

i. Regulation Amendment — LIANS
    • Term of Office
IT WAS MOVED by Brian Awad and seconded by Ellen Burke that Amendments to Regulation 12.2.1, Term of Office, (attached as Appendix 1) be approved.

Motion carried.

i. Appointments to Committees (June 2017-December 2018), Representation on Outside Bodies and LIANS Board of Directors
   • Society Committees List 2017-2019

Removal of Kate Seaman from the Professional Standards (Family) Committee was requested.

IT WAS MOVED by Deanna Frappier and seconded by Tuma Young that the Appointments to Committees be approved.

Motion carried.

ii. By-election for Western District
   • Memo D. Pink

IT WAS MOVED by Jillian MacNeil and seconded by John Bodurtha that the by-election process be approved.

Motion carried.

4. IMPROVING THE ADMINISTRATION OF JUSTICE

5. FOUNDATIONAL ACTIVITIES

6. IN CAMERA

7. ITEMS FOR INFORMATION / REPORTS

8. MEETINGS – FRIDAYS - 9:00 AM – 2:00 PM

<table>
<thead>
<tr>
<th>Date</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 21, 2017</td>
<td>January 19, 2018</td>
</tr>
<tr>
<td>September 15, 2017</td>
<td>March 23, 2018</td>
</tr>
<tr>
<td>November 17, 2017</td>
<td>April 27, 2018 TBC</td>
</tr>
<tr>
<td>November 24, 2017</td>
<td>May 18, 2018</td>
</tr>
<tr>
<td></td>
<td>Saturday, June 16, 2018 - Annual Meeting 8:30 am</td>
</tr>
</tbody>
</table>
## REGULATION AMENDMENTS

<table>
<thead>
<tr>
<th>Existing Regulation</th>
<th>Proposed Regulation</th>
<th>Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Term of Office</strong></td>
<td><strong>Term of Office</strong></td>
<td>On May 26, 2017, Council resolved to appoint Committee members for two year terms to begin on January 1, 2019.</td>
</tr>
<tr>
<td>12.2.2 Board Members shall hold office on the Board for a term of one year commencing effective the date of the annual meeting of the Society or until the appointment of their successors.</td>
<td>12.2.2 Board Members shall hold office on the Board for a term of one year <strong>two years</strong> commencing effective the date of the annual meeting of the Society January 1, 2019 or until the appointment of their successors.</td>
<td></td>
</tr>
<tr>
<td>12.2.2.1 Board Members appointed in June 2017 will hold office until December 31, 2018 or until the appointment of their successors.</td>
<td></td>
<td>In order to give effect to this change, Council further resolved that Committee appointments that take effect in June 2017 be effective for 18 months.</td>
</tr>
</tbody>
</table>
MEMORANDUM TO COUNCIL

From: Governance & Nominating Committee (GNC)

Date: September 7, 2017

Subject: By-Election for Halifax District

Recommendation/Motion:

It is recommended that Council direct that there be a by-election to fill the vacancy that exists on Council as a result of the appointment of John Bodurtha as 2nd VP.

Summary:

With John Bodurtha’s appointment as 2nd VP, there will be a vacancy on the Council from the Halifax District. Council Policy 11 provides guidance about these situations.

The GNC has considered this matter and recommends, in accordance with Council Policy 11 there should be a by-election to fill this vacancy.

Recommendation:

The GNC recommends to Council that a by-election be held to fill the vacancy

The following timing is recommended:

1. Notice and a call for nominations should be provided to Halifax District members during the week of September 25 with a three week period for nominations, to close by October 20

2. The election, if necessary, should be held November 6 – 8 with balloting to close at 4:30 pm on the 8th;

3. The successful candidate will join Council will join Council at the November meeting;

4. In conducting the election all of the applicable election regulations should be applied with whatever modification may be necessary in the circumstances.
Executive Summary:
The Succession Planning Working Group is of the view that the Society should commit to three distinct initiatives to address the risks associated with end of career issues. Firstly, the Society should, as part of Legal Services Support, develop, maintain and promote resources to assist lawyers and law firms in preparing for succession or wind-up of practices at the end of a career. Secondly, Council should consider enacting a regulation that requires all law firms delivering legal services to the public to have a succession plan and to advise the Executive Director of its location. Thirdly, the Society should consider enacting clear standards, through regulation or otherwise, that make it clear when law firms may destroy files and what types of files would not be subject to these provisions or have a particular retention period beyond what may be a usual retention period.

ANALYSIS

Introduction
Council created the Succession Planning Working Group because it has recognized that one of the major challenges for Nova Scotia lawyers and one of the significant regulatory risks for the Society relate to succession planning (or the lack thereof).

An Aging Demographic
The Society’s ongoing analysis of the aging demographics in the profession indicates that this will become a greater issue. In its regular reporting on the Annual Lawyer Report to Council, the Director of Finance and Administration has tracked the aging demographic and the concentration of those lawyers in the oldest segment of the bar. In 2017 the information given to Council is shown in Table 1. It shows that over 43% of sole practitioners are in the oldest segment of the Bar and as Table 2 shows, there is an overall aging of the profession as a whole.
Table 1

Table 2

The Working Group is of the view that with an aging profession and a concentration of the older lawyers in sole practice there is a risk that needs to be addressed before it becomes more serious.

Increased Costs of Assist at the End of Practice
The Society has also experienced the cost implications of dealing with lawyers at the end of their careers who have not made adequate plans for the transition of their practices when they are no
longer capable of dealing with them because of disability, incapacity or death. In his 2016 Report to Council on the state of the membership the Director reported:

The number of lawyers requiring assistance “winding-up” practices has continued to increase and has increased costs to the Society.

Since 2014 the Society has expended in excess of $241,000 to look after the practices of eight lawyers at the end of their careers either through a receivership, custodianship or voluntary wind-up with Society assistance. The average of just over $30,000 per practice is borne out by the actual costs which for the eight cost from a low of $7000 for a very small practice to $67000 for a practice which could only be described as ‘a mess’. Given the numbers above relating to the aging profession, the Working Group agrees with the conclusion of Society Staff that if this situation is left unaddressed it will get worse. For that reason we believe Council must now consider taking serious action to mitigate the risks that we think are inevitable.

Lack of Succession Planning

Lawyers tell the Society, especially when they plan for retirement, that there are few, if any, options for another practitioner to assume responsibility for their files. This includes their foundation documents which are required to be preserved under the Land Registration Act.

For several years the Society has asked lawyers, as part of the Annual Lawyer Report, whether they have a succession plan in place. This data was the basis for Council determining that this ought to be a priority for the Society. Table 1 captures the responses to the succession plan question from Annual Lawyer Reports.

<table>
<thead>
<tr>
<th>Question: I have a documented succession plan to deal with my inability to practice, which includes: *</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
</tr>
<tr>
<td>Responses</td>
</tr>
<tr>
<td>Dealing with Current Active Clients Arrangements for Inactive Files Long-Term Storage of Files</td>
</tr>
<tr>
<td>567</td>
</tr>
<tr>
<td>567</td>
</tr>
<tr>
<td>567</td>
</tr>
<tr>
<td>567</td>
</tr>
<tr>
<td>567</td>
</tr>
</tbody>
</table>

Table 1 – Report to Council on the ALR, September 2016

These numbers, in the Working Group’s opinion, present a significant risk to the public and to the profession and thus, to the Society. In keeping with the Society’s Regulatory Objectives and, in particular, the need for regulating in a Triple P way that is focused on identified risks, the Working Group strongly believes that the Society should take steps to address these risks in a manner that reflects the realities of practice and the circumstances of lawyers.
In undertaking its task, the Working Group focused on three major issues:

1. Should the Society mandate that all lawyers in private practice have a succession plan and if so, what is the nature of the support the Society should offer to assist in making the planning process effective?

2. Given that file storage is a significant concern to lawyers can the Society, by rule, enable the destruction of files by lawyers/law firms and create effective guidance for them to aid their decision-making and to minimize risk?

3. Are there financial arrangements that could be put in place to protect the Society in the event that a lawyer dies without an effective succession plan and to enable the Society to respond to appoint a custodian to windup the practice and deal with file storage and destruction?

Members of the Task Force
The members of the Working Group are:
- Heidi Foshay-Kimball, Chair
- Bob Carter
- Gerald Green
- Loretta Manning QC

Primary staff support was provided by Darrel Pink, but several staff involved in the development of the Society’s new approach to Legal Services Support attended meetings and assisted the Working Group in developing its thinking.

Those who assisted were:
- Jackie Mullenger
- Lawrence Rubin
- Elaine Cumming
- Stacey Gerrard
- Jennifer Pink

Terms of Reference
The key aspects of the Working Group’s Terms of reference are as follows:

<table>
<thead>
<tr>
<th>Mandate</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>- To advise Council and make recommendations on all issues relating to implementation of succession planning for lawyers, including how the Society minimises the risks associated with the end of lawyers’ careers.</td>
<td>- To review information and resources from the Society and other jurisdictions on succession planning for lawyers</td>
</tr>
<tr>
<td></td>
<td>- Bringing a Triple P perspective, provide information and options to Council on the form succession planning and any necessary requirements for effective planning should take for lawyers in all areas of practice</td>
</tr>
<tr>
<td></td>
<td>- To consider how incentives might assist lawyers in the implementation of succession planning</td>
</tr>
<tr>
<td></td>
<td>- To enhance the resources available for lawyers, review and make recommendations on appropriate resources to be made available to lawyers</td>
</tr>
</tbody>
</table>
Meetings
Between January 2017 and July 2017, the Working Group met five times. For each meeting it was assisted by significant background information that showed how this issue has been dealt with in other jurisdictions as well as some of the research and thinking that some Nova Scotia lawyers have brought to bear on this matter through the development of file retention and destruction policies. Among legal regulators there appear to be two distinct approaches – one that mandates a succession plan be in place and one that provides resources and support to law firms and encourages them to address the matter internally. These approaches will be discussed in more detail later in this report.

Working Group make-up and Staff Support

PROCESS

The Working Group was influenced in its thinking by several things:

- Lawyers and law firms consistently report that file retention and destruction presents significant challenges and they seek clear guidance or rules from the Society about what files they can destroy and when
- Two jurisdictions (Maine and Saskatchewan) have created clear obligations to requiring lawyers to have succession plans
- A number of firms have created clear policies on records management and file destruction
- Amendments to the Limitation of Actions Act created a fifteen-year ultimate limitation period in s. 8(1) and law firms ought to be able to take advantage of it
- A minute percentage of claims against lawyers are made more than fifteen years after the work was completed
- If files are destroyed pursuant to rules created by the Society, there should not be a negative impact on a claim against the lawyer if the file no longer exists
- The greatest challenge for lawyers in creating effective succession plans is the existence of a large number of dead files
- Lawyers and firms ought to be encouraged to purge files on closure and store them electronically on a medium that can be updated as technology evolves
- Information from the Law Society of Alberta has demonstrated the kind of guidance the Society can give for effective succession planning

1. Support for Succession Planning
The Society has the benefit of a recent publication from the Law Society of Alberta entitled “When bad things happen to good lawyers.” This publication provides significant information and guidance for lawyers in the preparation and administration of succession plans. The Law Society of Alberta does not make succession planning mandatory but has determined that this practice assistance approach is an important step in helping lawyers adopt a culture of effective succession planning.

---

1 Limitation of Actions Act, SNS 2014, c 35, 8 (1) Unless otherwise provided in this Act, a claim may not be brought after the earlier of
(a)two years from the day on which the claim is discovered; and
(b)fifteen years from the day on which the act or omission on which the claim is based occurred.

The Working Group spent considerable time reviewing the Alberta material and modifying it for use in Nova Scotia. Attached as Appendices are some examples of material that could be used in Nova Scotia if Council either makes succession planning mandatory (as is advocated for by the Working Group) or chooses instead to take an approach that assisting lawyers in succession planning is the appropriate way to go.

This is in keeping with the Society’s evolving approach to regulation which first and foremost requires that the Society be proactive in how it addresses regulatory risks. Therefore, as part of its legal services support work the Society would publish, promote and educate lawyers with regard to succession planning. This should include material that will assist law firms in developing effective file retention and destruction policies (see below for how the Working Group addresses an approach to permitting file destruction) and deal with the preservation of file material that is digitally preserved, such as emails, draft documents, financial and trust account records, etc.

As noted above, the Society has benefited significantly from Alberta’s work. Though the legal services support team will finalize the nature and content of any publications in this area, because the Working Group spent time reviewing the Alberta materials and their applicability in Nova Scotia, we have attached some examples of the nature and content we believe must be a central feature to the Society’s approach.

The Working Group has identified this issue but does not believe this is a genuine policy question for Council. Given that our conclusions regarding risk are supported by staff, there is no question that as part of Legal Services Support, the Society will create resources and tools for the profession regardless of what other regulatory response Council adopts.

Possible Regulatory Responses
The Working Group spent considerable time considering whether a regulatory response in addition to one that provides resources to lawyers and law firms is required. The conclusion was that a proportionate regulatory response is appropriate. Only then can the Society truly meet its requirement of promoting the public interest and public protection by ensuring that client matters are being addressed as lawyers plan for end of career. If that occurs unexpectedly, then the requirements for effective succession planning and implementation are even more important.

2. A requirement for succession planning
Should the Society mandate that all lawyers in private practice have a succession plan and if so, what is the nature of the support the Society can offer to assist in making the planning process effective?

The Working Group considered whether there ought to be a requirement that all lawyers in private practice have an up-to-date succession plan. In canvassing other jurisdictions we found only two with such a requirement — Maine in the United States and Saskatchewan. Their rules are attached as Appendix 2.

The Working Group considered the current Saskatchewan rule and believes it has the correct elements of a possible regulation. However, some modifications are suggested. The Working Group suggests the following elements ought to be included in a regulation:

- It should apply to law firms engaged in the delivery of legal services to the public;

3 In focusing on lawyers in private practice, the Working Group, consistent with Triple P approaches to regulation, recognizes that the Society should only regulate areas where there is a real risk.
- Law firms ought to be able to satisfy the requirements on behalf of all lawyers in the firm\(^4\);
- The requirements of the regulation can be met by a firm on behalf of all lawyers in the firm;
- Succession plans must be current and subject to annual review by the lawyer or firm;
- Lawyers and firms must advise the Executive Director of the physical or digital location of the succession plan;
- Succession plans must contemplate arrangements required in the event of:
  - Cessation of practice
  - Temporary disability
  - Long term disability
  - Death;
- A succession plan must contain adequate information and arrangements to allow for handling of clients and managing the lawyer’s practice with regard to:
  - Open and closed files
  - Wills indices
  - Foundation documents (LRA)
  - Trust accounts, trust funds and trust property
  - Other accounts of the practice
  - Passwords and means to access computers, emails, accounts and other electronic information
  - Any other arrangements necessary to carry on and wind up the practice;
- The Executive Director will provide a recommended form for recording the content of a succession plan;
- Reporting on the succession plan should be done through the Annual Firm Report.

A regulation would provide an objective standard against which all firms could be measured. It would allow the Society to better focus its educational efforts because there would be an objective determination that a lawyer/law firm had turned their mind to and could demonstrate that a plan is in place. Most importantly, mandatory succession planning will ensure that clients are protected because their lawyer will have to either take active steps to return their files to them when closed or there will be someone who has been identified as being responsible for the file if the lawyer is unable to continue to address the client’s interests.

Reasons for not making the requirement mandatory include the fact that this is not yet a common requirement across Canada; it could cause some hardship for lawyers especially in rural areas where it is difficult to find another person to assume responsibility for files let alone a practice; and it may be more prescriptive if it requires a particular approach to succession planning in order to comply with the rules.

On balance, the Working Group concluded that a requirement, similar to Saskatchewan’s, would be appropriate for Nova Scotia. It is also of the view that the best approach would be to enact the regulation and then postpone its enforcement for two years to give lawyers an opportunity to prepare for it and the Society time to enhance its educational materials and approaches. However in the meantime the Society, as part of the new approach to Legal Services Support, should actively develop, adapt and promote resources that will assist both sole practitioner law firms and larger firms to develop a culture that looks to the future and plans for things need to be considered.

\(^4\) So a law firm of 2 or more lawyers could have a succession plan for all lawyers in the firm which would likely make the firm responsible for the files of individuals.
The proposed regulations would be:

A law firm providing legal services to the public must
(i) maintain a current succession plan for the practice including all lawyers in the firm;
(ii) annually review the succession plan; and
(iii) provide the Executive Director, as part of the Annual Firm Report, particulars of the location of the succession plan.

A succession plan must contemplate the unique arrangements that will be necessary in the event of any of the following events:
(i) cessation of the practice; and
(ii) if the law firm consists of a sole practitioner
   (a) temporary disability or incapacity,
   (b) long term disability or incapacity, and
   (c) death of the lawyer

At a minimum, a succession plan must include information and adequate arrangements to allow for the handling of clients and managing the practice with regard to the following, where applicable:
(i) open and closed files,
(ii) wills and wills indices,
(iii) titles and other important documents and records,
(iv) other valuables,
(v) passwords and the means to access computers, email, accounting and other electronic records,
(vi) trust accounts and trust funds, and
(vii) other accounts related to the member’s practice; and any other arrangements necessary to carry on or wind up the member’s unique practice.

**Issue #1**
Does Council agree that a mandatory requirement for succession planning ought to apply to all law firms delivering legal services to the public? If so, does it believe that the nature of the proposed requirements is correct? If so, does Council agree with the Working Group’s proposal that implementation of the regulation be delayed for two years (or some other time period as Council may deem prudent but not, in the Working Group’s opinion, to exceed two years) to enable the profession to develop their policies?

3. **File retention/destruction**

Given that file storage is a significant concern to lawyers, can the Society, by rule, permit (thus authorize) the destruction of files by lawyers/law firms and if so, create effective guidance to aid in lawyers’ decision-making to minimize risk?

The Working Group had the benefit of significant information about current practices utilized by some large firms with regard to file retention and destruction. It reviewed a number of policies currently in use by large and regional firms that outline a principled and legally sound approach for making decisions with regard to file destruction. Most are premised on the provisions regarding the ultimate limitation period in the Limitation of Actions Act.

The Working Group had the benefit of staff participation by Stacey Gerrard, Risk and Practice Manager for LIANS and Jennifer Pink, Manager of Legal Services Support, who is leading the implementation of that work. Both Ms. Gerrard and Ms. Pink provided significant insight into the

---

5 This covers all sole practitioners and law firms
6 Thus only firms in private practice are covered by the requirement.
7 For larger firms this requires consideration of a break up or dissolution of the firm. Though not a common occurrence there is recent experience in Canada that now makes this something that can be anticipated.
concerns of lawyers relating to when files can be safely destroyed on their discussions and regular interaction with lawyers. Further input was provided by Jacqueline Mullenger, Director of Education & Credentials who deals with all lawyers who change their categories from practising to non-practising or retired. All staff indicated that a significant burden to lawyers in being able to retire is the problem of maintaining ancient files. Lawyers significantly report that in the absence of clear language from the Society which permits file destruction they simply do not feel that destroying old files is an option.

The Working Group is of the view that an effective role for the Society, as part of proactive regulation, is the development of clear policies and procedures to assist lawyers/firms in making effective decisions with regard to both file retention and destruction.

The Working Group is aware that the dominant view on file destruction is that in the event a lawyer is sued, it is better to have the file so the insurer can mount a defense. This view has assumed “mythic proportions” even if it is not founded on sound principles.

Lawrence Rubin, Director of LIANS, also participated in the Working Group’s deliberations. His perspective, which is now shared by the Working Group is:

- A very small, perhaps insignificant, percentage of claims are made more than fifteen years after legal services were provided
- The ultimate limitation period of fifteen years contained in the Limitation of Actions Act must be given some meaning and lawyers should be able to, and LIANS does, rely on it as a time limit for claims
- If files are destroyed in accordance with a procedure or protocol endorsed by the Society, it is very unlikely that any adverse inference could be drawn against a lawyer who does not have documentary evidence to support work done or advice given on an old file
- There are some types of files, such as will preparation files when death has not occurred, that should be kept longer than fifteen years, out of an abundance of caution.

Based on information received by the Working Group, their view is that an analysis of reasonable risk should allow lawyers to develop destruction policies that would permit files to be destroyed after fifteen years. The specific form of authorization may need further consideration for it may be a regulation or a professional standard specifically authorized by regulation. The Working Group has not come to a conclusion on this and awaits Council’s consideration of the policy before doing so.

Though any such permission should be broad based, there are definitely exceptions that would need to be clearly articulated. For example, the limitation clock for certain matters may have a delayed start date such as the settlement involving an injury to a minor in which case the file should not be destroyed until that person reached the age of majority (and perhaps for some time after that). Or, a file for the preparation of a will or power of attorney should not be destroyed if the client/former client is still alive. There are other examples and a comprehensive list will need to be developed.

Any rules in this regard will have to deal specifically with electronically stored data.

---

8 It was noted that this “conservative” approach seems to be more prevalent among sole practitioners and small firms in opposition to the policies developed by large firms that have had the benefit of research and consideration in developing their own policies.
**Issue #2**
Because the Working Group is of the view that this is a sound policy, it believes Council should consider whether, as part of its regulations dealing with succession planning, the Society should create a regulation or a standard that allows for files to be destroyed after fifteen years from the cessation of the provision of legal services on a file with certain specified exceptions. Is this a policy that Council supports?

**4. Financial Arrangements/Insurance**
The Working Group considered whether there might be some form of financial arrangements or insurance that could be put in place to address the consequences of a law firm that does not have an effective succession plan and, because of death or disability, the Society is required to appoint a receiver or custodian to wind-up the practice. It wondered whether there might be a form of insurance policy or bond that could be purchased to protect the Society from the unplanned expenditures, which can be more than $20,000, depending on the size of the firm and practice.

On the Working Group’s behalf, Lawrence Rubin, Director of LIANS, made several inquiries of insurance brokers to determine if such a product exists or if it might be designed. Though a detailed analysis was not undertaken, initial responses suggested that the complexity and costs associated with such a product would not make it cost effective and it would unlikely be something that firms would purchase or the Society could easily mandate. Therefore, the Working Group determined not to pursue this possibility any further though Mr. Rubin still has an outstanding inquiry.

**Issue #3**
The Working Group has concluded that, although it seems like a logical idea, there are not easily identifiable financial mechanisms that can be developed to ameliorate the expenses for the Society associate with a law firm’s failure to adequately plan for succession.
CONCLUSION AND OPTIONS

FOR CONSIDERATION
Appendix 1 – Sample materials to be included in Legal Services Support Resources for Succession Planning

Planning Lawyer Checklist

*When planning for times when you are unable to practice consider these steps to prepare your practice. This will protect your clients’ interests and assist any new counsel who may be covering for you.*

1. Make arrangements for another lawyer (the "Replacement Lawyer") to cover in your absence. This will preserve your practice for your eventual return as well as protect and give comfort to your clients, family and staff. Put it in writing.

2. Consider the big picture to ensure a smooth transition.
   a. What role will the Replacement Lawyer play (e.g. Manage your files for a time? Wind up the practice? Sell it for maximum value?).
   b. How long must your absence continue before they step in?
   c. How will they be paid?
   d. How much and when will they be paid?
   e. The steps you have taken or will take to facilitate their work.
   f. Desired arrangements to support your family.

3. What information will they need to get up to speed as quickly as possible? Things to have ready or to give them in advance include:
   a. General Information concerning the practice, its organization and staff.
   b. A full set of keys to the office premises. Keys (or combinations) to file cabinets and safes. Contact information for landlord/property manager.
   c. Access information for open and closed files, if files are located at a satellite office or off-site storage facility.
   d. Passwords to your email, voicemail, computer system, online accounts and the lawyer portion the NSBS web site. Leave the passwords in a sealed envelope with your assistant and let your replacement know where they can be found. Provide the location of all backup drives, disks, memory sticks, hard drives.
Contact information for your spouse/domestic partner, next of kin.

Tell your family and the executor or personal representative of your estate about the Replacement Lawyer and how to contact them.

a. Employee roster with contact information.

b. Names, contract information and account information of your accountant, bookkeeper, insurance agent, payroll service, health plan administrator, IT consultant, other service providers, bank (checking, trust account, other), credit cards.

c. Location of wills.

d. Equipment (telephone, photocopy, furniture, computer, etc.) leases including copy of lease agreements, account numbers and contact information of equipment lessors.

e. Current accounts payable and accounts receivable statements.

4 As soon as you have arranged who will cover for you, secure NSBS approval of the Replacement Lawyer as a signatory on your bank accounts and alternate Responsible Lawyer.

5 Use retainer agreements that explain that you have arranged for the Replacement Lawyer to manage or close your practice in the event of your death, incapacity, or unexpected absence.

6 Note the names of all parties on the outside of client files to prevent disclosure of confidential information in the event the Replacement Lawyer has a conflict of interest.

7. Build an office procedure manual. This will help the Replacement Lawyer as well as any new staff you hire in the meantime. Consider including:

a. Conflicts: How to check for conflicts of interest.

b. Diarization/Appointments: How to use your calendaring system. Who is responsible for inputting and retrieving dates and ensuring that deadlines are met?

c. Active File List: How to generate a list of active client files, including client names, addresses, and phone numbers.

d. Accounting: How to access your accounting software and the location of client ledgers if using a manual system. How to generate a list of current accounts receivable.
e. File Organization: How open/active files are organized and assigned numbers.

f. CLOSED FILES: How and when are files closed, stored and destroyed?

g. Original Client Documents: Whether your firm keeps clients’ wills and other original documents and where are they located.

h. Banking: Your bank name, branch address, account signers, and account numbers for all accounts (trust and general). Where the safety deposit box is located and where the key is. The location of all bank statements and other account records.

i. Mail: Where the post office or other mail service box is located and how to access it.

j. Deliveries/Faxes: How to deal with deliveries and faxes (incoming and outgoing)? What Couriers do you deal with? Account numbers for Couriers.

k. Email: How do you organize/file your email?

l. Office Hours: What are your office hours?

m. Office Security: Where to obtain information and who to contact about office security systems (e.g. alarm system).

n. Service of Documents: How do you accept or admit service?

8. Make sure all your file deadlines (including follow-up deadlines) are calendared.

9. Document your files so the Replacement Lawyer reviewing them will know what has happened to date and the next steps.

10. Keep your accounting and time and billing records up to date.

11. Ensure that you have sufficient funds available to the Replacement Lawyer to cover office overhead and expenses for a period of time.*

12. Be sure to tell your bank in advance that the Replacement Lawyer will have signing authority on your accounts and when that triggered. Choose your authorized signer wisely. He or she will have access to your clients’ funds.

* A line of credit issued to a lawyer may not advance funds after the lawyer’s death or disability.
Introduce your Replacement Lawyer to your office staff. Make certain

   Ensure they know how to contact the Replacement Lawyer if an emergency occurs before or after office hours.

13. Consider your insurance, including: professional liability insurance coverage, property insurance (if you own your building) and tenant's insurance (if you do not); contents insurance, including extra riders for computers or other equipment of significant value; commercial general liability for third-party bodily injury or property damage; business interruption insurance; crimes coverage; and disability, life, or other appropriate personal coverage.

14. Review your written agreement with your Replacement Lawyer annually,
Notice of Replacement Lawyer

[This is a sample only - modify as appropriate]

I, ____________________, have authorized the following lawyers to assist with [the closure of my practice] / [managing my practice while I am unable to do so]:

REPLACEMENT LAWYER:

Name: ____________________ NSBS Member No. ____________________
Address: ____________________
Telephone: ____________________ Cell Phone: ____________________
E-mail address: ____________________

SUBSTITUTE:

Name: ____________________ NSBS Member No. ____________________
Address: ____________________
Telephone: ____________________ Cell Phone: ____________________
E-mail address: ____________________

Executed in the City of _______________ in the Province of _______________.

Signature: ____________________ Date: ____________________
Consent to Release Information to the
Nova Scotia Barristers Society and LIANS

[This is a sample only - modify as appropriate]

I ___________________________ authorize the Nova Scotia Barristers Society and LIANS to disclose information regarding my membership and insurance status, and that of my professional corporation, to my Replacement Lawyer and Substitute, and to accept direction from him/her regarding changes or renewal of either.

Replacement Lawyer’s Name: ______________________________________________________
Address: _______________________________________________________________________
Phone number: _______________   Email: __________________________________________

Substitute Lawyer’s Name: _________________________________________________________
Address: _______________________________________________________________________
Phone number: _______________   Email: __________________________________________

I have authority to sign this document and authorize the use or disclosure of protected information to my Replacement Lawyer and Substitute. There are no claims or orders pending or in effect that would prohibit, limit or otherwise restrict my ability to authorize the use or disclosure of this information.

Executed in the City of ________________ in the Province of ___________________________.

Signature: _______________________   Date: ________________________________________
Letter from Planning Lawyer Advising Clients that He/She Closing Down Practice*

[This is a sample only – modify as appropriate]

Dear [Client]: Re:

[Matter]

I will be [retiring from the practice of law/closing my law practice] on [date] and will no longer be able to act as your lawyer after that time.

A review of my records indicates that you have the following file(s) or documents at this office:

1. [file name] [Relevant details, e.g., open file, wills, trust funds, corporate records, etc.]

You have several choices about how to proceed now that I will no longer be able to assist you:

- I have made arrangements with [insert law firm name/Replacement Lawyer's name] to take over your files provided you agree that he/she has no conflict in representing you.

- You can chose a different lawyer to take over your files. I would be happy to provide you with a list of other local lawyers who practice in the area of law relevant to your legal needs.

- You can choose to proceed without any lawyer representing you.

I am sending you two copies of this letter. Please let me know what you would like to do by indicating your choice below and returning a signed and dated copy of this letter to me. The other copy is for you to keep for your records.

Since there may be important time deadlines that can affect whether legal cases will succeed, it is imperative that you let me know your decision about a new lawyer as soon as possible so that your case is protected and there is no interruption in the handling of your files.

Once you have decided, would you also contact me as soon as possible to make arrangements to obtain your [file/files] or to provide me with instructions to forward [it/Them]

* This letter has been adapted from a sample letter prepared by Ian Doddington and Dave Bilinsky of the Law Society of British Columbia
to new counsel, including any balance of funds remaining in trust.

Within the next [fill in number] weeks, I will be providing you with a final invoice for the work I have done on your behalf and a full accounting of the money I am holding for you in my trust account.

For many legal files, notifications of the change in solicitor must be given promptly to avoid any legal steps being taken against you. Your new lawyer can do this for you or I would be pleased to assist you in this regard before [date]. Unclaimed trust funds will be sent to the Public Trustee. Other documents that are unclaimed may eventually be destroyed.

[For corporate records clients:] I note that my office serves as a registered and records office for [name of company]. I cannot continue to provide this service after [date]. Please let me know where your new records office must be filed with the government. Your new lawyer can do this or I will be pleased to assist you in this regard before [date]. Failure to notify the government can result in the company being struck off the rolls of incorporated companies. All assets of the company would then revert to the crown.

I look forward to hearing from you as soon as possible.

If you or your new lawyer need a copy of a closed file, please do not hesitate to contact me to make the necessary arrangements.

I have appreciated the opportunity of serving as your lawyer. Please do not hesitate to give me a call if you have any questions or concerns.

Sincerely,

---

**Instructions:**

- I would like my file to be transferred to [name of new lawyer/law firm]

- I will be retaining new counsel but I am still making the necessary arrangements. I will have them contact you once they have been retained.

- I will be proceeding without a lawyer representing me.

___________________________
Date
Letter from Replacement Lawyer Advising Clients that Lawyer Unable to Practice*

[This is a sample only – modify as appropriate]

Dear [Client]: Re:

[Matter]

I am writing you let you know that due to ill health/his/her recent passing, [Lawyer] is no longer able to serve as your lawyer.

He/she has made arrangements for me to assist with his practice however and to help his/her client’s transition to new lawyers.

A review of [Lawyer’s] records indicates that you have the following file(s) or documents at this office:

1. [File name] [Relevant details, e.g., open file, wills, trust funds, corporate records, etc.]

You have several choices about how to proceed with your case now that [Lawyer] will no longer be able to assist you:

- You can retain me to take over.
- You can choose a different lawyer to take over.
- You can proceed without any lawyer representing you.

I am sending you two copies of this letter. Please let me know what you would like to do by indicating your choice below and returning a signed and dated copy of this letter to me. The other copy is for you to keep for your records.

If you would like to meet and discuss this, please do not hesitate to contact me at [telephone number or by email at [email address]] to arrange a meeting.

Please note that until we meet and have signed a new retainer agreement, I do not consider that you have hired either me or my firm and we will not be taking any steps on your file. [If there are urgent steps needed to protect the client’s interests, confirm that you will do so for that reason but that you will not be taking any other actions until retained.]

* This letter has been adapted from a sample letter prepared by Ian Doddington and Dave Bilinsky of the Law Society of British Columbia
Since there may be important time deadlines that can affect whether your case will succeed, it is important that you let me know immediately what you would like to do. So that there is no interruption in the handling of your files, I look forward to hearing from you as soon as possible.

You will soon be receiving a final account relating to the work [Lawyer] did for you, which will include any outstanding balance you owe [him/her] and an accounting of any funds [he/she] was holding for you in [his/her] trust account.

Please feel free to contact me with any questions you might have. Yours truly,

[Replacement Lawyer]

---

**Instructions:**

- I would like my file to be transferred to [name of new lawyer/law firm]

- I will be retaining new counsel but I am still making the necessary arrangements. I will have them contact you once they have been retained.

- I will be proceeding without a lawyer representing me.

______________________________  Date
Appendix 2 – Succession regulatory requirements in Maine and Saskatchewan

Maine State Bar Proxy Designation

Rule 1(g) Roster of Lawyers. The Board shall maintain current information relating to all lawyers admitted to the Maine Bar including, but not limited to, the following:

1. full name and all names under which the lawyer has been admitted or practiced;
2. date of birth;
3. current office address, telephone number, and email address;
4. current residence address, telephone number, and email address;
5. date of admission to the Maine Bar;
6. registration status and the date of any transfer to or from a status;
7. social security or federal identification number;
8. other jurisdictions in which the lawyer is admitted and date of admission;
9. location and account numbers in which clients’ funds are held by the lawyer;
10. nature, date, and place of any discipline imposed and any reinstatements in any other jurisdiction;
11. whether the lawyer, if engaged in the private practice of law, maintains professional liability insurance (see Rule 4(b)(4));
12. if engaged in the private practice of law in Maine, the name of an active status attorney who has consented to serve as a proxy on behalf of the attorney (see Rule 32); and
13. the bar number assigned to every admitted lawyer.

The information submitted pursuant to this rule shall be made available to the public with the exception of information deemed confidential by the Board.

What is a Proxy? A proxy is an attorney who will act to protect the interests of clients to manage or conclude the law practice of an attorney who is incapacitated, suspended, disbarred, disappears, or dies. Active Maine attorneys who indicate they are in private practice must designate a proxy when completing the annual registration process.

Who can serve as a proxy? Any active Maine attorney who has given his/her consent may be designated as a proxy. A proxy does not have to engage in the same fields of law as the requesting attorney. A proxy performs functions similar to a triage nurse: Determining the needs of the clients and sending the clients in the right direction.

Does the proxy requirement apply to partners or associates of a law firm? Yes. There is no exclusion for partners or associates of law firms. Much like the IOLTA registration statement, each active status attorney engaged in private practice must complete the designation.
Does the proxy requirement apply to non-resident attorneys? Yes. There is no exclusion for attorneys who do not reside in Maine. If a non-resident attorney engages in the practice of law in Maine, a proxy must be designated.

Why is this necessary? It is a matter of diligence. Any of us could be injured in an accident, or could suddenly suffer a debilitating illness. An inability to work on client files results in ethical issues. “A lawyer shall act with reasonable diligence and promptness in representing a client.” M. R. Prof. Conduct 1.3. “To fulfill the obligation to protect client files and property, a lawyer should prepare a future plan providing for the maintenance and protection of client interests...Such a plan should, at a minimum, include the designation of another lawyer who would have the authority to review client files and make determinations as to which files need immediate attention...” Formal Op. 92-369, ABA Standing Committee on Ethics and Professional Responsibility, Dec. 7, 1992. See also M. R. Prof. Conduct Rule 1.3 Cmt. [5].

Why is consent necessary? Professional courtesy is a factor. Commitment is another. The designating attorney and proxy must realize there will be work involved. If the designating attorney’s practice is reasonably well organized, the proxy’s work will be performed more efficiently. At a minimum, the proxy should be satisfied the designating attorney can provide requisite information for the proxy to make decisions. A list of pertinent information is [link to list #1]. The proxy needs to know what she/he is agreeing to undertake, and assess whether it will be difficult it will be to perform the required tasks.

Can the client hire the proxy? Conflict of interest rules must be followed. The client must understand the proxy has not been appointed to represent the client. The client should also understand that the client is under no obligation to have the proxy represent the client, and the client is free to select any Maine attorney. If there is no conflict of interest, and if the client knows what choices are available, the client can hire the proxy as her/his attorney.

What will the proxy be expected to do? The proxy may be called upon to close the practice of an attorney who can no longer practice. Alternatively, the proxy will oversee the operation of the practice until the attorney can resume work. Closing the practice will involve such activities as transferring files out of the attorney’s office. The files may go to the client or to an attorney designated by the client. Office services will be terminated. Employees will be discharged. Bills will be generated for work in progress. A secure system for accessing closed client files will be established, including a process for destruction of those files when requisite time has passed. (See checklist, #2 attached. (For a possible checklist, see...)) Alternatively, if the attorney is expected to return to practice, the proxy will oversee the operation of the office. Clients would be notified of the attorney’s temporary absence. Depending on the circumstances, clients may have to be advised to secure the assistance of alternative counsel. It is highly recommended that the attorney and the proxy have a clear understanding regarding the intent of the attorney, the financial implications of continuing to operate the practice without a primary income producer, and related issues.

Is a proxy exposed to claims or disciplinary action? A proxy must follow the Rules of Professional Conduct. Confidential information must be protected. Conflict checking and screening is mandatory. If the proxy is appointed as a Receiver under (Revised) Maine Bar Rule 32, the proxy/Receiver will be immune from liability for professional services rendered. Consultation with Bar Counsel is necessary.

http://www.mebaroverseers.org/attorney_services/registration/proxy_designation.html
Law Society Saskatchewan
Succession Plan 1801.

(1) A member who practices with a firm shall maintain a succession plan for the member’s law practice.

(2) A member’s succession plan shall contemplate the unique arrangements that will be necessary in the event of each of the following:
   (a) temporary disability;
   (b) long term disability; and
   (c) death of the member.

(3) At a minimum, a member’s succession plan shall include adequate arrangements for clients, including management of the following where applicable:
   (a) open and closed files;
   (b) wills and wills indices;
   (c) titles and other important documents and records;
   (d) other valuables; (e) trust accounts and trust funds; and
   (f) other accounts related to the member’s practice; and any other arrangements necessary to carry on or wind up the member’s unique practice.

[Rule 1801 Succession Plan added May 2, 2014, effective July 1, 2014]
MEMORANDUM TO COUNCIL

From: Jacqueline Mullenger, Director, Education & Credentials
Date: July 25, 2017
Subject: Legal Services Support- Educational Component

Legal Services Support (LSS) has been identified in our work to date as a ‘new way of thinking’ about proactively regulating the legal profession. LSS will involve three aspects of our work:

1. supporting lawyers and law firms to ensure that they are incorporating the 10 Management Systems for Ethical Legal Practice (MSELP) elements into their practice,
2. providing education to individual lawyers and law firms during the SAT process and providing resources (both before and after the formal SAT process) which lawyers/law firms can use to educate themselves to address practice issues.
3. providing advice or support from the Society regarding practice management, ethical and compliance issues.

There will also be occasions when the Society determines that either an individual lawyer, a firm or the entire group of lawyers could benefit from education on certain issues.

While it is not always easy or desirable to separate support and education I will endeavour to do so for the purpose of understanding what ‘education’ and legal services support the Education & Credentials Dept. will be involved in as we move forward with the Society’s legal services regulation focus on Triple P and risk.

The goal is to ensure that appropriate education and support is in place for three groups:

1. Articled clerks and applicants for admission
2. Lawyers/law firms in practice
3. Staff and Committees of Society

I will deal with each in turn:

1. **Articled clerks and applicants for admission**

The most significant change for this group at present will be the inclusion of MSELP principles in the articling experience, the Skills Course and the support and guidance offered to clerks as they move through the process.
In particular, clerks will continue to attend the Skills Course and be assessed in the current competencies set out in the National Admission Standard, via both the Bar Examination and the evaluations used in the Course. Many of the MSELP principles are already included in that work.

A review of needed skills is being conducted nationally and the Society is exploring how we might work with CPLED to alter the Skills Course and Bar Examination to make it more efficient and ensure that the correct competencies are being assessed.

Where there will be a change is in providing guidance to students as they move through their articles and plan to begin practice. If they are planning on opening their own practice they will be given advice and guidance about the processes, policies and things they need in place to open a practice.

2. Lawyers/Law Firms in Practice

Currently, education for lawyers in practice is done in a myriad of ways and by various groups. The Society does not want to return to the CPD business but realizes that supporting lawyers to create and maintain a practice that meets their compliance obligations and incorporates the 10 elements set out in the MSELP may require the Society to offer some education it is best suited to offer or is not available elsewhere.

To be clear, there is no desire to offer education in substantive law, nor to provide education that is available to lawyers from other sources. We will work with CPD providers to ensure that they include material in their education programs that will also advance our objectives.

Therefore, the Society should focus its limited resources on areas where there is an indentified need for education which is not being addressed by the education offered in the marketplace.

In order to determine what education needs to be offered in any given year, the Society will identify what the “educational needs” of lawyers are based on a variety of factors. This “Needs Assessment” will occur on an ongoing basis and will be based on:

1. Our adopted regulatory risk matrix;
2. What lawyers tell us they want and need;
3. A variety of regulatory and other information available to the Society from our engagement with the profession, including risk information available across the organization,
4. research on trends in complaints and insurance complaints
5. Matters that have been identified as priority such as legal ethics education, cultural competency, trust account changes;
6. Research that points to changes that will impact the profession (technology, new law, etc.) ;
7. Identified priorities that may not reach the level of regulatory risk but are otherwise identified as vital to meeting the Society’s Strategic Framework; and
8. A determination if educational resources exist.
If our analysis suggests educational resources do not exist, we will then determine how best to offer the education. This will be done by identifying what gap needs to be filled in education or skills or attributes and determining the best method of delivery for that specific educational objective.

In some instances this may involve webinars or in-person training; it may be online learning, it may be by creating a tool that can be used by the profession. This is not an exhaustive list, just a sampling of the ways that educational needs may be fulfilled.

The responsibility of Education & Credentials Department is to ensure that lawyers have the education and support they need to:

1. meet the 10 MSELP elements;
2. meet their compliance obligations (think anti-money laundering, trust accounts, ethics); and
3. to operate their practices ethically and efficiently. We will meet these obligations with a constant eye on the future.

The Society’s work in education will, as has been noted above, need to recognize what is available in the marketplace and to develop a means to work with the providers of CPD to have them deliver some of the material that we identify will assist lawyers in addressing the findings of our Needs Assessment and in meeting our stated objectives.

Specifically, the educational component of LSS would ensure that there is appropriate education and support in the following identified areas:

1. Opening a Practice
2. Opening a Trust Account
3. Maintaining and improving an already existing business structures
4. Providing education around business structures for lawyers
5. LRA assessments
6. Remedial education in practice management or ethics
7. Managing risk in the practice
8. Meeting each of the MSELP elements
9. Cultural competence
10. Diversity
11. Wellness, including priorities identified by the Lawyers’ Assistance Program (LAP) provider, LAP Committee and the Fitness to Practice Committee
12. Truth & Reconciliation Commission recommended education
13. Creating Professional Development Plans and assessing needs
14. Education on compliance requirements such as client identification
15. Transitioning from one practice to another
16. Succession planning
17. Ethics education
18. Education in practice management issues such as, client management, file management, technology, processes, file retention
19. Practice Standards
20. Mentoring – both being a mentor and a mentee
21. Being a Principal
22. Winding down a practice and retirement
23. Closing trust accounts

Additional educational areas may be added as based on Needs Assessment.

In order to effectively manage these issues in a timely manner, there will be a single set of
planned educational offerings that address issues on an organization wide basis regardless of
where the information resides, be it in LIANS or the Society. Supporting lawyers to be more
effective in their practices, and therefore to reduce claims and complaints is work that should be
done in a comprehensive, planned, consistent and intentional manner across the organization.

To achieve this goal the current Risk & Practice Management (RPM) work, carried out
autonomously in LIANS, will be part of Legal Services Support provided through the Education &
Credentials Department (E&C). The practice advice, risk management and education will
become part of the LSS work and offered through E&C, rather than through a separate RPM
program. Our plan is to develop a culture that advice and education provided at all stages of a
lawyer’s career1.

All E&C staff will be part of the team that evaluates the SAT results, determines education needs
and provides education, where appropriate. The current webinars, risk advice, articles and
annual LIANS conference as well as the mentorship program would all become part of the LSS
and be done by the E&C team.

Education will take many forms and will be carried out by staff working with lawyers on their self
assessments and identified individually; as a result of complaints or concerns in the Professional
Responsibility (PR) department or by the CIC; offered to lawyers as a whole in the form of
webinars, articles, the Solo and Small firm conference, Annual Meeting or specific education
sessions. Other education will come about when individual lawyers ask for assistance or advice
with their specific practice. The Society will also be gathering general information from claims and
complaints and from our ongoing research about future developments and changes in practice to
understand trends and issues that have been identified that need broader education.

As indicated earlier, this education will be designed with the knowledge of what lawyers need and
want to assist them in their practices. This can only be done by sharing pertinent information that
will come into the Society in a variety of ways. It is imperative to understand that though
information from LIANS will be utilized in developing the Needs Assessments, this will not require
any specific information that is associated with an open claim file. LIANS will share non-specific,
aggregated information about claim trends generally and where they see risk based on their
handling of claims. Information used to advise and assist lawyers will not be confidential. It will be
handled by the team, which will include the services of LIANS counsel, who will work with the
E&C team to deliver LSS.

1 Given the work involved, the RPM position could be at least half time.
This work cannot be done in a vacuum. Although E&C will be the triage centre where the information will come into the Society, not all education and advice will be given by E&C staff. Part of the ‘new way of thinking’ will require all Society staff to play a role in supporting lawyers and firms to be more effective.

E&C will funnel questions and requests to the right people and ensure that there is consistency in messages and educational efforts. The details of these processes will be developed over the coming months as we build our LSS capacity.

Ideally, a member who needs assistance makes one point of contact and they are directed to the right resource. It isn’t simply an answering machine or a form to complete, but someone who can take the call or email and triage what resource is needed by the member.

Finally, in order to be consistent and to assess the outcome of this work, The Society will need to implement proper record keeping and data collection processes. It will also be necessary to create standard answer to common questions so that there is consistency in the guidance and advice given.

3. **Staff and Committees of the Society**

This is an area that has been neglected over the years. It is imperative to ensure that staff are properly trained and possess the right competencies if we are to really make a change in the way we regulate lawyers. There must be a focus on ensuring all staff not only understand and can implement Triple P, but also that they are culturally competent and accepting of issues of diversity and equality. These are performance issues that must be assessed and managed.

To date, this has not been done in a consistent or methodical manner. Currently, we are unable to determine whether staff are culturally competent because we do not have specific performance criteria by which to measure them. If we expect lawyers to operate in a non-discriminatory manner then we must also ensure that we are behaving in a similar way.

In addition, since many staff offer education and give presentations, the Society must ensure that they have some basic training in adult education principles and in giving effective presentations. We must also ensure that all staff who conduct training, offer education or present on behalf of the Society have up to date subject matter expertise, facilitation training and appropriate tools to work with.

One of the goals will be to ensure that each staff member has a personal professional development plan each year. This can be created with their Director through the Society’s new performance management process and with both the Human Resources Officer and the E&C team providing support and guidance where required.

Just as we are embedding Equity in all of our work, so too should education principles be embedded where appropriate. Any department wishing to offer education to committees or others should work with E&C to ensure that sound education principles are being used.

In terms of Committees, E&C would work with committees that want to offer education to assist them in assessing the needs of lawyers, program design and offer assistance with training.
presenters in adult education principles, if need be. The education sessions would be planned and created using sound adult education principles and best practice.

Society educational events, such as the Annual Meeting would be done in consultation with all departments to ensure that appropriate and current issues are taken into account and that all relevant stakeholders’ perspectives are considered

I would be happy to answer your questions.

All of which is respectfully submitted,

Jacqueline L. Mullenger
Director, Education & Credentials
MEMORANDUM TO COUNCIL

From: Darrel Pink
Date: September 15, 2017
Subject: Legal Services Regulations

Date – September 8, 2017
Executive Committee
Refer to Council for introduction

Date –
Council

Recommendation/Motion:

None at this time

Executive Summary:
Council will review the draft regulations that will enable the various pieces of legal services regulation to proceed.

Analysis:
Since Council approved the outline of the legal services regulation work earlier this year following the reports on the Pilot Project, we have been advancing the detailed policies and procedures that will govern our work and developing the specific regulations. In September Council is being asked to review the draft regs and to offer their insight and critique of them. They will return to Council, with required changes, in November for approval.

Key issues include:

- Definitions – law firm, and issues relating to the MSEL and the self-assessment
- Obligations of law firms – this completes the process of moving all the compliance requirements to one place – what’s new? appoint a responsible lawyer, have an Management System for Ethical Legal Practice
- Responsible Lawyer – replaces the former ‘designated member’ (reg.7.2.1)- for communications, receipt of claims and complaints info, submit the MSEL SAT, file the AFR and Trust Account Report. If firm does not have a Responsible Lawyer they cannot operate a Trust Account
• Designation of law firms – NEW – present firms are grandfathered, designation is to allow the Society to engage with firms from their inception and to work with them to meet their regulatory obligations, cannot practice law/deliver legal services without designation – but there is no specific sanction except to keep trying – though breach of regulations can be the basis of a complaint; require undertaking from Responsible Lawyer that firm will not operate Trust Account unless they meet the requirements for operating one; if application for designation is denied there is the right of an Internal Review

• Operating a trust account – (NEW) Cannot receive trust money until granted permission to operate a Trust account; Responsible Lawyer needs to pass the TA Assessment, firm needs certificate from CPA and appropriate arrangements with banks

• Annual Firm Report – the means by which the firm reports on its compliance with the regulatory obligations including reporting on its trust accounts

• MSEL P self assessment – ED to identify cycle on 3-year basis. SAT provided by the Responsible Lawyer – uses ‘best efforts’ (right standard?) but not personally responsible for the firm’s adherence to the MSEL P elements.

Attached are draft regulations that are drafted to advance these policy directions.
Regulations re law firms and lawyers – Compliance Obligation

4.1 Interpretation

Definitions
4.1.1 In this Part

(a) “Law firm” means a lawyer, a group of lawyers, or a group of one or more lawyers and non-lawyers who deliver legal services under the supervision of a lawyer.

(b) “Lawyer” means a lawyer who is entitled to deliver legal services as a member of the Society.

(c) “Management System for Ethical Legal Practice” or “MSELFP” means a set of professional infrastructure elements to assist a law firm in meeting its professional obligations.

(d) “MSELFP self assessment” means a process through which law firms evaluate the extent to which they have in place appropriate policies, practices and systems to support all the MSELFP elements that apply to their law firm, and demonstrate their commitment to those elements by setting goals to enhance their MSELFP.

(e) “MSELFP self assessment tool” means the form through which law firms report the results of their MSELFP self assessment to the Society.
4.2 Compliance obligations of law firms

List of obligations

4.2.1 A law firm must:
(a) keep the Society informed of its current mailing address, civic address, telephone number and email address;
(b) keep the Society informed of the names of all lawyers associated with the law firm and the electronic contact information, including email addresses, for all lawyers and law corporations associated with the law firm;
(c) appoint a Responsible Lawyer in accordance with subregulation 4.3.1;
(d) have a Management System for Ethical Legal Practice;
(e) provide to the Society the MSELP self assessment in the form and with the frequency prescribed by the Executive Director or these Regulations;
(f) maintain written succession plans for all lawyers associated with the law firm;
(g) comply with the requirements of Regulation 4.9 regarding cash transactions;
(h) comply with the requirements of Regulation 4.10 regarding client identification;
(i) submit an Annual Firm Report;
(j) if the law firm operates a trust account, file a Trust Account Report, as required by Regulation 4.7 and, if required by the Executive Director, an accountant’s report on the trust account report;
(k) provide written notice to the Executive Director of the closure of a general trust account;
(l) if the law firm or an office of the law firm with more than one office in the Province is a principal, designate a lawyer, who individually qualifies to be a principal, to be the supervising lawyer responsible for the education plan and individual articling plans and to oversee the educational experience of articled clerks pursuant to Part 3 of these Regulations; and
(m) maintain foundation documents on behalf of lawyers practising real estate in the law firm pursuant to Part 8 of these Regulations, unless the obligation is transferred pursuant to that Part.
4.3 Responsible Lawyer

Appointment
4.3.1 Every law firm must appoint a Responsible Lawyer.

Qualifications
4.3.2 For purposes of these Regulations, a Responsible Lawyer is
(a) a lawyer; and
(b) of sufficient authority within the law firm to fulfill the duties of the role.

Responsible Lawyer’s obligations
4.3.3 The Responsible Lawyer:
(a) must submit on behalf of the law firm the MSELP self-assessment tool as required by Regulation 4.8;
(b) must use best efforts to provide complete and accurate information when submitting the self-
assessment, but by submitting the form is not personally responsible for the firm’s MSELP obligations;
(c) will receive communications from the Society;
(d) must ensure that the law firm maintains foundation documents as required by Part * of these
Regulations;
(e) will receive communications from the Association relating to claims; and
(f) must submit the Annual Firm Report, including, if applicable, the Trust Account Report, as required
by Regulations 4.6 and 4.7.

Appoint new Responsible Lawyer
4.3.4 If the Responsible Lawyer for a law firm of two or more lawyers:
(a) has been charged pursuant to Part III of the Act;
(b) has been suspended pursuant to Part III of the Act;
(c) has any practice restrictions imposed by order of the Complaints Investigation Committee or otherwise
under the Act or Regulations; or
(d) becomes unable to fulfill their obligations under this Regulation for any other reason;
the law firm must appoint a new Responsible Lawyer at the earliest opportunity and advise the Society of
the appointment.

Failure to comply
4.3.5 If the Responsible Lawyer fails to comply with subregulation 4.3.3 or a law firm fails to appoint a
new Responsible Lawyer pursuant to subregulation 4.3.4, the Executive Director will send notice to all
lawyers associated with the law firm advising that the law firm:
(a) must comply with this Regulation by a date determined by the Executive Director; and
(b) that failure to comply may result in the revocation of approval to operate a trust account.

Communications
4.3.6 The Responsible Lawyer will receive communications from the Society including:
(a) a complaint against the law firm under Part 9 of these Regulations;
(b) reports regarding an LRA Audit under Part 13 of these Regulations;
(c) a copy of each complaint against a member of the Society associated with the law firm under Part 9 of
these Regulations;
(d) a copy of each determination or decision made pursuant to Part 9 of these Regulations or Part III of
the Act relating to a member of the Society associated with the law firm;
(e) information about a lawyer’s failure to comply with the requirements for continuing professional
development as reported in the Annual Lawyer Report filed pursuant to subregulation 4.11.1; and
(f) a copy of other materials relating to the processes prescribed by Part III of the Act, if so requested by
the Responsible Lawyer, provided that the member of the Society was associated with the law firm at
the time the matter which is the subject of the complaint took place.

Firm change
4.3.7 If a lawyer changes law firms after the matter which is the subject of a complaint took place, the
Responsible Lawyer of the original firm will receive a copy of any materials listed in subregulation 4.3.6
and the Responsible Lawyer of the lawyer’s current law firm must be notified of the existence of the
complaint and any other information that is not subject to lawyer-client privilege or confidentiality that
the Executive Director determines is proper to convey.

Other firm communications
4.3.8 The Responsible Lawyer may, by notice in writing to the Executive Director, appoint a person
associated with the law firm to receive communications or copies of communications from the Society
and to deal with matters of an administrative nature.
4.4 Designation of Law Firms

Automatic designation

4.4.1 By November 30, 2017 the Executive Director will establish within the records of the Society a list of all law firms, which will be considered to be designated law firms.

Purpose of designation

4.4.2 The purpose of designating a law firm is to:
(a) assist the Society in its engagement with law firms, and
(b) enable the law firm to effectively carry out their obligations as law firms under the Act and these Regulations.

Confirmation from Executive Director

4.4.3 Each law firm designated by the Executive Director pursuant to subregulation 4.4.1 will receive confirmation:
(a) it has been so designated;
(b) of the names of the lawyers associated with the firm;
(c) of the name of the Responsible Lawyer; and
(d) it may correct the information provided by the Executive Director.

Designation required

4.4.4 After January 1, 2018, a new law firm must be designated as a law firm by the Executive Director before it practises law and delivers legal services.

Applying for designation

4.4.5 A lawyer or a group of lawyers who intend to practise law and deliver legal services as a law firm may apply to the Executive Director to be designated as a law firm.

Contents of application

4.4.6 The application to be designated as a law firm must be in the prescribed form and will include:
(a) the names of the lawyers and law corporations associated with the law firm;
(b) the nature of the association between the lawyers and law corporations within the firm;
(c) the name of the Responsible Lawyer;
(d) the names of any individuals who are not lawyers, who will assist in or deliver legal services through the law firm and the nature of the legal services they will provide;
(e) the mailing address, civic address, telephone number and email address for the law firm;
(f) the electronic contact information, including email addresses, for all lawyers and law corporations associated with the firm; and
(g) unless approval has been granted pursuant to subregulation 4.5.4, an undertaking from the proposed Responsible Lawyer that the law firm will not hold money or property in trust until the law firm has received permission to operate a trust account.

Prior to designation

4.4.7 If a law firm begins to practice law and deliver legal services prior to receiving a designation under subregulation 4.4.9, the Executive Director must require the law firm to provide the information required by subregulation 4.4.6 and specify the timeframe within which the information is to be provided.

Review of obligations

4.4.8 Prior to designating a law firm under subregulation 4.4.9, the Executive Director must meet with the Responsible Lawyer or all lawyers seeking designation as a law firm to review:
(a) the law firm’s regulatory obligations;
(b) the law firm’s knowledge of and ability to comply with the regulatory requirements applicable to law firms;
(c) the law firm’s knowledge of the elements of the MSELP;
(d) the requirement to complete the MSELP self assessment and the likely timing as it pertains to the law firm;
(e) the law firm’s ability to deliver legal services that meet the expectations of the MSELP;
(f) the resources available from the Society and otherwise to assist the law firm in its practice of law and delivery of legal services;
(g) the role and obligations of the Responsible Lawyer; and,
(h) such other matters that the Executive Director determines are appropriate given the circumstances and plans for the new law firm.

Decision of the Executive Director

4.4.9 The Executive Director may, where it is in the public interest to do so:
(a) approve the application for designation as a law firm, or
(b) deny the application, if in the opinion of the Executive Director, the law firm does not demonstrate an ability to meet its obligations pursuant to subregulation 4.4.8.

Application denied

4.4.10 In the event that the approval is denied pursuant to subregulation 4.4.9(b), the Executive Director must provide the applicant with a written decision with reasons and must inform the applicant of the internal review process in Part 3 of these Regulations.

Two or more law firms join

4.4.11 When two or more law firms join together to create a new law firm the provisions of subregulations 4.4.4 – 4.4.7 apply with any necessary changes.

Law firm changes ownership

4.4.12 If there is a material change in ownership of a law firm, the provisions of subregulations 4.4.4-4.4.10 apply with any necessary changes, unless the Executive Director otherwise determines.

Additional requirements

4.4.13 The requirements of this Regulation are in addition to the requirements for a lawyer or a group of lawyers to apply to become a law corporation under subregulation 7.5.4 or a limited liability partnership under subregulation 7.4.3.2.
4.5 Operating a Trust Account

Approval to operate a trust account after January 1, 2018
4.5.1 After January 1, 2018, a law firm, that does not operate a general trust account, may not accept trust money or trust property without approval to operate a general trust account pursuant to subregulation 4.5.4.

Law firm may apply
4.5.2 A law firm may apply to the Executive Director to operate a general trust account.

Requirements for operating a trust account
4.5.3 Prior to operating a general trust account, a law firm, through the firm’s Responsible Lawyer, must:
(a) successfully complete a Trust Account Assessment, prescribed by the Executive Director, that demonstrates familiarity with Part 10 of the Regulations and an ability to operate a general trust account in compliance with those Regulations;
(b) provide a certificate in the prescribed form from a chartered professional accountant, confirming that the law firm has in place a trust accounting system that will enable the law firm to comply with Part 10 of the Regulations;
(c) confirm that appropriate arrangements, in writing, have been made with the financial institution to comply with the requirements of Section 30 of the Act; and
(d) meet such other requirements as may be prescribed by Council.

Executive Director may approve
4.5.4 When the requirements of subregulation 4.5.3 have been met, the Executive Director must approve a law firm to operate a general trust account.

Trust account closure
4.5.5 Upon the closing of a general trust account the law firm must immediately give written notice to the Executive Director and provide:
(a) confirmation that the account has been closed; and
(b) if applicable, confirmation that the Law Foundation has been advised of the trust account closure.

4.5.6 The law firm must file a final trust account report in compliance with subregulations 4.7.2 and 4.7.4, unless the Executive Director waives the requirement
Annual firm report

4.6.1 An annual firm report must be submitted by January 31, for the 12 months ending December 31 each year unless another time is prescribed by the Executive Director, that:

(a) provides the names of all lawyers associated with the law firm, and the nature of their association;
(b) provides the names of individuals who are not lawyers, who assist in or deliver legal services through the law firm and the nature of the legal services they provide;
(c) the location and particulars of all law firm bank accounts and trust accounts operated by the law firm;
(d) the names and responsibilities of employees of the law firm, or others, who maintain the accounting records of the firm;
(e) confirmation that all lawyers associated with the law firm have written succession plans and the location of those succession plans;
(f) reports on compliance with:
   (i) the requirements of Regulation 4.9 regarding cash transactions;
   (ii) the requirements of Regulation 4.10 regarding client identification,
   (iii) the law firm lawyers’ obligations to create and adhere to a continuing professional development plan pursuant to subregulation 8.3.6; and
(g) such other information as may be required by Council.
4.8 MSELP self assessment

Requirement to submit self assessment tool
4.8.1 Commencing (January 2018), a law firm may be notified by the Executive Director that it is required to:
(a) record the findings from their MSELP self assessment for the prescribed reporting period in the self assessment tool; and
(b) submit the completed self assessment tool to the Executive Director by a specified date.

Tri-annual reporting period
4.8.2 The regular reporting period for the MSELP self assessment is once every three years.

Reporting outside the regular period
4.8.3 The Executive Director may, when it is in the public interest to do so, require a law firm to complete the MSELP self assessment outside of the regular reporting period.

Failure to submit self assessment tool
4.8.4 A law firm’s failure to comply with subregulations 4.8.1 or 4.8.3 will not give rise to an investigation pursuant to subregulation 9.2.1.

Information obtained through self assessment
4.8.5 If a law firm’s MSELP self assessment indicates that the law firm does not have in place appropriate policies, practices and systems to support all the MSELP elements that apply to their law firm, such reporting will not give rise to an investigation pursuant to subregulation 9.2.1.

Revised deadline
4.8.6 If a law firm does not submit its MSELP self assessment tool by the date specified by the Executive Director, the Executive Director will set a revised deadline and assist the law firm in submitting the MSELP self assessment.

Surcharge after second failure to submit MSELP assessment
4.8.7 If a law firm does not submit its MSELP self assessment tool before the revised deadline set under subregulation 4.8.6, the law firm will be required to pay a surcharge on the annual fee in an amount specified by Schedule A.

Surcharge remains in place subsequent years
4.8.8 The requirement to pay the surcharge pursuant to subregulation 4.8.7 remains in place each subsequent year or until the law firm submits an MSELP self assessment.
4.11 Compliance obligations of lawyers

List of obligations

4.11.1 A lawyer must:
(a) pay fees annually in accordance with subregulations 4.15.1 and 4.15.5;
(b) pay other fees in accordance with subregulation 4.15.4;
(c) file the Annual Lawyer Report prescribed by subregulation 4.12.1;
(d) satisfy the continuing professional development requirements prescribed by Regulation 8.3; and
(e) provide notice to the Society as prescribed by Regulation 4.13.

Required payments

4.11.2 A lawyer must, by June 30 of each year:
(a) pay the practising fee prescribed by Schedule A;
(b) unless exempted from doing so by subregulation 4.15.7 or subregulation 6.6.20, pay the amount due to the Association as prescribed by Schedule A;
(c) pay the amount prescribed by Schedule A to be contributed to the Fund;
(d) pay the amount prescribed by Schedule A to be contributed to the fund established pursuant to s. 60(2) of the Act.
NAME OF POLICY | New Law Firm Designation Policy
---|---
DEPARTMENT |  
Approved by DATE | Effective DATE | Reviewed | Revised

Introduction

A core component of Legal Services Regulation is the regulation of law firms in addition to individual lawyers. In developing an approach to law firm regulation, consistent with the Regulatory Objectives, the Society, being both principled and proportionate, will exercise its authority to regulate law firms through two separate processes. First, existing firms will be automatically designated, with the implications for them, such as relating to having a ‘responsible lawyer’ being implemented immediately. Secondly, it will focus on new law firms by taking those seeking to establish a firm through a process of designation that allows the Society to begin to engage with them about their regulatory responsibilities before they begin to deliver legal services. This will entail ensuring they understand what the Management System for Ethical Legal Practice entails and how the Responsible Lawyer role is to be fulfilled. Designation will also allow the Society to work with new firms regarding the privileges and responsibilities associated with operating a trust account. Because the operation of a trust account raises both significant compliance issues for firms and risks for firms and the Society, it must be a focus of the Society’s attention when new firms are created.

1.1 Purpose

1.1.1 The purpose of designating a new law firm is to identify which legal services providers comprise law firms in the context of Legal Services Regulation.

1.1.2 Law firm designation assists the Society in engaging with law firms so they are better able to carry out their obligations under the Act and the Regulations regarding law firms.

1.1.2 This policy was created to assist applicants for designation to understand the reasons for designating law firms, the criteria to be considered when deciding to make an application for designation, and to understand the responsibilities the firm will have regarding the delivery of legal services by the firm, its lawyers and legal staff.

2.1 Definition of Law Firm

2.1.1 Regulation X defines “law firm” as “a lawyer, a group of lawyers, or a group of one or more lawyers and non-lawyers who deliver legal services under the supervision of a lawyer”.

3.1 Designation Requirement
3.1.1 The Act and Regulations require the Society to regulate law firms.

3.1.2 The regulation of law firms is intended to shift the emphasis on regulation away from individual lawyers to having requirements that are more appropriately addressed by law firms.

3.1.3 The shift to law firm regulation is a response to changes in how legal services are delivered and the move toward delivery of these services by groups of lawyers and non-lawyers, i.e. law firms.

3.1.4 It will enable the Society to designate law firms in order to carry out its regulatory obligations, including but not limited to, law firms providing Annual Firm Reports, Trust Account Reports, and the Management System for Ethical Legal Practice (MSELP) Self Assessments.

4.1 Scope of Requirement

4.1.1 All law firms in Nova Scotia providing legal services as of January 1, 2018 will be automatically designated as law firms and are not required to submit an application for law firm designation.

4.1.2 All automatically designated firms will be contacted by the Executive Director on or before January 1, 2018 and notified of their designation.

4.1.3 Pursuant to sub regulation 4.4.4, after January 1, 2018 a new law firm must be designated by the Executive Director before it delivers legal services and engages in the practice of law.

5.1 Creation of a New Law Firm

5.1.1 A new law firm will be created when:

(a) a newly called lawyer opens a practice as a sole practitioner;
(b) a previously employed lawyer opens a practice as a sole practitioner;
(c) a lawyer who was a previously a member of another law firm opens a practice as a sole practitioner
(d) lawyers join together to create a new practice;
(e) a government department, agency or commission creates a new legal services division;
(f) a business or corporation hires in-house counsel(s) for the first time;
(g) a not-for-profit, union, or other organization hires in-house counsel(s) for the first time.

5.1.2 A new law firm may also be created when:

(a) two or more existing law firms combine to form a new legal practice;
(b) a team of lawyers or a law firm is hired by an existing law firm causing a material change in the law firm’s management structure.

5.1.3 In determining whether or not a new law firm has been created pursuant to paragraph 5.1.2, the cumulative effect of various criteria will be considered, including whether there are changes to the prior law firm’s structure including, but not limited to:

(a) change of name;
(b) new partnership agreement;
(c) new management scheme;
(d) changes in how profits are distributed
(c) creation or closing of General and Trust (bank) accounts;
(f) change in the types of legal services provided;
(g) addition or removal of client base;
(h) change of the firm’s Responsible Lawyer.

5.1.4 If there is uncertainty as to whether a new law firm has been created, the Executive Director will, after consultation with the Responsible Lawyer, make a determination.

6.1 Application Requirements

6.1.1 Subregulation 4.4.6 sets out the application requirements:

4.4.6 The application to be designated as a law firm must be in the prescribed form and will include:
(a) the names of the lawyers and law corporations associated with the law firm;
(b) the nature of the association between the lawyers and law corporations within the firm;
(c) the name of the Responsible Lawyer;
(d) the names of any individuals who are not lawyers, who will assist in or deliver legal services through the law firm and the nature of the legal services they will provide;
(e) the mailing address, civic address, telephone number and email address for the law firm;
(f) the electronic contact information, including email addresses, for all lawyers and law corporations associated with the firm; and
(g) unless approval has been granted pursuant to subregulation 4.5.4, an undertaking from the proposed Responsible Lawyer that the law firm will not hold money or property in trust until the law firm has received permission to operate a trust account.

6.1.2 Subregulation 4.4.7 sets the requirement that prior to designation, the Executive Director must engage with the proposed new law firm about relevant Society practice resources and the firm’s knowledge of and ability to fulfill its regulatory obligations:

4.4.8 Prior to designating a law firm under subregulation 4.4.9, the Executive Director must meet with the Responsible Lawyer or all lawyers seeking designation as a law firm to review:
(a) the law firm’s regulatory obligations;
(b) the law firm’s knowledge of and ability to comply with the regulatory requirements applicable to law firms;
(c) the law firm’s knowledge of the elements of the MSELp;
(d) the requirement to complete the MSELp self assessment and the likely timing as it pertains to the law firm;
(e) the law firm’s ability to deliver legal services that meet the expectations of the MSELp;
(f) the resources available from the Society and otherwise to assist the law firm in its practice of law and delivery of legal services;
(g) the role and obligations of the Responsible Lawyer; and,
(h) such other matters that the Executive Director determines are appropriate given the circumstances and plans for the new law firm.

7.1 Approval of Application by the Executive Director

7.1.1 The Executive Director will approve an application if the law firm satisfies the requirements of subregulations 4.4.6 and 4.4.8.
8.1 Denial of Application

8.1.1 The Executive Director will deny the application if the law firm does not satisfy the requirements of subregulations 4.4.6 and 4.4.8. There is no appeal from this decision.

8.1.2 In the event an application is denied, the Executive Director will work with the law firm to assist it in fulfilling the requirements of subregulations 4.4.6 and 4.4.8.
## Introduction

In adopting Legal Services Regulation, the Society is committed to changing the way it regulates and the focus of its regulation. As the regulator of legal services delivery, the Society is committed to working with law firms and the legal profession to enhance the quality, accessibility, and professional ethics of those services; to delivery by a more diverse and inclusive profession; and to ensure the public will have greater access to more affordable legal services. The Society will be a risk focused and Triple P regulator. A key component to achieving these changes is the Management System for Ethical Legal Practice (MSELP) – consisting of ten elements that all law firms must have to ensure they effectively focus on enhancing their legal services delivery in a manner and to an extent that is most appropriate for them. Though the elements are required, the application of them, the details and the extent to which they apply to their practices will be left to individual law firms. However the nature of their application of the elements and the approach they bring to them will be reported to the Society – on a regular three year cycle. This will allow the firm to assess its own practice state, its achievement of goals and new goals it may choose to set. It will allow the Society to assist firms to improve their practices in ways that are most appropriate to them. If there are reasons to require more frequent reporting because the Society believes that the elements are not being adopted in fact by firms as part of their everyday delivery of legal services, that may also occur.

### 1.1 Purpose

1.1.1 The purpose of this policy is to assist law firms in understanding and navigating the MSELP self assessment requirement and its process.

1.1.2 The MSELP self assessment provides a means for law firms to identify and effect practice infrastructure improvements, thereby enhancing the quality of legal services delivery. It encourages the fulfillment of professional obligations and wellness in the profession.

1.1.4 Regulation 4.2 requires law firms to have a Management System for Ethical Legal Practice (MSELP) and to provide to the Society the MSELP self assessment in the prescribed form and frequency.

1.1.5 The requirements of regulation 4.2 reflect the Society’s shift to a Legal Services Regulation model in which focus is placed on proactive risk identification and reduction.

1.1.6 The MSELP self assessment reflects the aim of Legal Services Regulation to shift regulatory burden away from individual lawyers when a requirement is more appropriately addressed by law firms.
2.1 Definitions

2.1.1 Regulation 4.1 defines “law firm” as “a lawyer, a group of lawyers, or a group of lawyers and non-lawyers who deliver legal services under the supervision of a lawyer.”

2.1.2 Regulation 4.1 defines “Management System for Ethical Legal Practice” or “MSELP” as a set of professional infrastructure elements to assist a firm in meeting its professional obligations.

2.1.3 Regulation 4.1 defines “MSELP self assessment” as a process through which law firms evaluate the extent to which they have in place appropriate policies, practices and systems to support all the MSELP elements that apply to their law firm, and demonstrate their commitment to those elements by setting goals to enhance their MSELP.

2.1.4 Regulation 4.1 defines “MSELP self assessment tool” as the prescribed form through which law firms report the results of their MSELP self assessment to the Society.

3.1 MSELP elements defined by Council

3.1.1 Council has approved the ten MSELP professional infrastructure elements.

3.1.2 As of X 2018, they are:

   i. Maintaining appropriate file and records management systems;
   ii. Communicating in an effective, timely and civil manner;
   iii. Ensuring confidentiality;
   iv. Avoiding conflicts of interest;
   v. Developing competent practices;
   vi. Ensuring effective management of the law firm and staff;
   vii. Charging appropriate fees and disbursements;
   viii. Sustaining effective and respectful relationships with clients, colleagues, courts, regulators and the community;
   ix. Working to improve diversity, inclusion and substantive equality; and
   x. Working to improve the administration of justice and access to legal services.

3.1.2 The MSELP elements may change from time to time, in keeping with changing legal marketplace norms and professional obligations.

4.1 Regular MSELP reporting period

4.1.1 The regular reporting period for the MSELP self assessment is once every three years.

4.1.2 Pursuant to subregulation 4.8.1, commencing (January 2018), law firms will be notified by the Executive Director when they are required to complete an MSELP self assessment and submit the findings from that assessment to the Society in the prescribed MSELP self assessment tool (SAT).

5.1 Responsible Lawyer to submit MSELP SAT

5.1.1 Pursuant to subregulation 4.3.3, it is the role of the Responsible Lawyer to submit the MSELP SAT.
5.1.2 The Responsible Lawyer may delegate this responsibility to another person associated with the law firm.

6.1 Reporting deadlines

6.1.1 During each regular reporting period, law firms will be assigned an initial deadline by which to submit their MSELP SAT.

6.1.2 In assigning initial deadlines, the Executive Director will work with law firms to identify optimum timeframes that enable law firms to reflect meaningfully on their MSELP.

6.1.3 Pursuant to subregulation 4.8.4, a law firm’s failure to submit its MSELP SAT by the initial deadline will not in itself give rise to an investigation pursuant to subregulation 9.2.1.

6.1.4 If a law firm fails to meet its initial deadline, a revised deadline will be set, as agreed between the law firm and the Executive Director.

6.1.5 The Executive Director will engage with a law firm that failed to submit by the initial deadline and assist it in completing the MSELP self assessment and submitting the MSELP SAT by the revised deadline.

7.1 Surcharge for second failure to submit

7.1.1 Pursuant to subregulation 4.8.6, if a law firm does not submit its MSELP self assessment tool by the revised deadline, it will be required, in the next fee period, to pay a surcharge, as fixed by Council, on its annual fee.

7.1.2 Pursuant to Schedule X, the surcharge is calculated based on the number of lawyers associated with the law firm.

7.1.3 The surcharge on the law firm remains in place each subsequent year or until the law firm submits an MSELP self assessment tool.

8.1 Follow up response

8.1.1 The Executive Director will review and assess the findings of a law firm’s MSELP self assessment tool and determine the appropriate follow up response.

8.1.2 The aim in responding to law firms about their MSELP self assessment is to assist law firms in identifying and effecting the most impactful improvements they can make to their MSELP.

8.1.3 The Executive Director’s follow up response may include one or more of:

i. acknowledging receipt of the MSELP SAT;
ii. seeking clarification about the law firm’s MSELP self assessment;
iii. suggesting practice tools and resources to aid with the stated MSELP improvement goals;
iv. referring the law firm to specific practice tools, resources, or experts to assist with its stated MSELP improvement goals; or
v. requesting a MSELP follow up meeting.

8.1.4 A number of factors will determine the appropriate follow up response, including but not limited to:

i. whether the law firm is requesting assistance in any aspect of its MSELP self assessment or in furthering its identified goals;

ii. the degree of a law firm’s demonstrated understanding of the purpose and objectives of the MSELP self assessment;

iii. the perceived robustness of a law firm’s MSELP self assessment and in particular, the identified strengths and weaknesses of a law firm’s various practice infrastructure elements;

iv. whether a law firm’s identified MSELP improvement goals are proportionate to the areas of strength and weakness identified in the MSELP self assessment;

v. whether a law firm’s identified goals are realistic or feasible, both in scope and availability of resources;

vi. the range and type of resources and tools available to a law firm to assist it in achieving its identified goals;

vii. other information known to the Society about a law firm’s MSELP; and

viii. the degree to which a law firm has demonstrated its commitment to enhancing its MSELP.

9.1 MSELP follow up meetings

9.1.1 During each regular reporting period, a minimum of 25% of all law firms will be requested to meet with staff of the Society for a follow up MSELP meeting, including a minimum of 10% of all law firms who will be randomly selected.

9.1.2 The purpose of the follow up MSELP meeting will be to either assist a law firm in assessing its MSELP and setting appropriate goals for systems improvements, or to help the law firm identify resources and strategies for achieving its stated goals, or both.

10.1 Ongoing follow up

10.1.1 The Executive Director will continue to engage with law firms through the course of the regular reporting period, with a view to supporting its MSELP enhancement efforts.

10.1.2 A law firm will be contacted at least twice between regular reporting periods and reminded of its identified goals for improvements, as well as any new tools and resources available to assist in effecting its goals.

11.1 Reporting outside the regular period

11.1.1 Pursuant to subregulation 4.8.3, the Executive Director may, when it is in the public interest to do so, require a law firm to complete the MSELP self assessment outside of the regular reporting period.

11.1.2 Circumstances that may indicate it is in the public interest to require a law firm to complete the MSELP self assessment outside of and in addition to the regular reporting period include, for example:
i. when a new law firm is building its MSELP and requires a significant level of support;
ii. when a law firm requests an additional opportunity to assess and enhance its MSELP;
iii. when a law firm is not perceived to be sufficiently commitment to enhancing its MSELP, including when it fails to engage meaningfully with the Executive Director through the MSELP self assessment process;
iv. when information is learned through the course of any of the processes governed by Part III of the Act indicating deficiencies in a law firm’s MSELP; and
v. when information is learned otherwise by the Executive Director indicating deficiencies in a law firm’s MSELP.
## Mandate and Responsibilities

**Mandate:**
The Code of Professional Conduct Committee (CPCC) supports Council in the governance of the Society by advising with respect to potential amendments to the Code of Professional Conduct (the Code) with reference to:

- the Society’s purpose to uphold and protect the public interest in the practice of law and the Society’s vision to provide leadership, value and support to a competent, ethical, inclusive and engaged legal profession; and
- the benefits of maintaining uniform national rules of ethics and professional conduct for lawyers.

**Responsibilities:**
- Consult with members, and other stakeholders as appropriate, respecting proposed amendments to the Code
- Make recommendations to Council respecting proposed amendments to the Code.

## Matters assigned by Council’s Activity Plan

Council’s Activity Plan asks the Code of Professional Conduct Committee to consider what changes may be necessary to be a relevant regulatory instrument for all legal entities including law firms and to consider if the Code can better address lawyers ethical duties relating to access to justice and legal services. (AP 1.6)

The following are initiatives being undertaken by Code of Professional Conduct Committee in the upcoming year:

## Details for each Project/Initiative

<table>
<thead>
<tr>
<th>Name of Project</th>
<th>Review Code to identify possible means to ensure Code application to Law Firms.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Goal/outcome of project:</strong></td>
<td>To identify areas where the Code may require changes and to identify areas of concern that require consideration of possible recommendations to Council for amendments to the Code (being mindful of the objective of maintaining a unified national Code) and to consider proposing such consequential changes. Should there be wholesale amendments to the code or a Rule 8?</td>
</tr>
<tr>
<td><strong>Timeframe for completion:</strong></td>
<td>January 2018</td>
</tr>
<tr>
<td><strong>Resources required (volunteer, staff):</strong></td>
<td>CPCC; Professional Responsibility Counsel.</td>
</tr>
<tr>
<td></td>
<td>Name of project</td>
</tr>
<tr>
<td>---</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>2.</td>
<td>Consideration of Legal Services Regulation and Amendments to Legal Profession Act vis-à-vis the Code of Professional Conduct</td>
</tr>
<tr>
<td>3.</td>
<td>Consideration of other issues or suggested amendments as requested by the Federation of Law Societies’ Standing Committee</td>
</tr>
<tr>
<td>4.</td>
<td>Consideration of other issues or suggested amendments as requested by members, committee or the Council of the Society</td>
</tr>
</tbody>
</table>
5. Name of Project: Others as may arise

<table>
<thead>
<tr>
<th>Additional Comments on Plans or Progress</th>
</tr>
</thead>
<tbody>
<tr>
<td>The work of this Committee advances the Society’s Strategic Framework at the highest level as it provides support to Council and the membership respecting the Purpose of the Society (to uphold and protect the public interest in the practice of law). Its work is directly related to the Strategic Initiatives and the Foundational Activities of the Society.</td>
</tr>
</tbody>
</table>
## Credentials Committee

### Committee Mandate and Responsibilities

**Mandate:** Terms of Reference for the Credentials Committee

<table>
<thead>
<tr>
<th>Credentials Committee - Terms of Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type</strong></td>
</tr>
</tbody>
</table>
| **Mandate** | • The Credentials Committee supports Council in the governance of the Society by recommending to Council changes to policy relating to the credentialing process, which includes the opening and closing of practices, the requirements to remain in practice,  
  • The Credentials Committee carries out the responsibilities assigned to it under Part I of the Act and supports Society staff in addressing their responsibilities under  
  • Part 3 Admissions  
  • Part 4 Trust Accounts  
  • Part 5 Membership Categories and Changes in category;  
  • Part 6 Lawyers from other jurisdictions  
  • Part 7 LLPs and Law Corporations  
  • Part 8 Mandatory CPD  
  • Part 13 Real Estate Practice  
  • The Committee provides policy advice to ensure that regulation is proactive, principled and proportionate |
| **Responsibilities** | • Refer to Part I of the Act and Parts 3, 4, 5, 6, 7, 8 and 13 of the Regulations  
  • To consider and recommend to Council policy direction relating to aspects of the credentialing process that impact the Society’s obligations to applicants, members, and other affected individuals, or that impact key outcomes of the credentialing process  
  • To make recommendations to Council for its approval respecting the Legal Profession Act, and Regulations governing the credentialing process  
  • Appoint a Credentials Review sub-committee |
## DRAFT COMMITTEE WORK PLAN AND PROGRESS REPORT
### 2017-2018

| Composition | • At least six and no more than nine members  
|            | • Appointments shall be made and vacancies filled by Council  
|            | • The Chair of the committee shall be appointed from Council |
| Committee Chair | • The Committee Chair shall be appointed by Council  
|            | • The Committee Chair is responsible for annually reviewing with the Committee: Council Policy 16, these Terms of Reference, and the Society’s Strategic and Annual Plans |
| Procedures and Work Product | • Quorum for the committee shall consist of three members  
|            | • The Committee shall operate in accordance with Council  
|            | • The Committee shall maintain minutes of its meetings  
|            | • The Committee may appoint sub-committees to assist it with its work. |
| Reporting | • The Committee performs a regulatory function for the Society and in that respect is independent from Council  
|            | • In its advisory capacity, the Committee may make recommendations for policy  
|            | • The Committee shall provide a report on its work to Council no later than the May Council meeting |
| Staff support | • Director, Education & Credentials |

Committee Chair:  
Cheryl Canning

Sub-committees:

Internal Review Subcommittee: Mark Everett  
Bar Examiners Committee: James Martin
## Details for each Project/Initiative

<table>
<thead>
<tr>
<th></th>
<th>Name of Project:</th>
<th>Goal/outcome of project:</th>
<th>Time Frame for completion:</th>
<th>Resources Needed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Policy on Accommodation for Bar Examination and Skills Course Modules</td>
<td>Update policies on accommodation to take into account exam anxiety and other issues that have arisen in the recent past. Ensure that the policy advances the Society’s strategic framework.</td>
<td>Completed by November 2017</td>
<td>E&amp;C staff, Credentials Committee, Council, Equity and Access Office</td>
</tr>
<tr>
<td>2</td>
<td>Policy on Writing Bar Examination outside Society offices</td>
<td>Amend current policy to create requirement that applicants write the Examination in a formal exam setting</td>
<td>November 2017</td>
<td>E&amp;C staff</td>
</tr>
<tr>
<td>3</td>
<td>Character References for transfer applicants</td>
<td>1. Review the necessity of character references and put in place appropriate requirements.</td>
<td>April 2018</td>
<td>ED, E&amp;C staff, Credentials Committee, Fed. input from Professor Jocelyn Downie</td>
</tr>
<tr>
<td></td>
<td>Name of project:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>-----------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Principal Standards</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Goal/outcome of project:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Further to previous year’s work staff have create resources and handbook for Principals which the Committee will need to review</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Timeframe for completion:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>January 2018</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Resources required (volunteer, staff):</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>E&amp;C staff, Credentials,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td><strong>Name of project:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Review of skills needed by new lawyers.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Goal/outcome of project:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The current competency framework is reviewed in light of the current reality of legal services delivery. Appropriate skills for new lawyers are identified, such as risk management, project planning, limited scope retainers, use of technology, and innovation, and tested to ensure that newly called lawyers have the correct skills to begin the practice of law today and well into the future.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Timeframe for completion:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>End of Fiscal Year – The review should be done by then. The changes may be implemented over time given that there is a national initiative and presumably we will want to ensure that there is national harmony in these changes.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Resources required (volunteer, staff):</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>E&amp;C staff, liaison other Societies and Federation, Credentials and Council.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td><strong>Name of project:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Updating Competency Framework</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Goal/Outcome of Project:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The competency framework is updated to reflect the changes that have been made in articling requirements.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Timeframe for completion:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>February 2018</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### DRAFT COMMITTEE WORK PLAN AND PROGRESS REPORT
### 2017-2018

<table>
<thead>
<tr>
<th>Resources required (volunteer, staff):</th>
</tr>
</thead>
<tbody>
<tr>
<td>E&amp;C staff, Credentials Committee,</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7. Name of project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policies on change of category applications, refilling principal applications, insurance inquiries on change of category up applications.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Goal/outcome of project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensuring that current policies include triple p principals.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Timeframe for completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 2018</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Resources required (volunteer, staff):</th>
</tr>
</thead>
<tbody>
<tr>
<td>E&amp;C staff, Credentials Committee, PR staff</td>
</tr>
</tbody>
</table>
Finance Committee (and Finance Committee Task Force)

Committee Mandate and Responsibilities

Mandate: The Finance Committee supports Council in the governance of the Society by monitoring the finances of the Society, acting on behalf of Council in regard to the annual audit of the Society finances, and acting on behalf of Council in respect of the management of the Society investments, and acting on behalf of Council to accept the annual financial statements of the Society and the auditor’s report on those statements.

Responsibilities:
Financial Reporting Responsibilities
- Monitors the Executive Director’s prudent and effective management of the Society’s resources
- Monitors Executive Director’s internal controls and policies for areas of risk
- Monitors Executive Director’s preparation of the annual budget for presentation to Council
- Reviews performance against budget during the course of the year
- Receives from management satisfactory explanations for all forecast variances from budget that are greater than 5 percent of budget or greater than $10,000 of budget
- Encourages efficiency in the management of the Society’s finances and in the expenditure of Society funds

Investment Responsibilities
- In accordance with the Society’s Investment Policy, oversees the prudent implementation of the Policy including the regular review of investment results and the performance of the Society’s Investment Manager as required by it
- Selects the Society’s external investment manager
- Sets the investment parameters for the Society on behalf of Council

Audit Responsibilities
- Annually recommends to Council the appointment of the external auditor
- Meets with the Society’s external auditor in preparation for and following the annual external audit to ensure the audit function is effectively performed and to reinforce the external auditor’s independence
- May meet with the Society’s external auditor at any time
- Recommends to Council approval of the accepted financial statements and the Auditor’s Report on them.

Committee Chair: Maurice Chiasson
Committee Vice-Chair: Peggy Gates-Hammond
Sub-committees, if any, and names of Chairs:

- Investment Sub-Committee (Chair or Vice-Chair of Finance Committee)
- Finance Committee Task Force (Vice-Chair of Finance Committee)
- Audit (RFP) Sub-Committee (TBD)

Matters assigned to Committee by Council’s Activity Plan

TBD

Finance Committee Project/Initiatives (in order of priority):

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Continued development of multi-year Budget (Task Force)</td>
</tr>
<tr>
<td>2.</td>
<td>Revenue and fee generation review (Task Force)</td>
</tr>
<tr>
<td>3.</td>
<td>Review of Trust Account Safety, Review and oversight program (Task Force)</td>
</tr>
<tr>
<td>4.</td>
<td>Monitor Internal Controls and Documentation of Procedures</td>
</tr>
<tr>
<td>5.</td>
<td>Investment Policy and Investment Management Services – Review and Update</td>
</tr>
<tr>
<td>7.</td>
<td>Develop an enterprise risk management protocol for the Society in conjunction with the Risk work for the Legal Services Project Impact of Transformation of Regulation and Governance</td>
</tr>
</tbody>
</table>

Significant Issues to be Monitored (in order of priority):

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>Council and a sub-committee will be reviewing Succession Planning in 2017-2018, the committee may be called on to provide support for this project.</td>
</tr>
<tr>
<td>B.</td>
<td>There will be an increased reliance on the Finance Committee for support in the costing of new initiatives with the development of budget(s) and the subsequent reporting on the costs incurred and/or revenues generated.</td>
</tr>
<tr>
<td>C.</td>
<td>Significant changes and improvements are being made to the iMIS Database and supporting information technology systems.</td>
</tr>
</tbody>
</table>
Details for each Project/Initiative (in order of priority):

<table>
<thead>
<tr>
<th>1.</th>
<th>Name of project: Continued development the multi-year Budget (Task Force)</th>
</tr>
</thead>
</table>

**Goal/outcome of project:**
As part of the Society’s commitment to be fiscally responsible and increase transparency in the budgeting and financial reporting processes a rolling three (3) year budget process will be developed. Forecasted demographic, inflationary, historical information will be considered in the development of revenue and expense estimates year over year. A small working group from the Finance Committee (Task Force) will continue to be involved in this work.

As we move to multi-year budgeting a number of related issues are being addressed, including:

   a. Reconciling the budgeting and program planning processes so that there is a logical order to program planning, budget development and fee setting. The Council and Committee calendars have been adjusted with a change to start date/month of January – effective January 2019. The Finance Committee will be required to review timing of regular projects/work (budgeting) and special projects in light of this change.

   b. What will various program budgets look like under Legal Services Regulation (LSR)? In particular we need to ensure that early planning and forecasting are done to project program expenditures/revenue in Professional Responsibility, Education & Credentials/Legal Services Support, and Library & Information Services. This exercise will require continued forecasting for organizational structures and program/regulatory expenditures.

**Timeframe for completion:**
To be continued throughout the 2017-18 fiscal year.

**Resources required:** Small Task Force led by Vice-Chair of Finance Committee

**Responsible:** Director, Finance & Administration

**Consult with:** Executive Director, Senior Management
2. **Name of project:**  
**Revenues and fee generation review (Task Force)**

<table>
<thead>
<tr>
<th>Goal/outcome of project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>In addition to the multi-year budgeting and planning project there are a number of other projects that the Task Force will be involved with. These projects will include at least:</td>
</tr>
</tbody>
</table>

| a. | A review to see if there any additional means in which the Society could generate fee or other income (e.g. “User Fees”) from lawyers or other parties. This work will include reviewing the current membership statuses and determining if an additional category dealing with lawyers looking for a means of providing “reduced services” with a lower annual fee (pre-retirement category). Others areas of revenue generation that will be reviewed may include such items as; fee for services, credentialing/transaction fees, advertising, user fees, law stamps etc. |

| b. | Trust Account – We are considering a restructuring of the entire trust oversight program. One option is to look at fees and/or transaction levies that would have the full costs of trust oversight borne by lawyers who have trust accounts. |

| c. | Various Fee models – Determining if there are there alternatives to a ‘universal fee’ based on such items as years of service, income/revenue, type of practice, etc. |

<table>
<thead>
<tr>
<th>Timeframe for completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 2018 – in time for 2018/2019 budget process</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Resources required:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small Task Force led by Vice-Chair of Finance Committee</td>
</tr>
<tr>
<td>Responsible: Director, Finance &amp; Administration</td>
</tr>
<tr>
<td>Consult with: Executive Director, Senior Management</td>
</tr>
</tbody>
</table>
3. Name of project:
**Review of Trust Account Safety, Review and oversight program (Task Force)**

<table>
<thead>
<tr>
<th>Goal/outcome of project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Society through various avenues has begun looking at the Trust Account Oversight program with a goal of improvement. The Finance Committee Task Force, Society staff and a National Committee sponsored by CLIA have been researching the various Trust Account oversight modules in the country with again a goal to reduce risk and improve trust oversight and reporting.</td>
</tr>
<tr>
<td>As the Society evolves with the continued implementation of Legal Services Regulation with a Triple-P risk-based approach it is important to look at the Trust Oversight program and set goals for a revised program in the same way. The Goals that the Society has developed for the revised program so far include:</td>
</tr>
<tr>
<td>- Reduce the regulatory burden on lawyers (through technology and innovation) while increasing compliance</td>
</tr>
<tr>
<td>- Reduce the cost of the overall cost of the program to lawyers (Society costs and accounting costs)</td>
</tr>
<tr>
<td>- Reduce the complaints/claims received by the Society with respect to Trust Accounts (volume and/or complexity)</td>
</tr>
<tr>
<td>- Enhance the risk management practices surrounding trust accounts (using Triple-P methodology)</td>
</tr>
<tr>
<td>- Enhance access to justice by providing education, resources, tools and increased flexibility for lawyers with a goal of making it easier to understand and comply with Trust Account “rules” (using Triple-P methodology)</td>
</tr>
<tr>
<td>With the above goals in mind, the Society is also looking at various “structural models” (who, where, when, how) of trust oversight with respect to the performance of different aspects of the oversight model. Such as when Trust Audits or reviews are performed and by who, how often and when lawyers must report on trust accounts.</td>
</tr>
<tr>
<td>Many of the recommendations Deloitte has proposed will require the same changes and improvements regardless of what the new “structural model” looks like. For example “updating the rules with specific guidance on types of client identification or updating the record retention rules or electronic banking rules” will be performed by the Society regardless of who performs trust audits or reviews trust account reports when they are received by the Society.</td>
</tr>
<tr>
<td>The one area for improvement that the Society has great concern around and which Deloitte has highlighted as well is Audits and Reviews. The Society has found that there are a significant number of areas of concern when it comes to what is being reported by lawyers and accountants on the Trust Account Reports and Accountants’ Reports.</td>
</tr>
<tr>
<td>There is also some general concern about the rules that are in place with respect to reporting and reviewing and the need to make them more current with the evolving legal and banking worlds.</td>
</tr>
</tbody>
</table>
### Timeframe for completion:

Goal is to have some improvements in place for the December 31, 2017 Trust year-end reporting period with additional recommendations implemented over the next 1 to 2 fiscal years.

### Resources required:

Small Task Force led by Vice-Chair of Finance Committee

Responsible: Director, Finance & Administration

Consult with: Executive Director, Senior Management

---

### Name of project:

**Monitor Internal Controls and Documentation of Procedures**

#### Goal/outcome of project:

As part of the Committee’s responsibility to monitor risk, ensure the documentation of the Society’s financial and administrative controls and processes. Maintenance of current written policies and procedures will become a regular operational process. The project will include the following tasks:

- **A.** Preparation of an inventory of key financial, information technology, and human resource management processes;
- **B.** Development of “auditing” reports and tools that provide information on data integrity.
- **C.** Assignment of Process Owners (staff members responsible for documenting, updating, and communicating processes);
- **D.** Integration of Process Owner responsibilities in the relevant staff Position Descriptions;
- **E.** Establishment of a risk model to be used in prioritizing the documentation of the inventoried processes;
- **F.** Development of a template for the documentation of processes and provision of training to staff in the use of the template and related software tools, e.g. Bizagi Process Modeler;
- **G.** Documentation of processes in order of highest to lowest priority.

#### Timeframe for completion:

This project has continued over the past two years with significant improvements being made. Process and procedure documentation is expected to be completed during the 2017-2018 fiscal year.
### 5. Name of project: **Investment Policy and Investment Management Services – Review and Update**

**Goal/outcome of project:**  
A Sub-Committee will review and make recommendations for changes to the Society’s Investment Policies. In addition, the Sub-committee will review the performance of the investment manager and determine if a change in service provider is desirable. A consultant may be contracted to assist with this work.

**Timeframe for completion:**  
The goal would be to have this work completed during fiscal 2017-2018 and in time for inclusion in the 2018-2019 budget process.

**Resources required:**  
Responsible: Director, Finance & Administration  
Consult with: Executive Director, Consultant(s)  
Content development: Controller to provide support on Financial Investment information

---

### 6. Name of project: **External Audit – Develop and Administer an RFP for External Audit Services.**

**Goal/outcome of project:**  
Formation of a Finance Sub-Committee to review the External Audit performance and current market information relating to the Annual External Audit currently conducted on a year-to-year basis by Grant Thornton. Also, make recommendations for the potential development of a Request for Proposal (RFP) process as part of determining if a change in service provider is desirable. A consultant may be contracted to assist the sub-committee and Society with this work.

**Timeframe for completion:**  
Auditors are appointed at the Annual General Meeting in June 2018. Therefore, this process should be completed by March 2018.

**Resources required:**  
Responsible: Director, Finance & Administration  
Consult with: Executive Director, Consultant(s)
## 7. Name of project:

**Continue work on a Risk Management Framework for the Society in conjunction with the Risk work for the Legal Services Project.**

<table>
<thead>
<tr>
<th>Goal/outcome of project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>In conjunction with the risk work on the Legal Services Regulation project, the goal is to further the development of the risk management framework, for the operational side of the Society, and present a completed draft framework to the Committee for review. This framework will be accompanied by a cost-benefit analysis of proposed risk mitigating strategies.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Timeframe for completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-going throughout the year(s).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Resources required:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible: Director, Finance &amp; Administration</td>
</tr>
<tr>
<td>Consult with: Executive Director, Senior Management</td>
</tr>
</tbody>
</table>

---

### Additional Comments on Committee’s Plans or Progress

**Significant Issues to be Monitored:**

A. Council will be reviewing Succession Planning in 2016-2017, the committee may be called on to provide support for this project.

B. There will be an increased reliance on the Finance Committee for support in the costing of new initiatives with the development of budget(s) and the subsequent reporting on the costs incurred and/or revenues generated.

C. Significant changes and improvements are being made to the iMIS Database and supporting information technology systems. This will require a great deal of resources and time from the Finance & Administration Department and Director over the next 6-9 months.
## Governance & Nominating Committee

### Committee Mandate and Responsibilities

#### Mandate

The Committee supports Council in the governance of the Society by:

- Assisting with the recruitment, appointment and election of members of Council and Officers of the Society; and
- Supporting Council’s commitment to the principles and practices of good governance.

#### Responsibilities

- Establish and ensure an open and transparent nominating and election process that provides candidates for all positions on Council;
- Recruit a Second Vice President nominee;
- Recruit candidates for Public Representatives on Council for appointment by Council;
- Consult with the Equity Officer, the Racial Equity Committee and other relevant organizations prior to finalizing nominations;
- Support Council’s governance of the Society, including but not limited to:
  - Recommending changes to the Legal Profession Act and Regulations and changes to Council Policies
  - Monitor and review Council governance policies
  - Support, as requested by the Executive Committee or by Council, the regular evaluation of Council or its Committees; and
- Annually recommend, for Council approval, committee appointments

### Committee Chair

Daren Baxter QC, TEP

### 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: **Recruitment /nomination of 2nd Vice President**

   Status: At September meeting, committee will review background materials and establish timeline/dates as per Step #2 of GNC Procedures.

   Goal/outcome of project:

   The committee nominates a candidate for 2nd Vice President who can ensure that Council’s leadership will have adequate skills, diversity and experience to achieve the objectives established by Council’s Strategic Framework.

   Timeframe for completion:

   January 2018

   Resources required (volunteer, staff):

2. Name of project: **Review of Council Composition**

   Status: The government’s policy on self-regulated professions mandates that bodies like the NSBS should have boards that are 1/3 elected, 1/3 appointed from the profession and 1/3 appointed from the public. In amendments to the LPA the Society was not required to adopt this structure but the GNC had previously agreed to look at whether some lawyer members of Council could be appointed.

   The GNC may also wish to reflect on the size of Council in light of the Government’s policy

   Committee members will review background materials compiled previously and process for decision-making.

   Goal/outcome of project:

   Council receives a discussion paper from the GNC on the issues involved and possibly making changes to how Council is constituted to ensure it is comprised of members with adequate skills, diversity, and experience to ensure that Council is able to fill its governance responsibilities.

   Timeframe for completion:


3. Name of project: **Council Evaluation**
<table>
<thead>
<tr>
<th>Status:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Goal/outcome of project:</strong> Committee will review the 2017 Council evaluation process, including exit interviews, report preparation and Council engagement with a view to fine tuning for this Council.</td>
</tr>
</tbody>
</table>

| Timeframe for completion: |

| Resources required (volunteer, staff): |

| 4. Name of project: **Debrief on 2nd VP and Public Rep selection** |

<table>
<thead>
<tr>
<th>Status: Given that GNC has just been through two processes to add members to Council, review and report to Council on the Committee’s processes and any recommended changes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Goal/outcome of project:</strong></td>
</tr>
<tr>
<td>Evaluation procedures for Council are effective and support Council in fulfilling its role. They are in keeping with best practices of good governance. A decision is made with respect to whether or not evaluation should be extended to certain committees.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Timeframe for completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report to Council by year-end.</td>
</tr>
</tbody>
</table>

| Resources required (volunteer, staff): |

| Resources required (volunteer, staff): |

| 5. Name of project: **Review of Council Policies** |

| Goal/outcome of project: |
### COMMITTEE WORK PLAN AND PROGRESS REPORT  
**2017-2018**

<table>
<thead>
<tr>
<th>Complete Review of Council Policies and address those matters referred to the Committee by Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Timeframe for completion: January 2018</td>
</tr>
<tr>
<td>Subcommittee completed its work and prepared a report to be considered by GNC.</td>
</tr>
<tr>
<td>Resources required (volunteer, staff):</td>
</tr>
</tbody>
</table>

**Additional Comments on Committee’s Plans or Progress**
Committee Mandate and Responsibilities

Mandate: See attached terms of reference

Responsibilities: See attached terms of reference

Committee Chair: Raymond F. Larkin, QC

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: Regulatory Reform – Developing a risk-focused, proactive, principled and proportional complaints process

   Goal/outcome of project: Council has directed the PRPPC to consider the development of a complaints process that is Triple P and risk-focused. Areas for the PRPPC’s attention will include:
   
   i) Developing complaints process principles to support P3 and replace current prescriptive regulations
   ii) Changing the conversation with complainants, especially at the intake stage, and identifying earlier those matters clearly not for PR
   iii) Changing the conversation with lawyers, communicating issues of concern earlier, and taking a more educational approach
   iv) Identifying where and how to incorporate restorative justice concepts
   v) Revising the language in the Act and regs to minimize ‘criminal’ references; e.g. charges
   vi) Enhancing tools for staff to identify and manage risk earlier; e.g. undertakings, Letters of Advice (non-dismissal)
   vii) Developing proportional risk responses

   Timeframe for completion: May 2018
### Status:

Preliminary regulation amendments reviewed by PRPPC September 2016 – to Council September and October 2016. PRPPC approved new initiatives in November for further development; update provided for January 2017 meeting; development of electronic complaints process underway; Restorative Justice training for CIC and staff July 13, 2017; regulations to support LPA amendments being drafted or September 2017

### Resources required:

Director, PR Counsel, PRPPC, Council

### Name of project: Adoption of Restorative Justice Principles in the PR process

#### Goal/outcome of project:
Consideration by the PRPPC of restorative principles and how those can be adopted by both the CIC and Hearing Committee as part of the professional responsibility process.

#### Timeframe for completion:
January 2018

#### Status:
Ongoing; presentation to Committee by Kim Turner and Emma Halpern in May 2016; update provided to PRPPC Jan/17 – need for staff training identified; resources obtained from LSBC and LSA Early Intervention Pilot Program. Restorative Justice training for CIC and staff July 13, 2017

### Resources required:

Director, PR Counsel, PRPPC, Council

### Name of project: Modifications to the Complaints Review Process

#### Goal/outcome of project:
The Committee will consider whether changes to the CRC process are appropriate in light of the various challenges that have been brought to that process by “zealous” litigants, and to ensure the process allows for excellence, transparency and accountability given the volume and complexity of files for review.

#### Timeframe for completion:
May 2018

#### Status:
July 2017- draft reg. and policy amendments to be considered

### Resources required:

PRPPC, PR Counsel, CRC, Council

### Name of Project: Review of Proceedings (Case) Management Process

#### Goal/outcome of project:
The Hearing Committee’s new regulatory structure for the proceedings management process has been in place for two years. The PRPPC will consider issues that have arisen in the process including scope of the HC Chair’s authority etc.

#### Timeframe for completion:
September 2017

#### Status:
Research began July 2016; input from Hearing Committee chair received; draft regs initial review May/17; review continuing July 2017

### Resources required:

Director, PR Counsel, PRPPC, Hearing Committee
<table>
<thead>
<tr>
<th></th>
<th>Name of Project: <strong>Ensuring transparency with PR Policies and Procedures</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Goal/outcome of project:</strong> CIC and Hearing Committee policies, procedures and guidelines will be made available to the public on our website; the PR Best Practices database including decisions and precedents will be completed and available to members and the public.</td>
</tr>
<tr>
<td></td>
<td><strong>Timeframe for completion:</strong> Publication of all Society policies and procedures continue to be an ongoing project for the Society.</td>
</tr>
<tr>
<td></td>
<td><strong>Status:</strong> May 2017 - contextual links have been added to the <em>Code of Professional Conduct</em> which provide ethics information and digests of Hearing Panel and Complaints Investigation Committee decisions.</td>
</tr>
<tr>
<td></td>
<td><strong>Resources required:</strong> PR Staff, PRPPC, Communications and L&amp;IS staff.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Name of project: <strong>Regulation of Law Firms and Entities</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Goal/outcome of project:</strong> Assist with development of an effective regulatory structure for the regulation of law firms and legal entities, including development of regulatory amendments, policies and procedures to support the MSELAP and SAT from a PR perspective, and the regulatory objectives. (tied to Council AP 1.3 Amendments to LPA).</td>
</tr>
<tr>
<td></td>
<td><strong>Timeframe for completion:</strong> November 2017.</td>
</tr>
<tr>
<td></td>
<td><strong>Status:</strong> Draft regulation amendments to PRPPC Fall 2017; draft policies and procedures then to follow.</td>
</tr>
<tr>
<td></td>
<td><strong>Resources required:</strong> PRPPC, ED, Director PR, PR Counsel.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Name of project: <strong>Review of section 37(1) process</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Goal/outcome of project:</strong> Review processes and procedures for hearings pursuant to section 37(1) of the <em>Legal Profession Act</em>.</td>
</tr>
<tr>
<td></td>
<td><strong>Timeframe for completion:</strong> September 2017.</td>
</tr>
<tr>
<td></td>
<td><strong>Status:</strong> Draft policy to PRPPC July 2017.</td>
</tr>
<tr>
<td></td>
<td><strong>Resources required:</strong> PRPPC, CIC, Director PR, PR Counsel.</td>
</tr>
</tbody>
</table>

**NEW ITEMS**
### Mandate and Responsibilities

**Mandate:**
- To advise on the design and execution of a consultation process for the Management System for Ethical Legal Practice ("MSELP") and to make recommendations on all aspects of a proposed MSELP self assessment process for practising lawyers employed in-house and in government.

**Responsibilities:**
- Make recommendations for the content of MSELP self-assessment tools for in-house and government lawyers;
- Assist staff in identifying, recruiting, and consulting with in-house and government lawyers about a proposed MSELP self assessment process;
- Make recommendations for a self-assessment process, which reflects the range and extent of structured environments in which in-house and government legal departments operate;
- Review and recommend existing resources, and consider and recommend any proposed resources to assist in-house and government lawyers in developing and maintaining their MSELPs;
- Advise staff on any other aspects of a proposed self assessment process, as required.

**Committee Chair:**
Diane McGrath QC

### Details for each Project

1. **Self Assessment tools**

   **Goal/outcome:**
   - Draft MSELP self assessment tool(s) reflecting the unique considerations and circumstances of in-house and government lawyers and supporting their delivery of competent and ethical legal services.

   **Timeframe for completion:**
   - October 2017

2. **MSELP consultation**

   **Goal/outcome:**
<table>
<thead>
<tr>
<th></th>
<th>Consult with an identified list of lawyers and legal departments, in order to capture feedback from a representative range of in-house and government legal services structures and operations.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Timeframe for completion:</strong></td>
<td>• February 2017</td>
</tr>
<tr>
<td><strong>3. Self Assessment process / proposal</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Goal/outcome:</strong></td>
<td>• Design a proposed process for in-house and government lawyers to self assess their MSELPs.</td>
</tr>
<tr>
<td><strong>Timeframe for completion:</strong></td>
<td>• March 2017 (for Council’s approval)</td>
</tr>
<tr>
<td><strong>4. MSELP Resources Portal</strong></td>
<td></td>
</tr>
</tbody>
</table>
| **Goal/outcome:** | • Identify and fill resource ‘gaps’ in the MSELP tools and resources portal specific to the needs of in-house and government lawyers.  
• Identify existing resources to fill those gaps and/or recommend new tools or resources to be developed. |
| **Timeframe for completion:** | • April 2018 / ongoing |
Professional Standards (Family Law) Committee

Committee Mandate and Responsibilities

<table>
<thead>
<tr>
<th>Mandate</th>
<th>Supports Council in the governance of the Society by developing professional standards for the area of family law.</th>
</tr>
</thead>
</table>
| Responsibilities | 1 Make recommendations to Council with respect to identification of:  
   a) existing applicable professional standards of family law practice and emerging family law issues which may require the development of professional standards  
   b) changes in the professional standards of family law practice and emerging family issues which require amendments to existing NSBS Professional Standards – Family Law  
   2 Annually review the NSBS Professional Standards – Family Law and advise Council with respect to potential amendments to the Standards, including providing a draft of proposed amendments for Council approval  
   3 Annually review the footnotes and references to the NSBS Professional Standards – Family Law and provide notice to Council with respect to amendments thereto  
   4 Identify and provide resources and tools to assist members to practice in accordance with the Standards  
   5 Act as a resource on issues of professional standards for family law as may be required by Council |

Committee Chair – Jeanne Desveaux

Sub-committees, if any, and names of Chairs

n/a

Matters assigned to Committee by Council’s Activity Plan

1. Review of Committee TOR and Council Policy 16

2. Society’s Strategic Framework – Consider revising the approach to Standards (proactive, principled and proportionate) such that Standards are drafted based on known risks associated with the area of practice.

3. Activity **this will have to be updated once the Activity Plan is set by Council in June & we discuss at our first meeting on Sept 14th, 2017**

Details for each Project/Initiative

1. Name of project:
   Annual Review of Standards

   Goal/outcome of project:
<table>
<thead>
<tr>
<th>Name of project:</th>
<th>Consider new areas for Standard / Best Practice development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal/outcome of project:</td>
<td>To identify new areas for the development of Standards and Best Practices.</td>
</tr>
<tr>
<td>Timeframe for completion:</td>
<td>On-going. To be completed in conjunction with annual review of the existing standards.</td>
</tr>
<tr>
<td>Resources required (volunteer, staff):</td>
<td>The committee will rely on assigned staff, and volunteer committee members, and other NSBS committees if appropriate.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of project:</th>
<th>Social Media / Social Networking Presented to Counsel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal/outcome of project:</td>
<td>To consider the development of a Standard and Best Practices with respect to Social Networking / Social Media.</td>
</tr>
<tr>
<td>Timeframe for completion:</td>
<td>Expect to introduce to Council in the fall of 2016/spring 2017. Completed</td>
</tr>
<tr>
<td>Resources required (volunteer, staff):</td>
<td></td>
</tr>
<tr>
<td>--------------------------------------</td>
<td></td>
</tr>
<tr>
<td>The committee will rely on assigned staff, and volunteer committee members, and other NSBS committees if appropriate.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Name of project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withdrawal as counsel and domestic violence in the context of family law</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Goal/outcome of project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>To consider the development of a Standards and Best Practices with respect withdrawal as counsel and domestic violence in the context of family law.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Timeframe for completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-going.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Resources required (volunteer, staff):</th>
</tr>
</thead>
<tbody>
<tr>
<td>The committee will rely on assigned staff, volunteer committee members, and (if necessary) other NSBS staff who may have specific expertise required (e.g., website, communications).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Name of project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elder Law - Estates, Family, Real Property-Intersection (Note new legislation on “Adult” Guardianships will/may impact parents re: child support-age -when application for Guardianship can commence)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Goal/outcome of project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>To consider how elder law issues intersect with the existing Family Law Standards, and develop standards which deal with these issues in the context of family law, and <strong>wills &amp; estates</strong> and make recommendations to the Professional Standards (Real Estate) Committee with respect to any amendments required by that committee. <strong>Note: We (respectfully I suggest) need a Wills &amp; Estate Standard that works with Family &amp; Real Estate -then maybe there would not be elder law concerns.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Timeframe for completion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-going.</td>
</tr>
</tbody>
</table>

| Resources required (volunteer, staff): |
The committee will rely on assigned staff, volunteer committee members, and (if necessary) other NSBS staff who may have specific expertise required (eg: website, communications).

6. **Name of project:**
   
   **Checklist Update**

   **Goal/outcome of project:**
   To review and consider amendments to the existing Family Law checklists originally developed in 2003. *See note below as well.*

   **Timeframe for completion:**
   On-going.

   **Resources required (volunteer, staff):**
   The committee will rely on assigned staff, volunteer committee members, and (if necessary) other NSBS staff who may have specific expertise required (eg: website, communications).

---

### Additional Comments on Committee's Plans or Progress

The work of this Committee advances the Society’s strategic framework by supporting the Foundational Activities relating to engagement with members when Standards are drafted and by identifying best practices for lawyers in the province as noted above.

We are currently reviewing the existing Family Law Standards with a Triple P approach to ensure that they are reflective of the current work of the Society.

Will discuss further subsequent to meeting on September 1st, 2017 with new President and ED.

Maybe request Julia speak to our section as she has such a historical understanding from the beginning of the committee so we can better address the “Should” with “Must” “Shall” -existing language so we can better appreciate the new approach.
Legal Services Regulation - Solo and Small Firm Working Group

Committee Mandate and Responsibilities

Mandate:
- To advise on all aspects of implementation of the Legal Services (MSELP) Self Assessment Process for sole practitioners and small firms (solos & smalls).

Responsibilities:
- Consider pilot project feedback from solos & smalls and make recommendations as to content of the MSELP self assessment tool(s);
- Consider and provide advice on the nature and extent of training and support to be provided to solos & smalls during the implementation phase of a MSELP self assessment process;
- Review and recommend existing resources, and consider and recommend new resources to assist to solos & small firms in developing their MSELPs;
- Advise staff regarding other aspects of implementation of the self assessment process, as required.

Committee Chair:
Jillian MacNeil

Details for each Project

1. Name:
   - Self Assessment Tool(s)

Goal/outcome:
- Consider pilot feedback from solos & smalls and continue making recommendations on design and content of the self assessment tool(s) / process.

Timeframe for completion:
- October / November 2017 and ongoing

2. Name:
   - MSELP Implementation

Goal/outcome:
- Identify the nature and extent of communication and training to be provided to solos & smalls during the implementation phase and early roll out of the Legal Services Self Assessment Process.

Timeframe for completion:
- April 2018 and ongoing
### 2017-18 Committee Work Plan

<table>
<thead>
<tr>
<th>3. Name:</th>
<th>MSELP Resources Portal</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Goal/outcome:</strong></td>
<td>Identify and fill resource 'gaps' in the MSELP tools and resources portal specific to the needs and solos &amp; small firms. Identify existing resources to fill those gaps and/or recommend new tools or resources to be developed.</td>
</tr>
<tr>
<td><strong>Timeframe for completion:</strong></td>
<td>April 2018 and ongoing</td>
</tr>
</tbody>
</table>
### Racial Equity Committee

#### Committee Mandate and Responsibilities

**Mandate:**

The Racial Equity Committee supports Council in the governance of the Society by monitoring and providing advice about programs that address issues of racism and discrimination in the legal profession and in relation to access to justice, including programs to increase access to the legal profession.

**Responsibilities:**

- Develop policy options for the promotion of equity and diversity in the legal profession in Nova Scotia for adoption by Council.
- Identify barriers to and facilitate active involvement of racialized and Aboriginal lawyers in the volunteer functions of the Society, on Council and on other Committees.
- On behalf of Council, maintain awareness and information regarding issues of race as they relate to the legal profession, access to justice or the administration of justice.
- Raise, for Council and members of the Society, awareness of the issues of racial inequity in the legal profession.
- Identify barriers and provide advice to Council about:
  - How to facilitate entry into the Nova Scotia legal profession of racialized and Aboriginal Peoples.
  - Racial equity related experiences encountered by racialized and Aboriginal Peoples as members of the Nova Scotia legal profession.
  - Programs and initiatives for the Nova Scotia legal profession on racial equity and cultural competency.
- Under the direction of the Equity Officer, assist in carrying out the Committee’s approved programs and initiatives.

#### Committee Co-Chairs:

Alicia Arana-Stirling & John Bodurtha

#### Subcommittees and names of Chairs:

TBD

#### Matters assigned to Committee by Council's Activity Plan

Activities are directly connected to the Strategic Framework and Access to Justice Action Plan.

#### Details for each Project/Initiative

1. **Name of project:** Networking Event
   - **Goal/outcome of project:**
<table>
<thead>
<tr>
<th>Name of project</th>
<th>Goal/outcome of project</th>
<th>Timeframe for completion</th>
<th>Resources required (volunteer, staff)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. June networking event</td>
<td>Will honor the racialized and Aboriginal clerks being called to the Bar. Also award the Race and the Law Paper Prize. Provides an opportunity for racialized and Aboriginal lawyers, articled clerks, law students and internationally trained lawyers to network and liaise with each other.</td>
<td>June 2018</td>
<td>Cost is $2500 to $3000, Organizing required by staff and volunteers</td>
</tr>
<tr>
<td>3. Name of project</td>
<td>Judicial Appointments and Judicial Appointment Guidelines</td>
<td>Timeframe for completion: Ongoing</td>
<td>Resources required (volunteer, staff): Staff and volunteer time</td>
</tr>
<tr>
<td>4. Name of project</td>
<td>Work with Community Organizations to Address Legal Gaps Affecting Racialized and Indigenous Communities</td>
<td>Timeframe for completion: Ongoing</td>
<td>Resources required (volunteer, staff): Both volunteer and staff time may be required</td>
</tr>
<tr>
<td>5. Name of project</td>
<td>Internationally Trained Lawyers Initiatives</td>
<td>Goal/outcome of project: Connect internationally trained lawyers to legal workplaces across the province</td>
<td>Coordinate with Graduate Studies at the law school to host a presentation on opportunities</td>
</tr>
<tr>
<td>6.</td>
<td>Name of project: Evaluate feedback on MSELP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----</td>
<td>-------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal/outcome of project: TBD</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Timeframe for completion: Ongoing</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Resources required (volunteer, staff):</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Volunteer and staff time.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7.</th>
<th>Name of project: Cultural Competence Education</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Goal/outcome of project:</td>
</tr>
<tr>
<td></td>
<td>- Collaborate with Atlantic law societies to create an online education module to address Call to Action #27</td>
</tr>
<tr>
<td></td>
<td>- Incorporate African Nova Scotian content in materials for bar exam</td>
</tr>
<tr>
<td></td>
<td>- Increase evaluation of cultural competence on bar exam</td>
</tr>
<tr>
<td></td>
<td>- Continue offering training sessions across legal workplaces and judiciaries in the province</td>
</tr>
<tr>
<td></td>
<td>Timeframe for completion: Ongoing</td>
</tr>
<tr>
<td></td>
<td>Resources required (volunteer, staff):</td>
</tr>
<tr>
<td></td>
<td>Staff and volunteer time.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>9.</th>
<th>Name of project: Partnership with Tripartite Justice Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Goal/outcome of project: Continue work on relevant projects with the Tripartite Justice Committee as needed.</td>
</tr>
<tr>
<td></td>
<td>Timeframe for completion: Ongoing</td>
</tr>
<tr>
<td></td>
<td>Resources required (volunteer, staff):</td>
</tr>
<tr>
<td></td>
<td>Staff and volunteer time.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10.</th>
<th>Name of project: Prestons Land Issues Working Project</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Goal/Outcome of the project: Update as per minutes</td>
</tr>
</tbody>
</table>
**COMMITTEE WORK PLAN AND PROGRESS REPORT**  
**2017-2018**

- Provide means to address various land title issues in the communities of North Preston and East Preston  
- Assist community and affected land owners to liaise with provincial and municipal governments and other appropriate resources  
- Support the development of a pro bono committee to help with the land claims and title issues  
- Liaise with IB&M Initiative at the Schulich School of Law regarding support for the committee

| Timeframe for completion: Ongoing |
| Resources required (volunteer, staff): Staff and volunteer |

| 11. Name of project: Cultural Competence Standards |
| Goal/outcome of project: TBD |
| Timeframe for completion: Ongoing |
| Resources required (volunteer, staff): Staff and volunteer time |

| 12. Name of project: TRC |
| Goal/outcome of project: TBD |
| Timeframe for completion: Ongoing |
| Resources required (volunteer, staff): |

**Additional Comments on Committee’s Plans or Progress**

The REC will encourage diversity on Council through supporting diverse candidates to put their names forward for all Council seats including the Second Vice President, At large positions and public representatives.  
The REC will continue to provide ongoing support to the IB&M Initiative.  
The REC will continue to provide an advisory role to Bar Council.  
The REC will liaise with the CBA Equity Committee and the Gender Equity Committee.  
The REC will support racialized and Aboriginal community organizations to provide legal information by request.  
The REC will participate in any other relevant initiatives as they arise.
MEMORANDUM TO COUNCIL

From: Emma Halpern, Equity & Access Officer and Jane Willwerth, Strategy & Engagement Officer

To: Darrel Pink, Executive Director

Date: September 7, 2017

Subject: Equity & Access Office Update

For: Approval □ Introduction □ Information X

INTRODUCTION

This is a brief update on Equity & Access Office activities. Substantial updates occur in the monitoring reports provided in June and January.

UPDATES

- Cultural competence instruction

  The Equity & Access Officer is preparing for a busy fall of in-person training in cultural competence to a wide variety of audiences, including articled clerks in the Skills Course.

- Guidelines for Lawyers: Supporting Trans* and Gender-Variant Clients, Colleagues & Employees

  These guidelines aim to provide lawyers with a baseline understanding of how to support trans* and gender-variant clients, colleagues and employees in the workplace. The guidelines define basic terms, explain the principles of trans* and gender-variant inclusion, and provide further resources for respecting gender identity and promoting a culture of inclusion.

  The Society launched the guidelines on Thursday, July 20 during its Pride Week workshop.

- Pride activities

  This year’s Pride Week workshop was led by community educators with The Youth Project. In attendance were members of the legal profession, Society staff and a number of Council and committee members. The workshop provided an introduction to transgender issues, including an
understanding of terms, definitions and what it means to be transgender. It also covered challenges faced by the trans community and how to be respectful when dealing with transgender clients, with discussion on specific situations in which trans people interact with the legal system.

The 15th annual Pride Reception, co-hosted with the Sexual Orientation and Gender Identity Conference of the Canadian Bar Association – Nova Scotia Branch, featured guest speaker the Honourable Judge Kael McKenzie, Canada’s first self-identified transgender judge and a member of the Manitoba Métis Nation.

For the second consecutive year, members of Society staff and Council also marched in the Halifax Pride Parade together with members of the Canadian Bar Association – Nova Scotia Branch

- **Responding to the Calls of the Truth and Reconciliation Commission**

  The Society has made responding to the Calls of the Truth and Reconciliation Commission strategic initiative in the 2017-2020 Strategic Framework.

  In light of this, the Equity & Access Office has prepared a draft plan for how the Society can fulfill this initiative. The plan is currently awaiting feedback from the Racial Equity Committee and other community groups and will be presented to a Council subcommittee supporting the Society’s TRC response.

- **The Gender Equity Committee & Racial Equity Committee**

  The Office provides administrative support and expertise to the Gender Equity and Racial Equity Committees and assists them in carrying out their priorities. The Equity Committees are currently preparing their workplans.

- **#TalkJustice**

  The most recent issue of the Society Record had a #TalkJustice theme and was dedicated to the experiential learning central to the success of SenseMaker®. It was developed in collaboration with the guest editor, poet, academic and advocate, El Jones.

  Equity & Access Office staff are currently preparing a project plan for the Access to Justice Coordinating Committee that will outline activities and a budget for 2017-2018. These documents will be provided to Council at a future meeting.

- **Prestons Land Issues**

  Most recently, in December 2016 the stakeholders group, which had been inactive for 6 months, was reengaged. The stakeholders now consisted of: NSBS, HRM, African Nova Scotian Affairs and DNR. The stakeholder group has been told to expect good news from the Department of Natural Resources soon.
Meanwhile, the members of the pro bono initiative continue to work towards resolution of their clients’ land title claims.

- **Judicial diversity**

  The Equity & Access Office hired a summer student to complete an environmental scan and draft a paper on improving judicial diversity in Nova Scotia courts. Once completed, it will be reviewed by the Racial Equity and Judicial Appointments Committees.

- **Domestic violence court**

  A special domestic violence court has been proposed for the City of Halifax. The Equity & Access Officer sits on the planning committee for this initiative.

- **Legal Advice for Adult Victims/Survivors of Sexual Assault**

  Justice Canada has funded a pilot project in partnership with the Nova Scotia Department of Justice to deliver a program that funds up to four hours of independent legal advice so that eligible victims/survivors of sexual assault can understand their rights and the supports available to them, and make informed decisions about how they will address the harm they have experienced.

  The Equity & Access Officer sits on the planning committee for this initiative.

- **Strength in Leadership – Remembering Dara Gordon QC**

  Through the strength of her leadership and as a highly regarded lawyer, Dara Gordon QC made many contributions to her country, her province and her profession. This annual leadership event, held in her memory, provides the opportunity for lawyers to come together to discuss women’s leadership in the legal profession. This year’s speaker was Justice Linda Lee Oland, who spoke on the theme of change.

- **Race and the Law Essay Prize**

  This award recognizes and encourages outstanding scholarship by law students in Nova Scotia, on topics pertaining specifically to issues of race and law. It is presented by the Society’s Racial Equity Committee and sponsored by Stewart McKelvey. The 2017 winner was Rosalea Thompson, for her paper on Protecting African Sacred Places.

- **Integration of Internationally Trained Lawyers (ITLs) in Nova Scotia: The Observership Program**

  Three internationally trained lawyers participated in the program this year, bringing the total number of participants to 20.

- **The Ku ’TawTinu: Shared Articling Initiative**

  This year saw two clerks successfully complete the program and were called to bar this spring. One clerk is considering the program for 2017-2018.
• **Trauma informed lawyering education**

A video, available on the equity portal, provides information about the knowledge, skills and capacities to recognize the signs of trauma in clients, suggestions for mitigating re-traumatization from the justice system, and that identifies the supports and services available for sexual assault survivors in Nova Scotia. The Society has also hosted a workshop for articled students to increase the awareness of the prevalence of secondary wounding in the justice system, understanding of a trauma informed approach, and the services at Avalon Sexual Assault Centre.

Ongoing work researching and collecting best practices and other pertinent resources for lawyers assisting domestic violence and sexual assault victim/survivors. The goal of this initiative is to provide legal professionals with knowledge, skills and capacities to respond and provide support to victims/survivors of domestic/sexual assault and to provide a broad analysis of sexual violence as a social issue.

Partnership is underway with *Be the Peace Institute* on their 2017-2019 initiative addressing the roots and consequences of violence against women and girls in Nova Scotia. Through the Gender Equity Committee, we provide support and advice as the Institute designs and develops alternatives to the traditional justice models.

• **Model Code review**

This is a National initiative being undertaken by the law Society Equity Network (LSEN) and chaired by the Equity and Access Officer. Four areas of review have been articulated: 1) Explicit inclusion of culturally competency in the Model Code; 2) Review of the Code through the lens of the TRC Calls to Action and implementation of related edits and additions; 3) Review of the Discrimination and Harassment chapter to make it more effective; 4) Review of the Code for gender inclusive language (on hold currently as they will wait until we have produced guidelines on the topic).

• **Maintenance of the Equity Portal**

In collaboration with Library & Information Services, the Equity & Access Office has launched a resource portal for lawyers and law firms seeking guidance on issues of employment equity and cultural competence. The portal gathers valuable online toolkits, training and information materials created by the Equity & Access Office, and relevant items from the Barristers’ Library.

Included on the Portal is the Equity & Access Office’s cultural competence video series, produced and launched this year. The Office has received increasing demand for cultural competence instruction, particularly from lawyers who live outside of HRM. These short videos cover a wide range of cultural competence topics, both general (“Why Cultural Competency?”) and specific (“Trauma-Informed Lawyering for Sexual Assault Victims”).

The Portal has a growing role to play in Society legal services regulation. It allows lawyers and legal entities to identify unique needs based on area of practice, size of firm, their client base or other issues. The Portal also plays an important role in the Society’s efforts to fulfill Call to Action 27 of the Truth and Reconciliation Commission.
Legal Services Regulation and the Management System for Ethical Legal Practice

The Equity & Access Office is a major contributor to the creation of the comprehensive list of resources to guide lawyers and legal entities through the MSELP process. Our work ensures that promotion of diversity, inclusion, substantive equality and freedom from discrimination is embedded throughout the self-assessment tool.

Additionally, the Strategy & Engagement Office will continue to play an important role in the design of the Management System for Ethical Legal Practice and the project’s outcome measurement framework. The nature of this role is being formalized and will be reported on in more detail at a future meeting of Council.

Substantive legal education in underserved areas

As the Equity & Access Officer carries out her work in the community, she regularly encounters legal issues where there is an insufficient supply of lawyers qualified to address them. These issues are more likely to affect Nova Scotians from equity seeking and economically disadvantaged communities and are more likely to involve serious legal matters such as citizenship, land ownership and incarceration.

The Prestons land issues described above are an example of an underserved legal area: there are simply not enough qualified lawyers to provide pro bono services to all those who need them. Other areas identified through our work include habeas corpus, prison law, aboriginal law and the intersection of immigration and criminal law.

The Society is shifting towards a risk-based model of legal services regulation that has made improving access to legal services a regulatory objective. Filling gaps in the profession’s substantive legal knowledge – especially when that knowledge can be put towards redressing historic injustices – will play an important role in fulfilling this objective. To this end, the Equity & Access Office is exploring ways to provide substantive law education: in addition to the work on the Prestons land title issues mentioned above, the Office hosted a full-day workshop on refugee law in the fall and will be hosting a workshop on prison law with Senator Kim Pate this month.

External Committees

The Equity & Access Office provides guidance and expertise to the following external committees:

- The Nova Scotia Access to Justice Coordinating Committee (see above)
- NSFamilyLaw.ca: A website offering information about the law, processes and services that make up family law in Nova Scotia.
- The Free Legal Clinic: The Free Legal Clinic is for people who are planning to take their legal problems to court, have already started a legal action, or are already in court but have little or no experience with the court process. It is hosted each Thursday at the Halifax Law Courts.
- **Indigenous Black & Mi’kmaq Initiative (IB&M):** IB&M, an initiative of the Schulich School of Law, was established in 1989 to increase representation of Indigenous Blacks and Mi’kmaq in the legal profession in order to reduce discrimination.

- **Canadian Bar Association of Nova Scotia Equity committees:** The Equity & Access Officer supports the work of and collaborates with the CBA-NS Equity Committees when asked.

- **The Sexual Orientation and Gender Identity Conference (SOGIC):** The Equity & Access Office and SOGIC jointly host the annual Pride reception (see above).

- **The Criminal Justice Transformation Group (CGT):** A group of justice system actors that works collaboratively to ensure the criminal justice system in Nova Scotia is strategic in bringing forth positive change.

- **Supporting Access to Justice For Children and Youth in Eastern Africa (SAJCEA):** A project funded by the CBA initiated for purposes of Strengthening Access to Justice for the vulnerable Children and Youth in Eastern Africa, through stakeholder collaboration, institutional development and capacity building and enhancement through sharing of ideas amongst the Justice, Law and Order Sector institutions.

- **The Action Group on Access to Justice (TAG):** A group catalyzing solutions to Ontario’s access to justice challenges by facilitating collaboration with institutional, political and community stakeholders.

- **The Law Societies Equity Network:** a voluntary working group composed of law society staff and equity ombudspersons involved in promoting and encouraging equality, equity and diversity in the legal profession in each of their respective provinces

- **National Legal Strategy Coalition on Violence against Indigenous Women:** a nation-wide ad hoc coalition of groups and individuals formed in 2014 following the murder of Inuit university student Loretta Saunders, to marshal resources that address violence against Indigenous women.

- **Community of restorative justice practitioners:** The Equity & Access Officer regularly attends conferences and workshops on restorative justice, both as a participant and a presenter.

- **Information assistance on matters of equity & access**

  The Equity & Access Office is often a first point of contact for members, the media and the general public seeking information on issues of equity, inclusion and discrimination in Nova Scotia’s justice system. The Office triages these requests and provides responses or referrals to other organizations as necessary.

  Notable this year has been an increase in lawyers making specific requests for advice on cultural competence. This reflects lawyers’ increasing ability to recognize and seek guidance for cultural competence issues and that the Equity & Access Office is a leading provider of this information for Nova Scotia lawyers.
MEMORANDUM TO COUNCIL

From: Sean Walker, Director, Finance & Administration

Date: September 15, 2017

Subject: Annual Lawyer Report – 2017 Analysis

For: Approval □ Introduction □ Information X

Recommendation/Motion: This report is provided for information only; there are no recommendations or motions.

Executive Summary:
This analysis is based on the 1,951 Annual Lawyer Reports (ALR) filed for June 30, 2017 (1,916 Annual Lawyer Reports were filed for 2016). This increase of 35 lawyers represents a 2% increase over the past year.

As background, when the first Annual Lawyer (Member) Reports were filed in 2006, respondents were split among four, roughly equal sized, quartiles to facilitate analysis. The breaks were based on years since the respondents call to the Bar; 0-7 years, 8-16 years, 17-26 years, and 27+ years. Those four quartiles continue to be used for analysis.

Many comments and suggestions, both positive and negative, were submitted with the reports and all are taken into consideration with respect to the usefulness of the information, development of the forms and questions, etc. We also use the comments to initiate contact with the lawyers looking for support or who have questions. This year we included birthdate in the report with the intention of using this information to support the inter-provincial lawyer database as a means to distinguish between lawyers with similar names. The Society received many questions about the privacy around birthdates and will continue to evaluate its use as an information source.

As the Society continues to evolve the thinking around Legal Services Support/Regulation the ALR is also changing each year. With the addition of the Annual Firm Report (AFR), some questions that relate more to law firm management have been moved to it such as succession planning.

Key among the findings from this years’ ALR is the continuing aging of the membership. In 2006 24.5% of the total practising membership had been called to the Bar more than 27 years prior. In 2017, that group now comprises almost 30% of the practising membership (29.8%). In 2006, just under fifty percent of practising lawyers were 17 or more years at the Bar. In 2017 51% are 17 or more years at the Bar. This is down 1% from the previous year, most likely due to the increase in new lawyers over the past year.

Referring specifically to sole practitioners, in 2006 41% (109 of 266 sole practitioners) had been called to the Bar more than 27 years prior. In 2017, that number has increased to 52% (142 of 273). The number of sole practitioners has not increased dramatically but the average years since the Call to Bar has increased.

Analysis:

Aging of the Membership (last 10 years):

In 2008, the total number of respondents was 1,816. In 2017 the total number of respondents was 1,951 – an increase of 135 practising lawyers. The number of practising lawyers more than 27 years at the Bar grew from 481 in 2008 to 581 in 2017, an increase of 135 lawyers and a growth rate of 7% over ten years. This “quartile” still comprises the largest segment of the practicing population at 30% and has remained around 30% for the past five years as the number of lawyers retiring has increased and the number of lawyers moving from the 17-26 quartile has continued to decrease, indicating that lawyers may be retiring or leaving the profession earlier.
The aging of practicing lawyers is a concern to the Society as more and more effort and cost is being incurred as some of them wind down practices and require assistance from the Society with files, trust accounts, etc. A Succession Planning task force has been involved in helping the Society look at the costs and ideas for addressing future concerns.

As a positive and potential offset to the aging of the profession, the number of new Calls to the Bar and transfers in from other jurisdictions exceeded the number of resignations and retirements. However, as the profession ages, the potential for an overall decline in practicing lawyers is very possible. As the Society continues to evaluate the membership numbers via the use multi-year budgeting and planning, this continues to be an area of focus with respect to annual fee revenue and what impact is expected over the next number of years.

**Employment Type:**

For this question respondents could choose whether they were a sole practitioner, an associate, a partner, otherwise associated with a law firm, employed in the private sector, employed in the government or public sector, or “other” (see Exhibit 2 - Employment Type – All).

Overall, 462 (24%) of respondents identified that they were a partner, 500 (26%) reported as being employed by the government or in the public sector, 366 (18%) reported as being an associate, 273 (14%) reported as being a sole practitioner and 127 (7%) reported being employed as corporate counsel/employed lawyer. The remaining lawyers either work in other areas, are otherwise associated with a law firm or are not currently practicing.
The one apparent trend in employment type is the growth of Associate lawyers while government and public sector lawyers has stayed relatively flat over the past couple of years where previously it was the fastest growing area.
Sole Practitioners:

The number of sole practitioners, while increasing from 2008 to 2013, has decreased slightly in the past few years.

The number of lawyers in this category who have practiced for more than 27 years continues to increase regulatory risks. The percentage of lawyers in this category has increased from 41% in 2006 to 52% in 2017. In real numbers, the number of sole practitioners in the 27+ quartile has grown from 109 in 2006 to 142 in 2017.

The number of sole practitioners in the 27+ years of practice group continues to be of significant interest to the Society. In order to assist lawyers who are closing their practices, the Society has employed senior lawyers to assist with the transition out of practice and the orderly windup of operations. Though this reduces the cost of custodians and receiverships that can occur when a lawyer dies without an effective succession plan, or improperly winds down, it still has a significant cost. The Society has seen an increase in expenses in this area over the past number of years and the need of a budget increase to cover this expense has been projected.

Sole Practitioners Location - Halifax Regional Municipality (HRM) and Remainder of Province of Nova Scotia

<table>
<thead>
<tr>
<th>Year</th>
<th>HRM</th>
<th>Remainder</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>113</td>
<td>126</td>
<td>239</td>
</tr>
<tr>
<td>2009</td>
<td>115</td>
<td>124</td>
<td>239</td>
</tr>
<tr>
<td>2010</td>
<td>124</td>
<td>124</td>
<td>248</td>
</tr>
<tr>
<td>2011</td>
<td>121</td>
<td>128</td>
<td>249</td>
</tr>
<tr>
<td>2012</td>
<td>129</td>
<td>134</td>
<td>263</td>
</tr>
<tr>
<td>2013</td>
<td>143</td>
<td>145</td>
<td>288</td>
</tr>
<tr>
<td>2014</td>
<td>135</td>
<td>149</td>
<td>284</td>
</tr>
<tr>
<td>2015</td>
<td>131</td>
<td>143</td>
<td>274</td>
</tr>
<tr>
<td>2016</td>
<td>135</td>
<td>145</td>
<td>280</td>
</tr>
<tr>
<td>2017</td>
<td>140</td>
<td>133</td>
<td>273</td>
</tr>
</tbody>
</table>

Historically, the percentage of sole practitioners inside and outside HRM has remained fairly consistent over the past decade with slightly more than half of all sole practitioners practicing outside HRM. However, 2017 marks the first year in which the number of sole practitioners in HRM has exceeded the number outside. We cannot say at this time whether this is the beginning of a trend nor do we have an opinion on the cause or, in particular whether it is somehow tied to succession issues.
Area of Law:

This year the ALR expanded the areas of law respondents were able to identify the amount of time they practice in different areas. The Society is proposing to add this information to the On-Line Searchable Directory, where appropriate to help the public in finding a lawyer who practices in a certain area.

The most common practice areas continue to be Corporate/Commercial (11.9%), Civil Litigation (total 14.5%), Family (total 10.6%), Criminal (total 13.2%) and Real Estate (9.9%).

In 2017 there were a number of “new” areas of law included in the report to allow lawyers to further break down their practice areas. In addition, some areas such as Civil Litigation and Family Law were split into sub-categories.
Some lawyers who responded “other” also provided examples of their practice areas. Others who responded “other” did not want to provide their areas of practice as they felt it was confidential and/or proprietary.

Exhibits 4 through 7 show the relative averages of each area of law in total and for each quartile over time. It is worth noting that while Tax makes up only 2.1% of an average lawyer’s workload, for the 161 lawyers that reported doing some tax work; it comprises 25.6% of their workload. A similar statement could be made for Municipal Law, which is only 1.0% of the average lawyer’s workload. For the 164 lawyers doing this work in Nova Scotia, it is an average of 14.5% of their work.

We have seen an increase in some of the recently added practice areas. For example, Aboriginal Law has seen an increase from 85 lawyers practicing it in 2016 to 155 in 2017. Immigration Law saw an increase from 56 practitioners in 2016 to 88 in 2017.

There is a small number of lawyers working in some of the newly identified areas such Elder Law (55 representing 7% of their work) and Health Law (74 representing 17% of their work).

The 273 Sole Practitioners reported that, on average, 22.3% of their time is spent in Real Estate (versus 21.7% in 2016). The largest change was in the area of Family Law where in 2017 it was 12.5% of their time which is down significantly from 15.7% last year. Other significant areas include 13.1% of their time in Wills and Estates versus 12.6% last year, 11.1% in Criminal law versus 10.9% last year and 9.9% in Civil Litigation versus 10.7% last year. Exhibit 8 shows the relative averages of each area of law for Sole Practitioners.

**Access to Legal Services and the Justice System.**

As part of the Society’s Strategic Framework and continued focus on Equity and Access to Justice, in the 2017 ALR we asked lawyers to provide information around whether they provide Pro-Bono and or “unbundled” legal services.

The first question was:

“I have or plan to provide this type of “Pro-Bono” legal services to my clients”,

and included as an explanation

“These types of service include providing legal services to clients at reduced fees/rates in order to provide services to clients who otherwise might not be able to afford to hire a lawyer and his or her regular billing rate.”

<table>
<thead>
<tr>
<th>PRO-BONO</th>
<th>Yes</th>
<th>No</th>
<th>Choose not to Answer</th>
<th>Does Not Apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 7 Years</td>
<td>182</td>
<td>55</td>
<td>115</td>
<td>134</td>
</tr>
<tr>
<td>8 - 16 Years</td>
<td>130</td>
<td>94</td>
<td>74</td>
<td>174</td>
</tr>
<tr>
<td>17 - 26 Years</td>
<td>112</td>
<td>68</td>
<td>66</td>
<td>166</td>
</tr>
<tr>
<td>27 + Years</td>
<td>208</td>
<td>98</td>
<td>66</td>
<td>169</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>632</strong></td>
<td><strong>315</strong></td>
<td><strong>321</strong></td>
<td><strong>643</strong></td>
</tr>
</tbody>
</table>

The table of responses shows that 632 (33% of the 1,951 respondents) provide some level of Pro-Bono legal services. The percentage increases to 50% when those lawyers who responded “Does Not Apply” are removed.

The types of services provided in the comments in the report revolved around providing advice or services to clients at reduced rates or no cost, working with Legal Aid certificates, teaching seminars or courses, etc.
The second question was:

“*I do or plan to provide this type of unbundled legal services to my clients*”

and included as an explanation

“This type of service includes situations where a person only pays for specific services or receives coaching from a lawyer while still remaining in charge of their case as a self-represented litigant.”

<table>
<thead>
<tr>
<th>UNBUNDLED</th>
<th>Yes</th>
<th>No</th>
<th>Choose not to Answer</th>
<th>Does Not Apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 7 Years</td>
<td>117</td>
<td>113</td>
<td>91</td>
<td>165</td>
</tr>
<tr>
<td>8 - 16 Years</td>
<td>86</td>
<td>133</td>
<td>55</td>
<td>198</td>
</tr>
<tr>
<td>17 - 26 Years</td>
<td>71</td>
<td>105</td>
<td>40</td>
<td>196</td>
</tr>
<tr>
<td>27 + Years</td>
<td>92</td>
<td>230</td>
<td>102</td>
<td>157</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>366</td>
<td>581</td>
<td>288</td>
<td>716</td>
</tr>
</tbody>
</table>

The table of responses shows that 366 (19% of the 1,951 respondents) provide some level of “unbundled” legal services. The percentage increases to 30% when those lawyers who responded “Does Not Apply” are removed.

The types of services provided in the comments in the report revolved around providing coaching, advice or services to clients such as affidavits, help with small claims court cases for self-represented litigants, tenancy proceedings, etc.

**Compliance Related:**

From this year’s ALR, there were a number of lawyers who reported that they were not familiar with and also to the best of their knowledge were not in compliance with their obligations regarding various aspects of the **Code of Professional Conduct and Regulations**.

The number of negative responses for the past five years are presented here.

<table>
<thead>
<tr>
<th>The Society’s Regulations and real estate professional standards regarding the maintenance of Foundation Documents.</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
<th>2014</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Code of Professional Conduct</td>
<td>1</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Rule 3.4-31 and -34 of the Code of Professional Conduct respecting borrowing from and lending to clients;</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Section 38(1) of the Legal Profession Act and Regulation 4.2.8 respecting the requirement to report charges and convictions;</td>
<td>4</td>
<td>10</td>
<td>1</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>Regulation 4.2.8 respecting the requirement to report bankruptcies, judgments, proposals to creditors, costs orders against a lawyer, and disciplinary findings in another jurisdiction;</td>
<td>3</td>
<td>4</td>
<td>0</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Regulation 4.5 respecting Client Identification.</td>
<td>4</td>
<td>5</td>
<td>0</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>3</td>
<td>5</td>
<td>2</td>
<td>6</td>
<td>3</td>
</tr>
</tbody>
</table>
Action Plan:

This year there was an improvement (by way of a reduction) in the number of lawyers who reported negative responses to questions dealing with their obligations regarding the Code of Professional Conduct. This supports the philosophy that the Society’s Triple P approach of proactively reaching out to lawyers to offer assistance and support is, in fact, achieving a desired result of fewer compliance issues and concerns.

The largest area of concern last year related to rules relating to borrowing from and lending to clients. The was a substantial decrease in this area from 10 lawyers in 2016 to 4 in 2017.

Continued Action Plan:

Using the Triple P approach, a listing of the lawyers who answered "No" to each question will be / has been provided to the Professional Responsibility team who will attempt to contact these lawyers to see if they require assistance or support in learning more about what is required in each of these areas.

Please note that the compliance related questions dealing with trust accounts and estates has been removed from the ALR but will continue to be part of the Annual Firm/Trust Account reporting.

Professional Development Plan:

Again this year, the 2017 ALR contains a question that asks whether lawyers have prepared and made a record of their professional development plan for 2017 pursuant to Regulation 8.3.6. The responses by the Years of Call groups is presented below for 2016 and 2017.

<table>
<thead>
<tr>
<th>Years of Call</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>0 - 7 Years</td>
<td>470</td>
<td>16</td>
</tr>
<tr>
<td>8 - 16 Years</td>
<td>465</td>
<td>7</td>
</tr>
<tr>
<td>17 - 26 Years</td>
<td>406</td>
<td>6</td>
</tr>
<tr>
<td>27 + Years</td>
<td>552</td>
<td>29</td>
</tr>
<tr>
<td>Totals</td>
<td>1,893</td>
<td>58</td>
</tr>
</tbody>
</table>

The chart illustrates that there has been improvement from the previous year. In 2017, 58 (or 3.1% of lawyers) said that they have not prepared and recorded a professional development plan. This number was 160 (or 8.4%) in 2016. All quartiles of lawyers improved, however, the largest percentage remains those lawyers with 27+ years.

This is another example of the Society’s Triple P approach success as over the past year the Education & Credentials team has contacted and worked with each of the lawyers identified in 2016 to see if they required assistance or support in developing a plan.

Action Plan:

Continued Action Plan:

Using the Triple P approach, a listing of the lawyers who answered “No” to the Professional Development Plan question has been provided to the Education & Credentials team who will contact or have contacted each of the lawyers without a plan to ask if they require assistance or support in developing a plan.
Exhibit 1 - Number of Respondents by Year of Call

<table>
<thead>
<tr>
<th>Year</th>
<th>0-7</th>
<th>8-16</th>
<th>17-26</th>
<th>27+</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>438</td>
<td>443</td>
<td>423</td>
<td>454</td>
<td>1,822</td>
</tr>
<tr>
<td>2009</td>
<td>442</td>
<td>417</td>
<td>423</td>
<td>504</td>
<td>1,816</td>
</tr>
<tr>
<td>2010</td>
<td>437</td>
<td>446</td>
<td>434</td>
<td>521</td>
<td>1,805</td>
</tr>
<tr>
<td>2011</td>
<td>452</td>
<td>441</td>
<td>437</td>
<td>541</td>
<td>1,838</td>
</tr>
<tr>
<td>2012</td>
<td>436</td>
<td>447</td>
<td>433</td>
<td>557</td>
<td>1,887</td>
</tr>
<tr>
<td>2013</td>
<td>450</td>
<td>438</td>
<td>438</td>
<td>555</td>
<td>1,922</td>
</tr>
<tr>
<td>2014</td>
<td>456</td>
<td>444</td>
<td>444</td>
<td>582</td>
<td>1,911</td>
</tr>
<tr>
<td>2015</td>
<td>463</td>
<td>444</td>
<td>444</td>
<td>573</td>
<td>1,916</td>
</tr>
<tr>
<td>2016</td>
<td>486</td>
<td>472</td>
<td>441</td>
<td>568</td>
<td>1,951</td>
</tr>
</tbody>
</table>

- 27+ 581, 52.8%
- 17-26 563, 44.2%
- 8-16 412, 35.7%
- 0-7 444, 37.4%
### Exhibit 2 - Employment Type - All

<table>
<thead>
<tr>
<th>Year</th>
<th>Partner</th>
<th>Govt or Public Sector</th>
<th>Associate</th>
<th>Sole Practitioner</th>
<th>Corporate Counsel/Employed Lawyer</th>
<th>Other</th>
<th>Otherwise Associated with law firm</th>
<th>Not currently practising</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>477</td>
<td>445</td>
<td>312</td>
<td>239</td>
<td>136</td>
<td>99</td>
<td>62</td>
<td>46</td>
</tr>
<tr>
<td>2009</td>
<td>476</td>
<td>447</td>
<td>293</td>
<td>239</td>
<td>154</td>
<td>89</td>
<td>66</td>
<td>32</td>
</tr>
<tr>
<td>2010</td>
<td>460</td>
<td>466</td>
<td>291</td>
<td>248</td>
<td>153</td>
<td>115</td>
<td>63</td>
<td>42</td>
</tr>
<tr>
<td>2011</td>
<td>448</td>
<td>483</td>
<td>336</td>
<td>249</td>
<td>152</td>
<td>93</td>
<td>64</td>
<td>44</td>
</tr>
<tr>
<td>2012</td>
<td>469</td>
<td>493</td>
<td>327</td>
<td>263</td>
<td>131</td>
<td>111</td>
<td>57</td>
<td>36</td>
</tr>
<tr>
<td>2013</td>
<td>460</td>
<td>493</td>
<td>308</td>
<td>288</td>
<td>126</td>
<td>104</td>
<td>52</td>
<td>40</td>
</tr>
<tr>
<td>2014</td>
<td>457</td>
<td>501</td>
<td>324</td>
<td>284</td>
<td>129</td>
<td>108</td>
<td>75</td>
<td>44</td>
</tr>
<tr>
<td>2015</td>
<td>453</td>
<td>507</td>
<td>332</td>
<td>274</td>
<td>121</td>
<td>103</td>
<td>71</td>
<td>50</td>
</tr>
<tr>
<td>2016</td>
<td>452</td>
<td>502</td>
<td>349</td>
<td>280</td>
<td>117</td>
<td>102</td>
<td>69</td>
<td>45</td>
</tr>
<tr>
<td>2017</td>
<td>462</td>
<td>500</td>
<td>366</td>
<td>273</td>
<td>127</td>
<td>98</td>
<td>74</td>
<td>51</td>
</tr>
</tbody>
</table>
Exhibit 7 - Area of Law 27 Plus

<table>
<thead>
<tr>
<th>Year</th>
<th>Civil Litigation</th>
<th>Real Estate</th>
<th>Criminal</th>
<th>Other</th>
<th>Corporate/Commercial</th>
<th>Family</th>
<th>Administrative</th>
<th>Employment</th>
<th>Wills</th>
<th>Tax</th>
<th>Securities</th>
<th>Bankruptcy</th>
<th>Intellectual Property</th>
<th>Aboriginal Law</th>
<th>Immig Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>12.52</td>
<td>22.26</td>
<td>12.80</td>
<td>13.59</td>
<td>10.85</td>
<td>7.02</td>
<td>5.78</td>
<td>4.35</td>
<td>9.12</td>
<td>0.93</td>
<td>0.99</td>
<td>1.13</td>
<td>0.31</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>13.04</td>
<td>22.82</td>
<td>12.11</td>
<td>13.22</td>
<td>11.66</td>
<td>7.84</td>
<td>5.87</td>
<td>4.33</td>
<td>9.61</td>
<td>1.15</td>
<td>0.69</td>
<td>1.51</td>
<td>0.31</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>12.70</td>
<td>21.74</td>
<td>10.69</td>
<td>13.67</td>
<td>11.14</td>
<td>8.26</td>
<td>5.55</td>
<td>3.92</td>
<td>9.25</td>
<td>1.18</td>
<td>0.52</td>
<td>1.15</td>
<td>0.25</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>12.57</td>
<td>21.95</td>
<td>10.42</td>
<td>12.24</td>
<td>12.14</td>
<td>8.05</td>
<td>5.11</td>
<td>4.44</td>
<td>9.47</td>
<td>0.93</td>
<td>0.58</td>
<td>1.23</td>
<td>0.33</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>13.12</td>
<td>21.68</td>
<td>11.05</td>
<td>11.64</td>
<td>11.40</td>
<td>7.78</td>
<td>5.70</td>
<td>4.43</td>
<td>9.23</td>
<td>1.08</td>
<td>0.72</td>
<td>1.25</td>
<td>0.37</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>13.45</td>
<td>21.03</td>
<td>11.24</td>
<td>10.22</td>
<td>12.00</td>
<td>7.21</td>
<td>6.03</td>
<td>4.35</td>
<td>9.40</td>
<td>1.11</td>
<td>0.72</td>
<td>1.59</td>
<td>0.47</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>13.91</td>
<td>20.27</td>
<td>11.72</td>
<td>9.88</td>
<td>11.73</td>
<td>7.31</td>
<td>6.54</td>
<td>4.40</td>
<td>9.52</td>
<td>1.26</td>
<td>0.68</td>
<td>1.47</td>
<td>0.43</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>14.07</td>
<td>19.25</td>
<td>11.57</td>
<td>8.98</td>
<td>11.71</td>
<td>7.31</td>
<td>7.25</td>
<td>4.37</td>
<td>9.67</td>
<td>1.24</td>
<td>0.54</td>
<td>1.44</td>
<td>0.42</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>14.42</td>
<td>18.87</td>
<td>10.46</td>
<td>9.19</td>
<td>11.90</td>
<td>7.62</td>
<td>7.30</td>
<td>4.80</td>
<td>9.36</td>
<td>1.30</td>
<td>0.50</td>
<td>1.30</td>
<td>0.39</td>
<td>0.63</td>
<td>0.24</td>
</tr>
<tr>
<td>2017</td>
<td>14.01</td>
<td>16.79</td>
<td>10.38</td>
<td>7.29</td>
<td>11.50</td>
<td>8.04</td>
<td>7.34</td>
<td>5.51</td>
<td>9.38</td>
<td>1.15</td>
<td>0.41</td>
<td>1.28</td>
<td>0.42</td>
<td>1.05</td>
<td>0.43</td>
</tr>
</tbody>
</table>
Exhibit 8 - Areas of Law - Sole Practitioners

<table>
<thead>
<tr>
<th>Year</th>
<th>Civil Litigation</th>
<th>Real Estate</th>
<th>Criminal</th>
<th>Other</th>
<th>Corporate/Commercial</th>
<th>Family</th>
<th>Administrative Law</th>
<th>Employment</th>
<th>Wills</th>
<th>Tax</th>
<th>Securities</th>
<th>Bankruptcy</th>
<th>Intellectual Property</th>
<th>Aboriginal</th>
<th>Immigration</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>10.09</td>
<td>32.67</td>
<td>8.63</td>
<td>7.92</td>
<td>8.63</td>
<td>15.63</td>
<td>2.03</td>
<td>1.32</td>
<td>12.19</td>
<td>0.21</td>
<td>0.31</td>
<td>0.16</td>
<td>0.36</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>9.35</td>
<td>30.48</td>
<td>9.69</td>
<td>8.47</td>
<td>8.91</td>
<td>14.69</td>
<td>2.07</td>
<td>1.91</td>
<td>12.41</td>
<td>0.42</td>
<td>0.39</td>
<td>0.32</td>
<td>0.75</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>9.26</td>
<td>31.62</td>
<td>9.42</td>
<td>9.86</td>
<td>8.43</td>
<td>15.45</td>
<td>1.83</td>
<td>1.24</td>
<td>11.71</td>
<td>0.24</td>
<td>0.44</td>
<td>0.28</td>
<td>0.29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>8.73</td>
<td>30.59</td>
<td>10.42</td>
<td>9.36</td>
<td>8.58</td>
<td>15.07</td>
<td>2.18</td>
<td>1.12</td>
<td>12.56</td>
<td>0.21</td>
<td>0.47</td>
<td>0.13</td>
<td>0.56</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>7.97</td>
<td>29.53</td>
<td>10.65</td>
<td>8.72</td>
<td>7.97</td>
<td>15.11</td>
<td>3.11</td>
<td>2.29</td>
<td>12.71</td>
<td>0.15</td>
<td>0.52</td>
<td>0.72</td>
<td>0.55</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>9.24</td>
<td>27.79</td>
<td>9.74</td>
<td>8.19</td>
<td>8.42</td>
<td>15.91</td>
<td>3.16</td>
<td>2.65</td>
<td>16.00</td>
<td>0.40</td>
<td>0.66</td>
<td>0.43</td>
<td>0.29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>9.10</td>
<td>24.23</td>
<td>10.03</td>
<td>6.31</td>
<td>8.46</td>
<td>17.71</td>
<td>4.07</td>
<td>2.85</td>
<td>12.89</td>
<td>0.63</td>
<td>1.13</td>
<td>0.47</td>
<td>0.33</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>9.98</td>
<td>24.35</td>
<td>11.27</td>
<td>6.97</td>
<td>8.63</td>
<td>15.81</td>
<td>3.70</td>
<td>3.07</td>
<td>13.40</td>
<td>0.87</td>
<td>0.68</td>
<td>0.44</td>
<td>0.36</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>10.72</td>
<td>21.71</td>
<td>10.91</td>
<td>6.37</td>
<td>9.60</td>
<td>15.70</td>
<td>3.23</td>
<td>3.09</td>
<td>12.64</td>
<td>0.91</td>
<td>0.71</td>
<td>0.39</td>
<td>0.88</td>
<td>2.03</td>
<td>0.36</td>
</tr>
<tr>
<td>2017</td>
<td>9.89</td>
<td>22.27</td>
<td>11.01</td>
<td>3.88</td>
<td>10.61</td>
<td>12.47</td>
<td>2.93</td>
<td>3.53</td>
<td>13.06</td>
<td>1.32</td>
<td>0.86</td>
<td>0.49</td>
<td>0.76</td>
<td>1.88</td>
<td>1.49</td>
</tr>
</tbody>
</table>
### Nova Scotia Barristers' Society - General Fund

#### Budget Comparison Statement

**For the Period Ending 7/31/2017**

<table>
<thead>
<tr>
<th>Revenue</th>
<th>YTD Budget</th>
<th>YTD Actual vs Last YTD Budget %</th>
<th>YTD Actual vs Last YTD Actual</th>
<th>Full Year Budget</th>
<th>Forecast Actual</th>
<th>Note:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fees Revenue</td>
<td>1,565,322</td>
<td>1,576,292</td>
<td>10,970 0.7%</td>
<td>1,071,631</td>
<td>504,661</td>
<td></td>
</tr>
<tr>
<td>Education &amp; Credentials</td>
<td>31,500</td>
<td>35,900</td>
<td>4,400 14.0%</td>
<td>36,700</td>
<td>800</td>
<td></td>
</tr>
<tr>
<td>Library Revenue</td>
<td>675</td>
<td>1,085</td>
<td>220 25.2%</td>
<td>516</td>
<td>579</td>
<td></td>
</tr>
<tr>
<td>Communications</td>
<td>6,050</td>
<td>(6,050)</td>
<td>(100.0%)</td>
<td>6,265</td>
<td>(6,205)</td>
<td></td>
</tr>
<tr>
<td>Interest/Investment</td>
<td>13,750</td>
<td>(10,192)</td>
<td>(23,942) (174.1%)</td>
<td>35,777</td>
<td>(45,970)</td>
<td></td>
</tr>
<tr>
<td>Management Fee</td>
<td>12,500</td>
<td>12,500</td>
<td>0 0.0%</td>
<td>12,500</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>1,250</td>
<td>(45)</td>
<td>(1,295) (103.6%)</td>
<td>66</td>
<td>(111)</td>
<td></td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td><strong>1,688,072</strong></td>
<td><strong>1,708,743</strong></td>
<td><strong>20,671 1.2%</strong></td>
<td><strong>1,247,909</strong></td>
<td><strong>460,834</strong></td>
<td><strong>Note:</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenses</th>
<th>YTD Budget</th>
<th>YTD Actual vs Last YTD Budget %</th>
<th>YTD Actual vs Last YTD Actual</th>
<th>Full Year Budget</th>
<th>Forecast Actual</th>
<th>Note:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Responsibility</td>
<td>465,485</td>
<td>282,756</td>
<td>182,729 39.3%</td>
<td>423,403</td>
<td>140,647</td>
<td></td>
</tr>
<tr>
<td>Education &amp; Credentials</td>
<td>190,089</td>
<td>192,462</td>
<td>(2,373) (1.2%)</td>
<td>180,026</td>
<td>(12,437)</td>
<td></td>
</tr>
<tr>
<td>Legal Services Regulation</td>
<td>45,538</td>
<td>33,869</td>
<td>11,869 26.1%</td>
<td>34,853</td>
<td>(1,185)</td>
<td></td>
</tr>
<tr>
<td>Executive Director's Office</td>
<td>95,177</td>
<td>114,657</td>
<td>(19,480) (20.5%)</td>
<td>70,872</td>
<td>(11,736)</td>
<td></td>
</tr>
<tr>
<td>Equity and Access to Justice</td>
<td>72,846</td>
<td>74,606</td>
<td>(3,760) (5.3%)</td>
<td>78,946</td>
<td>2,340</td>
<td></td>
</tr>
<tr>
<td>Governance &amp; Committees</td>
<td>291,432</td>
<td>265,027</td>
<td>26,405 9.1%</td>
<td>213,466</td>
<td>51,965</td>
<td></td>
</tr>
<tr>
<td>Finance &amp; Administration</td>
<td>148,429</td>
<td>138,374</td>
<td>10,055 6.8%</td>
<td>140,285</td>
<td>8,000</td>
<td></td>
</tr>
<tr>
<td>Library</td>
<td>53,703</td>
<td>56,525</td>
<td>(2,822) (5.3%)</td>
<td>51,259</td>
<td>(5,266)</td>
<td></td>
</tr>
<tr>
<td>Governance and Regulatory</td>
<td>54,208</td>
<td>54,040</td>
<td>168 0.3%</td>
<td>53,621</td>
<td>392</td>
<td></td>
</tr>
<tr>
<td><strong>Total Expenses</strong></td>
<td><strong>1,487,779</strong></td>
<td><strong>1,288,225</strong></td>
<td><strong>199,554 15.3%</strong></td>
<td><strong>1,247,909</strong></td>
<td><strong>460,834</strong></td>
<td><strong>Note:</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Net Contribution To Surplus (Deficit)</th>
<th>YTD</th>
<th>YTD Actual vs Last YTD %</th>
<th>YTD Actual vs Last YTD Actual</th>
<th>Full Year Budget</th>
<th>Forecast Actual</th>
<th>Note:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>200,293</td>
<td>420,519</td>
<td>220,226 110.0%</td>
<td>(155,767)</td>
<td>576,286</td>
<td></td>
</tr>
</tbody>
</table>

#### Notes:
1. The number of practising lawyers has exceeded the budgeted number, resulting in additional fee revenue.
2. The number of lawyers called to the Bar is projected to be 40% higher than budgeted resulting in increased Admissions revenue.
3. Potential reduced advertising revenue from publications.
4. Investment income based on current market value and repurchase of investments after cash reserves were replenished via fee payments.
5. Sundry revenue is difficult to estimate based on the unknown nature. At this time no additional revenue is forecasted.
6. There is an initial projected savings from a reduced number of Hearing days expected, resulting in expense cost savings.
7. E&C expenses are projected to follow the budget for the fiscal year.
8. The Executive Director unbudgeted recruitment costs are forecasted to be offset by the contingency item budgeted under Finance and Admin (9).
9. An increase in bank and credit card fees was larger than expected after the Society began permitting lawyers to pay annuals fees via credit card.
10. Reduction in staff compliment and forecast savings on subscriptions and books.
11. A renegotiated contract for the Lawyers' Assistance Program will result in savings for the fiscal year.
Preface

The Finance Committee's Mandate refers to Management providing satisfactory explanations for all forecast variances that are greater than 5 percent (%) of budget or greater than $10,000 of budget. In order to assist with the usefulness of the financial statements, color coding has been added to year end forecasted variance amounts. The items not coloured are considered "OK" within a 5% variance or an immaterial dollar amount threshold. Unless otherwise explained the forecast projected amounts are taken as straight-line projections based on year to date results at the time of the Financial Statements. Please see the "Notes Column" for description of method chosen and/or explanations.

Green is savings/revenue projected better than budget, Red is expenses/revenue overage projected when compared to budget, Yellow are items that have potential to fluctuate and will be monitored and are normally within 5% of budget.

Summary

The Society has budgeted for an operating Surplus of $165,000 for the fiscal year 2017/18. Compared to Budget the current year to date and Forecasted year-end results are listed as a Surplus (Deficit)

<table>
<thead>
<tr>
<th>Year to Date</th>
<th>Forecasted Year-End</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apr-18</td>
<td>Apr-18</td>
</tr>
<tr>
<td>Surplus</td>
<td>Surplus</td>
</tr>
<tr>
<td>$220,226</td>
<td>$283,479</td>
</tr>
<tr>
<td>Surplus</td>
<td>Surplus</td>
</tr>
<tr>
<td>$420,519</td>
<td>$448,479</td>
</tr>
</tbody>
</table>

Revenues

<table>
<thead>
<tr>
<th>Membership Fee Revenue</th>
<th>Year to Date</th>
<th>Forecasted Year-End</th>
</tr>
</thead>
<tbody>
<tr>
<td>Practising Fees</td>
<td>(4,500)</td>
<td>49,967</td>
</tr>
<tr>
<td>Non-Practising Fees</td>
<td>281</td>
<td>259</td>
</tr>
<tr>
<td>Retired Members</td>
<td>(17)</td>
<td>2</td>
</tr>
<tr>
<td>Surcharges</td>
<td>7,121</td>
<td>13,121</td>
</tr>
</tbody>
</table>

The number of Practising lawyers is currently projected to be approximately 30 above the number budgeted. The number of Non-Practising and Retired members is currently and projected to be on track with the numbers budgeted for the fiscal year.

Library Revenue

<table>
<thead>
<tr>
<th>Library Revenue</th>
<th>Year to Date</th>
<th>Forecasted Year-End</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4,620</td>
<td>18,481</td>
</tr>
</tbody>
</table>

The number of Law Stamps purchased in the first 1/4 of the year has been about 14% higher than budgeted causing a small revenue surplus.

Investment Income

<table>
<thead>
<tr>
<th>Investment Income</th>
<th>Year to Date</th>
<th>Forecasted Year-End</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(23,942)</td>
<td>19,484</td>
</tr>
</tbody>
</table>

The Society was able to replenish a portion of the investment holdings following the increase of cash available from the initial payment of lawyers' fees in June. Therefore, the balance and interest earned should increase throughout the year.

Sundry Revenue

<table>
<thead>
<tr>
<th>Sundry Revenue</th>
<th>Year to Date</th>
<th>Forecasted Year-End</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1,295)</td>
<td>-</td>
</tr>
</tbody>
</table>

Early in the year to determine the amount of "other" revenue that will be received during the year.

Education & Credentialing Revenue

<table>
<thead>
<tr>
<th>Education &amp; Credentialing Revenue</th>
<th>Year to Date</th>
<th>Forecasted Year-End</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admission Fees</td>
<td>4,069</td>
<td>13,650</td>
</tr>
<tr>
<td>Tuition</td>
<td>-</td>
<td>6,250</td>
</tr>
</tbody>
</table>

The number of lawyers called to the Bar is projected to be 40% higher than budgeted. Estimate of a couple extra students compared to budget at this time.
### Professional Responsibility Department Expenses

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Year to Date</th>
<th>Forecasted Year End Variances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Fees/Professional Services</td>
<td>5,000</td>
<td>-</td>
</tr>
<tr>
<td>Investigation Expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Committee Expenses</td>
<td>(544)</td>
<td>2,900</td>
</tr>
<tr>
<td>Lawyers' Services/Legal Fees</td>
<td>30,427</td>
<td>-</td>
</tr>
<tr>
<td>Professional Services</td>
<td>(11,493)</td>
<td>-</td>
</tr>
<tr>
<td>Practice Investigations</td>
<td>5,750</td>
<td>-</td>
</tr>
<tr>
<td>Forensic Financial Audits</td>
<td>2,500</td>
<td>10,000</td>
</tr>
<tr>
<td>Trust Audit</td>
<td>21,901</td>
<td>10,000</td>
</tr>
</tbody>
</table>

- These expenses are under budget year to date but are expected to increase to budgeted levels by year end.
- The number of CIC meetings has been reduced from 9 to 6, which should reduce the Committee expenses.
- Currently projecting to equal budget, current investigations are underway and expect to be similar costs to what was budgeted.
- No forensic audits are expected this fiscal year. Potential savings due to a reduced number of audits expected.

### Fitness to Practice Expenses

| Professional Serv/Legal Fees    | 3,750        | 2,500                         |

- Forecasted to be slightly less than budget - based on previous two years of costs.

### Prosecution & Hearing Expenses

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Year to Date</th>
<th>Forecasted Year End Variances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committee Expenses</td>
<td>12,290</td>
<td>19,500</td>
</tr>
<tr>
<td>Facilities Rentals</td>
<td>9,375</td>
<td>17,500</td>
</tr>
<tr>
<td>Lawyers' Services/Legal fees</td>
<td>77,419</td>
<td>-</td>
</tr>
<tr>
<td>Professional Services</td>
<td>11,500</td>
<td>16,800</td>
</tr>
</tbody>
</table>

- The number and complexity of hearings projected for 2017/18 is still being determined. The majority of costs have been forecasted to match the budget with the exception of the current hearing which has had the number of days projected reduced slightly, thus resulting in a savings in Committee, Facility and Professional Services costs.

### Practice Administration

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Year to Date</th>
<th>Forecasted Year End Variances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wind-up Assistance</td>
<td>6,250</td>
<td>-</td>
</tr>
<tr>
<td>Administration/Practice Supervis</td>
<td>2,321</td>
<td>-</td>
</tr>
<tr>
<td>Receiver Fees</td>
<td>10,734</td>
<td>-</td>
</tr>
<tr>
<td>Custodian Fees</td>
<td>(11,434)</td>
<td>-</td>
</tr>
</tbody>
</table>

- Currently this area of expenses is being planned for. There are areas where assistance may have to be provided to lawyers. As a result, the forecasted expenses have been set to budgeted amounts.

### Education & Credentialing Department Expenses

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Year to Date</th>
<th>Forecasted Year End Variances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education &amp; Credentialing</td>
<td>(2,373)</td>
<td>3,571</td>
</tr>
</tbody>
</table>

- E&C expenses are currently projected to follow the budget for the fiscal year based on the number of students and other programs that have been established for the year.
## General Operating Expenses

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Year to Date</th>
<th>Forecasted Year End Variances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank &amp; Credit Charges</td>
<td>(18,052)</td>
<td>18,000</td>
</tr>
<tr>
<td>Contingency</td>
<td>25,000</td>
<td>5,000</td>
</tr>
<tr>
<td>Depreciation &amp; Amortization</td>
<td>5,597</td>
<td>(4,750)</td>
</tr>
</tbody>
</table>

## Library and Information Services Expenses

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Year to Date</th>
<th>Forecasted Year End Variances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary &amp; Benefits</td>
<td>(790)</td>
<td>22,000</td>
</tr>
<tr>
<td>Subscriptions &amp; Books</td>
<td>10,111</td>
<td>34,570</td>
</tr>
<tr>
<td>Professional Services</td>
<td>(2,170)</td>
<td>(8,680)</td>
</tr>
</tbody>
</table>

## Communications

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Year to Date</th>
<th>Forecasted Year End Variances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printing</td>
<td>(2,954)</td>
<td>5,500</td>
</tr>
</tbody>
</table>

## Member/Lawyer Services

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Year to Date</th>
<th>Forecasted Year End Variances</th>
</tr>
</thead>
<tbody>
<tr>
<td>LRA Audit</td>
<td>(5,553)</td>
<td>(5,553)</td>
</tr>
<tr>
<td>Lawyers' Assistance</td>
<td>6,255</td>
<td>25,064</td>
</tr>
</tbody>
</table>

## Non-Operating - Cost Analysis - Lawyers Fund for Client Compensation

<table>
<thead>
<tr>
<th>Revenues and Expenses</th>
<th>Year to Date</th>
<th>Forecasted Year End Variances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investment Income</td>
<td>(48,323)</td>
<td>(75,278)</td>
</tr>
<tr>
<td>CLIA Premium</td>
<td>8,574</td>
<td>34,295</td>
</tr>
</tbody>
</table>
### EXECUTIVE DIRECTOR 2017

<table>
<thead>
<tr>
<th>JULY</th>
<th>AUGUST</th>
<th>SEPTEMBER</th>
<th>OCTOBER</th>
<th>NOVEMBER</th>
<th>DECEMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>JULY</strong></td>
<td><strong>AUGUST</strong></td>
<td><strong>SEPTEMBER</strong></td>
<td><strong>OCTOBER</strong></td>
<td><strong>NOVEMBER</strong></td>
<td><strong>DECEMBER</strong></td>
</tr>
<tr>
<td>Arrange for President/officers to meet with new AG Recognition reception – schedule Library – Joint Services Agreement</td>
<td>Organize meetings - County Bar CBA, NSLA, PPS, DoJ (NS) Legal Services, Large Firms, Law Foundation(?), LISNS(?), other lawyer organizations(?) Legal Services Support: - finalize SAT implementation plan - Devel. Education Plan (Equity, wellness, loss prevention, +)</td>
<td>Performance management – prepare goals, revise procedure Finance TF Succession Planning WG Report</td>
<td>Invite Minister to address Council in January Notices re election process - 2nd VP FLSC Conference Recognition reception</td>
<td><strong>Orientation for new ED</strong></td>
<td></td>
</tr>
</tbody>
</table>

### EXECUTIVE COMMITTEE 2017

<table>
<thead>
<tr>
<th>JULY</th>
<th>AUGUST</th>
<th>SEPTEMBER</th>
<th>OCTOBER</th>
<th>NOVEMBER</th>
<th>DECEMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>JULY</strong></td>
<td><strong>AUGUST</strong></td>
<td><strong>SEPTEMBER</strong></td>
<td><strong>OCTOBER</strong></td>
<td><strong>NOVEMBER</strong></td>
<td><strong>DECEMBER</strong></td>
</tr>
</tbody>
</table>

### COUNCIL 2017

*Matters in italics are reports from the ED*

<table>
<thead>
<tr>
<th>JULY</th>
<th>AUGUST</th>
<th>SEPTEMBER</th>
<th>OCTOBER</th>
<th>NOVEMBER</th>
<th>DECEMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>JULY</strong></td>
<td><strong>AUGUST</strong></td>
<td><strong>SEPTEMBER</strong></td>
<td><strong>OCTOBER</strong></td>
<td><strong>NOVEMBER</strong></td>
<td><strong>DECEMBER</strong></td>
</tr>
<tr>
<td>Executives</td>
<td>January</td>
<td>February</td>
<td>March</td>
<td>April</td>
<td>May</td>
</tr>
<tr>
<td>------------</td>
<td>---------</td>
<td>----------</td>
<td>-------</td>
<td>-------</td>
<td>-----</td>
</tr>
<tr>
<td><strong>Executive Director 2018</strong></td>
<td>Prepare for 2nd VP elections</td>
<td>Budget preparation and analysis of LSR expenses</td>
<td>Introduce budget 2nd VP—election if required</td>
<td>Audit Directors' evaluations</td>
<td>Annual meeting</td>
</tr>
<tr>
<td></td>
<td>Commence Budget preparation</td>
<td></td>
<td></td>
<td>Annual Report &amp; Annual meeting</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Executives</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Executive Committee 2018</strong></td>
<td>Orientation for new ED</td>
<td>Committee updates</td>
<td>Review budget</td>
<td>Telephone meeting – Fee approval</td>
<td>Committee updates</td>
<td>Fee invoicing and collection</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>DSA selection</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Executives</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Matters in italics are reports from the ED
MEMORANDUM TO COUNCIL

From: Darrel Pink
Date: September 15, 2017
Subject: ED Report to Council

<table>
<thead>
<tr>
<th>Category</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Practising Members</td>
<td>657</td>
<td>648</td>
</tr>
<tr>
<td>Retired Members</td>
<td>212</td>
<td>206</td>
</tr>
<tr>
<td>Articled Clerks</td>
<td>81</td>
<td>75</td>
</tr>
</tbody>
</table>

Introduction
I am writing this just as I depart for a brief holiday in Israel, where our son lives. There will be much happening in the time between now and the September Council meeting so some updates of this may be required.

Legislation
By the time Council meets we will know with certainty whether the proposed amendments to the Legal Profession Act will be introduced in the legislature this fall.

With that knowledge we will adjust out timeframe for the implementation of the regulations and policies that will be discussed at the Council meeting. Always ensuring we have a ‘Plan B’, we will need to undertake a careful analysis about what we can do if the legislation is deferred. If it proceeds we will simply need to fine tune our present plans.

Implementation of Legal Services Regulation
As I reported in July, our focus has been on developing the various pieces that will change in a Legal Services Regulation environment. The key programmatic impacts relate to:

- Legal Services Support – Jackie Mullenger will take Council through the vision we have for the creation and management of our approach to relationships with law firms. It will entail a fully coordinated program of support for law firms, education that focuses on our regulatory priorities, providing consistent and high quality advice in response to inquiries and disseminating relevant and timely information that allows law firms to address and manage the variety of risks they face on a daily basis.
LSR – regulations and policies – we will take Council through the main changes we are proposing with a focus on
  o articulating the obligations of law firms
  o the responsible lawyer
  o designation of law firms
  o getting permission to operate a trust account
  o the MSELP self assessment

Moving the intake and complaints process to one that is Triple P and based on restorative justice principles
Improving our trust account oversight
Building the technology to support all of this

As I noted in July we are focusing on the staffing model to advance this work and how we ensure that we have the right skills and the right organization to deliver a new approach to regulation. There are some difficult challenges for us as we need a combination of better technology and technological tools and some different staff skills in order to deliver on our promise to regulate differently.

Council will have an opportunity to discuss these matters in greater detail.

New Public Representatives
Council will meet our new public representatives on Council in person this month. Michelle Ward and Dr. Rod Wilson bring significant skills and appreciation of the public interest role the Society has as a regulator. We are honoured they have chosen to share their knowledge and skills with us. But they were two of nine highly qualified and motivated members of the community who responded to our call for applications. In every instance the applicants showed an appreciation of what we are doing and how we are committed to doing it differently. I am sure the Governance & Nominating Committee will keep these individuals in mind as we seek public participation in our work through membership on committees and task forces.

Finances and Annual Lawyer Report
As the financial material presented to Council this month shows we are seeing some positive numbers. Significantly we are having an increase in revenue because of higher numbers in many categories.

You will also receive this month the summary of the results of the Annual Lawyer Report. We are here also seeing some signs that suggest we may have gone over the peak with some of our numbers in the senior quartile of membership. That is not to suggest that there are still significant issues that we need to be aware of but the numbers may not be getting worse. It is too soon to say what trends there might be.

Succession Planning Working Group
Council will be able to begin its discussions this month on the report of this WG. Their work was motivated by reports from the ALR over the years. The WG has identified the key issues and has put forward to Council several policy questions for Council direction that will determine the extent to which the Society takes specific action to manage and hopefully mitigate the ongoing costs associated with succession for lawyers and law firms.
Library
We have had some preliminary discussions with the Department of Justice regarding the Library and whether we can collaborate on the delivery of library services. We have written to suggest a more formal approach and are awaiting word.

Planning for planning
Between now and September it will be crucial for committees to begin to undertake two vital tasks – develop their work plans and begin to think about the Society’s 2018 Activity Plan. The Executive will be working with committee chairs to accomplish this.

It’s summer
As short a season as it is, we try to get as much vacation time completed by staff over the next couple of months, so they get a chance for a real break. We know that most things slow down a bit in August and we try to take full advantage of that.
MEMORANDUM

TO: Nova Scotia Barristers Society Council

FROM: Lawrence Rubin, Director of Insurance
Lawyers Insurance Association of Nova Scotia (LIANS)

DATE: September 15, 2016


Summary

Pursuant to Regulation 12.5.4 under the Legal Profession Act, the following is a summary of LIANS’ operations and financial position for the period January 1, 2017 through June 30, 2017.

LIANS conducts the mandatory professional liability (error and omissions or E&O) insurance program for the benefit of the province’s practicing insured lawyers. Established by the Legal Profession Act, LIANS is managed by a Board of Directors assisted by the Director and five committees. Three of these committees - Audit, Investment and Governance - have responsibilities not unlike similar corporate committees. As an insurance and risk management program, LIANS also has a Claims Review Committee that meets regularly to advise on active matters that come within its mandate (discussed below) and the Lawyers Assistance Program (LAP) Committee, which oversees the LAP program. Also included in LIANS mandate is to provide a risk and practice management (RPM) program to the membership. Taken together, these operations lead to LIANS being recognized by the membership as a superior professional liability insurance program valued by its insured lawyers.

LIANS, as a subscriber to the Canadian Lawyers’ Insurance Association (CLIA), is managed in a fiscally responsible manner akin to an insurer. We work with our actuary to determine the annual levy and necessary capital reserves and with our investment manager to maintain and safeguard those reserves to ensure that adequate resources are available for claims and to maintain the long term health of the program.

Summarizing the foregoing, LIANS has as its goals financial stability, an effective RPM Program, lawyer satisfaction, appropriate governance and documentation of policies and procedures and the development, and maintaining, of skilled and responsive staff.
Staff

Director: Lawrence Rubin  
Claims Counsel: Patricia Neild  
Claims Counsel: Geraldine O’Shea  
LIANS Counsel: Stacey Gerrard  
Database and Information Officer: Cynthia Nield  
Administrative Assistant: Alex Greencorn  
Executive Assistant: Emma Pink

LIANS Board

This past June, five Board members resigned due to their reaching the term limit. With so many resignations, the five committees were also short of the required number of Board members and could not function. The Board vacancies were advertised and, as Council is aware, have been filled. At a special Board meeting held on August 17th, the Committee vacancies were filled and will soon have their first meetings of the policy year.

For the term of July 1, 2017 through December 31, 2018, LIANS’ Board members are (“I” signifying an incumbent):

David Reid, Chair (I)  
Robyn Elliott, QC, Vice Chair  
Greg Barro, QC  
Glen Campbell (I)  
Margot Ferguson (I)  
Sean Foreman  
Oliver Janson  
Joshua Martin  
Tara Miller (I)  
Jennifer Palov (I)  
Darrel Pink (I)  
Charles Thompson

New this year, all applicants for the vacancies had to complete a skills matrix. In addition, a target for the Board was to include members from throughout the province that represent the various types of practitioners (i.e. practitioners from firms large and small, sole practitioners and in-house lawyers).

The Society’s new Executive Director will be substituted for Darrel Pink at the appropriate time.

LIANS Committees

As previously mentioned, LIANS has five committees that support the Board: Audit, Claims Review, Investment, Governance and Lawyers Assistance Program (“LAP”). All are currently staffed with the requisite number of Board members. Some still have room for non-Board members. We are always interested in volunteers with the requisite skills to join the committees. LIANS does, in my opinion, present a unique opportunity to the membership in that it can provide lawyers with real experience in the management of a corporate entity. In addition, today’s non-Board committee volunteers are (hopefully) tomorrow’s board members thus making succession when people retire easier.
**NSBS Committees**

During the period of this report, LIANS supported the Society’s four professional standards committees. In addition, the Director participated in the Real Estate Practice Working Group, the Service Nova Scotia Committee and the Land Registration Act Committee.

**Insurance Program**

LIANS’ stated and primary purpose is to provide the Society’s members with their mandatory primary errors and omissions insurance coverage. This coverage has an occurrence limit of $1,000,000 subject, of course, to the policy’s terms and conditions. The policy wording is provided by CLIA and is identical to that of the other CLIA subscribing jurisdictions.

Breaking down the limit, LIANS has a self insured retention of $500,000 per occurrence. The next $500,000 is what CLIA provides. There is also a stop loss built into the program.

New for the 2017–2018 policy year is the addition of basic cyber coverage as Part D of the policy. With the addition of this new coverage and the fact that it appears that many members are unaware of the particulars of the policy, a copy of the policy was e-mailed to each sole practitioner and firm designated lawyer on behalf of the lawyers practicing in those firms. It is important that the members know what the policy covers and what it does not. Further, for those lawyers and firms with excess coverage, they should be able to confirm that their insurance programs provide the coverage they require.

Referring specifically to the cyber coverage, the three conditions to coverage set out in the policy were specifically noted and lawyers with standalone cyber coverage were advised to refer the policy to their brokers to make sure their various policies work together.

**Claims Handling**

LIANS’ claims frequency does not present significant variation year over year. Some variation is expected but generally, volumes are consistent with, on average, there being between 350 and 400 open files at any one time. As of June 30, 2017, there were 361 open files, ten fewer than at the end of the first quarter of this year and 42 fewer than at the end of June 30, 2016. As is common in insurance, many of these open files are in abeyance due to at least one of four common reasons: inactivity, being in litigation, there being a pause in the process or being in the final administrative for closing. As litigators are well aware, an open file does not always mean an active file. Insurance claims are no different.

Prior reports by the Director to the LIANS Board, Council and the members have talked about the increasing complexity of claims, a fact I would agree with. But as I indicated in LIANS 2016 Annual Report, there are, in my opinion, several types of complexity. There is complexity due to the issue and there is complexity arising from the plaintiff being unrepresented, not being cooperative or having unrealistic expectations. None of these complexities are unexpected. But certainly in the case of the latter group they can cause a matter to be dragged out thus increasing our costs. And it goes without saying that the more claims that are in litigation the higher our costs will be.

The number of new claims reported in the first six months of 2017 was 144. This compares to 127 in the same period last year. In this same period, 172 files were closed this year versus 166 in 2016.
Files with combined damage and defence reserves of $125,000 or greater are reported to the Claims Review Committee. The reporting threshold was recently increased from $75,000. At this time there are 14 files before the Committee which is consistent with prior years.

For the year ended December 31, 2016, 88% of files closed in 2016 were closed without the payment of damages. Of the 12% that had a damages payment, most but not all also incurred defence costs. Those that did not were handled internally. In addition, 17% of the closed files incurred defence costs only. Accordingly, of the files closed in 2016, 70% were closed without payment of damages or defence costs. These percentages are consistent year over year with some variation, usually in the area of +/- 2%. Regardless of the number of files, our outcomes are consistent. And it remains a fact that the majority of our claims are handled internally, without defence costs being incurred.

No single problem causes claims but like most lawyer E&O programs, when looking at both frequency and cost, real estate claims are often the highest in both categories followed by claims arising from civil litigation. The real estate claims we see run a wide range of issues from migration through missed judgments. Referring to civil litigation, missed limitation periods, including limitation periods in other provinces, are an issue. On the subject if limitation periods, in prior reports we have noted certain concerns arising from the new Limitations of Actions Act, in particular that it is possible there will be an increase in irreparable missed limitation claims after September 1, 2017, when the impact of missing a 2-year limitation period begins to be felt.

When it comes to claims handling, the best defence is a well documented file. If anyone was to ask me what one thing I would like them to remember from this report, it would be the prior sentence. For further details on the areas of practice that generate claims and LIANS’ costs attributed to them, please refer to LIANS’ 2016 Annual Report.

Effective and proactive handling of claims continues to be LIANS’ hallmark. I certainly believe in a proactive approach to claims handling whenever appropriate and quickly addressing issues raised by claimants or self-reported by lawyers. When given the opportunity, we work with our insured members to repair, remediate or otherwise resolve issues before the affected party suffers a loss. Due to members’ trust and confidence in LIANS, potential issues that otherwise could lead to serious claims are reported early and effectively handled in the interest of the insured members and the public. Frivolous or vexatious claims that have no merit are strongly defended as are claims where the expectations of the complainant are unreasonable and excessive, thus preserving the integrity of the program.

Financial Position

LIANS’ financial position has remained stable. This year, surplus was once again distributed to the insured members by way of a subsidy to the levy charged.

For the period of January 1 through June 30, 2016 LIANS was within its budget for both claims costs and administrative costs. Our expense ratio is in line with that of the Canadian P&C industry and our loss ratio compares favourably.

As for our investment portfolio, though it was up from the beginning of the year, to say that there is some degree of flux in the markets would be an understatement. The Investment Committee and our investment advisor will watch the markets closely.
The following is the summary of LIANS finances as published in its 2016 Annual Report:

**Statement of financial position as at December 31**

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash</td>
<td>980,113</td>
<td>517,760</td>
</tr>
<tr>
<td>Accounts receivable</td>
<td>180,036</td>
<td>454,107</td>
</tr>
<tr>
<td>Government remittances receivable</td>
<td>1,803</td>
<td>23,347</td>
</tr>
<tr>
<td>Levy receivable</td>
<td>634,895</td>
<td>588,071</td>
</tr>
<tr>
<td>Prepaid expenses</td>
<td>181,618</td>
<td>283,064</td>
</tr>
<tr>
<td>Recoverable unpaid claims and expenses</td>
<td>486,331</td>
<td>1,048,387</td>
</tr>
<tr>
<td>Investments</td>
<td>16,189,079</td>
<td>15,256,646</td>
</tr>
<tr>
<td>Property and equipment</td>
<td>6,443</td>
<td>9,472</td>
</tr>
<tr>
<td><strong>TOTAL ASSETS</strong></td>
<td>18,660,318</td>
<td>18,180,854</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Liabilities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable and accrued liabilities</td>
<td>1,623,730</td>
<td>1,437,669</td>
</tr>
<tr>
<td>Unearned levy</td>
<td>1,539,581</td>
<td>1,454,742</td>
</tr>
<tr>
<td>Provision for levy deficiency</td>
<td>—</td>
<td>249,464</td>
</tr>
<tr>
<td>Provision for unpaid claims and expenses</td>
<td>8,690,200</td>
<td>8,902,749</td>
</tr>
<tr>
<td><strong>TOTAL LIABILITIES</strong></td>
<td>11,853,511</td>
<td>12,044,624</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Net Assets</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional liability insurance reserve</td>
<td>6,806,807</td>
<td>6,136,230</td>
</tr>
</tbody>
</table>

**Statement of revenue and expenditure for the year ended December 31**

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4,135,271</td>
<td>3,720,029</td>
</tr>
<tr>
<td>Insurance premiums</td>
<td>(462,626)</td>
<td>(643,964)</td>
</tr>
<tr>
<td><strong>Net revenue</strong></td>
<td>3,672,645</td>
<td>3,076,065</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CLAIMS AND EXPENSES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payments</td>
<td>1,860,982</td>
<td>1,837,531</td>
</tr>
<tr>
<td>Group deductible reimbursement</td>
<td>(64,933)</td>
<td>(126)</td>
</tr>
<tr>
<td><strong>Total claims and expenses</strong></td>
<td>1,796,049</td>
<td>1,837,405</td>
</tr>
<tr>
<td>Current period expense</td>
<td>100,043</td>
<td>1,708,960</td>
</tr>
<tr>
<td><strong>Total Administration</strong></td>
<td>1,896,092</td>
<td>3,546,365</td>
</tr>
</tbody>
</table>

**ADMINISTRATION**

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Administration</td>
<td>1,105,976</td>
<td>2,377,745</td>
</tr>
<tr>
<td><strong>TOTAL EXPENDITURES</strong></td>
<td>3,002,068</td>
<td>5,924,110</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excess (Deficiency) of revenue over expenditure before undernoted</td>
<td>670,577</td>
<td>(2,848,045)</td>
</tr>
<tr>
<td>Return of C.L.I.A. surplus subscriber’s equity</td>
<td>—</td>
<td>580,545</td>
</tr>
<tr>
<td><strong>Excess (deficiency) of revenue over expenditure</strong></td>
<td>670,577</td>
<td>(2,267,500)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional liability insurance reserve, beginning of year</td>
<td>6,136,230</td>
<td>8,403,730</td>
</tr>
</tbody>
</table>
Risk and Practice Management

RPM continues to provide valuable resources to the membership through information and education. The program sends electronic fraud alerts to members and focuses on providing claims avoidance information. The staff also responds to lawyers’ inquiries on a variety of topics including opening and closing their practice, documenting their file, dealing with difficult clients, appropriate use of technology etc. A wide variety of resources have been added to the website for the benefit of the members.

LAP

The LAP is served by Homewood Health, a corporate provider. LIANS and the Society have recently renewed the Homewood agreement at a lower annual cost. The program offers confidential short term counseling, as well as a variety of online health and wellness resources.

The program hosted several health and wellness webinars over the past year as well.

Conclusion

LIANS’ staff continues to work diligently to fulfill its mandate as reflected in the various strategic directions that have been set by the Board. In particular, LIANS is dedicated to working towards maintaining a proactive cost-effective approach to claims handling, to using RPM to achieve a positive effect on members’ practices for the benefit of both the members and the public they serve, and to providing resources to the membership through its various initiatives such as LIANSwers and the LIANS website.
July 17, 2017

The Honourable Stephen McNeil, M.L.A.
Premier of Nova Scotia
7th Floor, One Government Place
1700 Granville Street
Halifax, Nova Scotia
B3J 1X5

Dear Premier:

I am truly delighted to provide you with a copy of the recent report of the Law Foundation of Nova Scotia entitled *the Grants Review and Future Directions Report* together with a copy of the four page summary found at pages 1-4 of the report.

The Board commissioned this internal study over a two year period to better plan the Foundation’s future direction. When the final report was tabled at our March 2017 meeting, it became obvious to the Board that it has great value beyond our Foundation and that it may serve to contribute to the work of government and assist in increasing access to justice in Nova Scotia. Thus we have since edited it for public release.

The Board has directed me to send this report to you, with copies to various justice stakeholders, in the hopes that it will provide clear and current information to improve the lives of the people of Nova Scotia. We hope this may be a contribution that assists others in their planning and policy making on issues related to our objects, which include “the examination, research, revision and reform of and public access to the law, legal education, the administration of justice in Nova Scotia”.

*The Grants Review and Future Directions Report* offers a relatively broad current review of some aspects of the justice system in Nova Scotia and provides many ideas and suggestions for improvement. We hope it might inspire others and be of use to you and your government.

The report is also found on the Foundation’s website: www.nslawfd.ca.

Thank you for taking the time to review this. We wish you the best in your important work. I am sending a copy of this letter and enclosures to those members of your government and other stakeholders named on the attached list.

Yours sincerely,

*Original Signed by*

Robert G. MacKeigan
Chair
Contents

Summary ........................................................................................................................................1

1. Overview of the Report and Goals of the Project .................................................................5
   1.1 Overview of the Report ..................................................................................................5
   1.2 Goals of the Project ....................................................................................................5
   1.3 Methodology ...............................................................................................................5
   1.4 Limitations ..................................................................................................................6

2. Services Currently Available .................................................................................................6

3. Vulnerable Populations and Access to Justice .................................................................7

4. Barriers to Access, Unmet Legal Needs and Potential Solutions ........................................7
   4.1 The Legal System Generally ......................................................................................8
      4.1.1 Lack of information and education about the law and the legal system
      4.1.2 Information failure
      4.1.3 Duplication of services/failure to collaborate, share resources and ideas
      4.1.4 Formal adjudication vs other strategies (e.g. early intervention, restorative justice)
      4.1.5 Lack of knowledge/ awareness in the legal community and among service providers
      4.1.6 Gaps in services
   4.2 Self-represented litigants/justice system users ............................................................17
   4.3 Family law ................................................................................................................19
   4.4 Criminal law .............................................................................................................21
      4.4.1 Legal Assistance
      4.4.2 Incarcerated individuals and their families
      4.4.3 Victims services/ sexualized violence and exploitation
   4.5 Poverty law ................................................................................................................24
   4.6 Immigration and refugee law .....................................................................................25
   4.7 Civil non-family (wills and estates/consumer literacy) .................................................26

5. The Foundation’s Priorities Going Forward .......................................................................28

Appendices
A. Current Key Legal Services Available
B. Vulnerable populations
C. Summary of Potential Solutions for Addressing Unmet Needs and Priorities
D. List of organizations that participated in consultations
Summary

The goal of the Grants Review and Future Directions Project is to provide the Law Foundation Board with a roadmap for moving forward with setting priorities for core grants and projects. Project activities included internal review of revenue sources and operations.

Methodology

The project began in April 2016 and ended in March 2017. The research for the various components included a mixture of in-person meetings, surveys and online research.

In choosing who to interview we were guided by the need to seek input from those working within the justice system, those providing services in the community, and from both urban and rural areas. We also sought to gain insight into the needs of the historically disadvantaged such as the Mi’kmaw and African Nova Scotians.

For more information beyond the summary about methodology and a full list of organizations that participated in the consultations see the full report and appendices available online at the Foundation’s website www.nslawfd.ca

Limitations

The project provides a snapshot of current unmet legal needs as identified by those we interviewed or who responded to the written survey. Time and financial resources did not allow for interviewing all grantees or for seeking input from non-grantee agencies or the general public. Nor were we able to visit all regions of the province. We had planned to visit several more areas of the province but, after a few visits, we recognized that the same or similar keys issues were common to many rural areas. We also recognize not all initiatives aimed at meeting legal needs are captured in this report because new initiatives are developed all the time both by current and new players, often through project funds or volunteer efforts, and we may not be aware of them all.

Services Currently Available

While there are numerous and diverse legal services available, as far as we are aware, there is no fully comprehensive list of all services. In addition to the legal advice and full representation provided by the private Bar, Nova Scotia Legal Aid (NSLA), and Dalhousie Legal Aid Service (DLAS), there are many community agencies providing legal information, referral, support services and online resources. Their target audiences range from victims to offenders, from youth to seniors,
from support in institutions to support in the community and address single issues and/or a broad spectrum of legal topics.

The lack of a single site listing all the information about current legal services poses challenges for organizations, big and small, as they try to make sure they are aware of and keep up to date on the many services. It also poses challenges for the individuals seeking information about available services.

**Major Findings**

- **Vulnerable populations**
  
  “Individuals with lower incomes and members of vulnerable groups experience more legal problems than higher income earners and members of more secure groups.” *(Action Committee on Access to Justice in Civil and Family Matters Report, October 2013)*

  They include Indigenous and African Nova Scotian communities, immigrants and refugees, women, the LGBT communities, seniors, youth, individuals living in poverty and/or homeless, and individuals with low literacy skills, mental health issues and/or disabilities.

- **The legal system generally suffers from**
  
  - Lack of public education about the law, rights and responsibilities
  - Low literacy levels
  - Complicated forms and procedures
  - Lack of coordinated user-focused approach
  - Complicated court systems
  - Lack of facility for information sharing and collaboration
  - Lack of ADR opportunities
  - Knowledge and skills gaps among legal and other professionals – cultural competency; diversity in ranks; skills to recognize and work with vulnerable clients; ageism; knowledge of help available/appropriate referrals
  - Gaps in services – mental health; culturally appropriate; barriers to accessing online resources; free advice beyond summary; centralization and impact on rural communities

- **Self-represented litigants/ court users**
  
  - Limited duty counsel
  - Low literacy
  - Complicated forms and processes
  - Lack of education about law, rights and responsibilities

- **Family law**
  
  - Lack of basic information – particularly for non-mainstream population
  - Lack of specific services/information for racialized communities
  - Lack of resources for women
• Criminal law
  - Lack of legal assistance for low-middle income individuals
  - Lack of awareness of intersection between criminal law and immigration law
  - Lack of culturally specific summary off-hours advice for individuals in custody
  - Complicated criminal record suspension process – literacy; forms
  - No prison law services
  - Over-representation of Aboriginals & African Canadians in prison population
  - Victims/sexualized violence – girls at risk; toxic court process for victim-witnesses; under-reporting; lack of alternatives to deal with domestic violence

• Poverty
  - Lack of information/education around poverty law issues
  - Homelessness and mental health
  - Services not easily accessible in rural areas
  - Ongoing education of intermediaries about poverty law issues

• Immigration and refugees
  - Lack of knowledge of intersection of immigration, criminal & family laws
  - Lack of prison advocate
  - Need accessible translation services – small communities – privacy issues
  - Need education about rights and responsibilities – and in a range of languages
  - Need more pro bono lawyers to assist with refugee applications

• Civil non-family law
  - Lack of duty counsel and legal aid
  - Lack of awareness/understanding of civil rules, procedures and court process
  - Judgment enforcement system – ineffective and misunderstood
  - Need Education of self-represented executors
  - Low literacy and complex legalese in process and systems
  - Lack of Alternative Dispute Resolutions options (ADR)
**Priority Unmet Needs** – some gaps and solutions were repeatedly identified:

- **Cost of legal services**: options and help for low-middle income individuals in the area of civil non-family, e.g. Small Claims Court, probate, judgment enforcement
- **Family law information**: particularly in the area of child welfare – minorities over-represented. Still a great need for information. Growing number of self-reps dealing with family law issues.
- **Rural access**: access to free legal services and access to service providers. Centralization of services, e.g. justice centres, pose significant barriers because of lack of transportation options and limited services.
- **Self-represented litigants**: information, guides, advice, navigation – numbers growing. Some have no option but to represent themselves, others choose to. Literacy, complicated processes/forms, lack of legal education.
- **Pro-bono**: rural areas, form filling, prison advocacy. Again lack of services, limited Bar.
- **Alternative Dispute Resolution**: affordable or free options and prevention/early resolution options
- **Cultural competency**: education and awareness for legal community and frontline staff to facilitate improved service to and access to justice for racialized and minority communities. How to recognize and provide services to vulnerable people.

**Moving Forward**

A wide range of potential solutions were suggested by interviewees. Some fall within the mandate of the Law Foundation. Other solutions do not fall within the mandate but provide a background of the wide range of programs and services needed. We expect this report will be a catalyst for positive change.

As a result of the findings in the report, the Foundation has identified some priorities:

**Future Grants**: The primary focus of future grants should continue to be services that address the legal needs of vulnerable Nova Scotians including:

- direct services to individuals – information, navigation, assistance with applications etc.
- services that help prevent legal problems through education and information
- services that provide information and resources to front line staff and intermediaries who assist vulnerable individuals
- services that address a priority unmet need

**Project funding**: Should revenues increase, consideration will be given to allocating a portion of future annual budgets to project funding.

For more detail, consult the full report on The Foundation’s website, [www.nslawfd.ca](http://www.nslawfd.ca)
1. Overview of the Report and Goals of the Project

1.1. Overview of the Report

This report provides:

- a snapshot of current key legal information, education and support services available in Nova Scotia
- information on vulnerable populations
- an outline of what we learned about unmet legal needs and access to justice barriers from grantees and other key justice stakeholders through meetings and surveys. It covers:
  - barriers related to specific target audiences
  - vulnerabilities
  - legal issues
  - potential solutions, suggested by interviewees or as a result of information gathered, to provide the board with guidance and a basis against which to measure future grant ideas and applications
- a summary of the Foundation’s priorities going forward

1.2 Goals of the Project

To provide the board with:

- a roadmap for moving forward with setting priorities for core grants and projects

Project activities included:

- meetings with key justice stakeholders and grantees to explore unmet needs and priorities
- an electronic survey of grantee organizations with which we did not meet
- an internal review of revenue sources and operations

1.3 Methodology

The project began in April 2016 and ended in March 2017.

The research for the various project components were a mixture of in-person meetings, surveys and online research. In choosing who to interview we were guided by the need to seek input from both those working within the justice system, those providing services in the community, and from both urban and rural areas. We also sought to gain insight into the needs of the historically disadvantaged such as the Mi’kmaw and African Nova Scotians.

We developed questionnaires to guide the interviews but encouraged and welcomed free flowing discussion. For the most part, a questionnaire was provided to the interviewee in advance so that he/she was aware of what type of information we were seeking. Most interviews were one-on-one (18) but there were also two group sessions attended by a number of service providers.
Six grantee organizations responded to the written survey. For a list of organizations that participated in the consultations see Appendix D

1.4 Limitations

The project provides a snapshot of current unmet legal needs as identified by those we interviewed or who responded to the written survey. Time and financial resources did not allow for interviewing all grantees or for seeking input from non-grantee agencies or the general public. Nor were we able to visit all regions of the province. We had planned to visit several more areas of the province but, after a few visits, we recognized that the same or similar key issues were common to many rural areas. We also recognize not all initiatives aimed at meeting legal needs are captured in this report because new initiatives are developed all the time both by current and new players, often through project funds or volunteer efforts, and we may not be aware of them all.

2. Services Currently Available

While there are numerous and diverse legal services available however, as far as we are aware, there is no fully comprehensive list of all services. Appendix A provides a summary of key services. In addition to the legal advice and full representation provided by the private Bar, Nova Scotia Legal Aid (NSLA), and Dalhousie Legal Aid Service (DLAS), there are many community agencies providing legal information, referral, support services and online resources. Their target audiences range from victims to offenders, from youth to seniors, from support in institutions to support in the community and address single issues and/or a broad spectrum of legal topics.

Services include assistance with form filling, support in court, summary advice programs, and information on specific areas of law. With the assistance of lawyers who volunteer their time, the Halifax Refugee Clinic provides representation before the Refugee Board for refugees with limited financial resources. Most government departments have information on legislation and legal processes for which they have responsibility. There are also websites which provide a range of information, for example, CourtsNS.ca, NSFamilyLaw.ca, and the Legal Information Society of Nova Scotia (LISNS). There are several lawyer referral services (Reachability, LISNS, and Association des juristes d’expression française la Nouvelle-Écosse (AJEFNE)). Many other community organizations provide legal information to clients and are well positioned to connect their clients with the help they need.

The lack of a single site listing all the information about current legal services poses challenges for organizations, big and small, as they try to make sure they are aware of and keep up to date on the many services. It also poses challenges for the individuals seeking information about available services. Even 211 does not have a fully comprehensive list.
3. **Vulnerable Populations and Access to Justice**

There are many historical and socio-economic reasons why certain populations are vulnerable. Often vulnerabilities are interconnected for example, homelessness, mental health, discrimination, poverty and criminalization. Appendix B provides an outline of key vulnerable populations. They include Indigenous and African Nova Scotian communities, immigrants and refugees, women, the LGBT communities, seniors, youth, individuals living in poverty and/or homeless, and individuals with low literacy skills, mental health issues and/or disabilities.

It is recognized that, if access to justice is to be improved, the needs of vulnerable populations must be addressed. Over the past 30+ years thinking has shifted to appreciate that access to justice is more than just access to the courts and legal advice. Access to justice, broadly speaking, includes access to laws and services that help an individual solve or prevent his/her legal issues.

---

"**Individuals with lower incomes and members of vulnerable groups experience more legal problems than higher income earners and members of more secure groups**."

*Action Committee on Access to Justice in Civil and Family Matters Report, Oct. 2013*

---

4. **Barriers to Access, Unmet Legal Needs and Potential solutions**

A wide variety of issues and gaps emerged during interviews including the structure of the system, historic racism and discrimination, funding, the needs of self-represented system users, and specific challenges for vulnerable populations.
In each part of this section, we outline some of the key barriers followed by potential solutions suggested by interviewees. Some of these solutions fall outside the mandate of the Law Foundation, but are included to provide a fuller picture of the wide range of resources and programs needed to address gaps and unmet needs. A summary of all the suggested potential solutions is provided in Appendix C.

4.1 The Legal System Generally

4.1.1. Lack of information and education about the law and the legal system

BARRIERS

- Lack of knowledge and understanding of the law and legal processes by the public. Generally, legal literacy and knowledge do not form part of the fabric of the formal education system offered in schools. Nova Scotians, like most Canadians, are not well informed about rights and responsibilities and this impacts both on the ability to avoid legal problems and to deal with them when they arise.

- Low literacy levels - compounded by complicated legal terms, language and processes. *(Forty-eight per cent of Canadian adults have inadequate literacy skills - the Conference Board of Canada, June 2014)*

- Civil procedure rules, the Criminal Code and other legislation are a maze for self-represented justice system users who may struggle to understand the language in rules, statutes, regulations and case reports, which rules, sections and forms apply to their situation, and how to complete and file forms correctly

- Obstacles and barriers to making the system more user-focused. Many working within the justice system recognize that it needs to change its focus but admit that the process is slow as each sector of the system moves at its own pace and it may take time to get everyone to buy-in.

- Confusion and delays (for example, wrong forms completed) resulting from having two systems of family law in Nova Scotia; the Supreme Court (Family Division) in Halifax and Cape Breton and the Family and Supreme Courts in other regions of the province. As well, processes may vary from one court to the next because of judicial preferences and practices.
POTENTIAL SOLUTIONS

Better coordinated (and possibly integrated) pro bono activities to facilitate improved access by the public and potential volunteers

- There are a number of pro bono initiatives such as those offered at the Supreme Court, the summary advice programs offered by Nova Scotia Legal Aid, form filling assistance offered by reachAbility and the John Howard Society in Halifax, the Pro Bono students Wills Project, and the LISNS Wills and Court Navigator Pilot Initiatives to name a few.
- These initiatives are often not well resourced and not well-known among the public or other service providers. Most rely on the willingness of practising lawyers to provide supervisory and/or hands on assistance and advice. They evolve to meet an identified need and likely some duplicate or overlap with other similar services. There appears to be a lack of coordinated effort among the providers of these services.

Providing hands-on legal assistance that goes beyond summary advice

- Suggestions included a roster of lawyers that could provide advice and more services such as help with basic legal documents, and assistance with form filling.

Navigators

- Several interviewees identified the need for and benefit of volunteer navigators who could be trained to help provide self-represented court users with information about court, the legal process, legal information resources and referrals, and support in court. A pilot of this kind of navigator program began in New York in 2014 to assist people with housing issues. LISNS is running a Small Claims Court Navigator pilot in Bridgewater.
- Duty Counsel at the Supreme Court (Family Division) suggested that navigators in Family Court, under the auspices of NSLA, would be a valuable service for self-represented court users.
- Others identified a need for specific navigators for the Aboriginal and African Nova Scotian communities.
- A well-thought out navigator training program involving a number of agencies to provide consistent information and training and be cost effective.
4.1.2. Information failure

**BARRIERS**

- There is no mechanism to facilitate the systematic sharing of information about new and existing services between organizations nor with the public generally. Therefore those who could benefit from available programs may miss out on being referred or be unable to find them through their own research.
- While many organizations felt that their front line staff had a good knowledge of available resources others identified gaps in knowledge among their own staff and, from their experience, inappropriate referrals by staff at other organizations.
- The internet can be an excellent tool for finding resources but users may not distinguish jurisdictional issues and may rely on legal information from other provinces or even other countries. As well, sites may not be regularly updated resulting in reliance on outdated or misleading legal information.

**POTENTIAL SOLUTIONS**

A central place that organizations and the public could access to locate available services and resources

- While 211 is a good resource it doesn’t have a fully comprehensive list, is time consuming to navigate, and may pose challenges for users with limited literacy skills. Is not necessarily seen as a resource by individuals who have legal issues (One interviewee advised that only 2% of the calls to 211 in 2015 related to legal issues). The Nova Scotia Coordinating Committee on Access to Justice has been working with 211 to provide training on dealing with legal questions/issues and referrals. The Committee sees 211 as having an important role to play in making referrals to appropriate agencies when callers have a legal question or issue.

4.1.3. Duplication of services/failure to collaborate, share resources and ideas

**BARRIERS**

- A lack of a space/forum for those working in the system and the community to get together to share ideas, learn and explore solutions, and identify opportunities for collaboration
- Professional development and training budgets, particularly within the not-for-profit sector, often shrink or disappear when funding is reduced or there are increasing pressures on service delivery. The result is fewer training opportunities where service providers can network, share information, and discuss issues and potential solutions.
- Potential overlaps/duplication of services for example, court support workers. New services (such as assistance with form filling or court support) may spring up to meet the
needs of an organization’s existing users without efforts being made to identify and evaluate similar existing services already offered by another agency. Sometimes an organization has reached out with a view to collaboration but without success.

- Other factors that may contribute to the failure to collaborate and avoid duplication are:
  - The need to access available project funding in order to continue operations. This funding might be tied to provision of specific services.
  - Lack of consultation with smaller “players” by larger institutions resulting in duplication of services.
  - Vulnerable and marginalized service users who, due to life experiences, only trust a particular agency to meet their needs. Often the agency is the only one the individual feels comfortable approaching because he/she has an established, trusted relationship with it.
  - Lack of a comprehensive catalogue of services which could help organizations and individuals, as well as potential funders, identify what services already exist.

---

**POTENTIAL SOLUTIONS**

**Opportunities for information sharing and collaboration**

- finding ways to allow groups to come together either provincially or regionally would encourage information sharing and a better understanding of existing services

**Community workers** (such as the position funded by the Law Foundation in Antigonish)

- community workers build a good knowledge of local resources, establish relationships within the community, and can help improve information sharing and collaborative relationships between service providers

**Where duplication is identified as a potential issue encouraging service providers to get together to seek a solution**

- however, it should be borne in mind that the nature of the vulnerable population served by an agency may, in some cases, justify duplication of a service offered by another agency
4.1.4. Formal adjudication vs other strategies (e.g. early intervention, restorative justice)

The access to justice model recognizes that courts are not the solution to all disputes. Communities are looking for ways to provide alternatives.

“… our current understanding of access (is of) a project that employs a diverse range of strategies, programs and processes in the service of resolving disputes. Probably the most significant shift in thinking is that the courts no longer sit at the gravitational center of the justice system.”

M. Jerry McHale, QC, University of Victoria Access to Justice Centre for Excellence (/blog/?category=Access+to+Justice)

Equal access includes access to any legal and non-legal information, resource, service or process that contributes to addressing or resolving a dispute.

Alternatives to formal court processes can be more cost effective for individuals and the justice system, allow for greater participation by the individuals involved and other community members, be tailored to individual circumstances, and facilitate understanding and healing.

BARRIERS

- Lack of dispute resolution options that help individuals resolve issues outside the formal court process or to resolve as many issues as possible by consensus and agreement. There are some ADR initiatives; for example, DLAS is developing a mediation project for consumer law issues; LISNS offers a Mediation Referral Service similar to its Lawyer Referral Service; the Tri-County region has an initiative that uses a restorative justice approach to address senior abuse; the South Shore Community Justice Dispute Resolution Committee has plans to train volunteers for a community mediation program.

POTENTIAL SOLUTIONS

Providing free legal advice, legal education and legal information at an early stage

- Providing help as soon as an issue arises helps individuals clarify rights, responsibilities and options, can assist individuals to avoid legal problems and disputes and/or to seek early resolution before a situation worsens.

Encouraging and supporting initiatives that facilitate alternate dispute resolutions as avenues for individuals to resolve legal disputes
4.1.5 Lack of knowledge/ awareness in the legal community and among service providers

The following gaps not only relate to the legal community but also to other professions such as healthcare, social services and education.

BARRIERS

- Cultural competence
  - Lack of cultural competence is a barrier to effectively serving clients and also a barrier to individuals seeking help.
  - There is little cultural diversity training offered at law school.
  - The Bar Admissions course offers a few hours but other professional development programs in the areas of cultural competence and inclusion are elective.
  - Higher education courses and professional training for other professional disciplines follow a similar pattern.

- Lack of diversity in the legal/justice community and institutions
  - Minorities do not see themselves adequately reflected in legal settings whether it be judges, court staff, lawyers, or in police, prison, or probation services. This may contribute to their understanding and belief that the system treats them differently, does not understand their experiences or their community, and is less likely to reflect their values and norms.

- Lack of awareness/training in how to identify and work with vulnerable clients
  - Vulnerable sectors of the community pose significant challenges for service providers and courts and there is a lack of awareness/training around the needs of these sectors.
  - Without appropriate training and understanding a professional may exacerbate the situation for a client, drive a client away altogether, or lead a client to make decisions that have a negative impact in the long term. For example, it may take time and patience to understand and work with a person with autism who may have difficulty following advice. The client may need clear unambiguous written step by step instructions.
  - A woman who has or is experiencing violence from a partner may have endured years of being told she is useless as a person and as a mother. As a result she may have low self-esteem, no confidence in her ability to make decisions and may feel unable to raise concerns with or challenge advice from her lawyer. For example, she may agree to custody and access arrangements for fear of upsetting her partner or not wishing to seem uncooperative, even though she is concerned that the arrangements will impact her safety. Women from racialized communities may be reluctant to talk about abuse for fear of further stigmatizing their community.
Lack of training at the front line level may lead to individuals being denied rights or being ill-served. For example, a health care professional who does not have a clear understanding of the difference between an enduring power of attorney and a personal directive may turn to the wrong person if the patient is unable to consent.

Lack of time to get to know a youth in trouble with the law may lead to lack of understanding of the youth’s life experience and challenges and lack of connection between a youth and his/her lawyer or other service provider.

- Lack of training/ understanding of laws and individual rights and responsibilities
  - Ageism is an issue across society with many people automatically equating old age with dementia and lack of competence. This can lead to inappropriate discussion of an older person’s private affairs with a family member and/or excluding the older person from decision making.
  - Each year several thousand newcomers arrive in Nova Scotia. A small number get into serious trouble with the law. Lack of understanding of the impact of a criminal conviction on immigration status can have serious consequences and can lead to deportation. Also, lack of understanding of different cultures may be a barrier to providing effective services.

- Lack of knowledge of existing resources and appropriate referrals
  - May impact individuals who would benefit from accessing services and are relying on front line staff for information and referral

**POTENTIAL SOLUTIONS**

Compulsory training and ongoing opportunities for cultural competency and inclusion training for the legal profession

Encouraging and placing more emphasis on learning opportunities for other professionals and front-line staff around laws that impact their clients

Supporting and planning for a more diverse legal/justice community that reflects the society in which we live

First voice speakers that can help educate service providers about individuals’ experiences when dealing with legal issues *(the NSBS - Talk Justice initiative is an example)*
4.1.6 Gaps in Services

There is a wide range of legal advice, information and support services available particularly in Halifax. With the expansion of the Nova Scotia Legal Aid summary advice programs across the province; toll free lines and technology like Skype and online chat means more services are now available in areas outside Halifax. However there are gaps.

BARRIERS

- Vulnerable populations – for example, a lack of services, particularly one-on-one services, for individuals with mental health issues. These types of services can help individuals avoid legal issues or prevent the escalation of issues.
- Accessibility of online resources – barriers to accessing information and services include lack of access to a computer, lack of computer literacy, lack of high speed connection in rural areas, and vulnerability when accessing information online, for example, because of domestic violence.
- Cultural factors, language and age may be barriers to services. For example, Aboriginal clients may prefer one-on-one contact because building relationships and trust are important cultural norms.
  - Information and services may only be available in English or French.
  - Younger individuals may be more comfortable with new technology than older persons.
  - In the African Nova Scotian community admitting to mental health issues is taboo so services might not be sought or offered as an option
  - Human contact is often important for an individual in crisis or trying to address a difficult legal issue.
  - Youth may be distrusting of adults and need longer term support to address their needs
- Lack of services that provide legal advice above and beyond the summary advice level.
- Lack of opportunity/ capacity for follow-up to enable a referring agency to reconnect with individuals after they have received summary advice to ensure they understood the advice and what the next steps are and to see whether they need additional help to move forward
- Lack of support services for parents whose child is a victim, at risk or in trouble with the law
- Centralization of legal services, such as justice centres, pose particular barriers to individuals in rural areas
  - Public transport is rarely available, cabs are expensive, adjournments and delays in proceedings can increase costs and impact earnings if the individual isn’t paid during time off work to attend court.
  - Some government offices have reduced hours or days of opening or only offer a walk-in service and are not available by phone.
**POTENTIAL SOLUTIONS**

**Supporting community outreach or legal workers particularly in rural communities**
- They play an important role in providing referrals and access to legal information and other services
- They are grounded in the community, understand the needs of and challenges for local vulnerable populations, have opportunities to build relationships and forge partnerships with other service providers, and have a broad understanding of local formal and informal resources

**Using new technology to develop resources and programs to meet the needs of specific audiences**
- Racialized and other minority groups may not see themselves or their experiences reflected in generic resources usually targeted at the mainstream population
- Targeted information can help improve access to information and resources for non-mainstream sectors

**Providing services in the community**
- Satellite clinics such as those offered by DLAS and NSLA and through the Dal and the LISNS Wills projects take into account community isolation and transport challenges
- Clinics are offered in areas such as Spryfield, North Preston and on some Reserve lands. DLAS also provides outreach services through community organizations such as the MicMac Friendship Centre and Stepping Stone to address the legal needs of their clients. LOVE offers programs for youth in Indian Brook, Schubenacadie and Membertou.

**Opportunities for service providers and communities to provide input to policy makers**
- Fosters a greater understanding of needs and the impact of policy decisions both on community members and on service organizations with stretched capacity and limited budgets
- Outcomes and creative solutions are more likely to be found if communities are involved at the beginning and are seen as equal partners
- Often communities and grassroots organizations feel they are not invited to the table at the outset but rather asked for input once a decision has been made or planning is in the final stages
4.2. Self-represented litigants/justice system users

Duty Counsel and administrative staff report a steady increase in the number of self-represented court users and that the issues self-reps are dealing with are getting more complicated. This may be attributed to the increasing cost of legal services, the availability of duty counsel to provide summary advice and information, and the increased availability of self-help guides and legal information.

It is not clear whether or to what extent the unbundling of legal services has contributed to options for self-represented court users or even how widely unbundling is known or understood by the public.

---

**Self-represented litigants/court users fall into two broad categories:**

**Unrepresented:** Individuals who have no choice—**they do not qualify for legal aid, do not have the financial resources to retain legal services, or once had a lawyer but have run out of funds.**

**Self-represented:** Individuals who choose to represent themselves and feel they are competent to do so. **Financial means may not be an issue.**

---

Aboriginal people tend not to represent themselves. If legal help is not available, they are unlikely to pursue the issue or to go to court on their own.

**BARRIERS**

- Duty counsel is limited and, in the Family Division, do not extend to court representation.
- Challenges facing self-represented litigants because of the complexity of forms and processes. For example:
  - form filling - literacy levels can be a barrier
  - incorrectly filed forms
  - understanding the meaning of and what is required to establish ‘undue hardship’
- Lack of evening services once provided by duty counsel in Halifax (discontinued due to the cost of security staffing resulting from reduction of evening programs offered at family court as more programs are offered and accessed online)
- No duty counsel service at settlement conferences. This slows the process of settlement.
• No duty counsel service for emergencies such as emergency applications where court ordered access is denied by one parent to the other.
• Individuals with mental health issues may consume additional administrative court staff time as they may seek frequent help or need extra attention to enable them to address their legal problems.
• Lack of education/ information for the many self-represented executors working through the probate process on rights and responsibilities, the probate process, and appropriate and inappropriate expenses.
• Lack of a child advocate to help children get the services they need
• Language barriers and lack of knowledge may prevent/ discourage newcomers from advocating for their rights

POTENTIAL SOLUTIONS

Navigators to help self-reps navigate the process

  o Volunteer navigators (trained, knowledgeable and with good “people” skills) to help people in court

Addressing literacy issues

  o Forms are complicated as are the various systems (legal, child welfare, social services)
  o Guides that have forms with pop-up instructions to assist users as they complete the forms

Services that provide timely and appropriate referrals and help

  o Frontline staff, including court staff, must be informed about and up to date on what’s available. Often frontline staff fear straying into the area of legal advice vs information and may fail to give the public all the help they can.
  o Advocacy services to help vulnerable individuals access services/rights

Mini legal education workshops/programs (perhaps in partnership with libraries) for the public and not-for-profit staff so that they could be better informed about a legal issue or legal process

  o A model might be NS Justice’s Parent Education Program that teams a lawyer with a social worker to provide information to parents prior to divorce
  o This could be a way of delivering information about the probate process and the responsibilities of an executor

Summary advice counsel in civil (non-family) court
4.3 Family law

Family law was identified as a key area where education and services are needed. Duty counsel and court administrators indicated an increase in self-represented court users in this area. Outcomes in family cases impact the individuals involved, their children and the extended family. Child welfare/protection was identified by the majority of interviewees as a major issue for vulnerable populations. Experiences and outcomes may be compounded by lack of cultural competence and understanding.

BARRIERS

- Access to basic family law information on separation, divorce, custody and access at an early stage
  - This goes back to the issue of self-represented litigants/court users and the importance of helping individuals get information and resources as early as possible when a legal issue arises.
  - While there is lots of information available not everyone knows how to go about finding it when they need it. Use of the internet and social media increases by the day, but not everyone has easy access or the skills to access it or find relevant information.
  - Often initial information is from a family member or friend
  - Often an individual will seek to access information through a familiar and trusted agency in their community (whether or not the agency provides legal information services). Therefore a range of community agencies can, and do, play an important role as a point of first contact and as a referral source.

Aboriginal and African Nova Scotians

- Lack of information on the child welfare system geared specifically towards Aboriginal people
  - Child welfare was identified as having a major impact on Aboriginal families. In Nova Scotia 6% of the child population is Aboriginal, and 23% of the children in care are Aboriginal (Aboriginal Children in Care Working Group: Report to Canada’s Premiers, July, 2015).
  - Lack of culturally appropriate services. “The child welfare system needs to look at Aboriginal peoples through a different lens’ – DLAS lawyer.
  - Lack of understanding of services available particularly for Mi’kmaq people.
  - Lack of mandate for Mi’kmaq Legal Services Network (MLSN) to do family law.
  - Lack of Mi’kmaw court worker/navigator in family courts.
  - Lack of consultation with and input from Mi’kmaq communities about justice issues and programs.
  - No practicing Legal Aid lawyers fluent in Mi’kmaq (a few in private practice)
  - Lack of interpretation services

- It was suggested that changes to the child welfare system may be “jumping the gun” for African Nova Scotians and should be delayed pending the outcome of the Restorative Justice Inquiry (re abuse at the Home for Coloured Children).
- Lack of understanding of the African Nova Scotian community and family dynamics
Women

- Child custody is an important issue for women particularly after incarceration.
  - Lack of information around the child protection process.
  - Some women may stay in an abusive relationship for fear of losing their child if they report the abuse or leave the relationship.
- Lack of information and resources addressing the growing online violence including cyber-bullying, harassment, violence and shaming. Abusive ex-partners have, in extreme cases, set up websites to spread revenge porn and hate about their ex-partner. This type of abuse reaches a widespread audience through the internet and has a traumatic effect on the victim.
  - In 2014 there were 2,404 victims of police-reported violence by an intimate partner in Nova Scotia. 76% of victims were female (Statistics from the Nova Scotia Advisory Council on the Status of Women)
- Overly generic online and print resources and one-on-one services around separation, divorce, custody and access. There are a few exceptions such as Making Changes (the Nova Scotia Advisory Council on the Status of Women); Safely on Your Way – Custody and Access Information for women leaving an abusive relationship (LISNS).

**POTENTIAL SOLUTIONS**

Navigators in family courts who can help self-reps understand the process, access the correct forms, and get appropriate referrals

- One interviewee suggested it would be best if family court navigators were under the auspices of NSLA rather than one or more not-for-profits.

Education/information sessions to address specific family law topics

More audience specific information and services

- Aboriginal peoples, African Nova Scotians, newcomers to Canada, and the LGBT community may each have different concerns, experiences, barriers and cultural norms; for example, a woman who is a newcomer may be concerned that if she reports abuse by her spouse she will lose her immigration status and/or her children.
- Strategies would depend on what works best based on consultations with the communities and groups serving them. For example, Nova Scotia Legal Aid has hired a native social worker and she works with offices across the province to help clients through the Child Welfare process.

Explore and pilot alternatives to the formal court process to maximize opportunities for early resolution and solution
4.4 Criminal law

4.4.1 Legal assistance

Both NSLA and DLAS have well-established programs that provide advice and representation for adults on low income who are in serious trouble with the law and for youth in trouble with the law.

The system of duty counsel in provincial criminal and youth courts enables everyone not represented by a lawyer to receive summary advice and limited representation at the first hearing. The expanded NSLA summary advice program also increases opportunities for those facing criminal charges to get advice about their situation. There is also after hours on-call duty counsel to provide summary advice to individuals held in custody at police stations.

There is lots of information online as well as access to information through organizations such as transition houses, Phoenix House, reachAbility, AJEFNE, and LISNS. The latter three also offer lawyer referral services.

Mi’kmaw Legal Support Network provides assistance and support to Aboriginal individuals in trouble with the law and includes a court-worker program. There are also other agencies that provide court support services, for example Coverdale. The Halifax Refugee Clinic and E. Fry have offered help, in some cases, to individuals facing deportation. LOVE offers information and support for youth at risk or in trouble and takes referrals from police and community agencies.

But there are gaps.

BARRIERS

• Lack of free legal assistance geared towards low-middle income individuals who don’t qualify for legal aid and cannot afford to retain legal services
• Limited legal aid for individuals not facing incarceration on conviction
• Lack of awareness and understanding of the intersection between criminal law and immigration law. This has, in some cases, increased the risk of deportation for permanent residents who are in trouble with the law.
• Current on-call after-hours summary advice over the phone for individuals in police custody may not adequately serve the needs of Aboriginals or those with language barriers.
• The criminal records suspension application/process is complicated and expensive ($631). The process and low literacy issues result in a need for form filling assistance. A criminal record can limit employment and reintegration opportunities.
  o One organization assisting persons with disabilities indicated that 35% of their clients have a criminal record. There is also a need to educate employers about the impact of criminal records and when it may or may not be relevant to the employment position.
4.4.2. Incarcerated individuals and their families

**BARRIERS**

- Lack of transportation can be a significant barrier for families seeking to maintain contact with an incarcerated family member and maintain/build relationships between an incarcerated parent and his/her children. Strong relationships are an important factor in successful reintegration. For example, a group in Halifax, Mothers of Prisoners, is trying to formalize so that they can secure funding for a bus to take families for prison visits.
- Reintegration services are lacking - Corrections Canada has established a community reintegration piece and Burnside is working on developing a program.
- Youth in Waterville are in need of legal counsel to help them access the services they need, such as mental health.
- Lack of prison advocacy - there are no “prison law” lawyers in Nova Scotia. It is not a course offered at the Schulich School of Law. This means an enormous gap for incarcerated individuals dealing with institutional offences, human rights, and habeas corpus applications. Inmates must self-represent as no legal aid coverage is available. In some other parts of Canada there are prison law clinics (like smaller versions of DLAS). In Ontario clinics are staffed by supervised students. The BC clinic is funded by the law foundation. Ontario, Alberta, and BC provide legal aid certificates for prison law.
- Permanent residents may face deportation following incarceration and lack access to legal representation.
- Many inmates have mental health issues. We were told 80% of women in Nova and Burnside have a mental health issue. Often an institution’s response is to place the individual in a segregation unit which does not address the issue and may exacerbate the situation.
- There is over-representation of Aboriginals and African Canadians in federal and provincial prisons population (see Appendix B).

**POTENTIAL SOLUTIONS**

- Navigators or other supports for self-represented accused in criminal court
- Increasing opportunities for cultural competency training and awareness for the legal profession and frontline staff
- Increasing diversity in legal community and those working in the justice system
- Supporting programs that assist individuals with applications for record suspensions
4.4.3. Victims Services/ sexualized violence and exploitation

Sexual violence is a serious problem in Canada and across the world.

**BARRIERS**

- Victims/survivors of sexual assault are less likely to report to police than victims of other crimes therefore the number of reports to police under-represents the frequency of assaults.
- Young people are at risk
  - Girls and young women between the ages of 15-24 are the most likely victims of sexual violence.
  - Young men are more likely to be perpetrators of sexual violence than men in any other age group.
- System response to sexual violence - lack of support for victims who come forward, low charge and prosecution rates, “toxic” court process for the victim-witness, lack of aftercare for victim-witnesses
- Lack of services for vulnerable young women who come from rural areas to the city and are at risk of sexual exploitation or trafficking
- Lack of alternatives for addressing domestic violence – current pro-charge/pro-prosecution can cause more problems for the family – (fear of or actual loss of children, income, home, or support of family/community in some cultures)
- There is a lack of research into violence against other vulnerable groups such as women in the sex industry, particularly those who work at street level, persons with disabilities, lesbian and bisexual women, and immigrant and refugee women. *(Issue Brief: Sexual Violence Against Women in Canada: Benoit C., Shumka L., Phillips R., Kennedy M.C., Belle-Isle L., December 2015)*
### POTENTIAL SOLUTIONS

**More information and education about healthy relationships and consent**
- Engage youth in identifying what they need/want to know and in addressing solutions
- Programs in schools and universities that are relevant to youth
- Use social media and other avenues that reach and are meaningful to youth
- Provide education for parents

**Researching and examining the system’s response to sexualized violence and the court experiences of victim-witnesses with a view to improving the response**

**Exploration of alternative workable ways to address domestic violence**
- Address the harm and work with the whole family

---

### 4.5 Poverty Law

**BARRIERS**

- Lack of education/information on issues such as tenancy laws, debtor/creditor and consumer laws
- Homelessness and mental health issues
- Services may not be available or easily accessible in rural areas
- Ongoing need for information for the public and intermediaries about income assistance, residential tenancies, Canada Pension Benefit and human rights

"*The most at risk groups for rural poverty are women, youth, unattached seniors, First Nations and Aboriginal communities, African Nova Scotians and new immigrants. The most vulnerable face low-wage employment, high unemployment rates, economic insecurity, and are at a higher risk for violence.*"

Differences in the experience of poverty in rural settings in Nova Scotia – A Position Paper, Annapolis Valley Poverty Coalition, September 2012
4.6 Immigration and Refugee Law

BARRIERS

- Gaps in knowledge/ awareness of potential impact of criminal proceedings on immigration status
- Lack of prison law advocacy to identify potential deportation issues following incarceration
- Gaps in knowledge/ awareness of the intersection between family law and immigration law
- Lack of accessible translation services outside the criminal law system
- Lack of information for newcomers around legal rights and responsibilities in key areas for example, family, criminal, immigration status, property, wills and estates and the role of police and courts
- Lack of cultural competency among service providers including in the justice system
- Limited access to free legal representation at the various stages of the refugee application and appeal process. Currently the need exceeds the supply of pro bono legal professionals available to do the work

POTENTIAL SOLUTIONS

Community outreach workers in rural communities
Phone and personal services
  - information online and in written formats are not accessible to all
Education workshops for intermediaries and front-line staff
Information in formats accessible and relevant to targeted audiences
4.7 Civil Non-Family (Wills and Estates/Consumer Literacy)

**BARRIERS**

- Lack of duty counsel in civil (non-Family) courts
- Lack of legal aid representation
- Lack of awareness of civil procedure rules and court processes among self-represented litigants
- Ineffective and misunderstood judgment enforcement process
- Lack of knowledge of probate process, and rights and responsibilities of self-represented executors
- Civil courts not reflective of Aboriginal culture for dealing with disputes
- Lack of alternative accessible dispute resolution avenues
- Literacy and legalese

**POTENTIAL SOLUTIONS**

Navigators to assist understanding of legal processes and to provide support

Legal education and information that goes beyond the introduction and integration phase

Training community members to provide information about “difficult” issues such as intimate partner violence and child protection

  - Community members know the language, understand cultural norms and are part of the community. They could also be positioned to make referrals where appropriate

Training for volunteer pro bono legal professionals on the refugee process to enable them to represent refugees

Legal information in a range of languages
POTENTIAL SOLUTIONS

Build communities’ capacity to resolve disputes outside the court system

Programs/initiatives that help individuals resolve disputes at an early stage

Accessible mediation services for civil issues

Navigators to help explain court processes, provide support and referral

Pro bono or other assistance with simple basic legal documents
  o For examples wills, Powers of Attorney and personal directives

Education workshops on key legal topics

Information kiosks
  o At court centres and Access NS offices

Online information about civil Supreme Court processes – similar to the NS Family Law website

Summary advice counsel for civil court

Education for executors on the probate process, rights and responsibilities, and appropriate estate expenses

Woman-centred legal information to educate about civil law issues

Financial literacy education
5. The Foundation’s Priorities Going Forward

Based on the consultations and other information gathered we conclude:

(1) **Future Core Grants**: The primary focus of future core grants should continue to be services that address the legal needs of vulnerable Nova Scotians including:

- direct services to individuals – information, triage, navigation, assistance with applications etc.
- services that help prevent legal problems through education and information
- services that provide information and resources to front line staff and intermediaries who assist vulnerable individuals
- services that address one or more priority unmet legal needs:
  - Cost of legal services: options and help for low-middle income individuals in the area of civil non-family
  - Family law information: particularly in the area of child welfare
  - Rural access: access to free legal services and access to service providers
  - Self-represented litigants: information, guides, advice, navigation
  - Pro-bono: rural areas, form filling, prison advocacy
  - Alternative Dispute Resolution: affordable or free options and prevention/early resolution options
  - Cultural competency: education and awareness for legal community and frontline staff to facilitate improved service for and access to justice for racialized and minority communities

(2) **Project funding**: A portion of the annual budget should be allocated to project funding. Priority should be given to funding one-time only projects that address one or more of the priority areas. Consideration should be given to soliciting project applications for specific areas with weight being given to proposals that:

- demonstrate a collaborative approach to the development and delivery of the project by two or more partner organizations
- are self-sustaining and will not rely on Law Foundation funding post-project

Here are some ideas:

- A volunteer court navigator training project
- Information and resources for self-represented/unrepresented litigants/court users
- Alternative dispute resolution initiatives such as volunteer mediator training for neighbour disputes
- Education and training sessions for frontline staff and the legal profession in cultural competency and inclusion
- Initiatives that address the legal needs of racialized, marginalized and isolated communities such as targeted information or training
- Initiatives that address information failure by improving access to information about services and programs for the public and service providers. For example, seed money for a collaborative initiative by key service providers for a central access line
or an event that brings service providers together to share information and resources and explore collaborative solutions and ideas.

This concludes the Law Foundation of Nova Scotia Grants Review and Future Directions Report (March 2017). We wish to thank all of the participants in the process.
Appendix A

Current Key Legal Services

Nova Scotia Legal Aid (NSLA)
- Provides full representation in some family and criminal matters for individuals with low income who meet financial and other criteria
- Each office provides a summary advice program in the areas of family, criminal and poverty law. The summary advice program is available to all regardless of income. Where the issue does not fit within those three areas of law, legal aid staff are encouraged to provide an appropriate referral.
- Provides duty counsel in 12 centres including full-time duty counsel in Halifax and Sydney
- Has a website which provides information.
- Has an Aboriginal Justice Strategy – includes a video on child welfare which they promote in Aboriginal communities, information on their website specifically for an Aboriginal audience, outreach clinics on some Reserves, and a native social worker who works with offices across the province helping clients through the Child Welfare process. NSLA has applied to the Law Foundation of Ontario Access to Justice Fund for funding for resources that will build on these resources.

Dalhousie Legal Aid Service (DLAS)
- Provides full representation in family and criminal matters primarily in HRM. Individuals must go through the NSLA application process
- Provides information and assistant to individuals and training for community agencies outside HRM where resources permit
- Provides community advice clinics in various locations in HRM (for example, the MicMac Friendship Centre and Bryony House), a tenants’ information line, legal information workshops, and assistance to those dealing with income assistance and other appeals.
- Is a member of Partners for Legal Education which provides legal information workshops for newcomers (other partners are Immigrant Settlement Association of Nova Scotia (ISANS), NSLA, LISNS, the Nova Scotia Barristers’ Society (NSBS), the Pro Bono Students Association and Absolute Interpretation)
- Has been approached by the Native Council to work in partnership with them to address the needs of bi-racial youth (Aboriginal and Black) around such issues as justice, school and mental health.
The Halifax Refugee Clinic
- Provides assistance with applications before the Refugee Board including representation before the Board and the Appeal Board
- Sometimes provides assistance with deportation cases
- Provides advocacy for refugees seeking assistance with claiming other rights and will, in some cases, assist immigrants on referral/request from ISANS

The Legal Information Society of Nova Scotia (LISNS)
- Provides a toll free legal information line, lawyer referral service, mediator referral service, website, publications, and dial-a-law audio legal information
- Has initiatives, in partnership with other agencies, to assist seniors in the Preston areas obtain a will, a pilot Small Claims Court navigator program in Bridgewater, and a pro bono family law initiative for parents with a child at the IWK Children’s Hospital in partnership with the hospital and McInnes Cooper.

Association des jurists d’expression française la Nouvelle-Écosse (AJEFNE)
- Provides a bilingual toll free legal information service which includes a drop-in centre, publications and a lawyer referral service

Family Law website – nsfamilylaw.ca
- This Nova Scotia Department of Justice website provides information on a wide range of family law information including online programs such as the Parent Education Program and access to divorce forms online.

Courts website – www.courtsns.ca
- Provides information about courts, self-represented litigants and forms

Mi’kmaw Legal Support Network
- Provides information and support to Aboriginal clients who are in trouble with the criminal law
- Offers a court-worker program for criminal court

Government Departments
- Most government departments provide legal information and many provide access to forms.

Other sources
- There are many community agencies providing legal information, referral, support services and websites. They are too numerous to list here but their target audiences range from victims to offenders, from youth to seniors, from persons with disabilities to immigrants and refugees, and from support in institutions to support in the community.

LISNS has a more complete list of services entitled Free Legal Help in Nova Scotia, available online at www.legalinfo.org
Appendix B

Vulnerable Populations

Women

- Women comprise approximately 52% of the Nova Scotia population
- They make up the majority of parents who head a single parent family
  
  \(2011\) Census Statistics Canada – information from the 2016 Census will not available until 2017
- 61 per cent of employees earning minimum wage are women.
- More than 50 per cent of individuals accessing food banks in Nova Scotia are women
  
  \((The\ HungerCount, November\ 2016 – Food\ Banks\ Canada)\)
- Traditionally, because of child-raising commitments and limited opportunities, women on average they earn less than men, have less opportunity for advancement and have less financial provision for retirement. In 2011, over 20 per cent of women aged 65 and over were living on low income compared to 14.5 per cent of men \(Women\ in\ Nova\ Scotia,\ Seniors\ (65+)\ Fact\ Sheet – Nova\ Scotia\ Advisory\ Council\ on\ the\ Status\ of\ Women\)
- Although intimate partner violence happens to men as well as women and in same sex as well as heterosexual relationships, women are most likely to be a victim
  
  - For example, in 2014 of the 2,404 incidents of intimate partner violence reported to police, 76 per cent of victims were women. Most often the offence involved physical assault (72.7 per cent)
  - In 2010, 682 sexual assaults were reported to police in Nova Scotia. About 84 per cent of the victims were women
  - Rates of charges and convictions for sexual offences are considerably lower than for other offences (for example, in 2007 only 22 per cent of reported sexual offences in HRM resulted in a charge being laid compared to 49 per cent of other violent offences \(Avalon\ Sexual\ Assault\ Centre\ website\ statistics)\)
- Statistics collected by Stats Canada using the Unified Crime Reporting Survey (UCR2 – an incident-based police-reported crime data collected annually) and the General Social Survey (GSS - a survey that collects self-reported victimization data from Canadians every five years) underline the low level of reports to the police compared to incidents
  
  - The GSS 2009 indicates that 88% or close to 9 in 10 sexual assaults were not reported to police \(Sexual\ Assault\ Fact\ Sheet,\ the\ Nova\ Scotia\ Advisory\ Council\ on\ the\ Status\ of\ Women, December\ 2011\)

Indigenous peoples

- The 2011 Census indicates that there were 33,850 aboriginal people living in Nova Scotia (3.7% of the population). Just under 9,000 live on reserve lands.
- 4,620 speak Mi’kmaw and, of those, 2,770 (59.9%) reported that it was the most common language used in their home.
- The Residential School system continues to have an impact on communities – for example, addictions, mental health issues, and parenting skills.
- A study released in June 2013 by the Canadian Centre for Policy Alternatives and Save the Children Canada indicated that 40 per cent of Indigenous children in Canada live in poverty. The study is based on 2006 Stats Canada census information. The same study indicates that 51 per cent of children on reserve live in poverty.
- 5.5 per cent of individuals using a food bank in Nova Scotia were Aboriginal persons (The HungerCount, November 2016 – Food Banks Canada).
- As a percentage of overall population they are overrepresented in the prison population:
  - Between 2005 and 2010, the Indigenous federal inmate population grew by 50 per cent compared to the overall offender growth rate of 10 per cent.
  - First Nations, Inuit and Métis inmates now represent over 25 per cent of the in-custody population despite comprising just 4.3 per cent of the Canadian population.
  - Indigenous women are the fastest growing sub-population in federal custody. They comprise 37 per cent of all women serving a sentence of over two years. (The Report from the Office of the Correctional Investigator – tabled March 2016)
  - In provincial prisons/ facilities, Indigenous youth make up 12 per cent of the population and adults 7 per cent while overall they make up 2-4 per cent of the general population (NS Department of Justice – 2014/15 figures).
  - The rate of self-reported violent victimization among Aboriginal women was almost three times higher than reports from non-Aboriginal women (GSS Survey, 2009). About one third of the reports from Aboriginal women relate to sexual assaults. The majority of violent incidents committed against Aboriginal women were not reported to police.

African Nova Scotians

- The 2011 Statistic Canada National Household Survey found that:
  - There were 20,790 African Nova Scotians. 80.7 per cent were born in the province. 77.2 per cent are Canadians of three or more generations. 10 per cent of African Nova Scotians are New Canadians.
  - They represent 44 per cent of the racially visible population in Nova Scotia (the racially visible population makes up 2.3 per cent per cent of the general population) – (Office of African Nova Scotian Affairs website).
  - 34.8 per cent of African Nova Scotians had low income compared to 16.5 per cent for the rest of Nova Scotia.
  - In 2011 the unemployment rate among African Nova Scotians was 14.5 per cent compared to other Nova Scotians (9.9 per cent). The average income for a male was $29,837 compared the average income for other Nova Scotian men of $42,545. For females it was $24,929 compared to a general average of $29,460.
- The Black inmate population is on the increase. In 2013 they represented 9.5 per cent of federal inmates, an increase of 80 per cent since 2003/04. They account for less than three per cent of the total Canadian population. (Statistics from the Report from the Office of the Correctional Investigator – tabled March 2016)
In the provincial prison system, Black youth make up 16 per cent of the population and adults make up 14 per cent. They make up between 2-4 per cent of the overall Nova Scotia population.

(NS Department of Justice – 2014/15 figures)

Immigrants and Refugees

There are people from many countries living in Nova Scotia and the number has increased over the past few years due to wars and other conflicts in the Middle East and elsewhere.

- Refugee landings also increased. There were 1,079 landings from January – June 2016 compared to 365 for all 2015. Since December more than 1,000 Syrian refugees have come to Nova Scotia (News release, September 2016, Office of Immigration Nova Scotia)
- In the five year period from 2008 -2012 Nova Scotia welcomed, on average, 200 refugees each year (2013 Nova Scotia Immigration Fact Sheet)
  - Refugees arrive under four different categories: government assisted, privately sponsored, asylum seekers and refugee dependents. During 2008-2012, 79 per cent of all refugees to Nova Scotia were government-assisted refugees.
  - 32.2 per cent reported having ability in English and 2.8 per cent ability in French
  - 92.3 per cent settled in the Halifax region (government assisted refugees are settled by Citizenship and Immigration Canada in cities where there are agencies that can provide settlement and integration support).
- The most commonly spoken language, after English and French, is Arabic (5,960 with 2,490 (41.8%) reporting that it is the most common language spoken in their home). The second most common language is German and the third is Chinese. Dutch, Spanish, Farsi, and Tagalog (Filipino) are also common.
- While most immigrants settle in HRM others have settled in communities across the province
- 3.5 per cent of the individuals accessing food banks in Nova Scotia were immigrants or refugees (The HungerCount, November 2016 – Food Banks Canada).

Marginalized communities

Marginalized communities, for example, persons with physical or mental disabilities, mental health issues, no stable housing options, and/or criminal records are vulnerable populations that may face a range of access to justice barriers. The Canadian Marginalization Index, developed by McMaster University, identifies four dimensions of marginalization: residential instability, material deprivation, ethnic concentration, and dependency.

- Feed Nova Scotia suggests that to maintain a basic standard of living a single person needs an annual income of $18,000 and a family of four, $36,000. There are many seniors, persons on disability income, persons on income assistance, employees and families who fall well below those targets
- Feed Nova Scotia reports that in 2015:
  - 15.5% of food banks users were on disability income
- 55.5 per cent of food bank users were on income assistance
- 68.9 per cent of food bank users were tenants in private rental accommodation
- Children comprised almost one-third of the people assisted by food banks. 10.6 per cent of those children were aged five years old or younger
- Almost 10 per cent of individuals using food banks were or had recently been in paid employment
  - Stigma attached to mental illnesses are a barrier not only to diagnosis and treatment but also to acceptance in the community

**Seniors**

In Canada, Nova Scotia has the highest proportion of seniors (16.6 per cent - *Statistics Canada, 2012*) as a proportion of its population.

- In 2011 there were 143,825 persons aged 65 or older living in private households (i.e. not in care). 39,965 lived alone.
- It is estimated that 4-10 per cent of seniors experience abuse after the age of 65. Older women and sponsored immigrant seniors are particularly vulnerable to elder abuse including financial abuse. This could be due to increased financial dependency, social isolation, cultural norms, familial status, or disability (*Elections Canada, Research Note – Canadian Seniors: A Demographic Profile, 2012*). Seniors are also a target for scams.
- Almost 6 per cent of individuals assisted by Nova Scotia food banks were seniors aged 65+ (*The HungerCount, November 2016 – Canadian Association of Food Banks*)

**Children and Youth**

Children and youth aged between 0-14 make up 14 per cent of the Nova Scotia population (133,600) – (*Statistics Canada, 2016*).

- Forty per cent of poor children in Nova Scotia live in a household with at least one parent in full-time full year employment (*Centre for Policy Alternatives*)
- 16.3 per cent of children under 17 lived in low income households in 2012 (*Statistics Canada, 2014*)
- The 2009 GSS indicated that the rate of sexual assault against women in the age group 15-24 is almost double the rate for women aged 25-34 and more than 3.5 times the rate for women aged 35 to 54.
- Surveys of college and university students in Canada and the US indicate approximately one-quarter of female students have experienced sexual assault or attempted sexual assault, and in 90 per cent of these incidents the offender was known to the woman. (*Statistics and information from Issue Brief: Sexual Violence Against Women in Canada: Benoit C., Shumka L., Phillips R., Kennedy M.C., Belle-Isle L., December 2015*)
- It is estimated that 10-20 per cent of Canadian youth are affected by mental illness or disorder. Suicide accounts for 24 per cent of all deaths among 15-24 year olds (*Canadian Mental Health Association*)
Appendix C

Summary of Potential Solutions for Addressing Unmet Legal Needs

THE LEGAL SYSTEM GENERALLY

- Better coordinated (and possibly integrated) pro bono activities to facilitate improved promotion to and access for the public and potential volunteers
- Providing hands-on legal assistance that goes beyond summary advice
- Navigators to help people through various systems
- A central place that organizations and the public could access to locate available services and resources
- Opportunities for information sharing and collaboration
- Community workers (such as the position funded by the Law Foundation in Antigonish)
- Where duplication is identified as a potential issue encouraging service providers to get together to seek a solution
- Providing free legal advice, legal education and legal information at an early stage
- Encouraging and supporting initiatives that facilitate alternate dispute resolutions as avenues for individuals to resolve legal disputes
- Compulsory training and ongoing opportunities for cultural competency and inclusion training for the legal profession.
- Encouraging and placing more emphasis on learning opportunities for other professionals and front-line staff around laws that impact their clients
- Supporting and planning for a more diverse legal/justice community that reflects the society in which we live
- First voice experiences that can help educate service providers about the lived experience of individuals dealing with legal issues (the NSBS - Talk Justice initiative is an example)
- Opportunities for service providers and communities to provide input to policy makers
- Supporting community outreach or legal workers particularly in rural communities
- Using new technology to develop resources and programs to meet the needs of specific audiences
- Providing services in the community (such as satellite clinics)

SELF-REPRESENTED LITIGANTS/ JUSTICE USERS

- Navigators in courts to help self-reps navigate the process
- Addressing literacy issues
- Services that provide timely and appropriate referrals and help
- Mini legal education workshops/programs (perhaps in partnership with libraries) for the public and not-for-profit staff so that they could be better informed about a legal issue or legal process
- Summary advice counsel in civil (non-family) court
FAMILY LAW
- Navigators in family courts who can help self-reps understand the process, access the correct forms, and get appropriate referrals
- Education/information sessions to address specific family law topics
- More audience-specific information and services
- Exploring and piloting alternatives to the formal court process to maximize opportunities for early resolution and solution

CRIMINAL LAW
- Navigators or other supports for self-represented accused in criminal court
- Increasing opportunities for cultural competency training and awareness for the legal profession and frontline staff
- Increasing diversity in legal community and those working in the justice system
- Supporting programs that assist individuals with applications for record suspensions
- A prison advocacy program to address a gap in legal services for inmates
- More information and education about healthy relationships and consent
- Researching and examining the system’s response to sexualized violence and the court experiences of victim-witnesses with a view to improving the response
- Exploring alternative workable ways to address domestic violence

POVERTY LAW
- Community outreach workers in rural communities
- Phone and personal services
- Education workshops for intermediaries and front-line staff
- Information for youth in formats they access

IMMIGRATION/REFUGEE LAW
- Navigators to assist understanding of legal processes and to provide support
- Legal education and information that goes beyond the introduction and integration phase
- Training community members to provide information about “difficult” issues such as intimate partner violence and child protection
- Training for volunteer pro bono legal professionals on the refugee process to enable them to represent refugees
- Legal information in a range of languages

CIVIL NON-FAMILY (Wills and Estates/Consumer Literacy)
- Build communities’ capacity to resolve disputes outside the court system
- Programs/initiatives that help individuals resolve disputes at an early stage
- Accessible mediation services on civil issues
- Navigators to help explain the process, provide support and referral
• Pro bono or other assistance with simple basic legal documents
• Education workshops on key legal topics
• Information kiosks - at court centres and Access NS offices
• Online information about civil Supreme Court processes – similar to the NS Family Law website
• Summary advice counsel for civil court
• Education for executors on process, rights and responsibilities, and appropriate estate expenses
• Woman-centred legal information to educate about civil law issues
• Financial literacy education
Appendix D

List of organizations that participated in consultations

Meetings

- The Nova Scotia Barristers’ Society
- Nova Scotia Legal Aid (Halifax and Bridgewater)
- Courts Administration, Nova Scotia Department of Justice (Halifax and Bridgewater)
- The Executive Office of the Nova Scotia Judiciary
- Dalhousie Legal Aid (including lawyers from the Mi’kmaw and African Nova Scotian communities)
- The Legal Information Society of Nova Scotia
- The Nova Scotia Advisory Council on the Status of Women
- Antigonish Women’s Resource Centre (including a Legal Aid lawyer, Guysborough Adult Learning Association, Immigrant Support Program, Antigonish/Guysborough Black Development Association, a community activist)
- Specialty Courts Oversight Committee (Cape Breton)
- The Elizabeth Fry Society (Cape Breton)
- Duty Counsel, Nova Scotia Supreme Court, (Family Division)
- The Nova Scotia Department of Seniors
- reachAbility
- The Halifax Refugee Clinic
- Leave Out Violence

Survey completed

- Coverdale Courtwork Services
- Elizabeth Fry (Cape Breton)
- EPIC Society
- King’s County Seniors’ Safety Program
- Mainline Needle Exchange
- Stepping Stone
Why The Legal Industry Must Embrace Diversity, Technology, and Collaboration

Mark A. Cohen, CONTRIBUTOR

I write about changes in the global legal marketplace. Opinions expressed by Forbes Contributors are their own.

It's time the legal industry pays more than lip service to embracing diversity, technology, and collaboration with other professionals. We live in a diverse society; an interconnected, interdependent world; and a period when the rule of law, the lynchpin of democracies, is under siege domestically and globally. A commitment to diversity; technology to promote access to affordable legal services; and lawyer collaboration with other professionals is crucial to the profession's ability to defend and uphold the rule of law as well as to deliver legal services more efficiently, effectively, and to a wider audience.

Why Diversity Matters—Especially Now

Lawyers serve two clients: those that retain them and society. This is not a conflict; it is the essence of what it means to be a lawyer. Lawyers pledge to preserve the rule of law; to uphold the Constitution; and to practice in an ethical manner. Incoming ABA Bar President Hilarie Bass, put it succinctly: 'Our democracy functions best when there are lawyers prepared to protect it.' This begs the question: how can a non-diverse legal profession instill confidence in and protect the diverse population it serves?

Diversity is a cultural commitment, not a numbers game. It is often confused with affirmative action which, though related, is policy driven—a means to the end of promoting diversity. Diversity is a cultural tenet, a commitment to inclusion, tolerance, equality, and respect. It is at the core of the way a group defines itself and emblematic of the values by which it defines itself and promotes. And while it is laudable to create diverse law school classes and to hire candidates from different backgrounds, ethnicities, genders, and sexual preferences, it is equally important that, once they are offered admission, diverse candidates are afforded an equal opportunity to succeed. In the legal context, diversity requires an
ongoing societal/organizational resolve to identify high-potential diverse candidates; to provide them with mentorship; to encourage and enable them to acquire a sound understanding of the client’s business, objectives, and risk tolerance; provide them client interaction; and meaningful periodic review intended to drive the individual’s success within and outside the organization. Mentorship takes time and commitment—from mentor and mentee. That is largely lacking in the legal industry, especially among large law firms.

The industry must commit to diversity not only because it is morally right but also because it is a pragmatic imperative. Diversity is good for business and a salve for society at a time when racial, national origin, religious, and sexual differences are polarized by the noxious political climate. A diverse legal ecosystem—law schools, firms, service providers, consumers—is particularly important when, as now, our democracy is under assault; access to justice is denied for a majority of the citizenry; equal justice is a myth; and the rule of law is under siege. An element of law’s diversity must be its inclusion not only of diverse lawyers but also those that collaborate with them—technologists, process/project managers, entrepreneurs, educators, buyers and sellers.