



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM

From: Angela Simmonds, Manager, Equity & Access

To: Council

Date: April 17, 2020

Subject: February 2019 – February 2020 Equity & Access Office Monitoring Report

For: Approval

Introduction

Information

ABOUT THE EQUITY & ACCESS OFFICE

The Equity & Access Office program is determined by a series of strategic considerations that seek to ensure three things:

1. That the Office's work is bound by the **scope** set out by:
 - Legislation

The 2010 amendment of the *Legal Profession Act* include a requirement that the Society regularly engage with Nova Scotia's diverse communities. Section 4(2)(d)(i) of the Act states that "*In pursuing its purpose, the Society shall seek to improve the administration of justice in the Province by regularly consulting with organizations and communities in the Province having an interest in the Society's purpose, including, but not limited to, organizations and communities reflecting the economic, ethnic, racial, sexual and linguistic diversity of the Province.*"

- The Strategic Plan

The Society began a new strategic plan this year. Consequently, much of the Office's focus this year has been on ensuring that our current strategic initiatives are aligned with this new plan.

2. That **operational priorities** are set out through:

- Embedding an equity lens throughout the work of Society staff, Council, and volunteers

As the Society continues to embed an "equity lens" in all aspects of its decision making (see below), the Office is seeing internal needs play an important role in defining its priorities..

- The Truth and Reconciliation Commission Working Group

The Equity & Access Office supports the work of the Truth and Reconciliation Commission Working Group. This group is just starting its work, and is described in more detail below.

- Community feedback

Throughout our work Community voices have influenced the office's priorities. Our focus is to support other aspects of the Society's work that seek to deepen understanding of, and relationship with, Nova Scotia's equity seeking communities.

- Equity Lens Toolkit

Advancing diversity and fostering inclusion in the profession has been and continues to be a priority. In our minds, ensuring that firm policies and practices are equitable help us achieve our purpose to uphold and protect the public interest in the practice of law. As lawyers better understand issues and barriers affecting equity-seeking groups, they will be able to have more effective interaction with clients, colleagues and the community, increasing quality of service for all.

- The Racial Equity and Gender Equity Committees

The Equity & Access Office supports the work of the Racial Equity and Gender Equity Committees. The work plans of the Committees are described in detail below.

MAJOR ACTIVITIES

Last year, the Equity & Access Office worked to achieve the following goals:

- Equity in operations and governance;
- Diversity and cultural competence of the Nova Scotia bar;
- Access to legal services by Nova Scotia's equity seeking populations

This year saw a renewed focus on developing internal capabilities at the Society and aligning the Equity & Access Office programme with new strategic goals and objectives. This has seen us focussing on the following priorities over the past year:

- Embedding equity and diversity in operations and governance
- Starting to build cultural competence capacity in staff and members
- Engaging communities to improve access to legal services

The remainder of this section describes these goals in detail and lists the activities completed to achieve them. .

Embedding equity and diversity in operations and governance: these activities seek to ensure matters of equity and diversity are given due consideration in all Society activities.

- *Responding to the calls to action of the Truth and Reconciliation Commission*

This year has seen the Equity and Access office support Council and the TRC working group to set its goals, terms of reference and work plan. Over the past year the Equity and Access Office supported the TRC working group in several areas:

- Supported community and engagement for the Mi'kma'ki Provincial Network Seminar in Truro. This presentation by the TRC working group, the Equity and Access Office and the President was to create a space for questions, share concerns and provide information.
- Organized a workshop for council, membership and staff in Treaty Education facilitated by Ashley R. Julian with the Speakers Bureau on October 24, 2019 at Hotel Halifax.
- Supported community facilitation discussion on November 20, 2019 in Membertou on Mi'kmaw Law and Mi'kmaw children. The Child Welfare Symposium discussed the infrastructure and support needs for the community.
- Organized an educational workshop for council, membership and staff at the Society on Indigenous History and the Impact on Residential Schools. Donna Morris, a community elder, advocate and teacher, facilitated this session on February 28, 2020.

Building capacity for members and staff: These activities involve supporting lawyers in their efforts to meet obligations related to Regulatory Objective #5, to promote diversity and inclusivity in the profession.

- *Equity Lens Toolkit*

This year the focus of the equity office was to create a toolkit to provide membership with the framework and resources to support members in creating a diverse, inclusive and equitable workplace. The Equity and Access office has provided training with the equity toolkit to staff, council and the membership. The office has responded to requests to provide training on the toolkit and unconscious bias from committees, firms, government departments, the public and the law school.

- *Cultural Competence and Awareness*

The Equity & Access Office provides a range of education offerings on request to firms, government departments, the public and the law school. The Office also collaborates with the Education & Credentials department to provide a full day of cultural competence instruction for all sections of the skills course.

- *Pride events*

This year's pride reception was held in July at Hotel Halifax. The keynote speaker was Tuma Young. The Society, also partnered with SOGIC (Sexual Orientation & Gender Identity Community), in the delivery of a workshop to provide education on policies in place for trans people incarcerated in Nova Scotia's provincial correctional services facilities. There was a discussion about how the policies are being implemented and whether they address the issues faced by incarcerated trans people and consider the issues they do or do not address.

Additionally, the Equity & Access Office worked with CBA-NS to organize a delegation of lawyers to march in the 2019 Pride Parade in Halifax.

- *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. The 2019 event featured Dr. Shariff who led an impactful discussion on taking action to address harassment and discrimination in the workplace. The discussion highlighted new and creative ways in which Canadian employers and organizations are addressing sexual harassment and discrimination.

- *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 Committees support Council in the governance of the Society and advancing Council’s strategic framework by monitoring and advising on programs and policies that address issues of discrimination in the legal profession and in the administration of justice. They develop policy and program options that promote equity and diversity in the legal profession in Nova Scotia and assist the Equity & Access Officer in raising awareness of equity and access issues.

The Gender Equity Committee supports Council in the governance of the Society by monitoring, supporting and providing advice about matters that address issues of gender, gender identity and sexuality in the legal profession. This past year, Gender Equity Committee activities included:

- A renewal of the Society’s 2008 postcard campaign, “It Will Be Our Little Secret” A survey on Sexual Harassment was distributed to the membership;
- Organizing and hosting *Strength in Leadership: Remembering Dara Gordon QC*;
- Providing advice and recommendations to Council within the committee’s mandate

The Racial Equity Committee similarly monitors and provides 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. This past year’s Racial Equity Committee activities included:

- A June networking event to honor the racialized and Indigenous clerks being called to the Bar;
- Awarding the Race and the Law Paper Prize;
- Continuing its equity audit of the judicial guidelines and appointments processes
- Continuing to work with Community Organizations to Address Legal Gaps Affecting Racialized and Indigenous Communities;
- Supporting the Internationally Trained Lawyers Initiative as needed;
- Advising Council and committees regarding cultural competence education and the development of cultural competence standards within the committee’s mandate
- Continued monitoring of the Preston land claims process;
- Reviewing and amending as necessary the Racial Equity Committee’s terms of reference;
- Engaging with Council and committees with respect to diversity in Council’s composition.

- *Race and the Law Paper 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 2019 prize was won by Julianne Stevenson, for "*Challenging Whiteness: The Role for Law Societies and Critical Race Theory in Addressing Unrepresentative Juries in Canada.*"

- *The Ku'TawTinu: Shared Articling Initiative*

The number of law graduates each year continues to climb, but the number of Mi'kmaq and Indigenous lawyers practicing within the province of Nova Scotia is low. Through the *Ku'TawTinu: Shared Articling Initiative* we hope to create meaningful articling opportunities that will prepare Mi'kmaq and Indigenous articling clerks for successful legal careers in this Province.

The goal of the *Ku'TawTinu: Shared Articling Initiative* is to create articling positions that will provide a well-rounded articling experience and will focus on contemporary Mi'kmaq and Aboriginal legal issues. The purpose of the initiative is to provide Mi'kmaq and Aboriginal law students an opportunity to substantively engage in the process and practice of Aboriginal Law specifically related to legal research and litigation within Aboriginal communities.

There was one articling clerk in this initiative in 2019.

- *Shared Articling Initiative for African Nova Scotians*

The number of African Nova Scotians graduating from law school each year continues to climb, but the number of opportunities do not. The Equity and Access Office continues to collaborate with the Indigenous Black and Mi'kmaq Initiative to increase the number of articulated clerks in this province. The goal is that this will be a dedicated position and an opportunity that had not existed before.

- *The Articling Credit at the Nova Scotia Court of Appeal*

The Equity & Access Office continues to collaborate with the Department of Justice and the Indigenous Black and Mi'kmaq Initiative to increase the number of articulated clerks and articling positions within this province. The goal of the Court of Appeal Articling Clerk position is to provide an opportunity for a graduate of the IB&M Initiative to clerk at the Court of Appeal. This is a dedicated position and an opportunity that had not existed before.

Benjamin Johnson, was the articling clerk in 2019.

- *Legal Services Regulation and the Management System for Ethical Legal Practice*

The Equity & Access Office supports the Society's Legal Services Regulation initiatives by:

- Contributing to the creation and maintenance of the comprehensive list of resources to guide lawyers and legal entities through the MSELP process.

- Advising lawyers and law firms as they seek to enhance their practice infrastructure in relation to MSELP Element 9 (Working to improve diversity, inclusion and substantive equality) and Element 10 (Working to improve the administration of justice and access to legal services).
- Advising legal services support staff on matters of equity as they arise.

In 2019, Equity & Access Office staff and Legal Services Support staff made a series of community visits throughout Nova Scotia to engage with local firms on equity matters, MSELP elements 9 and 10, and to provide direct support. In addition, Legal Services Support staff will work with the Equity office to build an understanding of the unique practice demands and structures of lawyers working as legal advisors to equity seeking communities. The intent is to determine how, as a Society, we can provide meaningful practice support to lawyers in these unique practice roles.

- *Model Code review*

This is a National initiative being undertaken by the Law Society Equity Network (LSEN) and chaired by the Equity and Access Manager. 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).

Proposed revisions to 6.3 of the Code relating to Discrimination and Harassment were sent to the Federation. The Federation is now consulting with the profession on these proposed changes.

In 2019, the Equity & Access Manager provided the Society’s *Guidelines to Support Trans* and Gender-Variant Clients, Colleagues, and Employees* to the initiative. A sub-committee has been struck to review the code for gender-inclusive language.

- *Substantive legal education in underserved areas*

As Equity & Access Office staff carry out their work in the community, they regularly encounter 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 Society has shifted 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 – plays an important role in fulfilling this objective. To this end, the Equity & Access Office works with community and system partners to facilitate the provision of substantive law education: In 2019, the Office hosted a workshop , where lawyers participated in a Restorative circle with the Nova Scotia Home for Colored Children Restorative Inquiry. This workshop reflected on how institutionalized abuse and the legacy of systemic racism has harmed the African Nova Scotian communities. The Office also donated the society classroom for prison law advocacy training done by the Elizabeth Fry Society of Mainland Nova Scotia.

The Equity & Access Office moderated the Alternatives to Traditional Law Panel and supported community members to attend the Canadian Association Black Lawyers Conference, “*Raising the Bar:*

Commitment to Excellence, Leadership and Community” where there were awards being presented to African Nova Scotian members to recognize their contributions to our legal profession.

In early 2020, the Equity & Access Office collaborated with CBA-NS Sexual Harassment Working Group. With this partnership, the office will be able to co-facilitate the Bystander Intervention Training to people working within the legal profession.

- *Engaging Youth and community*

The Equity & Access Office continues to be committed to addressing gaps and improving access to legal services by engaging youth. The lack of opportunities was identified at community engagements and Council in the community events. Youth do not have the role models they need to encourage them to pursue higher learning and alternate careers. The Equity and Access Office has participated in education sessions and information sharing at local junior high and high schools. The office has collaborated with the Co-op program for high school students who had a particular interest in becoming a lawyer. Two students from Auburn High School and C.P Allen worked with me over the course of 3 days. An initiative started by the Nova Scotia Judiciary invited the office to “Take your Kids to Work,” a project that enables grade 9 students to spend the day at Supreme Court. There was information provided about the IB&M initiative, law school, the journey to law school and different job opportunities within the legal profession.

The Equity and Access Office collaborated with the Canadian Association of Black Lawyers (CABL), Indigenous Black & Mi’kmaq Initiative (IB&M), Mi’kmaq Friendship Centre, and the Schulich School of Law to provide an education and information session on systemic discrimination within the legal profession for students.

EXTERNAL LIAISON WORK

- *External Committees*

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

- **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. The Equity Office often receives calls from clerks and membership about this clinic and how to become involved.
- **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 Community (SOGIC):** The Equity & Access Office and SOGIC jointly host the annual Pride reception (see above).
- **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.
- **Equity Community of Practice:** Equity & Access Office staff participate in periodic meetings among a group of people in similar positions in institutions throughout Halifax. These meetings are an opportunity to learn and share resources as we undertake similar work in our own workplaces.
- **Pathways to Justice:** Equity and Access Office staff meet with the Be the Peace Institute and the Nova Scotia Association of Black Social Workers to explore how women who have experienced gendered violence define “justice” in particular circumstances and how to use restorative and trauma-informed lenses, with gender-based intersections.
- **Metro Interagency Committee on Family Violence:** a provincial group which focus on the polices on family violence within the justice system is accountable to the public in areas such as; accountability, advocacy, experience with justice and victim support. This year the committee completed final report, “Restorative Conversations- Expanding the Dialogue” that Be the Peace Institute was part of along with Bridges, Mi’kmaw Legal Support Network, the Advisory Council on the Status of Women, and born out of conversations at the Metro Interagency Restorative Conversations Committee on Family Violence.
- **The Criminal Justice Transformation Group (CGTJ):** 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.

MOVING FORWARD

As the Society begins its new strategic plan, the Equity & Access Office has made demonstrable progress in its efforts to advance the Society’s priority of promoting equity, diversity and inclusion in the legal profession. The Office’s 2018 monitoring report noted that successfully fulfilling the strategic framework “will require all staff and Council to regularly consider how their work impacts and is impacted by a legacy of structural inequality in Canadian society.” 2019 has seen a concerted effort to begin embedding such considerations within all aspects of the Society’s decision-making, with the establishment of the TRC Working Group and the development of the equity lens toolkit.

2020 will see these efforts continue, which will challenge the Office, with its staff of two, to devote increasing time to internal initiatives while also ensuring its relationships with external partners and communities remain strong. Equity & Access Office staff are excited to take on this challenge as we develop more tools for use by society staff, Council, committees and lawyers; build and broaden relationships and connections to address the gaps in supporting some equity seeking communities and support Council in fulfilling its new strategic plan.