

Nova Scotia Barristers' Society – Review on Systemic Discrimination

Terms of Reference

May 10, 2021

Introduction

Systemic discrimination is often unacknowledged and unrecognized particularly by those who are not disadvantaged by its existence. A focus on individual actions, although justified, does not address the systemic or structural nature of discrimination in all its forms. Despite past efforts, including legislative measures, individual racist and discriminatory acts have continued to occur. But we diminish their significance and impact if we view them exclusively as individual acts rather than as part of a larger system of interlocking dynamics. It's the existence of these dynamics that negatively impact members of the Black and Indigenous communities, women, peoples of Colour (BIPOC), the disabled, the LBGTQ2 communities, and religious minority communities. The key element in systemic discrimination is not the intent but the effect of keeping certain groups in a subordinate position.

Establishment of the External Review

1. The Nova Scotia Barristers' Society has acknowledged the existence of systemic discrimination within the Society and established an independent External Review to identify and address any areas of systemic discrimination that exist within the Society.
2. Douglas G. Ruck Q.C. will conduct the independent review.

Purpose of the review

The purpose of an external review on systemic discrimination is to make recommendations to the Society as to how it can change its legislation, regulations, policies, procedures, practices, and governance to address areas where systemic discrimination may exist within the Society.

Scope of the Review

The review will consist of:

- **Regulatory review:** Review of the Society's legislation, regulation, policies, procedures, and practices in the regulatory aspects of its mandate (including credentialing, professional responsibility, trust/audits), identify where systemic discrimination may exist. The Reviewer will recommend how the Society can change these areas or improve them to eliminate systemic discrimination.
- **Operational review:** Review of the Society's operational policies, procedures, and practices to identify where systemic discrimination may exist within our operations. The Reviewer will recommend how the Society can change these areas or improve them to eliminate systemic discrimination.
- **Interim and final reports:** As this will be a detailed and lengthy process the Reviewer will provide an interim and final report which will include the Reviewer's findings and recommendations of improvements and changes to the Society's policies and processes. The reports will also provide short-and long-term goals, solutions and changes required to eliminate or mitigate systemic discrimination in the Society and encourage an organizational culture free of bias.

The Reviewer will:

- Review the Society's enabling legislation and regulations.
- Review all policies, procedures, and practices in the regulatory aspects of the Society's mandate.
- Review the Society's operational policies, procedures, and practices.
- Review the Society's policies, procedures, and practices in relation to human resources including those concerning hiring, retention and exit interviews.

- Review all training taken by human resources, staff, and Council members in relation to equity, diversity, and inclusion as well as current and past Respectful Workplace Policies.
- Examine the numerical representation and distribution of members of racialized and marginalized persons working in the Society's offices.
- Review the organizational culture including patterns of organizational behaviour involving communication, informal social relations, decision-making behaviour, norms, and response to concerns about discrimination.
- Review Council's role in the governance, management, and coordination of all phases of the operation, administration, finances, organization, supervision, and maintenance of all activities of the Society.
- Review the terms of reference of all committees of Council.
- Review the investigation and hearing process including all documents and materials issued by the Society in relation to investigations and hearings.
- Conduct interviews with present staff and Council members, including committee chairs, as well as selected former staff.
- Review the scope and effectiveness of any initiatives implemented or contemplated to address systemic discrimination within the society.
- Consider best practices for preventative, remedial and/or support strategies in response to systemic discrimination.
- Review the Society's relationship with groups and organizations representing racialized and marginalized members of the broader community.
- Review the Society's relationship with groups and organizations representing racialized and marginalized members of the Bar.
- Review any policy statements regarding or related to systemic discrimination.
- Identify barriers within the Society that may prevent the Society from identifying and addressing systemic discrimination.

- Provide a means by which members of the Bar may provide the Reviewer with their opinions and views respecting systematic discrimination and the Society.
- Provide a means by which members of the public may provide the Reviewer with their opinions and views respecting systemic discrimination and the Society.
- Provide an interim and final report to the Society containing findings and recommendations arising from the review. (Dates to be determined once the review is underway)
- Prior to the completion of the review and where appropriate, make concrete proposals for immediate action. Such proposals may be included in the interim report.
- any other relevant and necessary matters.

Privacy and Confidentiality

Respecting the privacy and confidentiality of those who may participate in the review as well as the potential sensitivity of information collected during this review, the following measures will be taken:

- a. The review will take all reasonable steps to collect information in a manner that protects the security of the person interviewed and respects their confidentiality.
- b. The review will not disclose personal information of affected individuals without their informed consent.
- c. All data and information collected or created by the review is confidential, and privacy of individuals will be ensured through anonymous reporting so that nothing in any referenced comments, including content, vocabulary and/or style of writing, could serve to identify the individual.

Budget

The total budget for the expanded project will be in the range of \$55,000 to \$65,000 including disbursements.

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