



NOVA SCOTIA  
BARRISTERS' SOCIETY

# 2018 ANNUAL REPORT



President Julia Cornish QC presented Bruce Wildsmith QC (centre) with the 2017 Distinguished Service Award during the NSBS Recognition Reception on November 17. Chief Paul J. Prosper (at left) provided remarks on behalf of the Assembly of Nova Scotia Mi'kmaq Chiefs.

“Bruce is incredibly deserving of this recognition,” said Chief Prosper. “Bruce’s efforts in championing our Treaty and Aboriginal rights have resulted in a clearer understanding of these rights, not only for the Mi’kmaq, but for all Indigenous Nations in Canada.” *Photo by Mike Dembeck*

## **VISIT THE SOCIETY’S WEBSITE FOR ANNUAL REPORT 2018**

To promote environmental and fiscal responsibility, the Society has produced this short summary as a snapshot of the past year. Our complete Annual Report 2018 is available on the website. For detailed reports from President Julia Cornish QC, Executive Director Tilly Pillay QC, Committees and Society staff, please visit [nsbs.org/annual-reports](https://nsbs.org/annual-reports).

# TRANSFORMING REGULATION

## ENHANCING ETHICAL INFRASTRUCTURE FOR LEGAL PRACTICE

Legal services regulation in Nova Scotia has made the leap from concept into reality.

After several years of intense research, planning and consultation, the Society's new model of regulation reached a major milestone on November 17, 2017: Council approved regulatory amendments that shifted the traditional regulatory focus from individual lawyers to law firms, where appropriate.

The new regulations came into force on January 2, 2018. All new law firms, including sole practitioners, are now required to register with the Society before delivering legal services to the public. This means we're engaging with new practices right from the start, to ensure they understand their regulatory obligations and know they can turn to us for guidance, tools and support.

Core to the new framework is the requirement that all firms have effective management systems for ethical legal practice in place. The Society is prescribing ten key elements for an ethical infrastructure – everything from file management to improving diversity, inclusion and equality – but not how these elements will be uniquely reflected at a particular firm.

We'll begin rolling out an online self-assessment process later this year, asking firms to reflect on these elements and how they might improve upon client service and minimize risk. Wherever they find areas for improvement, the Society will provide support, education and resources in addressing those gaps.

## NSBS REGULATORY OBJECTIVES

1. Protect those who use legal services.
2. Promote the rule of law and the public interest in the justice system.
3. Promote access to legal services and the justice system.
4. Establish required standards for professional responsibility and competence in the delivery of legal services.
5. Promote diversity, inclusion, substantive equality and freedom from discrimination in the delivery of legal services in the justice system.
6. Regulate in a manner that is proactive, principled and proportionate.

– *In effect since March 2016; learn more at [nsbs.org/nsbs-regulatory-objectives](https://nsbs.org/nsbs-regulatory-objectives)*

# TRANSFORMING REGULATION

## MANAGEMENT SYSTEMS FOR ETHICAL LEGAL PRACTICE

Law firms are required to have the following management system elements in place to ensure an effective and ethical infrastructure:

1. Maintaining appropriate file and records management systems;
2. Communicating in an effective, timely and civil manner;
3. Ensuring confidentiality;
4. Avoiding conflicts of interest;
5. Developing competent practices;
6. Ensuring effective management of the legal entity and staff;
7. Charging appropriate fees and disbursements;
8. Sustaining effective and respectful relationships with clients, colleagues, courts, regulators and the community;
9. Working to improve diversity, inclusion and substantive equality; and
10. Working to improve the administration of justice and access to legal services

Law firms, including sole practitioners, are now required to self-assess their management systems on a triennial basis. NSBS will soon launch a helpful workbook, and a growing online portal houses practice tools and resources to support law firms in improving their management systems. Learn more at [nsbs.org/management-systems-ethical-legal-practice-mselp](https://nsbs.org/management-systems-ethical-legal-practice-mselp).

## LEGAL SERVICES SUPPORT

This Legal Services Support approach is infusing all areas of NSBS operations, as we regulate in a manner that is proactive, principled and proportionate. Internal restructuring and the hiring of new skill sets has set the foundation for a new way of supporting lawyers as they do their best to serve the public.

In the professional responsibility aspect of our work, more restorative approaches to addressing expressions of concern about a lawyer are already resulting in earlier resolution and greater satisfaction from both parties. Our new Trust Assurance Program is more supportive and educational in focus, with all new practices receiving audits in their first year so we can provide guidance early on. To help senior lawyers begin winding down their practices, we'll provide checklists and other resources to assist with the new mandatory succession planning requirement.

Nova Scotia's new model of legal services regulation has broken new ground in Canada and attracted interest from around the world. It's designed to be responsive to a diverse and ever-changing environment and to foster innovation in the delivery of legal services. It's profoundly changing the way the Society operates and interacts. Ultimately, it's a new way of regulating to protect the public in ways that matter most

# PRESIDENT'S REPORT

**This Council year can be summed up in one phrase: transition and transformation.**

In January 2018, the Past Presidents who served under Darrel Pink gathered to recognize his contribution to the Society and the wider legal community. Never one to shy away from innovation or controversy, Darrel built an international reputation in legal ethics as well as modern legal governance in the public interest. Nova Scotia is a leader in the evolution of lawyer regulation; that is part of Darrel's legacy.

After a robust selection process, Council hired Tilly Pillay QC to succeed Darrel. I have had the dual honour of being Darrel's 30th President and Tilly's first. She was serving as President when Council began exploring regulatory reform. The ideals of 'proactive, principled and proportionate' regulation and the concept of management systems for ethical practice are most familiar to her. As Executive Director, Tilly is overseeing implementation of the regulatory regime she helped create.

Turning to transformation, Council has been enhanced by the addition of two more public representatives, for a total of five. Along with lawyers from across the province in a variety of practice areas, our governing body now includes an accountant, a doctor, pharmacist, social worker and retired RCMP officer, all of whom bring unique perspectives to regulation in the public interest.



**JULIA CORNISH QC**  
President 2017-2018

# PRESIDENT'S REPORT

*“We need to ask ourselves whose voices are not in the room. Who are we impacting with our choices?”*

Council's Governance & Nominating Committee is examining the selection process for Council members from the legal community. Manitoba has adopted a model whereby some Council members are appointed rather than elected. The challenge is to determine the model that will produce a Council best able to fulfill the mandate of regulating legal services in the public interest.

As lawyers, we realize the delivery of legal services itself is evolving. Recognizing our access to justice responsibility, should we begin licensing and regulating paralegals, and removing barriers that exist for multidisciplinary practices? As Council explores these questions, we welcome your input.

Equity, diversity and inclusion in the legal profession is a core component of Council's three-year strategic plan. This includes determining Council's response to the Truth and Reconciliation Commission's Calls to Action and learning to apply an equity lens to our decisions. We need to ask ourselves whose voices are not in the room. Who are we impacting with our choices?

In order for lawyers to function as changemakers, we first have to function. While the Society continues its core functions (educating and qualifying would-be lawyers, ensuring ethical practice), it is striving to do so in new ways. The restorative approach now used when the Society receives expressions of concern

# PRESIDENT'S REPORT

about a lawyer appears to be resulting in fewer matters being elevated to the level of “complaints.” Our Fitness to Practise program provides lawyers who have fallen off the path, for reasons such as illness or addiction, with opportunities to address the issues at the source of their practice problems.

As I spoke around the province this past year, I emphasized the Society’s work on the “life cycle of a lawyer”. In seeking admission to the Bar, all lawyers interact with the Society as they start their careers and as of January 1, all new law firms must register with the Society. This is designed to ensure that new firms start out with a strong foundation of skills required to operate successfully, which benefits the lawyers and the public in equal measure.

As lawyers continue in their practices, their firms or legal departments will now be asked to complete a triennial self assessment in 10 areas including communication, confidentiality, record-keeping, conflicts, staffing, equity and access to justice. A pilot project of the assessment for lawyers in the private bar has been completed, and a similar pilot for government and in-house lawyers is in the works.

Finally, all lawyers’ careers must come to an end. Many of us would prefer not to think about this eventuality but a desire to ignore the inevitable is no longer an excuse to avoid succession planning. In May, Council passed a regulation requiring that all private lawyers maintain succession plans to ensure their clients are not unduly impacted when a lawyer leaves practice.

*“While there will always be a **cost to self-regulation**, a principled focus on supporting lawyers in their practices should result in **fewer expensive problems down the line.**”*

# PRESIDENT'S REPORT



Tilly Pillay QC, President Julia Cornish QC and Darrel Pink  
*Photo by Mike Dembeck*

The problem of one lawyer is the problem of all lawyers. A successful claim against one of our colleagues impacts all our insurance rates. When a receiver is appointed after a lawyer dies without a succession plan, all lawyers are at risk of higher fees. While there will always be a cost to self-regulation, a principled focus on supporting lawyers in their practices should result in fewer expensive problems down the line. At the end of the day, we're all in this together.

As I end my term as President, I want to thank the dedicated volunteers on Council, on all the Committees and those who take time to help out on an ad hoc basis. Equally, I want to thank the Society's hardworking staff. It has been my honour to work with so many who share my belief in the value of our profession.

A handwritten signature in black ink that reads "Julia Cornish". The signature is written in a cursive, flowing style.

**Julia Cornish QC**  
**President**

# HIGHLIGHTS



On October 27, the 27th F.B. Wickwire Memorial Lecture focused on ethics and professionalism in the practice of Aboriginal and Indigenous Law. The panellists, left to right: Law professors Jeffery Hewitt, University of Windsor; Pooja Parmar, University of Victoria; and Naomi Metallic, Schulich School of Law; and Geoffrey Bickert QC, Assistant Deputy Attorney General, Justice Canada. The annual public event is co-presented by NSBS and the Schulich School of Law. *Photo by Daniel Abriel, Dalhousie University.*

## NSBS MEMBERSHIP DATA

### AS AT APRIL 30

	2016	2017	2018
Practising Lawyers	1,946	1,989	2025
Non-practising, Life & Retired	926	928	941

### FOR THE 12 MONTHS ENDING APRIL 30

## CREDENTIALING

	2016	2017	2018
Admitted	91	120	131
Commenced articles	78	79	78
Transferred to Nova Scotia	29	49	53
Changed from Practising to NP	91	104	112
Changed from NP to Practising	61	55	60
Lawyers who retired	46	48	41
Lawyers who resigned	34	34	45
New firm registrations	-	-	14

## PROFESSIONAL RESPONSIBILITY

Intake calls received	522	460	469
Written complaints received	130	145	111
Written complaint files closed			
• Staff resolution and dismissal	123	98	65
• CIC disposition	7	34	13
Average time to process complaints assessed for dismissal	91 days	46 days	92 days
Ethics inquiries from members	88	76	83
Matters referred to hearing			
• Carried over	1	1	0
• New matters	0	0	1
Referrals to Fitness to Practise Program	3	1	0

# 2016 - 2019 STRATEGIC FRAMEWORK

<b>PURPOSE</b>	The purpose of the Society is to uphold and protect the public interest in the practice of law.						
<b>VISION</b>	The Society is an independent, trusted and respected regulator of the legal profession. Acting in the public interest, we provide leadership, value and support to a competent, ethical, inclusive and engaged legal profession. We enable the legal profession to enhance access to justice and uphold the rule of law.						
<b>STRATEGIC DIRECTIONS</b>	<b>EXCELLENCE IN REGULATION AND GOVERNANCE</b>			<b>ADMINISTRATION OF JUSTICE</b>			
<b>PRIORITIES</b>	Transform regulation in the public interest	Enhance access to legal services and the justice system		Promote equity, diversity and inclusion in the legal profession			
<b>STRATEGIC INITIATIVES</b>	Implement and adjust as necessary legal services regulation	Promote increased access to legal services through regulatory initiatives and monitor their impact		Engage with justice sector players and equity-seeking communities to enhance access to legal services and the justice system			
	Implement the Regulatory Objectives	Promote substantive equality and freedom from discrimination in the delivery of legal services and the justice system		Respond to the Calls to Action of the Truth and Reconciliation Commission			
	Implement a framework for enterprise risk management			Advance cultural competence and inclusiveness in the legal profession and the justice system			
<b>FOUNDATIONAL ACTIVITY</b>	<ul style="list-style-type: none"> <li>Evaluating outcomes across all areas of activity and consistently measuring performance</li> <li>Supporting national regulatory initiatives and adopting best practices</li> <li>Promoting and maintaining effective relationships through sincere, substantive and sustained engagement and adopting restorative approaches</li> <li>Focusing on the future and making sound, informed financial decisions</li> </ul>						
<b>VALUES</b>	<b>Commitment to Excellence</b>	<b>Fairness</b>	<b>Respect</b>	<b>Integrity</b>	<b>Visionary Leadership</b>	<b>Diversity</b>	<b>Accountability</b>

The Society advances this Strategic Framework through the work of a motivated and professional staff and members of Council and committees. The Society follows an Annual Activity Plan, which establishes the specific outcomes, initiatives and timeline to achieve the Society's strategic priorities and initiatives. The Society strives to work collaboratively and in partnership with justice system participants.

# STRATEGIC FRAMEWORK PROGRESS

## EXCELLENCE IN REGULATION AND GOVERNANCE

- New regulations under the *Legal Profession Act* came into force on January 2, 2018, advancing our new model of legal services regulation; they reflect the changing nature of legal services provision and shift the regulatory focus from individual lawyers to law firms, where appropriate.
- Core to the new model is the requirement that all firms have a management system for ethical legal practice in place, and self-assess their system every three years. The self-assessment process will start rolling out later this year, with updated technology and online resources.
- Consultations continue with government and in-house lawyers to develop a self-assessment tool and program customized to meet their unique ethical and practice considerations.
- All new law firms, including sole practitioners, are now required to register with NSBS before delivering legal services to the public (14 since Jan. 2). This allows us to engage with new practices from the start and offer practice advice, ethical guidance, resources and other support.
- We are implementing our Legal Services Support approach throughout the organization, as a new way of proactively regulating the profession in the public interest.
- Restorative approaches now used when we receive expressions of concern about a lawyer are resulting in earlier resolution, with fewer matters elevated to the level of 'complaints' and both parties more satisfied at the end of the experience.
- Trust account oversight moved to the Finance and Administration group. The new Trust Assurance Program is risk-based and more proactive with an educational focus in handling violations and non-compliance with trust account regulations. All new practices must be approved to operate a trust account, and will receive educational audits within their first year of operation to provide additional support and guidance.
- Council adopted a regulatory amendment in May requiring all firms and practising lawyers to maintain written succession plans, following extensive work by the Succession Planning Working Group. Practice guidelines and resources are in development.
- Darrel Pink retired in January after 27 years as Executive Director. Following a nationwide search, Tilly Pillay QC was appointed and brings extensive NSBS experience, having served as President in 2014-15 and in other leadership roles.
- Significant internal restructuring laid the groundwork for the new regulatory model, with hiring of new skill sets: Officer of Early Resolution, Trust Assurance Auditor, and in the areas of human resources, governance support and legal services support; recruitment continues for General Counsel and a paralegal.
- Technology improvements:
  1. We are streamlining and improving processes with a major revamp of the membership database and member web portal; a new case management system to improve tracking of PR matters; online complaint resolution tools to permit electronic filing; OnBoard management software for Council and Committees.
  2. The NSBS Guide for New Lawyers joined a growing collection of online manuals, guidelines, checklists and other resources.
  3. We continue to improve and simplify annual reporting requirements for practising lawyers.

# STRATEGIC FRAMEWORK PROGRESS

## IMPROVING THE ADMINISTRATION OF JUSTICE

- Council welcomed two new Public Representatives for a total of five on September 15, expanding the public voice in regulating legal services in the public interest.
- Angela Simmonds joined NSBS on June 11 as Equity and Access Manager, bringing considerable skills and experience to our strategic priorities relating to equity, diversity, inclusion and access.
- The Society continues to promote awareness of its new Equity and Diversity Standard, added in 2017 to the Professional Standards in Law Office Management.
- Through our new model of legal services regulation, we require all lawyers and firms to reflect regularly on how they are “committed to improving diversity, inclusion and substantive equality, and ensuring freedom from discrimination in the delivery of legal services and the justice system”.
- The Society launched new Guidelines for Lawyers: Supporting Trans\* and Gender-variant Clients, Colleagues and Employees on July 20 during Pride Week activities, which included a keynote by Judge Kael McKenzie of Manitoba, Canada’s first self-identified transgender judge.
- The online Equity Portal continues to grow, assisting lawyers and firms in building cultural competence and equity strategies with training videos, toolkits, model policies, a reference library and more. [nsbs.libguides.com/equityportal](https://nsbs.libguides.com/equityportal)
- The Society supports new Mi’kmaq clerks through the Ku’TawTinu: Shared Articling Initiative with the Schulich School of Law.
- Community engagement and stakeholder collaboration drive the Society’s access to justice work through local and national A2J networks such as the National Action Committee on Access to Justice in Civil and Family Matters.
- The Society’s #TalkJustice approach to public engagement was adopted for broader application by the province’s Access to Justice Coordinating Committee and continues to evolve.



TRC RESPONSE: The Society continues its ongoing cultural competence education, as part of our response to the Truth and Reconciliation Commission’s Calls to Action. Council and staff participated in a KAIROS Blanket Exercise on September 15, led by Mi’kmaq Elders Debbie Eisan and Billy Lewis, and a TRC workshop on March 23 led by lawyer and professor Patti Doyle-Bedwell. We provide cultural competence training to articulated clerks in the Skills Course and now require all practising lawyers to include it in their annual CPD plans.

# NSBS FINANCIAL STATEMENTS

## Summarized Statement of Financial Position for the year ending April 30

	2018		2018	
	Unrestricted General Fund	Lawyers' Fund for Client Compensation	Total 2018	Total 2017
<b>Assets</b>				
<b>Current assets:</b>				
Cash and cash equivalents	\$ 646,980	\$ 68,083	\$ 715,063	\$ 1,082,791
Accounts receivable	80,310	2,637	82,947	91,455
Prepaid expenses	191,270	24,255	215,525	229,122
Due from LFCC	279,614	-	279,614	-
	1,196,174	94,975	1,293,149	1,403,368
Investments	1,864,701	1,676,326	3,541,027	2,452,727
Investment in CLIA surplus	-	357,000	357,000	357,000
Loan receivable	45,786	-	45,786	-
Capital assets and intangibles	153,785	-	153,785	155,337
	\$ 3,262,446	\$ 2,128,301	\$ 5,390,747	\$ 4,368,432
<b>Liabilities and Reserves</b>				
<b>Current liabilities:</b>				
Payable and accruals	\$ 226,555	\$ -	\$ 226,555	\$ 298,685
Employee entitlements	115,697	-	115,697	27,380
Due to General Fund	-	279,614	279,614	-
Due to LIANS	102,970	-	102,970	192,845
Unearned miscellaneous revenue	8,551	-	8,551	54,471
Deferred membership fees	854,553	-	854,553	703,085
	1,308,326	279,614	1,587,940	1,276,466
<b>Reserves:</b>				
Unrestricted reserves	1,800,336	-	1,800,336	789,366
Reserves to fund capital assets	153,784	-	153,784	155,337
	1,954,120	-	1,954,120	944,703
Lawyers' Fund for Client Compensation	-	1,848,687	1,848,687	2,147,263
	1,954,120	1,848,687	3,802,807	3,091,966
	\$ 3,262,446	\$ 2,128,301	\$ 5,390,747	\$ 4,368,432

## Summarized Statement of Revenues and Expenditures for the year ended April 30

	2018		2018	
	Unrestricted General Fund	Lawyers' Fund for Client Compensation	Total 2018	Total 2017
<b>Revenues:</b>				
Fees	\$ 5,421,372	\$ -	\$ 5,421,372	\$ 4,265,169
Education and Credentials	528,687	-	528,687	522,900
Library	160,033	-	160,033	142,265
Other	169,889	-	169,889	166,066
Investment income	24,096	3,357	27,453	260,326
	6,304,077	3,357	6,307,434	5,356,726
<b>Expenditures:</b>				
Administrative	1,551,507	14,074	1,565,581	1,321,746
Amortization	65,320	-	65,320	78,135
Communications and publications	233,557	-	233,557	188,027
Education and Credentials	734,800	-	734,800	712,050
Equity and Access program	210,216	-	210,216	242,478
Governance and programs	611,229	-	611,229	651,616
Library	537,162	-	537,162	568,527
Professional Responsibility	1,487,609	-	1,487,609	1,998,738
Premiums and claims	-	151,119	151,119	109,044
	5,431,400	165,193	5,596,593	5,870,361
Excess (deficiency) before other income and expenses	872,677	(161,836)	710,841	(513,635)
Discipline repayments	-	-	-	21,679
Excess (deficiency) of revenue over expenditures	\$ 872,677	\$ (161,836)	\$ 710,841	\$ (491,956)

The oversight and financial stewardship of our financial resources is as important to the Society as any other initiative or program, we take care in our fiscal responsibility to ensure the sustainability of our organization. We continue to work to achieve financial results that focus on our Strategic Priorities and Regulatory Objectives.

\* A complete set of Audited Financial Statements, as reported on by the Society's external auditors, Grant Thornton, are available on our website at [nsbs.org/financial-statements](https://nsbs.org/financial-statements). The statements above are summarized versions of the complete statements found in the Audited Financial Statements.

# COUNCIL MEMBERS



**Julia Cornish QC**  
President



**Frank E. DeMont QC**  
First Vice-President



**John Bodurtha**  
Second Vice-President



**Tilly Pillay QC**  
Executive Director



**Jillian MacNeil**  
Cape Breton District



**Shane Russell**  
Cape Breton District



**Ellen R. Burke**  
Central District



**Kelly R. Mittelstadt**  
Central District



**Sheree L. Conlon QC**  
Halifax District



**Deanna Frappier**  
Halifax District



**Shelley Hounsell-Gray**  
Halifax District



**Loretta Manning QC**  
Halifax District

# COUNCIL MEMBERS



**David Hirtle**  
Southwestern District



**Andrew S. Nickerson QC**  
Southwestern District



**Brian Awad**  
Member At Large



**Cheryl A. Canning QC**  
Member At Large



**Tuma Young**  
Member At Large



**Mike Baker**  
Public Representative



**Natalie Borden**  
Public Representative



**Peggy Gates-Hammond,**  
CPA, CA, CFP, TEP  
Public Representative



**Michelle Ward**  
Public Representative



**Dr. Rod Wilson**  
Public Representative



NOVA SCOTIA  
BARRISTERS' SOCIETY

**FOLLOW THE SOCIETY'S UPDATES THROUGHOUT THE YEAR**



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Instagram at [talkjustice\\_ns](https://talkjustice_ns)



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