



The Law Society of
Upper Canada | Barreau
du Haut-Canada

December 4, 2015
9:00 a.m.

CONVOCATION MATERIAL

PUBLIC COPY

*THIS PAGE CONTAINS
IN CAMERA MATERIAL*

CONVOCATION AGENDA December 4, 2015

Convocation Room – 9:00 a.m.

Treasurer's Remarks

Law Foundation of Ontario Report (*P. Schabas*) [\[Tab 1\]](#)

Consent Agenda - Motion [\[Tab 2\]](#)

- **Confirmation of Draft Minutes of Convocation** – [October 29, 2015](#)
- **Motions** – [Appointments](#)
- **Report of the Director of Professional Development and Competence** - [Deemed Call Candidates](#)

Address by Dr. Patricia Hughes, Executive Director, Law Commission of Ontario and Nye Thomas, Executive Director Designate, Law Commission of Ontario [\[Tab 3\]](#)

Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones Report (*J. Falconer*) [\[Tab 4\]](#)

- Human Rights Monitoring Group Interventions

For Information

- Equity Advisory Group Update
- Equity Legal Education and Rule of Law Series Calendar 2015/2016

Professional Regulation Committee Report (*M. Mercer*) [\[Tab 5\]](#)

- Proposed Summary Revocation Authority for Indefinitely Suspended Licenses

For Information:

- Professional Regulation Division Quarterly Report

Chief Executive Officer's Report (*R. Lapper*) [\[Tab 6\]](#)

REPORTS FOR INFORMATION ONLY

Audit and Finance Committee Report (*C. Bredt*) [\[Tab 7\]](#)

- Law Society Third Quarter Financial Statements
- Investment Compliance Reports
- Other Committee Work

Paralegal Standing Committee Report [\[Tab 8\]](#)

- *Paralegal Guideline* Amendments: Transferring Practitioner
- *Provincial Offences Act* Rule Development

Priority Planning Committee Report (*C. Hartman*) [\[Tab 9\]](#)

- Convocation's Priority Planning – Details of the Law Society's Strategic Plan 2015-2019

Professional Development and Competence Report [\[Tab 10\]](#)

- Appointment to Certified Specialist Board

Report from The Action Group on Access to Justice (TAG) (*H. Goldblatt*) [\[Tab 11\]](#)

Compliance-Based Entity Regulation Task Force Report (*R. Earnshaw*) [\[Tab 12\]](#)

- Report on Proposed Consultations

Lunch – Benchers' Dining Room

THE LAW FOUNDATION OF ONTARIO
2014 ANNUAL REPORT

—JUST
THE
FACTS

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OUR VISION THE LAW FOUNDATION OF ONTARIO IS A CATALYST FOR ADVANCING THE IDEAL OF A TRULY ACCESSIBLE JUSTICE SYSTEM. THE LFO IS RECOGNIZED AS A LEADER, WORKING THROUGH CREATIVE PARTNERSHIPS TO SUSTAIN AND STRENGTHEN THE DEVELOPMENT OF A JUST SOCIETY.

OUR MISSION THE LAW FOUNDATION OF ONTARIO IS COMMITTED TO THE ADVANCEMENT OF LEGAL KNOWLEDGE, EXCELLENCE WITHIN THE LEGAL PROFESSION AND COMMUNITY PARTICIPATION IN THE LEGAL SYSTEM. THE LFO FUNDS PROGRAMS AND INITIATIVES THAT PROMOTE AND ENHANCE ACCESS TO JUSTICE FOR ALL ONTARIANS.

MESSAGE FROM THE CHAIR

—THE LAW FOUNDATION
OF ONTARIO PURSUES
EXCELLENCE IN ACCESS
TO JUSTICE.

For this, my first message as Chair of The Law Foundation of Ontario (LFO), I am proud to say that access to justice has been a continuing passion for me and one of the reasons I am delighted to lead an organization that sets high standards of excellence in promoting it.

It's my pleasure to briefly share with you our many important achievements over the past year.

Collaboration is key to all our accomplishments.

We worked with the Law Society of Upper Canada to establish The Action Group on Access to Justice (TAG), a community of organizations working together to improve access to justice in Ontario.

In partnership with the province's law schools, we implemented new guidelines to ensure that LFO grants support practical learning opportunities for students and activities that promote access to justice in local communities. One important outcome from this initiative was that LFO funding now largely supports student legal aid clinics that provide direct legal services to the public.

Through grants and other strategic support, the LFO invested in strengthening the capacity of public interest organizations (such as the Ontario Justice Education Network (OJEN), Pro Bono Students Canada (PBSC) and Community Legal Education Ontario (CLEO), to name a

few) that play a critical role in advancing access to justice.

Although many of our grants are directed at long-time partners, we continue to encourage innovative new ideas from first-time applicants for projects that address the needs of Ontario's most vulnerable communities. Among the exciting initiatives we funded in 2014 were:

- An integrated solution to high conflict custody and access cases involving early intervention, judicial case management, and linkages to wrap-around social services.
- The development of a toolkit to address systemic disadvantages experienced by First Nations children on reserve.
- A youth-oriented media program providing accessible education about youth justice issues in Regent Park.

Our success in enhancing access to justice is only possible as a result of our efforts to maximize revenue.

LFO is primarily funded by the interest on lawyers' and paralegals' mixed trust accounts.

Our capacity to support better access to justice for all Ontarians is driven largely by interest rates – which in recent years have remained at historic lows. Now, more than ever, we're focused on negotiating the best possible rates with financial institutions and ensuring accurate payments from all accounts.

Over the years these efforts have yielded significant returns, including two agreements renegotiated last year. In addition, we recovered substantial interest arrears owing to LFO. But we know more needs to be done and we're working with financial institutions to make even greater improvements.

Another key source of revenue for LFO is cy-près awards in class actions.

We created the Access to Justice Fund in 2009 to receive cy-près awards, which are used to fund access to justice initiatives across Canada. By the end of 2014 our first cy-près award of \$14.6 million had been followed by nine more. Additional awards in 2014 generated almost \$8 million.

There are many people who contributed to our achievements in 2014.

On behalf of the other Trustees and staff, I offer my sincere thanks to Mark Sandler who was appointed Trustee in 2006 and led as Chair from 2009 until 2014. His extraordinary vision set LFO on the path to remarkable success in enhancing revenues and ultimately deepening the focus, breadth and national impact of our programs.

One of Mark's particular legacies is the 26 grants worth more than \$3M made by LFO to address the needs of Aboriginal people. In one of his last acts as Chair, Mark presented

LFO's Guthrie Award to Kim Murray, honouring her as an exceptional community leader and advocate for Aboriginal access to justice.

I am also very pleased to recognize the contributions of Carol Hartman, Trustee from 2011 to mid-2014, and to welcome Linda Rothstein and Ross Earnshaw who both recently joined the board.

And finally, I extend my deepest gratitude to our very professional and dedicated staff for a wonderful year of important achievements in improving access to justice for all Ontarians.



Paul B. Schabas
Chair

— \$8M IN
NEW CY-PRÈS
AWARDS
WERE MADE
TO THE LFO'S
ACCESS TO
JUSTICE FUND.

ACCESS TO JUSTICE FUND

— 100+: ACCESS
TO JUSTICE
GRANTS FUNDED
BY THE ATJF
SINCE 2010.

The LFO's Access to Justice Fund (ATJF) receives cy-près awards and directs them to fund essential access to justice initiatives across Canada. Since its launch in 2010 the ATJF has funded more than 100 grants worth a total of over \$14 million. Five new cy-près awards were made to the ATJF in 2014.

ATJF CY-PRÈS AWARDS

Cassano v Toronto Dominion Bank,
2009 CanLII 35732 (ON SC)

Krajewski v TNOW Entertainment Group
(February 2014)

Skopit v BMO Nesbitt Burns Inc (8 November 2010), Essex County CV-10-15239 (ON SC)

Lee Valley Tools v Canada Post Corporation
(15 October 2014),
Toronto 06-CV-320840 CP (ON SC)

Smith Estate v National Money Mart,
2010 CanLII 1334 (ON SC)

Occhiuto v Agropur Cooperative and Natrel Ontario Inc (15 August 2014),
Toronto 05-CV-283533CP (ON SC)

Wein v Rogers Cable Communications Inc,
2011 CanLII 7290 (ON SC)

Lawrence v Atlas Cold Storage Holdings Inc
(4 December 2014),
Toronto 04-CV-263289CP (ON SC)

Markson v MNBA,
2012 CanLII 5891 (ON SC)

Carom v Bre-X Minerals Ltd,
2014 CanLII 2507 (ON SC)

Through the ATJF, the LFO continues to extend its reach and support projects that enhance access to justice across Canada.

GRANTS AUTHORIZED IN 2014 IN ALL PROGRAM AREAS

ACCESS TO JUSTICE FUND GRANTS

Community Legal Information Association of PEI

Answering the Call for Legal Information – The Next Generation	\$50,000
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Connecting Articling Fellowship

Algoma Community Legal Clinic	\$54,121
Community Advocacy & Legal Centre	\$54,121
Keewaytinok Native Legal Services	\$54,121
Metro Toronto Chinese and Southeast Asian Legal Clinic	\$54,121
Rural Legal Services	\$54,121
South Asian Legal Clinic of Ontario	\$54,121

Connecting Communities

Equay-Wuk

Connecting Communities: Increasing our Knowledge, Building our Strength	\$59,470
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Federation of Metro Tenants' Associations

Connecting Communities Tenant Schools: Focus on Rural Communities	\$105,610
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Huron Women's Shelter – Second Stage Housing and Counselling Services

Connecting Communities: Poverty Law through a Mental Health Lens	\$45,150
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Migrant Workers Alliance for Change

Connecting Communities: Building Capacity for Migrant Workers and Service Providers to Access Justice	\$48,400
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Sandgate Women's Shelter of York Region

Connecting Communities: Domestic Violence Legal Training Project	\$29,015
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Total	\$662,371
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REGULAR GRANTS

Association in Defence of the Wrongly Convicted

Program Activities 2015	\$230,000
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Bearskin Lake First Nation

Community Law Renewal	\$100,000
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Black Law Students' Association of Canada

24th Annual National Conference	\$12,000
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Canadian Centre for International Justice

Online Legal Education Platform	\$15,000
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Canadian Civil Liberties Education Trust

Program Activities 2015	\$221,100
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Canadian HIV/AIDS Legal Network

Bridging the Gap: Connecting Workers Serving Women Living with and Affected by HIV	\$15,000
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Canadian Lawyers Abroad

Dare to Dream	\$10,000
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Centre Haïtien des Carrières et des Emplois

Young Newcomers Taking Action for Justice	\$14,900
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Community Information Fairview

Law Student and Paralegal Training	\$11,628
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Community Law School (Sarnia-Lambton) Inc.

Certificate in Community Advocacy Program Updates and Enhancements	\$15,000
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Community Legal Education Ontario

Connecting Communities Secretariat	\$114,000
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Your Legal Rights 2014-2015	\$162,331
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CLEO Centre for Research and Innovation (Yr IV)	\$9,024
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CLEO Centre for Research and Innovation (Yr V)	\$95,000
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Elizabeth Fry Society of Peterborough

Women's Court Diversion Project	\$10,000
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Family Services Ottawa

The Coordinated Case Management Project for High Conflict Custody and Access Cases	\$99,500
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FCJ Refugee Centre

Access to Justice and Support for Refugee Claimants Through the Refugee Determination and Appeal Processes	\$50,000
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First Nations Child and Family Caring Society of Canada

Justice for First Nations Children and Young People is Justice for All	\$91,348
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Humber College Institute of Technology and Advanced Learning, Library

Ontario College Libraries: Quicklaw for Fourteen College Libraries which have Accredited Paralegal Programs	\$100,000
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Kinbrace Community Society

Refugee Hearing Preparation: a Guide for Refugee Claimants in Ontario	\$50,000
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Law Commission of Ontario

Program Activities 2014-2015	\$550,000
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Law in Action Within Schools

Program Activities 2015-2016	\$100,000
Summer Job Program 2015	\$ 15,000

Law School Comprehensive Grants 2015-2016

Lakehead University, Faculty of Law	\$153,000
Osgoode Hall Law School	\$306,000
Queen's University, Faculty of Law	\$254,000

University of Ottawa, Faculty of Law, Civil Law Section (\$33,000 carried forward from Comprehensive Grant 2014–2015)	\$186,000
University of Ottawa, Faculty of Law, Common Law Section	\$306,000
University of Toronto, Faculty of Law	\$254,000
University of Western Ontario, Faculty of Law	\$254,000
University of Windsor, Faculty of Law	\$254,000
Luke's Place Support and Resource Centre for Women and Children	
Technology Research Project	\$5,000
Medico-Legal Society of Toronto	
MLST-PBSC Advocacy Project 2014–2017	\$15,000
Metropolitan Action Committee on Violence Against Women and Children	
Program Activities 2014–2015	\$293,575
Native Law Centre	
Support for Native Law Centre's Mandate	\$20,000
Ontario Justice Education Network	
Program Activities 2014–2015	\$850,000
Creating a PLE Hub for Ontario	\$15,000
Flip your Wig for Justice (Yr II)	\$50,072
Investigating New PLE Ideas for Ontario	\$16,000
Pathways to Potential	
Community Leadership in Justice Fellowship 2014–2015	\$24,652
Planned Lifetime Networks (Waterloo–Wellington–Oxford)	
2015 PLN Future Planning Educational Workshops	\$9,965
Pro Bono Law Ontario	
Program Activities 2015	\$800,000
Pro Bono Students Canada	
Program Activities 2014–2015	\$542,411

Public Interest Articling Fellowship 2015–2016

Amnesty International Canada	\$69,500
Association in Defence of the Wrongly Convicted	\$69,500
Barbra Schlifer Commemorative Clinic	\$69,500
Canadian Centre for International Justice	\$69,500
Canadian Civil Liberties Association	\$69,500
Lake Ontario Waterkeeper	\$69,500
Public Interest Advocacy Centre	\$69,500

Roy & Ria McMurtry Endowment Fund 2014–2015

Queen's University, Faculty of Law	\$5,000
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Regent Park Focus Youth Media Arts Centre

Youth & Law TV Broadcast Project	\$14,500
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South Ottawa Community Legal Services

Connecting Ottawa	\$256,560
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Sudbury Workers' Education and Advocacy Centre

Workers' Educational Outreach Project	\$50,002
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The Law Society of Upper Canada

The Catalyst Project on Access to Justice in Ontario	\$400,000
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The Osgoode Society for Canadian Legal History

Program Activities 2015	\$184,912
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University of Windsor, Faculty of Law

Community Leadership in Justice Fellowship 2014–2015	\$14,384
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York University, Centre for Feminist Research

Envisioning Global LGBT Human Rights: LGBT Asylum in Canada	\$14,926
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Total	\$8,126,290
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—IMPROVING ACCESS
TO JUSTICE BY:

- EDUCATING THE
PUBLIC ABOUT THE LAW
- PROVIDING LEGAL
SERVICES TO
VULNERABLE PEOPLE
- BUILDING THE
CAPACITY OF COMMUNITY
ORGANIZATIONS.

CLASS PROCEEDINGS FUND

— IN CASES APPROVED BY THE CPC, CLASS ACTION PLAINTIFFS RECEIVE AN INDEMNITY AGAINST ADVERSE COSTS AND FUNDING FOR SOME DISBURSEMENTS.

IN RETURN, 10% OF ANY AWARD OR SETTLEMENT IN THESE CASES GOES TO THE CPF.

MESSAGE FROM THE CHAIR OF THE CLASS PROCEEDINGS COMMITTEE

On June 23, 2015 I stepped down from my role as Chair of the Class Proceedings Committee (CPC) after 15 years of service on the CPC, with 10 years as its Chair. It is with a profound sense of accomplishment that I look back over my tenure in this, my final report.

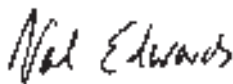
During my time with the CPC I have witnessed the Class Proceedings Fund's (Fund) growth from an unknown part of the class action regime to a significant contributor to access to justice in Ontario.

The Fund has supported numerous public interest cases, such as those involving alleged abuse at residential schools and alleged unpaid overtime, both of which settled in 2014. Many of these cases could not have proceeded without the Fund, which also provided financial support for ground-breaking test cases or those which have established novel principles. Throughout, the CPC has prudently and carefully managed the Fund's finances so that as at the end of December 2014, its balance was a healthy \$19,313,255 – the highest in its history.

2014 was a record year for the Fund. Levies received totalled \$10,350,989. Cost awards made in funded cases were lower in 2014 (perhaps beginning a reversal in the trend towards growing cost awards). And there is a record number of cases in the Fund's current portfolio as at the end of 2014. It is important to note that the results of funding

decisions do not emerge until many years later when the outcome of a funded case is known. The CPC is mindful of this and will continue to rigorously monitor the status of ongoing cases and inform future funding decisions accordingly to ensure the continued sustainability of the Fund.

As Chair of the CPC I have had the pleasure of working with a distinctly talented and dedicated committee. I am grateful for the opportunity to have served alongside this group and am gratified to know that the Fund will continue to thrive with their guidance.



Valerie A. Edwards

Class Proceedings Fund
New Applications Heard and Approved – 2005-2014

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Hearings Held	2	8	3	12	13	9	22	12	13	20
New Applications Approved	1	5	2	9	12	7	15	7	7	11

2014 RESULTS
Statement of Financial Position

	For the period from Jan. 1, 2014 to Dec. 31, 2014	For the period from 1993 to Dec. 31, 2014
Opening balance	\$9,495,618	\$500,000
Total funding awarded	(1,852,595)	(13,860,644)
Funding repaid/cancelled	1,695,592	4,823,603
Administration costs/expenses	(377,585)	(3,186,459)
Interest received	259,986	2,282,862
10% levies received	10,350,989	37,489,883
Cost awards in favour of defendants	(258,750)	(8,735,990)
Balance as at Dec. 31, 2014	19,313,255	19,313,255

As required by O.Reg.771/92, s.13, we report as follows:

1. Number of new applications, by stage in proceeding, at the time of application.

Stage in the Proceeding	Number of New Applications	
	2014	2013
Pre-certification	20	11
Appeal re: Certification	-	-
Discovery	-	1
Determination of Common Issues	-	1
Appeal re: Common Issues	-	-
Post Common Issue Stage	-	-
Total	20	13

2. New applications granted and refused or pending/withdrawn, by stage in the proceeding, at the time of application.

Stage in the Proceeding	Granted	Refused	Deferred/ Pending*/ Stayed, etc.	Total
2013				
Pre-certification	7	2	2	11
Discovery	-	-	-	-
Other (Common Issues)	-	2	-	2
Total	7	4	2	13
2014				
Pre-certification	11	3	6	20
Discovery	-	-	-	-
Other (Common Issues)	-	-	-	-
Total	11	3	6	20

*Carried forward to the next year.

3. In 2014 financial support was awarded for eleven (11) new cases under section 59.3(1) of the Act¹ and further financial support was awarded for nine (9) cases which had previously been approved, as a result of supplementary funding applications under section 59.3(5) of the Act. In 2013 financial support was awarded for seven (7) new cases under section 59.3(1) of the Act and further financial support was awarded for seven (7) cases which had previously been approved, as a result of supplementary funding applications under section 59.3(5) of the Act.

4. Total awards, by disbursement type is \$1,852,595.

Type of Disbursement	Total Amount Awarded 2014
Administrative Expenses	\$269,459
Travel	24,013
Examiners' Charges	28,592
Experts' Fees	1,344,275
Notice to Class	120,000
Other	66,256
Total	\$1,852,595

Under regulation 771/92, this section includes only amounts awarded during 2014. Total amounts paid out by the CPF during 2014 may vary as amounts awarded are reimbursed to applicants on an ongoing basis after funded disbursements have been duly incurred and paid by the applicant.

¹ References are to the *Law Society Act*.

20 THE LAW FOUNDATION OF ONTARIO

5. The total amount of money paid from the CPF to applicants under section 59.3 of the Act: 2014, \$1,329,046; 2013, \$879,756; 2012, \$404,596; 2011, \$1,914,374. At December 31, 2014, the balance of all awards outstanding which had not yet been paid to applicants was \$1,590,585.

6. In 2014, 5 funded proceedings were certified. In 2013, 7 funded proceedings were certified.

7. In 2014, 5 applicants who had received financial support settled their proceedings such that the classes involved in these proceedings would receive or will receive a monetary payment. In 2013, 7 applicants who had received financial support settled their proceedings such that the classes involved in these proceedings would receive or will receive a monetary payment.

8. In 2014, 4 defendants made applications to the CPF for payment of costs awards made in their favour pursuant to section 59.4 of the Act; 6 applications were received in 2013. This results from the indemnification of plaintiffs against cost awards.

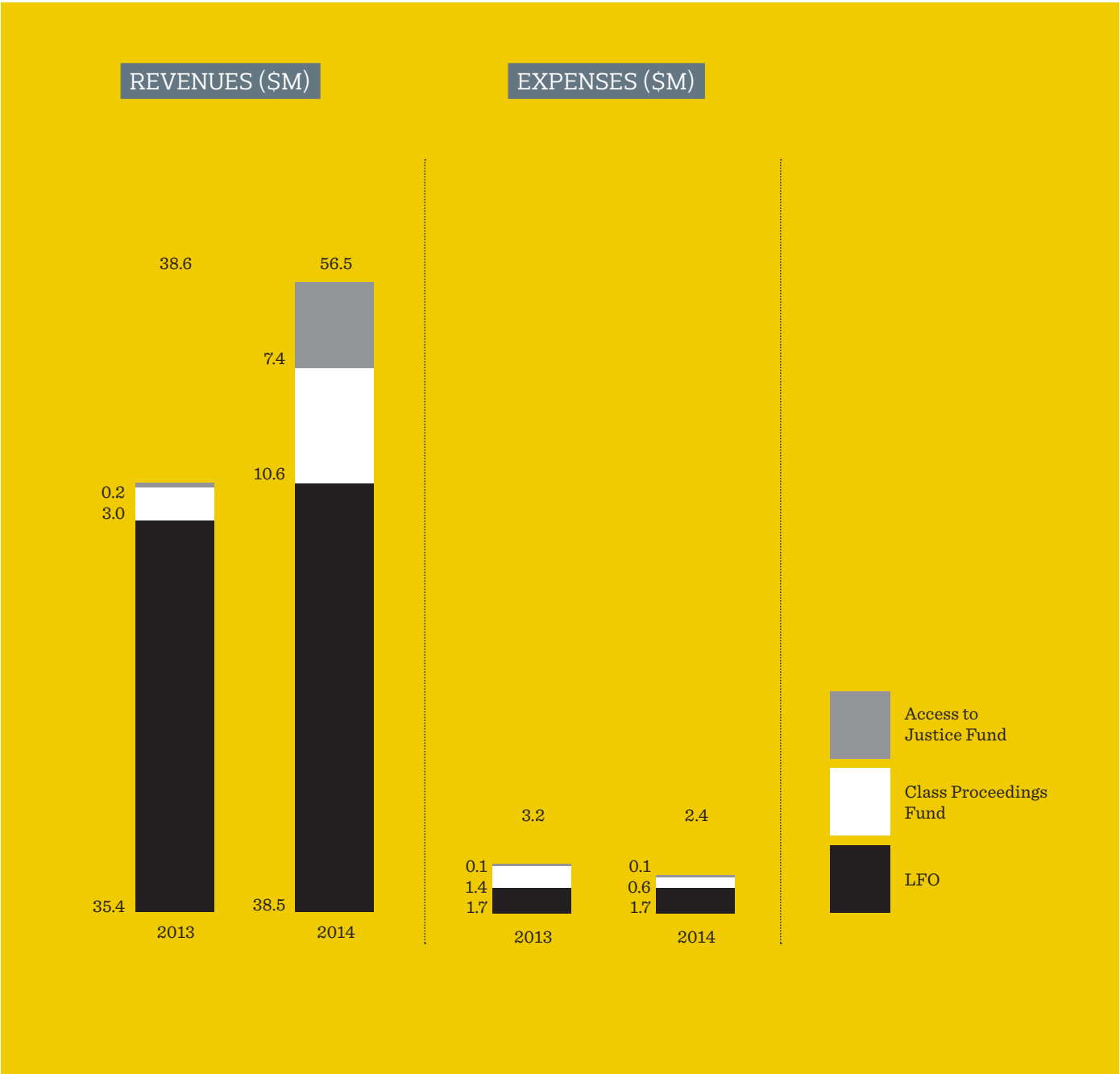
9. In 2014, \$258,750 was paid from the Fund to defendants under section 59.4 of the Act. In 2013, \$977,397 was paid from the Fund to defendants under section 59.4 of the Act. This results from the indemnification of plaintiffs against cost awards.

10. Proceedings for which plaintiff was awarded financial support under section 59.3 of the Act (these included both newly approved cases and previously approved cases for which supplementary funding was awarded).

	Administrative Expenses	Travel Expenses	Examiners' Charges	Experts' Fees	Notice to Class	Other	Total
2014	\$	\$	\$	\$	\$	\$	\$
Product Liability	14,000	5,500	5,500	255,000		22,898	302,898
Pension Funds	-	-	-	90,400	-	16,950	107,350
Residential Schools	25,300	6,700	5,600	147,400	-	-	185,000
Medical Negligence	13,509	1,213	492	5,650	-	1,073	21,937
Environmental	-	-	-	80,000	-	-	80,000
Investment/ Securities	27,500	1,600	-	578,825	60,000	22,934	690,859
Consumer Protection	-	-	-	150,000	60,000	-	210,000
Negligence	6,650	5,000	-	-	-	2,401	14,051
Breach of Contract	178,000	-	-	-	-	-	178,000
Crown Wards	3,000	3,000	-	4,000	-	-	10,000
Charter Rights	1,500	1,000	5,000	10,000	-	-	17,500
Employment	-	-	12,000	23,000	-	-	35,000
All Cases	269,459	24,013	28,592	1,344,275	120,000	66,256	1,852,595
2013							
All Cases	34,300	6,000	15,000	354,454	54,737	-	464,491

—THE CPC HAS
GROWN FROM AN
UNKNOWN PART
OF THE CLASS
ACTION REGIME
TO A SIGNIFICANT
CONTRIBUTOR TO
ACCESS TO JUSTICE
IN ONTARIO.

FINANCIAL HIGHLIGHTS



The 2014 audited financial statements are available online at:
www.lawfoundation.on.ca/who-we-are/annual-reports

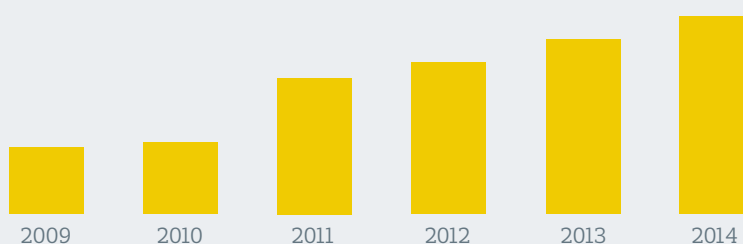
REVENUES

The LFO's main source of revenue is interest earned on Ontario lawyers' and paralegals' mixed trust accounts. These mixed trust accounts hold funds in trust for more than one client. By law, all such interest is paid to the LFO. Revenues were higher in 2014 due

to higher mixed trust account balances and improvements in agreements negotiated by the LFO with financial institutions. However, because prime rate continues to be at historic lows, mixed trust account revenue remains lower than the average for the last 10 years.

Interest Revenues and Rates

Mixed Trust Account Interest (\$M)	13.0	13.8	26.5	29.6	34.2	37.7
Average Prime Interest Rate (%)	2.4	2.6	3.0	3.0	3.0	3.0



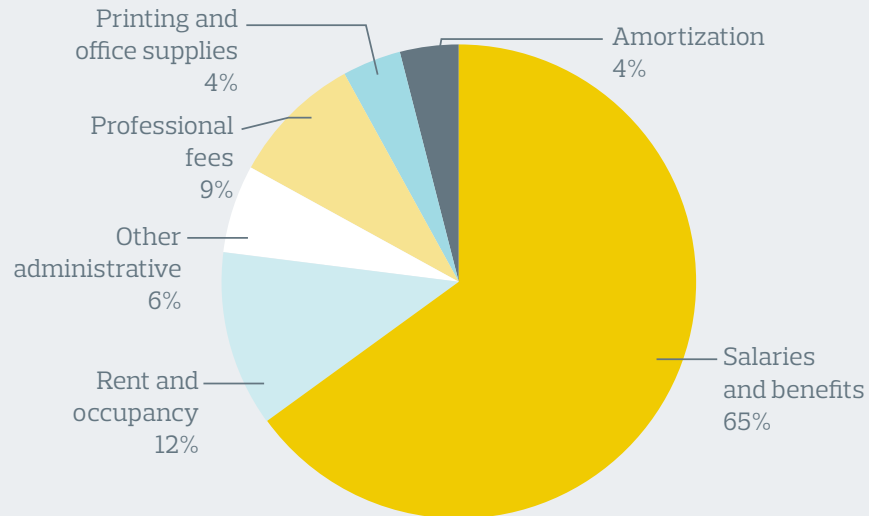
The LFO periodically negotiates rates of return with all financial institutions that are authorized to hold mixed trust accounts for lawyers and paralegals. Some of these agreements are more favourable than others and the LFO continues to seek improvements in all of them. To illustrate the importance of these negotiations, if the bank with the worst terms matched the bank

with the best terms, the additional interest generated could fund 10 more Connecting Articling Fellowships that would provide legal services in their own language to people who do not speak English or French.

EXPENDITURES

LFO continued to manage its expenses prudently in these difficult economic conditions. Operating expenses (excluding CPF operating costs) were the same as 2013 at \$1.8 million. This follows decreases in operating expenses of 8.0% in 2013 and 5.6% in 2012.

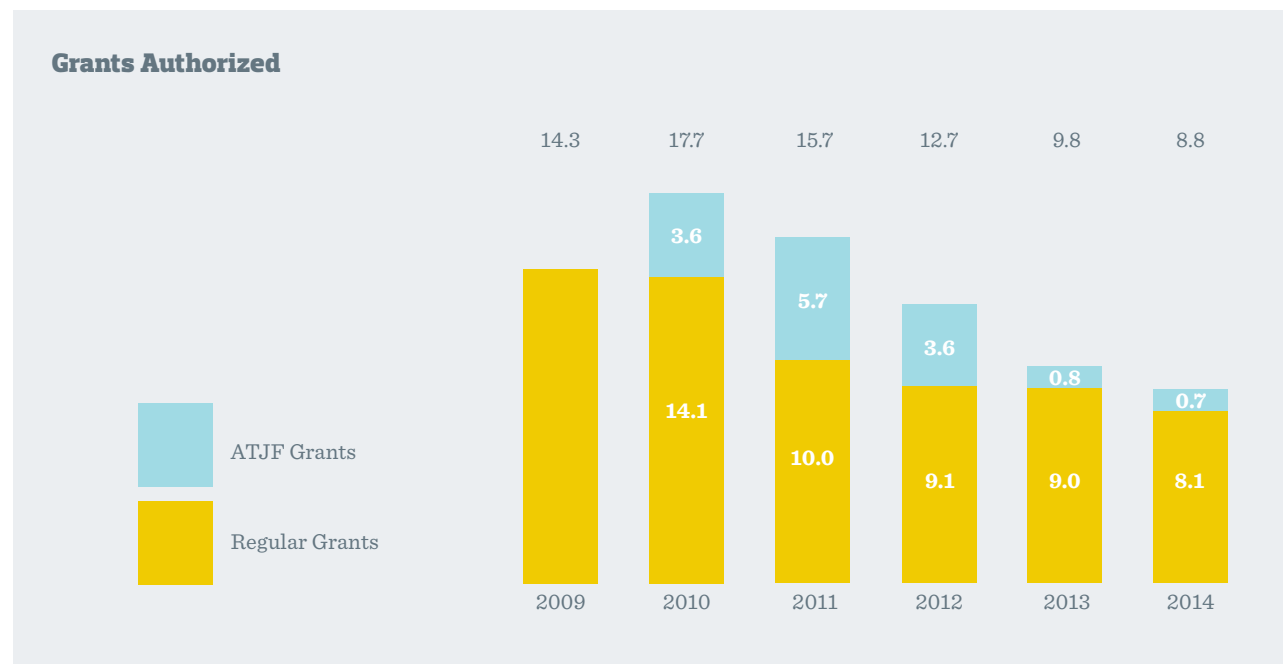
LFO 2014 Operating Expenses



LFO FUNDING TO LAO

Seventy-five per cent of mixed trust account revenue net of operating expenses is paid to Legal Aid Ontario (LAO). The LFO's contribution improved in 2014 but it still represents a small component of LAO's revenues.

With its remaining funds, the LFO awards grants that support improved access to justice and excellence in the legal profession. Total grants authorized in 2014 were slightly lower than in 2013 due to the timing of grant applications and approvals.



THE GUTHRIE AWARD 2014

— 2014
GUTHRIE
AWARD
WINNER:
KIMBERLY
MURRAY.

The Law Foundation of Ontario was pleased to recognize Kimberly Murray with the 2014 Guthrie Award. During two decades of outstanding public service as a lawyer, educator and community leader, Ms. Murray has consistently demonstrated exceptional commitment to improving access to justice for Aboriginal Peoples.

Ms. Murray is a member of the Kahnésatake Mohawk Nation and was the Executive Director of the Truth and Reconciliation Commission of Canada. In that role she worked to ensure survivors of Canada's Indian Residential Schools system are heard and remembered, with the goal of inspiring Aboriginal Peoples and Canadians in a process of reconciliation and renewed relationships based on mutual understanding and respect.

Previously, as Executive Director for Aboriginal Legal Services of Toronto, she appeared before the Ipperwash Inquiry, engaged in community focused advocacy before the Supreme Court of Canada and made an important contribution to the creation of the Gladue Court, a Toronto court which is specially equipped to hear matters involving Aboriginal Peoples. She also litigated a case which led to the Honourable Frank Iacobucci's review of the Ontario Jury System. The review confirmed and provided recommendations to address the lack of representation of Aboriginal Peoples on the Ontario jury rolls.

The Guthrie Award was established in honour of former Law Foundation Trustee and Chair H. Donald Guthrie. It acknowledges outstanding individuals or organizations for their contributions to access to justice and excellence in the legal profession.



GOVERNANCE AND STAFFING

THE LFO BOARD OF TRUSTEES

The LFO is governed by a five-person board of trustees whose members serve voluntarily. Three trustees are appointed by the Law Society of Upper Canada and two by the Attorney General of Ontario. The LFO submits its annual report to the Attorney General for tabling in the Legislative Assembly.



Mark J. Sandler, Chair
(until December 31, 2014)
Partner,
Cooper, Sandler,
Shime & Bergman LLP



Christopher Clifford
Partner,
Bergeron Clifford LLP



Carol L. Hartman
Partner,
Miller Maki LLP
(until August 13, 2014)



Stephen Rhodes
Deputy Minister,
Correctional Services
Ministry of Community
Safety and Correctional
Services



Linda R. Rothstein
Partner,
Paliare Roland Rosenberg
Rothstein LLP
(from August 13, 2014)



Paul B. Schabas, Chair
(from January 1, 2015)
Partner,
Blake, Cassels & Graydon
LLP

THE CLASS PROCEEDINGS COMMITTEE

The CPC has five members, one appointed by each of the LFO and the Attorney General of Ontario, and three appointed jointly.



Valerie A. Edwards,
Chair
Partner,
Torkin Manes LLP



Wendy Earle
Partner,
Borden Ladner Gervais
LLP



Paul J. Evraire, Q.C.
Special Counsel,
Department of Justice



Jasminka Kalajdzic
Professor,
Faculty of Law,
University of Windsor



Kim Twohig
General Counsel
(Retired),
Ministry of the
Attorney General

LFO STAFF

Elizabeth Goldberg

Chief Executive Officer

Monica Carreon Diez

Program Coordinator

Alida De Lorenzi

Grants Officer

David Kinsman

Grants Officer

Marlene Law

Manager, Accounting and Administration

Tanya Lee

Director, Policy and Programs

Kirsten Manley-Casimir

Counsel, Access to Justice Fund

Judy Mark

Director, Strategic Finance
and Administration

Maricela Morales

Office Assistant

Gina Papageorgiou

Counsel, Class Proceedings
Committee

Linda Patki

Legal Assistant,
Class Proceedings Committee

Barbara Stewart

Executive Assistant
to the CEO

Arta Tafaj

Senior Administrative
Coordinator

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IS KEY TO ALL OUR
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Tab 2

THE LAW SOCIETY OF UPPER CANADA

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON DECEMBER 4, 2015

MOVED BY:

SECONDED BY:

THAT Convocation approve the consent agenda set out at Tab 2 of the Convocation Materials.

DRAFT

MINUTES OF CONVOCATION

Thursday, 29th October, 2015
10:00 a.m.

PRESENT:

The Treasurer (Janet E. Minor), Anand, Armstrong (by telephone), Banack, Beach, Bickford, Boyd, Braithwaite, Bredt, Burd (by telephone), Callaghan, Chrétien, Clément (by telephone), Conway, Cooper, Criger, Donnelly, Earnshaw, Epstein, Evans, Falconer, Ferrier, Furlong, Galati, Goldblatt, Gottlieb, Groia, Hartman, Horvat, Krishna, Lawrie, Leiper, Lem (by telephone), Lerner, Lippa, MacLean, McDowell, McGrath, Merali, Mercer, Murray, Nishikawa, Papageorgiou, Pawlitza, Porter, Potter, Richer, Rosenthal, Ross, Ruby (by telephone), Schabas, Sharda, Sheff (by telephone), Sikand (by telephone), Spurgeon, St. Lewis, C. Strosberg, H. Strosberg, Swaye (by telephone), Troister, Udell, Vespary, Wardle and Wright.

.....

Secretary: James Varro

The Reporter was sworn.

.....

IN PUBLIC

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TREASURER'S REMARKS

The Treasurer welcomed those joining Convocation by webcast.

The Treasurer informed benchers that she attended and participated along with Dianne Corbiere and Julian Falconer at the 27th Annual Indigenous Bar Association conference in Toronto.

The Treasurer advised that the ribbon-cutting was held for the new premises for the Law Society Tribunal on October 28, 2015, followed by a reception. The Treasurer thanked Tribunal Chair David Wright, Tribunal staff, Law Society staff and the Tribunal Committee for their support of the tribunal reforms. The Treasurer also thanked the Attorney General, The Honourable Madeleine Meilleur, for attending and supporting the Law Society through the transition.

The Treasurer advised that Carol Hartman has been appointed to the Board of Legal Aid Ontario, which now has a full complement. The Treasurer thanked the Attorney General of Ontario and the Government of Ontario for making legal aid and access to justice a priority.

The Treasurer reported on the first Early Careers Roundtable on October 26, 2015, which is anticipated to meet quarterly.

The Treasurer announced that nominations for the Law Society Awards are open, with a deadline of January 29, 2016. The awards include the new John Shirley Denison award. The other awards are the Law Society Medal, the William J. Simpson Distinguished Paralegal Award, the Laura Legge Award and the Lincoln Alexander Award. The Treasurer encouraged nominations from all communities, practice areas, firm sizes and regions across the province.

The Treasurer advised Convocation of upcoming events including Women in Leadership, in the Lamont Learning Centre today, a joint event of the Law Society of Upper Canada, Ontario Bar Association and Women's Law Association of Ontario.

The Treasurer reminded benchers of the Magna Carta exhibit at Fort York, from October 4 to November 7, 2015 and advised of a national essay prize sponsored by the Law Society, to be presented on November 5, 2015 and awarded to the Ontario Law Student who submits the best essay. Other events include Louis Riel Day on November 16, 2015 and the County and District Law Presidents' Association plenary from November 11 to 13, 2015.

The Treasurer announced the guests for lunch today include:

- Anna Kinastowski, City Solicitor
- Valerie Jepson, Integrity Commissioner
- Linda Gehrke, Lobbyist Registrar
- Fiona Crean, Ombudsman
- Ulli S. Watkiss, City Clerk

MOTION – CONSENT AGENDA

The Treasurer advised that the Report of the Equity and Aboriginal Issues Committee will be removed from the Consent Agenda and dealt with separately.

Based on a question raised by Ms. Vespry, the Treasurer removed the In Camera Appointments motion from the Consent Agenda, to be dealt with separately in camera.

It was moved by Mr. Bredt, seconded by Ms. Donnelly, that Convocation approve the remaining items on the consent agenda set out at Tab 1 of the Convocation Materials.

Carried

DRAFT MINUTES OF CONVOCATION – Tab 1.1

Re: Tab 1.1.1:

The draft minutes of Convocation of September 24, 2015 were confirmed.

Re: Tab 1.1.2:

The draft minutes of Convocation of October 15, 2015 were confirmed.

MOTION – Tab 1.2

Re: Tab 1.2.1 – Committee and Other Appointments

THAT Convocation approve the following appointments:

THAT Gavin MacKenzie be appointed as Vice-Chair of the Task Force on Compliance-Based Entity Regulation.

THAT Malcolm Mercer be appointed to the Real Estates Issues Working Group.

THAT Peter Wardle be appointed to the Professional Development and Competence Committee.

THAT the following benchers be appointed to the committee of benchers described in s. 40(7) of By-Law 4 [Licensing]:

Peter Beach
Jack Braithwaite
Jacqueline Horvat
Michael Lerner

THAT the following benchers be appointed to the committee of benchers described in s. 40(17.2) of By-Law 4 [Licensing]:

Cathy Corsetti
Janis Criger
Seymour Epstein
Barbara Murchie

THAT Peter Wardle be appointed as the bencher described in s. 38 of By-Law 11 [Regulation of Conduct, Capacity and Professional Competence].

THAT the following benchers be appointed as the panel of benchers described in s. 42(1) of By-Law 11 [Regulation of Conduct, Capacity and Professional Competence]:

Michelle Haigh
Carol Hartman
Jan Richardson

Carried

REPORT OF THE EXECUTIVE DIRECTOR OF PROFESSIONAL DEVELOPMENT AND COMPETENCE – Tab 1.3

THAT the Report of the Executive Director of Professional Development and Competence listing the names of the call to the bar candidates be adopted.

Carried

AUDIT & FINANCE COMMITTEE REPORT

Mr. Wardle presented the Report.

Re: 2016 LibraryCo Inc. Budget

It was moved by Mr. Wardle, seconded by Mr. Bredt, that Convocation approve the LibraryCo Inc. budget for 2016 incorporating Law Society funding of \$7,662,150.

Carried

Re: Law Society Budget

It was moved by Mr. Wardle, seconded by Mr. Bredt, that Convocation approve the Law Society's 2016 Budget including the following annual fee amounts:

For lawyers:

General Fee	1,371
Compensation Fund	254
LibraryCo	194
Capital	47
Total	\$1,866

For paralegals:

General Fee	810
Compensation Fund	139
Capital	47
Total	\$996

It was moved by Mr. Cooper, seconded by Ms. Lipka, that the motion on the Law Society Budget be amended to provide that sufficient funding be available in the 2016 budget to support any initiatives that are presented to Convocation arising from the strategic plan approved by Convocation for 2016.

Withdrawn

Mr. Wardle advised that if any new initiatives arising out of the strategic plan initiatives come forward to Convocation and are approved during 2016, the financial consequences of these initiatives will be met by the Law Society either out of the contingency or if necessary, by running a deficit.

The main motion was approved.

Mr. Wardle thanked the Audit and Finance Committee and the Law Society's Finance staff for their work on the budget.

For Information:

- Other Committee Work

SECRETARY'S REPORT

Ms. McGrath presented the Report.

Re: Amendment to By-Law 6

It was moved by Ms. McGrath, seconded by Mr. Troister, that Convocation make the amendments to By-Law 6 [Professional Liability Insurance] as set out in the motion at Tab 3.1 respecting professional liability insurance coverage for professional corporations of lawyer and licensed paralegal shareholders.

Carried

EQUITY AND ABORIGINAL ISSUES COMMITTEE/COMITÉ SUR L'ÉQUITÉ ET LES AFFAIRES AUTOCHTONES REPORT

Mr. Falconer presented the Report.

Re: Amendments to Guidelines for Lawyers Acting in Aboriginal Residential School Cases

It was moved by Mr. Falconer, seconded by Mr. Schabas, that Convocation approve the amendments proposed to the *Guidelines for Lawyers Acting in Aboriginal Residential School Cases* as set out at Tab 1.4.1.1.

Carried

TASK FORCE TO CREATE A STRATEGY TO PROMOTE WELLNESS AND ADDRESS MENTAL HEALTH AND ADDICTIONS ISSUES REPORT

Mr. McDowell provided an oral status report on the work of the Task Force for information.

FEDERATION OF LAW SOCIETIES OF CANADA REPORT

Ms. Pawlitza presented the report on the work of the Federation of Law Societies of Canada for information.

COMPLIANCE-BASED ENTITY REGULATION TASK FORCE REPORT

Mr. Earnshaw presented the report on the status of the work of the Task Force for information.

REPORT FROM THE ACTION GROUP ON ACCESS TO JUSTICE

Mr. Goldblatt presented the report for information.

PRIORITY PLANNING COMMITTEE REPORT

Re: Convocation's Priority Planning

Ms. Hartman presented the report for information.

*THIS PAGE CONTAINS
IN CAMERA MATERIAL*

.....
IN PUBLIC
.....

REPORTS FOR INFORMATION ONLY

FEDERATION OF LAW SOCIETIES OF CANADA UPDATE

COMPLIANCE-BASED ENTITY REGULATION TASK FORCE REPORT

- Status Report

EQUITY AND ABORIGINAL ISSUES COMMITTEE/COMITÉ SUR L'ÉQUITÉ ET LES
AFFAIRES AUTOCHTONES REPORT

- Paralegal Change of Status Survey
- Equity Legal Education and Rule of Law Series Calendar 2015/2016

REPORT FROM THE ACTION GROUP ON ACCESS TO JUSTICE

PRIORITY PLANNING COMMITTEE REPORT

- Convocation's Priority Planning

CONVOCATION ROSE AT 12:54 P.M.

Tab 2.1.1

THE LAW SOCIETY OF UPPER CANADA

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON DECEMBER 4, 2015

THAT Gisèle Chrétien, Ross Earnshaw, Jacqueline Horvat and W. A. Derry Millar be reappointed to the LibraryCo Inc. Board of Directors for a one year term commencing December 31, 2015.

Tab 2.1.2

THE LAW SOCIETY OF UPPER CANADA

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON DECEMBER 4, 2015

APPOINTMENTS TO THE LAW SOCIETY TRIBUNAL Pursuant to Section 49.21 of the *Law Society Act*

THAT The Hon. James M. Spence and Sidney H. Troister be appointed to the Hearing Division of the Law Society Tribunal effective December 4, 2015 for a term ending May 25, 2017.

Tab 2.3

To the Benchers of the Law Society of Upper Canada Assembled in Convocation

The Executive Director of Professional Development and Competence reports as follows:

CALL TO THE BAR AND CERTIFICATE OF FITNESS

Licensing Process and Transfer from another Province – By-Law 4

Attached is a list of candidates who have successfully completed the Licensing Process and have met the requirements in accordance with section 9.

All candidates now apply to be called to the bar and to be granted a Certificate of Fitness on Friday, December 4th 2015

ALL OF WHICH is respectfully submitted

DATED this 4th day of December, 2015

CANDIDATES FOR CALL TO THE BAR
December 4th 2015

Transfer from another province (Mobility)

Michael James Bailey
Graham James Baugh
Norman John Kenneth Bishop
Nicole Diamante Caputo
Peter Bradley Epp
Darren Bart Hribar
Roisin Lisa Hutchinson
Sonia Mann
Redmond Joseph Gagnon O'Brien
Geoffrey Lucas Rawle

L3

Caryn Dale Grass



LAW COMMISSION OF ONTARIO
COMMISSION DU DROIT DE L'ONTARIO

CREATION

The LCO was launched in September 2007. It is housed in the Ignat Kaneff Building, home of Osgoode Hall Law School at York University.

FOUNDING PARTNERS

The LCO was created by an Agreement among the Law Foundation of Ontario, the Ontario Ministry of the Attorney General, Osgoode Hall Law School and the Law Society of Upper Canada, all of whom provide funding for the LCO, and the Ontario law deans and with additional support from York University. The five year Agreement was renewed for the period January 2012 to December 2016. It operates independently of government.

MISSION

The mission of the LCO is to:

- recommend law reform measures to enhance the legal system's relevance, effectiveness and accessibility;
- improve the administration of justice through the clarification and simplification of the law;
- consider the use of technology to enhance access to justice; and
- stimulate critical legal debate about the law.

APPROACH TO LAW REFORM

The LCO has committed to consult broadly with both academics and experts in the field and those directly affected by law reform issues. Its approach to law reform is pragmatic, innovative and multi-disciplinary.

GOVERNANCE

Board of Governors

The Board of Governors, comprised of representatives of the founding partners and at-large members, determines policy for the LCO and approves projects and interim and final reports, among other responsibilities. Current members of the Board of Governors are:

Bruce Elman, Chair

Mark L. Berlin, Member-at-large

Stephen Goudge, Law Foundation of Ontario

Raj Anand, Law Society of Upper Canada

TBD, Law Deans

Justice Harry S. LaForme, Judiciary

Patrick J. Monahan, Ministry of the Attorney General

Sonia Ouellet, Member-at-large

Maria Páez Victor, Member-at-large

Andrew Pinto, Member-at-large

Lorne Sossin, Osgoode Hall Law School

Patricia Hughes, *ex officio* and Executive Director of the LCO

November 2015

Standing Advisory Groups

Community Council

The Community Council is composed of a variety of individuals who are enthusiastic about law reform and whose combined reach extends throughout the province. The Council's mandate is to assist the LCO in its consultations and to provide expertise to the consideration of new and on-going projects. Current members of the Community Council are:

Erika Gates-Gasse, Policy and Research Director, Ontario Council of Agencies Serving Immigrants
Avvy Go, Director of Metro Toronto Chinese & Southeast Asian Legal Clinic
Geoff Hall, Partner at McCarthy Tétrault in its Litigation Group
Bill Jeffery, National Coordinator of the Centre for Science in the Public Interest
Carmela Murdocca, Department of Sociology, York University
Maria Marchese, Director of Policy, Canadian Manufacturers and Exporters
Julie Mathews, Executive Director of Community Legal Education of Ontario
Nicole Pietsche, Coordinator of the Ontario Coalition of Rape Crisis Centres
Anne Marie Predko, Ministry of the Attorney General
Mehreen Raza, Research Consultant (government and other organizations in the legal sector)
Christiane Saedler, Executive Director, Waterloo Region Crime Prevention Council.

Law School Research and Liaison Group

This Group assists the LCO by identifying appropriate faculty members to undertake commissioned research; sitting on ad hoc project advisory committees; facilitating LCO engagement with the law schools; and otherwise contributing to the research excellence of the LCO's work and relations with the law schools.

Current group members are:

Mariette Brennan, Bora Laskin Faculty of Law, Lakehead University
Trevor Farrow, Osgoode Hall Law School, York University
Erik Knutsen, Faculty of Law, Queen's University
Julie Macfarlane, Windsor Law, University of Windsor
Melanie Randall, Western Law, Western University
Carol Rogerson, Faculty of Law, University of Toronto
Marie-Eve Sylvestre, Faculty of Law, University of Ottawa-Civil Law Section
P.M. (Vasu) Vasudev, University of Ottawa-Common Law Section

Executive Director

The Executive Director is the CEO of and chief spokesperson for the LCO and is responsible for the day to day functioning of the LCO. The current Executive Director is Dr. Patricia Hughes. Dr. Hughes will be retiring December 14, 2015 and the Executive Director Designate is Aneurin Thomas.

FOR MORE INFORMATION

Website: www.lco-cdo.org
Tel: (416) 650-8406 Toll Free: 1-866-950-8406
E-mail: lawcommission@lco-cdo.org

November 2015



CURRENT, FUTURE AND COMPLETED PROJECTS

Current Projects

Defamation Law

Head of Project: Sue Gratton, Research Lawyer (sgratton@lco-cdo.org)

A review of defamation law, especially in light of the internet and social media.

Improving the Last Stages of Life

Head of Project: Sarah Mason-Case, Research Lawyer (smason-case@lco-cdo.org)

This project considers the identities, rights and values of persons who are transitioning through the last stages of life as well as those of their caregivers, families, friends and health care providers. It reviews a wide range of issues that impact the quality of services and supports in these circumstances, including meaningful decision-making, ethical responsibilities of health care providers, equality in delivering services to vulnerable communities, uncertainties in the law respecting common end-of-life practices, and access to faith and cultural entitlements. For more information on the project, see: <http://www.lco-cdo.org/en/last-stages-of-life>.

Legal Capacity, Decision-making and Guardianship

Head of Project: Lauren Bates, Senior Lawyer (lbates@lco-cdo.org)

Cognitive, intellectual, mental health or other disabilities may affect the ability of some individuals to make decisions. Ontario has a comprehensive legal framework that applies in such situations, including mechanisms and standards for assessing capacity, the designation of substitute decision-makers, and the creation of enduring powers of attorney to enable individuals to plan ahead. Many individuals, experts and organizations identified a need for comprehensive review and reform of this area of the law. See the website for regular updates at: <http://www.lco-cdo.org/en/capacity-guardianship>.

Class Actions

Head of Project: Fran Carnerie, MAG LCO Counsel in Residence (fcarnerie@lco-cdo.org)

While the *Class Proceedings Act, 1992* is procedural in nature, its objectives of access to justice, judicial economy and behavioral modification make it a potentially powerful tool when applied to a wide array of complex, high-stakes litigation. This project will include a comprehensive review of the CPA which will consider challenges beyond the four corners of the existing legislation, such as the sustainability of the Class Proceedings Fund, concerns around self-dealing and challenges in relation to national actions. The LCO is currently in the process of developing a database which will obtain all class actions in Ontario. See <http://www.lco-cdo.org/en/class-actions>.

Simplified Policy Tools

Head of Project: Lauren Bates, Senior Lawyer (lbates@lco-cdo.org)

The LCO is developing simplified policy tools to encourage use of the Frameworks created in projects on the law as it affects older adults and persons with disabilities. See <http://lco-cdo.org/en/simplified-policy-tools>.

Future Projects

The Board of Governors has approved the following projects to be commenced when resources permit.

Redefining Parentage

The impact of reproductive technologies and new conceptions of the family.

Multifaceted Approaches to Community Safety

How actors other than the police - or in addition to the police - can help to keep communities safe, and possibly using a legislative model.

Public Space

The regulation of public space: understanding public space and the interaction of public and private space and the creation of a framework to guide legislation affecting public space.

Completed Projects

Simplified Procedures for Small Estates *(October 2015)*

<http://www.lco-cdo.org/en/small-estates>

Capacity and Legal Representation for the Federal RDSP *(June 2014)*

<http://www.lco-cdo.org/en/rdsp>

Review of the Forestry Workers Lien for Wages Act *(September 2013)*

<http://www.lco-cdo.org/en/forestry-workers>

Increasing Access to Family Justice through Comprehensive Entry Points and Inclusivity *(February 2013)*

<http://www.lco-cdo.org/en/content/family-law-reform>

Vulnerable Workers and Precarious Work *(December 2012)*

<http://www.lco-cdo.org/en/vulnerable-workers>

A Framework for the Law as it Affects Persons with Disabilities:

Advancing Substantive Equality for Persons with Disabilities through Law, Policy & Practice *(September 2012)*

<http://www.lco-cdo.org/en/content/persons-disabilities>

Curriculum Modules in Ontario Law Schools:

A Framework for Teaching about Violence against Women *(August 2012)*

<http://www.lco-cdo.org/en/violence-against-women-modules>

A Framework for the Law as it Affects Older Adults:

Advancing Substantive Equality for Older Adults through Law, Policy and Practice (April 2012)

<http://www.lco-cdo.org/en/content/older-adults>

Modernization of the *Provincial Offences Act* (August 2011)

<http://www.lco-cdo.org/en/content/provincial-offences-act>

Joint and Several Liability under the *Ontario Business Corporations Act* (February 2011)

<http://www.lco-cdo.org/en/content/joint-several-liability>

Division of Pensions on Marital Breakdown (January 2009)

<http://www.lco-cdo.org/en/pensions>

Charging Fees for Cashing Government Cheques (November 2008)

<http://www.lco-cdo.org/en/content/fees-cashing-government-cheques>

LCO Events

- **Promoting Comprehensive Integrated Community Safety: An Interactive Expert Forum to Identify Law, Policy and Process Gaps** (November 2013)
- **“Into the Future, Benefitting from the Past”** (January 2013)
Exploring issues of disability, aging and Ontario’s capacity and guardianship system, in the context of a broader discussion about law reform.
- **The Law and Ethics of Investigative Journalism** (co-hosted, October 2011)
- **2010 Canadian Conference on Elder Law** (co-hosted, October 2010)
- **Federation of Law Reform Agencies of Canada (FOLRAC) 2010** (October 2010)
- **Symposium on e-Health Law and Policy** (co-hosted, January 2010)
- **Roundtable on Joint and Several Liability under the OBCA** (October 2009)
- **Conversations About Law Reform: A Law Reform Symposium** (May 2009)
- **Roundtable on Family Law** (September 2008)

For further information on the LCO, see: www.lco-cdo.org

LIAISON

LAW COMMISSION OF ONTARIO

Farewell message from Patricia Hughes



Eight years — an intensive eight years since the Law Commission of Ontario's launch in September 2007. This is my last Liaison message as executive director. I leave the LCO feeling that we have established ourselves as an

original and trustworthy law reform body that acknowledges that law and justice actors are part of a bigger world to be taken into account in fashioning law reform. We have consulted hundreds of people affected by areas of the law we have studied, and have established many reciprocally satisfying relationships with community groups and legal institutions in Ontario and elsewhere.

I'm unable to express here the depth of appreciation I have for our staff, legal (Lauren Bates, Sue Gratton and Sarah Mason-Case) and administrative (Laura Caruso and Amanda Rodrigues), our MAG Counsel, our funders and supporters, our advisory groups, the commitment of the Board of Governors, and friends and professional acquaintances I've been fortunate to make.

I know that Aneurin (Nye) Thomas, who assumes the role officially on December 15 after a period of transition, will have a challenging and rewarding time as executive director. And yes, perhaps I'm even envious that I won't be part of the excitement!

Patricia Hughes

Patricia Hughes

in this issue . . .

- ✿ **Improving end-of-life care**
- ✿ **Two MAG lawyers join LCO**
- ✿ **Small estate report approved**

LCO Board names new executive director

Nye Thomas officially takes the helm on December 15



A legal professional with a long history of experience in policy development, access to justice and legal reform has been named the next executive director of the Law Commission of Ontario.

Aneurin (Nye) Thomas joins the LCO from Legal Aid Ontario (LAO), where he was director general of policy and strategic research. Most recently, Thomas was responsible for leading LAO's project to significantly expand financial eligibility and legal aid services in Ontario. He was accountable for the organization's dedicated strategies to improve access to justice for Aboriginal peoples, persons with mental illness and addictions, and victims of domestic violence, and he oversaw policy and research for the Ipperwash Inquiry. Thomas was selected by the LCO Board after an intensive, six-month-long search.

"Nye really understands the LCO's deep commitment to high quality research and evidence-based policy-making," says Board Chair Bruce Elman, who served as a member of the search committee led by Osgoode Dean and LCO Board member Lorne Sossin. "It's what he practiced at Legal Aid and what he sees as the prime imperative of the Law Commission going forward."

Among the many factors that attracted Thomas to the job are the LCO's ability to engage a diversity of stakeholders and provide sophisticated, independent analysis on contemporary issues. "I hope to continue the LCO's tradition of independence, constructive engagement, and rigorous legal and public policy analysis," he says.

Thomas is currently serving as the LCO executive director designate. He officially takes the helm from founding executive director Patricia Hughes on December 15.



Watch for Liaison's online tribute to Patricia Hughes following a reception in her honour on November 19.



Watch for Q&A with incoming LCO executive director Nye Thomas



See this?
Read more at www.lco-cdo.org

LCO seeks to improve last stages of life

Newest project launched in May



The LCO is wading into the complex and emotional end-of-life debate with the launch of its newest project. The Improving the Last Stages of Life project seeks to explore the role of the law in end-of-life care.

“We’ve seen a shift from an acute healthcare model focused on prolonging life, to a need for comfort and care that emphasizes quality of life, and physical, social and spiritual well-being,” explains

research lawyer Sarah Mason-Case. “The question is whether or not we have a legal system to support those changing needs.”

Since May, Mason-Case has completed a legislation and policy review, and reached out to more than 60 individuals and organizations to determine where the LCO might best be of assistance. The results of her analysis will be presented later this fall in the form of a project scoping document.

“Our aim is to provide clarity and coherence in the law,” says Mason-Case. “There should be a standard by which everybody is able to receive quality care in the last stages of life.”

Seeing double: Two MAG lawyers begin secondment

Two Ontario government directors are relishing the opportunity to dig deep into pressing legal issues during year-long secondments at the LCO.

Fran Carnerie, deputy legal director with the Ministry of the Environment and Climate Change, began her term as the LCO Ministry of the Attorney General Counsel-in-Residence in July. She’s lead on the class actions project, which asks if the more than two-decade-old *Ontario Class Proceedings Act* is still relevant. “It’s a luxury to research, analyse and immerse myself in the issues again,” she says. “It allows for truly creative and constructive thinking.”

Ken Lung agrees. A 24-year Ministry employee who most recently oversaw 175 lawyers as portfolio director in the legal services division of the Office of the Assistant Deputy Attorney General, he joined the LCO in June as a special Counsel-in-Residence. “After years as a Ministry manager, this opportunity is a good transition back to professional practice,” he says. Lung is applying his government know-how to a handful of LCO projects, including legal capacity and end-of-life care.



Fran Carnerie



Ken Lung

IN BRIEF

Board chair renewed

LCO Board Chair Bruce Elman and at-large members Andrew Pinto, Mark Berlin and Maria Páez Victor have each been reappointed for a second three-year term, while Camille Cameron has resigned as the Law Deans of Ontario appointee. Cameron is now dean of Dalhousie’s Schulich School of Law.

Liaising with Lakehead

Canada’s newest law school is helping to strengthen the LCO’s academic ties as a member of the Law School Research and Liaison Group. Welcome to Dr. Mariette Brennan from the Bora Laskin Faculty of Law at Lakehead University.

Staff hand-off

Kudos to staff member Andrew Seo, whose term at the LCO concludes this fall. Welcome back Amanda Rodrigues.

Student learning

Thank you to summer students Lisa-Marie Williams (Osgoode), Pia Anthony-muttu (Western), and Jasmine Attfield and Samantha

Peters (Ottawa); interns Greg Miles (U of Maryland) and Jenny Kim (Michigan State); University of Ottawa Fellow Ava Karbakhsh; and Radhika Sharma and Priya Khatri, who completed work study and LAWS placements respectively.



Board approves small estate report

A report aimed at providing small estates with a streamlined and affordable alternative to Ontario’s probate system was approved in August by the LCO Board of Governors. The report, which will be publicly unveiled on November 19, is directed at estates worth up to \$50,000.



The Law Commission of Ontario is funded by:



The Law Foundation of Ontario
Building a better foundation for justice in Ontario



Ontario



The Law Society of
Upper Canada



OSGOODE
HALL LAW SCHOOL
YORK UNIVERSITY

and supported by the Faculties of Law at:

Lakehead University, Queen’s University, University of Ottawa (Common & Civil Law Sections), University of Toronto, University of Windsor, and Western University.

It receives additional support from York University.

LAW COMMISSION OF ONTARIO

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LAW COMMISSION OF ONTARIO
COMMISSION DU DROIT DE L'ONTARIO



LAW COMMISSION OF ONTARIO
COMMISSION DU DROIT DE L'ONTARIO

CRÉATION

Fondée en septembre 2007, la Commission du droit de l'Ontario (CDO) a ses bureaux dans l'édifice Ignat Kaneff, qui accueille la Faculté de droit Osgoode Hall de l'Université York.

PARTENAIRES FONDATEURS

La CDO a été créée dans le cadre d'une entente entre la Fondation du droit de l'Ontario, le ministère du Procureur général de l'Ontario, la Faculté de droit Osgoode Hall et le Barreau du Haut-Canada, qui sont tous des bailleurs de fonds de la CDO, ainsi que les doyens des facultés de droit, de même qu'avec un appui supplémentaire de l'Université York. L'entente d'une durée de cinq ans a été renouvelée pour la période allant de janvier 2012 à décembre 2016. La CDO est indépendante du gouvernement.

MISSION

La mission de la CDO consiste à :

- recommander des mesures de réforme du droit pour accroître la pertinence, l'efficacité et l'accessibilité du système de justice;
- améliorer l'administration de la justice grâce à la clarification et à la simplification des lois;
- évaluer le recours aux moyens technologiques pour améliorer l'accès à la justice;
- stimuler les discussions juridiques essentielles à propos du droit.

APPROCHE EN MATIÈRE DE RÉFORME DU DROIT

La CDO s'est engagée à consulter un large éventail d'universitaires et de spécialistes, ainsi que les groupes et personnes directement touchés par les réformes du droit. Cette approche envers la réforme du droit est pragmatique, novatrice et multidisciplinaire.

GOUVERNANCE

Conseil des gouverneurs

Le Conseil des gouverneurs, composé de représentants des partenaires fondateurs et de membres à titre personnel, définit les politiques de la CDO. Entre autres responsabilités, il approuve les projets de même que les rapports provisoires et finaux. Voici les membres siégeant actuellement au Conseil des gouverneurs :

Bruce Elman, président
Mark L. Berlin, membre à titre individuel
Stephen Goudge, Fondation du droit de l'Ontario
Raj Anand, Barreau du Haut-Canada
TBD, doyens des facultés de droit
L'honorable Harry S. LaForme, magistrature
Patrick J. Monahan, ministère du Procureur général de l'Ontario
Sonia Ouellet, membre à titre individuel
Maria Páez Victor, membre à titre individuel
Andrew Pinto, membre à titre individuel
Lorne Sossin, Faculté de droit Osgoode Hall
Patricia Hughes, membre d'office et présidente exécutive de la CDO

Comités consultatifs permanents

Conseil communautaire

Le Conseil communautaire est composé de personnes enthousiastes à l'égard de la réforme du droit et qui, ensemble, portent le rayonnement de la Commission aux quatre coins de la province. Ce conseil a pour mandat d'aider la CDO dans ses consultations et de lui prêter son expertise au moment de l'examen des projets nouveaux ou en cours. Voici les membres siégeant actuellement au Conseil communautaire :

Erika Gates-Gasse, directrice des politiques et de la recherche, Ontario Council of Agencies Serving Immigrants
Avvy Go, directrice de la Metro Toronto Chinese & Southeast Asian Legal Clinic
Geoff Hall, associé chez McCarthy Tétrault au sein du groupe du contentieux
Bill Jeffery, coordinateur national du Centre for Science in the Public Interest
Carmela Murdocca, département de sociologie de l'Université York
Maria Marchese, directrice des politiques, Manufacturiers et Exportateurs du Canada
Julie Mathews, directrice générale d'Éducation juridique communautaire Ontario
Nicole Pietsche, coordonnatrice de l'Ontario Coalition of Rape Crisis Centres
Anne Marie Predko, ministère du Procureur général
Mehreen Raza, conseillère en recherche ayant rédigé des études pour le gouvernement et d'autres organisations dans le secteur juridique
Christiane Saedler, directrice générale, Waterloo Region Crime Prevention Council.

Groupe de recherche et de liaison des facultés de droit

Ce groupe aide la CDO en identifiant les membres du corps professoral susceptibles d'effectuer certaines études commanditées, en siégeant à des comités consultatifs pour des projets spéciaux, en facilitant la collaboration entre la CDO et les facultés de droit et en contribuant à l'excellence de la recherche dans le cadre des travaux de la CDO et aux relations avec les facultés de droit.

Voici les membres siégeant actuellement au Groupe :

Mariette Brennan, Faculté de droit Bora Laskin, Université Lakehead
Trevor Farrow, Faculté de droit Osgoode Hall, Université York
Erik Knutsen, Faculté de droit, Université Queen's
Julie Macfarlane, Faculté de droit, Université de Windsor
Melanie Randall, Faculté de droit, Université Western
Carol Rogerson, Faculté de droit, Université de Toronto
Marie-Eve Sylvestre, Faculté de droit, Section de droit civil, Université d'Ottawa
P.M. (Vasu) Vasudev, Faculté de droit, Section de common Law, Université d'Ottawa

Directrice exécutive ou directeur exécutif

La directrice exécutive ou le directeur exécutif est le ou la PDG et porte-parole officiel(le) de la CDO; ses fonctions consistent à veiller au bon déroulement des activités quotidiennes de la Commission. M^{me} Patricia Hughes, Ph. D., est l'actuelle directrice exécutive de la CDO. Patricia Hughes prendra sa retraite le 14 décembre 2015. Le directeur exécutif désigné qui la remplacera est Aneurin Thomas.

POUR DE PLUS AMPLES INFORMATIONS

Site Web : www.lco-cdo.org
Tél. : 416 650-8406 Sans frais : 1 866 950-8406
Courriel : lawcommission@lco-cdo.org



PROJETS EN COURS, FUTURS PROJETS ET PROJETS TERMINÉS

Projets en cours

Droit de la diffamation

Responsable du projet : Sue Gratton, avocate chercheure (sgratton@lco-cdo.org)

Un examen du droit de la diffamation, plus particulièrement dans le contexte de l'internet et des médias sociaux.

Amélioration des dernières étapes de la vie

Responsable du projet : Sarah Mason-Case, avocate chercheure (smason-case@lco-cdo.org)

Ce projet prend en compte l'identité, les droits et les valeurs des personnes en fin de vie ainsi que ceux de leurs aidants naturels, proches, amis et fournisseurs de soins. Il couvre plusieurs enjeux qui influencent la qualité des services et des soutiens dans ces circonstances, dont la prise de décisions éclairées, les responsabilités éthiques des fournisseurs de soins, l'équité de la prestation des soins aux communautés vulnérables, les incertitudes juridiques entourant les pratiques courantes de fin de vie, ainsi que l'accès à ses pratiques religieuses et culturelles. Pour obtenir plus d'information sur le projet, consultez : <http://www.lco-cdo.org/fr/last-stages-of-life>.

Capacité juridique, prise de décision et tutelle

Responsable du projet : Lauren Bates, avocate principale (lbates@lco-cdo.org)

Des déficiences cognitives et intellectuelles, des incapacités mentales et d'autres handicaps peuvent nuire à la capacité de prendre des décisions. L'Ontario a un cadre législatif exhaustif s'appliquant à ces situations, y compris des mécanismes et des normes permettant d'évaluer la capacité, la désignation de mandataires et la création d'une procuration perpétuelle afin d'aider les gens à planifier. Durant l'élaboration par la CDO de cadres juridiques sur le droit touchant respectivement les personnes âgées et les personnes handicapées, de nombreux particuliers, spécialistes et organismes ont fait ressortir la nécessité de procéder à un examen exhaustif et à une réforme dans ce domaine du droit. Un document de travail a été rendu public le 26 juin 2014 : <http://www.lco-cdo.org/fr/capacity-guardianship-discussion-paper-announcement>. La CDO encourage les membres du public à lui faire parvenir leurs observations d'ici le 17 octobre 2014 et prévoit publier un rapport provisoire et des recommandations l'année prochaine. On peut se tenir au courant de ce projet en consultant l'adresse <http://www.lco-cdo.org/fr/capacity-guardianship>.

Recours collectifs

Responsable du projet : Fran Carnerie, avocate résidente détachée du ministère du Procureur général (fcarnerie@lco-cdo.org)

Bien que la *Loi de 1992 sur les recours collectifs* (LRC) soit de nature procédurale, ses objectifs d'accès à la justice, d'économies judiciaires et de modifications comportementales font d'elle un outil d'une puissance remarquable en présence de questions variées et complexes dans des dossiers où les enjeux sont élevés. Le projet inclura un examen exhaustif de la LRC et tiendra notamment compte des défis qui dépassent la portée immédiate de la loi existante, comme la viabilité du Fonds d'aide aux recours collectifs (FARC), les préoccupations concernant les conflits d'intérêts et les défis propres aux recours multijuridictionnels. La CDO est en train d'établir une base de données qui comprendra tous les recours collectifs en Ontario. On peut se tenir au courant de ce projet en consultant l'adresse <http://www.lco-cdo.org/fr/class-actions>.

Outils stratégiques simplifiés

Responsable du projet : Lauren Bates, avocate principale (lbates@lco-cdo.org)

La CDO élabore actuellement des outils stratégiques simplifiés pour encourager l'utilisation des cadres issus des projets sur les personnes âgées et sur les personnes handicapées. On peut trouver plus d'information sur ce projet à l'adresse <http://lco-cdo.org/fr/simplified-policy-tools>.

Futurs Projets

Le Conseil des gouverneurs a approuvé les projets suivants qui seront entrepris dès que nos ressources le permettront.

Redéfinition du concept de parent

Les répercussions des technologies de reproduction et des nouvelles conceptions de la famille.

Approches multidisciplinaires en matière de sécurité communautaire

Les façons dont les intervenants autres que les policiers – ou en association avec les policiers – peuvent contribuer à assurer la sécurité de leur communauté, et le recours possible à un modèle législatif.

Réglementation de l'espace public

Compréhension de l'espace public et de l'interaction entre espace public et privé, ainsi qu'élaboration d'un cadre pour orienter les mesures législatives touchant l'espace public.

Projets terminés

Simplification des procédures pour les petites successions (octobre 2015)

<http://www.lco-cdo.org/fr/small-estates>

La capacité des adultes handicapés mentaux et le REEI fédéral (juin 2014)

<http://lco-cdo.org/fr/rdsp>

Examen de la Loi sur le privilège des travailleurs forestiers portant sur leur salaire (septembre 2013)

<http://www.lco-cdo.org/fr/forestry-workers>

L'amélioration de l'accès à la justice familiale grâce à des points d'entrée globaux et à l'inclusivité (février 2013)

<http://www.lco-cdo.org/fr/content/family-law-reform>

Travailleurs vulnérables et travail précaire (décembre 2012)

<http://www.lco-cdo.org/fr/vulnerable-workers>

Cadre du droit touchant les personnes handicapées : Promotion d'une égalité réelle pour les personnes handicapées par les lois, les politiques et les pratiques (septembre 2012)

<http://www.lco-cdo.org/fr/content/persons-disabilities>

Modules de formation des facultés de droit ontariennes : Cadre d'enseignement permettant d'aborder la violence à l'égard des femmes (août 2012)

<http://www.lco-cdo.org/fr/violence-against-women-modules>

Cadre du droit touchant les personnes âgées : Promotion d'une égalité réelle pour les personnes âgées par les lois, les politiques et les pratiques (avril 2012)

<http://www.lco-cdo.org/fr/content/older-adults>

Modernisation de la Loi sur les infractions provinciales (août 2011)

<http://www.lco-cdo.org/fr/content/provincial-offences-act>

Responsabilité solidaire selon la Loi sur les sociétés par actions de l'Ontario (février 2011)

<http://www.lco-cdo.org/fr/content/joint-several-liability>

Partage des régimes de retraite en cas d'échec du mariage (janvier 2009)

<http://www.lco-cdo.org/fr/pensions>

Les frais d'encaissement des chèques du gouvernement (novembre 2008)

<http://www.lco-cdo.org/fr/content/fees-cashing-government-cheques>

Activités de la CDO

- **Forum interactif sur les approches intégrées en matière de sécurité communautaire** (novembre 2013)
- **« Into the Future, Benefitting from the Past »** (janvier 2013)
Colloque sur les enjeux liés à l'invalidité, au vieillissement et au système d'évaluation de la capacité et de la tutelle de l'Ontario, dans le cadre d'une discussion plus générale sur la réforme du droit
- **Le droit et l'éthique en ce qui a trait au journalisme d'enquête** (organisation conjointe, octobre 2011)
- **Conférence canadienne 2010 sur le droit des aînés** (organisation conjointe, octobre 2010)
- **Fédération des organismes de réforme du droit du Canada** (octobre 2010)
- **Colloque sur les lois et politiques relatives à la santé en ligne** (organisation conjointe, janvier 2010)
- **Table ronde sur la responsabilité solidaire en vertu de la LSAO** (octobre 2009)
- **Conversations sur la réforme du droit : Colloque sur la réforme du droit** (mai 2009)
- **Table ronde sur le droit de la famille** (septembre 2008)

Pour en savoir plus sur la CDO, visiter le site Web www.lco-cdo.org

LIAISON

COMMISSION DU DROIT L'ONTARIO

Message de départ de Patricia Hughes



Huit intenses années se sont écoulées depuis la création de la Commission du droit de l'Ontario, en septembre 2007. Il s'agit de mon dernier billet dans le bulletin Liaison à titre de directrice exécutive. Je quitte la CDO avec le sentiment que nous nous sommes établis comme un organisme de réforme du droit hors du

commun et digne de confiance, qui reconnaît que les acteurs du domaine du droit et de la justice font partie d'un univers plus étendu dont l'ensemble des éléments doit être pris en compte au moment de procéder à des réformes juridiques. Nous avons consulté des centaines de personnes dont la vie est influencée par les secteurs du droit que nous avons étudiés, et nous avons tissé de nombreuses relations mutuellement satisfaisantes avec des groupes communautaires et des institutions juridiques en Ontario et ailleurs.

Les mots me manquent pour exprimer à quel point j'apprécie notre personnel, que ce soit dans le domaine juridique (Lauren Bates, Sue Gratton et Sarah Mason-Case) ou administratif (Laura Caruso et Amanda Rodrigues), nos avocats détachés du ministère du Procureur général, nos bailleurs de fonds et alliés, nos comités consultatifs, le dévouement du Conseil des gouverneurs ainsi que les amis et les relations professionnelles que j'ai eu la chance de rencontrer.

Je sais qu'Aneurin (Nye) Thomas, qui entrera officiellement en fonction le 15 décembre après une période de transition, aura des défis enrichissants à relever à titre de directeur exécutif. Et, je l'avoue, je ressens même une pointe d'envie à l'idée que je ne prendrai pas part à l'effervescente période à venir!

Patricia Hughes
Patricia Hughes

dans ce numéro . . .

- ✳ **Améliorer les soins de fin de vie**
- ✳ **Deux avocats détachés du MPG se joignent à la CDO**
- ✳ **Approbation du rapport sur les petites successions**

Le Conseil des gouverneurs de la CDO nomme un nouveau directeur exécutif

Nye Thomas prendra officiellement les rênes de la Commission le 15 décembre



Un avocat possédant une vaste expérience dans les domaines de l'élaboration de politiques, de l'accès à la justice et de la réforme du droit a été nommé au poste de directeur exécutif de la Commission du droit de l'Ontario.

Aneurin (Nye) Thomas dirigera l'équipe de la CDO après avoir travaillé à Aide juridique Ontario (AJO), où il occupait le poste de directeur général des politiques et de la recherche stratégique. Plus récemment, M. Thomas a chapeauté l'important projet d'élargissement de l'admissibilité financière et l'expansion des services juridiques d'AJO. Il a élaboré les stratégies ciblées de l'organisme pour améliorer l'accès au système de justice des Autochtones, des personnes aux prises avec des problèmes de santé mentale et de toxicomanie et des victimes de violence familiale, en plus de superviser les politiques et la recherche dans le cadre de la Commission d'enquête sur Ipperwash. M. Thomas a été choisi par le Conseil des gouverneurs à l'issue d'un processus de sélection intensif de six mois.

« M. Thomas comprend vraiment le solide engagement de la CDO envers la recherche de grande qualité et l'élaboration de politiques fondées sur des données probantes », indique le président du Conseil des gouverneurs, Bruce Elman, qui a siégé au comité de sélection dirigé par Lorne Sossin, le doyen de la Faculté de droit Osgoode Hall et lui aussi membre du Conseil des gouverneurs. « Ce sont des priorités qu'il mettrait de l'avant à Action juridique Ontario, et qu'il juge essentielles à la poursuite des activités de la CDO. »

Parmi les nombreux facteurs qui ont incité M. Thomas à se joindre à l'équipe de la CDO figure la capacité de la Commission de collaborer avec un vaste éventail d'intervenants et d'effectuer une analyse poussée et indépendante de certains enjeux actuels. « J'espère perpétuer la tradition d'indépendance, d'engagement constructif et d'analyse juridique et publique rigoureuse de la CDO », affirme l'avocat.

M. Thomas, qui est actuellement directeur exécutif désigné de la CDO, prendra le relais de Patricia Hughes, la directrice exécutive sortante, à compter du 15 décembre.



Surveillez l'hommage à Patricia Hughes qui paraîtra dans le bulletin Liaison en ligne à la suite de la réception qui sera donnée en son honneur le 19 novembre.



Surveillez questions et réponses en compagnie de Nye Thomas, le prochain directeur exécutif de la CDO



Vous voyez cette photo?
Plus de détails sur le site www.lco-cdo.org

La CDO souhaite améliorer les dernières étapes de la vie

Ce nouveau projet sera entrepris en mai



Avec le lancement de son tout nouveau projet, la CDO s'immisce dans le débat complexe et chargé d'émotions sur la fin de vie. Le projet sur l'amélioration des dernières étapes de la vie examinera le rôle du droit dans les soins de fin de vie.

« Nous sommes passés d'un modèle de soins de santé axé sur le prolongement de la vie à l'émergence d'un besoin de confort et de soins mettant l'accent sur la qualité de vie et le bien-être physique, social et spirituel », explique Sarah Mason-Case, avocate

chercheuse à la Commission. « La principale question consiste à déterminer si notre système de justice peut soutenir ces besoins en pleine mutation. »

Depuis le mois de mai, Mme Mason-Case a passé en revue la législation et les politiques sur ce sujet, et elle a consulté plus de 60 personnes et organisations pour déterminer quel type de contribution de la CDO serait le plus utile. Les résultats de son analyse seront présentés plus tard cet automne dans le cadre de la parution d'un document établissant la portée du projet.

« Notre objectif consiste à clarifier et à rendre plus cohérente la législation à ce sujet, indique Mme Mason-Case. Il devrait exister une norme permettant à chacun de recevoir des soins de qualité dans les dernières étapes de sa vie. »

Coup double : deux avocats détachés du MPG à la CDO

Deux cadres du gouvernement de l'Ontario profitent de l'occasion de se pencher sur des enjeux de droit urgents dans le cadre d'un détachement d'une durée d'un an à la CDO.

Fran Carnerie, sous-directrice des services juridiques au ministère de l'Environnement et de l'Action en matière de changement climatique, a entrepris en juillet son mandat à la CDO à titre d'avocate détachée du ministère du Procureur général. Elle dirige le projet sur les recours collectifs, qui cherche à savoir si la *Loi sur les recours collectifs de l'Ontario*, en vigueur depuis plus de 20 ans, est toujours pertinente. « C'est un privilège de faire à nouveau de la recherche et des analyses à propos de ces enjeux, affirme Mme Carnerie. Ils favorisent une réflexion originale et constructive. »

Ken Lung abonde dans le même sens. Employé au ministère depuis 24 ans, il s'est joint à l'équipe de la CDO en juin à titre d'avocat résident, après avoir récemment supervisé une équipe de 175 avocats et avocats comme directeur de portefeuille aux Services juridiques du Bureau du sous-procureur général adjoint. « Après plusieurs années à exercer des fonctions administratives au ministère, la CDO m'offre une occasion en or de revenir à la pratique du droit », déclare M. Lung, qui met à profit ses connaissances du fonctionnement du gouvernement dans le cadre de plusieurs projets de la CDO, dont ceux portant sur la capacité juridique et sur les soins de fin de vie.



Fran Carnerie



Ken Lung

EN BREF

Le président du Conseil des gouverneurs demeure en poste

Bruce Elman, le président du Conseil des gouverneurs de la CDO, ainsi qu'Andrew Pinto, Mark Berlin et Maria Páez Victor, qui sont membres du Conseil à titre personnel, entreprendront un second mandat d'une durée de trois ans. Camille Cameron, qui occupe maintenant le poste de doyenne de la faculté de droit Schulich de l'Université Dalhousie, a démissionné en tant que représentante des doyens des facultés de droit de l'Ontario au Conseil.

Faculté de droit de Lakehead

La faculté de droit de l'Université Lakehead, la plus récente au Canada, contribue au renforcement des liens de la CDO avec le monde universitaire. En effet, Mme Mariette Brennan, de la faculté de droit Bora Laskin de l'Université Lakehead, siègera dorénavant au Groupe de recherche et de liaison des facultés de droit de la Commission. Nous lui souhaitons la bienvenue!

Mouvement de personnel

Nous remercions Andrew Seo, dont le mandat à la CDO se termine cet automne, alors qu'Amanda Rodrigues reprend ses fonctions parmi nous.

Stages étudiants

Nous remercions les étudiantes stagiaires qui ont passé l'été à la CDO, soit Lisa-Marie Williams (Osgoode



Hall), Pia Anthonymuttu (Université Western) de même que Jasmine Attfield et Samantha Peters (Université d'Ottawa); les stagiaires Greg Miles (Université du Maryland) et Jenny Kim (Université de l'État du Michigan); Ava Karbakhsh, boursière de l'Université d'Ottawa, ainsi que Radhika Sharma et Priya Khatri, qui ont terminé leur stage travail-études ou du programme LAWS, selon le cas.

Le Conseil des gouverneurs approuve le rapport sur les petites successions

Un rapport ayant pour but de proposer une solution de rechange simplifiée et abordable au régime d'homologation de l'Ontario a été approuvé en août par le Conseil des gouverneurs de la CDO. Le rapport, qui sera rendu public le 19 novembre, vise les successions d'au plus 50 000 \$.



La Commission du droit de l'Ontario tient à remercier ses partenaires financiers :



et les facultés de droit suivantes pour leur soutien :

Lakehead University, Queen's University, Université d'Ottawa (Sections de common law et de droit civil), University of Toronto, University of Windsor et Western University.

Elle reçoit un soutien supplémentaire de l'Université York.

COMMISSION DU DROIT DE L'ONTARIO

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LAW COMMISSION OF ONTARIO
COMMISSION DU DROIT DE L'ONTARIO

TAB 4



Report to Convocation December 4, 2015

Equity and Aboriginal Issues Committee/ Comité sur l'équité et les affaires autochtones

Committee Members
Julian Falconer, Co-Chair
Janet Leiper, Co-Chair
Dianne Corbiere, Vice-Chair
Sandra Nishikawa, Vice-Chair
Raj Anand
Fred Bickford
Suzanne Clément
Teresa Donnelly
Robert Evans
Avvy Go
Howard Goldblatt
Marian Lippa
Isfahan Merali
Barbara Murchie
Gina Papageorgiou
Susan Richer
Raj Sharda

Purpose of Report: Information

**Prepared by the Equity Initiatives Department
(Josée Bouchard – 416-947-3984)**

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Human Rights Monitoring Group Intervention Updates

Equity Legal Education and Rule of Law Calendar 2015 – 2016

COMMITTEE PROCESS

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (the "Committee") met on November 12, 2015. Committee members bencher Julian Falconer, Chair, bencher Janet Leiper, Chair, bencher Dianne Corbiere, Vice-Chair, bencher Sandra Y. Nishikawa, Vice-Chair, and benchers Fred Bickford, Suzanne Clément, Teresa Donnelly, Robert Evans, Avvy Go, Howard Goldblatt, Marian Lippa, Isfahan Merali, Barbara Murchie, Gina Papageorgiou and Susan Richer attended. Julie Lassonde, representative of the Association des juristes d'expression française de l'Ontario, and Paul Saguil, Chair of the Equity Advisory Group, also participated. Staff members Josée Bouchard, Grant Wedge, Susan Tonkin and Marisha Roman also attended.

TAB 4.1

FOR DECISION

HUMAN RIGHTS MONITORING GROUP REQUEST FOR INTERVENTIONS

2. That Convocation approve the letters and public statements in the following cases:
 - a. Lawyer Adilur Rahman Khan – Bangladesh – letter of intervention and public statement presented at [TAB 4.1.1](#).
 - b. Lawyer Karim Hamdy– Egypt– letter of intervention and public statement presented at [TAB 4.1.2](#).
 - c. Lawyer Ermek Narymbaev – Kazakhstan – letter of intervention and public statement presented at [TAB 4.1.3](#).
 - d. Lawyer Narges Mohammadi – Iran – letter of intervention and public statement presented at [TAB 4.1.4](#).
 - e. Lawyer Mahfooz Saeed – Maldives – letter of intervention and public statement presented at [TAB 4.1.5](#).
 - f. Lawyer Abdullah Abdelkader – Sudan – letter of intervention and public statement presented at [TAB 4.1.6](#).
 - g. Lawyer Tahir Elçi – Turkey – letter of intervention and public statement presented at [TAB 4.1.7](#).

Rationale

3. The request for interventions falls within the mandate of the Human Rights Monitoring Group (the “Monitoring Group”) to,
 - a. review information that comes to its attention about human rights violations that target members of the profession and the judiciary, here and abroad, as a result of the discharge of their legitimate professional duties;
 - b. determine if the matter is one that requires a response from the Law Society; and,
 - c. prepare a response for review and approval by Convocation.

Key Issues and Considerations

4. The Monitoring Group considered the following factors when making a decision about the intimidation and threats against human rights lawyer Adilur Rahman Khan:
 - a. there are no concerns about the quality of sources used for this report;
 - b. the intimidation and threats against Adilur Rahman Khan fall within the mandate of the Monitoring Group.
5. The Monitoring Group considered the following factors when making a decision about the death of lawyer Karim Hamdy:

- a. there are no concerns about the quality of sources used for this report;
 - b. the Law Society of Upper Canada has intervened five times in respect of human rights issues in Egypt, most recently in May 2015, concerning the ongoing harassment of lawyer Azza Soliman;
 - c. the death of lawyer Karim Hamdy falls within the mandate of the Monitoring Group.
6. The Monitoring Group considered the following factors when making a decision about the arrest and detention of human rights lawyer Ermek Narymbaev:
 - a. there are no concerns about the quality of sources used for this report;
 - b. the arrest and detention of human rights lawyer Ermek Narymbaev falls within the mandate of the Monitoring Group.
7. The Monitoring Group considered the following factors when making a decision about the arrest and imprisonment of human rights lawyer and activist Narges Mohammadi:
 - a. there are no concerns about the quality of sources used for this report;
 - b. the Law Society of Upper Canada intervened in this case in February 2015 and has intervened several times in respect of human rights issues in Iran;
 - c. the arrest and imprisonment of human rights lawyer Narges Mohammadi falls within the mandate of the Monitoring Group.
8. The Monitoring Group considered the following factors when making a decision about the attack on human rights lawyer Mahfooz Saeed:
 - a. there are no concerns about the quality of sources used for this report;
 - b. the attack on human rights lawyer Mahfooz Saeed falls within the mandate of the Monitoring Group.
9. The Monitoring Group considered the following factors when making a decision about the killing of judge and human rights defender Abdullah Abdelkader:
 - a. there are no concerns about the quality of sources used for this report;
 - b. the Law Society of Upper Canada has intervened four times in respect of human rights issues in Sudan, most recently in February 2015, regarding the arrest and continued detention of human rights lawyer Dr. Amin Mekki Medani,
 - c. the killing of judge and human rights defender Abdullah Abdelkader falls within the mandate of the Monitoring Group.

10. The Monitoring Group considered the following factors when making a decision about the arrest and investigation of human rights lawyer Tahir Elçi:
 - a. there are no concerns about the quality of sources used for this report;
 - b. the Law Society of Upper Canada has intervened several times in respect of human rights issues in Turkey, most recently in June 2014, regarding the judicial harassment of Muharrem Erbeyi;
 - c. the arrest and investigation of human rights lawyer Tahir Elçi falls within the mandate of the Monitoring Group.

KEY BACKGROUND

BANGLADESH – INTIMIDATION AND THREATS AGAINST HUMAN RIGHTS LAWYER ADILUR RAHMAN KHAN

Sources of Information

11. The background information for this report was taken from the following sources:
 - a. The Law Society of England and Wales; and
 - b. World Organization Against Torture.

Background

12. Adilur Rahman Kahn is a prominent lawyer and human rights defender. In 2014, he was awarded the International Bar Association's Human Rights Prize. Adilur Rahman Khan is the founder and secretary of Odhikar, a human rights organization that works to raise awareness of human rights and monitor alleged violations in Bangladesh.¹
13. Reports indicate that on August 2, 2015, the Media and Public Relations wing of the Police Headquarters in Dhaka issued a press release affirming that statements made by Odhikar and the Bangladesh Human Rights Commission (BAMAK) regarding extra judicial executions "contravene the existing laws of Bangladesh, which is synonymous to challenging Rule of Law and the judicial system."² The press release further stated that "questioning the activities of the police threatens the reputation of the police and amounts to defamation and a criminal act, and may be considered a subversive activity."³
14. In a letter to the Prime Minister of Bangladesh, the Law Society of England and Wales noted that they have become aware of "allegations that Mr. Khan and his relatives have

¹ <http://communities.lawsociety.org.uk/human-rights/interventions/2015/bangladesh-adilur-rahman-khan-lawyer-at-risk/5051144.article>

² As cited in <https://www.fidh.org/en/region/asia/bangladesh/bangladesh-imminent-and-serious-death-threats-against-mr-adilur>

³ *Ibid.*

received death threats in August 2015, on or after the publication of the police press release.”⁴

15. Adilur Rahman Khan, his family members and Odhikar have been the subjects of acts of intimidation in the past. They have reported being under constant watch by the Special Branch of Police.⁵ Additionally, according to the Observatory for the Protection of Human Rights Defenders, Adilur Rahman Khan is “currently facing charges under Section 57 of the Information and Communication Technology (ICT) Act 2006 (amended in 2009), in relation to a fact-finding report issued by Odhikar on the killing of 61 people during an operation carried out by security forces against Hefazat-e Islam activists on May 5-6, 2013 in Dhaka.”⁶
16. Human rights organizations are concerned that Adilur Rahman Khan and Odhikar are being targeted as a result of their human rights work. The Law Society of England and Wales has intervened in this matter.

EGYPT – DEATH OF LAWYER KARIM HAMDY

Sources of Information

17. The background information for this report was taken from the following sources:
 - a. Amnesty International;
 - b. The Guardian; and
 - c. The Law Society of England and Wales

Background

18. The following information has been reported about lawyer Karim Hamdy.
19. According to reports, on 22 February 2015, Karim Hamdy was arrested during a raid on his home by armed security forces. Security forces advised Karim Hamdy's mother that they were taking him to the Marg Police Station; however, his friends and his lawyer did not find him there. Following a long search, they discovered he had been taken to Mattareya Police Station.⁷
20. Once at the police station, Karim Hamdy was accused of belonging to a terrorist group, protesting without authorization, possessing weapons and using them against the police

⁴ *Supra* at note 1.

⁵ *Supra* at note 2.

⁶ <https://www.fidh.org/en/region/asia/bangladesh/bangladesh-imminent-and-serious-death-threats-against-mr-adilur>

⁷ <https://www.amnesty.org/en/press-releases/2015/03/egypt-spate-of-detainee-deaths-points-to-rampant-abuse-at-cairo-s-mattareya-police-station/>

during protests.⁸ He denied the accusations and advised the prosecutor that he had been tortured by the police in order to obtain a videotaped confession. Reports indicate that the prosecutor, instead of investigating Karim Hamdy's claim of torture, sent him back to the police station where he was subjected to further torture. On 24 February 2015, the following day, Karim Hamdy was due to return to the prosecutor's office for further questioning, however he never arrived. Karim Hamdy's lawyers went to the police station to look for him and discovered that he had died.⁹

21. According to the Law Society of England and Wales:

Medical officials who examined his body reported signs of torture, including a beating that had left him with ten broken ribs and bleeding in the brain. Furthermore, an eyewitness who viewed his body at the morgue described it as covered in red and brown bruises, with blue marks around his eyes and a broken right arm. This gives rise to serious concerns that his death resulted from torture by the security services.¹⁰

22. Following a complaint by the Bar Association to the prosecutor's office, a lieutenant colonel and a major of the National Security agency were charged with Karim Hamdy's torture and murder; however, this trial is taking place in secret as a result of a gag order by the state prosecutor. Human rights organizations have cited concerns about transparency and accountability.¹¹
23. Reports also indicate that on the same day Karim Hamdy died, another lawyer detained at Mattareya Police Station, Emad el-Attar, died due to poor ventilation in an overcrowded cell and denial of medical care.¹² Following Karim Hamdy's death, on 10 April 2015, lawyer Imam Afifi, who was allegedly subject to torture at Mattareya police station, died 11 days after being transferred to hospital with serious head trauma.¹³
24. Human rights organizations continue to raise concerns about the erosion of the rule of law in Egypt and the systemic attack on lawyers and other human rights defenders by Egyptian authorities.¹⁴

⁸ <http://communities.lawsociety.org.uk/human-rights/interventions/2015/egypt-death-of-lawyer-karim-hamdy/5050998.article>

⁹ *Supra* note 7.

¹⁰ *Supra* note 8

¹¹ *Ibid.*

¹² *Supra* note 7

¹³ *Supra* note 8

¹⁴ *Ibid.* Also see "Why Is Egypt Prosecuting Human Rights Defenders?", *Huffington Post* (3 March 2015), online: <http://www.huffingtonpost.com/francoise-girard/why-is-egypt-prosecuting_b_6980688.html>; "Egypt: Women's rights activists among 17 facing spurious charges in security forces 'cover up'", *Amnesty International* (2 April 2015), online: <https://www.amnesty.org/press-releases/2015/04/egypt-womens-rights-activist-among-17-facing-spurious-charges/>; "Witnesses, Who Say Police Killed Activist, Are to Be Charged in Europe", *The New York Times* (30 March 2015), online: <http://www.nytimes.com/2015/03/31/world/middleeast/witnesses-who-say-police-killed-activist-are-to-be-charged-in-egypt.html?_r=0>

KAZAKHSTAN– ARREST AND DETENTION OF HUMAN RIGHTS LAWYER ERMEK NARYMBAEV

Sources of Information

25. The background information for this report was taken from the following sources:
- a. Council of Bar and Law Societies of Europe;
 - b. Human Rights Watch; and
 - c. United Nations Office of the High Commissioner for Human Rights

Background

26. The following information has been reported about the arrest and detention of human rights lawyer Ermek Narymbaev.
27. Ermek Narymbaev is well-known for exposing financial fraud carried out by banks in Kazakhstan. He also provides legal advice to those that have been deliberately misinformed by banks.¹⁵ In 2011, Ermek Narymbaev was awarded the Kazakh “Freedom” award.¹⁶
28. On 12 October 2015, Ermek Narymbaev was arrested, along with Serikzhan Mambetalin, former head of the Rukhaniyat party. Reports indicate that police officers searched Ermek Narymbaev’s office and home and confiscated laptops and modems. Zhanara Balgabaeva, Ermek Narymbaev’s lawyer, who arrived once the search began, was permitted by police to be present during the search of Ermek Narymbaev’s home but not during the search of his office. According to a police statement, Ermek Narymbaev and Serikzhan Mambetalin’s arrests were based on information that “they had circulated material on social media that contains clear signs of inciting national discord [and] insulting national honor and dignity.”¹⁷ Human Rights Watch notes that the charges appear to be connected to Facebook posts about the writings of another activist that describes the Kazakh state in “provocative terms”.¹⁸ Ermek Narymbaev could face up to 10 years in prison for “inciting social, national, clan, racial, class, or religious discord.”¹⁹
29. Ermek Narymbaev has been critical of the Kazakh government and has been active on social media networks. Ermek Narymbaev was jailed twice this year for up to 20 days for attempting to stage peaceful protests – his most recent arrest prior to this one took place on 20 August 2015.²⁰
30. In September 2015, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, expressed concern about Ermek

¹⁵ http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/Letter_Kazakhstan_Er1_1442227725.pdf

¹⁶ Frontline Defenders

¹⁷ <https://www.hrw.org/news/2015/10/16/kazakhstan-two-activists-detained>

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Supra* note 15.

Narymbaev's 20 August 2015 arrest and detention, stressing that the state has "a primary responsibility to protect human rights defenders from any form of harassment, intimidation and retaliation arising as a result of their legitimate and peaceful human rights activities."²¹

IRAN– ARREST AND DETENTION OF HUMAN RIGHTS LAWYER AND ACTIVIST NARGES MOHAMMADI

Sources of Information

31. The background information for this report was taken from the following sources:
 - a. The Law Society of England and Wales; and
 - b. International Campaign for Human Rights in Iran.

Background

32. The following report served as the basis for the Human Rights Monitoring Group's intervention in the case of Narges Mohammadi in February 2015:
33. Narges Mohammadi is a prominent human rights lawyer and activist,²² as well as spokesperson and Vice-President of the Defenders of Human Rights Centre ("DHRC") in Iran. The history of her harassment by Iranian authorities has been well documented.
34. Reports indicate that, on 14 February 2012, Narges Mohammadi was sentenced to six years in prison for the offences of "propaganda against the Islamic Republic", "assembly and collusion against national security" and "membership in an illegal group" (the DHRC).²³ This was a reduction of her initial sentence of eleven years on the same charges, which was handed down in October 2011.²⁴ The international community believed this to be an unjust persecution of a human rights defender.²⁵
35. It is reported that Narges Mohammadi was unsuccessful in appealing her six-year sentence and was taken into custody on 12 April 2012. According to sources, she "was

²¹ UN

²² "Statement by the spokesperson of the EU High Representative Catherine Ashton on the sentencing of Ms. Narges Mohammadi, an Iranian Human Rights Defender", High Representative of the European Union for Foreign Affairs and Security Policy: Press (8 October 2011), online: <http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/124989.pdf> [EU].

²³ "Press Release - Iran: Ms. Nargess Mohammadi at risk of arrest", *The Observatory for the Protection of Human Rights Defenders* (7 November 2014), online: <http://www.omct.org/files/2014/11/22887/20141107_iran_mohammadi_obs_pr_en.pdf> [Observatory Press Release].

²⁴ "Narges Mohammadi Summoned to Evin Prison Court on Unspecified Charges", *International Campaign for Human Rights in Iran* (7 November 2014), online: <<http://www.iranhumanrights.org/2014/11/narges-mohammadi-2/>> [ICHR].

²⁵ EU *supra* note 5.

released on bail on July 31, 2012 for medical reasons, and has since continued to advocate and work for the defence of human rights in Iran."²⁶

36. On International Women's Day, in March 2014, she met with Catherine Ashton, the High Representative of the European Union for Foreign Affairs & Security Policy, at the Austrian Embassy in Tehran.²⁷ Reports indicate that, following the release of photographs of the meeting, Narges Mohammadi "was harshly criticized by the state-controlled media and hardliners in the Iranian Parliament, and was described as "a sedition activist and convict."²⁸ Shortly after these events, she allegedly received a notice from the Islamic Revolution Prosecutor's Office banning her from travelling abroad.²⁹
37. It is reported that Narges Mohammadi was summoned on 1 June 2014 to the Prosecutor's Office located at Evin Prison and interrogated. She was allegedly asked to defend herself against numerous accusations of "disturbing the public opinion" and "assembly and collusion against the national security."³⁰ These accusations arose as the result of her attendance and participation in meetings at which participants criticized the Citizenship Charter in Iran, and discussed International Women's Day and the Day of Clean Air.³¹
38. Reports indicate that on 3 November 2014, she delivered a speech during a ceremony marking the second anniversary of Sattar Beheshti's death.³² Beheshti, a prominent blogger, died from torture in police custody in November 2012.³³ During the speech, Narges Mohammadi allegedly asked: "How is it that the Parliament Members are suggesting a Plan for the Promotion of Virtue and Prevention of Vice, but nobody spoke up two years ago, when an innocent human being by the name of Sattar Beheshti died under torture in the hands of his interrogator?"³⁴
39. Two days later, Narges Mohammadi received another summons to attend the Prosecutor's Office at Evin Prison related to unspecified charges.³⁵ Multiple sources quote Mohammadi as stating the following: "In the summons I received on 5 November 2014, it is stated that I must turn myself in 'for charges,' but there is no further explanation about these charges."³⁶ There have been no reports indicating whether or not Narges Mohammadi has been taken into custody, or if she has been officially charged in relation to her most recent summons.
40. Given the history of Narges Mohammadi's harassment by Iranian authorities for her work advocating for human rights in Iran, the Monitoring Group is deeply concerned that she is at high risk of being arrested and charged contrary to international law.

²⁶ *Observatory Press Release supra* note 6.

²⁷ "Iran: Judicial Harassment of Human Rights Activist Narges Mohammadi", Gulf Center for Human Rights (14 November 2014), online: <<http://www.gc4hr.org/news/view/818>> [GCHR].

²⁸ *ICHRI supra* note 7.

²⁹ *Observatory Press Release supra* note 6.

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

³³ *GCHR supra* note 10.

³⁴ *GCHR supra* note 10.

³⁵ *ICHRI supra* note 7.

³⁶ See *ICHRI supra* note 7 and *GCHR supra* note 10.

41. The harassment of Narges Mohammadi by Iranian authorities contravenes Principles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.³⁷ Principle 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Principle 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organisations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organisation.

42. The actions of Iranian authorities also contravene Article 19 of the *Universal Declaration of Human Rights*, which guarantees that “[e]veryone has the right to freedom of opinion and expression.”³⁸
43. Organizations believe that Iranian authorities continue to harass and intimidate Narges Mohammadi in order to prevent her from carrying out peaceful human rights activities, and that her ongoing harassment constitutes part of a trend of harassment against human rights defenders in Iran.³⁹ Groups are calling on the Iranian government to cease immediately any illegal actions against her.

Update

44. On 5 May 2015, Narges Mohammadi was arrested and imprisoned in Evin Prison. Narges Mohammadi faces new charges of “collusion,” “assembly against national security,” and “membership in Step by Step to Stop Death Penalty.”⁴⁰ Three scheduled court dates for her trial – 3 May 2015, 6 July 2015, and 7 October 2015 – were postponed.

³⁷ United Nations, *Basic Principles on the Role of Lawyers*, 7 September 1990, online:

<<http://www.refworld.org/docid/3ddb9f034.html>> [UN Basic Principles].

³⁸ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), at Article 9 online: <<http://www.un.org/en/documents/udhr/#atop>> [UDHR].

³⁹ GCHR *supra* note 10.

⁴⁰ <http://www.iranhumanrights.org/2015/10/narges-mohammadi-8/>

45. Narges Mohammadi has a neurological condition that causes muscle paralysis.⁴¹ According to the International Campaign for Human Rights in Iran, "The health of imprisoned activist Narges Mohammadi has deteriorated, and the prominent human rights defender is now reportedly chained to a hospital bed, denied proper medical treatment for a worsening neurological condition, and prevented from normal family visitation."⁴²
46. The Law Society of England and Wales has noted the following:
- a. Her medication was taken from her when she was taken to prison;
 - b. On 27 July 2015, she was taken to Taleghani hospital but returned to prison on the same date without receiving treatment for a possible blood clot in her lungs;
 - c. On 28 July, prison officials refused to take her to another medical appointment;
 - d. On 1 August, she was taken to hospital suffering from partial paralysis;
 - e. On 4 August, when her family came to visit her in hospital, she had been taken back to Evin prison although she was in a semi-conscious state;
 - f. On 6 August 2015, when her condition deteriorated, her family was given permission to take her to a neurologist, but Narges was refused permission to leave prison by the authorities; and
 - g. She is not allowed to make phone calls to her 8-year-old twins, who moved abroad with their father, because they have no caregiver in Iran.⁴³
47. Narges Mohammadi was taken to hospital on 11 October 2015 after having a seizure. She previously had a seizure on 7 October 2015. She was taken to hospital but brought back to prison two days later.⁴⁴
48. Organizations, including the Law Society of England and Wales, have called for her immediate release and the provision of proper and timely medical care.

MALDIVES– ATTACK ON HUMAN RIGHTS LAWYER MAHFOOZ SAEED

Sources of Information

49. The background information for this report was taken from the following sources:
- a. Amnesty International;
 - b. Council of Bar and Law Societies of Europe;
 - c. Front Line Defenders; and
 - d. Maldives Independent

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ <http://communities.lawsociety.org.uk/human-rights/interventions/2015/iran-narges-mohammadi-human-rights-defender-at-risk/5051240.article>

⁴⁴ *Supra* note 40.

Background

50. The following information has been reported about the attack on human rights lawyer Mahfooz Saeed.
51. According to Front Line Defenders, "Mahfooz Saeed is a human rights lawyer and member of the legal team for former president Mohamed Nasheed, who was convicted under the Anti-Terrorism Act and sentenced to 13 years in prison in 2015, following proceedings which did not meet international standards for fair trial."⁴⁵
52. On 4 September 2015, Mahfooz Saeed was attacked and stabbed in the head by two unidentified men as he was sitting on his motorcycle. He was rushed to hospital where he underwent a three hour surgery to remove the knife which remained lodged in his head. The last reports on this case indicated that his condition was stable and that he was expected to recover.⁴⁶
53. Mahfooz Saeed has written blogs, which include criticisms of the Maldives judicial system, the increasing crime rate and the socioeconomic situation in the country.⁴⁷ He has called for judicial reform. Front Line Defenders notes:

The attack on Mahfooz Saeed comes a week after the human rights lawyer spoke critically of the current government at a Maldivian Democratic Party rally, and a week before members of former president Nasheed's international legal team, Ms. Amal Clooney and Mr. Jared Genser, travel to the Maldives to meet the former president. In August 2015, Nasheed was once again detained in prison, two months after his 13-year prison sentence was commuted to house arrest due to health concerns.⁴⁸
54. The Council of Bars and Law Societies of Europe has called for the government of the Maldives to guarantee Mahfooz Saeed's physical and psychological integrity and security, to carry out an immediate and impartial investigation into the attack on Mahfooz Saeed, and to guarantee that human rights defenders in Maldives will be able to carry out their human rights activities without fear of reprisal or restrictions.⁴⁹

SUDAN– KILLING OF JUDGE AND HUMAN RIGHTS DEFENDER ABDULLAH ABDELKADER

Sources of Information

55. The background information for this report was taken from the following sources:
 - a. Front Line Defenders; and

⁴⁵ <https://www.frontlinedefenders.org/node/29535>

⁴⁶ *Ibid.*

⁴⁷ [ccbe.eu/fileadmin/user.../CCBE_Human_Rights_Le1_1443784099.pdf](#)

⁴⁸ *Supra* note 45.

⁴⁹ *Supra* note 47.

b. The Law Society of England and Wales

Background

56. The following information has been reported about the killing of judge and human rights defender Abdullah Abdelkader.

57. According to Front Line Defenders:

Abdullah Abdelkader was a judge and human rights defender, and a member of the Sudan Human Rights Monitor. He provided legal aid to victims of human rights violations, particularly in areas affected by armed conflict, including South Kordofan, Blue Nile and Darfur. He was also very active in advocating for and supporting fellow human rights defenders in these regions.⁵⁰

58. On 24 August 2015, Abdullah Abdelkader, while visiting his hometown of El Abbasiya Tagali in South Kordofan State, was shot and killed by members of an armed group. The Law Society of England and Wales has expressed concern that Abdullah Abdelkader was killed as a result of his legitimate human rights work as a lawyer.⁵¹

TURKEY– ARREST AND INVESTIGATION OF HUMAN RIGHTS LAWYER TAHIR ELÇI

Sources of Information

59. The background information for this report was taken from the following sources:

- a. Al Jazeera;
- b. Human Rights Watch; and
- c. Lawyers for Lawyers, Fair Trial Watch and Lawyers' Rights Watch Canada.

Background

60. The following information has been reported about arrest and investigation of Tahir Elçi,

61. Tahir Elçi is a prominent human rights lawyer and president of the Diyarbakir Bar Association. According to reports, "He has worked extensively to represent families of victims of egregious human rights violations by the security forces, including enforced disappearances and unlawful killings by suspected government agents."⁵²

62. The Lawyers for Lawyers Foundation, Fair Trial Watch and Lawyers Rights Watch Canada have advised the Law Society of the following:

⁵⁰ <https://www.frontlinedefenders.org/node/29467>

⁵¹ <http://communities.lawsociety.org.uk/human-rights/interventions/2015/sudan-mr-abdullah-abdelkader-killing-of-hrd/5051005.article>

⁵² <http://www.aljazeera.com/news/2015/10/turkey-arrests-prominent-lawyer-pkk-comments-151020085312267.html>

On 20 October 2015, Mr. Elçi was arrested by the anti-terror police in the offices of the Diyarbakir Bar Association and brought to Istanbul to be interrogated by the Bakirköy Public Prosecutor. We understand first that the prosecutor has started an investigation of Mr. Elçi for allegedly 'making propaganda for or promoting a terrorist organization' and second, that he was arrested on the grounds that his whereabouts were not known and that a summons to testify before the prosecutor could not be issued. We reject the legitimacy of both the basis of the investigation and the grounds for the arrest and associated restrictions. With respect to the arrest, as we understand it, Mr. Elçi had stated on 19 October 2015 that he was willing to come to the police station voluntarily to make a statement. As he did not receive a summons, he waited at his office at the Diyarbakir Bar Association for the police, together with a group of lawyers and politicians.

After Mr. Elçi was questioned, the prosecutor requested the court to impose pre-trial detention. The court ordered Mr. Elçi's release. However, his release is pending completion of the investigation, which is ongoing, and restrictions have been imposed: Mr. Elçi is not allowed to leave the country and is placed under judicial supervision.

63. On 26 October 2015, reports indicated that the Istanbul Bakirköy public prosecutor's office prepared an indictment against Tahir Elçi on charges of "making terrorist propaganda", which carries a possible prison sentence of 1.5 to 7.5 years. For a trial to commence against Elçi, a court must rule within two weeks to accept the indictment.⁵³

⁵³ <https://www.hrw.org/news/2015/10/20/turkey-rights-lawyer-faces-terrorism-probe>

TAB 4.1.1

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

ADILUR RAHMAN KHAN

Ms. Sheikh Hasina
Prime Minister
Office of the Prime Minister
Gona Bhaban
Old Sangsad Bhaban
Tejgaon
Dhaka 1215
Bangladesh

Dear Prime Minister:

Re: Intimidation and Threats against Lawyer Adilur Rahman Khan

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the intimidation and threats against lawyer Adilur Rahman Khan. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Adilur Rahman Kahn is a prominent lawyer and human rights defender. In 2014, he was awarded the International Bar Association's Human Rights Prize. Adilur Rahman Khan is the founder and secretary of Odhikar, a human rights organization that works to raise awareness of human rights and monitor alleged violations in Bangladesh.

Reports indicate that on August 2, 2015, the Media and Public Relations wing of the Police Headquarters in Dhaka issued a press release affirming that statements made by Odhikar and the Bangladesh Human Rights Commission (BAMAK) regarding extra judicial executions "contravene the existing laws of Bangladesh, which is synonymous to challenging Rule of Law and the judicial system." The press release further stated that "questioning the activities of the police threatens the reputation of the police and amounts to defamation and a criminal act, and may be considered a subversive activity."

The Law Society is aware of allegations that Mr. Khan and his relatives received death threats in August 2015, on or after the publication of the police press release.

Adilur Rahman Khan, his family members and Odhikar have been the subjects of acts of intimidation in the past. They have reported being under constant watch by the Special Branch of Police. Furthermore, it the Law Society's understanding that Adilur Rahman Khan is currently

facing charges under Section 57 of the Information and Communication Technology (ICT) Act 2006 (amended in 2009), in relation to a fact-finding report issued by Odhikar on the killing of 61 people during an operation carried out by security forces against Hefazat-e Islam activists on May 5-6, 2013 in Dhaka.

The Law Society of Upper Canada urges your government to comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Bangladesh to:

- a. guarantee in all circumstances the physical and psychological integrity of Adilur Rahman Khan;
- b. guarantee all the procedural rights that should be accorded to Adilur Rahman Khan and other human rights lawyers and defenders in Bangladesh;
- c. put an end to all acts of harassment against Adilur Rahman Khan as well as other human rights lawyers and defenders in Bangladesh;
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor
Treasurer

**The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,400 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

Professor Dr. Gowher Rizvi
International Affairs Adviser to the Prime Minister
Old Sangsad Bhaban
Tejgaon
Dhaka 1215
Bangladesh

Mr. Asaduzzaman Khan
State Minister for Home Affairs
Ministry of Home Affairs
Bangladesh Secretariat
Building 8
Dhaka
Bangladesh

Mr. Anisul Huq
Minister for Law, Justice and Parliamentary Affairs
Ministry of Law
Justice and Parliamentary Affairs
Bangladesh Secretariat
Building 8
Dhaka
Bangladesh

Mr. Md. Shahriar Alam
State Minister for Foreign Affairs
Segunbagicha
Dhaka 1000
Bangladesh

Mr. Mahbubey Alam
Attorney General for Bangladesh
Attorney General's Office
Supreme Court Premises
Dhaka

Bangladesh

H.E. Mr. M. Shameem Ahsan
Ambassador
Permanent Mission of the People's Republic of Bangladesh to the United Nations in
Geneva
65 rue de Lausanne
1202 Geneva
Switzerland

Dr. A.K. Abdul Momem
Permanent Representative
Permanent Mission of Republic of Bangladesh to the United Nations
820 2nd Avenue
Diplomat Centre
4th Floor
New York, NY
NY-10017 USA

H.E. Kamrul Ahsan
High Commissioner for Bangladesh in Canada
350 Sparks Street, Suite #1100
Ottawa, ON K1R 7S8

Alex Neve, Secretary General, Amnesty International Canada

MD. Masud Ahmed Talukder, President, Dhaka Bar Association

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Advisor, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Intimidation and Threats against Lawyer Adilur Rahman Khan

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to Ms. Sheikh Hasina, Prime Minister of Bangladesh, expressing our deep concerns over reports of intimidation and threats against human rights lawyer Adilur Rahman Khan.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Josée Bouchard, Director, Equity, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,400 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar. Due to this commitment, the Law Society established a Human Rights Monitoring Group ("Monitoring Group"). The Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Mary Lawlor, Executive Director, Front Line Defenders
- Vincent Forest, Head of European Union Office, Front Line Defenders

- Kenneth Roth, Executive Director, Human Rights Watch
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights
- Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights
- Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns about intimidation and threats against human rights lawyer Adilur Rahman Khan in Bangladesh

The Law Society of Upper Canada is gravely concerned about intimidation and threats against human rights lawyer Adilur Rahman Khan.

Adilur Rahman Kahn is a prominent lawyer and human rights defender. In 2014, he was awarded the International Bar Association's Human Rights Prize. Adilur Rahman Khan is the founder and secretary of Odhikar, a human rights organization that works to raise awareness of human rights and monitor alleged violations in Bangladesh.

Reports indicate that on August 2, 2015, the Media and Public Relations wing of the Police Headquarters in Dhaka issued a press release affirming that statements made by Odhikar and the Bangladesh Human Rights Commission (BAMAK) regarding extra judicial executions "contravene the existing laws of Bangladesh, which is synonymous to challenging Rule of Law and the judicial system." The press release further stated that "questioning the activities of the police threatens the reputation of the police and amounts to defamation and a criminal act, and may be considered a subversive activity."

The Law Society is aware of allegations that Mr. Khan and his relatives received death threats in August 2015, on or after the publication of the police press release.

Adilur Rahman Khan, his family members and Odhikar have been the subjects of acts of intimidation in the past. They have reported being under constant watch by the Special Branch of Police. Furthermore, it the Law Society's understanding that Adilur Rahman Khan is currently facing charges under Section 57 of the Information and Communication Technology (ICT) Act 2006 (amended in 2009), in relation to a fact-finding report issued by Odhikar on the killing of 61 people during an operation carried out by security forces against Hefazat-e Islam activists on May 5-6, 2013 in Dhaka.

The Law Society of Upper Canada urges the government of Bangladesh to comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Bangladesh to:

- a. guarantee in all circumstances the physical and psychological integrity of Adilur Rahman Khan;
- b. guarantee all the procedural rights that should be accorded to Adilur Rahman Khan and other human rights lawyers and defenders in Bangladesh;
- c. put an end to all acts of harassment against Adilur Rahman Khan as well as other human rights lawyers and defenders in Bangladesh;
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

TAB 4.1.2

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

KARIM HAMDY

His Excellency Abdel Fattah el-Sisi
President of the Arab Republic of Egypt
Abedine Palace
Cairo, Egypt

Your Excellency:

Re: The death of lawyer Karim Hamdy

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the death of lawyer Karim Hamdy. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

According to reports, on 22 February 2015, Karim Hamdy was arrested during a raid on his home by armed security forces. Security forces advised Karim Hamdy's mother that they were taking him to the Marg Police Station; however, his friends and his lawyer did not find him there. Following a long search, they discovered he had been taken to Mattareya Police Station.

Once at the police station, Karim Hamdy was accused of belonging to a terrorist group, protesting without authorization, possessing weapons and using them against the police during protests. He denied the accusations and advised the prosecutor that he had been tortured by the police in order to obtain a videotaped confession. Reports indicate that the prosecutor, instead of investigating Karim Hamdy's claim of torture, sent him back to the police station where he was subjected to further torture. On 24 February 2015, the following day, Karim Hamdy was due to return to the prosecutor's office for further questioning, however he never arrived. Karim Hamdy's lawyers went to the police station to look for him and discovered that he had died.

Reports indicate that medical officials who examined his body reported signs of torture, including ten broken ribs and bleeding in the brain. Additionally, an eyewitness who viewed his body at the morgue described it as being covered in red and brown bruises, with blue marks around his eyes and a broken right arm.

Following a complaint by the Bar Association to the prosecutor's office, a lieutenant colonel and a major of the National Security agency were charged with Karim Hamdy's torture and murder; however, it is the Law Society's understanding that this trial is taking place in secret as a result of a gag order by the state prosecutor. A secret trial is contrary to the rule of law and cannot be condoned.

Reports indicate that on the same day Karim Hamdy died, another lawyer detained at Mattareya Police Station, Emad el-Attar, died due to poor ventilation in an overcrowded cell and denial of medical care. It has also come to the Law Society's attention that on 10 April 2015, lawyer Imam Afifi, who was allegedly subject to torture at Mattareya police station, died 11 days after being transferred to hospital with serious head trauma.

The Law Society of Upper Canada urges Your Excellency to comply with Articles 6, 7, and 10 (i) of the *International Covenant on Civil and Political Rights* (ratified by Egypt in 1982):

Article 6.1:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 10.1:

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

Article 12 of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* reads:

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

The Law Society also respectfully requests that you comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take

part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Egypt to:

- a. guarantee in all circumstances the physical and psychological integrity of human rights lawyers in Egypt;
- b. ensure that the trial related to the death of Karim Hamdy is public, impartial and independent;
- c. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations;
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor
Treasurer

**The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,400 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

Mr. Ibrahim Mahlab
Prime Minister
Magles El Shaab Street
Cairo
Egypt

Wael Aboul-Magd
Ambassador of the Arab Republic of Egypt
454 Laurier Avenue East
Ottawa, ON, K1N 6R3

Alex Neve, Secretary General, Amnesty International Canada

Egyptian Lawyers Syndicate

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Advisor, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Death of Lawyer Karim Hamdy

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to H.E. Abdel Fattah el-Sisi, President of Egypt, expressing our deep concerns over the death of lawyer Karim Hamdy.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Josée Bouchard, Director, Equity, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Egyptian Lawyers Syndicate
- Mary Lawlor, Executive Director, Front Line Defenders

- Vincent Forest, Head of European Union Office, Front Line Defenders
- Kenneth Roth, Executive Director, Human Rights Watch
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights
- Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights
- Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns about the death of lawyer Karim Hamdy in Egypt

The Law Society of Upper Canada is gravely concerned about the death of lawyer Karim Hamdy in Egypt.

According to reports, on 22 February 2015, Karim Hamdy was arrested during a raid on his home by armed security forces. Security forces advised Karim Hamdy's mother that they were taking him to the Marg Police Station; however, his friends and his lawyer did not find him there. Following a long search, they discovered he had been taken to Mattareya Police Station.

Once at the police station, Karim Hamdy was accused of belonging to a terrorist group, protesting without authorization, possessing weapons and using them against the police during protests. He denied the accusations and advised the prosecutor that he had been tortured by the police in order to obtain a videotaped confession. Reports indicate that the prosecutor, instead of investigating Karim Hamdy's claim of torture, sent him back to the police station where he was subjected to further torture. On 24 February 2015, the following day, Karim Hamdy was due to return to the prosecutor's office for further questioning, however he never arrived. Karim Hamdy's lawyers went to the police station to look for him and discovered that he had died.

Reports indicate that medical officials who examined his body reported signs of torture, including ten broken ribs and bleeding in the brain. Additionally, an eyewitness who viewed his body at the morgue described it as being covered in red and brown bruises, with blue marks around his eyes and a broken right arm.

Following a complaint by the Bar Association to the prosecutor's office, a lieutenant colonel and a major of the National Security agency were charged with Karim Hamdy's torture and murder; however, it is the Law Society's understanding that this trial is taking place in secret as a result of a gag order by the state prosecutor. A secret trial is contrary to the rule of law and cannot be condoned.

Reports indicate that on the same day Karim Hamdy died, another lawyer detained at Mattareya Police Station, Emad el-Attar, died due to poor ventilation in an overcrowded cell and denial of medical care. It has also come to the Law Society's attention that on 10 April 2015, lawyer Imam Afifi, who was allegedly subject to torture at Mattareya police station, died 11 days after being transferred to hospital with serious head trauma.

The Law Society of Upper Canada urges the government of the Arab Republic of Egypt to comply with Articles 6, 7, and 10 (i) of the *International Covenant on Civil and Political Rights* (ratified by Egypt in 1982):

Article 6.1:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 10.1:

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

Article 12 of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* reads:

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

The Law Society also requests that the government of the Arab Republic of Egypt comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Egypt to:

- a. guarantee in all circumstances the physical and psychological integrity of human rights lawyers in Egypt;

- b. ensure that the trial related to the death of Karim Hamdy is public, impartial and independent;
- c. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations;
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

TAB 4.1.3

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

ERMEK NARYMBAEV

President Nursultan Nazarbayev
Office of the President of the Republic of Kazakhstan
Akorda Building
Left bank of the Ishim River
Astana, Kazakhstan

Your Excellency:

Re: Arrest and detention of human rights lawyer Ermek Narymbaev

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the arrest and detention of human rights lawyer Ermek Narymbaev. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Ermek Narymbaev is well-known for exposing financial fraud carried out by banks in Kazakhstan. He also provides legal advice to those that have been deliberately misinformed by banks. In 2011, Ermek Narymbaev was awarded the Kazakh "Freedom" award.

It has come to our attention that on 12 October 2015, Ermek Narymbaev was arrested, along with Serikzhan Mambetalin, former head of the Rukhaniyat party. Reports indicate that police officers searched Ermek Narybaev's office and home and confiscated laptops and modems. Zhanara Balgabaeva, Ermek Narybaev's lawyer, who arrived once the search began, was permitted by police to be present during the search of Ermek Narybaev's home but not during the search of his office. According to a police statement, Ermek Narybaev and Serikzhan Mambetalin's arrests were based on information that "they had circulated material on social media that contains clear signs of inciting national discord [and] insulting national honor and dignity." It is our understanding that the charges appear to be connected to Facebook posts about the writings of another activist. Ermek Narymbaev could face up to 10 years in prison for "inciting social, national, clan, racial, class, or religious discord."

According to reports, Ermek Narymbaev was jailed twice this year for up to 20 days attempting to stage peaceful protests – his most recent arrest prior to this one took place on 20 August 2015.

In concern over these reports, the Law Society of Upper Canada urges Your Excellency to consider Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Kazakhstan to:

- a. guarantee in all circumstances the physical and psychological integrity of Ermek Narymbaev;
- b. guarantee all the procedural rights that should be accorded to Ermek Narymbaev and other human rights lawyers and defenders in Kazakhstan;
- c. put an end to all acts of harassment against Ermek Narymbaev as well as other human rights lawyers and defenders in Kazakhstan;
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor
Treasurer

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The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

Mr. Konstantin V. Zhigalov
Ambassador of the Republic of Kazakhstan to Canada
Embassy of the Republic of Kazakhstan to Canada
150 Metcalfe Street
Suite 1603-1604
Ottawa, ON K2P 1P1

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Management Board, Kazakhstan Bar Association

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Advisor, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Arrest and detention of human rights lawyer Ermek Narymbaev

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to Nursultan Nazarbayev, President of Kazakhstan, expressing our deep concerns over reports of the arrest and detention of human rights lawyer Ermek Narymbaev.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Josée Bouchard, Director, Equity, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Mary Lawlor, Executive Director, Front Line Defenders
- Vincent Forest, Head of European Union Office, Front Line Defenders

- Kenneth Roth, Executive Director, Human Rights Watch
- Management Board, Kazakhstan Bar Association
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights
- Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights
- Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns about the arrest and detention of human rights lawyer Ermek Narymbaev in Kazakhstan

Ermek Narymbaev is well-known for exposing financial fraud carried out by banks in Kazakhstan. He also provides legal advice to those that have been deliberately misinformed by banks. In 2011, Ermek Narymbaev was awarded the Kazakh "Freedom" award.

It has come to our attention that on 12 October 2015, Ermek Narymbaev was arrested, along with Serikzhan Mambetalin, former head of the Rukhaniyat party. Reports indicate that police officers searched Ermek Narybaev's office and home and confiscated laptops and modems. Zhanara Balgabaeva, Ermek Narybaev's lawyer, who arrived once the search began, was permitted by police to be present during the search of Ermek Narybaev's home but not during the search of his office. According to a police statement, Ermek Narybaev and Serikzhan Mambetalin's arrests were based on information that "they had circulated material on social media that contains clear signs of inciting national discord [and] insulting national honor and dignity." It is our understanding that the charges appear to be connected to Facebook posts about the writings of another activist. Ermek Narymbaev could face up to 10 years in prison for "inciting social, national, clan, racial, class, or religious discord."

According to reports, Ermek Narymbaev was jailed twice this year for up to 20 days attempting to stage peaceful protests – his most recent arrest prior to this one took place on 20 August 2015.

In concern over these reports, the Law Society of Upper Canada urges the government of Kazakhstan to consider Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration

of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Kazakhstan to:

- a. guarantee in all circumstances the physical and psychological integrity of Ermek Narymbaev;
- b. guarantee all the procedural rights that should be accorded to Ermek Narymbaev and other human rights lawyers and defenders in Kazakhstan;
- c. put an end to all acts of harassment against Ermek Narymbaev as well as other human rights lawyers and defenders in Kazakhstan;
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

TAB 4.1.4

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

NARGES MOHAMMADI

President Hassan Rouhani
Office of the President
Palestine Avenue
Azerbaijan Intersection
Tehran, 13168-43311
Islamic Republic of Iran

Your Excellency:

Re: Arrest and detention of human rights lawyer and activist Narges Mohammadi

I write on behalf of the Law Society of Upper Canada* further to our letter of 10 February 2015 to voice our grave concern over the arrest and detention of human rights lawyer and activist Narges Mohammadi. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Narges Mohammadi is a prominent human rights lawyer and activist, as well as the deputy director and spokesperson for the Defenders of Human Rights Centre ("DHRC") in Iran. The history of her harassment by Iranian authorities has been well-documented.

In our later dated 10 February 2015, the Law Society expressed concern about the ongoing harassment of Narges Mohammadi.

The Law Society presently writes to voice its continued deep concern as a result of reports that on 5 May 2015, Narges Mohammadi was arrested and imprisoned in Evin Prison. Narges Mohammadi faces new charges of "collusion," "assembly against national security," and "membership in Step by Step to Stop Death Penalty." Three scheduled court dates for her trial – 3 May 2015, 6 July 2015, and 7 October 2015 – were postponed.

Reports indicate that Narges Mohammadi has a neurological condition that causes muscle paralysis. It is our understanding that Narges Mohammadi's health has deteriorated and that she has been chained to a hospital bed, denied proper medical treatment and has been denied family visitation. According to reports, Narges Mohammadi was taken to hospital on 11 October 2015 after having a seizure. She previously had a seizure on 7 October 2015. She was taken to hospital but brought back to prison two days later.

Organizations believe that Iranian authorities have harassed and detained Narges Mohammadi in order to prevent her from carrying out peaceful human rights activities, and that her ongoing detention constitutes part of a trend of harassment and intimidation against human rights defenders in Iran.

The Law Society of Upper Canada urges Your Excellency to comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of the Islamic Republic of Iran to:

- a. release Narges Mohammadi immediately, as she is a prisoner of conscience;
- b. put an end to all acts of harassment against Narges Mohammadi as well as other human rights lawyer and defenders in Iran;
- c. guarantee in all circumstances the physical and psychological safety and integrity of Narges Mohammadi;
- d. provide Narges Mohammadi with regular access to her lawyer, family, her physician and adequate medical care;
- e. guarantee all the procedural rights that should be accorded to Narges Mohammadi;
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor

Treasurer

**The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,400 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

H.E. Mr. Mostafa Pourmohammadi
Minister of Justice of the Islamic Republic of Iran
Department of Justice
Tehran, Islamic Republic of Iran

H.E. Mr. Abdolreza Rahmani Fazli
Minister of Interior of the Islamic Republic of Iran
Ministry of Interior
Tehran, Islamic Republic of Iran

H.E. Dr. Mohammad Javad Zarif
Minister of Foreign Affairs of the Islamic Republic of Iran
Ministry of Foreign Affairs,
Bagh-e Melli, Tehran, Islamic Republic of Iran

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Dr. Ali Najafi Tavan, President, Iran Central Bar Association

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Advisor, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Arrest and detention of human rights lawyer and activist Narges Mohammadi

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to Hassan Rouhani, President of the Islamic Republic of Iran, expressing our deep concerns over reports of the arrest and detention of human rights lawyer and activist Narges Mohammadi.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Josée Bouchard, Director, Equity, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,400 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar. Due to this commitment, the Law Society established a Human Rights Monitoring Group ("Monitoring Group"). The Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Mary Lawlor, Executive Director, Front Line Defenders
- Vincent Forest, Head of European Union Office, Front Line Defenders

- Kenneth Roth, Executive Director, Human Rights Watch
- Dr. Ali Najafi Tavan, President, Iran Central Bar Association
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights
- Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights
- Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns about the arrest and detention of human rights lawyer and activist Narges Mohammadi in Iran

Narges Mohammadi is a prominent human rights lawyer and activist, as well as the deputy director and spokesperson for the Defenders of Human Rights Centre (“DHRC”) in Iran. The history of her harassment by Iranian authorities has been well-documented.

It has come to our attention that on 5 May 2015, Narges Mohammadi was arrested and imprisoned in Evin Prison. Narges Mohammadi faces new charges of “collusion,” “assembly against national security,” and “membership in Step by Step to Stop Death Penalty.” Three scheduled court dates for her trial – 3 May 2015, 6 July 2015, and 7 October 2015 – were postponed.

Reports indicate that Narges Mohammadi has a neurological condition that causes muscle paralysis. It is our understanding that Narges Mohammadi’s health has deteriorated and that she has been chained to a hospital bed, denied proper medical treatment and has been denied family visitation. According to reports, Narges Mohammadi was taken to hospital on 11 October 2015 after having a seizure. She previously had a seizure on 7 October 2015. She was taken to hospital but brought back to prison two days later.

Organizations believe that Iranian authorities have harassed and detained Narges Mohammadi in order to prevent her from carrying out peaceful human rights activities, and that her ongoing detention constitutes part of a trend of harassment and intimidation against human rights defenders in Iran.

The Law Society of Upper Canada urges the government of the Islamic Republic of Iran to comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration

of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of the Islamic Republic of Iran to:

- a. release Narges Mohammadi immediately, as she is a prisoner of conscience;
- b. put an end to all acts of harassment against Narges Mohammadi as well as other human rights lawyer and defenders in Iran;
- c. guarantee in all circumstances the physical and psychological safety and integrity of Narges Mohammadi;
- d. provide Narges Mohammadi with regular access to her lawyer, family, her physician and adequate medical care;
- e. guarantee all the procedural rights that should be accorded to Narges Mohammadi;
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

TAB 4.1.5

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

MAHFOOZ SAEED

The Honourable Mr. Abdulla Yameen
The President
Boduthakurufaanu Magu
Malé 20113
Republic of Maldives

Your Excellency:

Re: Attack on human rights lawyer Mahfooz Saeed

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the attack on human rights lawyer Mahfooz Saeed. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Mahfooz Saeed is a human rights lawyer and member of the legal team for former president Mohamed Nasheed,

It has come to our attention that On 4 September 2015, Mahfooz Saeed was attacked and stabbed in the head by two unidentified men as he was sitting on his motorcycle. He was rushed to hospital where he underwent a three hour surgery to remove the knife which remained lodged in his head. The last reports on this case indicated that his condition was stable and that he was expected to recover.

Mahfooz Saeed has written blogs, which include criticisms of the Maldives judicial system, the increasing crime rate and the socioeconomic situation in the country. He has called for judicial reform. The attack on Mahfooz Saeed occurred a week after he spoke critically of the current government at a rally for the Maldivian Democratic Party and a week prior the members of the former president's legal team visiting the Maldives to meet with the former president.

The Law Society of Upper Canada urges Your Excellency to comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients

freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of the Maldives to:

- a. guarantee in all circumstances the physical and psychological integrity of Mahfooz Saeed;
- b. conduct a fair, impartial and independent investigation into the attack on Mahfooz Saeed in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law; and
- c. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor
Treasurer

**The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,400 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Advisor, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Attack on human rights lawyer Mahfooz Saeed

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to The Honourable Mr. Abdulla Yameen, President of the Maldives, expressing our deep concerns over reports of the attack on human rights lawyer Mahfooz Saeed.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Josée Bouchard, Director, Equity, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,400 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar. Due to this commitment, the Law Society established a Human Rights Monitoring Group ("Monitoring Group"). The Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Mary Lawlor, Executive Director, Front Line Defenders
- Vincent Forest, Head of European Union Office, Front Line Defenders

- Kenneth Roth, Executive Director, Human Rights Watch
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights
- Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights
- Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns about the attack on human rights lawyer Mahfooz Saeed

Mahfooz Saeed is a human rights lawyer and member of the legal team for former president Mohamed Nasheed,

It has come to our attention that On 4 September 2015, Mahfooz Saeed was attacked and stabbed in the head by two unidentified men as he was sitting on his motorcycle. He was rushed to hospital where he underwent a three hour surgery to remove the knife which remained lodged in his head. The last reports on this case indicated that his condition was stable and that he was expected to recover.

Mahfooz Saeed has written blogs, which include criticisms of the Maldives judicial system, the increasing crime rate and the socioeconomic situation in the country. He has called for judicial reform. The attack on Mahfooz Saeed occurred a week after he spoke critically of the current government at a rally for the Maldivian Democratic Party and a week prior the members of the former president's legal team visiting the Maldives to meet with the former president.

The Law Society of Upper Canada urges the government of the Maldives to comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of the Maldives to:

- a. guarantee in all circumstances the physical and psychological integrity of Mahfooz Saeed;
- b. conduct a fair, impartial and independent investigation into the attack on Mahfooz Saeed in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law; and
- c. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

TAB 4.1.6

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

ABDULLAH ABDELKADER

President HE Omar Hassan Ahmad al-Bashir
President of the Republic of Sudan
Office of the President
People's Palace
PO Box 281
Kartoum
Sudan

Your Excellency:

Re: Killing of judge and human rights defender Abdullah Abdelkader

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the killing of judge and human rights defender Abdullah Abdelkader. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Abdullah Abdelkader was a judge and human rights defender, and a member of the Sudan Human Rights Monitor. He provided legal aid to victims of human rights violations, particularly in areas affected by armed conflict, including South Kordofan, Blue Nile and Darfur. He was also very active in advocating for and supporting fellow human rights defenders in these regions

It has come to our attention that on 24 August 2015, Abdullah Abdelkader, while visiting his hometown of El Abbasiya Tagali in South Kordofan State, was shot and killed by members of an armed group. Organizations have expressed concern that Abdullah Abdelkader was killed as a result of his legitimate human rights work as a lawyer.

The Law Society is deeply concerned about situations where members of the judiciary are themselves targeted in the legitimate exercise of their duties. The Law Society believes strongly in the protection of judicial independence. Judges frequently have to rule on controversial matters and interpret the law in areas where there is legal uncertainty. Judges must be able to make controversial, and even unpopular, rulings without fear of politically motivated sanctions.

The Law Society urges the Your Excellency to:

- a. guarantee in all circumstances the physical and psychological integrity of all lawyers, members of the judiciary and human rights defenders in Sudan;

- b. conduct a fair, impartial and independent investigation into the killing of Abdullah Abdelkader in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law; and
- c. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor
Treasurer

**The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,400 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Mr. Al-Tayeb Haroun, President, Sudan Bar Association

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Advisor, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Killing of judge and human rights defender Abdullah Abdelkader

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to HE Omar Hassan Ahmad al-Bashir, President of the Republic of Sudan expressing our deep concerns over reports of the killing of judge and human rights defender Abdullah Abdelkader.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Josée Bouchard, Director, Equity, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Mary Lawlor, Executive Director, Front Line Defenders
- Vincent Forest, Head of European Union Office, Front Line Defenders

- Kenneth Roth, Executive Director, Human Rights Watch
- Mr. Al-Tayeb Haroun, President, Sudan Bar Association
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights
- Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights
- Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns about the killing of judge and human rights defender Abdullah Abdelkader

Abdullah Abdelkader was a judge and human rights defender, and a member of the Sudan Human Rights Monitor. He provided legal aid to victims of human rights violations, particularly in areas affected by armed conflict, including South Kordofan, Blue Nile and Darfur. He was also very active in advocating for and supporting fellow human rights defenders in these regions.

It has come to our attention that on 24 August 2015, Abdullah Abdelkader, while visiting his hometown of El Abbasiya Tagali in South Kordofan State, was shot and killed by members of an armed group. Organizations have expressed concern that Abdullah Abdelkader was killed as a result of his legitimate human rights work as a lawyer.

The Law Society is deeply concerned about situations where members of the judiciary are themselves targeted in the legitimate exercise of their duties. The Law Society believes strongly in the protection of judicial independence. Judges frequently have to rule on controversial matters and interpret the law in areas where there is legal uncertainty. Judges must be able to make controversial, and even unpopular, rulings without fear of politically motivated sanctions.

The Law Society urges the government of the Republic of Sudan to:

- a. guarantee in all circumstances the physical and psychological integrity of all lawyers, members of the judiciary and human rights defenders in Sudan;
- b. conduct a fair, impartial and independent investigation into the killing of Abdullah Abdelkader in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law; and
- c. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

TAB 4.1.7

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

TAHIR ELÇI

Mr. Ahmet Davutoğlu
Prime Minister of the Republic of Turkey
Cad. No:8 Balgat
06100 ANKARA, Turkey
Your Excellency:

Re: Arrest and investigation of human rights lawyer Tahir Elçi

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the arrest and investigation of lawyer Tahir Elçi. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Tahir Elçi is a prominent human rights lawyer and president of the Diyarbakir Bar Association.

It has come to our attention that on 20 October 2015, Mr. Elçi was arrested by the anti-terror police in the offices of the Diyarbakir Bar Association and brought to Istanbul to be interrogated by the Bakirköy Public Prosecutor. Reports indicate that the prosecutor has started an investigation of Tahir Elçi for allegedly 'making propaganda for or promoting a terrorist organization' and that he was arrested on the grounds that his whereabouts were not known and that a summons to testify before the prosecutor could not be issued.

Human rights organizations have informed us that "Mr. Elçi had stated on 19 October 2015 that he was willing to come to the police station voluntarily to make a statement. As he did not receive a summons, he waited at his office at the Diyarbakir Bar Association for the police, together with a group of lawyers and politicians." Furthermore, they have advised that, "After Mr. Elçi was questioned, the prosecutor requested the court to impose pre-trial detention. The court ordered Mr. Elçi's release. However, his release is pending completion of the investigation, which is ongoing, and restrictions have been imposed: Mr. Elçi is not allowed to leave the country and is placed under judicial supervision."

The Law Society of Upper Canada urges Your Excellency to comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or

improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges Your Excellency to:

- a. guarantee in all circumstances the physical and psychological integrity of Tahir Elçi;
- b. guarantee all the procedural rights that should be accorded to Tahir Elçi and other human rights lawyers and defenders in Turkey;
- c. put an end to all acts of harassment against Tahir Elçi as well as other human rights lawyers and defenders in Turkey;
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Janet E. Minor
Treasurer

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The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

Mr. Kenan İpek, Minister of Justice
Ministry of Justice
Adalet Bakanligi
06659 ANKARA, Turkey

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Diyarbakir Bar Association

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Advisor, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Arrest and investigation of human rights lawyer Tahir Elçi

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to Mr. Ahmet Davutoğlu, Prime Minister of the Republic of Turkey, expressing our deep concerns over reports of the arrest and investigation of human rights lawyer Tahir Elçi.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Josée Bouchard, Director, Equity, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to jbouchar@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

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Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Mary Lawlor, Executive Director, Front Line Defenders
- Vincent Forest, Head of European Union Office, Front Line Defenders

- Kenneth Roth, Executive Director, Human Rights Watch
- Diyarbakir Bar Association
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights
- Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the High Commissioner for Human Rights
- Gabriella Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns about the arrest and investigation of human rights lawyer Tahir Elçi

Tahir Elçi is a prominent human rights lawyer and president of the Diyarbakir Bar Association.

It has come to our attention that on 20 October 2015, Mr. Elçi was arrested by the anti-terror police in the offices of the Diyarbakir Bar Association and brought to Istanbul to be interrogated by the Bakirköy Public Prosecutor. Reports indicate that the prosecutor has started an investigation of Tahir Elçi for allegedly 'making propaganda for or promoting a terrorist organization' and that he was arrested on the grounds that his whereabouts were not known and that a summons to testify before the prosecutor could not be issued.

Human rights organizations have informed us that "Mr. Elçi had stated on 19 October 2015 that he was willing to come to the police station voluntarily to make a statement. As he did not receive a summons, he waited at his office at the Diyarbakir Bar Association for the police, together with a group of lawyers and politicians." Furthermore, they have advised that, "After Mr. Elçi was questioned, the prosecutor requested the court to impose pre-trial detention. The court ordered Mr. Elçi's release. However, his release is pending completion of the investigation, which is ongoing, and restrictions have been imposed: Mr. Elçi is not allowed to leave the country and is placed under judicial supervision."

The Law Society of Upper Canada urges Your Excellency to comply with Articles 16 and 23 of the United Nations *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the rights to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of the Republic of Turkey to:

- a. guarantee in all circumstances the physical and psychological integrity of Tahir Elçi;
- b. guarantee all the procedural rights that should be accorded to Tahir Elçi and other human rights lawyers and defenders in Turkey;
- c. put an end to all acts of harassment against Tahir Elçi as well as other human rights lawyers and defenders in Turkey;
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

TAB 4.2

FOR INFORMATION

APPOINTMENTS TO THE EQUITY ADVISORY GROUP

SUMMARY

64. In March 2015, the Equity Advisory Group ("EAG") undertook a recruitment process for new members in accordance with its Terms of Reference. A Selection Committee was formed to review the applications, shortlist and interview candidates. The Selection Committee was comprised of EAG members Paul Sagui (Chair of EAG), Sharan Basran, Paul Scotland and former EAG member Professor Faisal Bhabha.
65. The Selection Committee was cognizant of the need to reflect diversity (including, but not limited to race, gender, disability, language, sexual orientation, gender identity and regional representation and experience) and the need to enhance and broaden the expertise of EAG in certain areas (e.g. access to justice).
66. On September 10, 2015, the Equity and Aboriginal Issues Committee approved the following individual applicants for individual membership on EAG: Tahlee Afzal, Lisa Borsook, Jonathan Davey, Douglas Judson, Leonard Kim, Lorin MacDonald, Jason Tam and Brenda Young.
67. It also approved the following organizational applicants for organizational membership on EAG: Association des juristes d'expression française de l'Ontario (reappointment), ARCH Disability Law Centre (reappointment), Canadian Association of Black Lawyers (reappointment), Canadian Hispanic Bar Association (reappointment), Canadian Muslim Lawyers Association, Canadian Association of Muslim Women in Law, Federation of Asian Canadian Lawyers (reappointment), Law Students Society of Ontario, Roundtable of Diversity Organizations, South Asian Bar Association (reappointment), Women's Law Association of Ontario (reappointment) and Women's Paralegal Association of Ontario.
68. EAG's terms of reference require that one position on EAG be held by a paralegal member. As no paralegal candidate was selected during the initial recruitment phase, EAG engaged in a second round of paralegal member recruitment. The Selection Committee conducted interviews with paralegal candidates in November 2015.
69. On November 12, 2015, the Equity and Aboriginal Issues Committee approved the appointment of Fallon Burns, individual paralegal applicant.
70. Background information on Ms. Burns can be found at [TAB 4.2.1](#).

HUMAN RIGHTS MONITORING GROUP INTERVENTION UPDATES

71. Recent updates on Human Rights Monitoring Group interventions are presented at [TAB 4.2.2](#).

EQUITY LEGAL EDUCATION AND RULE OF LAW SERIES CALENDAR FALL 2015-SUMMER 2016

72. The Equity Legal Education and Rule of Law Series calendar is presented at [TAB 4.2.3](#).

TAB 4.2.1

BACKGROUND INFORMATION

Fallon Burns

Fallon Burns graduated from Humber College's Bachelor of Applied Arts- Paralegal Studies degree in June of 2015. While at Humber, Fallon was a quarter-finalist at the Osgoode Cup Undergraduate Moot in 2012 and in 2014, and leading her to found The Paralegal Cup Intercollegiate Moot in November 2013. She has served as the Student Director of the Ontario Paralegal Association since May 2013. She was honoured with Colleges and Institutes of Canada's National Student Leadership Award in June of 2015. She wrote, and passed her Substantive Paralegal Licensing exam in August 2015 and received her Paralegal License in October 2015. She is currently studying English and Canadian Studies at York University.

TAB 4.2.2

FOR INFORMATION

HUMAN RIGHTS MONITORING GROUP INTERVENTION UPDATES

CHINA – Arrest of Large Group of Lawyers

The Human Rights Monitoring Group intervened in this case in July 2015. The open letter, signed by the Law Society and a number of other organizations, can be found [here](#).

On October 1, 2015, Lawyers for Lawyers provided the following update:

According to Amnesty International, as per 22 September, 245 lawyers and activists have been targeted since the nationwide crackdown started on 9 July 2015. Thirty of them are currently still missing or in police custody.

Amnesty notes that four lawyers are still in police custody: Zhou Shifeng, Huang Liquan, Li Heping and Xie Yanyi. Another eight lawyers are placed under residential surveillance: Sui Muqing, Xie Yang, Xie Yuandong, Wang Yu, Bao Longjun, Chen Taihe, Wang Quanzhang and Li Chunfu. Furthermore, the whereabouts of lawyer Lu Shuyun are unknown.

Besides these lawyers, eight activists, academics and law firm support staff are in police custody, another seven are placed under residential surveillance and of two the whereabouts are unknown.¹

A recent report drafted by Lawyers Rights Watch Canada on this matter can be found [here](#).

EGYPT – Acquittal of Human Rights Lawyer Azza Soliman

The Human Rights Monitoring Group intervened in this case in May 2015. The public statement can be found [here](#).

On 23 May 2015, Azza Soliman was acquitted of all charges; however, on 23 May 2015, Egypt's Public Prosecutor appealed the verdict.² On 4 July 2015, the retrial of Azza Soliman, and the other eyewitnesses to the 24 July 2015 killing of a political activist, began. Reports indicate that at this hearing, the presiding judge asked to only hear "specific legal arguments" and denied Azza Soliman's lawyers the right to plead their overall case.³ The final hearing was scheduled for 26 September 2015, however it was rescheduled due to Eid al-Adha. The case

¹ <http://www.advocatenvooradvocaten.nl/11113/china-update-on-the-recent-crackdown-on-lawyers/>

² communities.lawsociety.org.uk/download?ac=13799

³ http://www.ccbe.org/fileadmin/user_upload/NTCdocument/CCBE_Human_Rights_Le1_1443784749.pdf

was scheduled to be heard on 24 October 2015. According to reports, on October 24, 2015, the Qasr Al Nil Appeal Court confirmed the acquittal of Azza Soliman. The decision is final and is not subject to appeal.⁴

EGYPT – Release of Human Rights Lawyer Yara Sallam

The Human Rights Monitoring Group intervened in this case in November 2014. The letter of intervention and public statement can be found [here](#).

On September 23, 2015, Egyptian President Abdel Fattah Al-Sisi, issued a presidential pardon in favour of 100 imprisoned youth, including human rights lawyer Yara Sallam. Yara Sallam was released on the same day.⁵

Although the release of Yara Sallam is a positive development, human rights organizations continue to express concern about the repression of human rights defenders in Egypt.

EGYPT – Continued Detention of Human Rights Lawyer Mahienour El-Massry

The Human Rights Monitoring Group intervened in this case in June 2014 and July 2015. The letters of intervention and the public statement can be found [here](#).

According to Lawyers for Lawyers, “on 21 September 2015, El Rami Misdemeanour Court of Appeal rejected the demurrer filed by human rights lawyer Mahienour El-Massry and two others to suspend the implementation of their sentence until the Court of Cassation hears the appeal of the case”.⁶

Mahienour El-Massry's name was not included in the list of imprisoned youth who were pardoned by the President of Egypt on September 23, 2015. Mahienour El-Massry remains in detention in Al-Aba'adeya Women's Prison.⁷ Reports indicate that El-Massry is detained in a five by six meter prison cell together with twenty-seven other women. Prisoners are provided with access to clean water for four hours a day and sanitary facilities are inadequate.⁸

SWAZILAND – Release of Human Rights Lawyer Thulani Maseko

The Human Rights Monitoring Group intervened in this case in April 2014. The letter of intervention can be found [here](#).

⁴ <https://www.fidh.org/en/issues/human-rights-defenders/egypt-acquittal-of-ms-azza-soliman-human-rights-lawyer-and-founder-of>

⁵ <http://www.omct.org/human-rights-defenders/statements/egypt/2015/09/d23393/>

⁶ <http://www.advocatenvooradvocaten.nl/11117/egypt-trial-against-mahienour-el-massry/>

⁷ <http://www.omct.org/human-rights-defenders/statements/egypt/2015/09/d23393/>

⁸ <http://www.advocatenvooradvocaten.nl/11228/egypt-detention-conditions-mahinour-el-massry-deteriorate/>

According to Lawyers for Lawyers, "On 30 June [2015], the Swaziland Supreme Court ordered the release of human rights lawyer Thulani Maseko and journalist Bhekithemba Makhubu. The State conceded that it had no case against them and they were set free."⁹

Human rights organizations continue to be concerned about suppression of freedom of expression, association and assembly in Swaziland, in addition to the absence of the rule of law, the lack of independence of the judiciary and the failure of Swaziland to guarantee effective access to legal services provided by an independent legal profession.¹⁰

⁹ <http://www.advocatenvooradvocaten.nl/10866/swaziland-thulani-maseko-released-from-prison/?/>

¹⁰ <http://www.advocatenvooradvocaten.nl/11066/swaziland-l4l-and-3-organisations-submit-joint-upr-report/>

TAB 4.2.3

FOR INFORMATION

EQUITY LEGAL EDUCATION AND RULE OF LAW SERIES CALENDAR Winter 2015-Summer 2016

BLACK HISTORY MONTH EVENT

Date: February 9, 2016

Time and Location:

Panel Discussions: 4:00 to 6:00* p.m. in the Lamont Learning Centre

Reception: 6:00 to 8:00* p.m. in Convocation Hall

*exact time to TBC

Description: The Law Society of Upper Canada and the Canadian Association of Black Lawyers (CABL) will be hosting their annual celebration in honour of Black History Month. Additional details will follow closer to the event date.

INTERNATIONAL WOMEN'S DAY EVENT

Date: March 8, 2016

Time and Location:

Panel Discussions: 4:00 to 6:00* p.m. in the Lamont Learning Centre

Reception: 6:00 to 8:00* p.m. in Convocation Hall

*exact time to TBC

Description: The Law Society of Upper Canada, The Barbara Schlifer Clinic, The Women's Law Association of Ontario, The Women Lawyers' Forum of the Ontario Bar Association and the Women's Legal Education and Action Fund will be hosting their annual event in honour of International Women's Day. Additional details will follow closer to the event date.

JOURNÉE INTERNATIONALE DE LA FRANCOPHONIE

Date: March 22, 2016

Time and Location: 5:00-7:00* p.m. in Convocation Hall

*exact time to TBC

Description: The Law Society of Upper Canada, the Ontario Bar Association and the Association of French Speaking Jurists of Ontario (AJEFO) will be hosting their annual event celebrating the International Day of the Francophonie. Additional details will follow closer to the event date.

DIVERSE CAREERS FOR WOMEN IN LAW EVENT

Date: April 19, 2016

Time and Location: 4:00-8:00* p.m. Panel discussion and reception in Convocation Hall

*exact time TBC

Description: The Women's Law Association of Ontario and the Law Society of Upper Canada will present their annual panel discussion and reception to promote diverse careers for women in the legal profession. Additional details will follow closer to the event date.

MENTAL HEALTH AWARENESS EVENT

Date: May 3, 2016

Time and Location:

Panel Discussion: 4:00 – 6:00* p.m. in the Lamont Learning Centre

Reception: 6:00 – 8:00* p.m. in Convocation Hall

*exact time to TBC

Description: In honour of Mental Health Week, the Law Society will be hosting a panel discussion and reception focused on mental health and fostering wellness in the legal profession. Additional details will follow closer to the event date.

HOLOCAUST REMEMBRANCE DAY EVENT

Date: May 5, 2016

Time and Location:

Panel Discussion: 4:00 – 6:00* p.m. in the Lamont Learning Centre

Reception: 6:00 – 8:00* p.m. in Convocation Hall

*exact time to TBC

Description: The Law Society, the Human Rights League of B'nai Brith and the Canadian Race Relations Foundation will be hosting their annual event to commemorate Yom HaShoa, or Holocaust Remembrance Day. Additional details will follow closer to the event date.

ASIAN AND SOUTH ASIAN HERITAGE MONTH EVENT

Date: May 17 or 19, 2016 (TBC)

Time and Location:

Panel Discussion: 4:00 – 6:00* p.m. in the Lamont Learning Centre

Reception: 6:00 – 8:00* p.m. in Convocation Hall

*exact time to TBC

Description: The Law Society, the Canadian Association of South Asian Lawyers, the Federation of Asian Canadian Lawyers and the South Asian Bar Association of Toronto will be hosting their annual event in celebration of Asian and South Asian Heritage Month. Additional details will follow closer to the event date.

ACCESS AWARENESS EVENT

Date: May 31, 2015

Time and Location:

4:00 – 8:00* p.m. Panel discussion and reception in the Lamont Learning Centre

*exact time to TBC

Description: The Law Society and the ARCH Disability Law Centre will be hosting their annual event in honour of Access Awareness Week. Additional details will follow closer to the event date.

ABORIGINAL HISTORY MONTH EVENT

Date: June 23, 2015 (TBC)

Time and Location:

Panel Discussion: 4:00 – 6:00* p.m. in the Lamont Learning Centre

Reception: 6:00 – 8:00* p.m. in Upper and Lower Barristers Lounges

*exact time to TBC

Description: The Law Society will be hosting its annual event in honour of National Aboriginal History Month. Additional details will follow closer to the event date.

PRIDE WEEK EVENT

Date: June 28, 29, or 30, 2016 (TBC)

Time and Location:

Panel Discussion: 4:00 – 6:00* p.m. in the Lamont Learning Centre

Reception: 6:00 – 8:00* p.m. in Convocation Hall

*exact time to TBC

Description: The Law Society and the Sexual Orientation and Gender Identity Section (SOGIC) of the Ontario Bar Association will be hosting their annual Pride Week discussion and reception. Additional details will follow closer to the event date.

NOTE: A number of the above events will also be available via simultaneous webcast. Additional information will be sent to benchers within 1-2 months of the event date, and will be posted here: <http://www.lawsocietygazette.ca/events/>



TAB 5

Report to Convocation December 4, 2015

Professional Regulation Committee

Committee Members

Malcolm Mercer (Chair)
Susan Richer (Vice-Chair)
Paul Schabas (Vice-Chair)
Robert Armstrong
Peter Beach
John Callaghan
Suzanne Clément
Cathy Corsetti
Janis Criger
Seymour Epstein
Robert Evans
Julian Falconer
Patrick Furlong
Carol Hartman
Jacqueline Horvat
Brian Lawrie
William C. McDowell
Ross Murray
Jan Richardson
Heather Ross

Purpose of Report: Decision and Information

**Prepared by the Policy Secretariat
(Margaret Drent (416-947-7613))**

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For Information

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COMMITTEE PROCESS

1. The Professional Regulation Committee (“the Committee”) met on November 12, 2015. In attendance were Malcolm Mercer (Chair), Paul Schabas (Vice-Chair), Susan Richer (Vice-Chair), Peter Beach (by telephone), Suzanne Clément, Paul Cooper, Cathy Corsetti, Janis Criger, Seymour Epstein, Robert F. Evans, Carol Hartman, Jacqueline Horvat, Brian Lawrie, Ross Murray, and Heather Ross. Raj Anand and Marion Boyd participated in the discussion regarding the three-year review of the Law Society Tribunal at the meeting. Staff members attending were Lesley Cameron, James Varro, Naomi Bussin, Sophia Sperdakos, and Margaret Drent.

FOR DECISION

**SUMMARY REVOCATION OF LICENCES SUSPENDED BY THE
LAW SOCIETY TRIBUNAL**

MOTION

2. **That Convocation approve that the Law Society may seek an order to proceed with summary revocation of licence where a licensee's licence has already been indefinitely suspended by the Law Society Tribunal under section 35 of the Act and has remained suspended for at least two years.**

RATIONALE

3. This proposal concerns lawyers and paralegals whose licences have been indefinitely suspended by the Law Society Tribunal pending compliance with a term of an order. For example, licensees may be suspended for a definite period and then indefinitely until they cooperate with the Society's investigation in some specific way, such as by producing financial records or client files, or perform some other obligation, such as fulfilling an undertaking to a third party.
4. These licensees have received the procedural protections of the hearing process and are the subject of an order by the Law Society Tribunal. By their continued failure to comply with the terms of the order, these licensees are:
 - a. flouting the Society's authority;
 - b. in many cases, preventing the underlying investigation from being completed;
 - c. undermining the confidence of the public in the Society's ability to govern; and
 - d. consuming resources and generating reputational risk as past or continuing misconduct comes to the Society's attention.
5. A legislative amendment would be required to expand the scope of s. 48(1) to include summary revocation of licence for licensees whose licenses have remained indefinitely suspended under an order of the Tribunal for more than two years.
6. The Paralegal Standing Committee reviewed this proposal at its November 11 meeting and agreed that it be recommended to Convocation for its consideration.

CURRENT REGULATORY FRAMEWORK AND REQUIRED AMENDMENTS

7. The Law Society Tribunal – Hearing Division has the power to order an indefinite suspension of a licence under section 35(1)(3) of the Act, reproduced as follows:

Conduct orders

35. (1) Subject to the rules of practice and procedure, if an application is made under section 34 and the Hearing Division determines that the licensee has contravened section 33, the Division shall make one or more of the following orders:

...

3. An order suspending the licensee's licence,
 - i. for a definite period,
 - ii. until terms and conditions specified by the Hearing Division are met to the satisfaction of the Society, or
 - iii. for a definite period and, after that, until terms and conditions specified by the Hearing Division are met to the satisfaction of the Society.
8. Section 48 of the *Law Society Act* currently permits summary revocation for administrative reasons).¹ This section authorizes a benchler, or an employee holding an office prescribed by the by-laws, to make an order revoking a licence if the licensee has been suspended for failure to pay fees, or to comply with filing and indemnity requirements.
9. A licence may be revoked if the order is still in force twelve months after it was made. This regulatory authority is referred to as "summary revocation". In practice this provision is not used to terminate licenses that are the subject of an administrative suspension. However it exists.
10. Section 48, reproduced below, does not currently permit summary revocation for indefinite suspensions of licence made for disciplinary reasons under section 35 of the Act.

Summary revocation

48. (1) A person appointed for the purpose by Convocation may make an order revoking a licensee's licence if an order under section 46, clause 47 (1) (a) or section 47.1 is still in effect more than 12 months after it was made. 2006, c. 21, Sched. C, s. 42.

Eligibility for appointment

(2) Convocation shall not appoint a person for the purpose of subsection (1) unless the person is,

- (a) a benchler; or
- (b) an employee of the Society holding an office prescribed by the by-laws for the purpose of this section. 2006, c. 21, Sched. C, s. 42.

¹ Sections 46, 47, 47.1, and 49 of the *Act* authorize administrative suspensions.

DISCUSSION AND PROPOSAL

11. It is estimated that five to seven licensees per year would meet the criteria for summary revocation of a licence (that is, whose licences have remained indefinitely suspended by a Tribunal order for at least two years) if the Committee's proposal is approved.
12. In addition to the legislative amendment required to implement this proposal, changes would be required to the By-Laws and to the *Rules of Practice and Procedure*. These changes would be referred to Convocation at the appropriate time should it approve this proposal.
13. The implementation of this proposal would require the creation of an administrative process whereby a licence could be revoked by decision of a benchler. This process is described in greater detail below.

Description of the Summary Revocation Process

14. If a licensee's licence had been suspended by order of the Law Society Tribunal and the suspension remained in effect more than two years after the order is made, summary revocation will be considered by staff. It is not contemplated that staff will do any further investigation of the licensee's circumstances other than reviewing whatever information may have been provided at the instance of the licensee or some other person since the Tribunal order.
15. The application would be prepared by staff for consideration by the Summary Order benchler, and would include relevant materials, including a draft summary order, the Tribunal decision and order, and confirmation that the licensee's licence remains indefinitely suspended. The application would be considered in writing only. The only question for decision would be whether the application is accepted or rejected.
16. Notice of the possibility of license revocation after a two year indefinite suspension would be provided to the licensee at the time the original order containing the indefinite suspension term is made. The Notice could accompany the Guidelines for Suspended Licensees, which are sent to all licensees suspended by the Tribunal at their last known address.
17. The Society would use the process in a manner that is consistent with its duty to protect the public interest and to act in a timely, open and efficient manner.
18. If approved by the Summary Order benchler, the Society would provide notice of revocation of license to the licensee at their last known address.
19. The licensee would have the right to appeal this decision within a specified time. It is contemplated that the Appeal Division would hear the appeal.
20. Should the licensee wish to apply for licensing in future, the need for a good character hearing would be considered at that time, as would be the case with any other applicant.

Tab 5.2

FOR INFORMATION

**PROFESSIONAL REGULATION DIVISION QUARTERLY
REPORT**

21. The Professional Regulation Division Quarterly Report (third quarter 2015), provided to the Committee by Lesley Cameron, Active Executive Director of the Professional Regulation Division, appears at [Tab 5.2.1](#). The report, which was also reviewed by the Paralegal Standing Committee on November 11, 2015, includes information on the Division's activities and responsibilities, including file management and monitoring, for the period July-September 2015.



The Law Society of
Upper Canada | Barreau
du Haut-Canada

The Professional Regulation Division

Quarterly Report July – September 2015

The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (July 1 – September 30, 2015)

The Quarterly Report

The Quarterly Report provides a summary of the Professional Regulation Division's complaints activity and achievements during the past quarter, July 1 to September 30, 2015. The purpose of the Quarterly Report is to provide information on the production and work of the Division during the quarter and to explain the factors that may have influenced the Division's performance.

The Professional Regulation Division

Professional Regulation is responsible for responding to complaints against licensees, including the resolution, investigation and prosecution of complaints which are within the jurisdiction provided under the *Law Society Act*. In addition the Professional Regulation provides trusteeship services for the practices of licensees who are incapacitated by legal or health reasons. Professional Regulation also includes the Compensation Fund which compensates clients for losses suffered as a result of the wrongful acts of licensees.

See Appendices for a case flow chart describing the complaints process as well as a chart of the Professional Regulation's departments.

The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (July 1 – September 30, 2015)

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The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (July 1 – September 30, 2015)

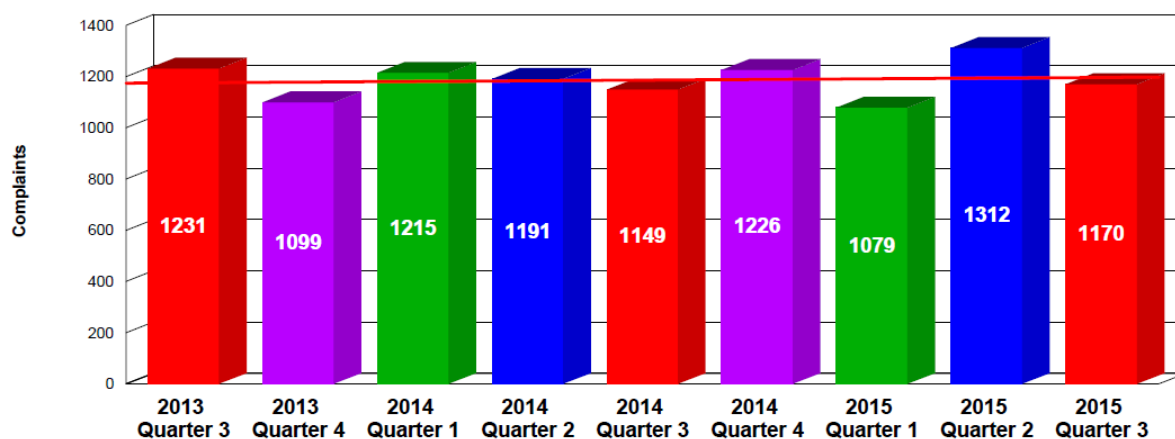
SECTION 1

DIVISIONAL PERFORMANCE DURING THE QUARTER

The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (July 1 – September 30, 2015)

PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION

Graph 2A: Complaints¹ Received in the Division



Detailed Analysis of Complaints Received in the Division

	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	936	1004	862	946	955
Lawyer Applicant Cases ★	25	4	7	62	26
Complaints against Licensed Paralegals	117	150	134	158	116
Paralegal Applicant Cases ★	20	20	33	96	28
Complaints against Non-Licensees/Non-Applicants*	51	48	43	50	45
TOTAL	1149	1226	1079	1312	1170

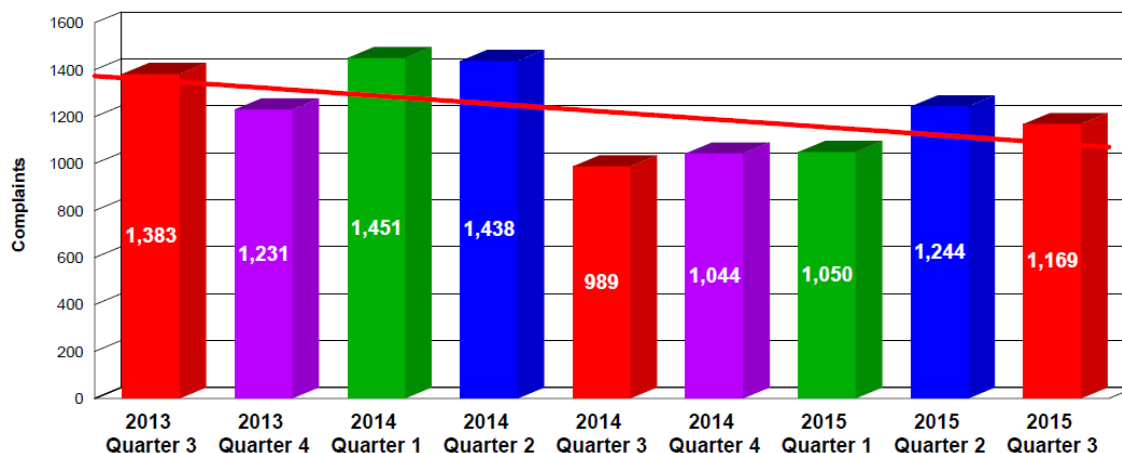
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

¹ Includes all complaints received in the Division from Complaints Services.

The Law Society of Upper Canada
 The Professional Regulation Division
 Quarterly Report (July 1 – September 30, 2015)

Graph 2B: Complaints Closed² in the Division (by Quarters)



Detailed Analysis of Complaints Closed in the Division

	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	780	826	832	937	952
Lawyer Applicant Cases ★	16	14	9	60	23
Complaints against Licensed Paralegals	133	122	125	122	122
Paralegal Applicant Cases ★	22	32	29	75	30
Complaints against Non-Licensees/Non-Applicants*	38	50	55	50	42
TOTAL	989	1044	1050	1244	1169

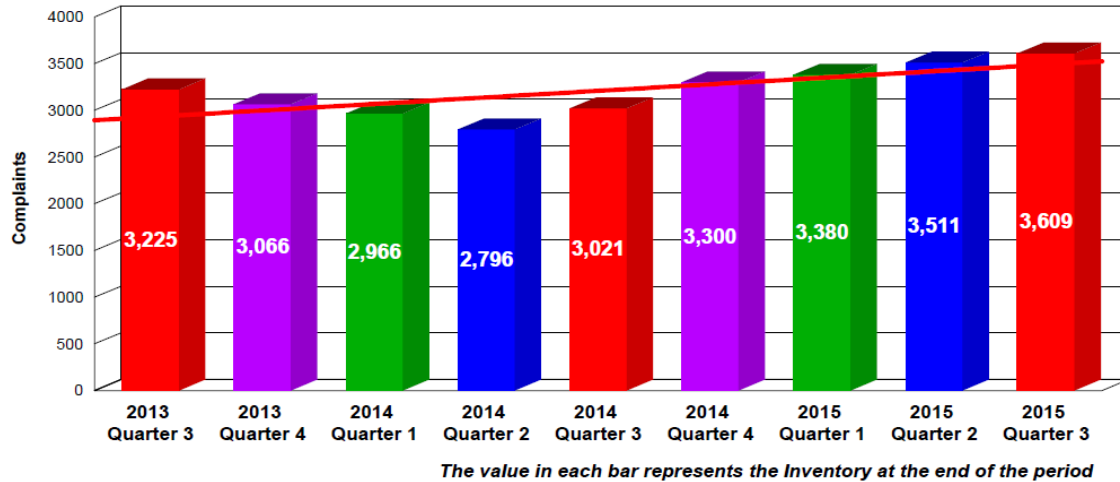
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

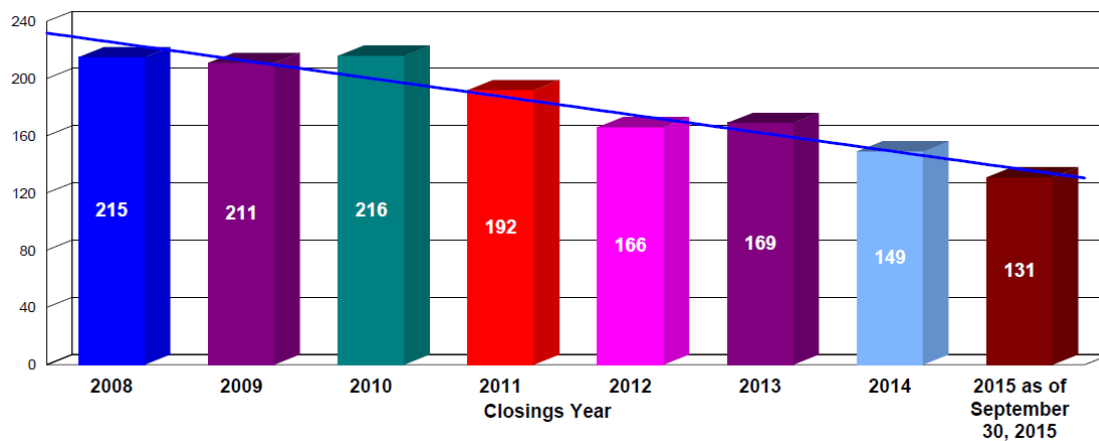
² This graph includes all complaints closed in Intake, Complaints Resolution, Investigations and Discipline.

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Graph 2C: Total Inventory³



Graph 2D: Median Age of Closed Complaints (days)³



³ These graphs do not include active complaints (enforcement matters) in the Monitoring & Enforcement Department.

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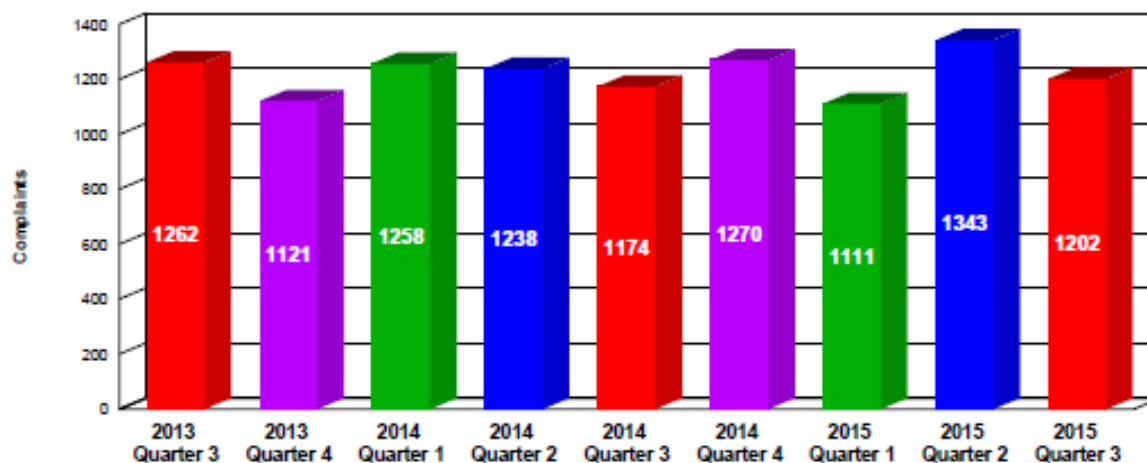
SECTION 2

DEPARTMENTAL PERFORMANCE DURING THE QUARTER

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2.1 – Intake

Graph 2.1A: Input⁴

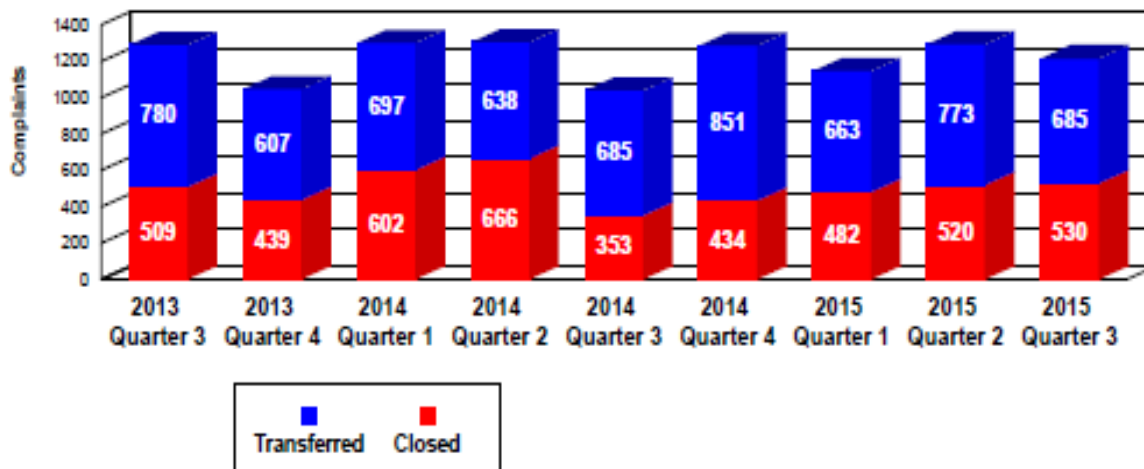


⁴ Includes new complaints received and re-opened complaints

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2.1 – Intake

Graph 2.1B: Complaints Closed and Transferred Out



Detailed Analysis of Complaints Closed and Transferred From Intake

		Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	Closed	291	342	399	354	446
	Transferred	576	687	525	562	551
Lawyer Applicant Cases ★	Closed	12	7	4	52	16
	Transferred	10	1	3	11	6
Complaints against Licensed Paralegals	Closed	32	41	35	34	35
	Transferred	74	116	97	127	92
Paralegal Applicant Cases ★	Closed	7	21	21	65	17
	Transferred	6	11	10	32	8
Complaints against Non-Licensees/Non-Applicants*	Closed	11	23	23	15	16
	Transferred	19	36	28	41	28
TOTAL	Closed	353	434	482	520	530
	Transferred	685	851	663	773	685

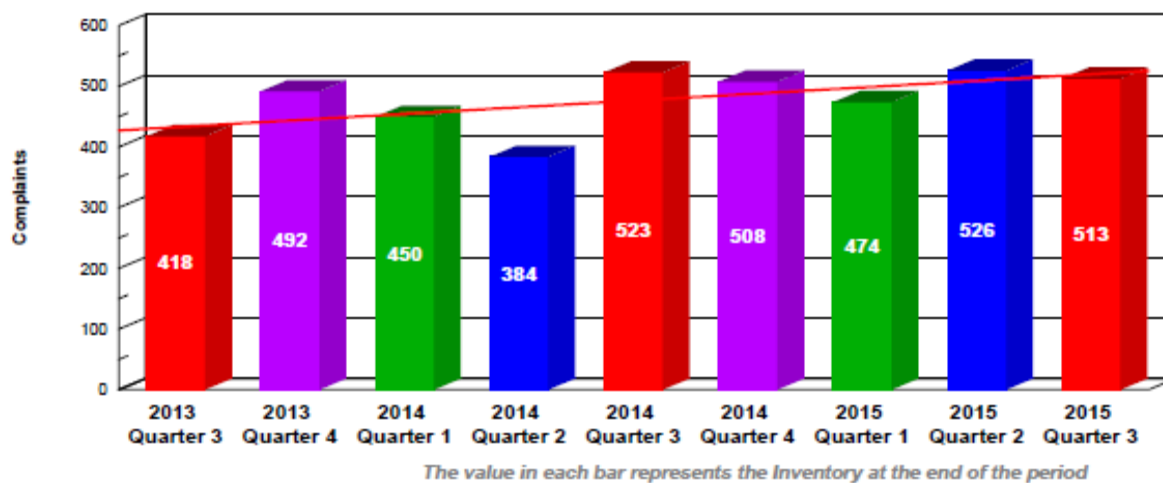
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

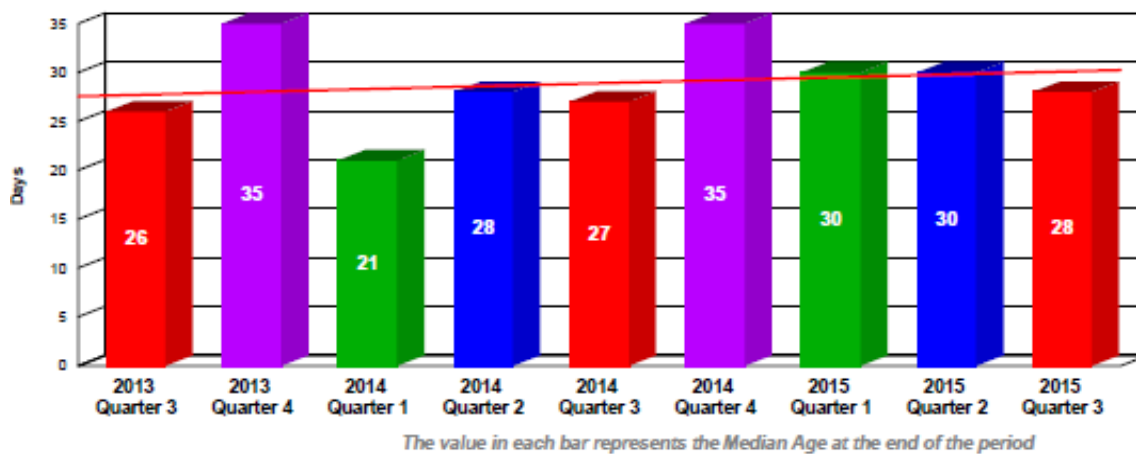
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2.1 – Intake

Graph 2.1 C: Department Inventory



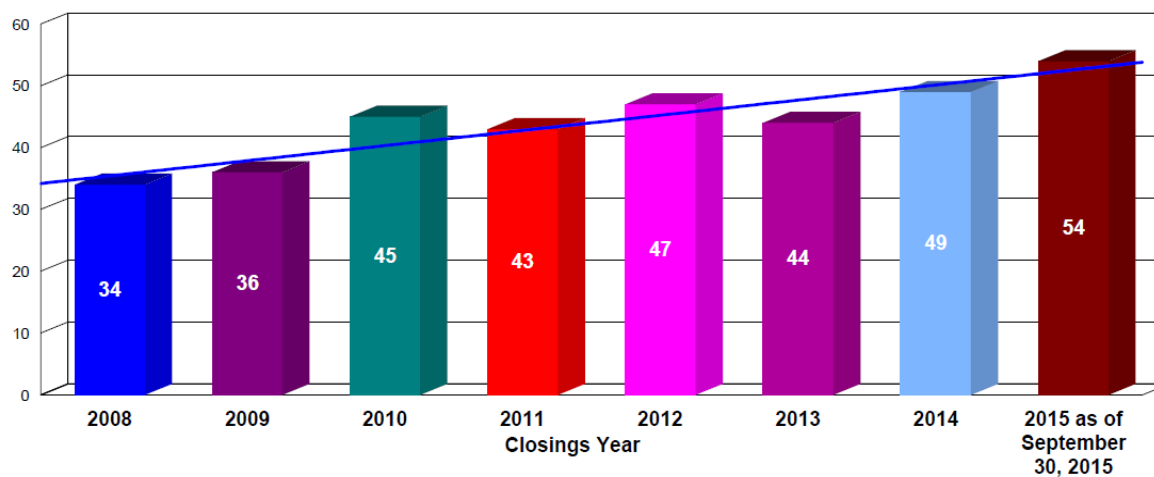
Graph 2.1D: Median Age of Active Complaints



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2.1 – Intake

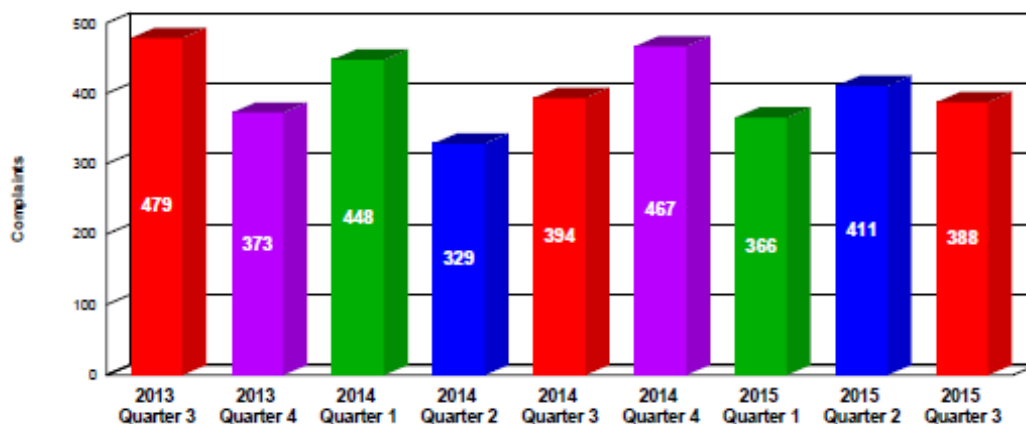
Graph 2.1E: Median Age of Closed Complaints (days)



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2.2 – Complaints Resolution

Graph 2.2A: Input⁵



Detailed Analysis of New and Re-opened Complaints in Complaints Resolution

	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	346	410	324	352	353
Lawyer Applicant Cases ★	0	0	0	0	0
Complaints against Licensed Paralegals	48	56	41	59	35
Paralegal Applicant Cases ★	0	0	0	0	0
Complaints against Non-Licensees/Non-Applicants*	0	1	1	0	0
TOTAL	394	467	366	411	388

★ Applicant cases include good character cases and UAP complaints

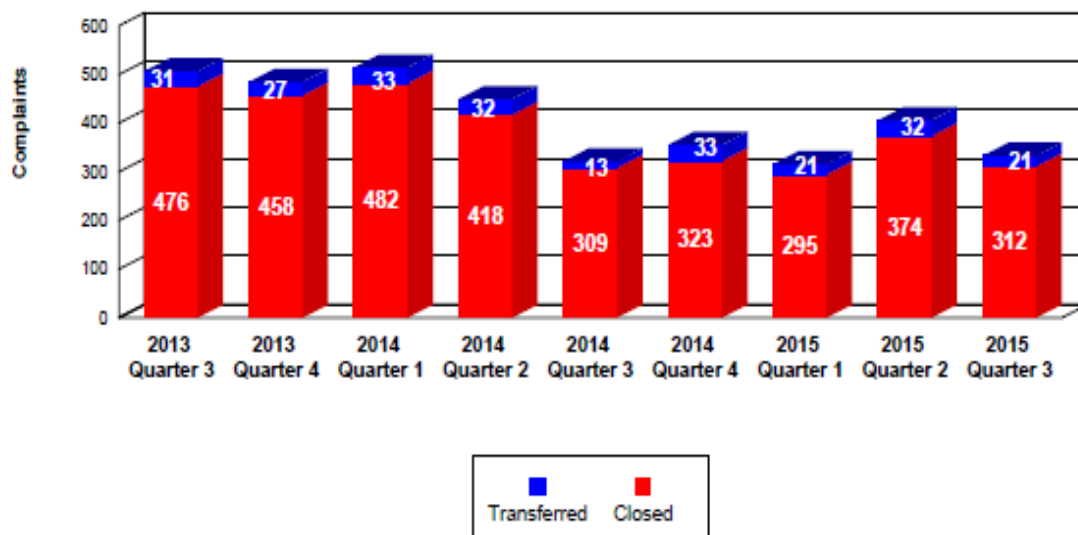
* For a complete analysis of UAP complaints see section 3.4.

⁵ Includes new complaints received into the department as well as complaints re-opened during the Quarter.

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2.2 – Complaints Resolution

Graph 2.2B: Complaints Closed and Transferred Out



Detailed Analysis of Complaints Closed and Transferred From Complaints Resolution

		Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	Closed	273	286	265	329	274
	Transferred	13	28	13	25	17
Lawyer Applicant Cases★	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
Complaints against Licensed Paralegals	Closed	36	37	30	45	38
	Transferred	0	5	8	7	4
Paralegal Applicant Cases★	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
Complaints against Non-Licensees/Non-Applicants*	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
TOTAL	Closed	309	323	295	374	312
	Transferred	13	33	21	32	21

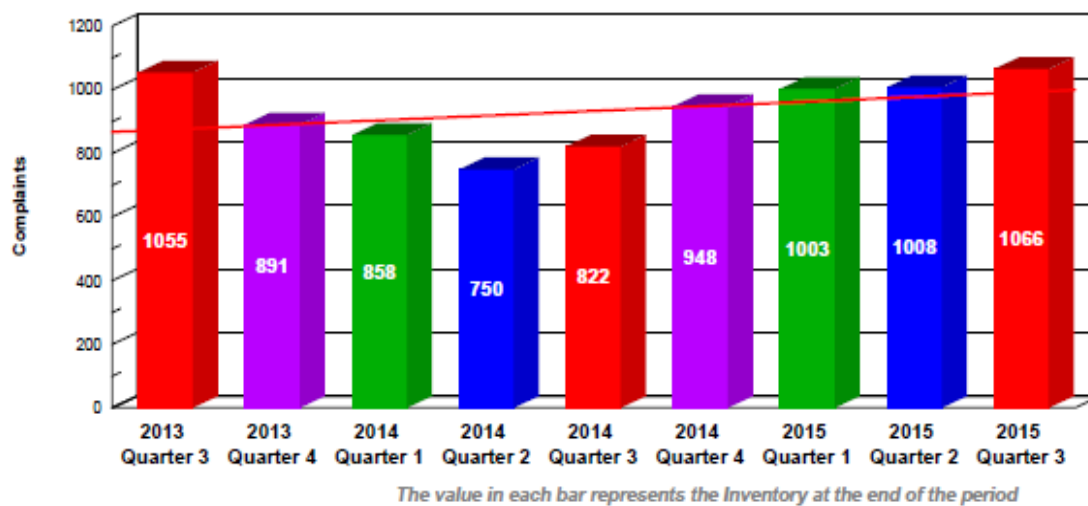
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

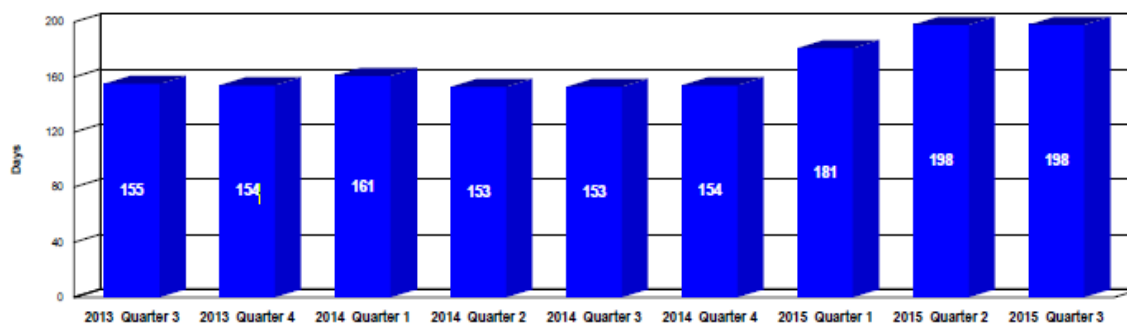
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2.2 – Complaints Resolution

Graph 2.2C: Department Inventory



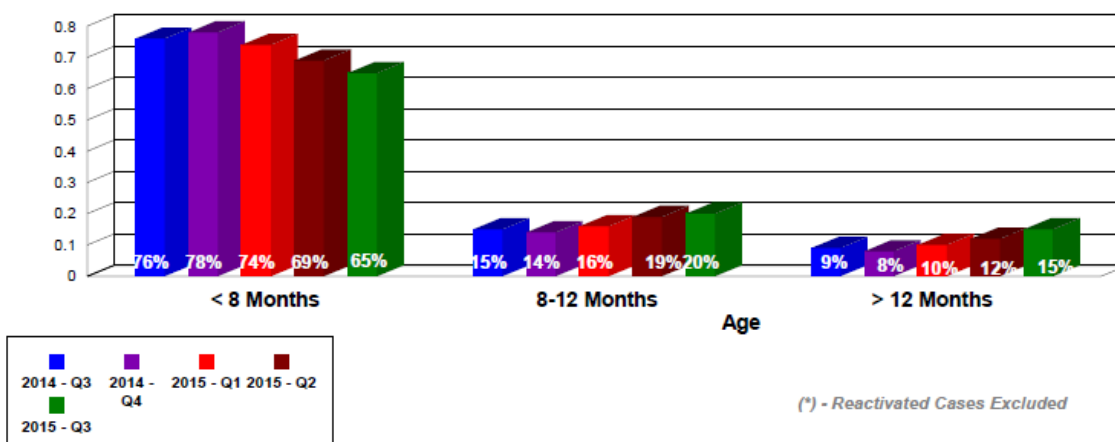
Graph 2.2D: Median Age of Active Complaints



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2.2 – Complaints Resolution

Graph 2.2E: Aging of Active Complaints



	<8 months	8 to 12 months	>12 months
Q3 2014	574 cases involving 521 subjects	114 cases involving 106 subjects	67 cases involving 54 subjects
Q4 2014	673 cases involving 620 subjects	120 cases involving 112 subjects	73 cases involving 60 subjects
Q1 2015	679 cases involving 625 subjects	147 cases involving 137 subjects	94 cases involving 70 subjects
Q2 2015	627 cases involving 579 subjects	177 cases involving 168 subjects	107 cases involving 78 subjects
Q3 2015	638 cases involving 584 subjects	201 cases involving 190 subjects	144 cases involving 108 subjects

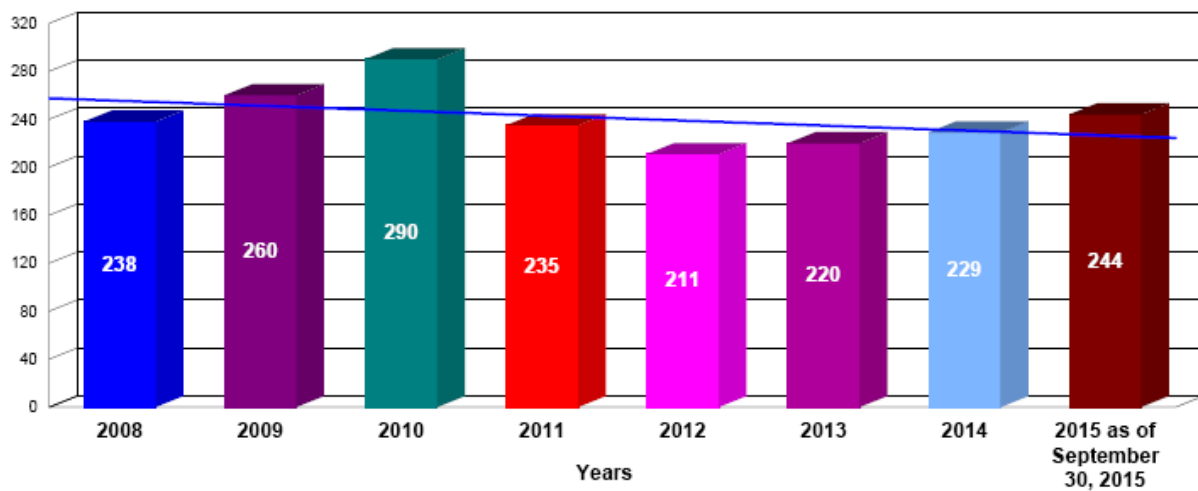
Cases which have been in the process longer than 12 months are closely monitored. In almost all instances, the case is in this category due to reasons beyond the control of the Law Society. Cases are usually older than 12 months in Complaints Resolution for the following reasons:

- Newer complaints against the lawyer/paralegal are received. In some cases existing cases await the completion of younger cases relating to the same licensee;
- Delays on the part of licensees in providing representations and in responding to the investigators' requests. In a number of instances, the Summary Hearing process is required;
- Delays on the part of complainants in responding to licensee's representations and to investigators' requests for additional information; and
- New issues raised by the complainant requiring additional investigation.

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2.2 – Complaints Resolution

Graph 2.2F: Median Age of Completed⁶ Complaints

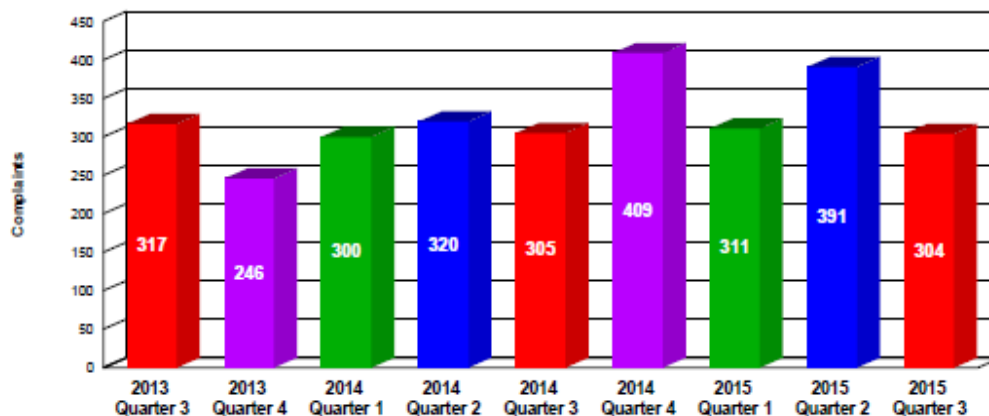


⁶ Included are complaints closed by Complaints Resolution or transferred by the department to Discipline.

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2.3 –Investigations

Graph 2.3A: Input



Detailed Analysis of New and Re-opened Complaints Received in Investigations

	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	240	296	210	238	207
Lawyer Applicant Cases ★	10	2	3	11	6
Complaints against Licensed Paralegals	30	65	60	70	58
Paralegal Applicant Cases ★	6	11	11	32	8
Complaints against Non-Licensees/Non-Applicants*	19	35	27	40	25
TOTAL	305	409	311	391	304

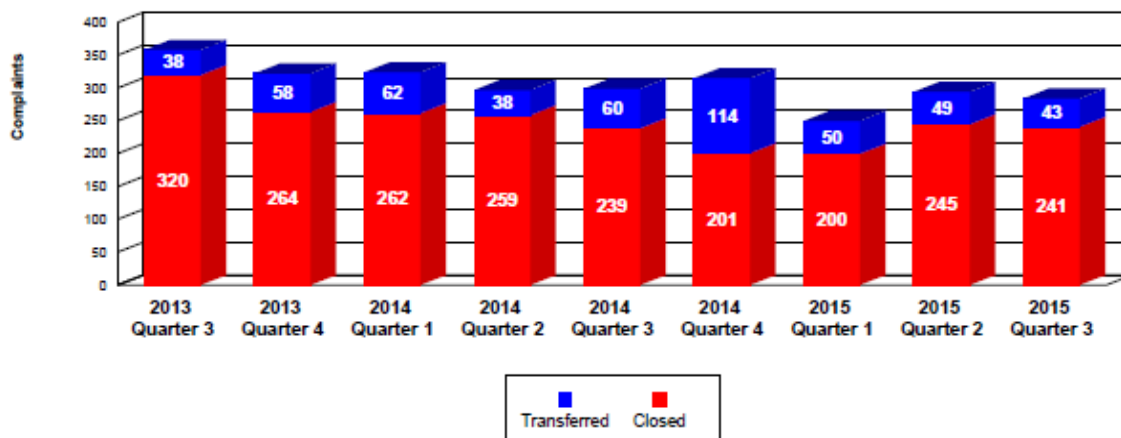
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

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2.3 –Investigations

Graph 2.3B Complaints Closed and Transferred Out



Detailed Analysis of Complaints Closed and Transferred Out of Investigations

		Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	Closed	147	122	121	162	164
	Transferred	49	90	27	27	23
Lawyer Applicant Cases ★	Closed	4	6	5	7	7
	Transferred	0	0	0	3	0
Complaints against Licensed Paralegals	Closed	51	37	48	38	34
	Transferred	11	20	17	17	20
Paralegal Applicant Cases ★	Closed	10	11	5	10	10
	Transferred	0	4	4	1	0
Complaints against Non-Licensees/Non-Applicants*	Closed	27	25	21	28	26
	Transferred	0	0	2	1	0
TOTAL	Closed	239	201	200	245	241
	Transferred	60	114	50	49	43

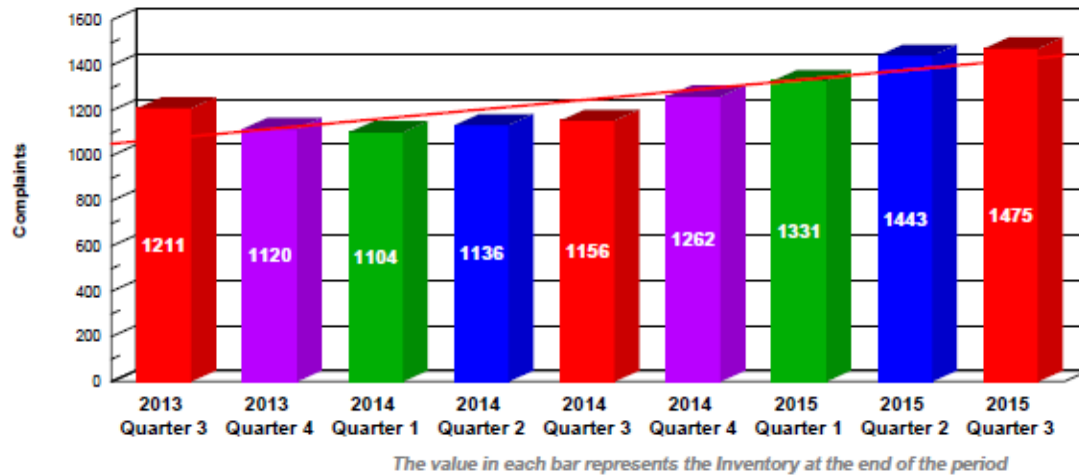
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

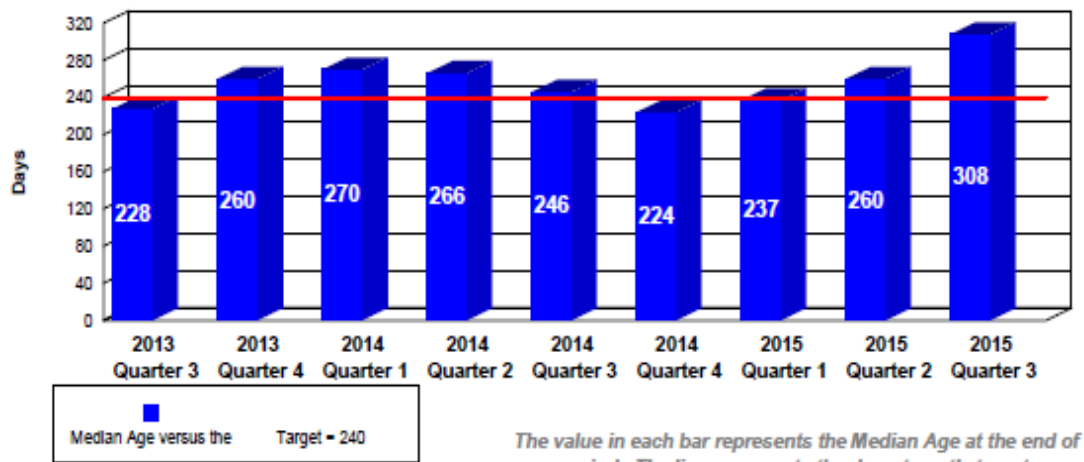
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2.3 – Investigations

Graph 2.3C: Department Inventory



Graph 2.3D: Median Age of All Complaints

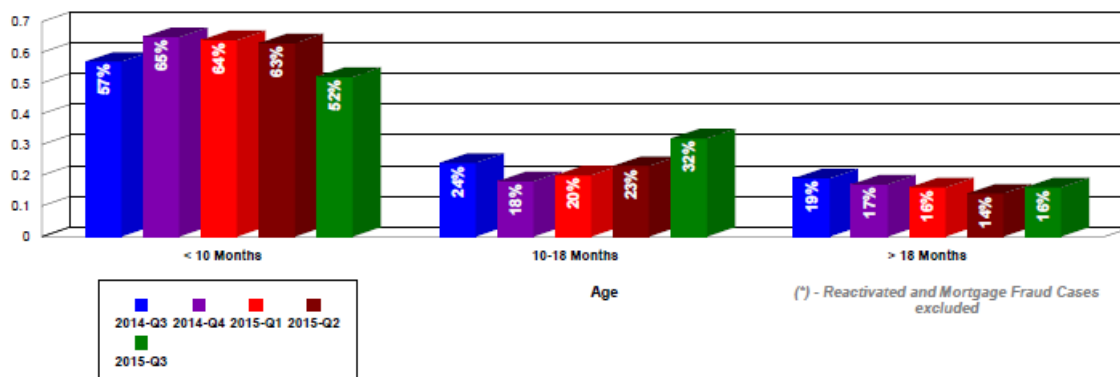


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2.3 – Investigations

Graph 2.3E: Aging of Active Complaints

(a) Core Cases



	<10 months	10 to 18 months	>18 months
Q3 2014	540 cases involving 395 subjects	223 cases involving 180 subjects	180 cases involving 124 subjects
Q4 2014	693 cases involving 451 subjects	193 cases involving 152 subjects	181 cases involving 119 subjects
Q1 2015	740 cases involving 476 subjects	226 cases involving 186 subjects	185 cases involving 125 subjects
Q2 2015	787 cases involving 548 subjects	284 cases involving 190 subjects	183 cases involving 121 subjects
Q3 2015	676 cases involving 539 subjects	408 cases involving 211 subjects	205 cases involving 124 subjects

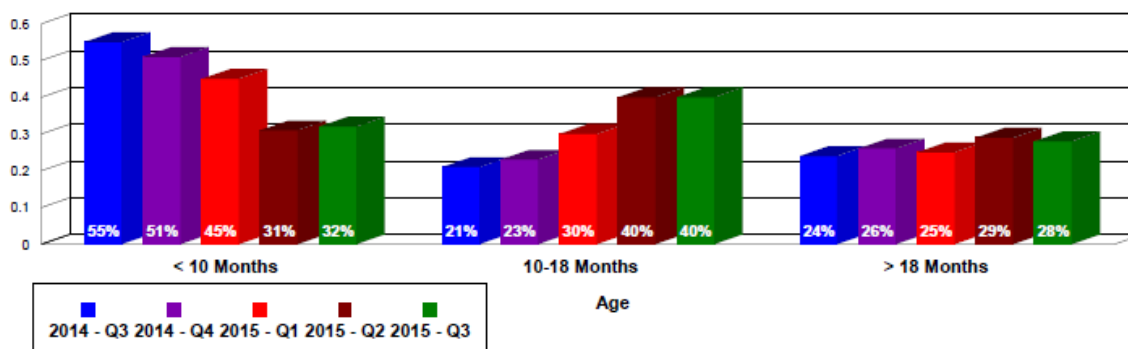
While the department strives to reduce the proportion of cases in the older time frame and to increase the proportion of cases in the youngest time frame, it is recognized that there are cases that are older than 18 months in Investigations for the following reasons:

- The investigator has to wait for evidence from a third party (i.e. not the complainant or the licensee/subject), for example psychiatric evaluation, court transcripts, or a key witness;
- Newer complaints are received against the licensee/subject. In order to move forward together to the Proceedings Authorization Committee, the older cases await the completion of younger cases;
- A need to coordinate investigations between different licensees/subject where the issues arise out of the same set of circumstances (e.g. a complainant complains about 2 lawyers in relation to the same matter);
- Multiple cases involve one lawyer. These investigations are complex and time consuming;
- Where capacity issues are raised during a conduct investigation.

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2.3 – Investigations

(b) Mortgage Fraud Cases



	<10 months	10 to 18 months	>18 months
Q3 2014	61 cases involving 46 subjects	23 cases involving 19 subjects	26 cases involving 21 subjects
Q4 2014	57 cases involving 41 subjects	26 cases involving 23 subjects	29 cases involving 26 subjects
Q1 2015	46 cases involving 32 subjects	31 cases involving 28 subjects	26 cases involving 23 subjects
Q2 2015	30 cases involving 25 subjects	39 cases involving 31 subjects	28 cases involving 25 subjects
Q3 2015	29 cases involving 28 subjects	36 cases involving 22 subjects	26 cases involving 23 subjects

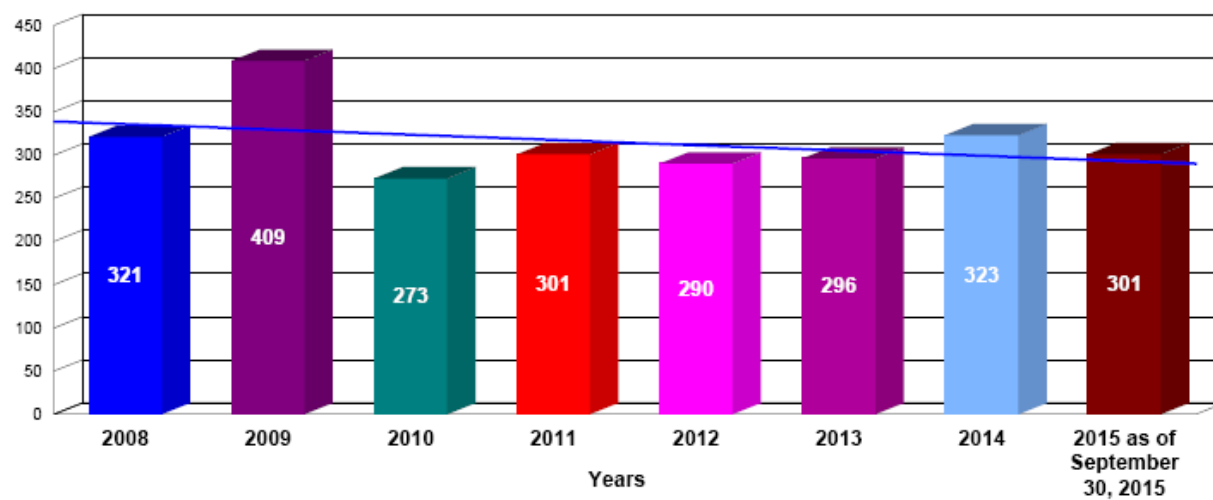
As noted above, the department strives to reduce the proportion of mortgage fraud cases in the older time frame and to increase the proportion of cases in the youngest time frame. However, it is recognized that there will always be mortgage fraud cases that are older than 18 months in Investigations for the reasons cited above, particularly:

- When newer complaints against the licensee/subject are received, existing investigations may have to await their completion in order that all the cases can be taken to Proceedings Authorization Committee together.
- There is a need to coordinate investigations between different licensees/subject where the issues arise out of the same set of circumstances (e.g. a complainant complains about 2 lawyers in relation to the same matter).
- There are multiple cases involve one lawyer resulting in greater complexity.

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2.3 – Investigations

Graph 2.3F: Median Age of Completed⁷ Complaints



⁷ Included are complaints closed by Investigations or transferred by the department to Discipline.

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2.4 – Unauthorized Practice (UAP)

Graph 2.4A: Unauthorized Practice Complaints in Intake

Quarter	New	Closed	Transferred for Investigation	Active at end of Quarter
Q1 2013	71	29	59	11
Q2 2013	60	26	51	5
Q3 2013	69	27	46	9
Q4 2013	60	20	41	11
Total for 2013	260	102	197	11
Q1 2014	64	26	51	6
Q2 2014	52	15	38	7
Q3 2014	44	13	21	20
Q4 2014	63	23	44	21
Total for 2014	223	77	154	21
Q1 2015	45	22	37	11
Q2 2015	60	16	47	8
Q3 2015	48	13	36	11

Graph 2.4B: Unauthorized Practice Investigations

	New Investigations	Closed ⁸ Investigations	Inventory at Quarter End
Q1 2013	59	62	128
Q2 2013	51	36	143
Q3 2013	46	58	129
Q4 2013	40	31	137
Totals: 2013	197	187	
Q1 2014	51	66	122
Q2 2014	38	82	82
Q3 2014	21	29	74
Q4 2014	44	29	90
Totals: 2014	154	206	
Q1 2015	37	26	101
Q2 2015	46	31	115
Q3 2015	36	39	112

Graph 2.4C: UAP Enforcement Actions

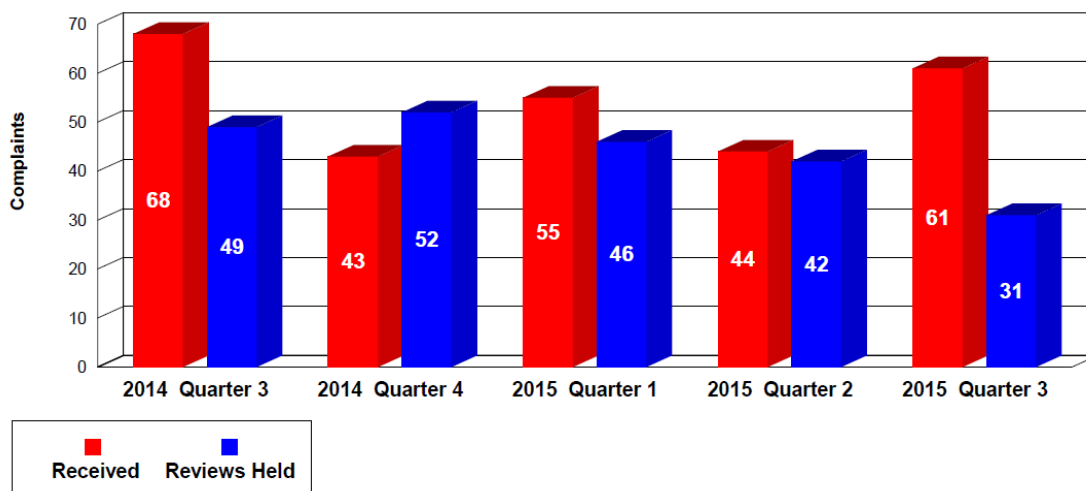
There were 3 new UAP enforcement matters commenced in Q3 2015. As at September 30, 2015, there were 3 active UAP matters.

⁸ “Closed” refers to completed investigations and therefore consists of both those investigations that were closed by the Law Society and those that were referred for prosecution/injunctive relief.

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2.5 – Complaints Resolution Commissioner

Graph 2.5A: Reviews Requested and Files Reviewed (by Quarter)



Graph 2.5B: Decisions Rendered, by Quarter

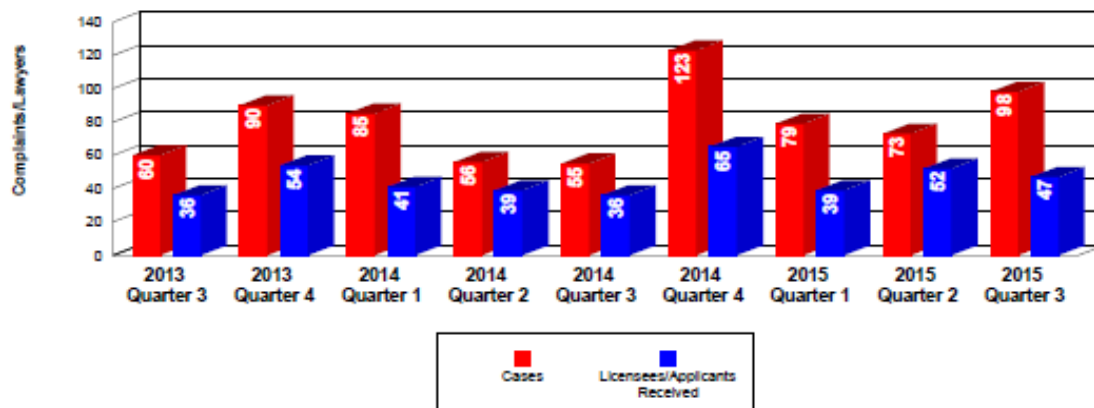
Quarter	Decisions Rendered	Files to Remain Closed	Files Referred Back to PRD
Q1 2013	40	38 (95 %)	2 (5 %)
Q2 2013	55	49 (89%)	6 (11%)
Q3 2013	43	40 (93%)	3 (7%)
Q4 2013	67	65 (97%)	2 (3%)
Total 2013	205	192 (94%)	13 (6%)
Q1 2014	51	50(98%)	1(2%)
Q2 2014	36	33(92%)	3(8%)
Q3 2014	30	29(97%)	1(3%)
Q4 2014	50	48 (98%)	2 (2%)
Total 2014	167	160(96%)	7(4%)
Q1 2015	39	37 (95%)	2 (5%)
Q2 2015	40	39 (98%)	1 (2%)
Q3 2015	31	27 (87%)	4 (13%)

Of the 31 decisions rendered in Q3 2015, the Commissioner referred 4 files back to Professional Regulation with a recommendation for further investigation. To date, the Executive Director has accepted one of the recommendations. Decisions are outstanding on the remaining three files.

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2.6 – Discipline

Graph 2.6A: Input⁹



Detailed Analysis of New Cases Received in Discipline

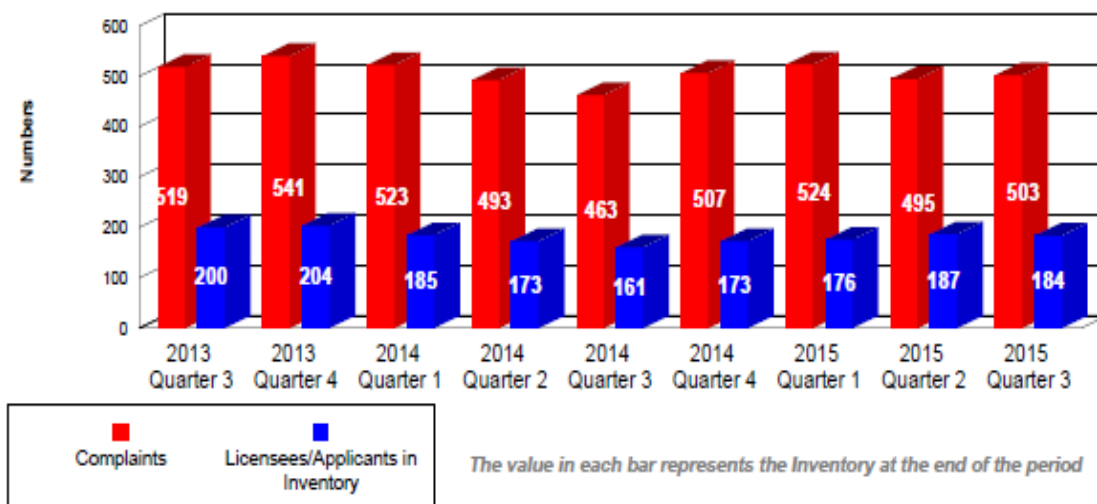
		Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Lawyers	Cases	46	49	100	49	45	67
	Lawyers	33	33	52	26	32	33
Lawyer Applicants	Cases	1	0	0	0	3	0
	Lawyer Applicants	1	0	0	0	3	0
Licensed Paralegals	Cases	8	6	20	29	20	27
	Licensed Paralegals	4	3	10	12	13	13
Paralegal Applicants	Cases	1	0	3	1	5	4
	Paralegal Applicants	1	0	3	1	4	1
TOTAL	Cases	56	55	123	79	73	98
	Licensees & Applicants	39	36	65	39	52	47

⁹ "Input" refers to complaints that were transferred into Discipline from various other departments during the specific quarter. Includes new complaints/cases received in Discipline and the lawyers/applicants to which the new complaints relate.

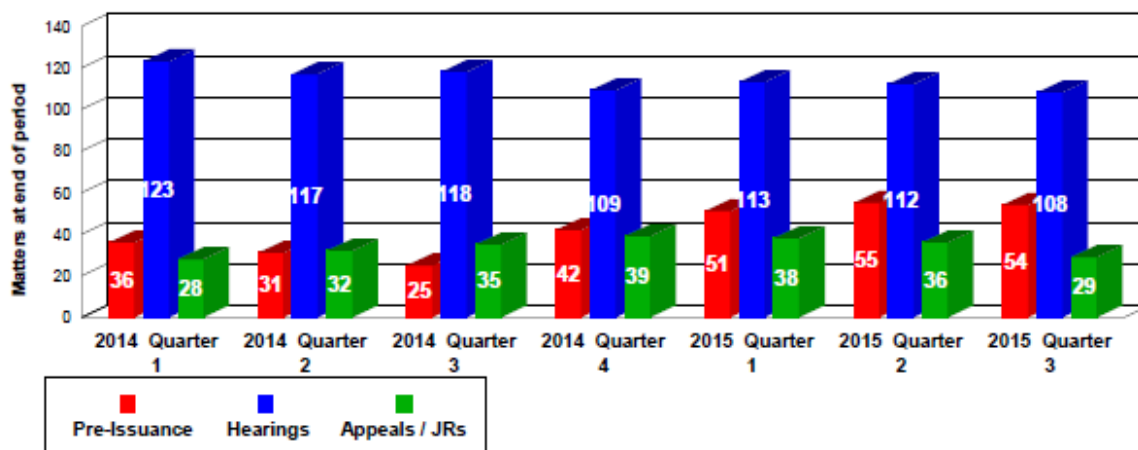
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2.6 – Discipline

Graph 2.6B: Department Inventory¹⁰



Graph 2.6C: Inventory of Discipline Matters¹¹



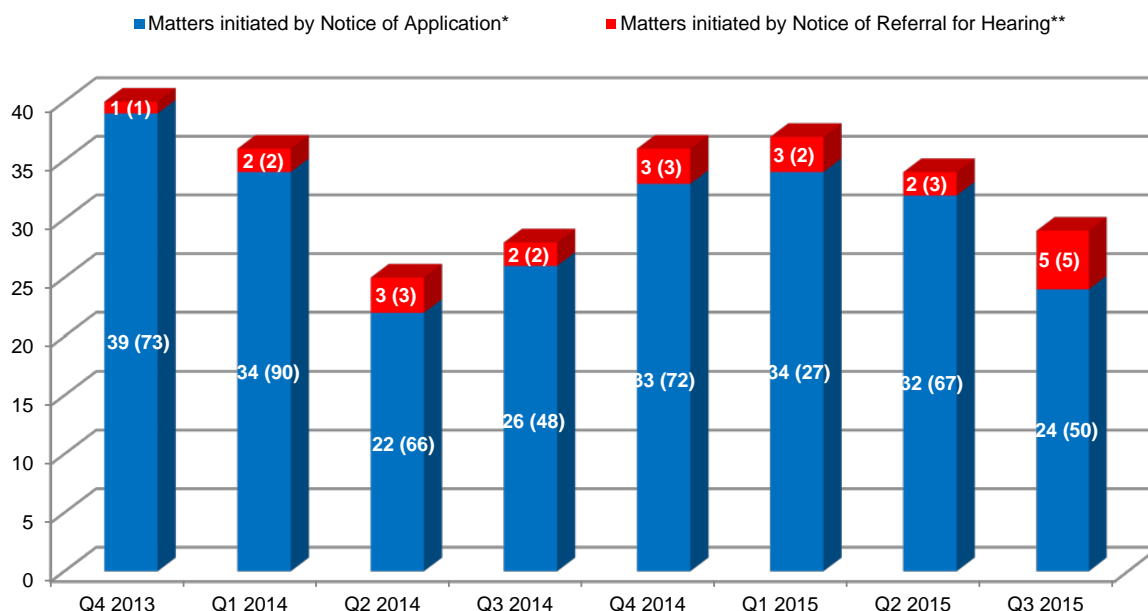
¹⁰ Consists primarily of complaints and lawyers/applicants that are in scheduling and are with the Hearing Division or on appeal. Note that a lawyer/applicant who has more than one matter will only be counted once.

¹¹ A licensee may have more than one matter ongoing at a time (e.g. a licensee may have an ongoing hearing before the Hearing Division and a judicial review in Divisional Court).

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2.6 – Discipline

Graph 2.6D: Notices Issued in the Hearing Division



* Matters which are initiated by Notice of Application include conduct, capacity, non-compliance and competency matters. Also included in this category are interlocutory suspension/restriction motions.

** Matters which are initiated by Notice of Referral for Hearing include licensing (including re-licensing matters), reinstatement and restoration matters.

The numbers in each bar indicate the number of notices issued and, in brackets, the number of cases relating to those notices. One notice may relate to more than one case. For example, in Q3 2015, 24 Notices of Application were issued (relating to 50 cases) and 5 Notices of Referral for Hearing were issued (relating to 5 cases).

With respect to the 24 Notices of Application¹²/Notices of Motion for Interim Suspension Order and 4 Notice of Referral for Hearing (licensing matters) which were issued in Q3 2015¹³:

- 82% were issued within 60 days of PAC Authorization;
- 96% were issued within 90 days of PAC Authorization.

¹² Notices of Application are issued with respect to conduct, competency, capacity and non-compliance matters and require authorization by the Proceedings Authorization Committee (PAC).

¹³ The other Notice of Referral for Hearing was issued in relation to a reinstatement matter which does not require PAC authorization.

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2.6 – Discipline

Graph 2.6E: Completed Matters in the Hearing Division

		Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Conduct Hearings	Lawyers	21*	23	30	14	19	20
	Paralegal Licensees	6	4	3	6	2	8
Interlocutory Suspension Hearings/ Orders	Lawyers	3	2	4	2	4	-
	Paralegal Licensees	-	-	3	1	-	2
Capacity Hearings	Lawyers	-	-	1	2	3	-
	Paralegal Licensees	-	-	-	-	-	-
Competency Hearings	Lawyers	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-
Non-Compliance Hearings	Lawyers	1*	-	-	-	1	-
	Paralegal Licensees	-	-	-	-	-	-
Reinstatement / Terms Dispute	Lawyers	-	1	1	-	2	-
	Paralegal Licensees	-	1	-	1	-	-
Restoration	Lawyers	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-
Licensing Hearings**	Lawyer Applicants	1	-	1	2	-	-
	Paralegal Applicants	2	1	-	3	1	2
TOTAL NUMBER OF HEARINGS	Lawyers*	25	26	37	20	29	20
	Paralegals*	8	6	6	11	3	12
	TOTAL	33	32	43	31	32	32

* In Q2 2014, a conduct application and a non-compliance application were heard together in one hearing. Both are included in the totals for lawyer conduct and lawyer non-compliance categories. However, the hearing is only counted once in the total numbers for the quarter.

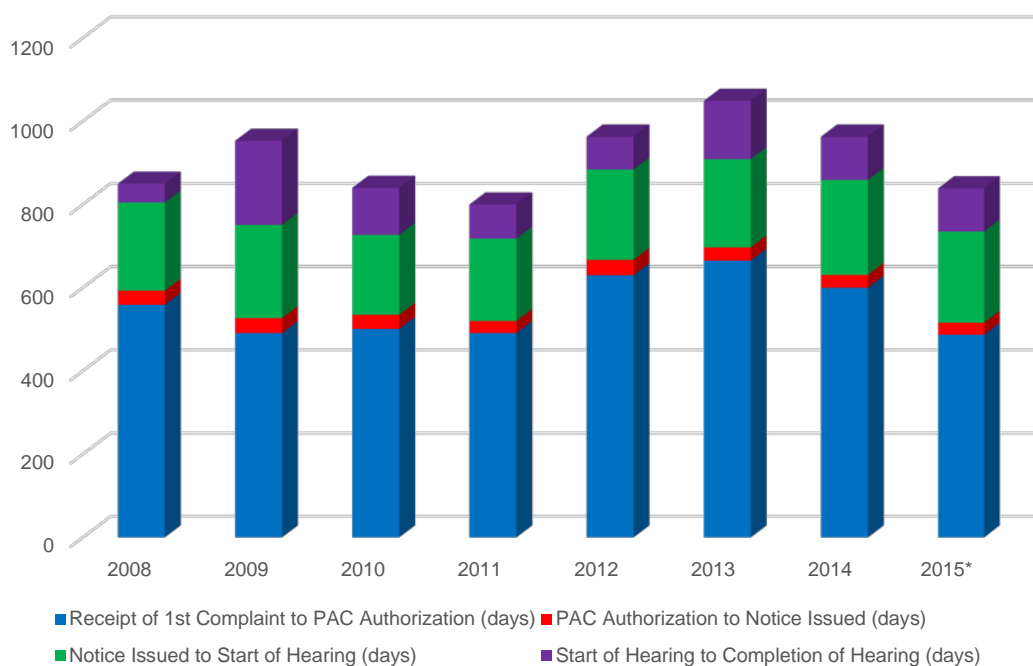
** including Readmission

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2.6 – Discipline

Graph 2.6F: Age of Completed Matters in the Hearing Division

	Total Completed Hearings	Date 1 st Complaint Received to Date Hearing Completed	Total Completed Hearings less Completed Mortgage Fraud Hearings	Date 1 st Complaint Received to Date Hearing Completed
2008	108	847 days	100	770 days
2009	102	841 days	98	813 days
2010	131	833 days	117	727 days
2011	114	770 days	102	652 days
2012	110	940 days	92	693 days
2013	123	1031 days	103	805 days
2014	135	896 days	126	797 days
2015*	95	780 days	86	680 days



	2008	2009	2010	2011	2012	2013	2014	2015*
Receipt of 1st Complaint to PAC Authorization (days)	559	491	501	491	630	665	600	487
PAC Authorization to Notice Issued (days)	34	36	34	29	37	32	31	29
Notice Issued to Start of Hearing (days)	212	224	192	198	217	212	228	219
Start of Hearing to Completion of Hearing (days)	45	202	113	82	79	140	104	104

* to September 30, 2015

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2.6 – Discipline

Graph 2.6G: Appeals and Judicial Reviews

The following chart sets out the number of appeals filed with the Appeal Division, the Divisional Court or the Court of Appeal in the calendar years 2010 to 2014 and the first three quarters of 2015.

Quarter/Year	Appeal Division	Divisional Court	Court of Appeal
2010	27	3 appeals; 2 judicial reviews	4 motions for leave
2011	18	6 appeals; 2 judicial reviews	2 motions for leave
2012	23	4 appeals; 5 judicial reviews	2 motions for leave
2013	20	3 appeals; 3 judicial reviews	
2014	23	14 appeals; 5 judicial reviews	4 motions for leave
2015 1 st Quarter	6	2 appeals; 0 judicial review	3 motions for leave
2 nd Quarter	1	2 appeals; 0 judicial reviews	0 motions for leave; 1 appeal
3 rd Quarter	2	1 appeal; 0 judicial reviews	1 motion for leave
Total	9	5 appeals; 0 judicial review	4 motions for leave; 1 appeal

As of September 30, 2015, there are 9 appeals pending before the Appeal Division, 1 appeal in which the Appeal Division has reserved on judgment, 2 appeals that have been adjourned sine die and 3 appeals in which costs or penalty decisions remained outstanding.

With respect to matters before the Divisional Court, there are 10 appeals, and 3 judicial review matters pending. There are 2 motions for leave to appeal and 1 appeal pending in the Court of Appeal.

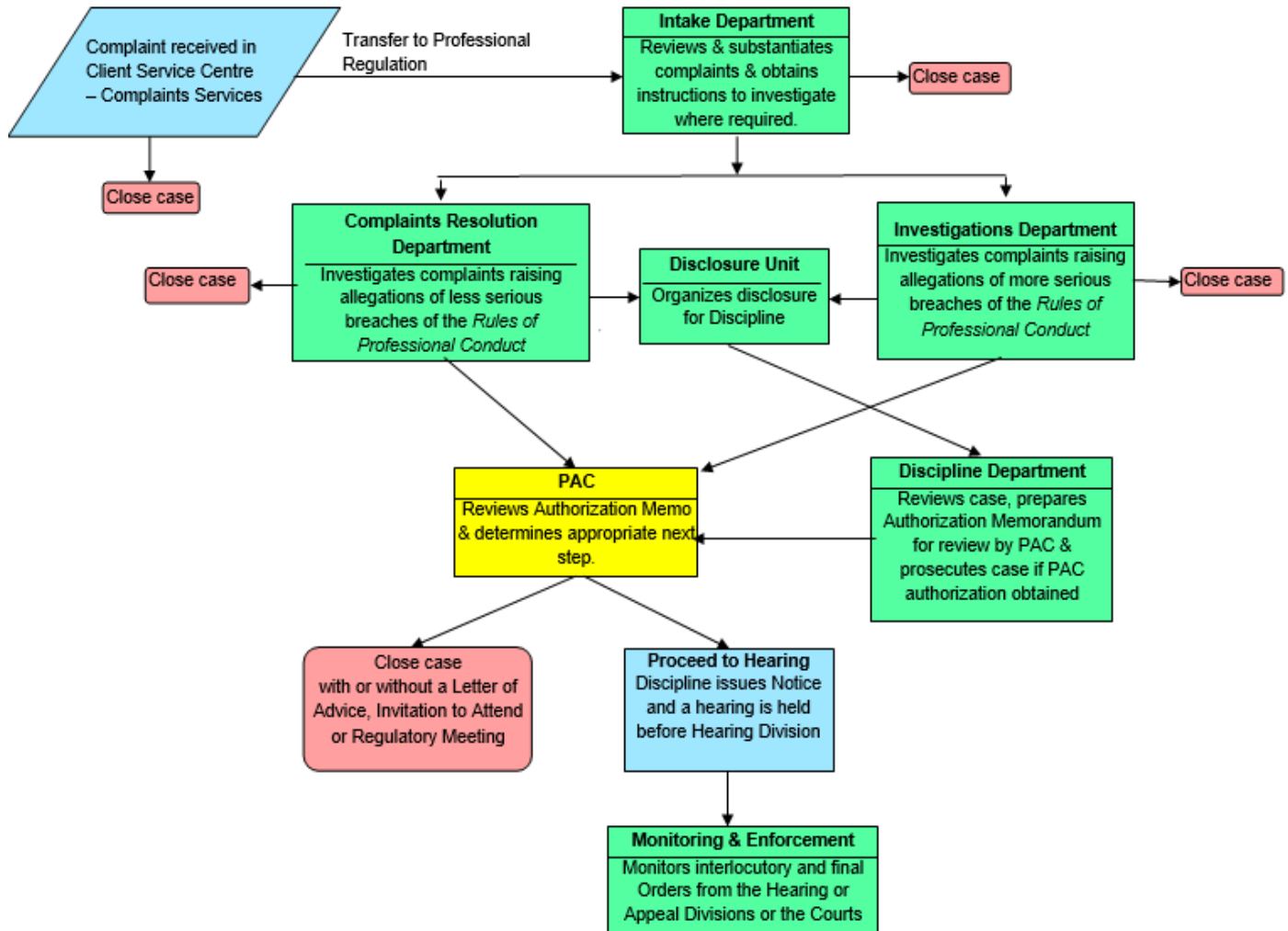
The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (April 1 to June 30, 2015)

SECTION 3

APPENDICES

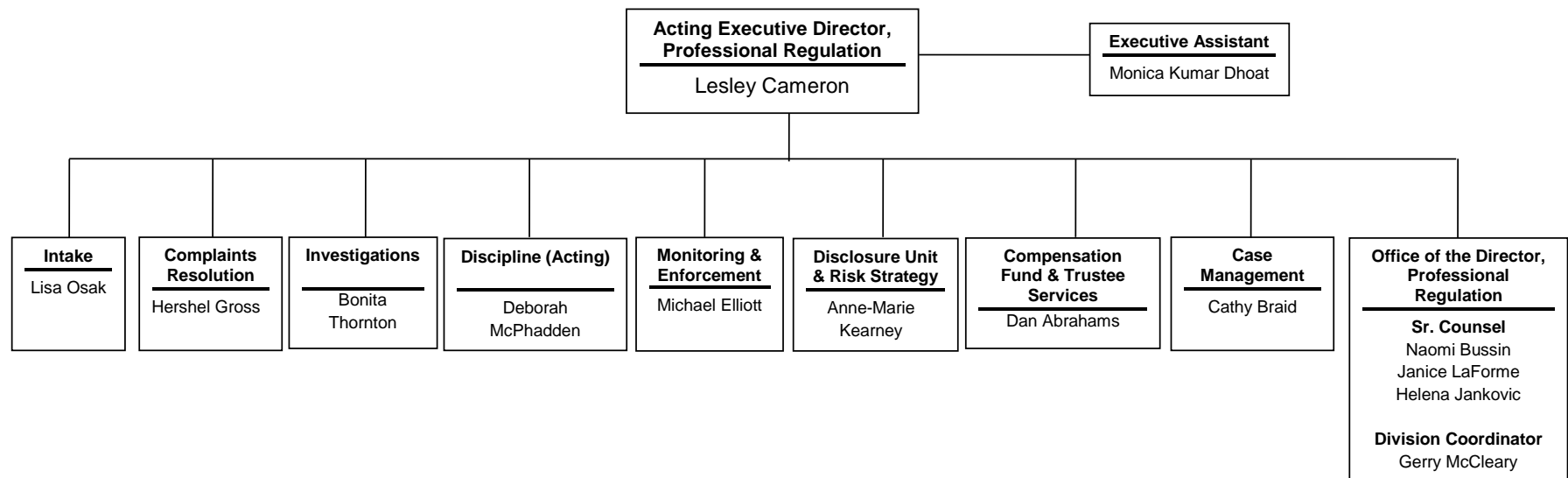
The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (April 1 to June 30, 2015)

The Professional Regulation Complaint Process



The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (April 1 to June 30, 2015)

PROFESSIONAL REGULATION ORGANIZATIONAL CHART





CEO's REPORT

This has been a particularly busy period for operations at the Law Society. Since my last report to Convocation in June, outside of day to day regulatory activities the organization has focused much of its efforts on the following initiatives:

- Completion of the strategic planning process and session to define and set priorities for the 2015-2019 bench term;
- Budget planning for 2016 and beyond;
- Ongoing management of the mortgage fraud case inventory and caseload in the Professional Regulation Division;
- Administration of the second year of the Law Practice Program;
- Administration of the expanded paralegal licensing examination;
- Ongoing review of LibraryCo and library services;
- Development of various policy initiatives including TAG The Action Group on Access to Justice, Compliance-Based Entity Regulation, Challenges Faced by Racialized Licensees, Alternative Business Structures (ABS) and Mental Health Strategy;
- Ongoing implementation of the three year technology plan including the rollout of SharePoint, the new intranet site the Hub, Synerion Direct to track staff attendance, release of the Library's mobile app, as well as a number of enhancements to the Law Society Portal;
- Managing the move of the Law Society Tribunal to separate office and hearing room space;
- Judicial Review of the Law Society's decision on accreditation of Trinity Western University.



This report will provide an overview of priorities and initiatives that are currently underway, operational trends and activities and policy initiatives that are in development to support strategic priorities.

STRATEGIC PLANNING UPDATE

In October, Benchers participated in a planning session where they set the priorities and initiatives for the 2015-2019 term. A work plan with key milestones is being developed to support the process of moving forward with all of the various initiatives that have now been approved for completion in the coming years. The process of supporting the strategies through our operational activities will commence with reports and implementation plans being returned to relevant Committees for further discussion, refinement and development.

As was discussed through the annual budget planning process, the impact of new initiatives in the 2016 fiscal year is anticipated to be nominal. Any further decisions taken by Convocation to either increase the timeliness of completion or redirect the scope of an initiative resulting in additional expenditures in 2016 will be supported by appropriate impact statements and reports vetted by Committees, the Audit and Finance Committee, and then Convocation for final decision on funding.

2015 BUDGET UPDATE AND DEVELOPMENT OF THE 2015-2017 BUDGET PLAN

BUDGET PLANNING

The 2016 Budget process has completed its normal cycle of review by the Audit and Finance Committee in September and October with recommendation to Convocation in October. The budget approved at Convocation maintained the annual fee for both lawyers and paralegals at the same level as 2015. That is \$1,866 for lawyers and \$996 for paralegals.

FINANCIAL REPORTING AND INITIATIVES

Interim financial statements for the third quarter for the Law Society, LawPRO and LibraryCo have been or will be reviewed by the Audit and Finance Committee and



Convocation in the months around this report. The Society is on track to exceed its 2015 budget expectations and its financial position remains strong. Some specific notes are:

- The Lawyer General Fund incurred a surplus of \$2.6 million compared to a surplus of \$1.6 million in 2014 and a budgeted deficit for the period of \$2.9 million.
- The Paralegal General Fund generated a surplus of \$946,000 at the end of the third quarter compared to \$787,000 for 2014 and a budgeted deficit for the period of \$521,000.
- The main revenues sources are above budget and all of the major expense categories on the financial statements are less than budget.
- There was a deficit of \$3.1 million in the Lawyer Compensation Fund as the claims from two major defalcations continue to be processed.

As approved by Convocation at the beginning of the year, PWC will be the Law Society's auditors for the 2015 financial year, taking over from Deloitte. Planning for the 2015 year-end audits has been ongoing and the Audit and Finance Committee met with PWC in November to formalize these plans.

The annual financial statements for the Pension Fund for the employees of the Law Society have been submitted to the regulators. All required tax returns and not-for-profit returns for the Law Society and related entities have been submitted. As reported to Convocation in September, LawPRO's request to the Canada Revenue Agency ("CRA") to reassess LawPRO as being exempt from tax as a subsidiary of a "public body performing a function of government" was denied by the CRA. The matter will now proceed to Tax Court as part of what is expected to be a long process.

The Finance department is working with the Audit and Finance Committee to ensure appropriate accountability and fiscal responsibility by organizations funded by the Law Society such as the Federation of Law Societies, Federation of Ontario Law Associations (formerly CDLPA) and the Law Commission of Ontario.

LIBRARYCo

The Finance department continues to provide financial services to LibraryCo through the Administrative Services Agreement that includes preparation of financial reports, development of the annual budget and administrative assistance to county associations on financial matters. The Law Society is working with the other shareholders of LibraryCo



(Federation of Ontario Law Associations and Toronto Lawyers' Association) to set a direction for the evolution of libraries and library services going forward.

The Law Society's Audit and Finance Committee has reviewed LibraryCo's budget for 2016, incorporating a contingency for the transition process and increased funding to county libraries. This was approved by Convocation in October.

OPERATIONAL TRENDS AND ACTIVITIES

COMPLAINTS, INVESTIGATIONS AND DISCIPLINE

• *Complaint Trends*

Complaint trends fluctuate year by year. In the first ten months of 2015 the Professional Regulation Division has received approximately 4000 complaints, a 1.3% decrease from the first ten months of 2014. The number of complaints received by the Professional Regulation Division has fluctuated somewhat, but has been approximately 5000 per year for the last number of years.

Complaints are received about lawyers, paralegals, applicants and unauthorized practitioners. The distribution of complaints also fluctuates year by year but has remained relatively proportionate over the past five years. The following describes the subjects of complaints received from January to October 2015 as compared to complaints received in previous years:

- Lawyers: 3070 complaints (77.7%). Complaints about lawyers have been on an upward trend since 2013 (76%), following a downward trend from 80% in 2011.
- Paralegals: 451 complaints (11.4%). Complaints about paralegals have increased from 10% in 2010 – 2013.
- Lawyer Applicants: 102 cases (2.6%). Complaints about lawyer applicants have remained relatively constant at 2% or 3% in the past number of years.
- Paralegal Applicants: 165 cases (4.2%). Complaints about paralegal applicants have also remained relatively constant although we saw an upward trend from 3% in 2011 to 5% in 2013 and 2014.
- Unauthorized practitioners: 161 complaints (4.1%). We have seen a downward



trend in allegations of unauthorized practice since 2010, when these reached a high of 7%.

- ***Investigations***

Although the number of cases coming into the Law Society has decreased slightly in the first ten months of 2015, the number of cases referred to the Investigations department in this period has increased slightly. This department addresses the more serious, complex issues. The number of cases referred to the Complaints Resolution department (more minor cases) has decreased.

- ***Discipline***

The number of cases coming into Discipline also fluctuates from year to year. Case numbers appear to be up this year, particularly when compared to last year, and have been increasing since 2011. The number of Notices of Application issued in discipline has increased in 2015 and the Discipline inventory remains relatively stable.

- ***Mortgage Fraud***

Over the past eight years the Law Society has received new reports of mortgage fraud at an average of between 2 to 5 lawyers every month. In 2014, the Law Society received reports of lawyers engaged in mortgage fraud at an average of between 4 and 5 (4.5) lawyers every month. This decreased in 2015: from January through October, the Law Society received reports of lawyers engaged in mortgage fraud at an average of 2.2 per month. The result has been a decrease in the inventory of mortgage fraud investigations.

The Professional Regulation Division's objective is to complete investigations in 18 months. Currently, 27.3% of mortgage fraud investigations are less than 10 months old, 37.9% are between 10 and 18 months old, and 34.8% are older than 18 months. Cases aged 18 months or older typically have a history that includes investigation interruptions beyond the control of the Law Society, including summary hearing process for a licensee's failure to cooperate, and delays in obtaining cooperation from other witnesses. All investigations are monitored for timely completion.

DECISIONS OF THE SUPERIOR COURT AND COURT OF APPEAL

In 2015 we received fourteen decisions from the Ontario Superior Court and Court of Appeal, relating to ten lawyers and one paralegal. All of these matters were initiated by the licensee except for one in which both the lawyer appealed and the Law Society cross-appealed.



- ***Judicial Review – Divisional Court***

There was one application for judicial review by a paralegal, which was dismissed.

- ***Appeals – Divisional Court***

The Divisional Court released appeal decisions in six matters, all relating to lawyers:

- In four matters the lawyer's appeal was dismissed
- In one matter the lawyer's appeal was allowed in part (the finding was upheld and the penalty and costs were set aside)
- In the last matter the lawyer appealed and the Law Society cross-appealed. Both appeals were dismissed. The Court released a separate decision on costs.

- ***Appeals – Court of Appeal***

The Court of Appeal heard one motion, from a paralegal, for extension of time to bring an application for leave to appeal. This was dismissed.

The Court of Appeal heard three applications for leave to appeal, all brought by lawyers: In two matters the application was dismissed, and in one matter the application was granted.

- ***Application to the Superior Court***

The Superior Court heard and dismissed one application by two lawyers in the same firm for a declaration of invalidity of sections of the *Law Society Act* on the basis that the provisions fail to protect solicitor-client privilege.

- ***Issues Considered***

Issues considered by the Courts in these decisions included:

- Application of the appropriate standard of review
- Sufficiency of reasons
- Use of factual findings from decisions to which the lawyer was not a party
- What is a final order
- Failure to cooperate with an investigation
- Whether lack of remorse is an aggravating factor
- Ability to raise new issues on appeal
- Expert evidence about whether a fee is unfair and unreasonable contrary to Rule 2.08(1) of the *Rules of Professional Conduct* (not required)



- Essential elements of fraud allegation
- Whether mortgage fraud can be proven by circumstantial evidence
- Validity of the presumptive disposition of revocation.

MANAGING RISK THROUGH INTERLOCUTORY SUSPENSIONS AND RESTRICTIONS

Professional Regulation is continuing to seek interlocutory orders from the Tribunal and through undertakings at the investigation stage. These are important tools to address risk to the public to prevent future harm. From January – October 2015:

- The Proceedings Authorization Committee authorized six interlocutory suspension applications
- Six interlocutory suspension orders were ordered by the Law Society Tribunal
- Two interlocutory restriction orders were ordered by the Law Society Tribunal; and
- Two interlocutory suspension matters are currently before the Tribunal. An interim interlocutory order has been made in one of the cases.

Further, between January and October 2015, staff obtained 16 undertakings to cease practising law or providing legal services. In all of 2014, 18 such undertakings were obtained. Between January and October 2015, the Law Society also obtained 7 undertakings that restrict the licensee's ability to practise or provide legal services.

MANAGING RISKS RELATED TO LICENSEE INCAPACITY

In 2015 the position of Capacity Program Advisor ("Advisor") was created and filled. The Advisor works with the Manager, Risk Strategy, to support the work of the Professional Regulation Division as it relates to licensee health issues and incapacity. The Advisor is a registered nurse and was recently licensed as a lawyer. The Advisor is experienced in geriatrics and psychiatric issues, including emergency psychiatric intake, and is well placed to assist staff investigating and prosecuting capacity issues.

The Professional Regulation Division is using the Advisor's expertise to improve its capacity related processes. For example, the Advisor assists with the Division's use of medical assessors, including who is on the roster, communicating effectively with assessors, and reviewing assessor reports for completeness, quality, and timeliness. It is anticipated that the Assessor will review all medical information received by the Division, support staff with ongoing consultation on case specific matters and provide training.



On November 13, 2015, the Professional Regulation Division held a Training Day for staff which focused on distinguishing licensee conduct from capacity issues, and responding to licensees and complainants with mental health issues. Presenters about these issues included the Advisor and Dr. Philip Klassen, a Forensic Psychiatrist.

TRUSTEESHIPS AND COMPENSATION FUND

Trustee Services acts to protect, preserve and distribute client files, funds and property when a licensee cannot do so because of regulatory action, death or incapacity. Since January 1, 2015, Trustee Services has obtained 21 new trusteeship orders from the Superior Court, and 23 trusteeships have been completed. In an additional 33 cases, Trustee Services has provided guidance and information about how to wind up a practice. In total, the department received 1962 requests from clients and others concerning licensees' practices, and closed 1784 such requests.

Between January 1 and October 31, 2015, the Compensation Fund received 216 applications for compensation: 153 claims involving 63 lawyers and 17 claims involving 15 paralegals. During this period, 96 claims were granted: \$2,847,716.00 was paid on 88 claims against 37 lawyers and \$31,800 was paid on 8 claims against 6 paralegals.

The Compensation Fund continues to carry a number of potential claims related to a very high-profile real estate loss.

LICENSING UPDATE

- ***Lawyer Licensing Process***

The second offering of the Law Practice Program (LPP) commenced at Ryerson University and the University of Ottawa in early September 2015, with a total of 233 candidates registered. Candidates have been engaged in a variety of skills training activities, practical assignments and formal assessments during the four-month training course component. Screening and interviewing for the work placements, which will begin in January 2016, is also well underway, with approximately half of the candidates placed as of November 1, 2015.

Candidates and principals continue to comply with the filing requirements for the enhanced Articling Program, which includes an Experiential Training Plan and mandatory Performance Appraisals on core tasks and activities. The Law Society welcomed 228 new lawyers at the September Call to the Bar ceremony, which included candidates who completed the first year of the LPP.



- **Paralegal Licensing Process**

In August 2015, the Law Society held the first administration of the expanded paralegal licensing examination to include substantive competencies in the areas of civil procedure, administrative law and criminal law, in addition to ethics, professional responsibility and practice management. Administration of the new examination format has gone very smoothly, with 565 candidates writing in August and 344 candidates writing in October. The Law Society has extended an invitation to the Paralegal Reception in December to 419 newly licensed paralegals.

Enhanced standards for accreditation and governance of paralegal college programs, which were approved by Convocation in February 2014, took effect on September 1, 2015. The Licensing and Accreditation team has engaged in monitoring compliance with the new standards, which introduce stricter requirements related to minimum enrollment numbers, faculty qualifications, program structure and scheduling, and assessment methodologies. There are currently 28 accredited programs at 43 locations across Ontario. To date, ten locations are in abeyance this term due to low enrollment numbers.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD) UPDATE

The number of original CPD programs held to date and the number of paid registrations have both increased in 2015, so it is anticipated that the 2015 net contribution will exceed the \$2.2 million projected net income amount. The department continues to see a shift toward online learning with more registrants viewing programs by live webcast or on demand. The CPD department is offering fewer programs with printed materials as members grow more comfortable with electronic program materials, and the department is preparing to move to a standard offering of online materials only starting January 2016. This movement toward online program delivery and materials provision also provides savings in program expenses, including catering costs, course materials and venue rentals.

In 2014, CPD introduced a new e-Course online learning format, launching 7 courses in November, in time for the year end push for members to complete their CPD requirement. Total e-Course sales in 2014 were 2664 units. For 2015, CPD launched 2 new e-Courses in spring. Following an updated and award-winning format used for prior releases, 3 more e-Courses - ILA and ILR for Real Estate Lawyers, Write this Way: Grammar Booster Intensive, and Employment Law Practice Basics - will be released in November. Year to date sales for all e-Courses have exceeded 1,200, including pre-sales for the as-yet unreleased titles. It is expected that the release of these 3 e-Courses will push yearly e-Course sales totals higher than 2,500 units for 2015.

Attendance for CPD programming, all formats, will be in the range of 60,000 for 2015.



LEGAL INFORMATION AND LIBRARY SERVICES

The Library's mobile app was released in September to both the Apple iTunes store and Google's Play store for Android phones and tablets. The app enables mobile access to search Law Society CPD articles and the catalog of books from law libraries across the province. Library staff are working with PD&C's Communications and Marketing team to promote the app.

At the same time, the Library's systems team supported an upgrade to the online search software that both the app and online researchers use. Now, when users locate a book in the catalog, they can also browse, scrolling past books that are physically adjacent to the first book on library shelves. It reintroduces some of the serendipity of visiting a law library.

The Corporate Records and Archives team digitized and published a collection of historic Call to the Bar resources. Organized by decade, the Web pages list speakers from the 1930s to the present. In some cases, users can also read the transcripts of the speeches during the Call to the Bar ceremony and citations presented to Honorary Doctor of Laws recipients.

COMMUNICATIONS AND MARKETING

Communications and Marketing had been building on the Law Society's social media activity – using it more proactively, broadly and consistently as a strategic communications tool to support our corporate priorities. Social media continues to be a key component of the Law Society's communications and marketing efforts.

A renewed focus on sharing more content and generating social media traffic to our websites has begun to show results. More people than ever follow us on our social media platforms: our Facebook page now has more than 2,500 likes; more than 6,600 follow us on LinkedIn; and 7,500 follow us on Twitter.

Traffic to the *Gazette* from LinkedIn, where we have been posting daily instead of sporadically, has increased more than eight times since 2014. *Gazette* traffic as a whole is higher—2015 saw a 36% increase in site visitors, from approximately 32,500 in 2014 to more than 45,000 this year. The *Gazette* also sends six times more traffic back to <http://www.lsuc.on.ca> as a result of concerted efforts to link between the two sites.

In 2015 the Communications and Marketing department also supported the development and implementation of a new intranet site built on the SharePoint platform, co-leading the project with the Information Technology department. Launched at the end of October, the



site enhances internal communications and provides a gateway to SharePoint features enabling better team collaboration, project management, document management and content management.

MEDIA RELATIONS AND ISSUES MANAGEMENT (MRIM)

The Media Relations and Issues Management (MRIM) team's primary focus is to ensure the Law Society, its mandate, initiatives and operations are positively and accurately represented in the public sphere.

In the last four and half months, the team has responded to almost 100 media inquiries. The Treasurer and other Law Society representatives conducted a number of interviews with major Canadian dailies as well as legal trade publications. Interview topics included ABS, compliance and entity-based regulation, the Justicia Project, the Early Careers Roundtable and Law Society resources for new lawyers. Media coverage relating to TWU was most prominent, followed by high-profile regulatory matters.

In addition, MRIM prepared a broad range of internal and external communications documents (public statements, news releases, speeches, discussion points, fact sheets, FAQs, Convocation News) that support Law Society priorities and the Treasurer's outreach initiatives.

TECHNOLOGY

- **SharePoint**

In 2014 the Law Society embarked on an aggressive plan to modernize its technology infrastructure, improving both its internal systems and its external-facing presence. The largest project, implementation of Enterprise Content Management (ECM), revolves around the concept of a single, secure location to develop, collaborate, distribute and archive information internally using Microsoft SharePoint 2013.

The rollout of the platform to the organization is now complete and individual sites (OneDrive) and department team sites have been created, and the organization is familiarizing itself with other features such as project and team sites, file sharing, versioning, collaboration, and the powerful search tool. OneDrive and team sites will ultimately replace the use of most network drives. The Corporate Services Division will complete the migration from the H: drive to OneDrive by the end of the year.

We are currently working with the other Divisions to develop a plan that would have the organization migrate completely to OneDrive by the end of May 2016. Thereafter, we will develop a plan to move away from the use of shared network drives and towards the use



of SharePoint team and project sites for all document management and internal collaboration purposes.

- ***HUB***

The Law Society recently launched our new intranet, the HUB, which was built on the SharePoint platform. The HUB has helped integrate the use of SharePoint into employees' every day activities, and encourages user adoption. SharePoint's powerful search engine is one of the many features of the HUB that employees are becoming familiar with, along with social media tools, such as internal blogs, that can be used as a communication tool.

- ***Time and Attendance***

As part of its ongoing commitment to improve, modernize, and streamline business processes, the Law Society will be implementing a new system, Synerion Direct, to automate the recording and tracking of attendance. Human Resources has partnered with Finance and the Corporate Resource & Training Centre in the implementation of this system, which is scheduled to launch in January 2016.

- ***Licensee Database Redesign***

The Information Technology department has been working closely with the Client Service Centre and other departments in the Law Society on the first phase of this project, the Life of a Licensee study. The objective of this study was to review the current state of our Licensee-related information systems, and to understand what the ideal future state would look like, when considering the needs across divisions.

- ***LSUC Portal***

Much work is being done to enhance the user experience of the Law Society Portal, including developing a new look and feel that will make the portal easier to navigate. We are also working towards ensuring that all areas of the Portal are mobile-friendly and accessible. The new look and feel will be rolled out before the end of the year.

Other enhancements include the development of an online feedback system for members of the Law Society Referral Service to provide feedback about referrals, instead of faxing back a paper form.

Beginning next year, reminders and notices about administrative obligations will be posted for licensees to view in the Portal. They will also be able to view their submitted



Lawyer Annual Report (LAR) and Paralegal Annual Report (PAR) in the Portal, starting with the report for the 2015 calendar year.

The Finance Department in conjunction with Information Technology, is developing self-service, on-line enrollment in the annual fee preauthorized payment plans through the LSUC Portal. The Department's intention is to add an additional option for members to pay their annual fees in a single pre-authorized payment, withdrawn electronically from their bank account.

The 2015 LAR/PAR will also be the first reporting period where licensees will not have to submit a separate report regarding their trust accounts. Working with the Law Foundation of Ontario, the Law Society has integrated the questions from the Law Foundation's Form 1 report into the LAR/PAR, eliminating the need for licensees to file two separate reports relating to their trust accounts.

- ***eCommerce System Replacement***

A project is underway to replace the Law Society's eCommerce system, used primarily by the Continuing Professional Development department. This upgrade will increase the functionality of the system, and will also allow us to comply with current payment card industry security standards. We will see this project roll out in the coming months.

- ***Osgoode Hall Restaurant Website***

The Catering and Facilities departments have been working with Communications & Marketing to develop a website for Osgoode Hall Restaurant. In addition to the stunning imagery of Osgoode Hall, the website will include the daily menu, a link to a reservation app, information on facilities available for rental as well as catering information.

- ***Digital Information Risk Management***

Information systems and digital information are vital to the operation of this organization and it is especially important to consider risk management from an information systems perspective. The Information Technology Department is developing a Digital Information Risk Management Program to formally introduce information risk management into the operations of the Law Society and to ensure that information risks are managed as an integral component of information solutions through their lifecycle.



OUR PEOPLE

- ***Excellence Canada***

As I mentioned to you in my June report, the Client Service Centre achieved Excellence Canada's Progressive Excellence Program Level 4 award. On October 29, 2015, Terry Knott along with the Client Service Centre managers and staff from our Corporate Resource & Training Centre attended the Canada Awards for Excellence ceremony to receive the Gold Trophy from Excellence Canada. The larger Corporate Services Division, including the Client Service Centre, will start a new certification program with Excellence Canada called Excellence, Innovation and Wellness and I look forward to reporting to you on their progress.

- ***Employer of Choice***

The Greater Toronto's Top Employer is an annual competition that recognizes the employers in the GTA leading their industries in offering exceptional places to work. I am proud that the Law Society has been recognized as a GTA Top Employer since the award's inception. Should we be awarded this prestigious accolade for 2016, it will be our 10th consecutive year winning the award! The announcement of the 2016 awards will be made in a special publication of the Globe and Mail on December 8.

- ***Effective Workspace***

With a focus on enhancement of work flows and effective work-space, a number of capital projects were carried out to consolidate various departments. New offices were created within existing footprints that achieved efficient space, addressed security concerns and met current accessibility standards.

The Law Society Tribunal administrative office and hearing rooms at 375 University, opened its doors in September to our licensees and members of the public. The objective of this move was to consolidate the Tribunal offices and hearing rooms into one location to create an independent Law Society Tribunal physical presence.

The office of the Complaints Resolution Commissioner was also moved 393 University Avenue so that their office would also be separate from the Law Society.

- ***Sustainable Building***

The Law Society continuously looks for opportunities to apply sustainable methods to our building. We achieved between 5% and 30% in various areas of the building in energy



savings attributed to system upgrades and 16% improvement on waste diversion thanks to the participation of Law Society staff.

POLICY AND GOVERNANCE INITIATIVES

ACCESS TO JUSTICE AND THE ACTION GROUP (TAG)

- ***TAG Development***

The Action Group on Access to Justice (TAG) continues to evolve as a catalyst for solutions to Ontario's access to justice challenges. TAG facilitates collaboration with institutional, political and community stakeholders and addresses distinct access to justice concerns through clusters. This work is guided by a Reference Group, a selection of senior justice thought leaders that builds TAG's capacity and identifies gaps that can be addressed through clusters. There are currently nine clusters in various states of development and I am pleased to highlight some of them today.

- ***Mental Health***

Working with the Canadian Institute for the Administration of Justice, TAG recently organized Opening Minds to Mental Health. This conference was fully subscribed, open to all justice system professionals and emphasized the importance of self-care habits in the face of ethically challenging and emotionally demanding work environments. This event launched the Mental Health cluster and is among other culture change oriented initiatives coming from TAG.

- ***Intermediaries***

Culture change was also a key theme at a libraries and justice event organized in late October by TAG with the Community Advocacy & Legal Centre, CLEO – Community Legal Education Ontario and the Rural and Remote Access to Justice Boldness Project. Focused on engaging library and legal professionals in rural and remote communities, this cluster aims to find innovative ways to increase access to legal information through public, courthouse and academic libraries.

In December TAG will participate in the Connecting for Change Conference organized by the Maytree Foundation. The focus will be on producing collective anti-poverty solutions and enhancing coordination across sectors.



- ***Steps to Justice***

In early October, TAG Manager Sabreena Delhon gave a joint presentation with CLEO Executive Director (and 2016 Guthrie Award winner) Julie Mathews at the first Innovation in Access to Justice Conference held in Montreal. Their presentation detailed an early collaborative success from the Family Law cluster which has produced an initiative called Steps to Justice. Steps to Justice is an innovative digital family law resource that brings together the Ontario Ministry of the Attorney General, the Ontario Superior Court of Justice, the Ontario Court of Justice, Social Justice Tribunals of Ontario, the Ontario Bar Association, Legal Aid Ontario, The Law Society of Upper Canada, a number of community legal clinics and a growing list of community groups.

- ***Other Clusters***

Other clusters in development are looking at how to increase access to justice by addressing the crisis of Aboriginal children in care, how to increase uptake of targeted legal services as a family law innovation and how to enhance the impact of public legal education and how to better serve trusted intermediaries.

- ***Public Engagement***

TAG has a new website, is active on Twitter and has a monthly newsletter. I encourage you all to keep up with TAG's work and send in your ideas for new clusters through these outlets. TAG is funded by the Law Foundation of Ontario and we are grateful for this generous support.

COMPLIANCE BASED ENTITY REGULATION

Following its creation by Convocation in June 2015, the Task Force on this subject has utilized staff research on the experiences of other jurisdictions and current Law Society needs and challenges in framing an approach to entity regulation. This approach has also been informed by a number of meetings with representative of other Canadian law societies who discussed their initiatives. This Task Force will be consulting with the professions in early 2016, and plans to report on a framework for entity regulation in the spring.

ALTERNATIVE BUSINESS STRUCTURES (ABS) WORKING GROUP

Following its report to September 2015 Convocation, the Working Group continues its review of alternative business structures, or ABS. Deciding that at present it will forego examining any majority or controlling non-licensee ownership models for traditional law firms in Ontario, the Working Group will continue its mandate by exploring and assessing



other potential ABS options, including non-licensee minority ownership of law firms and entities, franchise arrangements and structures that may develop an access to justice focused ABS framework (sometimes called ABS+) for civil society organizations, such as charities, not-for-profits, and trade unions.

The Working Group continues to meet to undertake this next phase of its work.

CHALLENGES FACED BY RACIALIZED LICENSEES

The Challenges Faced by Racialized Licensees Working Group has continued its work under its mandate to identify challenges faced by racialized licensees in different practice environments, identify factors and practice challenges faced by racialized licensees that could increase the risk of regulatory complaints and discipline, consider best practices for preventive, remedial and support strategies and determine appropriate preventative, remedial, enforcement, regulatory and support strategies.

REAL ESTATE ISSUES WORKING GROUP

The Treasurer created this Working Group in June 2015 to deal with a number of important issues and developments related to real estate practice in Ontario. The Working Group has begun to consider these matters. It is anticipated that matters with policy dimensions will be referred to other committees and at the appropriate time will become matters of stakeholder engagement, including with the Real Estate Liaison Group, below, as the work progresses.

THE REAL ESTATE LIAISON GROUP (RELG)

The Real Estate Liaison Group, created by the Treasurer together with the Ontario Bar Association, CDLPA and LawPRO continues its dialogue on real estate issues of common interest and planning in response to expressed concern about the future and current state of real estate practice in Ontario. The co-chairs of the Real Estate Issues Working Group have been appointed to RELG by the Treasurer to encourage co-ordination of efforts on common issues.

The group continues to meet to discuss current issues touching on real estate practice and legislative developments. I expect as we learn more the environment in which real estate practice occurs, RELG will continue to be a valuable forum for discussion, including on matters related to the Law Society's responsibilities.



CREATING A STRATEGY TO PROMOTE WELLNESS AND ADDRESS MENTAL HEALTH AND ADDICTION ISSUES

The Task Force on this subject created by Convocation in June 2015 and has met on several occasions to begin mapping out a Law Society-wide strategy on this important subject. The Task Force benefited from a comprehensive overview and gap analysis of current Law Society initiatives in this area completed by Policy staff. The Task Force is meeting with experts and others who are well-positioned to offer insights on mental health and addictions issues and how regulators can most effectively address the challenges presented. The Task Force is aiming to report in the spring of 2016.

GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Public Affairs liaises with all levels of government to ensure ongoing and enhanced networks and relationships. The majority of issues before by Convocation are of interest to the government or require its involvement in some way. Consequently, Public Affairs is intimately involved in the issues, policies and initiatives being considered by benchers. In addition, government initiatives that affect the Law Society's mandate are monitored and addressed as required.

Public Affairs facilitates the work of coalitions such as the Alliance for Sustainable Legal Aid (ASLA) and the Real Estate Liaison Group (RELG). In addition, Public Affairs supports various outreach projects for the Treasurer; notably in 2015 the Treasurer hosted nine regional events and organized quarterly meetings with the Treasurer's Liaison Group (TLG) and organized the first meeting of the Early Careers Roundtable (ECR).

FRENCH LANGUAGE INITIATIVES

The Law Society continued to work collaboratively with partners in the justice system to enhance access to justice in French. At the invitation of the Attorney General, the Law Society participated on the French Language Services Bench and Bar Response Steering Committee. The Committee released its report *Access to Justice in French: A Response to the Access to Justice in French Report*, which outlines the progress made in this area over the last three years. At the invitation of the National Judicial Institute, the Law Society was provided with an opportunity to present an overview of its services to French speaking Ontario Superior Court Judges. The Law Society continues to work with the French Language Services Commissioner in addressing complaints related to its French language services and making systemic and proactive change.



FEDERATION OF LAW SOCIETIES OF CANADA SUPPORT

The Law Society makes a significant contribution in both human and financial resources to the Federation. Staff and benchers continue to contribute to the progress of a number of Federation initiatives.

Former Treasurer Tom Conway completed his term as president of the Federation last month. Former Treasurer Laurie Pawlitzka, our Federation Council representative, also chairs the Canadian Common Law Program Approval Committee. Bencher Malcolm Mercer serves as a member of the National Committee on Accreditation. Tom Conway chairs the National Requirement Review Committee, which includes bencher Peter Wardle as a member.

Staff in our Policy Secretariat continue to provide key support to a number of Federation initiatives. The quarter-time secondment of Sophia Sperdakos, Policy Counsel and one-third time secondment of Juda Strawczynski, Counsel to the Director of Policy, to the Federation will be completed in 2015. Sophia also serves on the Standing Committee on National Discipline Standards Suitability to Practise/Good Character Working Group.

Other staff continue with their contributions to a number of Federation initiatives. These include Diana Miles, Executive Director, Organizational Strategy /Professional Development & Competence, who participates as a member of the National Admission Standards Project Steering Committee and the National Requirement Review Committee, Naomi Bussin, Senior Counsel, Professional Regulation who is a member of the Standing Committee's Suitability to Practise/Good Character Working Group and the Standing Committee on the Model Code of Professional Conduct.

I also serve as a member of the Governance Review Committee, the Standing Committee on Access to Legal Services and the above-noted Steering Committee.

TRINITY WESTERN UNIVERSITY (TWU) ACCREDITATION

In a decision released on July 2, 2015, the Divisional Court dismissed TWU's application for judicial review of the Law Society's decision not to accredit TWU's proposed law school. TWU has since been granted leave to appeal the decision of the Divisional Court. Currently, the Law Society is awaiting TWU's perfection of the appeal.



SERVICES FOR MEMBERS AND THE PUBLIC

TORONTO LAWYERS FEED THE HUNGRY PROGRAM

The Law Society Foundation's mandate includes relief of poverty by providing meals to persons in need through the Lawyers Feed the Hungry Program. The Finance Department supports the Foundation with its mandate, providing financial administration services and assisting fund raising activities such as supporting the financial administration of fund raising events. The Toronto Lawyers Feed the Hungry Program operates through the cafeteria and with in-kind support from the Law Society. Meals are served on Wednesday nights, Thursday mornings, Friday nights and Sunday mornings. On average, the Program serves approximately 60,000 guests a year at an average annual cost of \$360,000. With the current fund balance and assuming attendance remains at current levels, the Program has sufficient funding for 12 to 18 months of operation.

The programs in London, Ottawa and Windsor continue to raise sufficient funds locally to support the programs in each city. Funds are granted to local organizations involved in hunger relief.

LAW SOCIETY REFERRAL SERVICE

2015 has marked many changes for the Law Society Referral Service (LSRS). We have successfully transitioned to primarily an online service, with a crisis line and new email address for the public to assist those in need. We have continued to evolve by directing people to our self-service application to receive an immediate referral online, 24 hours a day at www.lawsocietyreferralservice.ca. Our crisis line assists people who are unable to use the online services such as those in custody, in a shelter or in a remote community without access to the internet. We have created a new email address (lsrs@lsuc.on.ca) for members of the public to reach out to our service for assistance.

From January 1 to October 31, 2015, the online service received 32,870 requests for referrals, which resulted in 22,666 referrals. 6,872 referrals were provided through the crisis line and 529 referrals were provided through our new email address for that same period. From January 1 to October 31, 2015, LSRS also provided the names of 11,961 LSRS members to people who did not qualify for a referral.

To continue our support of access to justice, we recently reached out to eligible lawyers and paralegals in unrepresented areas, inviting them to join our service for free for the remainder of the year. We have continued to increase efficiencies through automation,



including adding a new LSRS portlet to the LSUC Portal and streamlining our renewal processes for licensees who are members of the service. LSRS has proactively responded to feedback from our constituents by improving our website and revising our voicemail greetings for the crisis line for greater clarity.

MEMBER ASSISTANCE PLAN (MAP)

As at September 30, 2015, Homewood Health, the Law Society's Member Assistance Program provider had a 3% utilization rate this is equal to 650 cases. Counselling cases represent 75.8%, Plan Smart cases (future planning) account for 16% and Peer Support 5.5% of overall utilization. Members between the ages of 31-40 continue to represent the majority of users.

Counselling cases included psychological issues (48.5%); work issues (17.2%); marital/relationship issues (16.9%) and family issues (7.4%).

Looking at overall utilization, the top areas of Plan Smart cases:

1. Career Counselling, including Career Choice and Career Dissatisfaction – 45.5%
2. Nutritional Counselling – 12.1%
3. Financial Advisory Services 10. 1%
4. 12 Weeks to Wellness – 10.1%

PARENTAL LEAVE ASSISTANCE PROGRAM (PLAP)

The Finance department processes the applications for the Parental Leave Assistance Program. The number of applicants approved is below projections estimated during program development. To the end of September 2015, payments for the year total \$156,000. The budget funding request for 2015 was \$300,000. In the 2016 budget, the contribution to the Parental Leave Assistance Plan has been reduced to \$200,000 reflecting the declining use of the program.

CONCLUSION

It is often only when I do this report that I realize how much we collectively undertake as a Law Society, and how many issues command our attention. This time, however, I have had the benefit of working with Benchers and staff on the Law Society's new strategic plan. That exercise, including the identification of key priorities for the next four years, and the contemplation of existing and new initiatives to support them, has heightened my



sense that we will continue to be a highly active and engaged organization for years to come. I have enjoyed welcoming back those lawyer Benchers who were re-elected to Convocation last spring, and getting to know those that were elected for the first time, and have appreciated the engagement and support of all of Convocation as we begin our work for the next four years.

As always of course, none of this would be possible without the effort and expertise of our very capable staff. That our staff have been recognized in three major awards this year is not a surprise, but is a source of great pride nonetheless. I acknowledge the work of all of our staff with admiration for their capacity to take on so much and gratitude for how well they do it.



TAB 7

**Report to Convocation
December 4, 2015**

Audit & Finance Committee

Committee Members

Christopher Bredt (Co-Chair)

Peter Wardle (Co-Chair)

Michelle Haigh (Vice-Chair)

John Callaghan

Suzanne Clément

Paul Cooper

Teresa Donnelly

Seymour Epstein

Rocco Galati

Vern Krishna

Janet Leiper

Catherine Strosberg

Purpose of Report: Information

Prepared by the Finance Department

Wendy Tysall, Chief Financial Officer, 416-947-3322 or wtysall@lsuc.on.ca

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Investment Compliance Reports..... [TAB 7.2](#)
Other Committee Work [TAB 7.3](#)

COMMITTEE PROCESS

1. The Audit & Finance Committee (“the Committee”) met on November 11, 2015. Committee members in attendance were Christopher Bredt (Co-Chair), Peter Wardle (Co-Chair), John Callagan (phone), Suzanne Clement, Paul Cooper, Teresa Donnelly, Seymour Epstein, Janet Leiper, Catherine Strosberg (phone)
2. Other Benchers in attendance: Raj Anand, Marian Boyd, Cathy Corsetti, Bob Evans, Barbara Murchie.
3. Law Society staff in attendance: Robert Lapper, Wendy Tysall (phone), Elliot Spears, Fred Grady, Brenda Albuquerque-Boutilier, Sophia Sperdakos, Mary Giovinazzo and Andrew Cawse.
4. Also in attendance: Stephanie Kalinowski (Hicks Morley), Michael Hawtin and Michael Tolensky, PriceWaterhouseCoopers (PwC).

TAB 7.1

FOR INFORMATION

**LAW SOCIETY OF UPPER CANADA FINANCIAL STATEMENTS FOR THE NINE
MONTHS ENDED SEPTEMBER 30, 2015**

5. **Convocation is requested to receive the third quarter financial statements for the Law Society for information.**

Rationale

6. This is part of the quarterly financial reporting schedule to Convocation. These interim statements convey the performance of the Law Society before the end of the year. Unlike annual statements, interim statements are not audited.
7. The quarterly financial statements for the two subsidiaries, LAWPRO and LibraryCo, will be presented when they have been approved by the respective boards.

**Law Society of Upper Canada
Financial Statements
For the nine months ended September 30, 2015**

Financial Statement Highlights

8. The Lawyer General Fund incurred a surplus of \$2.6 million at the end of the third quarter of 2015, compared to a surplus of \$1.6 million in 2014. The 2015 budget used the General Fund accumulated surplus and a transfer of excess investment income from the E&O Fund as sources of funding to mitigate a fee increase for lawyers, projecting a budgeted deficit for the period of \$2.9 million.
9. The Paralegal General Fund generated a surplus of \$946,000 at the end of the third quarter of 2015 compared to \$787,000 for 2014 and a budgeted deficit for the period of \$521,000.
10. Revenues from annual fees and professional development and competence are above budget although investment income is experiencing a negative variance. All of the expense categories on the financial statements are less than budget, although there are some noteworthy negative variances in individual accounts.
11. The Law Society's restricted funds report a deficit of \$8.7 million (2014: deficit of \$10.7 million) primarily comprising deficits of:
 - \$3.1 million in the Lawyer Compensation Fund as the claims from two major defalcations continue to be processed.
 - \$1.9 million in the E&O Fund. As anticipated in the insurance contract with LAWPRO, the E&O Fund is providing a \$2.5 million premium contribution in 2015 to reduce the lawyer's base premium and this is the primary reason for the E&O Fund experiencing a deficit.
 - \$2.6 million in the Invested in Capital Assets Fund, representing amortization.

Negative Variances or Potential Negative Variances

12. As noted above, all of the expense categories on the financial statements are less than budget, although there are some noteworthy negative variances in some individual accounts discussed in this section.
13. The Office of the General Counsel outside counsel fees are in excess of budget to date. Contingency funds were approved in June 2015 to supplement the amount budgeted.
14. Cost awards arising from the disciplinary process are occasionally awarded against the Law Society. At the current time, there are three matters which may lead to significant cost awards against the Law Society, although, in compliance with generally accepted

accounting principles, there is insufficient certainty for these cost awards to be accrued at this time. There is a high risk of significant awards in all three of the proceedings.

15. The 2015 budget included a contingency provision of \$1 million and an additional provision of \$250,000 for severances for a total of \$1.25 million. It is projected that severance costs will exceed the severance budget and the remaining contingency balance after allocations for other costs.
16. It is expected that these significant negative variances will be offset by budgetary savings in other expense categories. Overall, the Law Society is on track to meet or exceed its 2015 budget expectations and its financial position remains strong.

Background

17. The Financial Statements are prepared under Generally Accepted Accounting Principles for Canadian not-for-profit organizations using the restricted fund method of accounting.
18. The Financial Statements for the nine months ended September 30, 2015 comprise the following statements:
 - Balance Sheet
 - Statement of Revenues and Expenses and Change in Fund Balances, detailing results of operations for lawyers and paralegals
 - Schedule of Restricted Funds
 - Supplemental schedules include Schedules of Revenues and Expenses for the Combined General Fund, Lawyer and Paralegal General Funds, the Compensation Fund and the Errors and Omissions Insurance Fund.

Balance Sheet

19. Cash and short-term investments have increased by \$3 million to \$54 million over the last twelve months with capital transfers from portfolio investments offsetting deficits during the period and the investment manager adopting a conservative approach with an increased short-term orientation.
20. Most of the prepaid expense balance relates to annual E&O insurance premiums paid or payable for the year, which are expensed over the full year.
21. The Investment in LAWPRO totaling \$36 million is made up of two parts. The investment represents the share capital of \$5 million purchased in 1991 when LAWPRO was established, plus contributed capital of \$31 million accumulated between 1995 and 1997 from a special capitalization levy by the Law Society.
22. Portfolio investments are shown at fair value of \$70 million, compared to \$76 million in 2014. The short-term components of these investments are re-categorized to the “cash

and short-term investments” line on the balance sheet which have increased reflecting the investment manager’s asset mix. Investment returns over the last twelve months have been modest, verging into a small loss for the 9 months of 2015 and the E&O Fund has withdrawn capital of \$8 million to recoup deficits and fund transfers in recent years. Approximately 20% of the portfolio is held in equity investments. Investments are held in the following funds:

Fund (\$ 000’s)	Sep. 30, 2015	Sep. 30, 2014
Errors & Omissions Insurance	21,368	29,068
Compensation Fund	33,993	32,411
General Fund	15,000	14,267
Total	70,361	75,746

23. Accounts payable and accrued liability balances at the end of September 2015 of \$12 million have experienced a relatively large increase because of the timing of payments, particularly relating to the accrual of biweekly payroll charges.
24. Deferred revenue of \$46 million is made up of annual fees, licensing process revenues and insurance premiums which are recognized over the full year with the increasing balance reflecting the increased underlying revenues in 2015.
25. The E&O Fund’s amount due to LAWPRO has decreased by \$5 million to \$22 million due to the scheduling of payments. The payable will decline by year-end as insurance premiums and levies collected are paid to LAWPRO. Any balance owing to LAWPRO at year end is paid by March 31 of the following year.
26. The provision for unpaid grants in the Compensation Fund represents the estimate for unpaid claims and inquiries against the Compensation Fund, supplemented by the costs for processing these claims. The provision has increased by \$9 million since September 2014 due to an increase in grants anticipated to be closed with payment primarily arising from two large defalcations in 2014. The Compensation Fund describes a major defalcation as being over 35 claims arising from the conduct of one licensee in a single year. Processing has continued in 2015 with nearly \$4 million in grant expenses in the current year. The paralegal Compensation Fund provision for unpaid grants comprises \$250,000 of the total Compensation Fund provision for unpaid grants.
27. The Law Society Act permits a member who has dormant trust funds, to apply for permission to pay the money to the Society. Money paid to the Society is held in trust in perpetuity for the purpose of satisfying the claims of the persons who are entitled to the capital amount. At the end of September, unclaimed money held in trust amounts to \$4.2 million, compared to \$3.4 million in the prior year.

Statement of Revenues and Expenses and Change in Fund Balances

28. The Lawyer General Fund has a surplus of \$2.6 million at the end of the third quarter of 2015, compared with a surplus of \$1.6 million in the first nine months of 2014. As noted in the highlights, the reasons for this positive financial performance are spread across most revenue and expense categories. The 2015 budget anticipated a deficit for the year with the allocation of \$1.5 million from the accumulated surplus investment income in the E&O Fund and the allocation of \$641,000 from the General Fund accumulated surplus. Actual use of these funds is contingent on results for the year although the \$1.5 million in accumulated surplus investment income from the E&O Fund has been transferred as budgeted to the General Fund.
29. The Paralegal General Fund had a surplus of \$946,000 versus a surplus of \$787,000 last year. The 2015 budget allocated \$541,000 from the General Fund accumulated surplus to mitigate fee increase for paralegals. Actual use of these funds is contingent on results for the year.
30. The Society's restricted funds report a deficit of \$8.7 million for the period (2014: deficit of \$10.7 million). The current deficit is primarily attributable to:
 - the \$1.9 million deficit in the E&O Fund brought about by the fund's prorated 2015 premium contribution (the insurance contract with LAWPRO includes a \$2.5 million premium contribution in 2015 to reduce the base premium) and a small investment loss;
 - the \$3.1 million deficit in the Lawyer Compensation Fund due to an increase in claims and grants anticipated to be closed with payment. As of September 30, 2015, the Compensation Fund provision for unpaid grants (that is, the amount reserved) related to lawyer dishonesty has risen to \$22 million from \$13 million at the same point in 2014. This fluctuation is mainly attributable to a bulk provision for two major defalcations.
 - the \$2.6 million amortization expense in the Invested in Capital Assets Fund;
 - the \$939,000 deficit in the Capital Allocation Fund. The Law Society is in year two of a three year, \$8 million Information Technology capital plan.
31. Interfund transfers are reduced from last year. 2014 included the transfer of \$6.0 million from the General Fund balance to the Capital Allocation Fund as part of the \$8 million dedicated to the revitalization of the Law Society's information technology.
32. Annual fee revenue is recognized on a monthly basis. Total annual fees recognized in the first three quarters have increased. There were fluctuations in the individual fee components but overall, the lawyer annual fee remained the same but the number of lawyer and paralegal members billed increased. 38,100 full time equivalent lawyers were used as the basis for the number of members in the 2015 budget, an increase of 900 from 2014, and paralegals increased by 350 to 4,700. Annual fee revenues in total have increased from \$55 million to \$56.5 million.

33. Premium and levy revenue at \$78.6 million slightly increased from \$76.7 million primarily because of the increase in the number of lawyers. LAWPRO's base premium of \$3,350 has not changed from 2014.
34. Professional development and competence revenue comprises licensing process and continuing professional development revenue. There is a higher number of licensing process candidates contributing to both the lawyer and paralegal licensing revenues. In addition, there is an increase in the number of candidates writing the exams multiple times. The higher numbers have increased the expenses to administer exams. Also, there has been an increase in the number of candidates requiring special services, for instance rooms, chairs, proctors, software. Ultimately, the licensing process anticipates a continued favourable position compared to budget at the end of the year.
 - At \$8.8 million, lawyer licensing process revenue has increased by \$300,000 compared to last year and exceeds the prorated budget for the year by \$1.5 million. The 2016 budget has been increased to reflect this. The Law Society is in the second year of a three year pilot project that will allow lawyer licensing candidates to either article or complete a Law Practice Program (LPP). The total Licensing Process fee for 2015-2016, including the fees for the initial application, the Barrister and Solicitor Licensing Examinations and the Call to the Bar is \$4,710, the same as last year.
 - At \$1.6 million, paralegal licensing process revenue is nominally higher than last year and is more than the prorated budget for the year by \$300,000.
 - Through September 2015, CPD results continue to be strong. Although registration revenue is modestly under budget year to date, deferred program revenue is modestly higher than this time last year, so the small negative variance may be a timing discrepancy. Course materials and post-program publication sales continue to decrease. Post-program marketing efforts promote on-demand video and electronic materials and in 2016, program registrants will no longer be offered the option of hard copy course materials. Lawyer continuing professional development revenue of \$4.2 million is slightly less than last year and budget for the period although CPD is running ahead on net operating contribution as a result of reductions in related expenses. Traditionally, the Fall has been CPD's busiest period and registrations will continue to be closely monitored.
35. The Law Society is incurring a \$310,000 loss on investments as unrealized losses are offsetting interest income, reflecting capital market conditions and continuing low interest rates. The S&P/TSX Total Return Index return year-to-date is -7%.
36. Other income primarily comprises late fees, catering, monitoring & enforcement revenues, Ontario Reports and the LibraryCo administration fee.
37. Total regulatory expenses of \$20.2 million are slightly less than last year and are \$1.3 million less than budget with the positive variance spread across virtually all departments

and in particular expenditures on outside counsel fees which were relatively high in 2014. Cost awards arising from the disciplinary process are occasionally awarded against the Law Society. At the current time, there are three matters which may lead to significant cost awards against the Law Society, although, in compliance with generally accepted accounting principles, there is insufficient certainty for these cost awards to be accrued at this time.

38. Total professional development and competence expenses at \$19.3 million are virtually the same as 2014 and are \$1.6 million under budget with the biggest variance in continuing professional development where expenses, particularly related to course materials, have decreased in line with related revenues and a shift towards online learning with more registrants viewing programs by live webcast or on demand. The programs are both offering and selling fewer copies of printed materials as registrants grow more comfortable with electronic program materials. Licensing process expense categories are tracking close to budget although as noted in the 2016 budget material, the costs of candidate support services continue to exceed budget.
39. Corporate services expenses include Finance & the CEO, Facilities, the Client Service Centre, Information Technology, Office of the General Counsel (OGC) and Human Resources and have increased from \$16.2 million to \$17 million. Severance costs have exceeded the severance and contingency budget but savings in other areas means corporate service expenses are under budget for the period by \$1.1 million, particularly assisted by savings in most Facilities categories although a part of this variance could be attributable to timing differences.
40. Convocation, policy and outreach expenses primarily comprise policy, equity & public affairs and bench expenses and total \$5.4 million compared to \$5.9 million in 2014. Bench expenses are under budget by \$168,000 but the timing of bench remuneration and expenses is not regular and depends on submissions from benchers. Policy, equity and public affairs includes the Treasurer's Action Group on Access to Justice. The Law Foundation of Ontario approved a grant of \$400,000 for the development and delivery of Access to Justice initiatives in 2015.
41. Service to members and the public expenses primarily comprise the Law Society Referral Service, Catering, CANLII and the Member Assistance Plan and total \$2.8 million, slightly less than the first three quarters of 2014.

Schedule of Restricted Funds

42. The Errors & Omissions Insurance (E&O) Fund accounts for the mandatory professional liability insurance program of the Law Society which is administered by LAWPRO. The insurance premium expense, as well as related levies and income from their investment are tracked within this fund. The Law Society is insured for lawyers' professional liability and recovers annual premium costs from lawyers through a combination of annual base

levies and additional levies that are charged based on a lawyer's claims history, status, and real estate and litigation levies. The fund is reporting a deficit of \$1.9 million (2014 - \$4.6 million deficit) as expected due to the annual use of \$2.5 million (2014 - \$5 million) of the fund balance to mitigate the base insurance levy for lawyers. Revenue from insurance premiums and levies is recognized on a monthly basis. LAWPRO's base premium of \$3,350 has not changed from 2014, with the increase in number of insured's leading to a slight increase in premium and levy revenue to \$78.6 million. Expenses in the Errors and Omissions Insurance Fund have decreased from \$82.6 million to \$80.5 million due to slightly lower transaction levies and history surcharges and as noted above, \$2.5 million was allocated from the fund balance to mitigate the 2015 base insurance levy compared to \$5 million in 2014.

43. The lawyer Compensation Fund annual fee income decreased from \$6.6 million in 2014 to \$6.4 million in line with the reduction in the levy from \$238 to \$225 per lawyer. The paralegal levy also decreased. The Compensation Fund's investment results have swung from a return of \$1.5 million in 2014 to a loss of \$291,000 due market conditions. Total Compensation Fund expenses have decreased from \$11.1 million to \$9.9 million but are still exceptionally high as the claims from the two major defalcations in 2014 are processed. As discussed in the 2016 budget materials, to maintain the fund balance above the minimum level required by Convocation's policy, an increase in the Compensation Fund levy in 2016 to replenish the fund balance has been budgeted.
44. County Libraries Fund expenses are relatively static at \$5.8 million.
45. Included in Other Restricted Funds are expenses for the Parental Leave Assistance Plan of \$156,000. The budget for 2015 raised \$300,000.

Other Schedules

46. Supplementary budget to actual income and expense schedules for the Lawyer General Fund and the Paralegal General Fund follows. Significant variances have been analyzed above.
47. A supplementary income and expense schedule for the Compensation Fund follows with variances analyzed above.
48. A supplementary income and expense schedule for the E&O Fund follows with variances analyzed above.

THE LAW SOCIETY OF UPPER CANADA

Balance Sheet

Unaudited

Stated in thousands of dollars

As at September 30

	2015	2014
Assets		
Current Assets		
1 Cash	24,746	23,823
2 Short-term investments	29,677	27,398
3 Cash and short-term investments	54,423	51,221
4 Accounts receivable	18,235	18,207
5 Prepaid expenses	29,807	29,863
6 Total current assets	102,465	99,291
7 Investment in subsidiaries	35,642	35,642
8 Portfolio investments	70,361	75,746
9 Capital assets	9,904	11,201
10 Total Assets	218,372	221,880
Liabilities and Fund Balances		
Current Liabilities		
11 Accounts payable and accrued liabilities	11,663	8,111
12 Deferred revenue	46,113	45,099
13 Due to LAWPRO	21,832	26,487
14 Total current liabilities	79,608	79,697
15 Provision for unpaid grants/claims	22,200	13,520
16 Unclaimed trust funds	4,180	3,422
17 Total Liabilities	105,988	96,639
Fund Balances		
General funds		
18 Lawyers	22,692	18,495
19 Paralegals	3,920	2,686
Restricted funds		
20 Compensation - lawyers	12,547	23,373
21 Compensation - paralegals	350	498
22 Errors and omissions insurance	54,859	58,914
23 Capital allocation	7,225	8,660
24 Invested in capital assets	9,904	11,201
25 County libraries	-	8
26 Other	887	1,406
27 Total Fund Balances	112,384	125,241
28 Total Liabilities and Fund Balances	218,372	221,880

THE LAW SOCIETY OF UPPER CANADA

Statement of Revenues and Expenses and Change in Fund Balances

Unaudited

Stated in thousands of dollars

For the nine months ended September 30

	2015	2014	2015	2014	2015	2014	2015	2014
	General Fund Lawyer		General Fund Paralegal		Restricted Funds		Total	
Revenues								
1 Annual fees	38,345	37,611	3,019	2,716	15,159	14,714	56,523	55,041
2 Insurance premiums and levies	-	-	-	-	78,593	76,711	78,593	76,711
3 Professional development and competence	13,020	13,033	2,158	2,040	-	-	15,178	15,073
4 Investment income	90	880	9	73	(409)	2,729	(310)	3,682
5 Other	5,304	4,668	709	379	192	166	6,205	5,213
6 Total revenues	56,759	56,192	5,895	5,208	93,535	94,320	156,189	155,720
Expenses								
7 Professional regulation, tribunals and compliance	18,500	19,079	1,747	1,560	-	-	20,247	20,639
8 Professional development and competence	17,723	17,576	1,586	1,432	-	-	19,309	19,008
9 Corporate services	15,563	15,014	1,474	1,236	-	-	17,037	16,250
10 Convocation, policy and outreach	4,966	5,520	409	411	-	-	5,375	5,931
11 Services to members and public	2,690	2,889	154	157	-	-	2,844	3,046
12 Allocated to Compensation Fund	(5,249)	(5,446)	(421)	(375)	-	-	(5,670)	(5,821)
13 Restricted (schedule of restricted funds)	-	-	-	-	102,265	104,981	102,265	104,981
14 Total expenses	54,193	54,632	4,949	4,421	102,265	104,981	161,407	164,034
15 Surplus (Deficit)	2,566	1,560	946	787	(8,730)	(10,661)	(5,218)	(8,314)
16 Fund balances, beginning of year	18,507	21,410	2,974	1,882	96,121	110,263	117,602	133,555
17 Interfund transfers	1,619	(4,475)	-	17	(1,619)	4,458	-	-
18 Fund balances, end of period	22,692	18,495	3,920	2,686	85,772	104,060	112,384	125,241

Convocation - Audit and Finance Committee Report

THE LAW SOCIETY OF UPPER CANADA

Schedule of Restricted Funds

Unaudited

Stated in thousands of dollars

For the nine months ended September 30

		2015							2014	
		Compensation Fund		Errors and omissions insurance	Capital allocation	Invested in capital assets	County libraries	Other restricted	Total Restricted funds	Total
		Lawyer	Paralegal							
1	Fund balances, beginning of year	15,618	426	58,305	8,096	12,549	-	1,127	96,121	110,263
Revenues										
2	Annual fees	6,416	458	-	2,225	-	5,760	300	15,159	14,714
3	Insurance premiums and levies	-	-	78,593	-	-	-	-	78,593	76,711
4	Investment income	(272)	(19)	(118)	-	-	-	-	(409)	2,729
5	Other	109	-	-	83	-	-	-	192	166
6	Total revenues	6,253	439	78,475	2,308	-	5,760	300	93,535	94,320
Expenses										
7	Allocated expenses	5,249	421	-	-	-	-	-	5,670	5,821
9	Direct expenses	4,075	94	80,421	3,247	2,645	5,772	341	96,595	99,160
10	Total expenses	9,324	515	80,421	3,247	2,645	5,772	341	102,265	104,981
11	(Deficit) Surplus	(3,071)	(76)	(1,946)	(939)	(2,645)	(12)	(41)	(8,730)	(10,661)
12	Interfund transfers	-	-	(1,500)	68	-	12	(199)	(1,619)	4,458
13	Fund balances, end of period	12,547	350	54,859	7,225	9,904	-	887	85,772	104,060

THE LAW SOCIETY OF UPPER CANADA
Lawyers and Paralegals General Fund
Schedule of Revenues and Expenses

Unaudited

Stated in thousands of dollars

For the nine months ended September 30

	2015 Actual	Budget YTD	Variance
REVENUES			
1 Annual fees	41,364	41,102	262
2 Professional development and competence	15,178	13,571	1,607
3 Investment income	99	710	(611)
4 Ontario reports revenue	1,266	1,266	-
5 Other	4,747	3,806	941
6 Total revenues	62,654	60,455	2,199
EXPENSES			
7 Professional regulation, tribunals and compliance	20,247	21,600	1,353
8 Professional development and competence	19,309	20,898	1,589
9 Corporate services	17,037	18,140	1,103
10 Convocation, policy and outreach	5,375	6,013	638
11 Services to members and public	2,844	3,137	293
12 Allocated to Compensation Fund	(5,670)	(5,888)	(218)
13 Total expenses	59,142	63,900	4,758
14 Surplus (Deficit)	3,512	(3,445)	6,957

THE LAW SOCIETY OF UPPER CANADA**General Fund - Lawyers****Schedule of Revenues and Expenses***Unaudited**Stated in thousands of dollars**For the nine months ended September 30*

	2015 Actual	Budget YTD	Variance
REVENUES			
1 Annual fees	38,345	38,297	48
2 Professional development and competence	13,020	11,756	1,264
3 Investment income	90	655	(565)
4 Ontario reports revenue	1,169	1,169	-
5 Other	4,135	3,497	638
6 Total revenues	56,759	55,374	1,385
EXPENSES			
7 Professional regulation, tribunals and compliance	18,500	19,741	1,241
8 Professional development and competence	17,723	18,953	1,230
9 Corporate services	15,563	16,556	993
10 Convocation, policy and outreach	4,966	5,531	565
11 Services to members and public	2,690	2,965	275
12 Allocated to Compensation Fund	(5,249)	(5,448)	(199)
13 Total expenses	54,193	58,298	4,105
14 Surplus (Deficit)	2,566	(2,924)	5,490

THE LAW SOCIETY OF UPPER CANADA
General Fund - Paralegals
Schedule of Revenues and Expenses

Unaudited

Stated in thousands of dollars

For the nine months ended September 30

	2015 Actual	Budget YTD	Variance
REVENUES			
1 Annual fees	3,019	2,805	214
2 Professional development and competence	2,158	1,815	343
3 Investment income	9	55	(46)
4 Ontario reports revenue	97	97	-
5 Other	612	309	303
6 Total revenues	5,895	5,081	814
EXPENSES			
7 Professional regulation, tribunals and compliance	1,747	1,859	112
8 Professional development and competence	1,586	1,945	359
9 Corporate services	1,474	1,584	110
10 Convocation, policy and outreach	409	482	73
11 Services to members and public	154	172	18
12 Allocated to Compensation Fund	(421)	(440)	(19)
13 Total expenses	4,949	5,602	653
14 Surplus (Deficit)	946	(521)	1,467

THE LAW SOCIETY OF UPPER CANADA**Compensation Fund****Schedule of Revenues and Expenses and Change in Fund Balances***Unaudited**Stated in thousands of dollars**For the nine months ended September 30*

	2015			2014		
	Lawyers	Paralegals	Total	Lawyers	Paralegals	Total
Revenues						
1 Annual fees	6,416	458	6,874	6,636	489	7,125
2 Investment income	(272)	(19)	(291)	1,500	-	1,500
3 Recoveries	109	-	109	82	4	86
4 Total Revenues	6,253	439	6,692	8,218	493	8,711
Expenses						
5 Provision for unpaid grants	3,685	55	3,740	4,799	35	4,834
6 Spot audit	2,728	258	2,986	2,940	244	3,184
7 Share of investigation and discipline	1,454	80	1,534	1,495	53	1,548
8 Administrative	1,070	122	1,192	1,074	78	1,152
9 Salaries and benefits	387	-	387	370	-	370
10 Total Expenses	9,324	515	9,839	10,678	410	11,088
11 (Deficit) Surplus	(3,071)	(76)	(3,147)	(2,460)	83	(2,377)
12 Fund balances, beginning of year	15,618	426	16,044	25,829	419	26,248
13 Fund Balances, end of period	12,547	350	12,897	23,369	502	23,871

THE LAW SOCIETY OF UPPER CANADA
Errors and Omissions Insurance Fund
Schedule of Revenues and Expenses and Change in Fund Balance

Unaudited

Stated in thousands of dollars

For the nine months ended September 30

	2015 Actual	2014 Actual
REVENUES		
1 Insurance premiums and levies	78,593	76,711
2 Investment income	(118)	1,229
3 Total revenues	78,475	77,940
EXPENSES		
4 Claims	(47)	(3)
5 Insurance	80,468	82,571
6 Total expenses	80,421	82,568
7 Deficit	(1,946)	(4,628)
8 Interfund transfers	(1,500)	(1,500)
9 Change in fund balance	(3,446)	(6,128)
10 Fund balance, beginning of year	58,305	65,042
11 Fund balance, end of period	54,859	58,914

TAB 7.2

FOR INFORMATION

INVESTMENT COMPLIANCE REPORTS

49. Convocation is requested to receive the Compliance Statements for the General Fund, Compensation Fund, and Errors & Omissions Insurance Fund portfolios as at September 30, 2015 for information.

STATEMENT OF INVESTMENT COMPLIANCE
SHORT TERM
For the nine months ended September 30, 2015

		COMPENSATION FUND	GENERAL FUND
Investment Parameters	Guidelines for Both	Compliance	Compliance
1. <u>Asset Mix</u>			
Federal & provincial treasury bills	Allowed	Yes	Yes
Bankers acceptances	Allowed	Yes	Yes
Commercial paper	Allowed	Yes	Yes
Investment manager Money Market Fund	Allowed	Yes	Yes
Premium Savings Account	Allowed	Yes	Yes
FGP S/T Invest Fund	Allowed	Yes	Yes
2. <u>Quality Requirements</u>			
Commercial paper rating	Min. R1	N/A	N/A
Liquidity	Max. term to maturity of 365 days	Yes	Yes
3. <u>Quantity Restrictions</u>			
Commercial paper of a single corporate issuer	Max. 8% of Fund	Yes	Yes
4. <u>Other Restrictions</u>			
Equity securities	None	Yes	Yes
Direct investments in:			
resource properties	None	Yes	Yes
mortgages and mortgage-backed securities	None	Yes	Yes
real estate	None	Yes	Yes
venture capital financings	None	Yes	Yes
Derivatives	None	Yes	Yes



Fred Grady
Manager of Finance

**STATEMENT OF INVESTMENT COMPLIANCE
LONG TERM**
For the nine months ended September 30, 2015

			COMPENSATION FUND	GENERAL FUND	E & O FUND
Investment Parameters	Guidelines	Target	Compliance	Compliance	Compliance
1. <u>Asset Mix</u>					
Cash and Short-Term	0 - 15%	0%	Yes	Yes	Yes
Equity investments	5 - 25%	15%	Yes	Yes	Yes
Bonds	60 - 95%	85%	Yes	Yes	Yes
2. <u>Quality Requirements</u>					
Bonds	Min. BBB		Yes	Yes	Yes
3. <u>Quantity Restrictions</u>					
Equities:					
Single holding	Max. 10%		Yes	Yes	Yes
Weight in portfolio > weight in S&P/TSX Composite Index	Varies		Yes	Yes	Yes
Derivatives etc.	None		Yes	Yes	Yes
Non-Canadian	None		Yes	Yes	Yes
Bonds:					
Government of Canada or Government of Canada guaranteed bonds	26-100%	46%	Yes	Yes	Yes
Provincial Government and Provincial Government guaranteed bonds and municipal bonds	0-38%	18%	Yes	Yes	Yes
Corporate Bonds*	0-56%	36%	Yes	Yes	Yes
* Target for BBB bonds within corporate bonds of the fixed income portfolio	8-18%	8%	Yes	Yes	Yes



Fred Grady
Manager of Finance

The Law Society of Upper Canada General Fund

Manager: Foyston, Gordon & Payne Inc.

Compliance Report (Period ending September 30, 2015)

1. Asset Mix:	Min.	Mid-Point	Max.	Compliance* (Y/N)
Cash & Short Term	0%	0%	15%	Y
Bonds	60%	85%	95%	Y
Total Fixed Income	75%	85%	95%	Y
Canadian Equity	5%	15%	25%	Y
Minimum bond rating “BBB” or better by the Dominion Bond Rating Service or equivalent rating by another recognized bond rating service.				Y
Minimum holding in Federal and Federally Guaranteed Bonds	FTSE TMX Short Term Bond Index Benchmark Weight minus 20%			Y
Provincials, Provincially Guarantees and Municipals	FTSE TMX Short Term Bond Index Benchmark Weight plus or minus 20%			Y
Maximum Total Corporate Issues	FTSE TMX Short Term Bond Index Benchmark Weight plus 20%			Y
Maximum Total Corporate BBB Issues	FTSE TMX Short Term Bond Index Benchmark Weight plus 10%			Y
Not more than 10% of the total market value of the bond portfolio will be invested in securities issued by a foreign issuer, or Canadian issuer.				Y
Bond portfolio duration 1 to 5 years.				Y
The Market value of any one common equity issuer cannot represent more than 10% of the market value of the total portfolio, or that equity's weight in the S&P/TSX Composite Index, whichever is greater.				Y

Note: In mid-June 2014 Law Society General Fund moved into the FGP Short Term Bond Fund from the segregated Short Term Bonds.

Investment policy (latest draft version dated April 2015).

*If policy not complied with, comment on specifics.

Date:

OCT 16, 2015

[Signature]
Stephen P. Copeland
Senior Vice President Investments
& Private Client Services

**The Law Society of Upper Canada
Compensation Fund
Manager: Foyston, Gordon & Payne Inc.
Compliance Report
(Period ending September 30, 2015)**

1. Asset Mix:	Min.	Mid-Point	Max.	Compliance* (Y/N)
Cash & Short Term	0%	0%	15%	Y
Bonds	60%	85%	95%	Y
Total Fixed Income	75%	85%	95%	Y
Canadian Equity	5%	15%	25%	Y
Minimum bond rating “BBB” or better by the Dominion Bond Rating Service or equivalent rating by another recognized bond rating service.				Y
Each bond portfolio may be invested within the following parameters:				
Minimum holding in Federal and Federally Guaranteed Bonds	FTSE TMX Short Term Bond Index Benchmark Weight minus 20%			Y
Provincials, Provincially Guarantees and Municipals	FTSE TMX Short Term Bond Index Benchmark Weight plus or minus 20%			Y
Maximum Total Corporate Issues	FTSE TMX Short Term Bond Index Benchmark Weight plus 20%			Y
Maximum Total Corporate BBB Issues	FTSE TMX Short Term Bond Index Benchmark Weight plus 10%			Y
Not more than 10% of the total market value of the bond portfolio will be invested in securities issued by a foreign issuer, or Canadian issuer.				Y
Bond portfolio duration 1 to 5 years.				Y
The Market value of any one common equity issuer cannot represent more than 10% of the market value of the total portfolio, or that equity's weight in the S&P/TSX Composite Index, whichever is greater.				Y

Note: In mid-June 2014 Law Society Compensation Fund moved into the FGP Short Term Bond Fund from the segregated Short Term Bonds.

Investment policy (latest draft version dated April 2015).

*If policy not complied with, comment on specifics.

Date:

Oct 16, 2015


Stephen P. Copeland
Senior Vice President Investments
& Private Client Services



October 2015

Ms. Wendy Tysall
Chief Financial Officer
Osgoode Hall
Finance Dept., 1st Floor
130 Queen Street West
Toronto, Ontario
M5H 2N6

Dear Wendy:

Re: Manager Compliance Reporting

For the Law Society of Upper Canada Errors and Omissions Insurance Fund, we wish to confirm that the portfolio being managed by Foyston, Gordon & Payne Inc. was in compliance with the Fund's Investment Policy Statement in effect (latest draft revision dated April 2015), for the quarter ending September 30, 2015.

Yours truly,

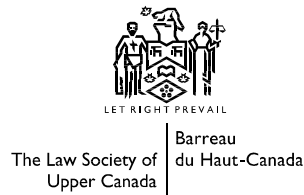
Stephen P. Copeland
Senior Vice President - Investments
& Head Private Client Services

TAB 7.3

FOR INFORMATION

OTHER COMMITTEE WORK

50. The Committee received pension plan governance fiduciary training and adopted a revised Statement of Investment Policies and Procedures for the Law Society's pension plan. Under its mandate, the Committee is the administrator of the registered pension plan for the employees of the Society and the exercise of any power relevant to this role is not subject to the approval of Convocation.
51. The committee met with the Law Society's auditors, PwC, on planning the audit for the 2015 financial year including views on audit risks, the nature, extent and timing of audit work, as well as proposed fees and the terms of engagement.
52. As part of its risk management mandate, the Committee received the latest Litigation Report for information.
53. The Committee reviewed material on the implementation of the 2012 Tribunal model.



TAB 8

**Report to Convocation
December 4, 2015**

Paralegal Standing Committee

Committee Members
Michelle Haigh, Chair
Susan McGrath, Vice-Chair
Marion Boyd
Robert Burd
Cathy Corsetti
Janis Criger
Brian Lawrie
Marian Lippa
Malcolm M. Mercer
Barbara Murchie
Baljit Sikand
Catherine Strosberg
Anne Vespry

Purpose of Report: Information

**Prepared by the Policy Secretariat
Julia Bass 416 947 5228**

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For Information

Paralegal Guideline Amendments: Transferring Paralegal [TAB 8.1](#)

Provincial Offences Act Rules [TAB 8.2](#)

COMMITTEE PROCESS

1. The Committee met on November 11th, 2015. Committee members present were: Michelle Haigh (Chair), Susan McGrath (Vice-Chair), Marion Boyd, Robert Burd, Cathy Corsetti, Janis Criger, Brian Lawrie, Marian Lippa, Malcolm Mercer, Barbara Murchie, Catherine Strosberg (by telephone) and Anne Vespry. For the discussion of the Tribunal Three Year Review, the Committee was joined by Raj Anand.
2. Staff in attendance were: Lesley Cameron, Naomi Bussin, Sophia Sperdakos and Julia Bass.

TAB 8.1

FOR INFORMATION

PARALEGAL GUIDELINES: TRANSFERRING PARALEGAL

3. In September 2015, Convocation approved amendments to the *Paralegal Rules of Conduct* governing the potential conflicts of interest that may arise when paralegals move from one firm to another. The amended rules approved by Convocation are shown at [TAB 8.1.1](#).
4. The necessary accompanying amendments to the *Paralegal Guidelines* have now been prepared and are shown in redline at [TAB 8.1.2](#) and in clean copy at [TAB 8.1.3](#).
5. The wording of the draft Guidelines has been based on the wording of the Commentary to the Lawyers' rules. The guidelines do not require the approval of Convocation.

AMENDED RULES AS APPROVED BY CONVOCATION IN SEPTEMBER 2015

3.03 CONFIDENTIALITY

Justified or Permitted Disclosure

(10) a paralegal may disclose confidential information to the extent reasonably necessary to detect and resolve conflicts of interest arising from:

- (a) the paralegal's change of employment or
- (b) changes in the composition or ownership of a paralegal firm,

but only if the information disclosed does not compromise client confidentiality or otherwise prejudice the client.

3.05 CONFLICTS OF INTEREST - TRANSFERS

Interpretation and Application of Rule

In rule 3.05,

- (0.1) "matter" means a case, a transaction, or other client representation, but within such representation does not include offering general "know-how" and, in the case of a government paralegal, providing policy advice unless the advice relates to a particular client representation.

Application of Rule

3.05 (1) Rules 3.05 (2) to 3.05 (7) apply when a paralegal transfers from one paralegal firm ("former firm") to another ("new firm"), and

- (a) the transferring paralegal or the new firm is aware at the time of the transfer or later discovers it is reasonable to believe the transferring paralegal has confidential information relevant to the new firm's matter for its client; or
- (b) the transferring paralegal or the new firm is aware at the time of the transfer or later discovers that
 - (i) the new paralegal firm represents a client in a matter that is the same as or related to a matter in which the former paralegal firm represents or represented its client ("former client");
 - (ii) the interests of those clients in that matter conflict; and
 - (iii) the transferring paralegal actually possesses relevant information respecting that matter.

3.05 (1.1) Rules 3.05 (2) to 3.05 (7) do not apply to a paralegal employed by the federal, a provincial or territorial government who, after transferring from one department, ministry or agency to another, continues to be employed by that government.

Paralegal Firm Disqualification

(2) If the transferring paralegal actually possesses confidential information relevant to a matter respecting a former client that may prejudice the former client if disclosed to a members of the new firm, the new firm shall cease its representation of its client in that matter unless

- (a) the former client consents to the new firm's continued representation of its client; or
- (b) the new firm has
 - (i) taken reasonable measures to ensure that there will be no disclosure of the former client's confidential information by the transferring paralegal to any member of the new firm; and
 - (ii) advised the paralegal's former client, if requested by the client, of the measures taken.

Transferring Paralegal Disqualification

(3) Unless the former client consents, a transferring paralegal described in subrule (2) or (4) shall not,

- (a) participate in any manner in the new paralegal firm's representation of its client in that matter; or
- (b) disclose any confidential information respecting the former client.

(4) Unless the former client consents, members of the new firm shall not , discuss the new firm's representation of its current client or the former firm's representation of the former client in that matter with a transferring paralegal described in subrules (2) or (4) except as permitted by rule 3.03. .

(5) Anyone who has an interest in, or who represents a party in, a matter referred to in this rule may apply to a tribunal of competent jurisdiction for a determination of any aspect of this rule.

Paralegal Due Diligence for non-licensure staff

3.05 (6) A transferring paralegal and the members of the new firm shall exercise due diligence in ensuring that each member and employee of the paralegal's firm, and all other persons whose services the paralegal or the firm has retained

- (a) comply with Rule 3.05; and
- (b) do not disclose confidential information of
 - (i) clients of the firm, or
 - (ii) any other paralegal firm in which the person has worked.

REDLINE BASED ON COMMENTARY APPROVED BY CONVOCATION**GUIDELINES RE CONFIDENTIALITY****Disclosure without Client Authority to Detect Conflict****Rule Reference: Rule 3.03 (10)**

16.1. Rule 3.03 provides that a paralegal may disclose information to the extent reasonably necessary to detect and resolve conflicts of interest arising from a paralegal's change of employment, or from changes in the composition or ownership of a paralegal firm, but only if the information disclosed does not compromise client confidentiality or otherwise prejudice a client.

16.2. In these situations, the rule permits paralegals and law firms to disclose limited information. This type of disclosure would only be made once substantive discussions regarding the new relationship have occurred. This exchange of information needs to be done in a manner consistent with the obligation to protect client confidentiality and avoid prejudice to the client. It ordinarily would include no more than the names of the persons and entities involved in a matter. Depending on the circumstances, it may include a brief summary of the general issues involved, and information about whether the representation has come to an end.

16.3. The disclosure should be made to as few persons at the new firm as possible, ideally to only one person. The information should always be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship.

16.4. Since the disclosure would be solely for the purpose of checking for conflicts, the disclosure should be coupled with an undertaking by the new firm to the former firm that it will:

- (a) limit access to the disclosed information;
- (b) not use the information for any purpose other than detecting and resolving conflicts; and

(c) return, destroy, or store in a secure and confidential manner the information provided once appropriate confidentiality screens are established.

16.5. The client's consent to disclosure of such information may be specifically addressed in a retainer agreement between the paralegal and client. In some circumstances, however, because of the nature of the retainer, the transferring paralegal and the new firm may be required to obtain the consent of clients to such disclosure or to the disclosure of any further information about the clients. This is especially the case where disclosure would prejudice the client, such as where a person has consulted a paralegal about a criminal investigation that has not led to a public charge.

PARALEGAL GUIDELINES RE TRANSFERS

PARALEGAL TRANSFER BETWEEN FIRMS

General

Rule Reference: Rule 3.05

Paralegal Changing Firms

Rule Reference: Rule 3.05

1. Problems concerning confidential information may arise when a paralegal changes firms and the firms act for opposing clients in the same or a related matter. The potential risk is that confidential information about the client from the paralegal's former office may be revealed to the members of the new firm and used against that client. A paralegal should carefully review the *Rules* when transferring to a new office or when a new paralegal is about to join the paralegal firm.

Actual Knowledge

Rule Reference: Rule 3.05

2. The purpose of the rule is to deal with what a paralegal actually knows, not what a paralegal might be assumed to know. Paralegals working together in the same firm are assumed to share confidences on the matters on which they are working, with the result that actual knowledge may be presumed. However, that presumption of actual knowledge can be rebutted by clear and convincing evidence that all reasonable measures have been taken to ensure that no disclosure will occur by the transferring paralegal to the member or members of the firm who are engaged against a former client.
3. The duties imposed by this rule concerning confidential information are in addition to the general ethical duty to hold in strict confidence all information concerning the business and affairs of the client acquired in the course of the professional relationship, which duty applies without regard to the nature or source of the information or to the fact that others may share the knowledge.
4. Firms with multiple offices - This rule treats as one “firm” such entities as the various legal services units of a government, a corporation with separate regional legal departments and an inter-jurisdictional legal firm.

How to Determine If a Conflict Exists Before a Paralegal Changes Firms

Rule Reference: Rule 3.05

5. When a firm considers hiring a paralegal from another firm, the transferring paralegal and the new firm need to determine, before the transfer, whether any conflicts of interest will be created. Conflicts can arise with respect to clients of the law firm that the transferring paralegal is leaving and with respect to clients of a firm in which the transferring paralegal worked at some earlier time.

6. After completing the interview process and before hiring the transferring paralegal, the new firm should determine whether any conflicts exist. In determining whether the transferring paralegal actually possesses relevant confidential information, both the transferring paralegal and the new firm must be very careful, during any interview of a potential transferring paralegal, or other recruitment process, to ensure that they do not disclose client confidences. See Rule 3.03, which provides that a paralegal may disclose confidential information to the extent the paralegal reasonably believes necessary to detect and resolve conflicts of interest where paralegals transfer between firms.

7. A paralegal's duty to the firm may also govern a paralegal's conduct when exploring a professional opportunity with another firm and is beyond the scope of these Rules.

WORDING BASED ON COMMENTARY APPROVED BY CONVOCATION

GUIDELINES RE CONFIDENTIALITY

Disclosure without Client Authority to Detect Conflict

Rule Reference: Rule 3.03 (10)

16.1. Rule 3.03 provides that a paralegal may disclose information to the extent reasonably necessary to detect and resolve conflicts of interest arising from a paralegal's change of employment, or from changes in the composition or ownership of a paralegal firm, but only if the information disclosed does not compromise client confidentiality or otherwise prejudice a client.

16.2. In these situations, the rule permits paralegals and law firms to disclose limited information. This type of disclosure would only be made once substantive discussions regarding the new relationship have occurred. This exchange of information needs to be done in a manner consistent with the obligation to protect client confidentiality and avoid prejudice to the client. It ordinarily would include no more than the names of the persons and entities involved in a matter. Depending on the circumstances, it may include a brief summary of the general issues involved, and information about whether the representation has come to an end.

16.3. The disclosure should be made to as few persons at the new firm as possible, ideally to only one person. The information should always be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship.

16.4. Since the disclosure would be solely for the purpose of checking for conflicts, the disclosure should be coupled with an undertaking by the new firm to the former firm that it will:

- (a) limit access to the disclosed information;
- (b) not use the information for any purpose other than detecting and resolving conflicts; and

(c) return, destroy, or store in a secure and confidential manner the information provided once appropriate confidentiality screens are established.

16.5. The client's consent to disclosure of such information may be specifically addressed in a retainer agreement between the paralegal and client. In some circumstances, however, because of the nature of the retainer, the transferring paralegal and the new firm may be required to obtain the consent of clients to such disclosure or to the disclosure of any further information about the clients. This is especially the case where disclosure would prejudice the client, such as where a person has consulted a paralegal about a criminal investigation that has not led to a public charge.

PARALEGAL GUIDELINES RE TRANSFERS

PARALEGAL TRANSFER BETWEEN FIRMS

General

Rule Reference: Rule 3.05

Paralegal Changing Firms

Rule Reference: Rule 3.05

1. Problems concerning confidential information may arise when a paralegal changes firms and the firms act for opposing clients in the same or a related matter. The potential risk is that confidential information about the client from the paralegal's former office may be revealed to the members of the new firm and used against that client. A paralegal should carefully review the *Rules* when transferring to a new office or when a new paralegal is about to join the paralegal firm.

Actual Knowledge

Rule Reference: Rule 3.05

2. The purpose of the rule is to deal with what a paralegal actually knows, not what a paralegal might be assumed to know. Paralegals working together in the same firm are assumed to share confidences on the matters on which

they are working, with the result that actual knowledge may be presumed. However, that presumption of actual knowledge can be rebutted by clear and convincing evidence that all reasonable measures have been taken to ensure that no disclosure will occur by the transferring paralegal to the member or members of the firm who are engaged against a former client.

3. The duties imposed by this rule concerning confidential information are in addition to the general ethical duty to hold in strict confidence all information concerning the business and affairs of the client acquired in the course of the professional relationship, which duty applies without regard to the nature or source of the information or to the fact that others may share the knowledge.
4. Firms with multiple offices - This rule treats as one “firm” such entities as the various legal services units of a government, a corporation with separate regional legal departments and an inter-jurisdictional legal firm.

How to Determine If a Conflict Exists Before a Paralegal Changes Firms

Rule Reference: Rule 3.05

5. When a firm considers hiring a paralegal from another firm, the transferring paralegal and the new firm need to determine, before the transfer, whether any conflicts of interest will be created. Conflicts can arise with respect to clients of the law firm that the transferring paralegal is leaving and with respect to clients of a firm in which the transferring paralegal worked at some earlier time.
6. After completing the interview process and before hiring the transferring paralegal, the new firm should determine whether any conflicts exist. In determining whether the transferring paralegal actually possesses relevant confidential information, both the transferring paralegal and the new firm must be very careful, during any interview of a potential transferring paralegal, or other recruitment process, to ensure that they do not disclose client confidences. See Rule 3.03, which provides that a paralegal may

disclose confidential information to the extent the paralegal reasonably believes necessary to detect and resolve conflicts of interest where paralegals transfer between firms.

7. A paralegal's duty to the firm may also govern a paralegal's conduct when exploring a professional opportunity with another firm and is beyond the scope of these Rules.

FOR INFORMATION

RULES UNDER THE *PROVINCIAL OFFENCES ACT*

6. The Ministry of the Attorney General notified the Law Society of a proposed change to the manner in which rules for proceedings under the *Provincial Offences Act* (POA) are developed. Instead of the current Rules Committee, the Minister would make rules by means of regulations, subject to approval from the affected level of court. The Rules Committee would no longer exist, but the Ministry would continue to consult stakeholders, including the Law Society, as appropriate. This is based on the recommendations of the August 2011 Report of the Law Commission of Ontario entitled *Modernization of the POA*. The Committee regarded the change in process as beneficial, provided stakeholders are appropriately consulted.



Tab 9

Report to Convocation December 4, 2015

Priority Planning Committee

Committee Members:

Janet Minor (Chair)
Raj Anand
Marion Boyd
Christopher Bredt
John Callaghan
Cathy Corsetti
Ross Earnshaw
Julian Falconer
Howard Goldblatt
Michelle Haigh
Carol Hartman
Jacqueline Horvat
Janet Leiper
William McDowell
Susan McGrath
Malcolm Mercer
Barbara Murchie
Julian Porter
Paul Schabas
Peter Wardle

Purpose of Report: Information

**Prepared by the Policy Secretariat
(Jim Varro 416-947-3434)**

FOR INFORMATION

**CONVOCATION'S PRIORITY PLANNING
DETAILS OF THE LAW SOCIETY'S STRATEGIC PLAN 2015 - 2019**

Introduction

1. As reported to October 29, 2015 Convocation, benchers engaged in strategic planning at a session held on October 14 and 15 in Niagara-on-the Lake. They confirmed a Strategic Plan, which was built on the Law Society mission, mandate and principles for governance found in the *Law Society Act*¹.
2. This report provides details of the priorities identified in the Plan upon which work will commence in 2016, the measures associated with their achievement and proposals on how they would be achieved.² Operational work plans prepared for each of the priorities will set timelines to assist in monitoring progress on and completing the work under the priorities in the Plan.

¹ 4.1 It is a function of the Society to ensure that,
(a) all persons who practise law in Ontario or provide legal services in Ontario meet standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide; and
(b) the standards of learning, professional competence and professional conduct for the provision of a particular legal service in a particular area of law apply equally to persons who practise law in Ontario and persons who provide legal services in Ontario. 2006, c. 21, Sched. C, s. 7.

Principles to be applied by the Society

4.2 In carrying out its functions, duties and powers under this Act, the Society shall have regard to the following principles:

1. The Society has a duty to maintain and advance the cause of justice and the rule of law.
2. The Society has a duty to act so as to facilitate access to justice for the people of Ontario.
3. The Society has a duty to protect the public interest.
4. The Society has a duty to act in a timely, open and efficient manner.
5. Standards of learning, professional competence and professional conduct for licensees and restrictions on who may provide particular legal services should be proportionate to the significance of the regulatory objectives sought to be realized. 2006, c. 21, Sched. C, s. 7.

² The Strategic Plan contemplates that additional matters for future consideration by Convocation associated with the priorities may be identified. To the extent that additional matters are defined and proposals made to pursue them, these matters will be reported to Convocation.

Background to Convocation's Priority Planning

3. The strategic planning session held in October 2015, noted above, fulfilled a requirement Convocation established in March 2007 with respect to planning and prioritizing matters for Convocation's policy agenda and achieving strategic objectives in a benchers term.
4. At that time, Convocation agreed on a process which included the planning session and establishing and utilizing the Priority Planning Committee to centralize and co-ordinate the achieving of strategic priorities for the Law Society.
5. In confirming the Strategic Plan at the October 2015 planning session, Convocation has now provided direction to the Law Society on priorities for the 2015-19 benchers term.

Details of the Priorities

6. Set out on the following pages are details of the Strategic Plan, including the areas on which the Strategic Plan is focused and specific initiatives designed to achieve the priorities established in the Plan. The plan was formulated in the knowledge that a number of initiatives that relate to subject areas described in the Plan will continue in the new benchers term.³
7. The document at [Tab 9.1](#) sets out information on the Strategic Plan in a two-page format, which will be used as part of the Law Society's communications about the Strategic Plan.
8. As reported to October 29, 2015 Convocation, there are a number of themes in the Strategic Plan that coalesce around the Law Society's core responsibilities as a regulator. Convocation also agreed on measures for achievement of the priorities and assigned these measures as appropriate to each of the priorities. The measures are as follows:

³ These initiatives included:

- a. the Pathways Pilot Project on transitional training;
- b. the work of the Mentoring and Advisory Services Proposal Task Force, the Task Force to Create a Strategy to Promote Wellness and Address Mental Health and Addictions Issues and the Compliance-Based Entity Regulation Task Force,
- c. the work of the Challenges Faced by Racialized Licensees Working Group and the Alternative Business Structures Working Group;
- d. the Tribunal Three Year Review project; and
- e. the project to renew the Law Society's Aboriginal Initiatives Strategy.

Measure

- 1 The public has a better understanding of the resources available to them to assist in obtaining legal information and/or legal representation
- 2 Innovation and increased services in un-served and underserved areas
- 3 The Law Society is seen as an effective facilitator of access to justice, by its Board, stakeholders including government and the public
- 4 There is greater public and media acceptance that the Law Society plays an effective role in protecting the public interest
- 5 All applicants, regardless of where they are educated or trained, have comparable competence at licensing
- 6 The public has assured, competent, honest practitioners who are supplying legal services efficiently
- 7 Uniform and effective experiential learning is achieved
- 8 The number of complaints from the public about licensee service issues is reduced
- 9 There are fewer complaints about the complaints, investigation and discipline processes
- 10 A mental health strategy is in place and being monitored and assessed for outcomes

Next Steps

9. As noted earlier, as the Strategic Plan is implemented, the Priority Planning Committee will periodically review the priorities established by Convocation through the Plan and consider any new policy issues that may arise that may be added to the Plan.
10. Based on the Law Society's operational work plans associated with the priorities and with information from the operations, the Committee will prepare annual reports to Convocation on the status of work on Convocation's strategic priorities.

LAW SOCIETY STRATEGIC PLAN FOR THE 2015-2019 BENCHER TERM

THE LAW SOCIETY WILL LEAD AS PROFESSIONAL REGULATOR MEASURES 6, 8, 9 AND 10

To enhance its regulatory effectiveness in the public interest, the Law Society will focus on improvements and adjustments to its regulatory process, with particular attention to developing mental health initiatives and equity-based principles in the regulatory process.

Initial work on this priority will include considering how to address issues of licensee capacity that arise in the context of a conduct application before the Law Society Tribunal, including the possibility of instituting the authority to convert a conduct application to a capacity application.

The Law Society will also consider the development of a “risk register regulatory tool” to identify areas where supports and resources are needed to proactively address practice risk. This would be done with the oversight of the Professional Regulation Committee and the Equity and Aboriginal Issues Committee.

It is anticipated that the results of work arising from current initiatives such as the Law Society’s Task Force to Create a Strategy to Promote Wellness and Address Mental Health and Addictions Issues, the Challenges Faced by Racialized Licensees Working Group and the Tribunal Three Year Review will also include proposals that touch on matters within this priority.

THE LAW SOCIETY WILL PRIORITIZE LIFE-LONG COMPETENCE FOR LAWYERS AND PARALEGALS MEASURES 1, 2, 3, 5, 6, 7 AND 8

The Law Society will focus on enhancing licensing standards and requirements and their assessment, and ways to improve and increase practice supports for lawyers and paralegals and provide better mentoring.

As newly qualified lawyers and paralegals enter a challenging and evolving professional environment, the Law Society has identified a need to work to enhance entry-level standards and assessment of those standards.

Part of this exercise will involve reviewing and, if required, revising the profile of the entry-level competent lawyer and paralegal and determining the extent to which the threshold for licensing needs to be changed. The adequacy of the entry level examinations for licensing those who meet entry level standards and whether skills testing should be considered are among the issues that may be explored.

Aspects of this review may include considering how restricted licensing or practice restrictions at entry could support the evolution of standards of assessment.

Anticipating the effect of any changes at the licensing stage, work may also involve reflecting on how proposed changes to entry level standards may impact post-licensing competence assurance activities, and whether efforts in that respect should be increased, reduced or refocused.

This activity would take place contiguously with the evaluation of the current Pathways Pilot Project to ensure that any increased threshold becomes part of the assessment process. The work would also take into consideration any other current initiatives that may be relevant to licensing. An example would be related work being done through the Federation of Law Societies of Canada.

Matters specific to paralegal licensing requirements include the following:

- working to ensure that high quality instruction is being offered by the accredited institutions that are educating paralegal licensee candidate;
- examining enhancements to the paralegal licensing requirements, including possible additional education and training prior to entering an accredited paralegal program; and
- exploring the expansion of areas of practice and delivery of services by paralegal licensees.

With respect to practice supports and mentoring, initial work on this priority will involve developing curricula of training, beyond traditional CPD formats, for new practitioners, licensees in higher risk areas of practice and on targeted practice issues including skills training. Appropriate adult-education techniques would be used for training to more effectively address specific learning requirements.

The Law Society may also explore incentivizing CPD offerings for newer licensees or for licensees focusing on specialized skills areas.

The Law Society will consider the provision of mentoring supports applicable to all practice types and environments (e.g., private, in-house, government, etc.). Examination of this subject will cover a number of issues, such as the appropriate platform for mentoring, different delivery models and appropriate training for advisors and coaches. The Law Society's Mentoring and Advisory Services Proposal Task Force is currently examining this subject and will be reporting in the months ahead.

**THE LAW SOCIETY WILL WORK TO ENHANCE ACCESS TO JUSTICE ACROSS ONTARIO
MEASURES 1, 2, 3, 4, 5, 6 AND 9**

In continuing efforts to fulfill its responsibility to act to facilitate access to justice for Ontarians, the Law Society will focus on improved planning and assignment of resources and establishing its leadership role for the Law Society with a concrete action plan to achieve access to justice goals.

Work on this priority will involve a review and identification of activities, including internal functions and processes, that can be undertaken by the Law Society within its mandate to address access to justice issues. Particular priority will be given to family law issues.

The Law Society will explore ways to increase collaboration with stakeholders, including:

- developing an enhanced stakeholder engagement plan including consideration of equity principles, implementation of an Aboriginal access to justice strategy⁴ and an access to justice strategy for the Francophone community and other equity stakeholders, and the general public;
- increasing the reach of the Law Society's communications and outreach using technology and media more effectively; and
- ensuring that access to justice issues are an integral part of any communications planning.

**THE LAW SOCIETY WILL ENHANCE ITS ENGAGEMENT WITH STAKEHOLDERS AND THE PUBLIC
WITH RESPONSIVE COMMUNICATIONS
MEASURES 1, 3, 4, 6 AND 9**

The Law Society will focus on:

- **enhancing communication to the public through Law Society outreach and other efforts, and**
- **enhancing communication to lawyers and paralegals as a matter of accountability and transparency,**

with the goals of building a better public understanding of and educate the public on the role of the Law Society, and better enabling input from and engagement with lawyers and paralegals.

In addition to the communications elements described in the previous priority, this priority focuses on the need for a comprehensive and robust communications infrastructure to effectively reach and engage the public and licensees.

⁴ This is part of the work of the current project, noted earlier, to renew the Law Society's Aboriginal Initiatives Strategy.

To enhance the Law Society's public communications and awareness strategy, work will include seeking the appropriate expertise on how to develop and execute a comprehensive communications strategy. This expertise will also be used to develop a plan of action appropriate to the Law Society's obligations, including how to frame key messages and improve how the Law Society communicates on time-sensitive or emerging issues. Part of this work may include investigating communication activities of other Law Societies, regulators and professional organizations.

With respect to communications to licensees, the Law Society's primary focus will be to formalize a licensee engagement plan to support Law Society accountability to licensees and improve transparency of the Law Society's work. To build the plan, the Law Society will obtain information on what licensees need and expect from the Law Society by way of communications and information supports. Based on this information, the Law Society would consider optimal delivery methods to engage with licensees and explore the merits of measuring satisfaction with its communications through feedback from licensees.

Ultimately, this work should result in a proposal for a multi-year communication plan which identifies resources, methodologies and measures to evaluate its effectiveness.

THE LAW SOCIETY WILL INCREASE ITS ORGANIZATIONAL EFFECTIVENESS MEASURES 2 AND 4

The Law Society will:

- **review and revise as appropriate the Law Society's policy development process, guided by the duty to protect the public interest;**
- **enhance measurement and assessment of current and proposed activities; and**
- **determine ways to improve the Law Society's governance structure, including better education for members of Convocation.**

With respect to the policy development process, this initiative will involve creating a process map of the Law Society's current policy development process. Benchmarking the process against other public interest regulators and other relevant not for profit organizations will then occur. The results will be assessed and determinations made on what can be applied in the Law Society's process that will assist it in ensuring that its policy development process is comprehensive, robust and designed with a focus on the public interest in policy development.

With respect to improving how the Law Society measures the success of its priorities, work will be undertaken to develop quantifiable targets and timelines for the achievement of the goal measures set out in the 2015-2019 Strategic Plan and a process for their measurement. The Law Society will also undertake a program review that will include assessment of why a program exists, what it costs and how it serves the public interest.

The initiative on governance will involve working with benchers to identify their non-adjudicative education needs in relation to their role in the Law Society and developing a professional development plan to address those needs. This type of program would cover topics such as emerging issues in professional regulation, board issues such as risk management and fiduciary duties, and a wide range of issues relevant to governors of legal services regulators and regulated professions.

The Law Society will also conduct a diversity assessment of the composition of Convocation and report on the results.

A major initiative will be a review the Law Society's governance structure with the aim of achieving the goals of transparency, inclusiveness, effectiveness, including cost-effectiveness, and efficiency of Convocation as a governing board.

Focused on the future

2015 – 2019 Law Society of Upper Canada Strategic Plan

OUR MANDATE

We govern the legal professions in the public interest by ensuring that the people of Ontario are served by lawyers and paralegals who meet high standards of learning, competence and professional conduct.

We have a duty to protect the public interest, to maintain and advance the cause of justice and the rule of law, to facilitate access to justice for the people of Ontario, and to act in a timely, open and efficient manner.

OUR PLAN

The Law Society did extensive strategic planning and engaged all members of the governing board. We will now focus on five priorities, and several key initiatives to support them, over the next four years.

These priorities build on the accomplishments of the past four years and sharpen our focus on excellence in professional regulation.



The Law Society
of Upper Canada

Barreau du
Haut-Canada

lsuc.on.ca



Strategic priorities for 2015–2019

Lead as a professional regulator

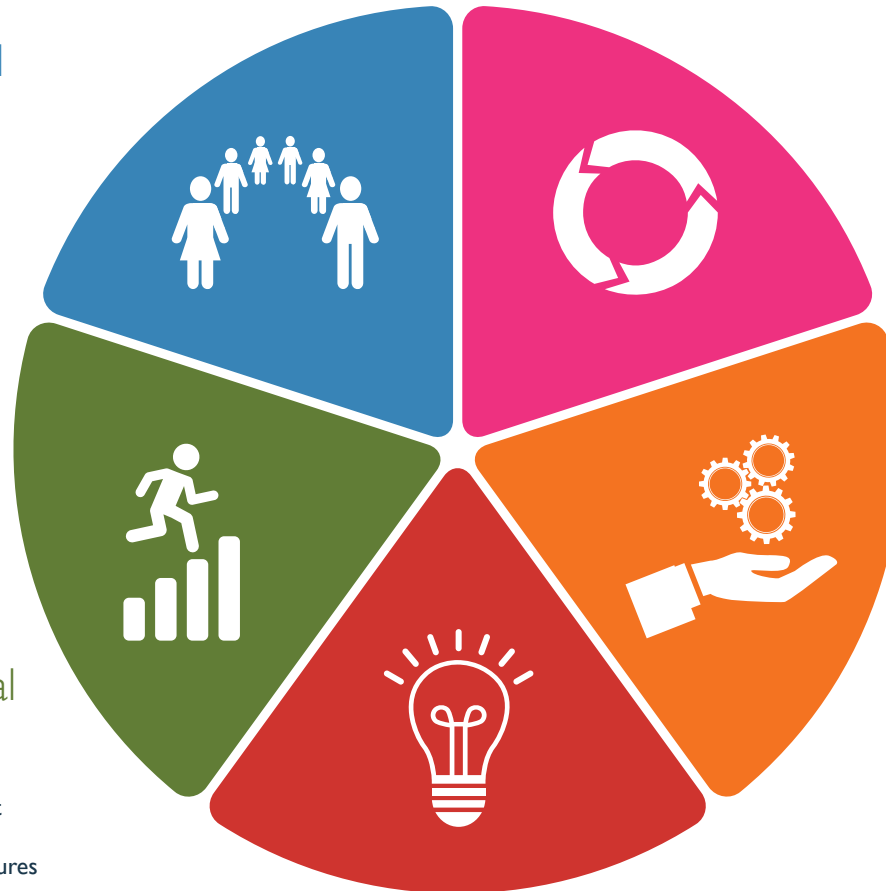
- Enhance regulatory effectiveness to advance protection of the public
- Ensure appropriate considerations for mental health and equity are integrated into regulatory processes

We will review our processes and explore new regulatory approaches while continuing to manage risk. We will examine policies and procedures to ensure equitable treatment for every individual and group we interact with. We will also consider opportunities for additional mental health supports and resources.

Increase organizational effectiveness

- Continue to enhance the public-interest in the policy-making process
- Review governance methods and structures to ensure efficiency and effectiveness
- Enhance measurement and assessment of our services and programs

We will assess our governance structures, policy-making processes and programs and services, focussing on key objectives, costs and effectiveness.



Engage stakeholders and the public with responsive communications

- Improve communication with lawyers and paralegals through greater accountability, transparency and collaboration
- Build a better understanding of the Law Society among the public through heightened engagement

We will review our existing practices and consult broadly to strengthen our relationship with lawyers, paralegals, the public and other stakeholders, and build greater awareness of the Law Society.

Prioritize life-long competence for lawyers and paralegals

- Evaluate and enhance licensing standards and requirements
- Improve and increase practice supports
- Consider comprehensive mentoring services

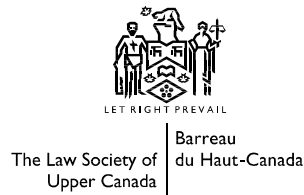
We will consider education beyond traditional CPD formats, and work with the professions to develop initiatives that institutionalize mentoring, advisory services and other types of support.

Enhance access to justice across Ontario

- Increase collaboration with access to justice partners and other stakeholders
- Develop and implement a more concrete access to justice action plan

We will extend our efforts to collaborate with justice partners and other stakeholders to identify and implement solutions to access to justice challenges.

MATERIALS TO FOLLOW WHEN AVAILABLE



TAB 10

Report to Convocation December 4, 2015

Professional Development & Competence Committee

COMMITTEE MEMBERS

Howard Goldblatt (Chair)
Jeffrey Lem, Vice-Chair
Barbara Murchie (Vice-Chair)
Raj Anand
Fred Bickford
Jack Braithwaite
Robert Burd
Gisèle Chrétien
Dianne Corbiere
Teresa Donnelly
Ross Earnshaw
Joseph Groia
Vern Krishna
Michael Lerner
Marian Lippa
Virginia MacLean
Sandra Nishikawa
Jonathan Rosenthal
Andrew Spurgeon
Joanne St. Lewis
Gerald Swaye
Sid Troister
Jerry Udell
Anne Vespry
Peter Wardle

Purpose of Report: Information

**Prepared by the Policy Secretariat
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Appointment to Certified Specialist Board

TAB 10.1

COMMITTEE PROCESS

1. The Committee met on November 12, 2015. Committee members Howard Goldblatt (Chair), Barbara Murchie (Vice-Chair), Jeffrey Lem (Vice-Chair), Raj Anand, Fred Bickford, Jack Braithwaite, Robert Burd, Gisèle Chrétien, Dianne Corbiere, Teresa Donnelly, Ross Earnshaw, Joseph Groia, Michael Lerner, Marian Lippa, Virginia MacLean, Sandra Nishikawa, Jonathan Rosenthal, Joanne St. Lewis, Gerald Swaye, Sid Troister, Anne Vespry and Peter Wardle. Staff members Diana Miles and Sophia Sperdakos attended the meeting.

TAB 10.1

FOR INFORMATION

APPOINTMENT TO CERTIFIED SPECIALIST BOARD

2. By-law 15 (Certified Specialist Program) provides that the PD&C Committee will appoint members to the Certified Specialist Board. **TAB 10.1.1: Excerpt from By-law 15** sets out the provisions for appointment.
3. Pursuant to the by-law, the PD&C Committee's decision is final. It reports its decision to Convocation for information only.
4. The Board composition is to include one lay bencher. Former lay bencher, Dow Marmur, was the appointee, but as he is no longer a bencher the spot became vacant.
5. On November 12, 2015 the Committee approve the appointment of Marion Boyd to fill the vacancy.

EXCERPT FROM BY-LAW 15

PART II

CERTIFIED SPECIALIST BOARD

Board to be established

3. (1) There is established the Certified Specialist Board.

Composition of Board

- (2) The Board shall consist of not fewer than eight and not more than twelve persons appointed by the Committee as follows:

1. Two benchers who are certified specialists.
2. One lay bencher.
3. Not fewer than five and not more than nine persons who are certified specialists who are not benchers.

Same

(2.1) If the Committee is unable to comply with paragraph 1 of subsection (2), the Committee may appoint the required number of benchers who are licensed to practise law in Ontario as barristers and solicitors.

Term

(3) Subject to subsection (4), a person appointed to the Board shall hold office for a term not exceeding three years and is eligible for reappointment.

Appointment at pleasure

(4) A person appointed to the Board holds office as a member of the Board at the pleasure of the Committee.

Chair

4. (1) The Committee shall appoint one member of the Board as chair of the Board.



December 4, 2015

Update Report TAG – The Action Group on Access to Justice

RECENT ACTIVITIES

New Website

TAG's newly designed website launched in mid-November (www.theactiongroup.ca). It features updates about new and in-progress clusters, a growing library with key access to justice reports and details about public engagement initiatives. This website has a responsive design so it can be viewed easily on mobile devices. A French version of the site will be available in early 2016.

Reference Group

The eleventh meeting of the Reference Group of TAG partner organizations was held on November 18th. The meeting was an opportunity to receive updates on in-progress clusters, collect feedback on the new website and review operational processes. The next Reference Group meeting will be held in early 2016.

Family Dispute Resolution Week

On November 24th TAG participated in public forums at North York Civic Centre and Northern District Library organized by the Family Dispute Resolution Institute of Ontario for Family Dispute Resolution Week (FDR Week). This was an opportunity to distribute a range of access to justice materials and administer the Law in Your Life survey originally piloted last summer at the Canadian National Exhibition. On November 27th TAG Manager Sabreena Delhon was a panelist at a #FDR Week event about access to justice in family law.

Maytree Foundation – Connecting for Change Conference

On December 10th TAG will participate in the Connecting for Change Conference organized by the Maytree Foundation. TAG Manager Sabreena Delhon will be facilitating a breakout session that addresses the digital divide.¹

¹ "Digital divide" is a term used to describe a gap in access to information and communication technologies.

CLUSTERS

Libraries and Justice: Innovative Access for Rural and Remote Communities

On October 29th TAG with the Community Advocacy & Legal Centre, CLEO – Community Legal Education Ontario and the Rural and Remote Access to Justice Boldness Project hosted a day of discussion for library and justice professionals. The event had over 75 attendees from a range of communities including Belleville, Owen Sound, Stratford and Brantford. Presentations from Janet Freeman (Community Outreach Librarian at BC Courthouse Libraries) and Chris Bentley (Executive Director of Ryerson University's Legal Innovation Zone) provided great inspiration for the breakout sessions. A graphic recorder sketched throughout the day and ultimately produced an illustration that captures the rich discussion. Updates on new partnerships and programs that evolve from this event will be available in 2016. We are grateful to the Southern Ontario Library Service for featuring a summary of the event on their blog.²

Mental Health

Opening Minds to Mental Health, a conference co-organized with the Canadian Institute for the Administration of Justice took place on November 20th at the Law Society. In-person registration reached capacity and there were 128 webcast viewers. The program explored issues of access and ethics with emphasis on how justice system professionals can respond to the mental health challenges of justice system users and establish self-care habits in ethically challenging and emotionally demanding work environments. Dr. David Goldbloom from the Centre for Addiction and Mental Health was the keynote speaker and the diverse panelists are listed below. This event was open to all justice system professionals and the archived webcast is available on the TAG website.³

Panel 1: Responding to Users' Mental Health Challenges: Ensuring Access to Justice

Justice Edward Kelly (Ontario Court of Justice)
Dr. Graham Glancy (University of Toronto)
Steve Lurie (Canadian Mental Health Association, Toronto Branch)
Anita Szigeti (Anita Szigeti Advocates)
Moderator: David Wright (Law Society Tribunal)

Panel 2: Maintaining Mental Health for Justice System Professionals

Dr. Deborah Goodman (Children's Aid Society of Toronto)
Nadia Liva (Nadia Liva, Barrister and Solicitor)
Orlando da Silva (Ministry of the Attorney General)
Jay Sengupta (Human Rights Tribunal Ontario)
Moderator: Lucy McSweeney (Office of the Children's Lawyer)

Public Legal Education & Information

The second meeting for the Public Legal Education & Information (PLEI) Cluster has been scheduled for December 15th at the Law Society. The key aims of this cluster are to enhance impact of existing PLEI resources and find ways to reduce duplication. Activities are guided by CLEO's Ontario's Mapping

² Southern Ontario Library Service blog post about Libraries and Justice: Innovative Access for Rural and Remote Communities <http://buff.ly/1SijhGw>

³ Find materials from Opening Minds to Mental Health Conference on the TAG website <http://buff.ly/1Sijlk7>

Public Legal Information in Ontario report which will be released in 2016. Membership in this cluster has expanded to include representatives from the Department of Justice Canada and speciality legal clinics.

Family Law

Steps to Justice, an innovative digital family law resource that presents consistent, plain language information on numerous websites will launch in early 2016. Led by CLEO, this initiative brings together the Ontario Ministry of the Attorney General, the Ontario Superior Court of Justice, the Ontario Court of Justice, Social Justice Tribunals of Ontario, the Ontario Bar Association, Legal Aid Ontario, The Law Society of Upper Canada, a number of community legal clinics and a growing list of community groups. TAG is currently assisting with building the Steps to Justice network and coordinating French translation.

MATERIALS TO FOLLOW WHEN AVAILABLE