



The Law Society of
Upper Canada

Barreau
du Haut-Canada

June 27, 2013
8:30 a.m.

CONVOCATION MATERIAL

PUBLIC COPY

*THIS PAGE CONTAINS
IN CAMERA MATERIAL*

*THIS PAGE CONTAINS
IN CAMERA MATERIAL*

CONVOCATION AGENDA
June 27, 2013

Convocation Room – 8:30 a.m.

Committee of the Whole (*M. Sandler*)

Election of Treasurer

Election of Benchers [Tab 1]

Treasurer's Remarks

Address by Morris Chochla, President of the Ontario Bar Association

Draft Minutes of Convocation – May 30 and June 13, 2013 [Tab 2]

Motion [Tab 3]

- Appointments

Report of the Director of Professional Development and Competence (*J. Minor*) [Tab 4]

- Deemed Call Candidates

Inter-Jurisdictional Mobility Committee Report (*J. Minor*) [Tab 5]

- National Mobility Agreement 2013

Address by Bâtonnier Gérald R. Tremblay, C.M., O.Q., Q.C., Ad.E., President of the Federation of Law Societies of Canada

Benchers Election Working Group Report (*J. Leiper*) [Tab 6]

Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones Report (*P. Schabas*) [Tab 7]

- Human Rights Monitoring Group Interventions

For Information

- Change of Status Report
- Career Choices Study
- Certified Specialty in Aboriginal Law

Address by The Honourable Mr. Justice Thomas Albert Cromwell, Judge of the Supreme Court of Canada

Audit and Finance Committee Report (*C. Bredt, C. Hartman*) [Tab 8]

- LAWPRO Director Compensation
- In Camera Item
- Capital Budget Transfer

For Information

- Certified Specialty in Aboriginal Law
- LibraryCo Inc. First Quarter Financial Statements
- Other Committee Work

Professional Regulation Committee Report (*W. McDowell*) [Tab 9]

- In Camera Item

For Information

- Alternative Business Structures Working Group Report

Paralegal Standing Committee Report (*C. Corsetti, P. Dray*) [Tab 10]

- In Camera Items

Chief Executive Officer's Report (*R. Lapper*) (*in camera*) [Tab 11]

REPORTS FOR INFORMATION ONLY

Priority Planning Committee Report [Tab 12]

- Convocation's Priority Planning - Status of Work on Convocation's Priorities

Professional Development and Competence Committee Report [Tab 13]

- Certified Specialty in Aboriginal Law

Lunch – Benchers' Dining Room

THE LAW SOCIETY OF UPPER CANADA

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON JUNE 27, 2013

WHEREAS Wendy Matheson, who was elected from the Province of Ontario "A" Electoral Region (City of Toronto) on the basis of votes cast by all electors, has been appointed a judge of the Superior Court of Justice of Ontario; and

WHEREAS upon being appointed a judge of the Superior Court of Justice of Ontario, Wendy Matheson became unable to continue in office as a benchers, thereby creating a vacancy in the office of benchers elected from the Province of Ontario "A" Electoral Region (City of Toronto) on the basis of votes cast by all electors;

MOVED BY: Raj Anand

SECONDED BY: M. Virginia MacLean

THAT under the authority contained in By-Law 3, Avvy Yao-Yao Go, having satisfied the requirements contained in subsections 43 (1) and 45 (1) of the By-Law, and having consented to the election in accordance with subsection 45 (2) of the By-Law, be elected by Convocation to fill the vacancy in the office of benchers elected from the Province of Ontario "A" Electoral Region (City of Toronto) on the basis of votes cast by all electors.

D R A F T

MINUTES OF CONVOCATION

Thursday, 30th May, 2013
9:00 a.m.

PRESENT:

The Treasurer (Thomas G. Conway), Anand, Armstrong, Backhouse, Banack, Boyd, Braithwaite, Bredt, Callaghan, Chilcott, Dickson, Doyle, Dray, Earnshaw, Epstein, Eustace, Evans, Falconer, Ferrier (by telephone), Furlong, Goldblatt, Gottlieb, Haigh, Halajian (by telephone), Hare, Hartman, Horvat, Krishna, Lerner, MacKenzie, MacLean, Marmur, McDowell, McGrath, Matheson, Mercer, Minor, Murchie, Murray (by telephone), Porter, Potter, Pustina, Rabinovitch (by telephone), Richardson, Richer, Ross, Ruby (by telephone), Sandler, Scarfone, Sheff, Silverstein, C. Strosberg, H. Strosberg, Sullivan, Swaye, Symes, Wadden (by telephone), Wardlaw, Wardle, Wright (by telephone) and Yachetti (by telephone).

.....

Secretary: James Varro

The Reporter was sworn.

*THIS PAGE CONTAINS
IN CAMERA MATERIAL*

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

TREASURER'S REMARKS

The Treasurer advised Convocation that matters raised by members in the context of the Annual General Meeting relating to proxy voting and access to the meeting have been referred to the Governance Issues Working Group of the Priority Planning Committee for review.

The Treasurer informed Convocation that he attended the launch on May 7 of the Legal Information for Everyone initiative, a partnership between the Treasurer's Advisory Group (TAG), the Ontario Justice Education Network (OJEN) and Community Legal Education Ontario (CLEO), and also supported by Legal Aid Ontario and the Law Foundation of Ontario.

The Treasurer, in noting the recent increase in funding for Legal Aid Ontario, commended the Association for the Sustainability of Legal Aid (ASLA) for its ongoing work for increased funding for legal aid and affirmed the Law Society's ongoing commitment to working in partnership with the Attorney General to advance the objectives for sustainable legal aid.

The Treasurer congratulated the recipients of the Law Society Awards bestowed at the awards ceremony on May 29, 2013.

The Treasurer congratulated Wendy Matheson on her award for Excellence in Teaching to be bestowed by the Advocates' Society at its end of term dinner this month.

The Treasurer welcomed Timothy G. J. Daley, Q.C., President of the Nova Scotia Barristers' Society and Darrel Pink, Executive Director, to Convocation.

The Treasurer on Convocation's behalf congratulated and extended birthday wishes to Sydney Robins on the occasion of his 90th birthday.

Ms. Boyd rose on a point of privilege to note the passing of Dr. Henry Morgentaler on May 29, 2013.

DRAFT MINUTES OF CONVOCATION

The draft minutes of Convocation of April 25, 2013 were confirmed.

REPORT OF THE DIRECTOR OF PROFESSIONAL DEVELOPMENT AND COMPETENCE

It was moved by Ms. Minor, seconded by Ms. Murchie, that the Report of the Director of Professional Development and Competence listing the names of the call to the bar candidates be adopted.

Carried

JOINT REPORT OF THE PROFESSIONAL DEVELOPMENT AND COMPETENCE AND
PARALEGAL STANDING COMMITTEES

Ms. Matheson presented the Report.

Re: Continuing Professional Development ("CPD") Requirement – Two Year Review

It was moved by Ms. Matheson, seconded by Mr. Dray, that Convocation approve the recommendations for changes to the Continuing Professional Development (CPD) requirement set out at paragraph 3 of the Report to come into effect beginning with the 2014 CPD year, with the exception of the recommendations set out in subparagraphs b., c. and d. which will come into effect immediately.

Carried

Timothy G. J. Daley, Q.C., President of the Nova Scotia Barristers' Society, addressed Convocation.

The Treasurer welcomed The Hon. Robert P. Armstrong, Q.C., former Treasurer, back to Convocation following his retirement in March 2013 as a judge of the Court of Appeal for Ontario.

PROFESSIONAL REGULATION COMMITTEE REPORT

Mr. McDowell presented the Report.

Re: Policy Respecting Withdrawal or Amendment of Particulars and Authority to Withdraw an Application

It was moved by Mr. McDowell, seconded by Mr. Mercer, that Convocation approve:

- a. that the Law Society may withdraw or amend the particulars in an application authorized by the Proceedings Authorization Committee under the *Law Society Act* without authorization from the Proceedings Authorization Committee; and
- b. approve an amendment to By-Law 11 as set out at Tab 4.1.1 of the Report permitting the Law Society to withdraw an application authorized by the Proceedings Authorization Committee in its entirety without the approval of the Proceedings Authorization Committee where the hearing on the merits has not begun.

Carried

For Information:

- Professional Regulation Division Quarterly Report

The Treasurer advised Convocation that he has requested the Chair of the Equity and Aboriginal Issues Committee and the Co-Chairs of the Retention of Women Working Group to discuss the timing of the work on the Parental Leave Assistance Program (PLAP) and that in the longer term, PLAP will be reviewed in the normal course of operational and budget planning.

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

Mr. Falconer presented the Report.

Re: Creation of a Law Society Human Rights Award

It was moved by Mr. Falconer, seconded by Mr. Goldblatt, that Convocation approve the creation of a Law Society of Upper Canada Human Rights Award and the proposed Terms of Reference presented at Tab 5.1.1 of the Report.

It was moved by Mr. Lerner, seconded by Mr. Silverstein, that the Selection Committee Terms of Reference at Tab 5.1.1 of the Report be amended to provide that the Selection Committee be appointed by the Treasurer.

The debate was stood down.

AUDIT & FINANCE COMMITTEE REPORT

Ms. Hartman and Mr. Bredt presented the Report.

Re: Benchers Remuneration

The Treasurer advised that subparagraphs e. and f. of the motion at paragraph 12 of the Report are deferred.

Ms. Hartman presented the Report.

It was moved by Ms. Hartman, seconded by Mr. Bredt, that Convocation approve the changes to benchers, Paralegal Standing Committee member and appointed adjudicators remuneration as set out at paragraph 12, subparagraphs a., b., c. and d. of the Report.

It was moved by Ms. Murchie, seconded by Ms. McGrath, that paragraph 12, subparagraph a. of the motion be amended to exclude work that is hearing a hearing before the Hearing Panel or Appeal Panel.

Withdrawn

The main motion was withdrawn.

Ms. Hartman agreed to refer the matter back to the Audit and Finance Committee for further consideration.

Re: Capital Budget Transfers

Ms. Hartman presented the Report.

It was moved by Ms. Hartman, seconded by Mr. Bredt, that Convocation approve a capital budget transfer of \$150,000 to fund the installation of additional security cameras on the Law Society premises.

Carried

Mr. Epstein left Convocation.

Re: Gardens of Justice

Ms. Hartman presented the Report.

It was moved by Ms. Hartman, seconded by Mr. Bredt, that Convocation approve the payment of \$50,000 to The Law Gardens Incorporated.

Carried Unanimously

Re: Law Society Fund Management Policies

Mr. Bredt presented the Report.

It was moved by Mr. Bredt, seconded by Ms. Hartman, that Convocation approve the policies intended to manage the size and use of the Law Society's General and Compensation fund balances, as set out at paragraph 3 of the Report.

Carried

Mr. Bredt spoke to the Law Society financial statements for the three months ended March 31, 2013 for information.

For Information:

- Law Society First Quarter Financial Statements for the Period Ending March 31, 2013
- In Camera Item
- Investment Compliance Reports
- Other Committee Work

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

Re: Creation of a Law Society Human Rights Award

Convocation's debate on the Report resumed.

The main motion and the motion to amend were withdrawn.

Mr. Falconer agreed to refer the matter back to the Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires Autochtones for further consideration.

For Information:

- Parental Leave Assistance Program (PLAP) Assessment
- Ontario Courts Accessibility Committee Report
- Public Education Equality and Rule of Law Series Calendar 2013

REPORT FOR INFORMATION ONLY

Paralegal Standing Committee Report

- Policy Respecting Withdrawal of Particulars
- Professional Regulation Division Quarterly Report

CONVOCATION ROSE AT 12:40 P.M.

D R A F T

MINUTES OF CONVOCATION

Thursday, 13th June, 2013
12:00 p.m.

PRESENT:

The Treasurer (Thomas G. Conway), Anand, Backhouse, Boyd, Braithwaite, Bredt, Callaghan (by telephone), Campion, Dickson, Doyle (by telephone), Dray, Earnshaw, Eustace, Evans, Hare, Horvat, Leiper, Lerner (by telephone), Marmur, McGrath, Mercer (by telephone), Minor, Murchie, Murray, Potter, Pustina, Richardson (by telephone), Richer, Ross (by telephone), Silverstein (by telephone), C. Strosberg (by telephone), Symes (by telephone), Wadden and Wardle.

.....

Secretary: James Varro

The Reporter was sworn.

.....

IN PUBLIC

.....

The Treasurer welcomed everyone to Convocation.

MOTION

Re: Appointment to the Proceedings Authorization Committee

It was moved by Ms. Richer, seconded by Mr. Mercer, that Gerald Sheff be:

- a. appointed to the Proceedings Authorization Committee; and
- b. removed from the Tribunals Committee.

Carried

CONVOCATION ROSE AT 12:07 P.M.

MATERIALS TO FOLLOW WHEN AVAILABLE

MATERIALS TO FOLLOW WHEN AVAILABLE

MATERIALS TO FOLLOW WHEN AVAILABLE

MATERIALS TO FOLLOW WHEN AVAILABLE

MATERIALS TO FOLLOW WHEN AVAILABLE

MATERIALS TO FOLLOW WHEN AVAILABLE

MATERIALS TO FOLLOW WHEN AVAILABLE

MATERIALS TO FOLLOW WHEN AVAILABLE

Tab 4

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

The 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 Thursday, June 27th, 2013.

ALL OF WHICH is respectfully submitted

DATED this 27th day of June, 2013

CANDIDATES FOR CALL TO THE BAR
June 27, 2013

Transfer from another province (Mobility)

Frederick Philip Carpenter
Avril Margot Furlong Dymond
Veronika Hamza
Chi-Young Lee
Donald Charles Irving Lucky
Tamar Meshel
Carol Ann Meyers

Transfer from another province (Quebec)

Robert Peter La Rosa

Licensing Process

Robert Michael Fawcett
Navdeep Kaur
Richard Adam Safka
Laura Michelle Zlotkin-Leslie



TAB 5

Report to Convocation June 27, 2013

Inter-Jurisdictional Mobility Committee

Committee Members

Janet Minor (Chair)
Jacqueline Horvat
Malcolm Mercer
William McDowell
Joe Sullivan

Purpose of Report: Decision

**Prepared by the Policy Secretariat
(Sophia Sperdakos 416-947-5209)**

TABLE OF CONTENTS

For Decision

National Mobility Agreement 2013 (Insurance Amendments) **TAB 5.1**

COMMITTEE PROCESS

1. The Committee met on May 9, 2013. Committee members Janet Minor (Chair), Jacqueline Horvat, Wendy Matheson, Malcolm Mercer and Joe Sullivan participated in the meeting. Staff member Sophia Sperdakos also attended. The Committee further considered the issues related to the NMA 2013 in June 2013.

TAB 5.1

DECISION

NATIONAL MOBILITY AGREEMENT 2013 (INSURANCE AMENDMENTS)

MOTION

2. **That Convocation approve the amended National Mobility Agreement 2013 (“the Agreement”) set out at [TAB 5.1.2](#) and authorize the Treasurer or his designate to execute the Agreement on behalf of the Law Society of Upper Canada.**

Summary

3. In June 2013, the Federation of Law Societies of Canada’s Council approved amendments to the National Mobility Agreement, 2013 to address specific insurance provisions related to lawyers who are members of both the Barreau du Québec and one or more other jurisdictions in Canada. The amendments were developed by an *ad hoc* working group of representatives of insurers, including Law PRO, staff from various law societies and Federation staff and were considered and approved by the Federation’s National Mobility Policy Committee for recommendation to the Council.
4. As set out in more detail below, the amendments provide that,
 - a. lawyers who are members of the Barreau du Québec and another jurisdiction will be required to maintain liability insurance coverage in both jurisdictions; and
 - b. lawyers who are members of the Barreau du Québec and more than one other jurisdiction will be required to maintain liability insurance coverage with the Barreau and one other jurisdiction as determined in the process set out in the Agreement.

Background

5. In February 2013 Convocation approved the following motion respecting the National Mobility Agreement 2013:
 2. *That Convocation approve in principle the National Mobility Agreement 2013 (“NMA 2013”), set out at TAB 6.1.3: NMA 2013, it being understood that implementation in respect of each*

signatory jurisdiction will be subject to such amendments to by-laws or legislation as may be required in respect of such jurisdiction and, in the case of implementation by the Barreau, obtaining the necessary approvals by the Office des professions du Québec and the Government of Québec and to resolution of the issues related to liability insurance and defalcation coverage limits and the approval of any consequential amendment to the insurance-related NMA 2013 provisions. The Treasurer or his designate is authorized to execute the NMA 2013 upon the Law Society's approval of any consequential amendments.

3. *That Convocation recommend that the Federation develop as an addition to the NMA reading requirement a guide on the key differences between the legal systems in Québec and the common law jurisdictions for law societies' use.*
6. Two insurance issues arise respecting the extension of the NMA to lawyers who wish to become members of both the Barreau du Québec and another Canadian law society or law societies. These have now been addressed in the revised NMA 2013.
 - a. The first arises from the difference in claim limits under the liability insurance programs of the Barreau and the other jurisdictions.
 - b. The second concerns the obligation of the insurance program of the jurisdiction in which the lawyer is insured to provide coverage for claims arising in the jurisdiction in which the lawyer is exempt from purchasing insurance.
7. To consider how to approach the insurance issue nationally an ad hoc working group of representatives of the insurers (Duncan Gosnell, LawPRO, Patrick Mahoney, Canadian Lawyers' Insurance Association, Susan Forbes and Margrett George, Lawyers Insurance Fund, Law Society of British Columbia, and René Langlois, Fonds d'assurance responsabilité professionnelle du Barreau du Québec), law society staff (Sylvie Champagne, Barreau; Sophia Sperdakos, Law Society of Upper Canada and Alan Treleaven, Law Society of British Columbia) and Frederica Wilson of the Federation, considered the issues.
8. The ad hoc group's considerations were communicated to the Law Society's Inter-Jurisdictional Mobility Committee. As well, the Chair of the Committee, Janet Minor, met with Duncan Gosnell and Kathleen Waters of LawPRO. The Federation's National Mobility Policy Committee considered the NMA 2013 insurance amendments and

recommended them to Federation Council for approval. On June 3, 2013, the Council approved the amendments for law societies' consideration. The redlined version of the revised NMA 2013 is set out at **TAB 5.1.1: Amended NMA 2013 - Redlined**. The clean version is set out at **TAB 5.1.2: Amended NMA 2013 - Clean**.

9. The Committee recommends the NMA 2013, as amended and approved by Federation Council, to Convocation.

Claim limits

10. The NMA 2013 includes a provision that is in the existing National Mobility Agreement ("NMA 2002") allowing a lawyer¹ who maintains liability insurance in the jurisdiction in which he or she resides to claim an exemption from liability insurance requirements in another jurisdiction in which the lawyer is a member. Section 37 of the NMA 2013 (section 35 of the NMA 2002) states as follows:

37. Subject to clause 40, a signatory governing body other than the Barreau will, on application, exempt a lawyer from liability insurance requirements if the lawyer does the following in another signatory jurisdiction:

- (a) is resident;
- (b) is a member of the governing body; and
- (c) maintains ongoing liability insurance required in that jurisdiction that provides occurrence or claim limits of \$1,000,000 and \$2,000,000 annual per member aggregate.

11. Pursuant to section 39 (section 36 in the NMA 2002), the jurisdiction in which the lawyer is insured is liable for any claims that arise in the jurisdiction in which the lawyer is exempt, subject to a \$1,000,000 claim limit and a \$2,000,000 annual per member aggregate limit. Section 39 reads as follows:

39. In the event that a claim arises from a lawyer providing legal services and the closest and most real connection to the claim is with a jurisdiction in which the lawyer has claimed an exemption under clause 37, the insurance program of the governing body in the jurisdiction where the lawyer is insured will provide at least the same scope of coverage as the liability insurance in the jurisdiction in which the lawyer is exempt. For clarity, all claims and potential claims reported

¹ The clause has been amended to be subject to clause 40 and to apply to all signatory governing bodies except the Barreau to whom clause 40 applies.

under the policy will remain subject to the policy's occurrence or claim limit of \$1,000,000 and \$2,000,000 annual per member aggregate.

12. Under the NMA 2002 all the jurisdictions covered by the permanent mobility provisions at that time have comparable coverage limits. The insurance program of the Barreau, however, provides for a \$10,000,000 claim limit.
13. As the NMA 2013 extends the permanent mobility provisions, including those set out above, to the members of the Barreau, the difference in claim limits becomes problematic. In the event of a claim against a lawyer who is a member of both the Barreau and another jurisdiction and who is exempt from liability insurance in Québec because he or she carries the required insurance in the other jurisdiction the maximum payable would be \$1,000,000. By contrast, were that same lawyer insured in Québec, the maximum payable would be \$10,000,000.

Liability for claims arising in jurisdiction in which lawyer is exempt

14. A second issue arises because there appear to legislative restrictions on the Barreau's ability to provide insurance coverage for the activities of a member of the Barreau performed in the lawyer's capacity as a member of a law society in another jurisdiction. This would have the effect of preventing the Barreau's insurance program from honouring its obligations under section 39 of the NMA 2013 in the event of a claim against a lawyer who is a member of both the Barreau and another jurisdiction and who is exempt from carrying liability insurance in the other jurisdiction pursuant to section 37 of the agreement.

Approach to Address the Issues

15. Several possible solutions to the liability insurance issues arising under the NMA 2013, have been considered, including,
 - a. requiring lawyers who are members of both the Barreau and another law society to carry liability insurance in both jurisdictions;
 - b. requiring dual members who are exempt from carrying the Barreau's liability insurance to carry excess liability insurance to provide \$10,000,000 in coverage for claims in Québec; or

- c. requiring such dual members to advise all potential clients of the \$1,000,000 limit.

After some discussion the ad hoc group concluded that only the first option would successfully address both insurance issues discussed above. The National Mobility Committee and Federation Council agreed with this approach. The Inter-jurisdictional Mobility Committee also agrees.

- 16. Requiring lawyers licensed in both Québec and another jurisdiction to carry the required liability insurance in both jurisdictions, as set out in clause 40, will ensure full coverage to the usual claim limits in both jurisdictions. This also addresses the Barreau's inability to provide coverage for claims arising outside Québec from activities performed in the lawyer's capacity as a member of the other law society since coverage would be provided by the insurance program in the jurisdiction in which the claim arose.
- 17. While the Committee recognizes that this approach imposes additional costs on the lawyers and would require a different approach to the insurance issue for mobility to and from the Barreau than exists for mobility between and among the other jurisdictions, it agrees that the public interest benefits of this approach are the paramount consideration. This is the most effective approach to protect the public interest. In addition, lawyers who are members in both Ontario and Québec will also have the necessary coverage for defalcation in both jurisdictions.
- 18. The original insurance provisions of the NMA set out in clauses 37 and 39 continue to apply except, as noted in clause 37, with respect to lawyers who are members of the Barreau and one or more of the other signatory governing bodies, for whom clause 40 applies.
- 19. An additional amendment to the insurance provisions was also necessary to address the situation in which a member of the Barreau is also a member of *more than one* other common law jurisdiction and is resident in Québec. Pursuant to section 37 a member of more than one common law jurisdiction is only required to carry insurance in the

jurisdiction in which he or she is resident. If the lawyer is resident in Québec, however, he or she is required under section 37 to carry insurance with the Barreau and one of the other law societies. The “resident” test is not applicable in this case, however, to determine which insurer will cover the member. Accordingly, section 38 provides a process for determining “residence” as between common law jurisdictions.

Chambre des Notaires

20. There is one additional housekeeping amendment to the NMA 2013 to correct a gap in the earlier amendments concerning the Chambre des notaries. The insurance provisions for Chambre members were omitted and will now read at clause 50,

The Chambre will continue to make available to its members who are also CLAs in another jurisdiction ongoing liability insurance with minimum occurrence or claim limits for indemnity of \$1,000,000 and \$2,000,000 annual per member aggregate.

21. If Convocation approves the amended NMA 2103 the Treasurer will execute the NMA 2013 on behalf of the Law Society of Upper Canada at the Federation of Law Societies signing ceremony in Newfoundland in October, 2013. The LawPRO insurance program will also reflect the new NMA insurance provisions. Necessary by-law amendments will also be prepared for Convocation’s approval at a future date.

*Federation of Law Societies
of Canada*



*Fédération des ordres professionnels
de juristes du Canada*

National Mobility Agreement 2013

National Mobility Agreement 2013

Federation of Law Societies of Canada

May, 2013
City

The purpose of this agreement is to facilitate temporary and permanent mobility of lawyers between Canadian jurisdictions.

While the signatories participate in this agreement voluntarily, they intend that only lawyers who are members of signatories that have implemented reciprocal provisions in their jurisdictions will be able to take advantage of the provisions of this agreement.

The signatories recognize that

- they have a duty to the Canadian public and to their members to regulate the inter-jurisdictional practice of law so as to ensure that their members practise law competently, ethically and with financial responsibility, including professional liability insurance and defalcation compensation coverage, in all jurisdictions of Canada,
- while differences exist in the legislation, policies and programs pertaining to the signatories, including those differences between common law and civil law jurisdictions in Canada, lawyers have a professional responsibility to ensure that they are competent with respect to any matter that they undertake, and
- it is desirable to facilitate a nationwide regulatory regime for the inter-jurisdictional practice of law to promote uniform standards and procedures, while recognizing the exclusive authority of each signatory within its own legislative jurisdiction.

Most of the signatories subscribed to the Interjurisdictional Practice Protocol of 1994, in which they agreed to certain measures to facilitate the temporary and permanent inter-jurisdictional practice of law and the enforcement of appropriate standards on lawyers practising law in host jurisdictions.

Since December 2002, all provincial law societies, other than the Chambre des notaires du Quebec ("Chambre"), have signed the National Mobility Agreement ("NMA") establishing a comprehensive mobility regime for Canadian lawyers.

In 2006 all law societies other than the Chambre, signed the Territorial Mobility Agreement. Under that agreement, provisions were mandated for reciprocal permanent mobility between the law societies of the territories and the provinces for five years. A further agreement made in November 2011 renewed the Territorial Mobility Agreement without a termination date.

National Mobility Agreement 2013

In June 2008 Quebec enacted a “Regulation respecting the issuance of special permits of the Barreau du Quebec” (“Barreau”), which provided, inter alia, that a member in good standing of a bar of another Canadian province or territory could become a member of the Barreau known as a “Canadian legal advisor” (“CLA”). A CLA may provide legal services respecting the law of federal jurisdiction, the law of his or her home province and public international law.

In March 2010 all law societies, other than the Chambre, signed the Quebec Mobility Agreement (“QMA”). Under that agreement members of the Barreau are able to exercise mobility in the common law jurisdictions on a reciprocal basis as CLAs.

In June 2010 the Council of the Federation approved the Mobility Defalcation Compensation Agreement (“MDCA”) to bring more consistency, certainty and transparency to the process for compensating the public if funds are misappropriated by lawyers exercising their mobility rights under the NMA. Since then, all provincial law societies, other than the Barreau and the Chambre, have signed the MDCA.

In March 2012 all law societies, including the Chambre, signed an addendum to the Quebec Mobility Agreement extending to members of the Chambre the right to acquire CLA status in another province.

In January 2013, the Council of the Federation of Law Societies approved a report from the National Mobility Policy Committee. In that report, the Committee concluded and recommended that it would be in the public interest to implement mobility to and from the Barreau on the same terms as now apply to mobility between common law jurisdictions under the permanent mobility provisions of the NMA. The Committee also reported that the CLA provisions of the QMA and its Addendum should continue in place with respect to members of the Chambre, and the Chambre was in favour of that resolution. The Committee’s report and recommendations do not affect the current rules for temporary mobility between Quebec and other provinces and the territories.

As a result, the signatories hereby agree to adopt this new National Mobility Agreement, 2013 (“NMA 2013”), changing the original NMA to remove the distinction between members of the Barreau and members of law societies outside of Quebec for the purposes of transfer between governing bodies. The signatories also agree to incorporate into the NMA 2013 the provisions for members of the Chambre to be granted status as CLAs by law societies outside of Quebec and to rescind the QMA and its Addendum.

THE SIGNATORIES AGREE AS FOLLOWS:

Definitions

1. In this agreement, unless the context indicates otherwise:

“Barreau” means le Barreau du Québec;

“Chambre” means la Chambre des notaires du Québec;

“day” means any calendar day or part of a calendar day in which a lawyer provides legal services;

“discipline” includes a finding by a governing body of any of the following:

- (a) professional misconduct;
- (b) incompetence;
- (c) conduct unbecoming a lawyer;
- (d) lack of physical or mental capacity to engage in the practice of law;
- (e) any other breach of a lawyer’s professional responsibilities;

“disciplinary record” includes any of the following, unless reversed on appeal or review:

- (a) any action taken by a governing body as a result of discipline;
- (b) disbarment;
- (c) a lawyer’s resignation or otherwise ceasing to be a member of a governing body as a result of disciplinary proceedings;
- (d) restrictions or limits on a lawyer’s entitlement to practise;
- (e) any interim suspension or restriction or limits on a lawyer’s entitlement to practise imposed pending the outcome of a disciplinary hearing.

“entitled to practise law” means allowed, under all of the legislation and regulation of a home jurisdiction, to engage in the practice of law in the home jurisdiction;

“governing body” means the Law Society or Barristers’ Society in a Canadian common law jurisdiction, the Barreau and the Chambre;

“home governing body” means any or all of the governing bodies of the legal profession in Canada of which a lawyer is a member, and “home

National Mobility Agreement 2013

jurisdiction” has a corresponding meaning;

“host governing body” means a governing body of the legal profession in Canada in whose jurisdiction a lawyer practises law without being a member, and “host jurisdiction” has a corresponding meaning;

“Inter-Jurisdictional Practice Protocol” means the 1994 Inter-Jurisdictional Practice Protocol of the Federation of Law Societies of Canada, as amended from time to time;

“lawyer” means a member of a signatory governing body, other than the Chambre;

“liability insurance” means compulsory professional liability errors and omissions insurance required by a governing body;

“mobility permit” means a permit issued by a host governing body on application to a lawyer allowing the lawyer to provide legal services in the host jurisdiction on a temporary basis;

“notary” means a member of the Chambre;

“practice of law” has the meaning with respect to each jurisdiction that applies in that jurisdiction;

“providing legal services” means engaging in the practice of law physically in a Canadian jurisdiction or with respect to the law of a Canadian jurisdiction;

“Registry” means the National Registry of Practising Lawyers established under clause 18 of this agreement;

“resident” has the meaning respecting a province or territory that it has with respect to Canada in the *Income Tax Act* (Canada).

General

2. The signatories agree to adopt this agreement as a replacement for the National Mobility Agreement of 2002, the Quebec Mobility Agreement of 2010 and the Addendum to the Quebec Mobility Agreement of 2012, all of which are revoked by consent.
3. The signatory governing bodies will
 - (a) use their best efforts to obtain from the appropriate legislative or supervisory bodies amendments to their legislation or regulations necessary or advisable in order to implement the provisions of this agreement;
 - (b) amend their own rules, by-laws, policies and programs to the extent they consider necessary or advisable in order to implement the provisions of this agreement;

National Mobility Agreement 2013

- (c) comply with the spirit and intent of this agreement to facilitate mobility of Canadian lawyers in the public interest and strive to resolve any differences among them in that spirit and in favour of that intent; and
 - (d) work cooperatively to resolve all current and future differences and ambiguities in legislation, policies and programs regarding inter-jurisdictional mobility.
- 4. Signatory governing bodies will subscribe to this agreement and be bound by it by means of the signature of an authorized person affixed to any copy of this agreement.
- 5. A signatory governing body will not, by reason of this agreement alone,
 - (a) grant to a lawyer who is a member of another governing body greater rights to provide legal services than are permitted to the lawyer by his or her home governing body; or
 - (b) relieve a lawyer of restrictions or limits on the lawyer's right to practise, except under conditions that apply to all members of the signatory governing body.
- 6. Amendments made under clause 3(b) will take effect immediately on adoption with respect to members of signatory governing bodies that have adopted reciprocal provisions.

Temporary Mobility Among Common Law Jurisdictions

- 7. Clauses 8 to 32 apply to temporary mobility of lawyers of common law jurisdictions in other common law jurisdictions.

Mobility without permit

- 8. A host governing body will allow a lawyer from another jurisdiction to provide legal services in the host jurisdiction or with respect to the law of the host jurisdiction on a temporary basis, without a mobility permit or notice to the host governing body, for a total of not more than 100 days in a calendar year, provided the lawyer:
 - (a) meets the criteria in clause 11; and
 - (b) has not established an economic nexus with the host jurisdiction as described in clause 17.
- 9. The host governing body will have the discretion to extend the time limit for temporary mobility under clause 8 with respect to an individual lawyer.

National Mobility Agreement 2013

10. It will be the responsibility of a lawyer to
 - (a) record and verify the number of days in which he or she provides legal services in a host jurisdiction(s) or with respect to each jurisdiction; and
 - (b) prove that he or she has complied with provisions implementing clause 8.
11. To qualify to provide legal services on a temporary basis without a mobility permit or notice to the host governing body under clause 8, a lawyer will be required to do each of the following at all times:
 - (a) be entitled to practise law in a home jurisdiction;
 - (b) carry liability insurance that:
 - (i) is reasonably comparable in coverage and amount to that required of lawyers of the host jurisdiction; and
 - (ii) extends to the lawyer's practice in the host jurisdiction;
 - (c) have defalcation compensation coverage from a Canadian governing body that extends to the lawyer's practice in the host jurisdiction;
 - (d) not be subject to conditions of or restrictions on the lawyer's practice or membership in the governing body in any jurisdiction;
 - (e) not be the subject of criminal or disciplinary proceedings in any jurisdiction; and
 - (f) have no disciplinary record in any jurisdiction.
12. For the purposes of clause 8:
 - (a) a lawyer practising law of federal jurisdiction in a host jurisdiction will be providing legal services in the host jurisdiction;
 - (b) as an exception to subclause (a), when appearing before the following tribunals in a host jurisdiction a lawyer will not be providing legal services in a host jurisdiction:
 - (i) the Supreme Court of Canada;
 - (ii) the Federal Court of Canada;
 - (iii) the Tax Court of Canada;
 - (iv) a federal administrative tribunal.
13. A host jurisdiction will allow a lawyer to accept funds in trust on deposit, provided the funds are deposited to a trust account:
 - (a) in the lawyer's home jurisdiction; or
 - (b) operated in the host jurisdiction by a member of the host governing body.

Mobility permit required

14. If a lawyer does not meet the criteria in clause 11 to provide legal services in the host jurisdiction or with respect to the law of the host jurisdiction on a temporary basis, a host governing body will issue a mobility permit to the lawyer:
- (a) on application;
 - (b) if, in the complete discretion of the host governing body, it is consistent with the public interest to do so;
 - (c) for a total of not more than 100 days in a calendar year; and
 - (d) subject to any conditions and restrictions that the host governing body considers appropriate.

Temporary mobility not allowed

15. A host governing body will not allow a lawyer who has established an economic nexus with the host jurisdiction to provide legal services on a temporary basis under clause 8, but will require the lawyer to do one of the following:
- (a) cease providing legal services in the host jurisdiction forthwith;
 - (b) apply for and obtain membership in the host governing body; or
 - (c) apply for and obtain a mobility permit under clause 14.
16. On application, the host governing body will have the discretion to allow a lawyer to continue to provide legal services in the host jurisdiction or with respect to the law of the host jurisdiction pending consideration of an application under clause 15(b) or (c).
17. In clause 15, an economic nexus is established by actions inconsistent with temporary mobility to the host jurisdiction, including but not limited to doing any of the following in the host jurisdiction:
- (a) providing legal services beyond 100 days, or longer period allowed under clause 9;
 - (b) opening an office from which legal services are offered or provided to the public;
 - (c) becoming resident;
 - (d) opening or operating a trust account, or accepting trust funds, except as permitted under clause 13.

National Registry of Practising Lawyers

18. The signatory governing bodies will establish, maintain and operate a National Registry of Practising Lawyers containing the names of lawyers from each signatory governing body qualified under clause 11 to practise law interjurisdictionally without a mobility permit or notice to the host governing body.

National Mobility Agreement 2013

19. Each signatory governing body will take all reasonable steps to ensure that all relevant information respecting its members is supplied to the Registry and is kept current and accurate.

Liability Insurance and Defalcation Compensation Funds

20. Each signatory governing body will ensure that the ongoing liability insurance in its jurisdiction
 - (a) extends to its members for the provision of legal services on a temporary basis in or with respect to the law of host signatory jurisdictions; and
 - (b) provides occurrence or claim limits of \$1,000,000 and \$2,000,000 annual per member aggregate.
21. In the event that a claim arises from a lawyer providing legal services on a temporary basis, and the closest and most real connection to the claim is with a host jurisdiction, the home governing body will provide at least the same scope of coverage as the liability insurance in the host jurisdiction. For clarity, all claims and potential claims reported under the policy will remain subject to the policy's occurrence or claim limit of \$1,000,000 and \$2,000,000 annual per member aggregate.
22. Signatory governing bodies will notify one another in writing, as soon as practicable, of any changes to their liability insurance policies that affect the limits of liability or scope of coverage.
23. Signatory governing bodies that are also signatories to the MDCA will apply or continue to apply the provisions of the MDCA respecting defalcation compensation. Signatory governing bodies that are not signatories to the MDCA will apply or continue to apply the provisions of the Interjurisdictional Practice Protocol respecting defalcation compensation, specifically clause 10 of the Protocol and Appendix 6 to the Protocol.
24. Signatory governing bodies will notify one another in writing, as soon as practicable, of any changes to their defalcation compensation fund programs that affect the limits of compensation available or the criteria for payment.

Enforcement

25. A host governing body that has reasonable grounds to believe that a member of another governing body has provided legal services in the host jurisdiction will be entitled to require that lawyer to:
 - (a) account for and verify the number of days spent providing legal services in the host jurisdiction; and
 - (b) verify that he or she has not done anything inconsistent with the provision of legal services on a temporary basis.

National Mobility Agreement 2013

26. If a lawyer fails or refuses to comply with the provisions of clause 25, a host governing body will be entitled to:
 - (a) prohibit the lawyer from providing legal services in the jurisdiction for any period of time; or
 - (b) require the lawyer to apply for membership in the host jurisdiction before providing further legal services in the jurisdiction.
27. When providing legal services in a host jurisdiction or with respect to the law of a host jurisdiction, all lawyers will be required to comply with the applicable legislation, regulations, rules and standards of professional conduct of the host jurisdiction.
28. In the event of alleged misconduct arising out of a lawyer providing legal services in a host jurisdiction, the lawyer's home governing body will:
 - (a) assume responsibility for the conduct of disciplinary proceedings against the lawyer unless the host and home governing bodies agree to the contrary; and
 - (b) consult with the host governing body respecting the manner in which disciplinary proceedings will be taken against the lawyer.
29. If a signatory governing body investigates the conduct of or takes disciplinary proceedings against a lawyer, that lawyer's home governing body or bodies, and each governing body in whose jurisdiction the lawyer has provided legal services on a temporary basis will provide all relevant information and documentation respecting the lawyer as is reasonable in the circumstances.
30. In determining the location of a hearing under clause 28, the primary considerations will be the public interest, convenience and cost.
31. A governing body that initiates disciplinary proceedings against a lawyer under clause 28 will assume full responsibility for conduct of the proceedings, including costs, subject to a contrary agreement between governing bodies.
32. In any proceeding of a signatory governing body, a duly certified copy of a disciplinary decision of another governing body concerning a lawyer found guilty of misconduct will be proof of that lawyer's guilt.

Permanent Mobility of Lawyers

33. A signatory governing body will require no further qualifications for a member of another governing body to be eligible for membership than the following:
 - (a) entitlement to practise law in the lawyer's home jurisdiction;
 - (b) good character and fitness to be a lawyer, on the standard ordinarily applied to applicants for membership; and
 - (c) any other qualifications that ordinarily apply for lawyers to be entitled to practise law in its jurisdiction.

National Mobility Agreement 2013

34. Before admitting as a member a lawyer qualified under clauses 33 to 38, a governing body will not require the lawyer to pass a transfer examination or other examination, but may require the lawyer to do all of the following:
- (a) provide certificates of standing from all Canadian and foreign governing bodies of which the lawyer is or has been a member;
 - (b) disclose criminal and disciplinary records in any jurisdiction;
 - (c) consent to access by the governing body to the lawyer's regulatory files of all governing bodies of which the lawyer is a member, whether in Canada or elsewhere; and
 - (d) certify that he or she has reviewed all of the materials reasonably required by the governing body.
35. Members of the Barreau whose legal training was obtained outside Canada and who have not had their credentials reviewed and accepted by the Barreau are not qualifying members of the Barreau for the purpose of clauses 33 to ~~38~~3940.

Public Information

36. A governing body will make available to the public information obtained under clause 34 in the same manner as similar records originating in its jurisdiction.

Liability Insurance

37. Subject to clause 40, On application, a signatory governing body other than the Barreau will, on application, exempt a lawyer from liability insurance requirements if the lawyer does the following in another signatory jurisdiction:
- (a) is resident;
 - (b) is a member of the governing body; and
 - (c) maintains ongoing liability insurance required in that jurisdiction that provides occurrence or claim limits of \$1,000,000 and \$2,000,000 annual per member aggregate.

38. For the purposes of clause 37, a lawyer who is resident in Quebec and who is a member of more than one signatory governing body other than the Barreau will be deemed resident in one of the other jurisdictions in which the lawyer is a member, as determined in accordance with nationally consistent criteria to be included in the insurance programs of all signatory jurisdictions. In the event that nationally consistent criteria are not in place, the lawyer will be deemed resident in the jurisdiction of the signatory body in which the lawyer has been a member continuously for the longest period of time.

- ~~38~~39. In the event that a claim arises from a lawyer providing legal services and the closest and most real connection to the claim is with a jurisdiction in which the lawyer has claimed an exemption under clause 37, the insurance program of the governing body in the jurisdiction where the lawyer is insured will provide at least the same scope of coverage as the liability insurance in the jurisdiction in which

National Mobility Agreement 2013

the lawyer is exempt. For clarity, all claims and potential claims reported under the policy will remain subject to the policy's occurrence or claim limit of \$1,000,000 and \$2,000,000 annual per member aggregate.

40. A lawyer who is a member of the Barreau and one or more of the other signatory governing bodies must comply with the liability insurance requirements of the Barreau and at least one of the other signatory governing bodies of which the lawyer is a member. Insurance coverage is to be provided as follows:

(a) by the professional liability insurance program of the Barreau with respect to services provided by the lawyer as a member of the Barreau;

(b) by the professional liability insurance program of a signatory governing body other than the Barreau with respect to services provided by the lawyer as a member of a signatory governing body other than the Barreau.

Temporary Mobility between Quebec and Common Law Jurisdictions

4041. The Barreau will permit lawyers entitled to practise law in a home jurisdiction, on application under regulations that apply to the Barreau, to provide legal services in Quebec or with respect to the law of Quebec on a specific case or for a specific client for a period of up to one year, which may be extended on application to the Barreau.

4142. A signatory governing body, other than the Barreau, will permit members of the Barreau to provide legal services in its jurisdiction or with respect to the law of its jurisdiction on one of the following bases:

- (a) as provided in clauses 8 to 32; or
- (b) as permitted by the Barreau in respect of the members of the signatory governing body.

Permanent Mobility of Quebec Notaries

4243. Signatory common law governing bodies will establish and maintain a program in order to grant Canadian Legal Advisor ("CLA") status to qualifying members of the Chambre.

4344. Members of the Chambre whose legal training was obtained outside Canada and who have not had their credentials reviewed and accepted by the Chambre are not qualifying members of the Chambre for the purpose of clauses 4142 to 4749.

National Mobility Agreement 2013

[4445](#). A member of the Chambre who is granted the status of CLA in any jurisdiction outside of Quebec may, in his or her capacity as a CLA:

- (a) give legal advice and consultations on legal matters involving the law of Quebec or involving matters under federal jurisdiction;
- (b) prepare and draw up a notice, motion, proceeding or similar document intended for use in a case before a judicial or quasi-judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations;
- (c) give legal advice and consultations on legal matters involving public international law; and
- (d) plead or act before a judicial or quasi-judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations.

[4546](#). A governing body will require no further qualifications for a notary to be eligible for status as a CLA beyond the following:

- (a) entitlement to practise the notarial profession in Quebec; and
- (b) good character and fitness to be a member of the legal profession, on the standard ordinarily applied to applicants for membership.

[4647](#). Before granting CLA status to a notary qualified under clauses [4442](#) to [4750](#), a governing body will not require the notary to pass a transfer examination or other examination, but may require the notary to do all of the following:

- (a) provide certificates of standing from all Canadian and foreign governing bodies of the legal profession of which the notary is or has been a member;
- (b) disclose criminal and disciplinary records in any jurisdiction; and
- (c) consent to access by the governing body to the notary's regulatory files of all governing bodies of the legal profession of which the notary is a member, whether in Canada or elsewhere.

[4748](#). A governing body will make available to the public information obtained under clause [4547](#) in the same manner as similar records originating in its jurisdiction.

[4849](#). A governing body must require that a notary who is granted the status of a CLA continue to maintain his or her practising membership in the Chambre.

[50](#). The Chambre will continue to make available to its members who are also CLAs in another jurisdiction ongoing liability insurance with minimum occurrence or claim limits for indemnity of \$1,000,000 and \$2,000,000 annual per member

| [aggregate.](#)

Inter-Jurisdictional Practice Protocol

| [4951](#). The signatory governing bodies agree that the Inter-Jurisdictional Practice Protocol will continue in effect, to the extent that it is not replaced by or inconsistent with legislation, regulation and programs adopted and implemented to give effect to this agreement.

Transition Provisions

| [5052](#). This agreement is a multi-lateral agreement, effective respecting the governing bodies that are signatories, and it does not require unanimous agreement of Canadian governing bodies.

| [5453](#). Provisions governing temporary and permanent mobility in effect at the time that a governing body becomes a signatory to this agreement will continue in effect:

- (a) with respect to all Canadian lawyers until this agreement is implemented; and
- (b) with respect to members of Canadian law societies that are not signatories to this agreement.

Withdrawal

| [5254](#). A signatory may cease to be bound by this agreement by giving each other signatory written notice of at least one clear calendar year.

| [5355](#). A signatory that gives notice under clause [5454](#) will:

- (a) immediately notify its members in writing of the effective date of withdrawal; and
- (b) require that its members who provide legal services in the jurisdiction of another signatory governing body ascertain from that governing body its requirements for inter-provincial mobility before providing legal services in that jurisdiction after the effective date of withdrawal.

National Mobility Agreement 2013

SIGNED as indicated in respect of each signatory below

LAW SOCIETY OF BRITISH COLUMBIA

Per: _____

Authorized Signatory

Date

LAW SOCIETY OF ALBERTA

Per: _____

Authorized Signatory

Date

LAW SOCIETY OF SASKATCHEWAN

Per: _____

Authorized Signatory

Date

LAW SOCIETY OF MANITOBA

Per: _____

Authorized Signatory

Date

LAW SOCIETY OF UPPER CANADA

Per: _____

Authorized Signatory

Date

National Mobility Agreement 2013

BARREAU DU QUÉBEC

Per: _____
Authorized Signatory Date

CHAMBRE DES NOTAIRES DU QUÉBEC

Per: _____
Authorized Signatory Date

LAW SOCIETY OF NEW BRUNSWICK

Per: _____
Authorized Signatory Date

NOVA SCOTIA BARRISTERS' SOCIETY

Per: _____
Authorized Signatory Date

LAW SOCIETY OF PRINCE EDWARD ISLAND

Per: _____
Authorized Signatory Date

National Mobility Agreement 2013

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Per: _____

Authorized Signatory

Date

*Federation of Law Societies
of Canada*



*Fédération des ordres professionnels
de juristes du Canada*

National Mobility Agreement 2013

National Mobility Agreement 2013

Federation of Law Societies of Canada

May, 2013
City

The purpose of this agreement is to facilitate temporary and permanent mobility of lawyers between Canadian jurisdictions.

While the signatories participate in this agreement voluntarily, they intend that only lawyers who are members of signatories that have implemented reciprocal provisions in their jurisdictions will be able to take advantage of the provisions of this agreement.

The signatories recognize that

- they have a duty to the Canadian public and to their members to regulate the inter-jurisdictional practice of law so as to ensure that their members practise law competently, ethically and with financial responsibility, including professional liability insurance and defalcation compensation coverage, in all jurisdictions of Canada,
- while differences exist in the legislation, policies and programs pertaining to the signatories, including those differences between common law and civil law jurisdictions in Canada, lawyers have a professional responsibility to ensure that they are competent with respect to any matter that they undertake, and
- it is desirable to facilitate a nationwide regulatory regime for the inter-jurisdictional practice of law to promote uniform standards and procedures, while recognizing the exclusive authority of each signatory within its own legislative jurisdiction.

Most of the signatories subscribed to the Interjurisdictional Practice Protocol of 1994, in which they agreed to certain measures to facilitate the temporary and permanent inter-jurisdictional practice of law and the enforcement of appropriate standards on lawyers practising law in host jurisdictions.

Since December 2002, all provincial law societies, other than the Chambre des notaires du Quebec ("Chambre"), have signed the National Mobility Agreement ("NMA") establishing a comprehensive mobility regime for Canadian lawyers.

In 2006 all law societies other than the Chambre, signed the Territorial Mobility Agreement. Under that agreement, provisions were mandated for reciprocal permanent mobility between the law societies of the territories and the provinces for five years. A further agreement made in November 2011 renewed the Territorial Mobility Agreement without a termination date.

National Mobility Agreement 2013

In June 2008 Quebec enacted a “Regulation respecting the issuance of special permits of the Barreau du Quebec” (“Barreau”), which provided, inter alia, that a member in good standing of a bar of another Canadian province or territory could become a member of the Barreau known as a “Canadian legal advisor” (“CLA”). A CLA may provide legal services respecting the law of federal jurisdiction, the law of his or her home province and public international law.

In March 2010 all law societies, other than the Chambre, signed the Quebec Mobility Agreement (“QMA”). Under that agreement members of the Barreau are able to exercise mobility in the common law jurisdictions on a reciprocal basis as CLAs.

In June 2010 the Council of the Federation approved the Mobility Defalcation Compensation Agreement (“MDCA”) to bring more consistency, certainty and transparency to the process for compensating the public if funds are misappropriated by lawyers exercising their mobility rights under the NMA. Since then, all provincial law societies, other than the Barreau and the Chambre, have signed the MDCA.

In March 2012 all law societies, including the Chambre, signed an addendum to the Quebec Mobility Agreement extending to members of the Chambre the right to acquire CLA status in another province.

In January 2013, the Council of the Federation of Law Societies approved a report from the National Mobility Policy Committee. In that report, the Committee concluded and recommended that it would be in the public interest to implement mobility to and from the Barreau on the same terms as now apply to mobility between common law jurisdictions under the permanent mobility provisions of the NMA. The Committee also reported that the CLA provisions of the QMA and its Addendum should continue in place with respect to members of the Chambre, and the Chambre was in favour of that resolution. The Committee’s report and recommendations do not affect the current rules for temporary mobility between Quebec and other provinces and the territories.

As a result, the signatories hereby agree to adopt this new National Mobility Agreement, 2013 (“NMA 2013”), changing the original NMA to remove the distinction between members of the Barreau and members of law societies outside of Quebec for the purposes of transfer between governing bodies. The signatories also agree to incorporate into the NMA 2013 the provisions for members of the Chambre to be granted status as CLAs by law societies outside of Quebec and to rescind the QMA and its Addendum.

THE SIGNATORIES AGREE AS FOLLOWS:

Definitions

1. In this agreement, unless the context indicates otherwise:

“Barreau” means le Barreau du Québec;

“Chambre” means la Chambre des notaires du Québec;

“day” means any calendar day or part of a calendar day in which a lawyer provides legal services;

“discipline” includes a finding by a governing body of any of the following:

- (a) professional misconduct;
- (b) incompetence;
- (c) conduct unbecoming a lawyer;
- (d) lack of physical or mental capacity to engage in the practice of law;
- (e) any other breach of a lawyer’s professional responsibilities;

“disciplinary record” includes any of the following, unless reversed on appeal or review:

- (a) any action taken by a governing body as a result of discipline;
- (b) disbarment;
- (c) a lawyer’s resignation or otherwise ceasing to be a member of a governing body as a result of disciplinary proceedings;
- (d) restrictions or limits on a lawyer’s entitlement to practise;
- (e) any interim suspension or restriction or limits on a lawyer’s entitlement to practise imposed pending the outcome of a disciplinary hearing.

“entitled to practise law” means allowed, under all of the legislation and regulation of a home jurisdiction, to engage in the practice of law in the home jurisdiction;

“governing body” means the Law Society or Barristers’ Society in a Canadian common law jurisdiction, the Barreau and the Chambre;

“home governing body” means any or all of the governing bodies of the legal profession in Canada of which a lawyer is a member, and “home

National Mobility Agreement 2013

jurisdiction” has a corresponding meaning;

“host governing body” means a governing body of the legal profession in Canada in whose jurisdiction a lawyer practises law without being a member, and “host jurisdiction” has a corresponding meaning;

“Inter-Jurisdictional Practice Protocol” means the 1994 Inter-Jurisdictional Practice Protocol of the Federation of Law Societies of Canada, as amended from time to time;

“lawyer” means a member of a signatory governing body, other than the Chambre;

“liability insurance” means compulsory professional liability errors and omissions insurance required by a governing body;

“mobility permit” means a permit issued by a host governing body on application to a lawyer allowing the lawyer to provide legal services in the host jurisdiction on a temporary basis;

“notary” means a member of the Chambre;

“practice of law” has the meaning with respect to each jurisdiction that applies in that jurisdiction;

“providing legal services” means engaging in the practice of law physically in a Canadian jurisdiction or with respect to the law of a Canadian jurisdiction;

“Registry” means the National Registry of Practising Lawyers established under clause 18 of this agreement;

“resident” has the meaning respecting a province or territory that it has with respect to Canada in the *Income Tax Act* (Canada).

General

2. The signatories agree to adopt this agreement as a replacement for the National Mobility Agreement of 2002, the Quebec Mobility Agreement of 2010 and the Addendum to the Quebec Mobility Agreement of 2012, all of which are revoked by consent.
3. The signatory governing bodies will
 - (a) use their best efforts to obtain from the appropriate legislative or supervisory bodies amendments to their legislation or regulations necessary or advisable in order to implement the provisions of this agreement;
 - (b) amend their own rules, by-laws, policies and programs to the extent they consider necessary or advisable in order to implement the provisions of this agreement;

National Mobility Agreement 2013

- (c) comply with the spirit and intent of this agreement to facilitate mobility of Canadian lawyers in the public interest and strive to resolve any differences among them in that spirit and in favour of that intent; and
 - (d) work cooperatively to resolve all current and future differences and ambiguities in legislation, policies and programs regarding inter-jurisdictional mobility.
- 4. Signatory governing bodies will subscribe to this agreement and be bound by it by means of the signature of an authorized person affixed to any copy of this agreement.
- 5. A signatory governing body will not, by reason of this agreement alone,
 - (a) grant to a lawyer who is a member of another governing body greater rights to provide legal services than are permitted to the lawyer by his or her home governing body; or
 - (b) relieve a lawyer of restrictions or limits on the lawyer's right to practise, except under conditions that apply to all members of the signatory governing body.
- 6. Amendments made under clause 3(b) will take effect immediately on adoption with respect to members of signatory governing bodies that have adopted reciprocal provisions.

Temporary Mobility Among Common Law Jurisdictions

- 7. Clauses 8 to 32 apply to temporary mobility of lawyers of common law jurisdictions in other common law jurisdictions.

Mobility without permit

- 8. A host governing body will allow a lawyer from another jurisdiction to provide legal services in the host jurisdiction or with respect to the law of the host jurisdiction on a temporary basis, without a mobility permit or notice to the host governing body, for a total of not more than 100 days in a calendar year, provided the lawyer:
 - (a) meets the criteria in clause 11; and
 - (b) has not established an economic nexus with the host jurisdiction as described in clause 17.
- 9. The host governing body will have the discretion to extend the time limit for temporary mobility under clause 8 with respect to an individual lawyer.

National Mobility Agreement 2013

10. It will be the responsibility of a lawyer to
 - (a) record and verify the number of days in which he or she provides legal services in a host jurisdiction(s) or with respect to each jurisdiction; and
 - (b) prove that he or she has complied with provisions implementing clause 8.
11. To qualify to provide legal services on a temporary basis without a mobility permit or notice to the host governing body under clause 8, a lawyer will be required to do each of the following at all times:
 - (a) be entitled to practise law in a home jurisdiction;
 - (b) carry liability insurance that:
 - (i) is reasonably comparable in coverage and amount to that required of lawyers of the host jurisdiction; and
 - (ii) extends to the lawyer's practice in the host jurisdiction;
 - (c) have defalcation compensation coverage from a Canadian governing body that extends to the lawyer's practice in the host jurisdiction;
 - (d) not be subject to conditions of or restrictions on the lawyer's practice or membership in the governing body in any jurisdiction;
 - (e) not be the subject of criminal or disciplinary proceedings in any jurisdiction; and
 - (f) have no disciplinary record in any jurisdiction.
12. For the purposes of clause 8:
 - (a) a lawyer practising law of federal jurisdiction in a host jurisdiction will be providing legal services in the host jurisdiction;
 - (b) as an exception to subclause (a), when appearing before the following tribunals in a host jurisdiction a lawyer will not be providing legal services in a host jurisdiction:
 - (i) the Supreme Court of Canada;
 - (ii) the Federal Court of Canada;
 - (iii) the Tax Court of Canada;
 - (iv) a federal administrative tribunal.
13. A host jurisdiction will allow a lawyer to accept funds in trust on deposit, provided the funds are deposited to a trust account:
 - (a) in the lawyer's home jurisdiction; or
 - (b) operated in the host jurisdiction by a member of the host governing body.

Mobility permit required

14. If a lawyer does not meet the criteria in clause 11 to provide legal services in the host jurisdiction or with respect to the law of the host jurisdiction on a temporary basis, a host governing body will issue a mobility permit to the lawyer:
- (a) on application;
 - (b) if, in the complete discretion of the host governing body, it is consistent with the public interest to do so;
 - (c) for a total of not more than 100 days in a calendar year; and
 - (d) subject to any conditions and restrictions that the host governing body considers appropriate.

Temporary mobility not allowed

15. A host governing body will not allow a lawyer who has established an economic nexus with the host jurisdiction to provide legal services on a temporary basis under clause 8, but will require the lawyer to do one of the following:
- (a) cease providing legal services in the host jurisdiction forthwith;
 - (b) apply for and obtain membership in the host governing body; or
 - (c) apply for and obtain a mobility permit under clause 14.
16. On application, the host governing body will have the discretion to allow a lawyer to continue to provide legal services in the host jurisdiction or with respect to the law of the host jurisdiction pending consideration of an application under clause 15(b) or (c).
17. In clause 15, an economic nexus is established by actions inconsistent with temporary mobility to the host jurisdiction, including but not limited to doing any of the following in the host jurisdiction:
- (a) providing legal services beyond 100 days, or longer period allowed under clause 9;
 - (b) opening an office from which legal services are offered or provided to the public;
 - (c) becoming resident;
 - (d) opening or operating a trust account, or accepting trust funds, except as permitted under clause 13.

National Registry of Practising Lawyers

18. The signatory governing bodies will establish, maintain and operate a National Registry of Practising Lawyers containing the names of lawyers from each signatory governing body qualified under clause 11 to practise law interjurisdictionally without a mobility permit or notice to the host governing body.

National Mobility Agreement 2013

19. Each signatory governing body will take all reasonable steps to ensure that all relevant information respecting its members is supplied to the Registry and is kept current and accurate.

Liability Insurance and Defalcation Compensation Funds

20. Each signatory governing body will ensure that the ongoing liability insurance in its jurisdiction
 - (a) extends to its members for the provision of legal services on a temporary basis in or with respect to the law of host signatory jurisdictions; and
 - (b) provides occurrence or claim limits of \$1,000,000 and \$2,000,000 annual per member aggregate.
21. In the event that a claim arises from a lawyer providing legal services on a temporary basis, and the closest and most real connection to the claim is with a host jurisdiction, the home governing body will provide at least the same scope of coverage as the liability insurance in the host jurisdiction. For clarity, all claims and potential claims reported under the policy will remain subject to the policy's occurrence or claim limit of \$1,000,000 and \$2,000,000 annual per member aggregate.
22. Signatory governing bodies will notify one another in writing, as soon as practicable, of any changes to their liability insurance policies that affect the limits of liability or scope of coverage.
23. Signatory governing bodies that are also signatories to the MDCA will apply or continue to apply the provisions of the MDCA respecting defalcation compensation. Signatory governing bodies that are not signatories to the MDCA will apply or continue to apply the provisions of the Interjurisdictional Practice Protocol respecting defalcation compensation, specifically clause 10 of the Protocol and Appendix 6 to the Protocol.
24. Signatory governing bodies will notify one another in writing, as soon as practicable, of any changes to their defalcation compensation fund programs that affect the limits of compensation available or the criteria for payment.

Enforcement

25. A host governing body that has reasonable grounds to believe that a member of another governing body has provided legal services in the host jurisdiction will be entitled to require that lawyer to:
 - (a) account for and verify the number of days spent providing legal services in the host jurisdiction; and
 - (b) verify that he or she has not done anything inconsistent with the provision of legal services on a temporary basis.

National Mobility Agreement 2013

26. If a lawyer fails or refuses to comply with the provisions of clause 25, a host governing body will be entitled to:
 - (a) prohibit the lawyer from providing legal services in the jurisdiction for any period of time; or
 - (b) require the lawyer to apply for membership in the host jurisdiction before providing further legal services in the jurisdiction.
27. When providing legal services in a host jurisdiction or with respect to the law of a host jurisdiction, all lawyers will be required to comply with the applicable legislation, regulations, rules and standards of professional conduct of the host jurisdiction.
28. In the event of alleged misconduct arising out of a lawyer providing legal services in a host jurisdiction, the lawyer's home governing body will:
 - (a) assume responsibility for the conduct of disciplinary proceedings against the lawyer unless the host and home governing bodies agree to the contrary; and
 - (b) consult with the host governing body respecting the manner in which disciplinary proceedings will be taken against the lawyer.
29. If a signatory governing body investigates the conduct of or takes disciplinary proceedings against a lawyer, that lawyer's home governing body or bodies, and each governing body in whose jurisdiction the lawyer has provided legal services on a temporary basis will provide all relevant information and documentation respecting the lawyer as is reasonable in the circumstances.
30. In determining the location of a hearing under clause 28, the primary considerations will be the public interest, convenience and cost.
31. A governing body that initiates disciplinary proceedings against a lawyer under clause 28 will assume full responsibility for conduct of the proceedings, including costs, subject to a contrary agreement between governing bodies.
32. In any proceeding of a signatory governing body, a duly certified copy of a disciplinary decision of another governing body concerning a lawyer found guilty of misconduct will be proof of that lawyer's guilt.

Permanent Mobility of Lawyers

33. A signatory governing body will require no further qualifications for a member of another governing body to be eligible for membership than the following:
 - (a) entitlement to practise law in the lawyer's home jurisdiction;
 - (b) good character and fitness to be a lawyer, on the standard ordinarily applied to applicants for membership; and
 - (c) any other qualifications that ordinarily apply for lawyers to be entitled to practise law in its jurisdiction.

National Mobility Agreement 2013

34. Before admitting as a member a lawyer qualified under clauses 33 to 38, a governing body will not require the lawyer to pass a transfer examination or other examination, but may require the lawyer to do all of the following:
- (a) provide certificates of standing from all Canadian and foreign governing bodies of which the lawyer is or has been a member;
 - (b) disclose criminal and disciplinary records in any jurisdiction;
 - (c) consent to access by the governing body to the lawyer's regulatory files of all governing bodies of which the lawyer is a member, whether in Canada or elsewhere; and
 - (d) certify that he or she has reviewed all of the materials reasonably required by the governing body.
35. Members of the Barreau whose legal training was obtained outside Canada and who have not had their credentials reviewed and accepted by the Barreau are not qualifying members of the Barreau for the purpose of clauses 33 to 40.

Public Information

36. A governing body will make available to the public information obtained under clause 34 in the same manner as similar records originating in its jurisdiction.

Liability Insurance

37. Subject to clause 40, a signatory governing body other than the Barreau will, on application, exempt a lawyer from liability insurance requirements if the lawyer does the following in another signatory jurisdiction:
- (a) is resident;
 - (b) is a member of the governing body; and
 - (c) maintains ongoing liability insurance required in that jurisdiction that provides occurrence or claim limits of \$1,000,000 and \$2,000,000 annual per member aggregate.
38. For the purposes of clause 37, a lawyer who is resident in Quebec and who is a member of more than one signatory governing body other than the Barreau will be deemed resident in one of the other jurisdictions in which the lawyer is a member, as determined in accordance with nationally consistent criteria to be included in the insurance programs of all signatory jurisdictions. In the event that nationally consistent criteria are not in place, the lawyer will be deemed resident in the jurisdiction of the signatory body in which the lawyer has been a member continuously for the longest period of time.
39. In the event that a claim arises from a lawyer providing legal services and the closest and most real connection to the claim is with a jurisdiction in which the lawyer has claimed an exemption under clause 37, the insurance program of the governing body in the jurisdiction where the lawyer is insured will provide at least the same scope of coverage as the liability insurance in the jurisdiction in which

National Mobility Agreement 2013

the lawyer is exempt. For clarity, all claims and potential claims reported under the policy will remain subject to the policy's occurrence or claim limit of \$1,000,000 and \$2,000,000 annual per member aggregate.

40. A lawyer who is a member of the Barreau and one or more of the other signatory governing bodies must comply with the liability insurance requirements of the Barreau and at least one of the other signatory governing bodies of which the lawyer is a member. Insurance coverage is to be provided as follows:
 - (a) by the professional liability insurance program of the Barreau with respect to services provided by the lawyer as a member of the Barreau;
 - (b) by the professional liability insurance program of a signatory governing body other than the Barreau with respect to services provided by the lawyer as a member of a signatory governing body other than the Barreau.

Temporary Mobility between Quebec and Common Law Jurisdictions

41. The Barreau will permit lawyers entitled to practise law in a home jurisdiction, on application under regulations that apply to the Barreau, to provide legal services in Quebec or with respect to the law of Quebec on a specific case or for a specific client for a period of up to one year, which may be extended on application to the Barreau.
42. A signatory governing body, other than the Barreau, will permit members of the Barreau to provide legal services in its jurisdiction or with respect to the law of its jurisdiction on one of the following bases:
 - (a) as provided in clauses 8 to 32; or
 - (b) as permitted by the Barreau in respect of the members of the signatory governing body.

Permanent Mobility of Quebec Notaries

43. Signatory common law governing bodies will establish and maintain a program in order to grant Canadian Legal Advisor ("CLA") status to qualifying members of the Chambre.
44. Members of the Chambre whose legal training was obtained outside Canada and who have not had their credentials reviewed and accepted by the Chambre are not qualifying members of the Chambre for the purpose of clauses 42 to 49.

National Mobility Agreement 2013

45. A member of the Chambre who is granted the status of CLA in any jurisdiction outside of Quebec may, in his or her capacity as a CLA:
- (a) give legal advice and consultations on legal matters involving the law of Quebec or involving matters under federal jurisdiction;
 - (b) prepare and draw up a notice, motion, proceeding or similar document intended for use in a case before a judicial or quasi-judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations;
 - (c) give legal advice and consultations on legal matters involving public international law; and
 - (d) plead or act before a judicial or quasi-judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations.
46. A governing body will require no further qualifications for a notary to be eligible for status as a CLA beyond the following:
- (a) entitlement to practise the notarial profession in Quebec; and
 - (b) good character and fitness to be a member of the legal profession, on the standard ordinarily applied to applicants for membership.
47. Before granting CLA status to a notary qualified under clauses 42 to 50, a governing body will not require the notary to pass a transfer examination or other examination, but may require the notary to do all of the following:
- (a) provide certificates of standing from all Canadian and foreign governing bodies of the legal profession of which the notary is or has been a member;
 - (b) disclose criminal and disciplinary records in any jurisdiction; and
 - (c) consent to access by the governing body to the notary's regulatory files of all governing bodies of the legal profession of which the notary is a member, whether in Canada or elsewhere.
48. A governing body will make available to the public information obtained under clause 47 in the same manner as similar records originating in its jurisdiction.
49. A governing body must require that a notary who is granted the status of a CLA continue to maintain his or her practising membership in the Chambre.
50. The Chambre will continue to make available to its members who are also CLAs in another jurisdiction ongoing liability insurance with minimum occurrence or claim limits for indemnity of \$1,000,000 and \$2,000,000 annual per member

aggregate.

Inter-Jurisdictional Practice Protocol

51. The signatory governing bodies agree that the Inter-Jurisdictional Practice Protocol will continue in effect, to the extent that it is not replaced by or inconsistent with legislation, regulation and programs adopted and implemented to give effect to this agreement.

Transition Provisions

52. This agreement is a multi-lateral agreement, effective respecting the governing bodies that are signatories, and it does not require unanimous agreement of Canadian governing bodies.
53. Provisions governing temporary and permanent mobility in effect at the time that a governing body becomes a signatory to this agreement will continue in effect:
- (a) with respect to all Canadian lawyers until this agreement is implemented; and
 - (b) with respect to members of Canadian law societies that are not signatories to this agreement.

Withdrawal

54. A signatory may cease to be bound by this agreement by giving each other signatory written notice of at least one clear calendar year.
55. A signatory that gives notice under clause 54 will:
- (a) immediately notify its members in writing of the effective date of withdrawal; and
 - (b) require that its members who provide legal services in the jurisdiction of another signatory governing body ascertain from that governing body its requirements for inter-provincial mobility before providing legal services in that jurisdiction after the effective date of withdrawal.

National Mobility Agreement 2013

SIGNED as indicated in respect of each signatory below

LAW SOCIETY OF BRITISH COLUMBIA

Per: _____

Authorized Signatory

Date

LAW SOCIETY OF ALBERTA

Per: _____

Authorized Signatory

Date

LAW SOCIETY OF SASKATCHEWAN

Per: _____

Authorized Signatory

Date

LAW SOCIETY OF MANITOBA

Per: _____

Authorized Signatory

Date

LAW SOCIETY OF UPPER CANADA

Per: _____

Authorized Signatory

Date

National Mobility Agreement 2013

BARREAU DU QUÉBEC

Per: _____
Authorized Signatory Date

CHAMBRE DES NOTAIRES DU QUÉBEC

Per: _____
Authorized Signatory Date

LAW SOCIETY OF NEW BRUNSWICK

Per: _____
Authorized Signatory Date

NOVA SCOTIA BARRISTERS' SOCIETY

Per: _____
Authorized Signatory Date

LAW SOCIETY OF PRINCE EDWARD ISLAND

Per: _____
Authorized Signatory Date

National Mobility Agreement 2013

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Per: _____

Authorized Signatory

Date



Report to Convocation June 27, 2013

Benchers Election Working Group

Working Group Members:

Derry Millar (Chair)

Constance Backhouse

Julian Falconer

Janet Leiper

Susan Richer

James Scarfone

Purpose of Report: Decision and Information

**Prepared by the Policy Secretariat
(Jim Varro 416-947-3434)**

TERMS OF REFERENCE AND COMMITTEE PROCESS

1. The Benchers Election Working Group, established in June 2011 to review the benchers election process, has held seven meetings and reviewed a number of issues. This report includes proposals for reforms to the election process and information on matters the Working Group is proposing be pursued.

PROPOSED REFORMS TO THE BENCHER ELECTION PROCESS

Motion

- 2. That Convocation approve the following recommendations:**

Recommendation 1

That Convocation approve a reduction in the number of nominators required for a bencher candidate from at least ten to at least five nominators.

Recommendation 2

That Convocation approve a requirement that a candidate's biographical information submitted with the nomination form include an e-mail address for the candidate.

Recommendation 3

That Convocation approve a reduction in the maximum number of words in a candidate's election statement from 700 words to 350 words.

Recommendation 4

That Convocation approve changes in the following dates:

- a. the date for the qualification of electors as eligible voters in the election (freezing of the voters list) from the fourth Friday in March in an election year to the first Friday in April; and**
- b. the date for the preparation of the polling list of eligible voters in the election from on or shortly after the first Monday after the fourth Friday in March in an election year to on or shortly after the next Monday in April after the first Friday in April in an election year.**

Recommendation 5

That Convocation approve that election materials described in By-Law 3 and prepared by the Law Society shall be distributed to voters electronically by e-mail subject to individual accommodation requests under the *Human Rights Code* for materials in alternate format.

Recommendation 6

That Convocation approve a call for input on a proposal, as set out this report, to modify the regional bencher election scheme.

INTRODUCTION

3. The Bencher Election Working Group was established in June 2011 to review the bencher election process and in particular, issues that arose during the 2011 election that related to:
 - a. the nomination process;
 - b. candidacy and the region specified for election;
 - c. the length of the election period, including the voting period;
 - d. information on the progress of voting;
 - e. campaign materials and methods;
 - f. distribution of and access to the e-mail to launch voting; and
 - g. accommodation issues relating to online voting.
4. The Working Group also agreed to consider relevant issues arising from the September 2011 Bencher Planning Session. This included reviewing the regional bencher designation in bencher elections.
5. This report includes proposals for reforms to the election process requiring Convocation's decision on a number of these issues. Convocation's approval of the

changes in Recommendations 1 through will require amendments to By-Law 3.¹ The report also includes information on other matters that the Working Group reviewed and matters that it is considering to enhance various aspects of the election process.

6. As a final matter, the report presents a proposal on which the Working Group wishes to consult. The proposal is a modification to the regional bencher election scheme.

MATTERS REQUIRING DECISION

The Nomination Process and Candidacy

The Form of Nomination

7. In the 2011 election, a number of issues arose relating to proper completion of the nomination forms. These issues required communication, at times extensive, with the candidates or nominators. For example, signatures of the nominators appeared in the wrong place and some municipal locations were missing.
8. While a redesigned form will remedy many of these issues, the Working Group also agreed that a reduction in the number of nominators would simplify the process.
9. Currently, By-Law 3 requires at least 10 nominators for each candidate. The Working Group determined that a smaller number would be no more or less effective than ten nominators for the purpose of supporting a person as a candidate, and proposes that the number be reduced to five nominators. The other requirements – that the nominators be lawyer licensees whose licences are not suspended and be required to sign the form – would not change.

Recommendation 1:

That Convocation approve a reduction in the number of nominators required for a bencher candidate from at least ten to at least five nominators.

¹ The relevant part of By-Law 3 is at [Tab 6.1](#).

The Biographical and Elections Statements for the Voting Guide

10. Many candidates include an e-mail address in their biographical statement published in the Voting Guide. The Working Group believes that this should form an essential part of the statement as a means for voters to easily communicate, if desired, with a candidate. As such, the Working Group proposes that if a candidate provides a biographical statement, the candidate should be required to include an e-mail address in the statement.

Recommendation 2:

That Convocation approve a requirement that a candidate's biographical information submitted with the nomination form include an e-mail address for the candidate.

11. The permitted length of the biographical statement, which under By-Law 3 is up to 120 words, appears to be appropriate in the Working Group's view.
12. However, the Working Group believes that the maximum length of the election statement to be published in the Voting Guide, currently 700 words, should be revised to be half its length (350 words).
13. The primary reason for proposing this change is to improve the accessibility of this information about candidates. A shorter statement accompanied by a reformatted page in the Voting Guide, viewed on a computer screen or other device such as an iPad, will make it easier for voters to review the statements.
14. In addition, hyperlinks in election statements will now be permitted and will give candidates the option of directing voters to much more extensive information about a candidate than could be provided in the election statement, even in its prior length. For many candidates, the statement in the Voting Guide has become only one part of campaign communications that may include a variety of other and creative ways to communicate about the candidate's qualifications, views or opinions.

15. Other anticipated benefits to the change include the following:
 - a. A shorter message should prompt precision and conciseness in the statements, and focus candidates on key messages; and
 - b. It would increase the efficiency and timeliness of preparation of the Voting Guide for electronic publication.

Recommendation 3:

That Convocation approve a reduction in the maximum number of words in a candidate's election statement from 700 words to 350 words.

Length of the Voting Period

16. The Working Group considered the online voting process in the context of the current 25-day – nearly four-week - voting period. The Working Group acknowledged that this extensive period was arranged for a time when voting was by means of paper ballots which were mailed to voters and returned by mail for counting.
17. Given the electronic platform now used for the election, the ease and instantaneous nature of voting online and the use of electronic campaign strategies, the Working Group determined that a somewhat shorter period for voting would be appropriate.
18. While a reasonable time for voting is needed to provide sufficient time for thoughtful voting, the Working Group thought that too long a period may actually work against encouraging higher voter turnout, as voters may forget to vote or pay little attention due to the passage of time. A longer period may also work against candidates if voters feel they are being inundated with e-mails or other material – campaign 'fatigue' may set in. Finally, a shorter period might also mitigate the cost of a candidate's campaign as the period for campaigning is reduced.

19. The Working Group proposes that the voting period should be shortened by about one-third, on the basis that a more concentrated voting period may increase voter engagement and turnout and focus attention.
20. The current period to vote, usually beginning on the first Monday in April and ending the Friday in the fourth week thereafter, would be reduced to 19 days. The Voting Guide could be made available, as it was during the last election, in advance of the opening of voting. Reminders to vote and votes to date could be sent during the period, as they were last election.

Recommendation 4:

That Convocation approve changes in the following dates:

- a. **the date for the qualification of electors as eligible voters in the election (freezing of the voters list) from the fourth Friday in March in an election year to the first Friday in April; and**
- b. **the date for the preparation of the polling list of eligible voters in the election from on or shortly after the first Monday after the fourth Friday in March in an election year to on or shortly after the next Monday in April after the first Friday in April in an election year.**

Distribution of Voting Materials

21. In October 2010, Convocation agreed that beginning in 2011, the election materials for a bencher election will be distributed to voters electronically. This is the most cost-effective means of running this type of election.
22. An amendment to the motion at Convocation added “provided that members who request the materials in paper form shall receive them in paper form”. Following the

election, it was determined that approximately 36 copies of the paper materials were requested.² The number of voters in the last election was 15,592.

23. The election materials include voting information/instructions, candidates' photographs, biographies and election statements, and the ballot. The electronic Voting Guide produced by the Law Society, which incorporates the voting information/instructions, photographs, biographies and statements, resides on the Law Society's website and the voting site created by the third party provider for the election. The Voting Guide can be printed, in whole or in part.
24. This feature accompanied by the extremely low number of requests last election has prompted the Working Group to propose that the materials only be distributed electronically by use of e-mail, subject to the necessity of accommodating individual voters in accordance with human rights legislation with respect to both the Voting Guide and ballot in alternate form.

Recommendation 5:

That Convocation approve that election materials described in By-Law 3 and prepared by the Law Society shall be distributed to voters electronically by e-mail subject to individual accommodation requests under the *Human Rights Code* for materials in alternate format.

OTHER MATTERS

Campaign Spending

25. Early in its review, the Working Group decided to consider the issue of campaign spending, and in particular, whether it should be regulated by imposition of a limit on spending.

² As the volume of requests could not be predicted with certainty, seventy-five hundred (7500) copies were printed.

26. The Working Group reviewed previous reports on the issue that dated from 2006, including a survey of candidates in the 2007 election on their campaign activities and spending, if any. These reports were presented through the Equity and Aboriginal Issues Committee.
27. While the reports provide useful information and included some recommendations, ultimately there was no decision by Convocation to impose spending limits. The last report, in 2008, suggested that the survey results should inform work on this subject in future bencher elections and that data from the annual reports on the new question of consent for use of e-mail for bencher election campaign purposes should be analyzed and used in developing future strategies to ensure a fair process.
28. The survey results did not show a correlation between success in the election and campaign spending. However, the Working Group accepts that, to the extent that large amounts are spent by a candidate on a campaign, the evidence of which is anecdotal, concerns over potential inequities in the bencher election process can arise as candidates with limited means may be at a perceived disadvantage.
29. The Working Group spent considerable time discussing the issue. Matters discussed included the following:
 - a. the lack of evidence to determine whether to impose limits;
 - b. whether there was a need or desire to ask candidates again what they have spent; in this respect, the Working Group discussed whether another survey was desirable, and whether the survey results would be of use;
 - c. the fact that the current data does not lead to the conclusion that there is a correlation between campaign spending and success or failure as a candidate.

30. While the Working Group acknowledged that another survey would provide data that could be examined on this issue, the conclusion was that there was no pressing need at this stage to mount another survey.
31. After considering the issue, the consensus was that a spending limit should not be imposed, for the following reasons:
 - a. The problem with defining an appropriate limit;
 - b. The lack of any real mischief; and
 - c. The cost of ensuring compliance.
32. The Working Group is also considering ways in which the Law Society could assist candidates, at little or no cost, with campaigning, in addition to the existing process of preparing and publishing the Voting Guide.
33. In the Working Group's view, ensuring to the extent possible a level field for both incumbents and new candidates is important. The election process should not be prohibitively expensive for any candidate, but the Working Group understands that what is spent is a personal choice and that no one is required to spend even a nominal amount. The Working Group did not see spending limits imposed or enforced by the Law Society as being a necessary feature of a fair election process.

Partnering with Legal Organizations or Other External Organizations in Campaign Strategies

34. Based on feedback the Elections Officer received during the last election, the Working Group considered that there may be interest on the part of legal organizations or associations in assisting a candidate with a campaign.
35. The Working Group thought it worth exploring how to facilitate the ability of candidates to take advantage of offers from law and legal associations to distribute campaign messages on the associations' bulk e-mails or list serves.

36. One idea is to have the Law Society request information from the associations about their methods or means of distribution of candidate information in advance of the election and publish a list of the organizations and what they offer in the *Ontario Reports* for the benefit of any candidates who wish to access it.
37. In this way, the Law Society can make candidates aware of ways in which to reach the electorate through other organizations' communication initiatives.
38. The Working Group had other suggestions that it determined would be best left to the Elections Officer to pursue if feasible, for example:
 - a. using the network of country libraries as a place where the Voting Guides could be made available electronically and accessed by the local bar;
 - b. exploring increased use of social media in the election process.

Encouraging the Vote

39. An issue with which the Law Society has struggled for several years is how to increase the voter turnout in the benchers election. The percentage of eligible voters who voted in the last few elections is below 40%. Given that result, the Working Group believes that there is a need to continue to consider appropriate ways to encourage licensees to vote.
40. Currently, there are comprehensive and frequent communications that announce the benchers election and accompany its progress from the close of nominations through to the results. In the last two elections, dedicated efforts by the Treasurer, benchers and staff to increase awareness around the process involved travel to a number of locations in advance of the opening of voting to meet with members of the local bar, encourage candidates to run and encourage voters to vote.

41. The Working Group spent considerable time discussing methods of encouraging the vote.
42. The Working Group consulted with Diana Miles, the Director of Professional Development and Competence, on the concept of a Continuing Professional Development session that would be designed for accredited professionalism hours. A program could be designed that would integrate elements of professionalism – for example, civility, practice management and professional responsibility – with concepts of self-regulation, governance and the Law Society as regulator.
43. The Working Group plans to continue its discussions and work towards a one hour accredited program as described.
44. The Working Group spent some time considering other matters related to increasing awareness about the benchers election. The issues included:
 - a. considering means such as incentives for members to vote,
 - b. how to take greater advantage of technology to increase the accessibility of information voters need to make informed choices about candidates,
 - c. ways to assist candidates with election campaigns by means that would be available to all candidates at little or no cost.
45. The Working Group will continue its exploration of these and related issues and report on the results of its review in the months ahead.

Receipt of the Nomination Form

46. The manner in which the completed nomination form is submitted to the Elections Officer required a level of management during the 2011 election.
47. Under By-Law 3, the Elections Officer is required to establish and publish procedures including, *inter alia*, for the nomination process. The procedures published for the

2011 and previous elections required receipt of the *original* signed nomination form prior to the close of nominations. This is not a By-Law requirement but is a matter decided at the discretion of the Elections Officer within the requirements of the By-Law.³

48. While the majority of candidates meet this requirement, near the end of the nomination period, it is not unusual for the Elections Officer to receive faxed or scanned/e-mailed copies of the form to ensure the deadline is met, with a promise that the original form is “on its way” and will be received before the deadline.
49. The Working Group considered the risks associated with accepting faxed or scanned copies of the nomination form, and concluded that they were no greater than those that might be associated with receipt by mail of the original form. As long as the form is legible and properly completed, and received before the close of nominations, the view is that it should not matter how it is submitted.
50. The Working Group is of the view that the procedures published by the Elections Officer as a matter of discretion may include provision for receipt of a faxed or scanned nomination form provided that the original form is submitted if requested by the Elections Officer.

The Voting Interface

51. The Working Group considered improvements that could be made to make voting in the election easier.

³ The following subsections of section 8 of By-Law 3 deal with the nomination form:

Nomination form

(4) The nomination of a candidate and the candidate’s consent to the nomination shall be contained in a nomination form provided by the Society.

Signatures

(5) The nomination form shall be signed by the candidate and the ten licensees who are nominating the candidate.

Due date

(6) The nomination form must be received in the office of the Elections Officer at Osgoode Hall before the close of nominations.

52. One suggestion is that the voter interface on the site be improved by increasing the interplay between the information in the Voting Guide and the ballot. For example, a link from the name of the candidate on the ballot to the candidate's page in the Voting Guide could be created.
53. The Working Group encourages innovations and improvements to the voting site that will assist voters with their information needs.
54. Based on feedback provided to the Elections Officer post-election, the Working Group determined that more attention needs to be paid to accommodation for voters who are visually impaired, noting the experience that one legally blind voter had in unsuccessfully attempting to view the voting website.

Communications Around the Start of Voting

55. The 2011 bencher election was first election to be held almost completely online. This process included an e-mail to all voters from the election provider, Computershare, to indicate that the voting site was open. Difficulty in receipt of the e-mail was experienced by some firms when e-mail filters at the firms classified the messages as spam. The problem was resolved within the first couple of days of the voting period, but this was instructive for the Law Society.
56. For the next election, the Law Society will ensure that this issue is addressed prior to the start of voting, including appropriate communication to voters about messaging from the provider to begin voting.

MATTER FOR CONSULTATION

The Regional Bencher Election Scheme

57. The Working Group reviewed the scheme for the election of regional benchers, which was an issue identified at the Bencher Planning Session in September 2011.

58. This scheme ensures that at least one benchers will be elected in each of the eight regions in the province. This is accomplished through election of the regional benchers, who is the candidate in each region who receives the largest number of votes from voters in the particular region. A candidate does not “run” as a regional benchers candidate. The voting determines who is elected as the regional benchers.
59. In the Working Group’s view, one of the unintended consequences of the scheme is that candidates with many more votes (based on votes from voters in all regions) than the regional benchers may not be elected, including other candidates in the regional benchers’s region. Thus, candidates from regions who demonstrated broader support from the members were not always the benchers elected.
60. The suggestion from the Benchers Planning Session was that the benchers election results be based on votes from all regions for all candidates, and that if a region did not have an elected benchers, the regional scheme apply to elect the candidate with the most votes from that region’s voters.
61. The Working Group has been considering a proposal that would modify this suggestion such that the popular vote also be used to elect the regional benchers if the initial results did not produce a benchers in every region.
62. The Working Group believes that consultations with interested parties on this issue would be beneficial before a final proposal is presented to Convocation for decision. With Convocation’s approval, the Working Group plans to seek comment from the profession through a call for input and communications to legal organizations, and report back in the fall of 2013 with the results.
63. The following explains the Working Group’s assessment of this issue and sets out the proposal for consultation.

Recommendation 6:

That Convocation approve a call for input on a proposal, as set out in this report, to modify the regional benchers election scheme.

History of the Current Process

64. Although apparently dating back to the 1870s in its origins, the idea of a regional benchers scheme in more recent times was the focus of at least four of Convocation's committees in the 1980s and 1990s.
65. The current scheme began with a decision in 1990 to adopt a form of regional representation. This was based on a submission from the County and District Law Presidents' Association (CDLPA) to the 1989 Special Committee on Benchers Elections (the Ferguson Committee), which followed an earlier committee struck in 1985. The following excerpt from the October 1990 report of the Ferguson Committee is of interest:
- 72% of the respondents to the questionnaire favoured regional representation. Among the organizations which responded, L'Association des juristes d'expression française de l'Ontario, the County and District Law Presidents Association, the County of York Law Association and Legal Assistance Kent, each expressed positive support for the concept. Though some respondents expressed concerns about the suitability of basing the system upon the regions set out in the Courts of Justice Act, a significant number believed that some form of regional representation would lead to improved voter turnout and more effective representation in Convocation. The members of the Committee took seriously the view, repeatedly expressed in the submissions received, that members were apathetic toward benchers' elections because they felt no connection with the benchers. The problem has manifested itself in declining voter turnout (71.2% in 1979, 62.5% in 1983 and 54.1% in 1987) and your Committee gave much consideration to means of reversing this disturbing trend.

One of the most persuasive arguments raised against regional representation was that it challenges the tenet that a benchers is elected to govern the profession in the public interest as a representative of all members, not merely as a representative of members in a particular area. It was also noted that a system of regional representation might work against those candidates for election who do not have a distinct regional base.

Your Committee carefully considered these concerns. After much debate, it was decided to recommend a system under which some benchers will be elected by voters within regions and others will be elected by all voters in the province. ...

...

Your Committee acknowledges that the regional election of eleven⁴ of forty benchers falls considerably short of the more comprehensive scheme of regional representation proposed by the County and District Law Presidents Association.⁵ It was clear however that the majority of the Committee were convinced that this was not the time to recommend such an extensive change. ...The recommendation that one benchers be elected from each region is a compromise: nevertheless your Committee considers it to be the only measure of regional representation likely to gain the approval of Convocation at this time. If the proposal is adopted, it may be that, following the 1991 election of benchers, Convocation will wish to reconsider the number of benchers elected from each region.

66. Convocation voted to put this Report over until after the CDLPA plenary in November 1990. At the November 1990 Convocation, the scheme was approved in principle. In 1992, Convocation struck the Special Committee on Benchers Elections (the Scott Committee) to consider implementation of the policy decision. In March 1993,

⁴ The original scheme had four regions within Metropolitan Toronto, but this was later changed to eight regions in total (Metropolitan Toronto and the seven other judicial regions).

⁵ The County and District Law Presidents Association recommended that each region should have two benchers, with an additional benchers for every 750 lawyers over the first 750. At current membership numbers, this formula would have given a minimum of two benchers for any region (for example, the North West Region) and a maximum, outside Metropolitan Toronto, of five benchers per region (for example, the East Region). The County and District Law Presidents also recommended that five members be elected at large from any part of the province. Their scheme would have required an increase in the total number of elected benchers to forty-five. The Committee did not support "such an extensive measure of regionalization."

Convocation approved the Scott Committee's recommendation that Convocation affirm the 1990 decision and implement the scheme. The Report included the following explanation:

While persuasive arguments were developed during our deliberations in favour of the status quo, it became obvious, as must have been the case for the Ferguson Committee, that some form of regionalization must be developed, however modest a first step, if the concerns of the profession are to be considered.

...[A] modicum of regionalization, it was felt, ought to be considered to meet the needs of the membership of the profession and to assess the impact, over time, of such a scheme on the work of the Law Society. The Ferguson Committee, quite obviously motivated by a similar concern, opted for a scheme which would involve the election of a single Benchers for each judicial district outside Metropolitan Toronto and the four electoral districts inside Metropolitan Toronto. This...was a form of regionalization which, it seems clear, was regarded as a substantive expression of the idea in the interests of assessing its impact and reacting to the concerns of the community of lawyers in the Province.

...

It is clear that the subject of Benchers elections attracts strong and entirely legitimate views on all sides. The status quo has much to recommend it. Yet, from the work of the Ferguson Committee and your own Committee, it is clear that the profession wants some form of regionalization.

67. The regional scheme was implemented in time for the 1999 benchers election. The gap between adoption of the scheme and implementation was due to the requirement for *Law Society Act* amendments to provide the authority in the by-laws for regions for the election.
68. At January 1999 Convocation, certain aspects of the regional scheme (e.g. how to fill vacancies for the regional benchers between elections) were before Convocation for

decision through the report of the Task Force on the 1999 Benchers Election and Referendum⁶, chaired by Paul Lamek. The introduction to this report stated:

The driving force for regional benchers representation has been the belief that it would encourage member participation in the elections, as there has been an increasing decline in voter turnout. Voter turnout was 71% in 1979 but declined to 53% in 1991 and 43% in 1995. There has been a marked decline in female member voter turnout: in 1991, 51% of eligible female voters cast their ballots, but in 1995, only 27% of eligible female voters cast their ballot. Notwithstanding, there has been an increase in the number of female benchers elected: 10 in 1991 (25%) to 15 (37.5%) in 1995.

The counter arguments to regional benchers have been based on the mandate of the Law Society to govern the profession in the public interest. To this effect, it has been pointed out that the issues addressed by Convocation are not regional, but pertain to the whole province. The concern has been that regional representation may detract from the focus of the work of Convocation by bringing about the subjugation of the public interest to local or particular constituencies.

69. Of interest is the following motion moved at the January 1999 Convocation, which the minutes indicate was not put, that is very similar to the proposal raised at the 2011 Benchers Planning Session:

It was moved by Mr. Wright, seconded by Mr. Krishna that whereas regional representation is a highly salutary policy deserving our unwavering support; and whereas Convocation should derogate from the democratic process as little as possible and, where possible, reduce unnecessary costs, complexity and administrative headache; be it moved that the 1999 benchers election be conducted as follows:

1. The 1999 vote will be held as in the past.
2. Following the vote, the list of elected benchers will be scrutinized to ensure that each of the 9⁷ electoral districts is represented.

⁶ The Referendum was on benchers remuneration.

⁷ Corrected to 8.

3. In the event that a region is not represented, the list of non-elected candidates will be scrutinized to determine the candidate with the higher number of votes who is from the unrepresented region.

4. The said candidate shall replace the elected bencher who received the lowest number of votes from a region that elected at least 2 benchers.

70. A final motion in this debate was ruled as contrary to the statute by the Treasurer:

It was moved by Mr. MacKenzie, seconded by Mr. Ruby that there be no regional bencher.

How the Regional Scheme Has Operated

71. The Working Group looked at the results of the last four bencher elections to determine the effect, if any, that the regional scheme has had. It also looked at the voter turnout to determine if the scheme has had any effect on the number of votes cast.

72. The Working Group looked at the votes for all those who were elected as regional benchers in each of 1999, 2003, 2007 and 2011 to determine two questions:

- a. Whether the candidate elected as regional bencher would have been elected without a regional scheme; and
- b. Whether there otherwise would have been a candidate elected from the region.

This analysis does not include the Toronto region, where the regional bencher is always in the top 20.

73. In reviewing the results of this analysis, the Working Group took into account the fact that under the current regime candidates could properly decide to campaign only in their region. Therefore, it cannot be assumed that the election results would have been the same if a different regime had been in place. However, the results provide useful background.

74. In 1999, six of the seven regional benchers outside Toronto would have been elected in the top 20 based on votes from all voters or by acclamation (this was the case with the candidate from the northeast region). The seventh individual, for the northwest region, finished 24th. With the acclamation, all seven regions otherwise had an elected bencher in the top 20.
75. In 2003, all seven regional benchers would have been elected in the top 20 outside Toronto based on votes from all voters. The candidate who received the least number of votes among this group (2055), was 20th. All but two regions (northwest and central east) otherwise had a bencher elected in each of the regions.
76. In 2007, it was a different result. Only three of the regional benchers outside of Toronto would have otherwise been elected in the top 20 based on votes from all voters (the cut-off for the top 20 outside Toronto was 1932 votes). The four others elected regionally received votes placing them 25th (1746 votes), 26th (1664 votes), 27th (1585 votes) and 40th (884 votes). However, all but one region (northwest) had a bencher elected apart from the regional bencher. The next eligible candidate from the northwest region finished 21st (with 1901 votes) and was elected during the term in 2009 when a vacancy occurred.
77. In 2011, the result was similar to 2007. Four of the regional benchers would have otherwise been elected in the top 20 outside Toronto by votes from all voters (the cut-off was 1940 votes). The three remaining regional benchers finished 22nd (1793 votes), 36th (1305 votes) and 46th (731 votes). However, all but one region (central west) had a bencher elected apart from the regional bencher. The next eligible candidate from central west finished 26th.
78. In summary, the analysis showed that nearly every region had a candidate who was elected a bencher based on the general vote, without operation of the regional bencher scheme. The analysis also showed that voter turnout declined in election years 1999,

2003 and 2007 (42.02%, 36.77% and 34.48% respectively). There was an increase in 2011 (37.21%). The percentage in 1995 was 43.72%.

The Working Group's Proposal

79. The Working Group noted that the “driving force” for a regional benchers scheme - to encourage participation in the election - did not appear to have the intended effect. Rather than higher voter turnout in the elections that followed implementation of the scheme, voter turnout actually fell after 1995 until 2011.
80. As noted earlier, the majority of regions had representation at Convocation aside from the regional benchers. If the scheme discussed at paragraph 60 was in place in previous elections, the next eligible candidates to fill regional positions would typically have moved up from within the 21st to 30th positions.
81. The Working Group believes in the value of having representation at Convocation from every region. This facilitates views that reflect a variety of experiences within the province, and through that, provides a window to the interests of the larger public for whom regulation of the profession exists. This helps to achieve governance of the profession that reflects consideration of these views and is responsive to the needs of stakeholders.
82. In the Working Group's view, there is a way to safeguard regional representation and acknowledge the member support of those who would be elected within a region based on the overall vote.
83. The Working Group proposes that the regional benchers election scheme be modified as follows.

84. The regional bencher would be the candidate in a region who, finishing in the top 20 positions inside or outside of Metropolitan Toronto, receives the highest number of votes from voters in *all* regions.
85. If the election results based on votes from all voters do not elect a bencher in a region in the top 20, the regional bencher will be the candidate in the region who, placing 21st or lower in a region, receives the most votes from all voters.
86. When that happens, the candidate elected will replace the candidate who would have otherwise been elected as one of at least two benchers in another region and who is the candidate who receives the least number of votes from all voters. This will ensure that there is at least one bencher elected in every region from the general vote. It will preserve the benefits of regional benchers while giving more weight to the overall democratic process.
87. The recommendation to Convocation, if pursued, would be as follows:

That Convocation approve a modification to the regional bencher election scheme as follows:

- a. A regional bencher will be the candidate in a region who, being elected among the 20 benchers elected in Metropolitan Toronto and the 20 benchers elected outside of Metropolitan Toronto, has received the highest number of votes from all voters;
- b. If there is a region in which no bencher has been elected as described in paragraph a., the regional bencher will be the candidate in the region who, placing 21st or lower in Metropolitan Toronto and outside of Metropolitan Toronto, receives the highest number of votes from all voters; and
- c. The candidate elected as described in paragraph b. will replace the candidate who

1. would have otherwise been elected as one of at least two benchers in a region as described in paragraph a.; and
2. among those benchers described in sub-paragraph 1. received the least number of votes from all voters.

TAB 6.1

EXCERPT FROM BY-LAW 3

BENCHERS, CONVOCATION AND COMMITTEES

ELECTION DAY

Election day

1. There shall be an election of benchers in 2007 and in every fourth year thereafter on the last day in April that is not a holiday.

ELECTION OFFICERS

Treasurer to preside over election

4. (1) Subject to subsection (4), an election of benchers shall be presided over by the Treasurer.

Appointment of assistant

(2) The Treasurer may appoint a licensee who is not a candidate in an election of benchers to assist the Treasurer in exercising the powers and performing the duties of the Treasurer under this Part.

Appointment of licensee to act in absence of Treasurer

(3) The Treasurer shall appoint a licensee who is not a candidate in an election of benchers to exercise the powers and perform the duties of the Treasurer under this Part whenever the Treasurer is unable to act

Where Treasurer is candidate in election

(4) If the Treasurer is a candidate in an election of benchers, Convocation shall, as soon as practicable after the Treasurer's nomination as a candidate is accepted, appoint a licensee to preside over the election and to exercise the powers and perform the duties of the Treasurer under this Part.

Elections Officer to conduct election

5. (1) An election of benchers shall be conducted by the Elections Officer.

Elections Officer to establish procedures, etc.

- (2) The Elections Officer shall,
 - (a) by December 31 of the year immediately preceding an election year,
 - (i) establish all procedures, requirements and specifications required to be established with respect to the nomination of candidates for the election, and
 - (ii) establish the procedures by which electors may vote; and
 - (b) by January 31 of an election year, publish all procedures, requirements and specifications established in respect of the election.

ELECTORAL REGIONS

Electoral regions

- 6. (1) The following electoral regions are established:
 - 1. The Province of Ontario “A” Electoral Region, composed of the City of Toronto.
 - 2. The Province of Ontario “B” Electoral Region, composed of the area in Ontario outside the City of Toronto.

Same

- (2) Within the Province of Ontario “B” Electoral Region, the following additional electoral regions are established:
 - 1. The Northwest Electoral Region, composed of the territorial districts of Kenora, Rainy River and Thunder Bay.
 - 2. The Northeast Electoral Region, composed of the territorial districts of Algoma, Cochrane, Manitoulin, Nipissing, Parry Sound, Sudbury and Timiskaming.
 - 3. The East Electoral Region, composed of,
 - i. the counties of Frontenac, Hastings, Lanark, Lennox and Addington, Prince Edward and Renfrew,
 - ii. the united counties of Leeds and Grenville, Prescott and Russell and Stormont, Dundas and Glengarry, and

- iii. the Regional Municipality of Ottawa-Carleton.
- 4. The Central East Electoral Region, composed of,
 - i. the District Municipality of Muskoka,
 - ii. the counties of Haliburton, Northumberland, Peterborough, Simcoe and Victoria, and
 - iii. the regional municipalities of Durham and York.
- 5. The Central West Electoral Region, composed of,
 - i. the counties of Bruce, Dufferin, Grey and Wellington, and
 - ii. the regional municipalities of Halton and Peel.
- 6. The Central South Electoral Region, composed of,
 - i. the County of Brant, and
 - ii. the regional municipalities of Haldimand-Norfolk, Hamilton-Wentworth, Niagara and Waterloo.
- 7. The Southwest Electoral Region, composed of the counties of Elgin, Essex, Huron, Kent, Lambton, Middlesex, Oxford and Perth.

Province of Ontario “A” Electoral Region

(3) Twenty benchers shall be elected for the Province of Ontario “A” Electoral Region as follows:

- 1. One bencher shall be elected on the basis of the votes cast by electors residing in the electoral region.
- 2. Nineteen benchers shall be elected on the basis of the votes cast by all electors.

Province of Ontario “B” Electoral Region

(4) Twenty benchers shall be elected for the Province of Ontario “B” Electoral Region as follows:

1. One bencher shall be elected for each electoral region described in paragraphs 1 to 7 of subsection (2) on the basis of the votes cast by electors residing in the electoral region.

2. Thirteen benchers shall be elected on the basis of the votes cast by all electors.

CANDIDATES

Who may be candidate: election of benchers in 2011

7. (1) Every licensee is qualified to be a candidate in the election of benchers in 2011 if,

(a) on June 1, 2011, the licensee would not have held the office of elected bencher for 16 or more years; and

(b) at the time of signing a nomination form containing his or her nomination as a candidate,

(i) the licensee's business address, or, where the licensee has no business address, home address, as indicated on the records of the Society, is within Ontario, and

(ii) the licensee's licence is not suspended.

Who may be candidate: election of benchers after 2011

(2) Every licensee is qualified to be a candidate in an election of benchers after 2011 if,

(a) on June 1 of the year of the election of benchers, the licensee would not have held the office of elected bencher for 12 or more years; and

(b) at the time of signing a nomination form containing his or her nomination as a candidate,

(i) the licensee's business address, or, where the licensee has no business address, home address, as indicated on the records of the Society, is within Ontario, and

(ii) the licensee's licence is not suspended.

Deemed to have held office for the specified number of years

(3) For the purposes of subsections (1) and (2), a licensee shall be deemed to have held the office of elected bencher for the number of years specified in the applicable subsection if,

(a) the licensee was elected as a bencher in or at any time after the election of benchers immediately preceeding the election of benchers for which he or she seeks to qualify as a candidate;

(b) the licensee would have held the office of elected bencher for the number of years specified in the applicable subsection if the licensee had remained in office until the benchers elected in the next election of benchers took office; and

(c) the licensee resigned from the office of elected bencher prior to the benchers in the next election of benchers taking office.

Application of subsection (3)

(4) Subsection (3) applies to a licensee even if the licensee resigned from the office of elected bencher before the subsection came into effect.

Time for close of nominations

8. (1) Subject to subclause 9 (3) (b) (ii), the close of nominations of candidates shall be 5 p.m. on the second Friday in February.

Nomination of candidates

(2) A candidate shall be nominated by at least ten licensees whose licences are not suspended at the time of signing the nomination form.

Consent to nomination

(3) A nomination shall be accompanied by the candidate's consent to the nomination.

Nomination form

(4) The nomination of a candidate and the candidate's consent to the nomination shall be contained in a nomination form provided by the Society.

Signatures

(5) The nomination form shall be signed by the candidate and the ten licensees who are nominating the candidate.

Due date

(6) The nomination form must be received in the office of the Elections Officer at Osgoode Hall before the close of nominations.

Acceptance and rejection of nominations

9. (1) A licensee shall not be a candidate if a requirement specified in section 7 or 8 has not been complied with.

Examination of nomination form

(2) As soon as practicable after receiving a nomination form, the Elections Officer shall examine the form and,

- (a) if he or she is satisfied that the requirements specified in sections 7 and 8 have been complied with, he or she shall accept the nomination; or
- (b) if he or she is not satisfied that the requirements specified in sections 7 and 8 have been complied with, he or she shall reject the nomination.

Results of examination of nomination form

(3) The Elections Officer shall communicate the results of his or her examination of a nomination form to the candidate whose nomination is contained therein and,

- (a) if the Elections Officer has accepted the nomination, he or she shall communicate to the candidate,
 - (i) the manner in which the candidate's name will appear on the election ballot; and
 - (ii) the electoral regions from which the candidate may be eligible to be elected as benchers; or
- (b) if the Elections Officer has rejected the nomination, he or she shall communicate to the candidate,
 - (i) the reasons why the nomination was rejected; and
 - (ii) if the nomination was rejected for reasons other than that the requirement specified in clause 7 (1) (a) or clause 7 (2) (a) has not been complied with, the time by which the candidate, if he or she wishes to be a candidate in the election of benchers, must submit to the Elections Officer a valid nomination.

Nomination form: optional accompanying material

10. (1) A candidate may submit the following materials along with his or her nomination form:

1. A photograph of the candidate that meets all specifications established by the Elections Officer.
2. A statement of not more than 120 words, including headings, titles and other similar parts of the statement, containing biographical information about the candidate.
3. A typed election statement of not more than 700 words, including headings, titles and other similar parts of the statement.

Deadline for receipt of accompanying material

(2) Subject to subclause 20 (3) (b) (iii), the material referred to in subsection (1) must be received in the office of the Elections Officer at Osgoode Hall before the close of nominations.

Withdrawal of candidates

11. A candidate may withdraw from an election of benchers by giving the Elections Officer written notice of his or her withdrawal within seven days after the close of nominations.

ELIGIBILITY FOR ELECTION

Who may not be elected

12. (1) No candidate shall be elected as benchers if, at the time of his or her election, the candidate's licence is suspended.

Who may be elected for electoral region

(2) A candidate is eligible to be elected as benchers for an electoral region if, at the time of his or her election, the candidate's business address, or, where the candidate has no business address, home address, as indicated on the records of the Society, is within the electoral region.

ACCLAMATION

Election by acclamation

13. If after the acceptance of all valid nominations, the number of candidates eligible to be elected as benchers for an electoral region is the same as or fewer than the number of benchers

to be elected for that electoral region, the Elections Officer shall declare the candidates to have been elected as benchers for that electoral region.

POLL

Poll

14. If after the acceptance of all valid nominations, the number of candidates eligible to be elected as benchers for an electoral region is greater than the number of benchers to be elected for that electoral region, a poll shall be conducted to elect the required number of benchers for that electoral region.

Secret ballot

15. A poll to elect benchers shall be conducted by secret ballot.

QUALIFICATION OF ELECTORS

Qualification of electors

16. A licensee who, on the fourth Friday in March, and whose licence is not suspended on the fourth Friday in March is entitled to vote in an election of benchers.

Eligibility to elect benchers for electoral regions

17. (1) An elector is eligible to elect the benchers for the Province of Ontario "A" Electoral Region who is to be elected on the basis of the votes cast by electors residing in the electoral region if the elector resides in the electoral region.

Same

(2) An elector is eligible to elect a benchers for an electoral region mentioned in paragraphs 1 to 7 of subsection 6 (2) if the elector resides in the electoral region.

LIST OF ELECTORS

Polling list

18. (1) On or shortly after the first Monday after the fourth Friday in March, the Elections Officer shall prepare a polling list.

Same

(2) The polling list shall include the names of all licensees whose licences are not suspended on the fourth Friday in March.

ELECTION MATERIALS

Election materials: preparation

19. (1) The Elections Officer shall cause to be prepared,

(a) an election ballot, showing the names of all candidates who may be eligible to be elected as benchers for each electoral region; and

(b) a compilation of candidate information, containing the names of all candidates and, if available, the photograph, biography and, subject to subsection (4), election statement of each candidate.

Same

(2) In causing the election ballot to be prepared, the Elections Officer shall ensure that it is prepared in a manner that preserves the anonymity of the voters and the secrecy of their votes.

All election statements included

(3) Subject to subsection (4), the Elections Officer shall include in the compilation of candidate information all election statements which he or she receives under section 10.

Certain election statements not be included unless approved

(4) The Elections Officer shall not include in the compilation of candidate information any election statement that in his or her opinion may be libelous, may be in breach of the Rules of Professional Conduct or is in bad taste unless the election statement has been approved by a committee of benchers in accordance with section 20.

Appointment of committee to approve election statements

20. (1) If necessary, the Treasurer shall appoint a committee of two or more benchers who are not elected benchers to approve election statements.

Referral of election statements to committee

(2) The Elections Officer shall refer to the committee appointed under subsection (1) all election statements that in his or her opinion may be libelous, may be in breach of the Rules of Professional Conduct or are in bad taste.

Same

(3) The committee appointed under subsection (1) shall consider all election statements that are referred to it and, in respect of each election statement, shall,

(a) approve the election statement and direct the Elections Officer to include it in the compilation of candidate information; or

(b) if the committee is of the opinion that the election statement may be libelous, may be in breach of the Rules of Professional Conduct or is in bad taste,

(i) return the election statement to the candidate who submitted it,

(ii) provide the candidate a written explanation of the committee's objections to the election statement, and

(iii) specify the time by which the candidate may submit to the committee a redrafted election statement.

Consideration of redrafted election statements by committee

(4) The committee appointed under subsection (1) shall consider all redrafted election statements that are submitted to it in accordance with subsection (3), and, in respect of each redrafted election statement, shall,

(a) approve the redrafted election statement and direct the Elections Officer to include it in the compilation of candidate information; or

(b) if the committee is of the opinion that the redrafted election statement may be libelous, may be in breach of the Rules of Professional Conduct or is in bad taste,

(i) return the redrafted election statement to the candidate who submitted it,

(ii) provide the candidate a written explanation of the committee's objections to the redrafted election statement, and

(iii) advise the candidate that no election statement shall be included in the compilation of candidate information under his or her name.

Committee's decision final

(5) A decision of the committee under subsection (4) is final.

Election materials: distribution

21. As soon as practicable after the Elections Officer has prepared the polling list, the Elections Officer shall distribute to every person whose name appears on the polling list,

- (a) the election materials prepared under section 19; and
- (b) voting instructions.

VOTING

Voting for candidates

22. An elector may vote for,

- (a) not more than 20 candidates who may be eligible to be elected as bencher for the Province of Ontario "A" Electoral Region; and
- (b) not more than 20 candidates who may be eligible to be elected as bencher for the Province of Ontario "B" Electoral Region.

Marking and casting ballots

23. Electors shall mark and cast their election ballots in accordance with the procedures established by the Elections Officer.

COUNTING THE VOTES

Elections Officer to cause counting of votes

24. (1) Beginning immediately after the deadline for casting election ballots on election day and proceeding thereafter for so long as necessary, the Elections Officer shall cause the votes for each candidate to be counted in accordance with sections 25 to 29.

Presence of electors

(2) Any elector may be present at any place where and at any time when the votes for each candidate are being counted.

Valid votes

25. (1) Subject to subsections (2) and (3), only votes cast by electors for candidates eligible to be elected as benchers shall be counted.

Disqualified votes

(2) If an elector votes for more than 20 candidates who were shown on the election ballot to have been eligible to be elected as benches for the Province of Ontario "A" Electoral Region, none of the elector's votes for those candidates shall be counted.

Same

(3) If an elector votes for more than 20 candidates who were shown on the election ballot to have been eligible to be elected as benches for the Province of Ontario "B" Electoral Region, none of the elector's votes for those candidates shall be counted.

Same number of votes

26. (1) For the purposes of the count of votes under section 27, the declaration of results under subparagraph i of paragraph 1 of subsection 29 (2) and the declaration of results under paragraph 2 of subsection 29 (2), if two or more candidates have the same number of votes and that number is the largest, the Elections Officer shall, in the presence of the Treasurer, randomly select one candidate to be the candidate who has the largest number of votes.

Same

(2) For the purposes of the count of votes under section 28, the declaration of results under subparagraph ii of paragraph 1 of subsection 29 (2) and the declaration of results under paragraph 3 of subsection (2), if two or more candidates have the same number of votes, but the number of benches remaining to be elected is fewer than the number of candidates having the same number of votes, the Elections Officer shall, in the presence of the Treasurer, randomly select the necessary number of candidates to be elected as benches.

Counting votes: benches elected on basis of votes cast by electors residing in electoral region

27. (1) For the Province of Ontario "A" Electoral Region, the votes cast by electors residing in the electoral region for each candidate eligible to be elected as benches from the electoral region shall be counted.

Same

(2) For each electoral region described in paragraphs 1 to 7 of subsection 6 (2), the votes cast by electors residing in the electoral region for each candidate eligible to be elected as bencher for the electoral region shall be counted.

Removal of candidate from pool of candidates

(3) For the Province of Ontario “A” Electoral Region, the candidate eligible to be elected as bencher for the electoral region who has the largest number of votes from electors residing in the electoral region, as determined by the count of votes under subsection (1), shall be removed from the pool of candidates eligible to be elected as bencher for the purposes of the count of votes under subsection 28 (1).

Same

(4) For each electoral region described in paragraphs 1 to 7 of subsection 6 (2), the candidate eligible to be elected as bencher for the electoral region who has the largest number of votes from electors residing in the electoral region, as determined by the count of votes under subsection (2), shall be removed from the pool of candidates eligible to be elected as bencher for the purposes of the count of votes under subsection 28 (2).

Counting votes: Province of Ontario “A” Electoral Region

28. (1) For the Province of Ontario “A” Electoral Region, the votes cast by all electors for each candidate eligible to be elected as bencher for the electoral region shall be counted.

Same: Province of Ontario “B” Electoral Region

(2) For the Province of Ontario “B” Electoral Region, the votes cast by all electors for each candidate eligible to be elected as bencher for the electoral region shall be counted.

Report of result to Convocation

29. (1) Immediately after the count of votes under sections 27 and 28 has been completed, the Elections Officer shall report the results to Convocation.

Declaration of results

(2) Immediately after reporting the results to Convocation, the Elections Officer shall declare the following candidates to have been elected as benchers:

1. For the Province of Ontario “A” Electoral Region,

- i. the candidate eligible to be elected as benchers for the electoral region who has the largest number of votes from electors residing in the electoral region, as determined by the count of votes under subsection 27 (1), and
- ii. the nineteen candidates eligible to be elected as benchers for the electoral region who have the largest number of votes from all electors, as determined by the count of votes under subsection 28 (1).

2. For each electoral region described in paragraphs 1 to 7 of subsection 6 (2), the candidate eligible to be elected as benchers for the electoral region who has the largest number of votes from electors residing in the electoral region, as determined by the count of votes under subsection 27 (2).

3. For the Province of Ontario “B” Electoral Region, the thirteen candidates eligible to be elected as benchers for the electoral region who have the largest number of votes from all electors, as determined by the count of votes under subsection 28 (2).

Taking office

30. (1) The benchers who are elected in an election of benchers shall take office on the later of the following dates:

1. The day on which Convocation has its regular meeting in May.
2. The day on which Convocation has its first regular meeting of Convocation following the declaration of results under section 29.

Term of office

(2) Subject to any by-law that provides for the removal of benchers from office, the benchers who take office under subsection (1) shall remain in office until their successors take office.

Failure to elect

31. (1) If in an election of benchers no candidate is elected as benchers for the Province of Ontario “A” Electoral Region on the basis of the votes cast by electors residing in the electoral region, Convocation shall, at its regular meeting in May or at its first regular meeting following the declaration of results under section 29, whichever takes place later, elect as a benchers for the electoral region,

- (a) if there are candidates whose business addresses, or, where candidates have no business address, home addresses, as indicated on the records of the Society on the day

of the election by Convocation, are within the electoral region, one of the candidates who was not elected as benchers; or

(b) if no candidate is available for election under clause (a), a licensee whose business address, or, where a licensee does not have a business address, home address, as indicated on the records of the Society on the day of the election by Convocation, is within the electoral region.

Same

(2) If in an election of benchers no candidate is elected as benchers for an electoral region described in paragraphs 1 to 7 of subsection 6 (2) on the basis of the votes cast by electors residing in the electoral region, Convocation shall, at its regular meeting in May or at its first regular meeting following the declaration of results under section 29, whichever takes place later, elect as a benchers for the electoral region,

(a) if there are candidates whose business addresses, or, where candidates have no business address, home addresses, as indicated on the records of the Society on the day of the election by Convocation, are within the electoral region, one of the candidates who was not elected as benchers; or

(b) if no candidate is available for election under clause (a), a licensee whose business address, or, where a licensee does not have a business address, home address, as indicated on the records of the Society on the day of the election by Convocation, is within the electoral region.

Same

(3) If in an election of benchers fewer than the required number of benchers are elected for the Province of Ontario "A" Electoral Region or the Province of Ontario "B" Electoral Region on the basis of the votes cast by all electors, Convocation shall, at its regular meeting in May or at its first regular meeting following the declaration of results under section 29, whichever takes place later, elect as benchers for the electoral region,

(a) if there are candidates whose business addresses, or, where candidates have no business address, home addresses, as indicated on the records of the Society on the day of the election by Convocation are within the electoral region, the required number of candidates who were not elected as benchers;

(b) if there are no candidates available for election under clause (a), or if all candidates have already been elected under clause (a), the required number of licensees whose business addresses, or, where licensees have no business address, home addresses, as indicated on the records of the Society on the day of the election by Convocation, is within the electoral region.

Who may not be elected

32. (1) No person shall be elected as benchers under section 31 if the person's licence is suspended.

Consent to election

(2) No person shall be elected as benchers under section 31 if he or she does not consent to the election.

Taking office and term of office

33. The benchers who are elected under section 31 shall take office immediately after their election and, subject to any by-law that provides for the removal of benchers from office, shall remain in office until their successors take office.

(2) The Elections Officer may destroy all election materials and other documents relating to an election of benchers after the time for retaining the materials and documents under subsection (1) has passed.



Tab 7

Report to Convocation

June 27, 2013

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

Committee Members
Howard Goldblatt, Chair
Julian Falconer, Vice-Chair
Susan Hare, Vice Chair
Raj Anand
Constance Backhouse
Mary Louise Dickson
Michelle Haigh
Janet Minor
Judith Potter
Susan Richer
Paul Schabas
Baljit Sikand
Beth Symes

Purposes of Report: Decision and Information

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

TABLE OF CONTENTS

For Decision

Human Rights Monitoring Group Requests for Intervention	TAB 7.1
---	----------------

For Information

Career Choices Study.....	TAB 7.2
---------------------------	----------------

2013 Change of Status Report	TAB 7.3
------------------------------------	----------------

Endorsement of Proposal for Development of a Certified Specialist Program in Aboriginal Law	TAB 7.4
--	----------------

COMMITTEE PROCESS

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (Equity Committee) met on June 13, 2013. Committee members Howard Goldblatt, Chair, Susan Hare, Vice-Chair, Vice-Chair, Raj Anand, Constance Backhouse, Mary Louise Dickson, Janet Minor, Judith Potter, Susan Richer and Beth Symes participated. Julie Lassonde, representative of the Association des juristes d'expression française de l'Ontario (AJEFO) and Sandra Yuko Nishikawa, Chair of the Equity Advisory Group/Groupe consultatif en matière d'équité (EAG), also participated. Staff member Josée Bouchard also attended.

TAB 7.1

FOR DECISION

**HUMAN RIGHTS MONITORING GROUP REQUESTS FOR
INTERVENTION**

MOTION

2. That Convocation approve the following Human Rights Monitoring Group's (the Monitoring Group) requests for intervention:
 - a. Pakistan – killing of State Prosecutor Chaudry Zulfiqar Ali (proposed letters of intervention at [TAB 7.1.1](#) and public statement at [TAB 7.1.2](#)).
 - b. Syria– Arrest and Detention of Human Rights Lawyer Khalil Ma'touq (proposed letters of intervention at [TAB 7.1.3](#) and public statement at [TAB 7.1.4](#));
 - c. Russia– Death Threats against Criminal Defence Lawyers Sapiyat Magomedova and Musa Suslanov (proposed letters of intervention at [TAB 7.1.5](#) and public statement at [TAB 7.1.6](#));
 - d. United Arab Emirates– Verdict Due In Trial of 94 Government Critics, Including Human Rights Lawyers (proposed letters of intervention at [TAB 7.1.7](#) and public statement at [TAB 7.1.8](#));

MANDATE OF THE MONITORING GROUP

3. The mandate of the Monitoring Group is,
 - a. to 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. to determine if the matter is one that requires a response from the Law Society; and,
 - c. to prepare a response for review and approval by Convocation.

4. The mandate further states that where Convocation's meeting schedule makes such a review and approval impractical, the Treasurer may review such responses in Convocation's place and take such steps, as he or she deems appropriate. In such instances, the Monitoring Group shall report on the matters at the next meeting of Convocation.
5. On September 20, 2007, Convocation approved the following recommendations, which expand the Monitoring Group's mandate:
 - a. That the Monitoring Group explore the possibility of developing a network of organizations, and work collaboratively with them, to address human rights violations against judges and lawyers.
 - b. That the Monitoring Group be authorized to collaborate with the Law Society of Zimbabwe (the "LSZ") to assist it in strengthening its self-regulation capabilities and the independence of the profession.

Pakistan- Killing of State Prosecutor Chaudry Zulfiqar Ali

PROCESS

6. The Human Rights Monitoring Group approved the proposed intervention in the case of the killing of Pakistan State Prosecutor Chaudry Zulfiqar Ali in May 2013 and the request for intervention was presented for information to the Equity and Aboriginal Issues Committee on June 13, 2013. The Monitoring Group recommends an intervention to Convocation in the form of a letter of intervention to the authorities in Pakistan and a public statement. Information about the case is presented below.

SOURCES OF INFORMATION

7. The background information for this report was taken from the following sources:
 - a. BBC World News;¹
 - b. Dawn;²

¹The British Broadcasting Corporation is a semi-autonomous public service broadcasting corporation. It is mandated to provide impartial news reporting within the United Kingdom and abroad.

- c. Huffington Post;³
- d. The Nation.⁴

BACKGROUND

8. On May 3, 2013 Chaudry Zulfiqar Ali was gunned down in his car by unidentified assailants, near his home in Islamabad. He was on his way to appear in a hearing related to a bail application by former military ruler, Pervez Musharraf, who had been arrested a few weeks prior. Police were unable to intercept the gunmen who immediately fled the scene. Mr. Zulfiqar Ali had reportedly been receiving death threats in the weeks leading up to the attack and had asked for extra protection from the state.
9. Chaudry Zulfiqar Ali was the chief prosecutor of Pakistan's Federal Investigation Agency (FIA). Prior to this role as chief prosecutor, he was deputy director of the FIA, and determined which criminal cases would be brought to court. Mr. Zulfiqar Ali had a reputation for determinedly pursuing cases against suspects with powerful and sometimes militant connections, despite receiving repeated death threats.
10. In his roles both as deputy director and chief prosecutor at the FIA, Chaudry Zulfiqar was heavily involved with several high profile and dangerous prosecutions. He acted as the government's lead prosecutor in the 2008 terrorist attack in Mumbai, India, which killed 166 people. The investigation into this case involved a probe into several members of the Lashkar-e-Taiba militant group, which was ongoing at the time of his murder.
11. Chaudry Zulfiqar was also leading the prosecution against suspects in the 2007 assassination of former Pakistani Prime Minister, Benazir Bhutto. In connection with this case, the prosecutor was pursuing charges against several suspected Taliban

² Dawn is a Karachi based newspaper and online news source. It is the largest circulation English language daily in Pakistan.

³ The Huffington Post is an online news website which delivers political news and commentaries. In 2012 the Huffington Post became the first digital only daily news website to win the Pulitzer Prize, which was awarded in the category of National Reporting.

⁴ The Nation is a major English language daily newspaper and online news media outlet based in Lahore.

militants, and had also recently ordered the arrest of former military ruler Pervez Musharraf. It is speculated in various news outlets that Mr. Zulfiqar Ali's killing may be connected to his involvement in these two particularly high profile cases.

12. The killing of Chaudry Zulfiqar Ali sparked outcry among Pakistanis. Lawyers in the Rawalpindi and Islamabad High Court Bar Association announced a strike in the wake of the attack, which was also condemned by various ministers within the Pakistani government. Officials are investigating this incident, and though there has been speculation as to who is responsible, at present no one has claimed responsibility for the attack. The killing comes just one week before Pakistan held a general election, marking its first ever civilian transfer of power by a democratically elected government, which has caused additional speculation as to the motive behind the crime.
13. In the ongoing war between Pakistan and internal militants, lawyers have been particularly targeted and vulnerable. The killing of Chaudry Zulfiqar Ali is part of a similar pattern across the country where judges and lawyers have been attacked. Oftentimes it is difficult to find the culprits of these killings, unless they identify themselves and claim responsibility for the attacks.

THE MONITORING GROUP'S CONSIDERATION

14. The following are issues that the Monitoring Group considered when making a decision about this case.

Sources

15. It is primarily news media outlets that have reported on the killing of Chaudry Zulfiqar Ali. However, a number of reliable media outlets have reported on the case.

Previous Interventions

16. In 2007-2008, the Monitoring Group issued a statement condemning the suspension of the national constitution and the arrest of hundreds of lawyers in Pakistan. The Monitoring Group has also intervened in the case of Ms. Jahangir, a prominent human

rights lawyer that received information that elements in Pakistan's military and intelligence agencies had plotted to kill her.

Mandate

17. Reports indicate that the Pakistani authorities are in the process of investigating this incident, though the motive and those responsible for the killing of Chaudry Zulfiqar Ali remain unclear. If Mr. Zulfiqar Ali was targeted as a result of his prosecutorial duties, which it appears to be, then this case falls within the Mandate of the Monitoring Group.

Syria– Arrest and Detention of Human Rights Lawyer Khalil Ma'touq

PROCESS

18. The Human Rights Monitoring Group approved the proposed intervention in the case of the arrest and detention of human rights lawyer Khalil Ma'Touq of Syria in June 2013 and presented the request for intervention to the Equity and Aboriginal Issues Committee for information in June 2013. Information about the case is presented below.

SOURCES OF INFORMATION

19. The background information for this report was taken from the following sources:
 - a. Amnesty International;⁵
 - b. Damascus Center for Human Rights Studies;⁶

⁵Amnesty International is an independent and democratically-run organization. The movement's mission and policies, and its long-term directions, are all set by Amnesty members. Amnesty representatives from around the world gather every two years to set policy at the International Council Meeting (ICM). The Council also elects an International Executive Committee which ensures that the ICM's decisions are carried out. Where Amnesty International is formally organized in a particular country, such as in Canada, Amnesty members set policy and key priorities within the framework of the worldwide movement. Amnesty International's work is always being assessed by its members and staff in the light of changing world circumstances. When major changes in policy and approach are needed, Amnesty members make the final decision.

- c. The World Organization Against Torture;⁷ and
- d. The Observatory for the Protection of Human Rights Defenders⁸.

BACKGROUND

20. Khalil Ma'touq is a long time and prominent human rights lawyer in Syria, and is also the director of the Syrian Centre for Legal Studies and Research. Mr. Ma'touq is known for providing legal assistance to victims of human rights violations in Syria, including the defense of hundreds of political prisoners, prisoners of conscience and journalists.
21. On October 2, 2012, Khalil Ma'touq and his friend and assistant Mohammed Thatha left Mr. Ma'touq's home in a suburb of Damascus, for work in the city. However the two men did not arrive at the office, and it is believed that they were detained at a government controlled checkpoint en route to work. It is believed that Khalil Ma'touq was arrested as a direct result of his human rights work. Shortly before his arrest, Mr. Ma'touq had travelled to France to receive medical treatment, which may also have roused the suspicions of Syrian authorities.

⁶ Damascus Center for Human Rights studies (DCHRS) is an independent, non-governmental organization, established in 2005, located in the Syrian capital of Damascus. Its mission is to foster a spirit of support and respect for the values & standards of human rights in Syria. As such, DCHRS recognizes and adheres to all pertinent international human rights agreements and declarations issued by the UN. The center hopes to advance the culture of human rights in Syrian society through sponsoring a range of academic and theoretically-oriented programs. These activities include detailed studies and research projects, as well as the holding of conferences, seminars, and courses that critically engage the field of human rights.

⁷ Created in 1985, the World Organisation Against Torture (OMCT) is today the main coalition of international non-governmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment. It has 311 affiliated organisations in its SOS-Torture Network and many tens of thousands correspondents in every country. OMCT enjoys a consultative status with the following institutions: ECOSOC (United Nations), the International Labour Organization, the African Commission on Human and Peoples' Rights, the Organisation Internationale de la Francophonie, and the Council of Europe.

⁸ The Observatory for the Protection of Human Rights Defenders is a joint program of the International Federation for Human Rights (FIDH) and the World Organization Against Torture (OMCT). It is an action program based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

22. Since their disappearance, the families of Khalil Ma'touq and Mohammed Thatha have been unable to discern their whereabouts. Their phones remain turned off, and despite repeated requests for information, Syrian authorities continue to deny that they two men are in custody. This ongoing denial heightens worries that the men are being subjected to torture and ill treatment in detention, which is reportedly rife in Syrian prisons.
23. Khalil Ma'touq has been in detention for more than 243 days, despite the fact that Syrian law only allows detention for the purposes of investigation for a maximum of sixty days. Following the expiration of the sixty day detention period in February 2013, a group of Syrian lawyers contacted the Attorney General in Damascus to demand the release of Mr. Ma'touq. The Attorney General replied that Khalil Ma'touq was not being held in detention. However recently released detainees confirmed that they had seen Mr. Ma'touq in State Security Branch 285 while they themselves were in detention. In April 2013, Khalil Ma'touq's lawyer was reportedly informed by a Syrian State Security officer that his client had been transferred to an Air Force Intelligence branch in late March. These developments continue to raise serious and pressing questions about Khalil Ma'touq's health and safety.
24. In late May 2013, people close to Khalil Ma'touq and Mohammed Thatha received a tip-off indicating that Mr. Ma'touq was indeed in detention and that his health was severely deteriorating. The situation is especially troubling as Khalil Ma'touq suffers from severe lung disease, which requires regular medication and constant monitoring. It is unknown whether Mr. Ma'touq is able to receive any medical care for his serious condition.
25. This is not the first time that Khalil Ma'touq has been sanctioned for his human rights work. He had previously summoned for interrogation by authorities, and was also banned from travelling between 2005-2011, as a result of his work at the Syrian Centre for Legal Studies.

26. The arbitrary arrest and detention of Khalil Ma'touq is part of a widespread pattern of enforced disappearance and repression of lawyers in Syria. It is estimated that at least 37 lawyers are currently detained in Syria. Since anti-government protests erupted in March 2011, upwards of 1,300 individuals have reportedly died in custody, and many more have been subjected to torture and ill-treatment in Syrian detention centres and prisons. Several human rights organizations have condemned Syria's ongoing persecution, harassment and imprisonment of human rights lawyers during the discharge of their legitimate, peaceful legal duties and human rights work.

THE MONITORING GROUP'S CONSIDERATION

27. The following are issues that the Monitoring Group considered when making a decision about this case.

Sources

28. There are no concerns about the quality of sources used for this report.

Previous Intervention

29. In October 2012, immediately following the arrest and disappearance of Khalil Ma'touq, the Monitoring group issued a public statement expressing grave concerns about his arrest and disappearance, and demanding his release. See:
<http://www.lsuc.on.ca/with.aspx?id=2147489925>.

Mandate

30. The arrest and detention of lawyers as a result of their human rights work falls within the mandate of the Monitoring Group.

Russia– Death Threats against Criminal Defence Lawyers Sapiyat Magomedova and Musa Suslanov

PROCESS

31. The Human Rights Monitoring Group approved the proposed intervention in the case of then death threats against criminal defence lawyers Sapiyat Magomedova and Musa

Suslanov in June 2013 and presented the request for intervention to the Equity and Aboriginal Issues Committee for information in June 2013. Information about the case is presented below.

SOURCES OF INFORMATION

32. The background information for this report was taken from the following sources:
- a. Amnesty International;⁹
 - b. International Commission of Jurists;¹⁰
 - c. Lawyers Rights Watch Canada;¹¹ and
 - d. The World Organisation Against Torture¹².

BACKGROUND

33. Sapiyat Magomedova and Musa Suslanov are criminal defence lawyers that work in the North Caucasus republic of Dagestan in Russia. They have both previously worked on

⁹Amnesty International is an independent and democratically-run organization. The movement's mission and policies, and its long-term directions, are all set by Amnesty members. Amnesty representatives from around the world gather every two years to set policy at the International Council Meeting (ICM). The Council also elects an International Executive Committee which ensures that the ICM's decisions are carried out. Where Amnesty International is formally organized in a particular country, such as in Canada, Amnesty members set policy and key priorities within the framework of the worldwide movement. Amnesty International's work is always being assessed by its members and staff in the light of changing world circumstances. When major changes in policy and approach are needed, Amnesty members make the final decision.

¹⁰The International Commission of Jurists is an international human rights non-governmental organization. It is comprised of up to sixty lawyers (including senior judges, attorneys and academics) dedicated to ensuring respect for international human rights standards through the law. Commissioners are known for their experience, knowledge and fundamental commitment to human rights. The composition of the Commission aims to reflect the geographical diversity of the world and its many legal systems.

¹¹Lawyers Rights Watch Canada (LWRC) is a committee of Canadian Lawyers who promote human rights and the rule of law by providing support internationally to human rights defenders in danger. LWRC promotes the implementation and enforcement of internal standards designed to protect the independence and security of human rights defenders around the world.

¹²Created in 1985, the World Organisation Against Torture (OMCT) is today the main coalition of international non-governmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment. The OMCT has 311 affiliated organisations in its SOS-Torture Network and many tens of thousands correspondents in every country.

cases dealing with corruption and allegations of human rights violations by members of the state and law enforcement agencies, including allegations of torture, extra-judicial killings and abductions.

34. Ms. Magomedova and Mr. Suslanov are currently working on a high profile criminal case, representing the families of five men killed by firearms in March 2012. One of the men killed was a local parliamentarian, Magomed Gamzatov. Following the shooting, a criminal case was opened and several arrests were made. However relatives of the victims alleged that they were subjected to continuous surveillance and pressure, with the reported result that witnesses are now afraid to testify in this case.
35. On May 19, 2013 Musa Suslanov received a text message from an unknown cellular phone number, advising him and his colleague to withdraw from the case. The end of the message read, "We are warning you! This is a chance to stay alive." The following day, Sapiyat Madomedova received a similar message from the same number ordering her and her colleague to "remove yourselves from the case" and to "keep out of where you should not be". In addition to the threatening text messages, both lawyers subsequently received further threats of physical violence and of arson attacks and bomb attacks on their law offices if they do not cease their work on this case.
36. This is not the first time that Ms. Madomedova and Mr. Suslanov have faced threats and harassment as a result of their work. In June 2010, while visiting a client, Sapiyat Magomedova was beaten into unconsciousness by four militia agents in the Khasavyurt City Interior Department. Following the attack, a criminal case was filed against Ms. Magomedova for "assault and battery of authority representative" under the Russian Criminal Code. The case against her was subsequently dropped in March 2012, as were the charges against her assailants, who were not held accountable for their actions.
37. Criminal defence lawyers in the North Caucasus region have previously been subject to human rights violations including threats, harassment and even death as a result of their

work. Such allegations are oftentimes accompanied by an apparent failure by state authorities to adequately investigate the incidents and prosecute the perpetrators. In January 2012, a lawyer in the same region of Dagestan was shot to death without adequate investigation or prosecution by state authorities. This killing increases the fear and likelihood that the threats against Sapiyat Magomedova and Musa Suslanov represent real and imminent risks to their physical security.

THE MONITORING GROUP'S CONSIDERATION

38. The following are issues that the Monitoring Group considered when making a decision about this case.

Sources

39. There are no concerns about the quality of sources used for this report.

Previous Intervention

40. In March 2012, the Monitoring Group issued a statement welcoming the closing of criminal proceedings against Sapiyat Magomedova. The statement also expressed concern over the lack of prosecution and investigation against Ms. Madomedova's assailants.

Mandate

41. The arrest and detention of lawyers as a result of their human rights work falls within the mandate of the Monitoring Group.

United Arab Emirates– Verdict Due In Trial of 94 Government Critics, Including Human Rights Lawyers

PROCESS

42. The Human Rights Monitoring Group approved the proposed intervention in the case of the verdict of 94 government critics, including human rights lawyers in the United Arab Emirates in June 2013 and presented the request for intervention to the Equity and Aboriginal Issues Committee for information in June 2013. Information about the case is presented below.

SOURCES OF INFORMATION

43. The background information for this report was taken from the following sources:
- a. Amnesty International;¹³
 - b. Human Rights Watch;¹⁴
 - c. Lawyers Rights Watch Canada;¹⁵ and
 - d. Alkarama¹⁶

BACKGROUND

44. On July 2, 2013, the verdict is due to be handed down in the case of 94 government critics in the United Arab Emirates (UAE), who have been on trial since March 4, 2013. The defendants are on trial for allegedly violating the Penal Code provision which prohibits founding, organizing, or operating a group that aims to overthrow the country's

¹³ Amnesty International is an independent and democratically-run organization. The movement's mission and policies, and its long-term directions, are all set by Amnesty members. Amnesty representatives from around the world gather every two years to set policy at the International Council Meeting (ICM). The Council also elects an International Executive Committee which ensures that the ICM's decisions are carried out. Where Amnesty International is formally organized in a particular country, such as in Canada, Amnesty members set policy and key priorities within the framework of the worldwide movement. Amnesty International's work is always being assessed by its members and staff in the light of changing world circumstances. When major changes in policy and approach are needed, Amnesty members make the final decision.

¹⁴ Human Rights Watch is one of the world's leading independent organizations dedicated to defending and protecting human rights. By focusing international attention where human rights are violated, they aim to give voice to the oppressed and hold oppressors accountable for their crimes. Their rigorous, objective investigations and strategic, targeted advocacy build intense pressure for action and raise the cost of human rights abuse. For more than 30 years, Human Rights Watch has worked tenaciously to lay the legal and moral groundwork for deep-rooted change and has fought to bring greater justice and security to people around the world.

¹⁵ Lawyers Rights Watch Canada (LWRC) is a committee of Canadian Lawyers who promote human rights and the rule of law by providing support internationally to human rights defenders in danger. LWRC promotes the implementation and enforcement of internal standards designed to protect the independence and security of human rights defenders around the world.

¹⁶ Alkarama is a Swiss-based, independent human rights organisation established in 2004 to assist all those in the Arab World subjected to, or at risk of, extra-judicial executions, disappearances, torture and arbitrary detention. Acting as a bridge between individual victims in the Arab world and international human rights mechanisms, Alkarama works towards an Arab world where all individuals live free, in dignity and protected by the rule of law. In Arabic, Alkarama means dignity.

political system. Approximately 60 of those arrested are connected to the Reform and Social Guidance Association (al-Islah), a peaceful group that advocates for greater adherence to Islamic precepts. At least 64 of the defendants were arrested and held in undisclosed locations for up to a year prior to the trial, some in extended periods of solitary confinement. Reports indicate that at least some of them had also been subjected to torture and ill-treatment while in custody. Many of the defendants were also denied legal assistance for several months, and when they eventually did see a lawyer, it was done so in the presence of a representative of the State Security Prosecutor, contrary to Emirati law and international fair trial standards.

45. Lawyers for the 94 defendants made closing arguments in May and called for the acquittal of their clients. Independent observers and international media were barred from attending the trial, which has been plagued by allegations of unfairness and a lack of due process. The lawyers for the defendants further identified that their case files had been tampered with. Relatives of the defendants were also barred from attending the trial. If convicted, the defendants could face up to 15 years imprisonment.
46. Human rights lawyer Dr. Mohamed al-Mansoori is among the 94 arrested. He is the former head of the UAE Jurists Association, as well as the deputy chairman for al-Islah. On July 16, 2012, Dr. Al-Monsoori was taken into custody by plainclothes officers after leaving the house to run errand. His home was subsequently raided by 25 to 28 officers, who seized laptops, an iPad and papers. Prior to his arrest, Dr. al-Mansoori had been subject to various restrictions and harassment by the UAE government for speaking out on government restrictions on freedom of speech.
47. Dr. Mohamed 'Abdullah al-Roken was one of the defence lawyers in the case of the "UAE 5", five UAE residents who were arrested and imprisoned for seven months, for allegedly posting statements on an internet forum which were critical of UAE leaders and government policies. He was arrested on the way to the police station on July 17, 2012, to report the disappearance on his son and brother-in-law, who had been taken in

for questioning by the police. Dr. al-Roken had also previously defended members of al-Islah.

48. Salem al-Shehhi was arrested on July 18, 2012, when he went to the State Security Prosecutor's office to ask about his clients, Dr. al-Mansoori and al-Roken. Judge Mohammed Saeed al-Abdouli was the former head of an appeal-stage criminal court in Abu Dhabi.
49. Dr. Mohamed al-Mansoori, Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi and Mohammed Saeed al-Abdouli are among many other activists and human rights defenders that are being prosecuted both in this case and in several other cases in the UAE, for legitimately exercising their rights to freedom of expression. This case is part of a widespread crackdown on fundamental freedoms in the United Arab Emirates, resulting in the harassment arrest, torture and imprisonment of hundreds of people and their families. Several human rights organizations have condemned the UAE's ongoing repression of human rights lawyers and defenders during the discharge of their legitimate, peaceful legal duties and human rights work, as well as the UAE's clear lack of adherence to international fair trial standards.

THE MONITORING GROUP'S CONSIDERATION

50. The following are issues that the Monitoring Group considered when making a decision about this case.

Sources

51. There are no concerns about the quality of sources used for this report.

Previous Intervention

52. In September 2012, the Monitoring Group issued a statement expressing concern about the July 2012 arrests of Dr. Mohamed al-Mansoori, Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi.

Mandate

53. The arrest and detention of lawyers as a result of their human rights work falls within the mandate of the Monitoring Group.

TAB 7.1.1

Proposed Letters of Intervention

[Date]

His Excellency Prime Minister Mir Hazar Khan Khoso
P.M. Secretariat
Islamabad, Pakistan

Your Excellency,

Re: Lawyer Chaudry Zulfiqar Ali

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

Mr. Zulfiqar Ali was chief prosecutor and former deputy director of the Federal Investigation Agency. He was gunned down by unidentified assailants on May 3, 2013, near his home in Islamabad. Mr. Zulfiqar Ali had a reputation for determinedly pursuing cases against suspects with powerful and sometimes militant connections, despite receiving repeated death threats for his involvement in this work.

It is our understanding that Mr. Zulfiqar Ali was heavily involved with several high profile and dangerous prosecutions. He acted as the government's lead prosecutor in the 2008 terrorist attack in Mumbai, India, which killed 166 people. The investigation into this case involved a probe into several members of the Lashkar-e-Taiba militant group, which was ongoing at the time of his murder. Mr. Zulfiqar Ali was also leading the prosecution against suspects in the 2007 assassination of former Pakistani Prime Minister, Benazir Bhutto. In connection with this case, the prosecutor was pursuing charges against several suspected Taliban militants, and had also recently ordered the arrest of former military ruler Pervez Musharraf. It is speculated in various news outlets that Mr. Zulfiqar Ali's killing may be connected to his involvement in these two particularly high profile cases.

In the ongoing war between Pakistan and internal militants, lawyers have been particularly targeted and vulnerable. The killing of Mr. Zulfiqar Ali is part of a similar pattern across the country where judges and lawyers have been attacked in the course of the legitimate exercise of their duties.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the government of Pakistan to,

- a. ensure that the ongoing state investigation into the killing of Chaudry Zulfiqar Ali is thorough and transparent;
- b. take steps to ensure that lawyers and judges who are engaged in politically high profile cases are provided with added security unless expressly declined by the individual;
- c. publicly recognize the importance, legitimacy and independence of the work of lawyers and judges;
- d. ensure that all lawyers and judges can carry out their legitimate duties and activities in peace and security; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with human rights standards.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 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:

His Excellency Mian Gul Akbar Zeb
High Commissioner of Pakistan to Canada
10 Range Road
Ottawa, Ontario K1N 8J3

[Date]

President
Pakistan Bar Council
Supreme Court Building
3rd Floor, Block 1, Constitution Avenue
Islamabad, Pakistan

Dear Mr. President,

Re: Lawyer Chaudry Zulfiqar Ali

I write to inform you that the Law Society of Upper Canada* sent the attached letter to the Pakistan authorities to voice our grave concern over the death of lawyer Chaudry Zulfiqar Ali.

In view of the fact that your organization represents the interests of lawyers in Pakistan, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers may be experiencing in your country.

If it does not cause any problems for you with the Government of Pakistan, we would be very interested in hearing from you concerning the case noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, 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 consideration.

Yours very truly,

Paul Schabas

Chair, Human Rights Monitoring Group

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada. 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.*

TAB 7.1.2

Proposed Public Statement

The Law Society of Upper Canada Expresses Concerns about the Killing of Pakistani Prosecutor Chaudry Zulfiqar Ali

The Law Society of Upper Canada condemns the killing of Chaudry Zulfiqar Ali, chief prosecutor of the Federal Investigation Agency in Pakistan.

Mr. Zulfiqar Ali was gunned down on by unidentified assailants on May 3, 2013, near his home in Islamabad. Mr. Zulfiqar Ali had a reputation for determinedly pursuing cases against suspects with powerful and sometimes militant connections, despite receiving repeated death threats for his involvement in this work.

Mr. Zulfiqar Ali was heavily involved with several high profile and dangerous prosecutions. He acted as the government's lead prosecutor in the 2008 terrorist attack in Mumbai, India, which killed 166 people. The investigation into this case involved a probe into several members of the Lashkar-e-Taiba militant group, which was ongoing at the time of his murder. Mr. Zulfiqar Ali was also leading the prosecution against suspects in the 2007 assassination of former Pakistani Prime Minister, Benazir Bhutto. In connection with this case, the prosecutor was pursuing charges against several suspected Taliban militants, and had also recently ordered the arrest of former military ruler Pervez Musharraf. It is speculated in various news outlets that Mr. Zulfiqar Ali's killing may be connected to his involvement in these two particularly high profile cases.

In the ongoing war between Pakistan and internal militants, lawyers have been particularly targeted and vulnerable. The killing of Mr. Zulfiqar Ali is part of a similar pattern across the country where judges and lawyers have been attacked in the course of the legitimate exercise of their duties. It is often difficult to find the culprits of these killings, unless they identify themselves and claim responsibility for the attacks.

The Law Society is deeply concerned about situations where lawyers who work for the protection and respect of human rights are themselves targeted for exercising their freedoms and rights under international law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states that 'governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.' Article 18 states that 'lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions'.

The Law Society urges the government of Pakistan to,

- a. ensure that the ongoing state investigation into the killing of Chaudry Zulfiqar Ali is thorough and transparent;
- b. take steps to ensure that lawyers and judges who are engaged in politically high profile cases are provided with added security unless expressly declined by the individual;

- c. publicly recognize the importance, legitimacy and independence of the work of lawyers and judges;
- d. ensure that all lawyers and judges can carry out their legitimate duties and activities in peace and security; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with human rights standards.

The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.

The Law Society urges the legal community to intervene in support of members of the legal profession in Pakistan in their effort to advance the respect of human rights and to promote the rule of law.

TAB 7.1.3

Proposed Letters of Intervention

[Date]

Minister of Justice of the Syrian Arab Republic
Mr. Najm Hamad al-Ahmad
Al-Nasr Street
Damascus
Syrian Arab Republic

Dear Minister,

Re: Lawyer Khalil Ma'touq

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the ongoing imprisonment of human rights lawyer Khalil Ma'touq. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Khalil Ma'touq is a prominent human rights lawyer in Syria. He is the Executive Director of the Syrian Centre for Legal Studies and Research. Mr. Ma'touq provides legal assistance to victims of human rights violations in Syria, including the defense of hundreds of political prisoners, prisoners of conscience and journalists.

On October 2, 2012, Khalil Ma'touq and his friend and assistant Mohammed Thatha left Mr. Ma'touq's home in a suburb of Damascus, for work in the city. The two men did not arrive at the office. It is believed that they were detained at a government controlled checkpoint en route to work. This detention was as a direct result of Mr. Ma'touq's human rights work.

Since their disappearance, the families of Khalil Ma'touq and Mohammed Thatha have been unable to obtain any information about their whereabouts. Despite repeated requests for information, Syrian authorities continue to deny that the two men are in custody. Although Syrian law only allows detention for the purposes of investigation for a maximum period of sixty days, Khalil Ma'touq has been in detention for more than 240 days. The ongoing silence of Syrian authorities heightens worries that the men are being subjected to torture and ill treatment in detention, which is reportedly rife in Syrian prisons.

The situation is especially troubling as Khalil Ma'touq suffers from severe lung disease, which requires regular medication and constant monitoring. In late May 2013, people close to Khalil Ma'touq and Mohammed Thatha received a tip indicating that Mr. Ma'touq was indeed in detention and that his health was deteriorating. It is unknown whether Mr. Ma'touq is receiving any medical care for his serious condition.

The arbitrary arrest and detention of Khalil Ma'touq is part of a widespread pattern of enforced disappearance and repression of lawyers in Syria. It is estimated that at least 37 lawyers are currently detained in Syria. Since anti-government protests erupted in March 2011, upwards of 1,300 individuals have reportedly died in custody, and many more have been subjected to torture and ill-treatment in Syrian

detention centres and prisons. Several human rights organizations have condemned Syria's ongoing persecution, harassment and imprisonment of human rights lawyers who are engaged in legitimate, peaceful legal duties and human rights work.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the Syrian authorities to,

- a. release and guarantee in all circumstances the physical and psychological integrity of Khalil Ma'touq and his assistant Mohammed Thatha;
- b. provide Khalil Ma'touq immediate access to all medical treatment he requires;
- c. put an end to all acts of harassment, including at the judicial level, against human rights lawyers and other human rights defenders in Syria;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations;
- e. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Syria.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5, 100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in Syria in their effort to advance the respect of human rights and to promote the rule of law.

C.c. Syrian Bar Association
Mayssaloun Street
Ministry of Economic Building
P.O. Box 7541
Damascus, Syria

International Bar Association
10th Floor, 1 Stephen Street
London W1T 1At, United Kingdom

[Date]

Minister of Justice of the Syrian Arab Republic
Mr. Najm Hamad al-Ahmad
Al-Nasr Street
Damascus
Syrian Arab Republic

Dear Minister,

Re: Lawyer Khalil Ma'touq

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the ongoing imprisonment of human rights lawyer Khalil Ma'touq. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Khalil Maatouk is a prominent human rights lawyer in Syria. He is the Executive Director of the Syrian Centre for Legal Studies and Research. Mr. Maatouk provides legal assistance to victims of human rights violations in Syria, including the defense of hundreds of political prisoners, prisoners of conscience and journalists.

On October 2, 2012, Khalil Maatouk and his friend and assistant Mohamed Zaza left Mr. Maatouk's home in a suburb of Damascus, for work in the city. The two men did not arrive at the office. It is believed that they were detained at a government controlled checkpoint en route to work. This detention was as a direct result of Mr. Maatouk's human rights work.

Since their disappearance, the families of Khalil Maatouk and Mohamed Zaza have been unable to obtain any information about their whereabouts. Despite repeated requests for information, Syrian authorities continue to deny that the two men are in custody. Although Syrian law only allows detention for the purposes of investigation for a maximum period of sixty days, Khalil Maatouk has been in detention for more than 240 days. The ongoing silence of Syrian authorities heightens worries that the men are being subjected to torture and ill treatment in detention, which is reportedly rife in Syrian prisons.

The situation is especially troubling as Khalil Maatouk suffers from severe lung disease, which requires regular medication and constant monitoring. In late May 2013, people close to Khalil Maatouk and Mohamed Zaza received a tip indicating that Mr. Maatouk was indeed in detention and that his health was deteriorating. It is unknown whether Mr. Maatouk is receiving any medical care for his serious condition.

The arbitrary arrest and detention of Khalil Maatouk is part of a widespread pattern of enforced disappearance and repression of lawyers in Syria. It is estimated that at least 37 lawyers are currently detained in Syria. Since anti-government protests erupted in March 2011, upwards of 1,300 individuals have reportedly died in custody, and many more have been subjected to torture and ill-treatment in Syrian detention centres and prisons. Several human rights organizations have condemned Syria's ongoing persecution, harassment and imprisonment of human rights lawyers who are engaged in legitimate, peaceful legal duties and human rights work.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the*

Independence of the Judiciary, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the Syrian authorities to,

- a. release and guarantee in all circumstances the physical and psychological integrity of Khalil Maatouk and Mohamed Zaza;
- b. provide Khalil Maatouk immediate access to all medical treatment he requires;
- c. put an end to all acts of harassment, including at the judicial level, against human rights lawyers and other human rights defenders in Syria;
- a. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations;
- b. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- c. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Syria.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5, 100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in Syria in their effort to advance the respect of human rights and to promote the rule of law.

[Date]

Minister of Justice of the Syrian Arab Republic
Mr. Najm Hamad al-Ahmad
Al-Nasr Street
Damascus
Syrian Arab Republic

Dear Minister,

Re: Lawyer Khalil Ma'touq

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the ongoing imprisonment of human rights lawyer Khalil Ma'touq. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Khalil Ma'touq is a prominent human rights lawyer in Syria. He is the Executive Director of the Syrian Centre for Legal Studies and Research. Mr. Ma'touq provides legal assistance to victims of human rights violations in Syria, including the defense of hundreds of political prisoners, prisoners of conscience and journalists.

On October 2, 2012, Khalil Ma'touq and his friend and assistant Mohammed Thatha left Mr. Ma'touq's home in a suburb of Damascus, for work in the city. The two men did not arrive at the office. It is believed that they were detained at a government controlled checkpoint en route to work. This detention was as a direct result of Mr. Ma'touq's human rights work.

Since their disappearance, the families of Khalil Ma'touq and Mohammed Thatha have been unable to obtain any information about their whereabouts. Despite repeated requests for information, Syrian authorities continue to deny that the two men are in custody. Although Syrian law only allows detention for the purposes of investigation for a maximum period of sixty days, Khalil Ma'touq has been in detention for more than 240 days. The ongoing silence of Syrian authorities heightens worries that the men are being subjected to torture and ill treatment in detention, which is reportedly rife in Syrian prisons.

The situation is especially troubling as Khalil Ma'touq suffers from severe lung disease, which requires regular medication and constant monitoring. In late May 2013, people close to Khalil Ma'touq and Mohammed Thatha received a tip indicating that Mr. Ma'touq was indeed in detention and that his health was deteriorating. It is unknown whether Mr. Ma'touq is receiving any medical care for his serious condition.

The arbitrary arrest and detention of Khalil Ma'touq is part of a widespread pattern of enforced disappearance and repression of lawyers in Syria. It is estimated that at least 37 lawyers are currently detained in Syria. Since anti-government protests erupted in March 2011, upwards of 1,300 individuals have reportedly died in custody, and many more have been subjected to torture and ill-treatment in Syrian detention centres and prisons. Several human rights organizations have condemned Syria's ongoing persecution, harassment and imprisonment of human rights lawyers who are engaged in legitimate, peaceful legal duties and human rights work.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the Syrian authorities to,

- a. release and guarantee in all circumstances the physical and psychological integrity of Khalil Ma'touq and his assistant Mohammed Thatha;
- b. provide Khalil Ma'touq immediate access to all medical treatment he requires;
- c. put an end to all acts of harassment, including at the judicial level, against human rights lawyers and other human rights defenders in Syria;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations;
- e. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Syria.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5, 100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in Syria in their effort to advance the respect of human rights and to promote the rule of law.

[Date]

Mr. Nizar Assakkef
President of the Syrian Bar Association
Maisalon Street
Salhya Square
PO Box 7541
Damascus
Syrian Arab Republic

Dear Mr. President,

Re: Lawyer Khalil Ma'touq

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the ongoing imprisonment of human rights lawyer Khalil Ma'touq. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Khalil Maatouk is a prominent human rights lawyer in Syria. He is the Executive Director of the Syrian Centre for Legal Studies and Research. Mr. Maatouk provides legal assistance to victims of human rights violations in Syria, including the defense of hundreds of political prisoners, prisoners of conscience and journalists.

On October 2, 2012, Khalil Maatouk and his friend and assistant Mohamed Zaza left Mr. Maatouk's home in a suburb of Damascus, for work in the city. The two men did not arrive at the office. It is believed that they were detained at a government controlled checkpoint en route to work. This detention was as a direct result of Mr. Maatouk's human rights work.

Since their disappearance, the families of Khalil Maatouk and Mohamed Zaza have been unable to obtain any information about their whereabouts. Despite repeated requests for information, Syrian authorities continue to deny that the two men are in custody. Although Syrian law only allows detention for the purposes of investigation for a maximum period of sixty days, Khalil Maatouk has been in detention for more than 240 days. The ongoing silence of Syrian authorities heightens worries that the men are being subjected to torture and ill treatment in detention, which is reportedly rife in Syrian prisons.

The situation is especially troubling as Khalil Maatouk suffers from severe lung disease, which requires regular medication and constant monitoring. In late May 2013, people close to Khalil Maatouk and Mohamed Zaza received a tip indicating that Mr. Maatouk was indeed in detention and that his health was deteriorating. It is unknown whether Mr. Maatouk is receiving any medical care for his serious condition.

The arbitrary arrest and detention of Khalil Maatouk is part of a widespread pattern of enforced disappearance and repression of lawyers in Syria. It is estimated that at least 37 lawyers are currently detained in Syria. Since anti-government protests erupted in March 2011, upwards of 1,300 individuals have reportedly died in custody, and many more have been subjected to torture and ill-treatment in Syrian detention centres and prisons. Several human rights organizations have condemned Syria's ongoing persecution, harassment and imprisonment of human rights lawyers who are engaged in legitimate, peaceful legal duties and human rights work.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the Syrian authorities to,

- a. release and guarantee in all circumstances the physical and psychological integrity of Khalil Maatouk and Mohamed Zaza;
- b. provide Khalil Maatouk immediate access to all medical treatment he requires;
- c. put an end to all acts of harassment, including at the judicial level, against human rights lawyers and other human rights defenders in Syria;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations;
- e. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Syria.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in Syria in their effort to advance the respect of human rights and to promote the rule of law.

TAB 7.1.4

Proposed Public Statement

The Law Society of Upper Canada Expresses Grave Concerns about the Disappearance of Human Rights Lawyer Khalil Ma'touq, and the Ongoing Persecution of Human Rights Lawyers in Syria

The Law Society of Upper Canada* condemns the persecution of human rights lawyers and activists in Syria.

Khalil Ma'touq is a prominent human rights lawyer in Syria. He is the Executive Director of the Syrian Centre for Legal Studies and Research. Mr. Ma'touq provides legal assistance to victims of human rights violations in Syria, including the defense of hundreds of political prisoners, prisoners of conscience and journalists.

On October 2, 2012, Khalil Ma'touq and his friend and assistant Mohammed Thatha left Mr. Ma'touq's home in a suburb of Damascus, for work in the city. The two men did not arrive at the office. It is believed that they were detained at a government controlled checkpoint en route to work. This detention was as a direct result of Mr. Ma'touq's human rights work.

Since their disappearance, the families of Khalil Ma'touq and Mohammed Thatha have been unable to obtain any information about their whereabouts. Despite repeated requests for information, Syrian authorities continue to deny that the two men are in custody. Although Syrian law only allows detention for the purposes of investigation for a maximum period of sixty days, Khalil Ma'touq has been in detention for more than 240 days. The ongoing silence of Syrian authorities heightens worries that the men are being subjected to torture and ill treatment in detention, which is reportedly rife in Syrian prisons.

The situation is especially troubling as Khalil Ma'touq suffers from severe lung disease, which requires regular medication and constant monitoring. In late May 2013, people close to Khalil Ma'touq and Mohammed Thatha received a tip indicating that Mr. Ma'touq was indeed in detention and that his health was deteriorating. It is unknown whether Mr. Ma'touq is receiving any medical care for his serious condition.

The arbitrary arrest and detention of Khalil Ma'touq is part of a widespread pattern of enforced disappearance and repression of lawyers in Syria. It is estimated that at least 37 lawyers are currently detained in Syria. Since anti-government protests erupted in March 2011, upwards of 1,300 individuals have reportedly died in custody, and many more have been subjected to torture and ill-treatment in Syrian detention centres and prisons. Several human rights organizations have condemned Syria's ongoing persecution, harassment and imprisonment of human rights lawyers who are engaged in legitimate, peaceful legal duties and human rights work.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for human rights are essential to advancing the rule of law.

The Law Society urges the Syrian authorities to

- a. Release and guarantee in all circumstances the physical and psychological integrity of Khalil Ma'touq and his assistant Mohammed Thatha;
- b. Provide Khalil Ma'touq immediate access to all medical treatment he requires;
- c. put an end to all acts of harassment, including at the judicial level, against human rights lawyers and other human rights defenders in Syria;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without fear of physical violence or other human rights violations;
- e. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Syria.

**The Law Society of Upper Canada is the governing body for some 44,700 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in Syria in their effort to advance the respect of human rights and to promote the rule of law.

TAB 7.1.5

Proposed Letter of Intervention

[Date]

Chairman of the Investigative Committee of the Russian Federation
Aleksandr Ivanovich Bastrykin
Investigative Committee of the Russian Federation
Tekhnicheskii pereulok, d.2
105005 Moscow, Russian Federation

Dear Chairman,

Re: Threats against Lawyers Sapiyat Magomedova and Musa Suslanov

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the ongoing imprisonment of lawyers Sapiyat Magomedova and Musa Suslanov . When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Sapiyat Magomedova and Musa Suslanov are criminal defence lawyers working in the North Caucasus republic of Dagestan in Russia. Both lawyers have previously worked on cases dealing with corruption and allegations of human rights violations by members of the state and law enforcement agencies, including allegations of torture, extra-judicial killings and abductions.

Ms. Magomedova and Mr. Suslanov are currently working on a high profile criminal case, representing the families of five men killed in March 2012. On May 19, 2013 Musa Suslanov received a text message from an unknown mobile phone number, telling him and his colleague to withdraw from the case if they wished to stay alive. The following day, Sapiyat Madomedova received a similar message from the same number. In addition to the threatening text messages, both lawyers subsequently received further threats of physical violence and of arson and bomb attacks on their offices, if they do not cease their work on this case.

The threats against Sapiyat Magomedova and Musa Suslanov present imminent risks to their lives and physical security. Criminal defence lawyers in the North Caucasus region have previously been subject to human rights violations including threats, harassment and murder as a result of their work. Such events are often followed by an apparent failure by state authorities to adequately investigate the incidents and prosecute the perpetrators.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the Russian authorities to,

- a. promptly, effectively and impartially investigate the death threats received by Sapiyat Madomedova and Musa Suslanov and ensure that those responsible are brought to justice;
- b. ensure that lawyers Sapiyat Madomedova and Musa Suslanov are provided with protection and security in accordance with their stated needs and wishes;
- c. put an end to all acts of harassment, including at the judicial level, against human rights lawyers and other human rights defenders in Russia;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without intimidation, harassment, fear of physical violence or other human rights violations;
- e. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Russia.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in Russia in their effort to advance the respect of human rights and to promote the rule of law.

Cc:

Prosecutor General of the Russian Federation
Yurii Yakovlevich Chaika
Prosecutor General's Office
ul. B Dmitrovka, d.15a
125993 Moscow GSP-3
Russian Federation

Proposed Letter of Intervention B

[Date]

President of the Chamber of Lawyers of the Russian Federation
Yevgenii Vasilyevich Semenyanko
Chamber of Lawyers of the Russian Federation
Sivtsev Vrazhek, d.43
119002 Moscow, Russian Federation

Dear President,

Re: Threats against Lawyers Sapiyat Magomedova and Musa Suslanov

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the ongoing imprisonment of lawyers Sapiyat Magomedova and Musa Suslanov . When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Sapiyat Magomedova and Musa Suslanov are criminal defence lawyers working in the North Caucasus republic of Dagestan in Russia. Both lawyers have previously worked on cases dealing with corruption and allegations of human rights violations by members of the state and law enforcement agencies, including allegations of torture, extra-judicial killings and abductions.

Ms. Magomedova and Mr. Suslanov are currently working on a high profile criminal case, representing the families of five men killed in March 2012. On May 19, 2013 Musa Suslanov received a text message from an unknown mobile phone number, telling him and his colleague to withdraw from the case if they wished to stay alive. The following day, Sapiyat Madomedova received a similar message from the same number. In addition to the threatening text messages, both lawyers subsequently received further threats of physical violence and of arson and bomb attacks on their offices, if they do not cease their work on this case.

The threats against Sapiyat Magomedova and Musa Suslanov present imminent risks to their lives and physical security. Criminal defence lawyers in the North Caucasus region have previously been subject to human rights violations including threats, harassment and murder as a result of their work. Such events are often followed by an apparent failure by state authorities to adequately investigate the incidents and prosecute the perpetrators.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the Russian authorities to,

- a. promptly, effectively and impartially investigate the death threats received by Sapiyat Madomedova and Musa Suslanov and ensure that those responsible are brought to justice;

- b. ensure that lawyers Sapiyat Madomedova and Musa Suslanov are provided with protection and security in accordance with their stated needs and wishes;
- c. put an end to all acts of harassment, including at the judicial level, against human rights lawyers and other human rights defenders in Russia;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without intimidation, harassment, fear of physical violence or other human rights violations;
- e. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Russia.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in Russia in their effort to advance the respect of human rights and to promote the rule of law.

Cc:

Prosecutor General of the Russian Federation
Yurii Yakovlevich Chaika
Prosecutor General's Office
ul. B Dmitrovka, d.15a
125993 Moscow GSP-3
Russian Federation

Proposed Letter of Intervention C

[Date]

His Excellency Ambassador Georgiy Enverovich Mamedov
285 Charlotte Street
Ottawa, ON
K1N 8L5

Your Excellency,

Re: Threats against Lawyers Sapiyat Magomedova and Musa Suslanov

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the ongoing imprisonment of lawyers Sapiyat Magomedova and Musa Suslanov . When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Sapiyat Magomedova and Musa Suslanov are criminal defence lawyers working in the North Caucasus republic of Dagestan in Russia. Both lawyers have previously worked on cases dealing with corruption and allegations of human rights violations by members of the state and law enforcement agencies, including allegations of torture, extra-judicial killings and abductions.

Ms. Magomedova and Mr. Suslanov are currently working on a high profile criminal case, representing the families of five men killed in March 2012. On May 19, 2013 Musa Suslanov received a text message from an unknown mobile phone number, telling him and his colleague to withdraw from the case if they wished to stay alive. The following day, Sapiyat Madomedova received a similar message from the same number. In addition to the threatening text messages, both lawyers subsequently received further threats of physical violence and of arson and bomb attacks on their offices, if they do not cease their work on this case.

The threats against Sapiyat Magomedova and Musa Suslanov present imminent risks to their lives and physical security. Criminal defence lawyers in the North Caucasus region have previously been subject to human rights violations including threats, harassment and murder as a result of their work. Such events are often followed by an apparent failure by state authorities to adequately investigate the incidents and prosecute the perpetrators.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the Russian authorities to,

- a. promptly, effectively and impartially investigate the death threats received by Sapiyat Madomedova and Musa Suslanov and ensure that those responsible are brought to justice;

- b. ensure that lawyers Sapiyat Madomedova and Musa Suslanov are provided with protection and security in accordance with their stated needs and wishes;
- c. put an end to all acts of harassment, including at the judicial level, against human rights lawyers and other human rights defenders in Russia;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without intimidation, harassment, fear of physical violence or other human rights violations;
- e. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Russia.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in Russia in their effort to advance the respect of human rights and to promote the rule of law.

[Date]

Mr. Evgeni Semenyako
President
Federal Chamber of Lawyers of the Russian Federation
43 Sivtzer Vrashek Lane
119002
Moscow
Russian Federation
Email: info@advpalata.com

Dear Mr. President,

Re: Threats against Lawyers Sapiyat Magomedova and Musa Suslanov

I write to inform you that the Law Society of Upper Canada* sent the attached letter to the Russian Federation authorities to voice our grave concern over the ongoing imprisonment of lawyers Sapiyat Magomedova and Musa Suslanov.

In view of the fact that your organization represents the interests of lawyers in the Russian Federation, we would value the opportunity to communicate with you in regard to what problems, if any, lawyers may be experiencing in your country.

If it does not cause any problems for you with the Government of the Russian Federation, we would be very interested in hearing from you concerning the case noted in the attached letter. In particular, if we have any of the facts in the case wrong, it would assist us in our work to know that.

Please forward any further correspondence to the attention of Josée Bouchard, Equity Advisor, 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 consideration.

Yours very truly,

Paul Schabas

Chair, Human Rights Monitoring Group

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.

The Law Society urges the legal community to intervene in support of members of the legal profession in Russia in their effort to advance the respect of human rights and to promote the rule of law.

TAB 7.1.6

Proposed Public Statement**The Law Society of Upper Canada Expresses Grave Concerns about the Death Threats received by lawyers Sapiyat Magomedova and Musa Suslanov**

The Law Society of Upper Canada* condemns the intimidation and harassment of lawyers and activists in Russia.

Sapiyat Magomedova and Musa Suslanov are criminal defence lawyers working in the North Caucasus republic of Dagestan in Russia. Both lawyers have previously worked on cases dealing with corruption and allegations of human rights violations by members of the state and law enforcement agencies, including allegations of torture, extra-judicial killings and abductions.

Ms. Magomedova and Mr. Suslanov are currently working on a high profile criminal case, representing the families of five men killed in March 2012. On May 19, 2013 Musa Suslanov received a text message from an unknown mobile phone number, telling him and his colleague to withdraw from the case if they wish to stay alive. The following day, Sapiyat Madomedova received a similar message from the same number. In addition to the threatening text messages, both lawyers subsequently received further threats of physical violence and of arson and bomb attacks on their offices, if they do not cease their work on this case.

The threats against Sapiyat Magomedova and Musa Suslanov present imminent risks to their lives and physical security. Criminal defence lawyers in the North Caucasus region have previously been subject to human rights violations including threats, harassment and even death as a result of their work. Such allegations are oftentimes accompanied by an apparent failure by state authorities to adequately investigate the incidents and prosecute the perpetrators.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the Russian authorities to,

- a. promptly, effectively and impartially investigate the death threats received by Sapiyat Madomedova and Musa Suslanov and ensure that those responsible are brought to justice;
- b. ensure that lawyers Sapiyat Madomedova and Musa Suslanov are provided with protection and security in accordance with their wishes;
- c. put an end to all acts of harassment, including at the judicial level, against human rights lawyers and other human rights defenders in Russia;
- d. ensure that all lawyers can carry out their peaceful and legitimate activities without intimidation, harassment, fear of physical violence or other human rights violations;

- e. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Russia.

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in Russia in their effort to advance the respect of human rights and to promote the rule of law.

.

TAB 7.1.7

Proposed Letter of Intervention

[Date]

Your Highness Shaikh Mohammad bin Rashid Al-Maktoum
Vice President and Prime Minister
Office of the Prime Minister
POB 2838, Dubai, UAE

Your Highness,

Re: Arrest, Detention and Trial of Human Rights Lawyers Dr Mohamed al-Mansoori and Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi, Judge Mohammed Saeed al-Abdouli and Other Human Rights Defenders and Activists

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the arrest, detention and trial of human rights lawyers, judges and activists in the United Arab Emirates (UAE) . When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

On July 2, 2013, the verdict is due to be handed down in the case of 94 government critics in the United Arab Emirates (UAE), who have been on trial since March 4, 2013. If convicted, the defendants could face up to 15 years imprisonment. Approximately 60 of those arrested are connected to the Reform and Social Guidance Association (al-Islah), a peaceful group that advocates for greater adherence to Islamic precepts. al-Islah has never been known to use or advocate the use of any violence. At least 64 of the defendants were arrested and held in undisclosed locations for up to a year prior to the trial, some in extended periods of solitary confinement. Reports indicate that at least some of them had also been subjected to torture and ill-treatment while in custody. Many of the defendants were also denied legal assistance for several months. When they eventually did see a lawyer, the meeting was conducted in the presence of a representative of the State Security Prosecutor, contrary to UAE law.

Among those on trial are human rights lawyers Dr Mohamed al-Mansoori and Dr. Mohamed 'Abdullah al-Roken, their lawyer Salem al-Shehhi and Judge Mohammed Saeed al-Abdouli. Reports indicate that these individuals are being held solely on account of their defence work as lawyers, and other peaceful human rights activities. They have all been previously persecuted by UAE authorities and for the legitimate exercise of their professional duties and human rights work.

The trial of the 94 defendants has been plagued by allegations of unfairness and a lack of due process. Independent observers, international media as well as relatives of the defendants were barred from attending the trial. The lawyers for the defendants further identified that their case files had been tampered with. Such proceedings do not meet international fair trial standards.

Dr. Mohamed al-Mansoori, Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi and Mohammed Saeed al-Abdouli are among many other activists and human rights defenders that are being prosecuted both in this case and in several other cases in the UAE, for legitimately exercising their rights to freedom of expression. This case is part of a widespread crackdown on fundamental freedoms in the United Arab

Emirates, resulting in the harassment, arrest, torture and imprisonment of hundreds of people and their families. Several human rights organizations have condemned the UAE's ongoing repression of human rights lawyers and defenders during the discharge of their legitimate, peaceful legal duties and human rights work, as well as the UAE's lack of adherence to international fair trial standards.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the authorities in the United Arab Emirates to,

- a. drop all charges against Dr. Mohamed al-Mansoori, Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi, Mohammed Saeed al-Abdouli and other human rights defenders and activists that relate solely to the peaceful exercise of the right to freedom of expression and association;
- b. unconditionally and immediately release all detainees that are detained of the peaceful exercise of the right to freedom of expression and association;
- c. ensure that all detainees are protected from torture and ill-treatment while in custody and have access to their families and all necessary medical treatment;
- d. ensure that independent and impartial investigations are promptly opened into all allegations of torture and other ill-treatment;
- e. ensure that all lawyers can carry out their peaceful and legitimate activities without intimidation, harassment, fear of physical violence or other human rights violations;
- f. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- g. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by the UAE.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in United Arab Emirates in their effort to advance the respect of human rights and to promote the rule of law.

Cc:

Your Excellency Dr Hadeef bin Jua'an Al Dhaheri
Minister of Justice
Ministry of Justice
Al Khubirah, Sector 93, Street 5
P.O. Box 260
Abu Dhabi, UAE

His Excellency Mohammed Saif Helal M. Al Shehhi
Ambassador for the United Arab Emirates
125 Boteler Street
Ottawa, Ontario K1P 0A4

TAB 7.1.8

Proposed Public Statement**The Law Society of Upper Canada Expresses Grave Concerns about the Arrest, Detention and Trial of Human Rights Lawyers Dr Mohamed al-Mansoori and Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi, Judge Mohammed Saeed al-Abdouli and Other Human Rights Defenders and Activists in the United Arab Emirates**

The Law Society of Upper Canada* condemns the arrests, torture and imprisonment of lawyers and activists in the United Arab Emirates (UAE).

On July 2, 2013, the verdict is due to be handed down in the case of 94 government critics in the United Arab Emirates (UAE), who have been on trial since March 4, 2013. If convicted, the defendants could face up to 15 years imprisonment. Approximately 60 of those arrested are connected to the Reform and Social Guidance Association (al-Islah), a peaceful group that advocates for greater adherence to Islamic precepts. al-Islah has never been known to use or advocate the use of any violence. At least 64 of the defendants were arrested and held in undisclosed locations for up to a year prior to the trial, some in extended periods of solitary confinement. Reports indicate that at least some of them had also been subjected to torture and ill-treatment while in custody. Many of the defendants were also denied legal assistance for several months. When they eventually did see a lawyer, the meeting was conducted in the presence of a representative of the State Security Prosecutor, contrary to UAE law.

Among those on trial are human rights lawyers Dr Mohamed al-Mansoori and Dr. Mohamed 'Abdullah al-Roken, their lawyer Salem al-Shehhi and Judge Mohammed Saeed al-Abdouli. Reports indicate that these individuals are being held solely on account of their defence work as lawyers, and other peaceful human rights activities. They have all been previously persecuted by UAE authorities and for the legitimate exercise of their professional duties and human rights work.

The trial of the 94 defendants has been plagued by allegations of unfairness and a lack of due process. Independent observers, international media as well as relatives of the defendants were barred from attending the trial. The lawyers for the defendants further identified that their case files had been tampered with. Such proceedings do not meet international fair trial standards.

Dr. Mohamed al-Mansoori, Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi and Mohammed Saeed al-Abdouli are among many other activists and human rights defenders that are being prosecuted both in this case and in several other cases in the UAE, for legitimately exercising their rights to freedom of expression. This case is part of a widespread crackdown on fundamental freedoms in the United Arab Emirates, resulting in the harassment arrest, torture and imprisonment of hundreds of people and their families. Several human rights organizations have condemned the UAE's ongoing repression of human rights lawyers and defenders during the discharge of their legitimate, peaceful legal duties and human rights work, as well as the UAE's lack of adherence to international fair trial standards.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the authorities in the United Arab Emirates to,

- a. drop all charges against Dr. Mohamed al-Mansoori, Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi, Mohammed Saeed al-Abdouli and other human rights defenders and activists that relate solely to the peaceful exercise of the right to freedom of expression and association;
- b. unconditionally and immediately release all detainees that are detained of the peaceful exercise of the right to freedom of expression and association;
- c. ensure that all detainees are protected from torture and ill-treatment while in custody and have access to their families and all necessary medical treatment;
- d. ensure that independent and impartial investigations are promptly opened into all allegations of torture and other ill-treatment;
- e. ensure that all lawyers can carry out their peaceful and legitimate activities without intimidation, harassment, fear of physical violence or other human rights violations;
- f. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- g. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by the UAE.

**The Law Society of Upper Canada is the governing body for some 44,400 lawyers and 5,100 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in United Arab Emirates in their effort to advance the respect of human rights and to promote the rule of law.

.

Proposed Letter of Intervention B

His Highness Lt-General Sheikh Saif bin Zayed Al-Nahyan
Human Rights Directorate
POB: 398, Abu Dhabi, UAE

Cc:
Your Excellency Dr Hadeef bin Jua'an Al Dhaheri
Minister of Justice
Ministry of Justice
Al Khubirah, Sector 93, Street 5
P.O. Box 260
Abu Dhabi, UAE

His Excellency Mohammed Saif Helal M. Al Shehhi
Ambassador for the United Arab Emirates
125 Boteler Street
Ottawa, Ontario K1P 0A4

June 12, 2013

Re: Threats Against Lawyers Sapiyat Magomedova and Musa Suslanov

His Highness,

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the arrest, detention and trial of human rights lawyers, judges and activists in the United Arab Emirates (UAE) . When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

On July 2, 2013, the verdict is due to be handed down in the case of 94 government critics in the United Arab Emirates (UAE), who have been on trial since March 4, 2013. If convicted, the defendants could face up to 15 years imprisonment. Approximately 60 of those arrested are connected to the Reform and Social Guidance Association (al-Islah), a peaceful group that advocates for greater adherence to Islamic precepts. al-Islah has never been known to use or advocate the use of any violence. At least 64 of the defendants were arrested and held in undisclosed locations for up to a year prior to the trial, some in extended periods of solitary confinement. Reports indicate that at least some of them had also been subjected to torture and ill-treatment while in custody. Many of the defendants were also denied legal assistance for several months, and when they eventually did see a lawyer, it was done so in the presence of a representative of the State Security Prosecutor, contrary to UAE law.

Among those on trial are human rights lawyers Dr Mohamed al-Mansoori and Dr. Mohamed 'Abdullah al-Roken, their lawyer Salem al-Shehhi and Judge Mohammed Saeed al-Abdouli. Reports indicate that these individuals are being held solely on account of their defence work as lawyers, and other peaceful human rights activities. They have all been previously persecuted by UAE authorities and for the legitimate exercise of their duties and human rights work.

The trial of the 94 defendants has been plagued by allegations of unfairness and a lack of due process. Independent observers, international media as well as relatives of the defendants were barred from attending the trial. The lawyers for the defendants further identified that their case files had been tampered with, and that they were denied access to this vital information for months at a time. Such proceedings do not meet international fair trial standards.

Dr. Mohamed al-Mansoori, Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi and Mohammed Saeed al-Abdouli are among many other activists and human rights defenders that are being prosecuted both in this case and in several other cases in the UAE, for legitimately exercising their rights to freedom of expression. This case is part of a widespread crackdown on fundamental freedoms in the United Arab Emirates, resulting in the harassment arrest, torture and imprisonment of hundreds of people and their families. Several human rights organizations have condemned the UAE's ongoing repression of human rights lawyers and defenders during the discharge of their legitimate, peaceful legal duties and human rights work, as well as the UAE's lack of adherence to international fair trial standards.

International human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *United Nations Basic Principles on the Independence of the Judiciary*, state that judicial independence and respect for humans rights are essential to advancing the rule of law.

The Law Society urges the authorities in the United Arab Emirates to,

- a. drop all charges against Dr. Mohamed al-Mansoori, Dr. Mohamed 'Abdullah al-Roken, Salem al-Shehhi, Mohammed Saeed al-Abdouli and other human rights defenders and activists that relate solely to the peaceful exercise of the right to freedom of expression and association;
- b. unconditionally and immediately release all detainees that are detained of the peaceful exercise of the right to freedom of expression and association;
- c. ensure that all detainees are protected from torture and ill-treatment while in custody and have access to their families and all necessary medical treatment;
- d. ensure that independent and impartial investigations are promptly opened into all allegations of torture and other ill-treatment;
- e. ensure that all lawyers can carry out their peaceful and legitimate activities without intimidation, harassment, fear of physical violence or other human rights violations;
- f. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers* and the *Declaration on Human Rights Defenders*; and
- g. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by the UAE.

Yours very truly,

Thomas G. Conway

Treasurer

**The Law Society of Upper Canada is the governing body for some 44,700 lawyers and 5,000 paralegals in the Province of Ontario, Canada and 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.*

The Law Society urges the legal community to intervene in support of members of the legal profession in United Arab Emirates in their effort to advance the respect of human rights and to promote the rule of law.

TAB 7.2

FOR INFORMATION
CAREER CHOICES STUDY

54. In January 2008, the Law Society released the findings of a survey of licensing candidates and recently-called lawyers conducted in late June and July of 2007. Invitations to participate in the survey were sent to 5,310 Licensing candidates and new calls to the bar (those who were called to the bar in the preceding two years, and those enrolled in the 2006 to 2008 Licensing Program). The 2008 Career Choices Report is available at <http://www.lsuc.on.ca/with.aspx?id=2147487014>.
55. In June 2013, the Equity and Aboriginal Issues Committee considered the second Career Choices Study. The study provides the findings of a survey conducted with new licensees (at the end of their first year of call) called in 2010 (1189 licensees), 2011 (1459 licensees) and 2012 (1676 licensees). The 2013 Career Choices Study is available at **TAB 7.2.1**.
56. The report has also been provided for information to the Professional Development & Competence Committee.
57. Invitations to participate were sent to new lawyers called to the bar in 2010, 2011 and 2012. The response rate was 22.47%. The objective of the research was to investigate new lawyers' experiences from their entry into law school to their entry into practice. More women (62%) than men (38%) responded to the survey and, consistent with the representation in the legal profession, 40% of respondents self-identified as a member of an equality-seeking community¹.
58. The findings show that a wide variety of considerations have a bearing on the first preference for a law school but a strong academic reputation is cited most frequently followed by the location of the law school where the respondent wants to practise/work,

¹ Based on race, religion, Francophone, Aboriginal, disability, sexual orientation and gender identity.

the affordable location of the law school, the curriculum, the tuition costs and the availability of family support.

59. Four key factors are identified as responses to an open-ended question as key factors that influence the choice of articling positions: areas of interest/practice, having summered at the firm and being hired back, location and perceived prestige/reputation. Those who entered law school in debt and those who incurred debt during law school are significantly more likely than those who did not to cite remuneration as a key factor.
60. When asked through a prompted question to identify the one factor that had the greatest influence on the choice of an articling position, the two most frequent factors are having summered at the firm/organization and having been asked back to article and the practice areas offered by the firm/organization. Women, men and equality-seekers are as likely to have access to articling offers following summer placements.
61. Turning to preferred practice areas either for an articling position or in practice, women are significantly more likely than men to have sought an experience in human rights/social justice law, employment law, family/matrimonial law, wills/estates/trusts, immigration law, ADR/mediation services and poverty law. Men are significantly more likely than women to have sought an experience in corporate commercial law, civil litigation-plaintiff, real estate, securities law, tax law and intellectual property law. Those who self-identify as racialized are more likely to have been seeking exposure to immigration law and international law. Some areas in which students or lawyers do not appear to be getting the experience they are seeking is human rights/social justice law and immigration, which may have an impact on women and equality-seekers who appear to be more likely to seek such positions.
62. Respondents were asked whether they faced significant challenges in their articling search. About three-quarters of respondents report that they encountered no significant challenges. Members of an equality-seeking community however are significantly less likely than those who are not members of such a community to report not having faced

any significant challenges. This is also the case among those who identify as racialized when compared to respondents overall.

63. Those who are currently practising or working in law in Ontario were asked on an open-ended basis to list the key factors that had an influence on their decision to choose that position. While a wide variety of factors were cited, practice areas offered was cited by the single largest proportion of these respondents followed by having received a job offer, and in particular the availability of the position/work, the culture or environment, the type of firm/organization, previous employment with the firm or organization, good work/life balance and various aspects of professional development (12%).
64. The only notable differences by subgroup are by gender: women are more likely than men to cite the practice areas offered, the culture or environment of the firm or organization and work-life balance. Men, by contrast, are more likely than women to cite remuneration, the perceived prestige or reputation of the firm or organization and opportunities for professional development.
65. The responses to the close ended question are consistent with the factors found on an unprompted basis: the practice areas offered, being asked back following articles, good remuneration, supportive environment, the existence of work/life balance practices, policies or statements, prestige and good benefits. There are a number of differences by gender. Women are more likely than men to cite as key factors influencing their choice of position a supportive environment, work/life balance policies/statements/practices and maternity/parental leave policies (12% and 5%). Men are more likely to say that the perceived prestige of the firm or organization was a key factor.
66. There are also some interesting differences by membership in an equality-seeking community. Most dramatically, those who self-identify with an equality-seeking community are significantly less likely than those who do not to say that having articulated at the firm or organization and being hired back was a key factor that influenced their choice of position. They are also less likely to identify a supportive work environment, good remuneration and the practice areas offered by the firm or organization as

influential factors. Members of an equality-seeking community are nearly twice as likely to see as important that the firm or organization has a diverse workforce.

67. Just over six-in-ten students (64%) began law school with no debt. There are no differences by subgroup in the incidence of entering law school without debt. Among the 36% of respondents who reported that they were in debt at the beginning of law school, the average amount of debt reported was \$38,080 (\$26,482 in 2007).
68. Although 64% (62% in 2007) of respondents entered law school debt free, just 23% (22% in 2007) of respondents report that they incurred no debt during law school to allow them to complete their law school education. Thus over three-quarters of respondents (77%) incurred at least some debt in order to complete their law school studies. There are no differences by subgroup among those who did not incur any debt during law school.
69. Among those who incurred debt during law school, the average amount reported was \$54,147 (\$45,246 in 2007). The total amount of debt reported by women on average (\$55,468; \$45,242 in 2007) is slightly higher than the amount of debt reported by men on average (\$52,088; \$45,251 in 2007). Further, the increase in the amount of total debt reported compared to 2007 is slightly greater among women. The total amount of debt reported by members of an equality-seeking community on average (\$52,358; \$43,006 in 2007) is very slightly lower than the total amount of debt reported by those who are not members of an equality-seeking community on average (\$55,280; \$46,583 in 2007).



Career Choices Study

A Report to the Law Society of Upper Canada

May, 2013

Gregg, Kelly, Sullivan & Woolstencroft:
The Strategic Counsel

www.thestrategiccounsel.com

21 St. Clair Avenue East
Suite 1100
Toronto, Ontario
M4T 1L9
Tel 416 975-4465
Fax 416 975-1883

60 George Street
Suite 205
Ottawa, Ontario
K1N 1J4
Tel 613 236-0296
Fax 613 236-1290



Table of Contents

	Page
Methodology and Objectives	3
Sample Demographics	7
Pre-law Educational Background and Law School Preferences	20
Articling	35
Challenges Faced in Securing Articles	51
The Practice of Law	59
Financial Considerations	85

Methodology and Objectives



Methodology

- ◆ *The Strategic Counsel* is pleased to present to the Law Society of Upper Canada (“the Law Society”) this report of findings from a survey of recently-called lawyers. This is the second report of findings from this study. A benchmark wave was undertaken in 2007.
- ◆ The survey was administered online and was available in both English and French. The sample was provided by the Law Society.
- ◆ In each of 2010, 2011 and 2012, invitations to participate in the survey were sent to new lawyers for whom the Law Society had an email address. The number of invitations sent by year is as follows:
 - 2010 - 1189
 - 2011 - 1459
 - 2012 - 1676
- ◆ Surveys were completed by 972 of those who were invited to participate in the research. This represents a response rate of 22.47%.
- ◆ The margin of error for the total sample of 972 is +/- 2.77 percentage points, nineteen times out of twenty. Smaller sub-samples of the total sample (e.g., gender) will have a higher margin of error.



Objectives

- ◆ Broadly, the objective of the research was to investigate among new lawyers' experiences from their entry into law school to their entry into practice. The research objectives are outlined in more detail below.
- ◆ **Law School:**
 - Pre-law school educational background;
 - Law school preferences and the reasons underlying those preferences.
- ◆ **Articling:**
 - Key factors that influenced the choice of an articling position;
 - Preferences for and actual setting of articles;
 - Challenges faced in securing an articling position;
 - Preferences for and actual experience of articling with respect to the areas of law in which experience was gained.
- ◆ **Practice:**
 - Key factors that influenced the choice of post-call practice/workplace setting;
 - Preferences for and actual practice/workplace setting;
 - Key factors influencing choice of practice areas;
 - Preferred and actual practice areas.
- ◆ **Financial Considerations:**
 - Sources used to pay for law school education;
 - Level of personal indebtedness and the impact of that debt;
 - Awareness and usage of programs to address student debt loads.

Sample Demographics



Sample Demographics – Gender, Age, Current Professional Status

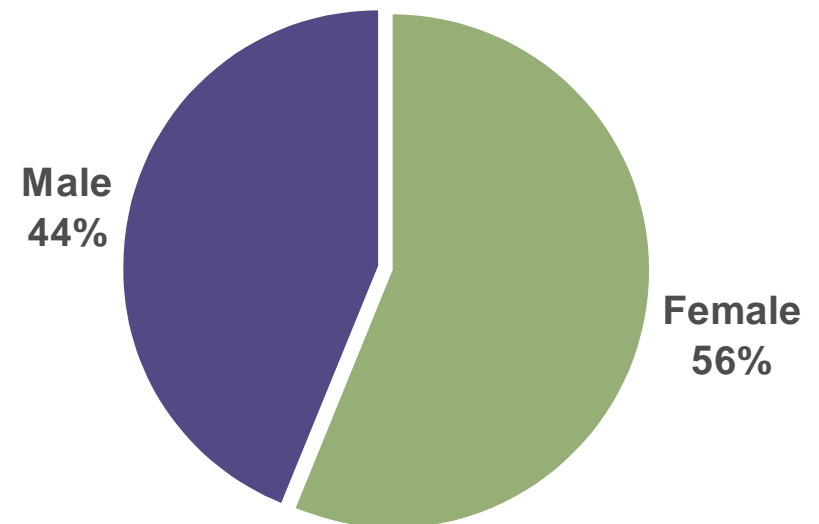
- ◆ More women (62%) than men (38%) responded to the survey.
- ◆ As would be expected given the sample of members who were invited to participate in this research, and consistent with the age profile of members responding to the 2007 survey, the largest proportion of respondents (84%) fall in the 25-34 age range.
 - About half of respondents (51%) are between 25 and 29 years of age, with one-third between 30 and 34 years of age.
 - Of the remainder, fewer than 1% are younger (18-24 years of age) and 16% are older (8% 35-39, 7% 40-49 and 1% 50 years of age or older).
- ◆ The mean age of respondents is 31.24 years.
- ◆ NCA respondents are on average older than non-NCA respondents.
 - Half of NCA respondents (50%) are 35 years or older, compared to 15% of non-NCA respondents.
 - The mean age of NCA respondents is 36.16 years, compared to a mean age of 30.97 years among non-NCA respondents.
- ◆ As would be expected, those who were mature students when they attended law school are also on average older (mean age of 37.72 years as compared to a mean of 29.58 years among those who were not mature students).
- ◆ The vast majority of respondents articulated in Ontario (93%) and all but 4% of them are currently practising or working in law.

Gender

2013



2007



Q.35 Please indicate your gender.
Base: All respondents 2013 (n=972) 2007 (n=1303)



Age

	Total Sample	
	2013	2007
n=	972	1303
	%	%
18 – 24	< 1	2
25 – 29	51	52
30 – 34	33	30
35 – 39	8	8
40 – 49	7	6
50+	1	2

Q.36 In what year were you born?

Base: All respondents

Note: The mean age of respondents is 31.24 years



Current Status

	Total Sample
	2013
n=	972
	%
I articulated in Ontario but have not yet begun practising/working	4
I articulated in Ontario and am currently practising/working	89
I did not articulate in Ontario and have not begun practising/working	1
I am currently practising/working but did not articulate in Ontario	7
No answer	<1

Q.10 Which one of the following best describes your current status?

Base: All respondents



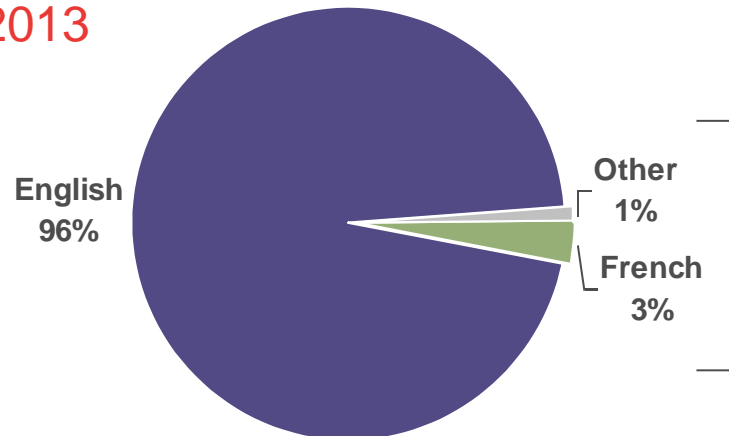
Sample Demographics – Language

- ◆ Overwhelmingly, the language in which respondents feel most comfortable delivering legal services is English (96%).
 - Among those who are more comfortable in a language other than English, 73% (representing 3% of the total sample) are most comfortable delivering legal services in French.
 - A language other than English or French is the preference of the remaining 1% of respondents.
- ◆ Respondents who feel most comfortable delivering legal services in a language other than English are evenly divided as to whether the language in which they are most comfortable had an impact on their articling or career choices.
- ◆ In order to investigate challenges faced by those who are more comfortable in a language other than English, those respondents were asked to explain the nature of the impact on their articling or career choices.
- ◆ Among the 20 of these respondents who offered a comment, the majority (55%) mention wanting to work in a bilingual environment. Just over one-third of these respondents (35%) say that they wanted to work in a French-speaking environment.

Language and Impact on Articling/Career Choices

Preferred Language

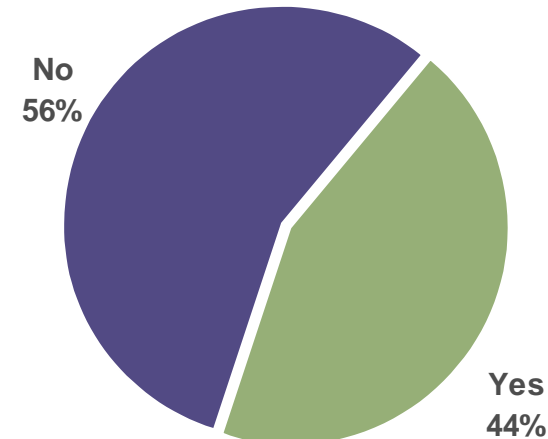
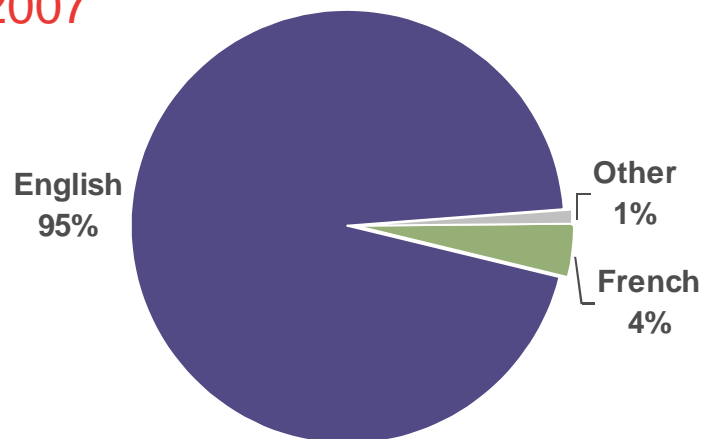
2013



Impact on Articling/Career Choices



2007



Q.37 In what language do you feel most comfortable delivering legal services?

Base: All respondents 2013 (n=972) 2007 (n= 1303)

Q.38 Did the language in which you are most comfortable have any impact on your articling or career choices?

Base: Those who feel most comfortable in a language other than English 2013 (n=40) 2007 (n=59)



Sample Demographics – Equality-Seeking Communities

- ◆ Findings from this research include the views of a number of equality-seeking communities.
 - Membership in an equality-seeking community was determined by respondents themselves through a question that invited them to indicate whether they self-identify with one or more of a number of characteristics.
- ◆ While the majority of those responding to the survey (60%) do not self-identify with any of the characteristics tested, a significant minority of respondents do so self-identify (40%).
- ◆ “Racialized” or “persons of colour” comprise the largest proportion of these respondents (19% of respondents overall), followed by adherents of a religion or creed that is a minority in Canada (8%). Also represented in the sample are those who self-identify as:
 - Francophone (7%);
 - Gay, lesbian or bisexual (4%);
 - Person with disabilities (3%);
 - Aboriginal (e.g., First Nations, Métis, Inuit) (2%).
- ◆ NCA respondents are almost twice as likely as non-NCA respondents to self-identify as racialized/person of colour (33% and 18%, respectively).
 - No NCA respondents self-identify as either Aboriginal or Francophone.



Membership in an Equality-Seeking Community

	Total Sample	
	2013	2007
n=	972	1303
	%	%
Racialized/Person of colour (visible minority)	19	16
Religion or creed that is minority in Canada	8	10
Francophone	7	7
Gay/Lesbian/Bisexual	4	4
Aboriginal (e.g., First Nations, Métis, Inuit)	2	2
Person with disabilities	3	2
Transgender/Transsexual	-	<1
Other	4	5
I do not identify with any of these personal characteristics	60	61

Q.39 Please check any of the following characteristics with which you self-identify.

Base: All respondents

Note: Multiple mentions accepted



Sample Demographics – Race

- ◆ Those who self-identified as either Aboriginal or as racialized/person of colour were invited to further self-identify their race.
- ◆ Findings from this question disclose diversity among those who responded to the survey. These include:
 - South Asian (e.g., Indo-Canadian, Indian Subcontinent Canadian) (30%);
 - Chinese Canadian (25%);
 - African Canadian, Black Canadian (18%);
 - First Nations (2%);
 - East Asian Canadian (e.g., Japanese, Korean) (6%);
 - Southeast Asian Canadian (e.g., Vietnamese, Cambodian, Thailand, Philippines) (5%);
 - Métis (4%);
 - Arab Canadian (3%);
 - Latin American, Hispanic or Latino Canadian (2%).
- ◆ Among NCA respondents who self-identify as racialized/person of colour, the largest proportion self-identify as South Asian (53%).
 - The next most highly represented race, representing just under one quarter of these NCA respondents (24%), is African Canadian or Black Canadian.
 - Arab Canadian, Chinese Canadian and Southeast Asian Canadian each represent one-twentieth (6%) of NCA respondents.



Sample Demographics – Race

	Total Base	
	2013	2007
n=	201	234
	%	%
South Asian (e.g., Indo-Canadian, Indian Subcontinent Canadian)	30	27
Chinese Canadian	25	20
African Canadian, Black Canadian	18	16
First Nations	2	7
East Asian Canadian (e.g., Japanese, Korean)	6	7
Southeast Asian Canadian (e.g., Vietnamese, Cambodian, Thai, Philippine)	5	6
Métis	4	5
Arab Canadian	3	5
Inuit	-	<1
Latin American, Hispanic or Latino Canadian	2	<1
Other	11	14

Q.40 Please specify how you identify yourself.

Base: Those who self-identify as “Aboriginal” or “Racialized/Person of Colour” (n=201)

Note: Multiple mentions accepted



Sample Demographics – Financial Support Obligations

- ◆ The research also investigated the incidence of financial support obligations during law school.
- ◆ The very strong majority of respondents (91%) report that they had no dependents “who relied on me either alone or in part for financial support” while they were attending law school.
- ◆ However, small minorities do report dependents who relied on them for some measure of financial support:
 - 5% report that they had shared custody of children;
 - 1% report that they had sole custody of children;
 - 2% report that they had shared support responsibilities for an adult;
 - 1% report that they had sole support responsibilities for an adult.
- ◆ There are no significant differences by subgroup here.



Sample Demographics – Financial Support Obligations

	Total Sample	
	2013	2007
n=	972	1303
	%	%
I had sole custody of children who relied on me alone or in part for financial support	1	2
I had shared custody of children who relied on me alone or in part for financial support	5	6
I had sole support of an adult who relied on me alone or in part for financial support	1	2
I had shared support of an adult who relied on me alone or in part for financial support	2	3
I had no dependents who relied on me alone or in part for financial support	91	88

Q.42 Please check any of the following that applied to you when you were attending law school.

Base: Total sample

Note: Multiple mentions allowed

Pre-Law
Educational
Background and
Law School
Preferences



Pre-Law Educational Background

- ◆ Virtually all respondents (96%) had completed at least a 3 year undergraduate degree before entering law school, with the largest single proportion having obtained a 4 year undergraduate degree:
 - 11% had obtained a 3 year undergraduate degree;
 - 66% had obtained a 4 year undergraduate degree;
 - 4% had completed at least one year of a post-graduate degree;
 - 15% had completed a post-graduate degree.
- ◆ Of the remaining 4%:
 - 1% had completed 3 years of undergraduate study without obtaining a degree;
 - 1% had completed 2 years of undergraduate study; and,
 - 2% had completed fewer than 2 years of undergraduate study
- ◆ Francophone respondents appear to have undertaken less undergraduate education than have respondents overall. They are more likely than respondents overall to report having:
 - Completed fewer than two years undergraduate studies (12% and 2%, respectively);
 - Completed two years without obtaining an undergraduate degree (8% and 1%);
 - Obtained a three year undergraduate degree (23% and 11%).
- ◆ Conversely, Francophone respondents are significantly less likely than are respondents overall to report having completed a four year undergraduate degree (42% and 66%, respectively).
- ◆ Those who self-identify as racialized/person of colour (23%) are significantly more likely than are respondents overall (15%) to report having completed a post-graduate degree.



Level of Education Completed When Entered Law School

	Total Sample	
	2013	2007
n=	972	1303
	%	%
Completed fewer than two years undergraduate studies	2	2
Completed two years without obtaining an undergraduate degree	1	3
Completed three years without obtaining an undergraduate degree	1	3
Obtained a three year undergraduate degree	11	14
Obtained a four year undergraduate degree	66	61
Completed at least one year of a post-graduate degree	4	2
Obtained a post-graduate degree	15	15

Q.1 How far had your studies progressed at the time you entered law school?
Base: All respondents



Mature Students

- ◆ One-in-five respondents (20%) attended law school as a mature student. Consistent with their older age profile, NCA respondents (31%) are significantly more likely than non-NCA respondents (20%) to have attended law school as a mature student.
- ◆ About six-in-ten (61%) mature students report having been in the workforce for five years or more prior to entering law school, and about one-third were working for 10 years or more:
 - 39% were in the workforce for fewer than 5 years;
 - 29% for 5-9 years;
 - 32% for 10 years or more.
- ◆ Among those mature students who were in the workforce prior to entering law school, the mean length of time worked is 7.54 years.



Number of Years in the Workforce Prior to Entering Law School

	Total Sample	
	2013	2007
n=	972	1303
	%	%
1-2 years	4 (20)	4
3-4 years	4 (19)	4
5-9 years	6 (29)	8
10-14 years	3 (16)	3
15-19 years	2 (9)	2
20 or more years	1(7)	2
I did not attend law school as a mature student	80	77

Q.2 If you attended law school as a mature student, please indicate how many years, if any, you were in the workforce prior to entering law school.

Base: All respondents

Note: Proportions in parentheses () are calculated among mature students

Note: Mean length of time in workforce is 7.54 years



Law School Preferences

- ◆ Selected by the greatest proportions of respondents as the first choice of law school to attend are the University of Toronto (21%) and Osgoode Hall (18%).
- ◆ Clustered together quite closely are the University of Ottawa Common Law Section (10%), the University of Western Ontario (9%) and Queen's University (8%).
- ◆ The proportions of respondents making the remaining Ontario law schools their first choice are as follows:
 - University of Ottawa French Common Law Section (4%);
 - University of Windsor (3%);
 - University of Ottawa Droit Civil (1%).
- ◆ Consistent with 2007 findings, about one-in-five respondents (21%) report having made a law school outside of Ontario their preferred choice:
 - 16% selected a Canadian law school outside of Ontario first;
 - 5% selected a law school outside of Canada first.
- ◆ Examining Canadian law schools outside of Ontario, McGill University leads at 8%, followed by Dalhousie University (4%), the University of British Columbia and the University of Victoria (each the first choice of 2% of respondents).



Law School Preferences

- ◆ It is worth noting that respondents who self-identify as Francophone are disproportionately likely to have made the French Common Law Section at the University of Ottawa their first choice (44% as compared to 4% among respondents overall), and are also significantly more likely to have included this program in their top three choices.
- ◆ Women (20%) are somewhat more likely than men (15%) to have made Osgoode Hall their first choice.
- ◆ As might be expected, 61% of NCA respondents made a law school outside of Canada their first choice.
 - However, about one-third of NCA respondents (34%) made an Ontario law school their first choice, suggesting that attending a law school outside of Canada may have been more of a necessity than a preference.



Law School Preferences

	Total Sample							
	First Choice		Second Choice		Third Choice		NET	
	2013	2007	2013	2007	2013	2007	2013	2007
n=	972	1303	972	1303	972	1303	972	1303
	%	%	%	%	%	%	%	%
Osgoode Hall Law School (York University)	18	19	19	20	8	13	45	53
Queen's University	8	6	12	12	14	17	34	34
University of Ottawa English Common Law Section	10	10	9	10	8	10	28	30
University of Ottawa French Common Law Section	4	3	1	2	< 1	1	4	5
University of Ottawa Droit Civil	1	2	1	<1	< 1	1	2	3
University of Toronto	21	24	11	16	6	7	38	46
University of Western Ontario	9	8	8	9	13	13	29	30
University of Windsor	3	4	4	3	5	6	12	13
Out of province	21	20	15	11	14	7	35	38
Out of country	5	4	3	6	2	5	7	15
No other	-	-	8	-	13	-	-	-
None/No answer	-	-	8	12	17	20	-	-

Q.3 Please indicate which law schools were your first, second and third choice. If you applied more than one year, please base your answer on your most recent application.

Base: All respondents



Reasons for First Preference

- ◆ A wide variety of considerations have a bearing on the selection of a law school as a first choice. By quite a wide margin, however, a strong academic reputation is cited most frequently (63%).
- ◆ Strong academic reputation is followed by:
 - Location of law school where respondent wanted to practise/work (40%);
 - Location of law school affordable (34%);
 - Curriculum strongly linked to areas respondent wanted to study or practise (31%);
 - Tuition costs (26%); and,
 - Availability of family support (23%).
- ◆ Consistent with these findings, when respondents were asked to select the two most important of these reasons strong academic reputation again leads by a significant margin with nearly half of respondents (48%) selecting it, followed by location of law school where I wanted to practise/work (29%).
- ◆ There is little variation by demographic sub-group in the importance assigned to a strong academic reputation in determining the first choice of law school to attend, suggesting that prospective students widely view this as the most critical attribute of a law school.
 - There are, however, some interesting differences among respondents who were mature students and NCA respondents here. NCA respondents (65%) are significantly more likely than non-NCA respondents (47%) to cite a strong academic reputation as one of the two most important reasons that had a bearing on their first choice of law school. Respondents who were mature students (37%) are significantly less likely to do so than are respondents who were not mature students (51%).



Reasons for First Preference

- ◆ Once again, differences by demographic sub-group in the importance assigned to the law school's proximity to where respondents would like to practise are limited. However, some interesting findings do emerge by law school attended.
 - Those who attended law school at the University of Toronto (50%) or Osgoode Hall (51%) are significantly more likely than respondents overall (29%) to cite location as one of their two most important reasons, suggesting that the proximity of these schools to the Toronto legal market may be attractive.
 - Those who were NCA students (14%) are significantly less likely to have done so.
- ◆ Selected by smaller proportions of respondents as one of their two most important reasons are:
 - Curriculum strongly linked to areas respondent wanted to study/practise (17%);
 - Location of law school affordable (15%);
 - Tuition costs (13%); and,
 - Availability of family support: (11%).
- ◆ None of the other reasons tested was selected by more than 7% of respondents as one of the two most important. There are, however, noteworthy differences by subgroup on some of them.
- ◆ Not surprisingly, perhaps, those who incurred debt prior to entering law school are more likely than those who did not to include both tuition costs (16% and 11%, respectively) and the availability of financial aid (7% and 2%) as one of the two most important factors bearing on their first choice of law school.
- ◆ Those who were mature students (22%) are significantly more likely than those who were not (13%) to cite the affordability of the law school's location, as are those who were NCA students (24%) as compared with those who were not (14%).
- ◆ As might be expected, Francophones (48%) are dramatically more likely than respondents overall (4%) to cite the language in which the program was offered, as are those who attended the University of Ottawa French Common Law program (74%).



Reasons for First Preference

	Total Sample			
	Had a Bearing on Choice		Two Most Important Reasons	
	2013	2007	2013	2007
n=	972	1303	972	1303
	%	%	%	%
Strong academic reputation	63	63	48	48
Location of law school where I wanted to practise/work	40	42	29	28
Location of law school affordable	34	37	15	17
Curriculum strongly linked to areas I wanted to study/practise	31	33	17	15
Tuition costs	26	30	13	15
Availability of family support	23	22	11	11
Availability of joint programs	13	11	7	6
Financial aid available	12	14	4	5
Attractive extra-curricular law school activities	18	18	4	5
Opportunities to develop skills relevant to the practice of law	18	18	6	4
Language of program	10	11	4	4
My undergraduate academic standing	10	12	3	4
Availability of flexible/part-time program	2	1	1	1
Availability of community support	7	6	1	1
Availability of student support programs	2	2	< 1	<1
Services offered by law school career development officers	4	3	< 1	<1
Other	18	21	16	17

Q.5 Which, if any, of the following reasons had a bearing on your first choice of law school to attend? (Please select all that apply).

Q.6 Which two of these reasons were the most important?

Base: All respondents



Law School From Which Degree Obtained

- ◆ Respondents are quite widely dispersed as to the law school from which they obtained a law degree:
 - Osgoode Hall (16%);
 - University of Ottawa English Common Law Section (15%);
 - University of Toronto (13%);
 - Queen's University (10%);
 - University of Windsor (10%);
 - University of Western Ontario (9%);
 - University of Ottawa French Common Law Section (4%);
 - University of Ottawa Droit Civil (2%).

- ◆ More than one-quarter of respondents obtained a law degree from an institution outside Ontario:
 - 20% obtained a law degree from a Canadian law school outside of Ontario;
 - 7% obtained a law degree from a law school outside of Canada.



Law School From Which Degree Obtained

	Total Sample	
	2013	2007
n=	972	1303
	%	%
Osgoode Hall Law School (York University)	16	19
Queen's University	10	10
University of Ottawa English Common Law Section	15	14
University of Ottawa French Common Law Section	4	5
University of Ottawa Droit Civil	2	2
University of Toronto	13	14
University of Western Ontario	9	9
University of Windsor	10	9
Out of province	20	18
Out of country	7	5

Q.4 From which institution(s) did you obtain a law degree?

Base: All respondents

Note: The sum of proportions is greater than 100% as some respondents have more than one law degree.



Bar Membership/Practice Experience Outside Canada

- ◆ Consistent with the sample for this research, 99% of respondents have been called to the bar in Ontario. The remaining respondents (1% of the total sample) are NCA respondents.
- ◆ As might be expected given the proportion of respondents who have obtained a degree from a law school outside of Canada, 7% of respondents have been called to a bar outside Canada and almost three-quarters of them (72%) have practised at that bar.
 - The proportion of NCA respondents called to a bar outside of Canada is much higher at 63%. However, fully 94% of NCA respondents have also been called to the bar in Ontario.
- ◆ The majority of those who have practised outside of Canada did so for 2 years or less (51%). However, some of these respondents practised outside of Canada for significantly longer than that, with 6% having practised for 10 or more years. The mean is 3.31 years.



Bar Membership

	Total Sample	
	2013	2007
n=	972	1303
	%	%
Alberta	1	1
British Columbia	2	1
Manitoba	1	<1
New Brunswick	1	1
Newfoundland	<1	<1
Nova Scotia	1	<1
Ontario	99	68
PEI	-	-
Quebec	2	1
Saskatchewan	< 1	<1
Yukon	< 1	<1
Northwest Territories	< 1	<1
Nunavut	< 1	-
A Bar outside Canada	7	5
A Bar in Canada outside Ontario (NET)	8	5

Q.7 To which Bar(s) have you been called?

Base: All respondents

Note: Multiple responses accepted. Total proportions exceed 100%

Note: In 2007, 30% of respondents had not yet been called to the bar



Practice Outside Canada

	Those who have been called to a Bar outside Canada	
	Total Base	
	2013	2007
	%	%
Practised outside of Canada?	n = 71	n=60
Yes	72	77
No	28	23
How long?	n = 51 ^C	n=46 ^C
1 year	33	13
2 years	18	22
3 years	16	17
4 years	10	9
5 years	6	4
6 years	2	9
7 years	6	9
8 years	2	4
9 years	2	7
10 or more years	6	7
No answer	-	-

Q.8 If you have been called to a Bar outside of Canada, did you practise there? Base: Among those who have been called to a Bar outside Canada

Q.9 For how long did you practise in that country? Base: Among those who practised outside of Canada

C Caution, small base size

Articling



Key Factors Influencing Choice of Articling Position (Unprompted)

- ◆ Respondents who articulated in Ontario were asked on an open-ended (or unprompted) basis what key factors influenced their choice of articling position. (The key distinction between open-ended and closed-ended questions is that the latter present a range of answer categories from which respondents are invited to choose, whereas the former do not present any pre-selected categories and allow respondents to respond as they wish in their own words.)
- ◆ Four key factors are identified on an open-ended basis:
 - Areas of interest/practice areas offered (mentioned by 28% of these respondents);
 - Having summered at the firm and being hired back (23%);
 - Preferred location (20%); and,
 - Perceived prestige/reputation (18%).
- ◆ Subgroup differences are minimal here, suggesting consistency in views as to the key factors that influence the choice of articling position.
- ◆ There is, however, one noteworthy difference with respect to the influence of good remuneration as a factor. While cited by just 9% among respondents overall, and thus not a strong factor, those who entered law school in debt are significantly more likely than those who did not to cite remuneration as a key factor (13% and 7%, respectively) as are those who incurred debt during law school as compared to those who did not (11% and 4%, respectively).



Key Factors Influencing Choice of Articling Position (Unprompted)

	Total Base
n=	903
	%
Type of Work (NET)	38
Areas of interest/practice areas offered by the firm	28
The type of work/firm	6
Advancing social justice causes/working for public interest	2
Challenging work/interesting work	2
Exposure to litigation opportunities	2
Practical/court/litigation experience	1
Worked in particular areas during law school/academic interest	1
Experience in area prior to law school	1
Meet career goals/satisfying work	1
Like working with clients/providing client service	<1
Type of Firm/Organization (NET)	33
Perceived prestige/reputation	18
Preferred size of firm	10
Preferred particular type of agency – public/private/NGO/government	6
Job security/stability	1
Location (NET)	23
Preferred location	20
Preferred city/town	3

Q.11 What were the key factors that influenced your choice of articling position?

Base: Respondents who articulated in Ontario



Key Factors Influencing Choice of Articling Position (Unprompted)

	Total Base
n=	903
	%
Previous Employment/Summer Experience/Summered at firm and was hired back	23
Job Offer (NET)	20
Was offered job/job offer	11
Availability of position/work	8
Financial pressure to accept any job offered	1
Did not have a choice	1
The economy/recession	<1
Culture/Environment (NET)	14
Good/friendly/helpful colleagues	5
Good fit with company culture/values	5
Good/nice working environment	4
The working language	1
Professional Development (NET)	9
Development opportunities/learning opportunities	5
Mentorship program at firm/organization	2
Good/experienced principal/lawyers	2
Potential future opportunities	1
Autonomy/carriage of own files	1
Good remuneration/salary/benefits	9

Q.11 What were the key factors that influenced your choice of articling position?

Base: Respondents who articulated in Ontario



Key Factors Influencing Choice of Articling Position (Unprompted)

	Total Base
n=	903
	%
Variety of Work (NET)	7
Variety of work	7
Multiple practice areas/rotation	1
Work-Life Balance (NET)	5
Good work-life balance/lifestyle	3
Good hours/hours of work/flexibility	2
Other	3
None	1
Don't know/Don't recall/No answer	1

Q.11 What were the key factors that influenced your choice of articling position?

Base: Respondents who articulated in Ontario



Key Factors Influencing Choice of Articling Position (Prompted)

- ◆ Respondents were then presented with a list of factors on a closed-ended (or prompted) basis and asked two questions. The first, intended to get a sense of what candidates consider important in an articling position, asked what factors influenced their choice of an articling position. The second question, intended to get at what really drives the final decision, asked respondents to identify the one factor that had the greatest influence.
- ◆ In response to the first of these questions, the practice areas offered by the firm or organization (cited by 54% of respondents) emerges as the factor most frequently identified as having influenced the choice of articling position.
- ◆ Four further factors are cited by at least 40% of respondents, and a fifth that is cited by just less than 40%:
 - Preferred location for articling (45%);
 - Perceived prestige (44%);
 - Supportive environment (40%);
 - Having summered at the firm and been asked back (40%);
 - Good remuneration (37%).
- ◆ When asked to identify the one factor that had the greatest influence, the two factors selected most frequently are the same two factors cited most frequently on an unprompted basis:
 - Having summered at the firm/organization and been asked back to article (cited by 30% of respondents);
 - The practice areas offered by the firm/organization (cited by 20% of respondents).
- ◆ None of the other factors presented is identified as the greatest influence by more than 10% of respondents.



Key Factors Influencing Choice of Articling Position (Prompted)

- ◆ There appears to be a strong consensus that these two factors are the most important as subgroup differences on this question are very limited.
- ◆ Although the difference is not dramatic, women (22%) are significantly more likely than men (16%) to cite the practice areas offered by the firm or organization as the greatest influence.
- ◆ Suggesting that women are getting access to articling offers following summer placements in about the same proportions as men, there is no significant difference by gender here (29% and 32%, respectively). Similarly, there is no significant difference between those who identify as a member of an equality-seeking community and those who do not (28% and 31%, respectively).
- ◆ The very small proportion of respondents who identify good remuneration as the greatest influence on their choice of articling position (3%) is interesting, given that 37% say that it was one of the factors influencing their choice.
 - Of particular interest is that neither those who entered law school in debt (3%) or those who incurred debt during law school (3%) are significantly more likely than those who did not incur debt at either stage (2% and 1%, respectively) to say that good remuneration was the greatest influence on their choice of an articling position.
- ◆ The total sample of NCA respondents who articulated in Ontario (n=38) is too small to support analysis of these respondents.



Factors Influencing Choice of Articling Position/Greatest Influence (Prompted)

	Influenced Choice of Articling Position		Greatest Influence	
	2013	2007	2013	2007
	903	1260	903	1260
n=	%	%	%	%
I had summered at the firm/organization and was hired back	40	35	30	19
The practice areas offered by the firm/organization	54	53	20	19
I had a preferred city/town in which I wanted to article	45	43	10	9
Perceived prestige of firm/organization	44	44	7	9
The environment at the firm organization is supportive	40	47	5	8
Firm organization has work-life balance policies/statements	28	34	4	6
Good remuneration	37	41	3	5
I worked in the area of law during law school	17	17	3	3
I wanted to return home to article	10	12	2	3
Hire-back policies	16	16	1	2
Family members who are lawyers	2	2	1	<1
Good benefits	26	29	<1	<1
The firm/organization offers internal professional development programs	20	19	<1	<1
The firm/organization offers a mentorship program	13	14	<1	1
The firm/organization has a diverse workforce	11	14	<1	1
Firm/organization has policies/statements/practices about maternity/parental leaves or family responsibilities	8	9	<1	<1
Firm/organization provides support for external professional development	11	12	-	<1
Other	7	10	5	8
None of these factors influenced my choice of articling position	8	6	8	6

Q.12 Did any of the following factors influence your choice of articling position? (Please select all that apply).

Q.13 And which of these was the greatest influence in your choice of articling position?

Base: Respondents who articulated in Ontario



Preferred/Actual Areas of Practice Exposure - Articling

- ◆ In order to understand what practice exposure respondents wanted from their articling experience, and to what extent the actual articling experience provided what they were seeking, respondents were asked to indicate both the top three areas of law in which they wanted to gain experience and the top three areas of law they actually did gain experience during their articles.
- ◆ Combining the top three areas of law in which experience was sought, three areas are cited by more than one-in-five respondents:
 - Corporate commercial (37% of respondents ranked it as one of the top three areas in which they wished to gain experience);
 - Civil litigation – plaintiff (ranked among the top three by 28%);
 - Civil litigation – defendant (ranked among the top three by 27%).
- ◆ There are a number of differences by subgroup in areas of experience sought during articling.
- ◆ Women are significantly more likely than men to have sought experience in human rights/social justice law (19% and 9%, respectively), family/matrimonial law (15% and 5%), wills/estates/trusts (12% and 7%), immigration law (9% and 5%), ADR/mediation services (9% and 3%), and poverty law (4% and 2%).
- ◆ Men are significantly more likely than women to have sought experience in corporate commercial law (40% and 34%), civil litigation-plaintiff (35% and 24%), tax law (10% and 6%), and intellectual property law (17% and 8%).



Preferred/Actual Areas of Practice Exposure - Articling

- ◆ Those who self-identify as racialized or a person of colour are twice as likely as are respondents overall to have been seeking exposure to immigration law (14% and 7%, respectively).
- ◆ Comparison of the areas of law to which respondents sought exposure during articling with the areas of law in which respondents actually gained experience suggest that in the main their desires were met.
- ◆ One area in which students do not appear to be getting the experience they are seeking is human rights/social justice law:
 - Whereas 16% of respondents indicated that this was an area in which they wished to gain experience during articling, just 9% of respondents actually did so.



Preferred/Actual Areas of Practice Exposure – Articling

	Total Base							
	Top 3 Areas in Which <u>Wanted</u> to Gain Experience				Top 3 Areas in Which <u>Actually</u> Gained Experience			
	Top	2 nd	3 rd	NET	Top	2 nd	3 rd	NET
n=	903	903	903	903	903	903	903	903
	%	%	%	%	%	%	%	%
Aboriginal Law	1	1	2	4	< 1	1	2	3
ADR/Mediation Services	1	2	3	6	-	2	1	3
Administrative Law	4	7	8	19	5	8	6	19
Bankruptcy & Insolvency Law	1	1	2	4	1	1	2	4
Civil Litigation - Plaintiff	11	10	7	28	15	12	7	35
Civil Litigation - Defendant	8	11	8	27	14	14	8	36
Construction Law	< 1	1	1	2	1	2	1	4
Corporate/Commercial Law	17	12	8	37	13	10	10	33
Criminal/Quasi Criminal Law	8	3	3	14	9	3	4	15
Employment/Labour Law	7	5	6	17	7	5	6	18
Environmental Law	3	2	2	6	2	<1	1	3
Family/Matrimonial Law	6	3	3	12	5	4	3	12
Human Rights/Social Justice	5	6	4	16	2	5	2	9
Immigration Law	3	3	2	7	2	1	1	5
Intellectual Property Law	6	3	3	11	5	2	3	10
International Law	3	3	3	8	1	< 1	2	3
Language Rights Law	-	< 1	-	< 1	-	< 1	< 1	< 1
Poverty Law	1	< 1	2	3	1	< 1	< 1	2
Real Estate Law	3	4	5	12	3	3	4	11
Securities Law	3	6	2	10	3	5	3	11
Tax Law	3	2	2	8	3	1	2	6
Wills, Estates, Trusts Law	1	3	6	10	1	4	4	9
Workplace Safety & Insurance Law	-	< 1	1	1	< 1	1	1	3
Other	7	3	3	14	8	4	4	16
No other	-	5	10	-	-	6	12	-
None/No answer	-	2	6	-	-	4	9	-

Q.14 From among the following, please indicate the top three areas of law in which you wanted to gain experience during articling.

Q.15 And which were the top three areas in which you actually gained experience during articling?

Base: Respondents who articulated in Ontario.



Preferred Articling Setting

- ◆ Preferences for and actual articling setting were examined in much the same way as was practice exposure during articling.
- ◆ Looking first at preferences, the private practice experience in some form (and especially in Toronto) dominates:
 - The single greatest preference was for a large private law firm in Toronto (the top preference of 30% and one of the top three of 45%);
 - Medium private law firm in Toronto (14% and 41%, respectively);
 - Government/public agency (15% and 40%);
 - Large private law firm outside Toronto (14% and 21%);
 - Medium private law firm outside Toronto (4% and 19%);
 - Crown's office (4% and 13%).
- ◆ There are three significant differences by subgroup with respect to making a large private law firm in Toronto the top preference for articling setting:
 - Women (26%) are significantly less likely than men (36%) to do so, as are respondents who were mature students (21%) compared to those who were not (32%) and those who self-identify as a member of an equality-seeking community (9%) compared to those who do not (17%).
- ◆ Members of an equality-seeking community are, however, no less likely than others to include a large private law firm in Toronto among their top three preferences (45%).
- ◆ Respondents who self-identify as a member of an equality-seeking community are also significantly more likely than those who do not to make a government or public agency setting their top preference (18% and 12%, respectively).



Preferred Articling Setting

- ◆ Similar differences are found when examining top three preferences combined by gender. Men are significantly more likely than women to want to article in two types of private firm settings.
 - Large private law firm in Toronto (53% and 41%, respectively);
 - Large private law firm outside Toronto (26% and 19%).
- ◆ Women, by contrast, are significantly more likely than men to include two non-firm settings among their top three preferences.
 - Government/public agency (43% and 34%, respectively);
 - Legal clinic (14% and 6%).
- ◆ There are also some differences in top three preferences for articling by membership in an equality-seeking community.
- ◆ Members of an equality-seeking community (45%) are more likely than those who are not (36%) to include a government or public agency setting among their top three preferences.
- ◆ Members of an equality-seeking community appear disinclined, however, to consider a private law firm placement outside Toronto. They are significantly less likely to include among their top three preferences:
 - A large private law firm outside of Toronto (16% compared to 25% among those who do not identify as a member of an equality-seeking community);
 - A medium-sized private law firm outside of Toronto (15% and 21%, respectively);
 - A small private law firm outside of Toronto (7% and 14%, respectively).



Actual Articling Setting

- ◆ Turning to the setting in which respondents actually articulated, the findings are similar to the findings with respect to preferred settings. They also reflect the settings that tend to offer the greatest number of articling positions:
 - Large private law firm in Toronto (25%);
 - Large private law firm outside Toronto (15%);
 - Medium-sized private law firm in Toronto (14%);
 - Government/public agency (13%);
 - Small private law firm in Toronto (6%).
- ◆ While there are not many significant differences by subgroup in actual articling position, there is one by gender and several by membership in an equality-seeking community.
- ◆ Looking first at gender, men (29%) are more likely than women (22%) to have articulated at a large private firm in Toronto. While the difference here is not great, it is significant.
- ◆ Although the differences are once again not great, members of an equality-seeking community are significantly less likely than those who are not to have articulated in a large private law firm outside Toronto (11% and 17%, respectively), and significantly more likely to have articulated in a government or public agency setting (16% and 11%, respectively) or in a sole practice in Toronto (5% and 2%, respectively).
- ◆ There is one further finding of note with respect to members of an equality-seeking community. In 2007, although they were not significantly less likely to express a preference for articling in a large private law firm in Toronto, they were significantly less likely than those who were not members of such a community to have done so (17% and 25%, respectively). In 2013, by contrast, members of an equality-seeking community are equally as likely as non-members to report having articulated in this setting.



Preferred/Actual Articling Setting (2013)

	Total Base				
	Top 3 Preferences for Setting Prior to Articling				Actual Articling Setting
	Top	2 nd	3 rd	NET	
n=	903	903	903	903	903
	%	%	%	%	%
Sole practice outside of Toronto	1	< 1	1	2	3
Small private law firm outside of Toronto (less than 5 lawyers)	2	3	6	11	5
Medium private law firm outside of Toronto (5 – 10 lawyers)	4	9	6	19	5
Large private law firm outside of Toronto (more than 10 lawyers)	14	4	3	21	15
Sole practice in Toronto	< 1	1	1	1	3
Small private law firm in Toronto (less than 5 lawyers)	3	3	11	17	6
Medium private law firm in Toronto (5 – 50 lawyers)	14	18	9	41	14
Large private law firm in Toronto (more than 50 lawyers)	30	10	5	45	25
In-house counsel for a private corporation	2	6	9	17	1
Government or a public agency	15	14	11	40	13
Education	< 1	< 1	1	1	-
Crown's office	4	6	4	13	2
Legal clinic	2	4	5	11	2
Non-governmental organization (NGO)	3	4	5	12	1
Some other setting in law	5	1	< 1	6	6
No preference	1	5	10	1	-
No answer	-	11	14	25	-

Q.16 From among the following, please indicate what your top three preferences were for the setting in which you wished to ARTICLE and then the setting in which you articulated.

Base: Respondents who articulated in Ontario



Preferred/Actual Articling Setting (2007)

	Total Base				
	Top 3 Preferences for Setting Prior to Articling				Actual Articling Setting
	Top	2 nd	3 rd	NET	
n=	1260	1260	1260	1260	1260
	%	%	%	%	%
Sole practice outside of Toronto	1	<1	1	3	3
Small private law firm outside of Toronto (less than 5 lawyers)	3	4	5	12	6
Medium private law firm outside of Toronto (5 – 10 lawyers)	6	8	5	19	7
Large private law firm outside of Toronto (more than 10 lawyers)	10	5	7	22	14
Sole practice in Toronto	<1	1	1	2	2
Small private law firm in Toronto (less than 5 lawyers)	4	4	10	18	5
Medium private law firm in Toronto (5 – 50 lawyers)	14	23	10	47	14
Large private law firm in Toronto (more than 50 lawyers)	28	10	6	44	22
In-house counsel for a private corporation	2	5	8	15	2
Government or a public agency	14	15	13	42	12
Education	<1	1	1	2	-
Crown's office	6	6	7	19	3
Legal clinic	2	4	6	12	2
Non-governmental organization (NGO)	2	4	5	11	1
Some other setting	6	1	1	8	8
No preference	1	2	4	7	<1
No answer	-	6	9		-

Q.16 From among the following, please indicate what your top three preferences were for the setting in which you wished to ARTICLE and then the setting in which you articulated/are articling.

Base: Respondents who will be articling, are articling currently, or did article in Ontario

Challenges Faced in Securing Articles



Challenges Faced in Securing Articles

- ◆ Concern in the profession over a possible shortage of articling placements increased following the completion of the benchmark wave of this study in 2007.
- ◆ Reflecting this, the Law Society added five new measures to the questionnaire. The objective is to better understand the challenges being encountered by those seeking articles. This is the first report of findings from these measures.
- ◆ The first of these measures asks respondents to indicate how long it took them to secure an articling position. Fully 82% of respondents report that they found an articling position less than a year after they began searching actively for one, and nearly six-in-ten respondents (57%) report that they were able to find one in less than three months.
 - For one-in-ten respondents, however, more than a year was required to do so.
- ◆ There is only one significant difference by subgroup on this measure. Members of an equality-seeking community are significantly more likely than those who do not identify as members of such a community to report both that it took them six months to less than a year (15% and 9%, respectively) and that it took them more than a year (13% and 8%, respectively) to secure an articling position.
- ◆ Respondents were then asked whether they faced any significant challenges in their articling search. About three-quarters of respondents (74%) report that they encountered no significant challenges. There are, however, some important differences by subgroup here.
 - Members of an equality-seeking community (67%) are significantly less likely than those who are not members of such a community (78%) to report not having faced any significant challenges. This is also the case among those who identify as racialized/person of colour (64%) when compared to respondents overall (74%).
 - Also less likely to report not having encountered any significant challenges are those who attended law school as a mature student (66%) compared to those who did not do so (75%).



Challenges Faced in Securing Articles

- ◆ Challenges cited by those respondents who reported facing one include:
 - Having had at least one interview but not receiving any offers (10%);
 - Not being able to obtain an interview for an articling position (6%);
 - That there were no articling positions in the respondent's preferred practice area (6%);
 - That there were no articling positions in the respondent's preferred work environment (3%);
 - That there were no articling positions in the respondent's preferred region (2%).
- ◆ Follow-up questions were asked of those who reported having faced the last three of the challenges listed above.
- ◆ Among the very small sample of 21 respondents who were unable to find a position in their preferred region, the greatest proportion report that they were seeking to article outside the City of Toronto (62%). About one-quarter of these respondents (24%) were seeking a position in the City of Toronto.
- ◆ Responses among those who were unable to find a position within their preferred practice area are widely diffused, with most of the areas listed being reported by only one or two respondents. The single largest proportions are found for immigration law and international law (each cited 18% of these respondents).
- ◆ Just 29 respondents report that they were unable to find an articling position in their preferred work environment. Environments mentioned most frequently among these respondents are a firm/organization that offers practice areas in which they were interested (28%), a firm/organization that is committed to work-life balance (24%), and a small law firm (21%). All other environments are mentioned by five or fewer respondents in each case.



Time Required to Secure an Articling Position

	Total Sample
n=	903
	%
Less than 3 months	57
3 to < 6 months	13
6 months to < 1 year	12
More than 1 year	10
Other	8

Q.10A How much time elapsed from the point at which you actively began to search for an articling position to the time you actually secured an articling position?
 Base: Respondents who articulated in Ontario (n=903)



Challenges Faced in Search for Articling Position

	Total Sample
n=	903
	%
I faced no significant challenges in my search for an articling position	74
I applied for more than 100 articling positions and did not get an interview	2
I applied for 51-100 articling positions and did not get an interview	3
I applied for 25-50 articling positions and did not get an interview	2
I applied for fewer than 25 articling positions and did not get an interview	1
I had at least one interview for articling positions, but did not get any offers	10
There were no articling positions available in the region I wanted to article	3
There were no articling positions in the practice area I was pursuing	7
There were no articling positions in the type of work environment I was seeking	3
Another significant challenge	9

Q.15A Some people experience significant challenges during their search for an articling position. Please indicate below if you faced any of the following challenges in your search?

Base: Respondents who articulated in Ontario

Note: Multiple responses accepted. Total proportions exceed 100%



Regions in which Articling Positions Unavailable

	Total Sample
n=	21c
	%
Ontario outside the City of Toronto (NET)	62
East Region	29
Central West Region	14
Central South Region	5
Southwest Region	14
City of Toronto	24
A region outside of Ontario	14

Q.15B You mentioned that one of the challenges you faced is that there were no articling positions in the region in which you wanted to article. What region is that?
 Base: Respondents who articulated in Ontario and who reported that there were no articling positions in the region in which they wished to article.
 C: Caution, small base size



Practice Areas in which Articling Positions Unavailable

	Total Sample
n=	50
	%
Aboriginal Law	2
Civil Litigation – Plaintiff	2
Corporate Commercial Law	8
Criminal/Quasi-Criminal Law	8
Employment/Labour Law	2
Environmental Law	4
Family/Matrimonial Law	2
Human Rights/Social Justice	12
Immigration Law	18
Intellectual Property Law	4
International Law	18
Poverty Law	2
Real Estate Law	4
Wills, Estates, Trusts Law	2
Other	12

Q.15C You mentioned that one of the challenges you faced is that there were no articling positions in the practice area you were pursuing. What practice area is that?
 Base: Respondents who articulated in Ontario and who reported that there were no articling positions in the practice area that they were pursuing.



Work Environments in which Articling Positions Unavailable

	Total Sample
n=	29c
	%
Firm/organization that offers practice area(s) in which I am interested	28
Firm/organization that is committed to work-life balance	24
Small law firm	21
Firm/organization with a positive learning environment	17
A not-for-profit organization	14
A non-governmental organization (NGO)	7
Government/public organization	7
Other	7
No answer	3

Q.15D You mentioned that one of the challenges you faced is that there were no articling positions in the type of work environment you were seeking. What work environment is that?

Base: Respondents who articulated in Ontario and who reported that there were no articling positions in the type of work environment they were seeking.

Note: Multiple responses accepted. Total of proportions exceeds 100%.

C: Caution, small base size

The Practice of Law



Preferred Practice Setting

- ◆ As with preferences for articling setting, private law firms lead as the top preferred practice/work settings:
 - Large private law firm in Toronto (selected as top preference by 21% of respondents, and as one of the top three preferences by 36%);
 - Government/public agency (16% and 42%, respectively);
 - Medium private law firm in Toronto (15% and 40%);
 - Large private law firm outside Toronto (13% and 20%);
 - Medium private law firm outside Toronto (4% and 18%);
 - Crown's office (3% and 13%).

- ◆ There are some differences by gender in top preferences, but they are modest:
 - Men are directionally (significant at the 90% confidence interval) more likely than women to prefer a large private law firm in Toronto (24% and 19%, respectively);
 - Women are directionally more likely than men to prefer a government or public agency setting (18% and 14%);
 - Men are significantly more likely than women to prefer a large private law firm outside Toronto (16% and 11%).

- ◆ There are also some modest differences in top preferences among members of an equality-seeking community:
 - They are significantly less likely than those who are not members of such a community to choose either a medium-sized private law firm in Toronto (12% and 17%) or a large private law firm outside Toronto (9% and 15%, respectively);
 - Members of an equality-seeking community are, however, significantly more likely to identify a government or public agency setting as their top preference (21% and 13%).



Preferred Practice Setting

- ◆ Those who attended law school as a mature student are significantly less likely than those who did not to make a large private law firm in Toronto their top choice (15% and 22%, respectively), and are directionally less likely to make their top choice a medium private law firm in Toronto (11% and 16%).



Actual Practice Setting

- ◆ Consistent with preferences, private law firms are the most common form of actual practice/work setting:
 - Large private law firm in Toronto (16%);
 - Government or public agency (14%);
 - Medium private law firm in Toronto (14%);
 - Large private law firm outside Toronto (11%).

- ◆ Differences by gender in practice/work setting are minimal. Interestingly, there are no significant differences by gender for any of the top four actual practice/work settings. Although the finding should be regarded with caution as it is based on very small sample sizes, women are more likely than men to be working in a small private law firm outside Toronto (9% and 5%, respectively).

- ◆ Differences by membership in an equality-seeking community are also evident.
 - Consistent with their preferences, members of an equality-seeking community are less likely to be working either in a large private law firm outside of Toronto (7% and 14%) or a medium-sized private law firm in Toronto (11% and 16%).
 - Members of an equality-seeking community are, by contrast, more likely than those who are not members of such a community to be practising in government or a public agency (17% and 12%) and, although the sample sizes are small and the finding should therefore be regarded with caution, they are also more likely to be in sole practice in Toronto (6% and 2%).

- ◆ Also consistent with their preferences, those who attended law school as a mature student are only half as likely as those who did not to report that they are currently practising in a large private law firm in Toronto (9% and 18%, respectively).



Actual Practice Setting

- ◆ Although the sample size of NCA respondents who are currently in practice is very small and the finding should be regarded with caution, the data suggest that inconsistent with their preferences they are more likely than non-NCA respondents to be working in sole practice in Toronto (15% and 3%, respectively).
- ◆ A comparison of actual practice settings with top preferred settings suggests that in many cases respondents are working in a desired practice setting. It also, however, suggests several modest gaps:
 - The proportions of respondents who report practising in a large private law firm in Toronto (16%), the Crown's office (1%) or a legal clinic (1%) are lower than the proportions of respondents who selected these settings as their top preference (21%, 3% and 3%, respectively);
 - Conversely, the proportion of respondents who report practising in a small private law firm outside or in Toronto (7% in each case) is greater than the proportion of respondents for whom those settings were their top preference (4% in each case). This is also true for sole private practice in Toronto, which was the top preference of just 1% of respondents and is the actual practice setting for 4%.



Preferred/Actual Practice Setting (2013)

	Total Sample				
	Top 3 Preferences for Practice Setting				Actual Practice Setting
	Top	2 nd	3 rd	NET	
n=	972	972	972	972	932
	%	%	%	%	%
Sole practice outside of Toronto	2	1	1	4	3
Small private law firm outside of Toronto (less than 5 lawyers)	4	4	6	13	7
Medium private law firm outside of Toronto (5 – 10 lawyers)	4	9	5	18	4
Large private law firm outside of Toronto (more than 10 lawyers)	13	4	3	20	11
Sole practice in Toronto	1	1	1	3	4
Small private law firm in Toronto (less than 5 lawyers)	4	4	9	17	7
Medium private law firm in Toronto (5 – 50 lawyers)	15	16	9	40	14
Large private law firm in Toronto (more than 50 lawyers)	21	9	6	36	16
In-house counsel for a private corporation	7	10	8	25	7
Government or a public agency	16	13	12	42	14
Education	1	1	2	4	1
Crown’s office	3	5	4	13	1
Legal clinic	3	4	6	13	1
Non-governmental organization (NGO)	2	5	5	13	1
Some other setting in law	2	1	1	4	3
Some other setting outside of law	-	-	-	-	4
No preference	1	4	8	1	-
None/ No answer	-	10	13	23	-

Q.17 From among the following, please indicate what your top three preferences were for the setting in which you wished to PRACTISE/WORK and then the setting in which you currently practise/work? (Please indicate your current practice/work setting ONLY if you are currently practising/working in law.)

Base: Preferred practice setting was investigated among all respondents. Actual practice setting was measured only among those practising or working in law in Ontario. 64



Preferred/Actual Practice Setting (2007)

	Total Sample				
	Top 3 Preferences for Practice Setting				Actual Practice Setting
	Top	2 nd	3 rd	NET	
n=	1303	1303	1303	1303	772
	%	%	%	%	%
Sole practice outside of Toronto	2	1	1	4	3
Small private law firm outside of Toronto (less than 5 lawyers)	4	5	6	15	8
Medium private law firm outside of Toronto (5 – 10 lawyers)	6	8	6	20	6
Large private law firm outside of Toronto (more than 10 lawyers)	9	6	7	22	9
Sole practice in Toronto	1	1	2	4	3
Small private law firm in Toronto (less than 5 lawyers)	4	5	11	20	6
Medium private law firm in Toronto (5 – 50 lawyers)	12	18	10	40	13
Large private law firm in Toronto (more than 50 lawyers)	22	11	6	39	16
In-house counsel for a private corporation	5	10	11	26	5
Government or a public agency	17	15	12	44	16
Education	1	1	3	5	1
Crown's office	7	6	6	19	3
Legal clinic	3	3	7	13	1
Non-governmental organization (NGO)	3	6	6	15	1
Some other setting	3	1	1	5	8
No preference	1	3	5	9	-
None/ No answer	<1	1	1	2	-

Q.17 From among the following, please indicate what your top three preferences were for the setting in which you wished to PRACTISE/WORK and then the setting in which you currently practise/work? (Please indicate your current practice/work setting ONLY if you are currently practising/working in law.)

Base: Preferred practice setting was investigated among all respondents. Actual practice setting was measured only among those practising or working in law in Ontario.



Key Factors Influencing Choice of Position (Unprompted)

- ◆ Those who are currently practising or working in law in Ontario were asked on an open-ended basis to list the key factors that had an influence on their decision to choose that position.
- ◆ While a wide variety of factors were cited, practice areas offered was cited by the single largest proportion of these respondents (42% NET). This is the same factor that was cited by the largest proportion when respondents were asked on an unprompted basis about the key factors that influenced their choice of an articling position.
- ◆ Cited next most frequently was that the respondent received a job offer (31% NET), and in particular the availability of the position/work (cited by 18% of respondents).
- ◆ Following next in frequency of mention are:
 - The culture or environment (17% NET);
 - The type of firm/organization (15% NET);
 - Previous employment with the firm or organization (14% NET);
 - Good work/life balance (13% NET);
 - Various aspects of professional development (12%).
- ◆ All other mentions are limited to less than 10% of respondents.
- ◆ The only notable differences by subgroup here are all by gender:
 - Women are more likely than men to cite the practice areas offered (46% NET and 35% NET, respectively), the culture or environment of the firm or organization (20% NET and 12% NET) and work-life balance (13% and 8%).
 - Men, by contrast, are more likely than women to cite remuneration (11% and 7%, respectively), the perceived prestige or reputation of the firm or organization (9% and 5%), and directionally (at the 90% confidence interval) opportunities for professional development ((14% and 10%).



Key Factors Influencing Choice of Position (Unprompted)

	Total Sample
n=	878
	%
Practice Areas (NET)	42
Areas of interest/practice areas offered by the firm	25
The type of work/firm	4
Challenging work/interesting work	4
Advancing social justice causes/working for public interest	3
Worked in particular areas during law school/academic interest	2
Experiences in area prior to law school	2
Like working with clients/providing client service	2
Meet career goals/satisfying work	2
Exposure to litigation opportunities	2
Practical/court/litigation experience	1
Job Offer (NET)	31
Availability of position/work	18
Was offered job/job offer	9
Financial pressure to accept any job offered	3
The economy/recession	2
Did not have a choice	1

Q.20 What were the key factors that influenced your choice of position?

Base: Respondents who are practising/ working in law in Ontario

Note: The sum of proportions exceeds 100% because of multiple mentions



Key Factors Influencing Choice of Position (Unprompted)

	Total Sample
n=	878
	%
Culture/Environment (NET)	17
Good/friendly/helpful colleagues	9
Good/nice working environment	8
Good fit with company culture/values	4
The working language	<1
Type of Firm/Organization (NET)	15
Perceived prestige/reputation	6
Preferred size of firm	4
Job security/stability	2
Preferred particular type of agency – public/private/NGO/government	2
Freedom of own practice	1
Previous Employment (NET)	14
Articling experience/past experience	9
Summered at firm and was hired back/hire back policies	5
Work-Life Balance (NET)	13
Good work-life balance/lifestyle	11
Good hours/hours of work/flexibility	3

Q.20 What were the key factors that influenced your choice of position?

Base: Respondents who are practising/ working in law

Note: The sum of proportions exceeds 100% because of multiple mentions



Key Factors Influencing Choice of Position (Unprompted)

	Total Sample
n=	878
	%
Professional Development (NET)	12
Development opportunities/learning opportunities	4
Potential future opportunities	3
Mentorship program at firm/organization	3
Autonomy/carriage of own files	2
Good/experienced lawyers	1
Location (NET)	9
Preferred location	7
Preferred city/town	2
Good remuneration/salary/benefits	9
Variety of Work (NET)	4
Variety of work	4
Multiple practice areas	<1
Other	3
None	1
Don't know/Don't recall/No answer	3

Q.20 What were the key factors that influenced your choice of position?

Base: Respondents who are practising/ working in law

Note: The sum of proportions exceeds 100% because of multiple mentions



Key Factors Influencing Choice of Position (Prompted)

- ◆ The factors that influenced respondents when they were choosing their current position were also investigated through two closed-ended questions. The first, which was designed to get a sense of the considerations bearing on the decision-making process, presented a list of factors and asked respondents to indicate whether any of them had an influence. The second, the objective of which was to identify the key drivers, asked respondents to choose the one factor that had the greatest influence.
- ◆ As would be expected, findings from the first question suggest that a wide array of factors bear on this decision. Cited by the greatest proportions of respondents, and largely consistent with the factors found on an unprompted basis, are:
 - The practice areas offered (cited by 50%);
 - Being asked back following articles (48%);
 - Good remuneration (44%);
 - Supportive environment (43%);
 - The existence of work/life balance practices, policies or statements (35%);
 - Prestige (35%);
 - Good benefits (32%).
- ◆ Once again, there are a number of differences by gender. Women are more likely than men to cite as key factors influencing their choice of position:
 - A supportive environment (cited as an influencing factor by 47% of women and 35% of men);
 - Work/life balance policies/statements/practices (39% and 28%);
 - Maternity/parental leave policies (12% and 5%).
- ◆ Men are more likely to say that the perceived prestige of the firm or organization was a key factor (39% and 32%).



Key Factors Influencing Choice of Position (Prompted)

- ◆ There are also some interesting differences by membership in an equality-seeking community. Most dramatically, those who self-identify with an equality-seeking community (40%) are significantly less likely than those who do not (52%) to say that having articulated at the firm or organization and being hired back was a key factor that influenced their choice of position. They are also less likely to identify a supportive work environment (36% and 47%, respectively), good remuneration (40% and 47%), and the practice areas offered by the firm or organization (46% and 53%) as influential factors.
- ◆ Members of an equality-seeking community are nearly twice as likely to see as important that the firm or organization has a diverse workforce (17% and 9%, respectively).
- ◆ Those who were mature students in law school (38%) are significantly less likely than those who were not (50%) to report that having articulated at the firm and being hired back was a key factor. They are also less likely to identify as a key factor the practice areas offered by the firm or organization (41% and 52%, respectively) and a supportive environment at the firm or organization (34% and 45%, respectively). Finally, they are directionally less likely to identify work-life balance policies, statements and practices as a key factor ((29% and 36%).
- ◆ Although the sample of NCA respondents is very small and this finding should therefore be regarded with caution, NCA respondents are similar to members of an equality-seeking community in that they are significantly less likely than non-NCA respondents to cite having articulated at a firm or organization and been asked back as a key factor influencing their choice of position (27% and 49%, respectively).



Greatest Influence on Choice of Position

- ◆ When respondents are required to pick the one factor among those tested that had the greatest influence on their choice of position, two factors emerge as dominant:
 - Being asked back following articles (34%);
 - Practice areas offered (20%).
- ◆ While there are no differences by gender in the proportions identifying being asked back after articles as the most influential factor, there are by membership in an equality-seeking community. Consistent with earlier findings, those who identify as a member of such a community (28%) are significantly less likely than those who do not (37%) to cite a hire back offer as the most influential factor.
- ◆ Those who were mature students when they attended law school are similar in this respect, as they are significantly less likely than those who were not mature students to cite being hired back as the greatest influence on their choice of position (24% and 36%, respectively).
- ◆ The very small sample of NCA respondents currently practising in Ontario does not provide sufficient scope for analysis of these respondents on this measure.
- ◆ Of considerable interest here is that notwithstanding the significant increase in debt load since 2007, the details of which are reported in the next section, only a small minority of respondents (4%) cite good remuneration as the factor of greatest influence in their choice of position. Moreover, there is no significant difference between those who were carrying debt when they graduated from law school and those who were not in the proportions who cited good remuneration as the greatest influence on their choice of position.



Factors Influencing Choice of Position/Greatest Influence

	Total Sample			
	Influence on Choice of Position		Greatest Influence	
	2013	2007	2013	2007
n=	878	772	878	772
	%	%	%	%
I had articulated at the firm/organization and was hired back	48	43	34	24
The practice areas offered by the firm/organization	50	55	20	23
The environment at the firm/organization is supportive	43	44	9	9
Firm/organization has work-life balance policies/statements/practices	35	42	9	10
Perceived prestige of firm/organization	35	41	5	6
Good remuneration	44	50	4	3
I worked in the area of law during law school	20	18	3	4
The firm/organization offers a mentorship program	11	11	1	1
Firm/organization has policies/statements/practices about maternity/parental leaves or family responsibilities	9	13	1	1
Family members who are lawyers	2	2	1	1
Good benefits	32	39	<1	1
The firm/organization offers internal professional development programs	18	22	<1	<1
Firm/organization provides support for external professional development	18	23	<1	<1
The firm/organization has a diverse workforce	12	14	<1	1
Other	16	15	14	11

Q.21 Did any of the following factors influence your choice of position? (Choose all that apply)

Q.22 And which of these was the greatest influence in your choice of position?

Base: Respondents who are practising/working in law



Time Required to Secure a Practice Position

- ◆ The final question related to selection of a practice position explores the length of time required to secure one. This is the first time that findings from this question have been reported as it was not asked in the benchmark wave of this study in 2007.
- ◆ About three-quarters of respondents (74%) report that they were able to secure a practice position within six months of having begun to search for one actively, and fully 60% report that they were able to do so in less than three months.
- ◆ For slightly more than one-in-ten respondents (12%) the process took from six months to one year, and for a small minority (3%) it took longer than that.
- ◆ Significantly less likely to report that they were able to secure a position in less than three months are:
 - Members of an equality-seeking community (53%) as compared to those who are not a member of such a community (64%);
 - Those who identify as racialized/person of colour (49%) as compared to respondents overall (60%);
 - Those who were mature students when they were in law school (53%) as compared to those who were not mature students (62%);
 - NCA respondents (41%) as compared to non-NCA respondents (61%), although the small sample of NCA respondents means that this finding should be regarded with caution.
- ◆ Conversely, members of an equality-seeking community (15%, compared to 10% among respondents who are not a member of such a community) and those who identify as racialized/person of colour (20%, compared to 12% among respondents overall) are significantly more likely to report that it took them 6 months to a year to secure a position.



Time Required to Secure a Practice Position

	Total Sample
n=	878
	%
Less than 3 months	60
3 to < 6 months	14
6 months to < 1 year	12
A year or more	3
I have been unable to find a practice position and am not currently working	<1
I was unable to find a position practising law and am currently working outside of law	<1
Other	11

Q.22A How much time elapsed from the point at which you actively began to search for a practice position to the time you actually secured a practice position?

Base: Respondents who are practising law in Ontario



Key Factors Influencing Choice of Practice Areas (Unprompted)

- ◆ The research examined, on an open-ended or unprompted basis, the key factors that influenced choice of practice area. The findings shed light on what is important in selecting an area of law to practice.
- ◆ By a significant margin, and as might be expected given earlier findings, some aspect of the practice areas themselves (60% NET), and in particular interest in those areas (37%), is cited most often overall as influencing choice of current practice areas.
- ◆ Ranking behind interest in the practice area is that the respondent received a job offer (23% NET) or had previous employment experience (18% NET).
- ◆ A further series of factors are cited by about one-in-ten respondents in each case. These include that the areas currently practised allow for a good work/life balance (12% NET), foster professional development (11% NET), can be undertaken in an attractive professional culture or environment (10% NET) and that they provide good remuneration (8%).
- ◆ The only significant difference by subgroup here is that, echoing previous findings, women are more likely than men to say that good work/life balance (13% and 7%, respectively) was a key influencing factor.



Key Factors Influencing Choice of Practice Areas (Unprompted)

	Total Sample
n=	898
	%
Aspects of Practice Areas (NET)	60
Areas of interest	37
Experiences in area prior to law school	8
Worked in particular areas during law school/academic interest	6
Advancing social justice causes/working for the public interest	5
Challenging work/interesting work	5
The type of work/firm	3
Exposure to litigation opportunities	3
Practical/court/litigation experience	2
Like working with clients/providing client service	2
Meet career goals/satisfying work	1
Job Offer (NET)	23
Availability of position/work	16
Was offered job/job offer	5
Financial pressure to accept any job offered	2
The economy/recession	1
Did not have a choice	<1

Q.18 What were the key factors that influenced your current choice of practice areas?

Base: Respondents who are practising/ working in law



Key Factors Influencing Choice of Practice Areas (Unprompted)

	Total Sample
n=	898
	%
Previous Employment (NET)	18
Articling experience/summer experience/past experience	15
Hired back	3
Work-Life Balance (NET)	12
Good work-life balance/lifestyle	10
Good hours/hours of work/flexibility	2
Professional Development (NET)	11
Development opportunities/learning opportunities	4
Potential future opportunities	3
Mentorship program at firm/organization	2
Good/experienced lawyers	1
Autonomy/carriage of own files	1
Culture/Environment (NET)	10
Good/friendly/helpful colleagues	5
Good/nice working environment	3
Good fit with company culture/values	2
The working language	<1
Good remuneration/salary/benefits	8

Q.18 What were the key factors that influenced your current choice of practice areas?

Base: Respondents who are practising/ working in law



Key Factors Influencing Choice of Practice Areas (Unprompted)

	Total Sample
n=	898
	%
Type of Firm/Organization (NET)	8
Preferred particular type of agency – public/private/NGO/government	2
Preferred size of firm	2
Perceived prestige/reputation	2
Job security/stability	1
Freedom of own practice	1
Location (NET)	6
Preferred location	6
Preferred city/town	1
Variety of Work (NET)	4
Variety of work	4
Multiple practice areas	<1
Other	1
None	<1
Don't know/Don't recall/No answer	<1

Q.18 What were the key factors that influenced your current choice of practice areas?

Base: Respondents who are practising/ working in law



Preferred Areas of Practice

- ◆ Having examined the key considerations in choosing a practice area, the research then explored the practice areas themselves. As with other areas of investigation in this research, respondents were asked to choose the three top areas in which they wanted to practise and then the three top areas in which they actually practise.
- ◆ Examining top three preferred areas of law combined, four areas are indicated by at least one-in-five respondents and are consistent with the areas of practice exposure sought during articling:
 - Corporate/commercial (30%);
 - Civil litigation/plaintiff (25%);
 - Civil litigation/defendant (23%);
 - Human rights/social justice (20%).
- ◆ There are a large number of differences by gender in practice area preferences.
- ◆ Men are significantly more likely to include among their top three preferences:
 - Corporate commercial law (35% compared to 27% among women);
 - Civil litigation/plaintiff (29% and 22%, respectively);
 - Civil litigation/defendant (28% and 20%);
 - Intellectual property law (17% and 8%);
 - Real estate law (14% and 9%);
 - Securities law (13% and 8%);
 - Tax law (11% and 7%);
 - Bankruptcy and insolvency law (6% and 3%).



Preferred Areas of Practice

- ◆ Women are significantly more likely to indicate a preference for:
 - Human rights/social justice law (25% compared to 12% among men);
 - Employment/labour law (20% and 12%, respectively);
 - Family/matrimonial law (16% and 4%);
 - Immigration law (10% and 6%);
 - ADR/mediation services (8% and 4%);
 - Poverty law (7% and 3%).
- ◆ Overall, members of an equality-seeking community do not differ significantly from those who are not members of such a community in their preferences. There are just two practice areas in which members of an equality-seeking community are more likely than those who are not to express interest:
 - International law (14% and 9%, respectively);
 - Immigration law (12% and 6%).
- ◆ Those who identify as racialized/person of colour are also more likely to include international law (17% as compared to 11% among respondents overall) and immigration law (19% and 9%) among their top three preferred practice areas.
- ◆ Although the sample sizes are again very small and the findings should therefore be regarded with caution, NCA respondents are significantly more likely than non-NCA respondents to include among their top three preferred areas real estate law (30% and 10%, respectively) and immigration law (20% and 8%).
- ◆ There are three significant differences in top three preferred practice areas between those who were mature students when they attended law school and those who were not mature students. Those who were mature students are significantly more likely to express a preference for administrative law (18% and 12%, respectively) and immigration law (16% and 7%), and less likely to include corporate/commercial law among their top three preferences (24% and 32%).



Actual Areas of Practice

- ◆ The first tier for top three areas of law (combined) actually practised are consistent with combined top three preferences:
 - Corporate/commercial (29%);
 - Civil litigation/plaintiff (28%);
 - Civil litigation/defendant (27%).
- ◆ For most areas of practice, the proportion of respondents actually practising in the area is close to the proportion of respondents who indicated a desire to practise in that area.
- ◆ Findings from the actual practice measure do differ from preferred practice area for several areas of practice.
 - Human rights/social justice law, which is the fourth most preferred practice area at 20% combined, is sharply lower at 9% combined for top three areas of law actually practised.
 - Environmental, immigration and poverty law also show lower proportions of respondents actually practising in those areas than indicated a desire to practise in them, although the gaps are narrower than for human rights/social justice law.
- ◆ The gap between practice area preferences and actual practice areas found for human rights/social justice law has implications for women given that their interest in that practice area is higher.
- ◆ Similarly, the gap between preferences and actual practice experience found for immigration law has implications for women, members of equality-seeking communities and NCA respondents, who are more likely than others to have expressed a preference for that practice area.



Preferred/Actual Areas of Practice (2013)

	Total Sample							
	Top 3 Areas in Which <u>Wanted</u> to Practise				Top 3 Areas in Which <u>Actually</u> Practise			
	Top	2 nd	3 rd	NET	Top	2 nd	3 rd	NET
n=	938	938	938	938	898	898	898	898
	%	%	%	%	%	%	%	%
Aboriginal Law	1	1	2	5	1	1	1	4
ADR/Mediation Services	1	2	4	7	< 1	1	2	3
Administrative Law	3	5	5	13	2	7	6	16
Bankruptcy & Insolvency Law	1	1	2	4	1	1	1	3
Civil Litigation - Plaintiff	9	9	6	25	11	10	6	28
Civil Litigation - Defendant	7	9	6	23	11	9	6	27
Construction Law	1	1	1	3	1	1	1	3
Corporate/Commercial Law	13	10	7	30	13	9	7	29
Criminal/Quasi Criminal Law	8	3	3	14	7	2	2	11
Employment/Labour Law	7	5	5	17	6	3	4	13
Environmental Law	2	2	3	7	1	1	1	3
Family/Matrimonial Law	6	3	3	11	7	2	2	11
Human Rights/Social Justice	6	8	6	20	1	5	3	9
Immigration Law	2	3	3	9	2	1	1	5
Intellectual Property Law	6	2	3	11	4	1	1	7
International Law	5	3	3	11	1	2	1	4
Language Rights Law	-	< 1	< 1	< 1	-	-	-	-
Poverty Law	1	2	2	6	1	< 1	1	2
Real Estate Law	3	4	4	11	6	4	3	13
Securities Law	3	5	2	10	4	4	1	9
Tax Law	4	2	2	9	4	1	1	6
Wills, Estates, Trusts Law	2	4	5	11	2	5	5	12
Workplace Safety & Insurance Law	< 1	< 1	1	1	1	2	1	4
Other	9	4	3	16	9	5	7	19
No Other (Q.20 = Not practicing)		5	13	13	2	< 1	1	2
None/ No answer	-	2	6	8	-	20	32	-

Q.19 Please indicate the top three areas of law in which you wanted to practise/work.

Base: All respondents

Q.20 And which are the top three areas of law in which you are actually practising/working? (Please answer this question ONLY if you are currently practising/working)

Base: Respondents who are practising/ working in law



Preferred/Actual Areas of Practice (2007)

	Total Sample							
	Top 3 Areas in Which <u>Wanted</u> to Practise				Top 3 Areas in Which <u>Actually</u> Practise			
	Top	2 nd	3 rd	NET	Top	2 nd	3 rd	NET
n=	1303	1303	1303	1303	772	772	772	772
	%	%	%	%	%	%	%	%
Aboriginal Law	1	2	2	5	2	1	1	3
ADR/Mediation Services	1	2	5	8	<1	1	3	4
Administrative Law	2	7	6	15	4	7	9	20
Bankruptcy & Insolvency Law	1	1	3	5	1	1	3	4
Civil Litigation - Plaintiff	10	10	7	26	10	11	6	28
Civil Litigation - Defendant	8	9	6	22	12	10	5	26
Construction Law	<1	1	1	2	<1	1	1	2
Corporate/Commercial Law	13	12	8	33	11	12	9	32
Criminal/Quasi Criminal Law	11	3	4	19	10	4	2	16
Employment/Labour Law	7	5	4	16	6	3	4	13
Environmental Law	2	2	2	6	1	1	<1	3
Family/Matrimonial Law	5	5	4	13	8	2	2	12
Human Rights/Social Justice	6	9	8	22	2	5	4	10
Immigration Law	1	3	2	7	1	2	1	4
Intellectual Property Law	6	3	2	11	3	2	2	7
International Law	5	4	4	13	1	2	2	5
Language Rights Law	<1	<1	<1	1	<1	-	<1	<1
Poverty Law	1	2	3	6	1	1	1	2
Real Estate Law	3	4	5	11	6	4	3	13
Securities Law	4	5	5	14	4	4	2	10
Tax Law	4	2	3	10	3	1	1	6
Wills, Estates, Trusts Law	1	3	5	9	2	4	4	10
Workplace Safety & Insurance Law	1	1	1	2	<1	1	2	4
Other	7	3	3	12	12	4	5	21
None/ No answer	<1	4	7	-	<1	17	28	-

Q.19 Please indicate the top three areas of law in which you wanted to practise/work.

Base: All respondents

Q.20 And which are the top three areas of law in which you are actually practising/working? (Please answer this question ONLY if you are currently practising/working)

Base: Respondents who are practising/ working in law

Financial Considerations



Sources Used to Pay for Law School Education

- ◆ Loans from government (47%) – OSAP (34%) and “other government loans” (13%) – or a bank (42%) are reported most frequently as the major sources used to pay for respondents’ law school education.
- ◆ Loans from the government or a bank are followed by support from family members’ income or savings (reported by 30% as a major source), income from respondents’ own employment (25%) and respondents’ own savings (24%).
- ◆ Law school bursaries or scholarships are cited by 14% of respondents as a major source of support.
- ◆ There are a number of significant subgroup differences.
- ◆ Women are significantly more likely than are men to report using as a major source bank loans (46% and 36%, respectively) and credit cards (9% and 5%), and are directionally more likely to report using an OSAP loan (36% and 30%). Men are directionally more likely to report using their own savings (27% and 22%).
- ◆ Members of an equality-seeking community do not differ from others in their use of OSAP or other government loans, but they are significantly *less* likely than are those who are not members of such a community to report the use of bank loans (33% and 48%) and are significantly *more* likely to report the use of credit cards (10% and 6%). Those who identify as racialized/person of colour are less likely than are respondents overall to report that bank loans were a major source (33% and 42%).
- ◆ Those who were mature students at the time they attended law school are more likely than those who were not to report as a major source their own savings (33% and 22%), credit cards (12% and 7%) and their spouse or partner’s income or savings (14% and 5%). Those who were mature students are less likely, however, to report that family members’ income or savings were a major source (13% and 35%).



Sources Used to Pay for Law School Education

- ◆ NCA respondents are significantly less likely than non-NCA respondents to report as major sources:
 - A bank loan (25% and 43%, respectively);
 - An OSAP loan (12% and 35%); and,
 - Their own savings (12% and 25%).
- ◆ NCA respondents are, however, three times more likely to report that a private loan from family or friends was a major source (25% and 8%).
- ◆ Finally, respondents who were carrying debt when they entered law school are significantly more likely than are respondents who were debt-free at the beginning of law school to report as a major source:
 - A bank loan (62% and 31%);
 - An OSAP (47% and 26%) or other government loan (21% and 8%); and,
 - Credit cards (13% and 5%).
- ◆ They are less likely than those without pre-law school debt to report that their own savings (14% and 30%) or family members' income and savings (14% and 39%) were major sources.



Sources Used to Pay for Law School Education

	Total Sample							
	Major Source		Moderate Source		NET		Not Used	
	2013	2007	2013	2007	2013	2007	2013	2007
n=	972	1303	972	1303	972	1303	972	1303
	%	%	%	%	%	%	%	%
Your own savings	24	27	45	47	69	73	31	26
Income from your own employment	25	32	52	50	77	82	23	17
Spouse or partner's income/savings	7	9	10	11	17	19	83	80
Family members' income/savings	30	29	21	22	51	51	49	48
OSAP loan	34	35	17	17	50	51	50	48
Other government loan(s)	13	13	5	6	17	19	83	80
Bank loan(s)	42	45	11	14	53	58	47	41
Credit card(s)	8	9	23	31	31	40	69	59
Private loan from family/friends	9	10	12	14	21	24	79	75
Any other type(s) of loans	1	1	2	3	3	4	97	95
Law school bursaries or scholarships	14	16	40	43	55	59	45	40
Non-law school scholarship(s)/bursary	3	3	9	11	12	15	88	84
Band funding for First Nations students	-	1	< 1	<1	< 1	1	100	98
Government scholarships and/or bursaries program for Aboriginal students	< 1	<1	1	1	1	1	99	98
Corporate or private scholarship program for Aboriginal students	-	<1	< 1	<1	< 1	<1	100	98
Other sources	2	2	1	1	3	3	35	51
None	2	3	11	10	< 1	<1	-	-

Q.30 Which of the following sources did you use to pay for your law school education?

Base: All respondents



Loans and Bursaries

- ◆ As part of the examination of financial considerations related to law school attendance, respondents were asked whether they made application for any loans or bursaries and were refused. Just over one-third of respondents (35%) were refused a loan or bursary.
- ◆ More likely to have had their application refused are:
 - Those in debt at the time they began law school as compared to those who entered law school free of debt (43% and 30%),
 - Those who incurred debt during law school as compared to those who did not (41% and 13%);
 - Non-NCA respondents compared to NCA respondents (36% and 18%).
- ◆ Reasons cited most frequently by those who were refused are that they did not meet the requirements (22%) or that they did not demonstrate sufficient financial need (16%).
- ◆ Interestingly, about one-quarter (27%) of the respondents who report having been turned down either don't know the reason for the refusal (10%) or say that no reason was provided (17%).



Loans and Bursaries

	Total Sample	
	2013	2007
	%	%
Loans or bursaries applied for but were refused?	n =972	n =1303
Yes	35	35
No	65	65
Reason for refusal	n = 338	n =450
Did not meet requirements/ criteria/ did not qualify	22	19
Did not demonstrate sufficient financial need	16	12
Family/ household income too high	8	11
Previous year/ prior employment income too high/ made too much money	9	10
Deemed to have financial support from elsewhere	7	6
Too many assets/ owned-home/ car/ RRSPs	4	6
Poor academic standing/ record	2	5
Already had too much debt	4	4
No co-signer	1	3
Not enough funding	3	3
Newcomer/ immigrant/ residency issues	3	2
All other mentions (equal to or less than 1%)	1	4
None/ No answer/ Don't know	29	28

Q.25 Are there any loans or bursaries that you applied for but were refused?

Base: All respondents

Q.25 If you were refused a loan or bursary and reasons for the refusal were provided please outline those reasons.

Base: Among those who applied for loans and bursaries and were refused



Debt at the Beginning of Law School

- ◆ Student debt was examined across a number of dimensions. The first of these was the extent of indebtedness at the beginning of law school.
- ◆ Just over six-in-ten students (64%) began law school with no debt. There are no differences by subgroup in the incidence of entering law school without debt.
- ◆ Among the 36% of respondents who reported that they were in debt at the beginning of law school, the average amount of debt reported was \$38,080 (\$26,482 in 2007). Breaking this down:
 - About one-in-five (19%; 21% in 2007) respondents who entered law school in debt had outstanding obligations to OSAP. The average amount of OSAP debt was just over \$23,000 (\$20,000 in 2007). OSAP loans, at 33% (42% in 2007) of total reported debt, are tied with bank loans to represent the single largest share of debt among those students who entered law school in debt.
 - About one-in-seven respondents (14%) entered law school with outstanding bank loans. The average amount of bank debt was slightly under \$33,000 (\$16,000 in 2007). Bank loans, at 33% (17% in 2007) of total reported debt, are tied with OSAP loans for largest share of debt.
 - Credit card debt is reported by 11% (14% in 2007) of respondents, with the average amount of indebtedness among these respondents being just over \$7000 (\$5,100 in 2007). Credit card debt represents 6% (7% in 2007) of the total debt reported.
 - Government loans other than OSAP are reported by 6% (7% in 2007) of respondents, and the average amount was just over \$19,000 (\$17,500 in 2007). These loans represent 8% (11% in 2007) of the total debt reported.
 - Private loans from family or friends are reported by 5% (also 5% in 2007) of respondents, with the average amount of indebtedness being just under \$18,000 (\$14,500 in 2007). Private loans from family or friends represent 6% (7% in 2007) of the total debt reported.
 - While “other types of loans” were held by just 2% (3% in 2007) of students who were in debt when they entered law school, they represent the third largest share at 13% (15% in 2007) of the total debt reported. This significant share of total student indebtedness is the result of the average amount of this debt among those who reported being in excess of \$96,000 (\$56,000 in 2007), by a significant margin the highest average for any type of debt.



Debt at the Beginning of Law School

	Total Sample	
	2013	2007
n=	972	1303
	%	%
I had no debt when I began law school	64	62
Mean Amount of Debt *	(\$)	(\$)
Mean Total Debt	38,080	26,482
OSAP loan	23,058	20,008
Other government loans	19,262	17,558
Bank loans	32,749	16,073
Credit cards	7,066	5,106
Private loan from family/ friends	17,751	14,385
Any other type of loans	96,611	56,242

Q.23 What was the extent of your debt, if any, when you began law school? (Include any personal debt, such as loans, lines of credit, credit card, etc, and estimate the amount)

Base: All respondents

* Mean (debtor) = Total debt/debt owners



Debt Incurred During Law School

- ◆ Although 64% (62% in 2007) of respondents entered law school debt free, just 23% (22% in 2007) of respondents report that they incurred no debt during law school to allow them to complete their law school education. Thus over three-quarters of respondents (77%) incurred at least some debt in order to complete their law school studies.
 - There are no differences by subgroup among those who did not incur any debt during law school.
- ◆ Among those who incurred debt during law school, the average amount reported was \$54,147 (\$45,246 in 2007).
- ◆ The total amount of debt reported by women on average (\$55,468; \$45,242 in 2007) is slightly higher than the amount of debt reported by men on average (\$52,088; \$45,251 in 2007). Further, the increase in the amount of total debt reported compared to 2007 is slightly greater among women.
- ◆ The total amount of debt reported by members of an equality-seeking community on average (\$52,358; \$43,006 in 2007) is very slightly lower than the total amount of debt reported by those who are not members of an equality-seeking community on average (\$55,280; \$46,583 in 2007).
- ◆ Close to one-half (48%; 52% in 2007) of students who incurred debt during law school report having taken out a bank loan, with average bank indebtedness being \$42,191 (\$31,828 in 2007). At 48% (47% in 2007), bank loans represent the largest share of total debt incurred during law school.
 - Men (44%) are directionally less likely than women (50%) to report having taken out a bank loan to support their law school studies. In 2007, women were directionally less likely to have done so. Among those who reported a bank loan, the average total indebtedness among men (\$40,929; \$32,274 in 2007) is slightly lower than the average among women (\$42,868; \$31,438 in 2007). Further, the increase since 2007 in the total amount of bank debt incurred is greater among women.
 - Members of an equality-seeking community (39%; 46% in 2007) are significantly less likely than non-members (53%; 56% in 2007) to report a bank loan. However, among those in each group who did take out a bank loan, the average total indebtedness among members of equality-seeking communities (\$42,715; \$30,200 in 2007) is very close to the total among those who do not report membership in an equality-seeking community (\$41,938; \$32,647 in 2007).



Debt Incurred During Law School

- ◆ About half (48%) of students who incurred debt during law school report having received money from OSAP. Although this proportion is the same as the proportion of respondents who report bank debt, at 24% OSAP loans represent a considerably smaller share of total debt incurred. Average reported indebtedness to OSAP among those who received a loan from that source is \$20,413 (\$18,927 in 2007).
 - Although there was no difference by gender in 2007, women (51%) are now significantly more likely than men (43%) to report having incurred OSAP debt during law school. On average, among those who incurred it, total OSAP debt among women was \$20,015 (\$19,119 in 2007) while among men was \$21,313 (\$18,690 in 2007).
 - Consistent with findings from 2007, there no significant difference by membership in an equality-seeking community in the incidence of having incurred OSAP debt (48% among those who identify with such a community and 49% among those who do not). However, on average, among those who incurred it, total reported OSAP debt is somewhat higher among members of an equality-seeking community (\$22,714; \$20,277 in 2007) than it is among those who are not (\$18,925; \$18,146 in 2007).
- ◆ At 14%, the proportion of students who had recourse to “other government loans” is substantially lower than the proportions who had recourse to bank loans and OSAP. “Other government loans” represent a 10% share of total indebtedness incurred during law school. The average amount of indebtedness for “other government loans” is \$30,123 (\$23,510 in 2007).
 - As they were in 2007, men (15%) and women (13%) are equally likely to have incurred this type of debt. On average, among those who incurred it, total reported debt for “other government loans” is slightly lower among women (\$29,821; \$24,479 in 2007) than it is among men (\$30,552; \$22,362 in 2007).
 - Also consistent with findings from 2007, there is no difference by membership in an equality-seeking community in the proportions who report having had recourse to “other government loans”. On average, among those who report this type of debt, total reported debt for members of an equality-seeking community (\$27,309; \$21,453 in 2007) is somewhat lower than total debt among those who do not identify with such a community (\$31,932; \$24,822 in 2007).



Debt Incurred During Law School

- ◆ Private loans from family or friends are reported by 18% of respondents who incurred debt, with average indebtedness of \$24,017 (\$18,280 in 2007). Private loans represent a 10% share of total indebtedness incurred during law school.
 - Men (21%; 17% in 2007) are significantly more likely to report this type of debt than are women (15%; 18% in 2007). On average, among those who received a loan from family or friends, total debt among men (\$21,621; \$20,040 in 2007) is considerably lower than it is among women (\$26,285; \$16,945 in 2007).
 - Members of an equality-seeking community (21%) are directionally more likely than those who are not members of an equality-seeking community (16%) to report a private loan of this nature. However, among those who do report one, the average amount is lower among members of an equality-seeking community (\$20,961; \$16,030 in 2007) than it is among those who are not members of an equality-seeking community (\$26,674; \$20,146 in 2007).
- ◆ Slightly less than one-in-five respondents (17%; 24% in 2007) report incurring credit card debt, with average debt of \$9,283 (\$7,581 in 2007). Credit card debt represents a 4% share of total indebtedness reported.
 - There is no difference by gender in the incidence of incurring credit card debt, with women (17%; 26% in 2007) and men (17%; 21% in 2007) being equally likely to have done so. However, total average credit card debt among those who incurred it is somewhat higher among women (\$9,901; \$7,443 in 2007) than it is among men (\$8,221; \$7,797 in 2007).
 - Members of an equality-seeking community (19%; 23% in 2007) and those who are not (16%; 25% in 2007) report incurring credit card debt in statistically equivalent proportions. On average, among those who report it, total credit card indebtedness among members of an equality-seeking community (\$9,159; \$9,100 in 2007) is similar to the total reported by those who are not members of such a community (\$9,381; \$6,710 in 2007).
- ◆ Once again, the proportion of respondents reporting “any other type of loans” is low (3%; 5% in 2007), although average debt at \$44,908 (\$20,542 in 2007) is substantial. “Any other type of loans” represents the remaining 4% share of total indebtedness.
 - Women (3%; 6% in 2007) and men (4% in both 2013 and 2007) are equally likely to report “any other types of loans”. However, on average, among those who report this type of debt, women (\$56,606; \$21,102 in 2007) report a substantially higher total debt than do men (\$29,032; \$19,583 in 2007).
 - There is no difference statistically between members of an equality-seeking community (4%; 5% in 2007) and those who are not (3%; 5% in 2007) in reporting this type of debt. On average, among those who do report it, total debt among those who are not members of such a community (\$45,320; \$23,480 in 2007) is similar to total debt among those who are (\$44,469; \$15,840 in 2007).



Debt Incurred During Law School

	Total Sample	
	2013	2007
n=	972	1303
	%	%
I incurred no debt during law school	23	22
Amount of Debt	(\$)	(\$)
Mean* Total Debt	54,147	45,246
OSAP loan	20,413	18,927
Other government loans	30,123	23,510
Bank loans	42,191	31,828
Credit cards	9,283	7,581
Private loan from family/ friends	24,017	18,280
Any other type of loans	44,908	20,542

Q.24 What was the extent of the debt, if any, that you incurred during law school to allow you to complete your law school education? (Include any personal debt, such as loans, lines of credit, credit card etc. and estimate the amount)

Base: All respondents

* Mean (debtor) = Total debt/ debt owners



Impact of Debt

- ◆ In order to investigate the impact that debt may have had on those who were carrying it, both those who entered law school in debt and those who incurred debt during law school were presented with several aspects of the law school experience, the search for an articling position and the selection of post-call employment and were asked to indicate what effect that debt had on each of them.
- ◆ The greatest reported impact was on employment.
- ◆ Slightly more than one-half of respondents (54%) say that the debt they were carrying had “high” (27%) or “some” (27%) impact on their search for law-related employment.
 - There are no significant differences by gender or membership in an equality-seeking community here. However, those who were mature students when they attended law school ((34%) are significantly more likely than those who were not mature students (25%) to report the debt they were carrying had a “high” impact.
- ◆ Similarly, about one-half of respondents (51%) say the debt had “high” (22%) or “some” (29%) impact on their search for an articling position.
 - There are no significant differences in the impact of debt on the search for an articling position by either gender or membership in an equality-seeking community. Once again, however, mature students (32%) are significantly more likely than those who were not mature students (19%) to say that the debt had “high” impact on their search for an articling position.
- ◆ Just less than four-in-ten respondents (38%) say that debt had “high” (12%) or “some” (26%) impact on their involvement in extra-curricular activities.
 - Women (42%) are significantly more likely than men (32%) to say that debt had at least “some” impact, and in particular to say that it had “high” impact (14% and 8%, respectively).
 - Mature students are also more likely to say that debt had at least “some” impact (48% compared to 35% among those who were not mature students), and in particular to say that it had “high” impact (22% and 9%, respectively).
 - There are no differences by membership in an equality-seeking community here.



Impact of Debt

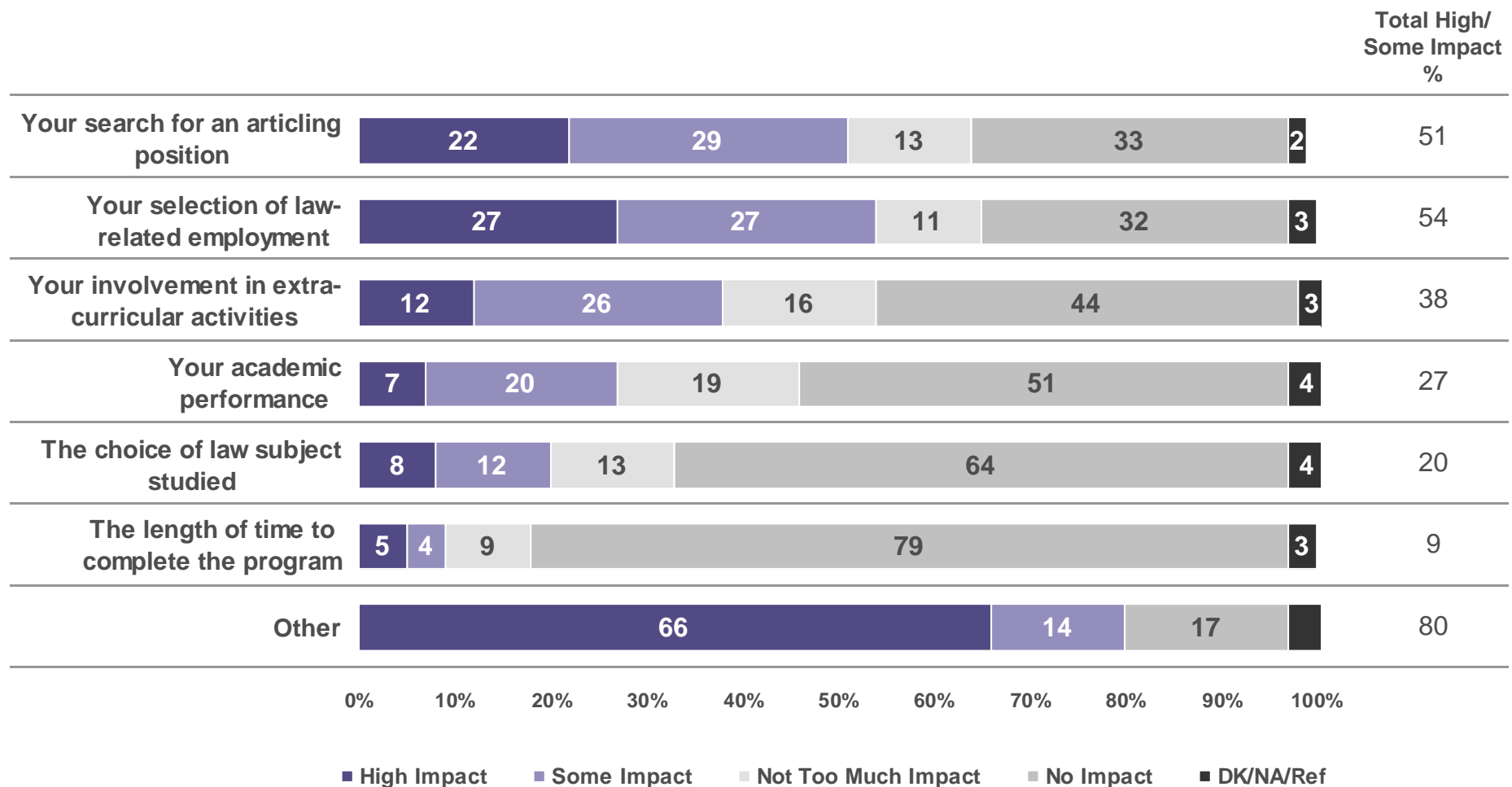
- ◆ While the impact of debt on academic performance appears more muted, it is still reported by slightly more than one-quarter of respondents (27%).
 - Women (30%) are significantly more likely than men (22%) to report that their academic performance was affected, although the difference is found in the proportions who say that it had “some”, rather than “high”, impact (23% and 17%, respectively).
 - Members of an equality-seeking community (32%) are significantly more likely than those who are not (24%) to report at least “some” impact on academic performance, and are almost twice as likely to say that the impact was “high” (9% and 5%, respectively).
 - Debt appears to have the greatest impact on the academic performance of mature students. They are significantly more likely than are those who were not mature students to report at least “some” impact (41% and 23%), and fully three times as likely to report that it had “high” impact (15% and 5%, respectively).

- ◆ Nearly two-thirds of respondents (64%) say that debt had “no impact” on the choice of law studied. One-in-five respondents (20%) say that debt had “high” (8%) or “some” (12%) impact on this.
 - There are no statistically significant subgroup differences here.

- ◆ Finally, the substantial majority of respondents (79%) say that debt had “no impact” on the length of time to complete the program. About one-in-ten (9%) say that it had “high” (5%) or “some” (4%) impact.
 - While there are no differences by gender or membership in an equality-seeking community on this measure, mature students appear once again to be disproportionately affected.
 - Those who were mature students while they were attending law school are about two times more likely than those who were not to say both that debt had at least “some” impact on the length of time to complete the program (16% and 7%, respectively) and, in particular, that it had “high” impact (9% and 4%).



Impact of Debt (Entered Law School In Debt and/or Incurred Debt During Law School)



Q.27 To what extent, if at all, did the debt that you were carrying during your law school studies have a negative impact on any of the following?

Base: Respondents who entered law school with debt and/or incurred debt during law school (n=758)

Note: The "Other" category is composed of a very small group of respondents (n=35) and the issues they cite on which debt had an impact are diffused widely and mentioned by only a few respondents in each case.



Influence of Debt on Career Choices

- ◆ Respondents were asked directly to what degree the debt they were carrying after leaving law school influenced their career choices. The findings suggest that it does exert some influence.
- ◆ Just over one-half of respondents (55%) believe the debt influenced their career choices to at least a “moderate” degree with 31% of respondents saying that it influenced those choices to a “significant” degree.
- ◆ As would be expected, the likelihood of saying that debt had a “significant influence” increases with the amount of debt held, from just 10% among those with less than \$20,000 in debt to 43% among those with \$50,000 or more in debt.
- ◆ Although there are no differences by either gender or membership in an equality-seeking community here, there are once again differences among mature students.
 - Those who were mature students at the time they were attending law school are significantly more likely than are those who were not mature students to believe that the debt they were carrying had a “significant influence” on their career choices ((38% and 29%, respectively).
- ◆ Respondents who indicated that debt influenced their career choices to at least “a small degree” were asked to describe on an open-ended basis the ways in which their career choices were affected.
- ◆ Nearly eight-in-ten (78%) of the descriptions provided of the principal effect refer to having to place a premium on remuneration. These include:
 - Looking for high paying jobs (mentioned by 39%);
 - Finding a job that would help pay down debt (32%);
 - Having to look for jobs in large corporate/commercial or Bay Street firms (7%).

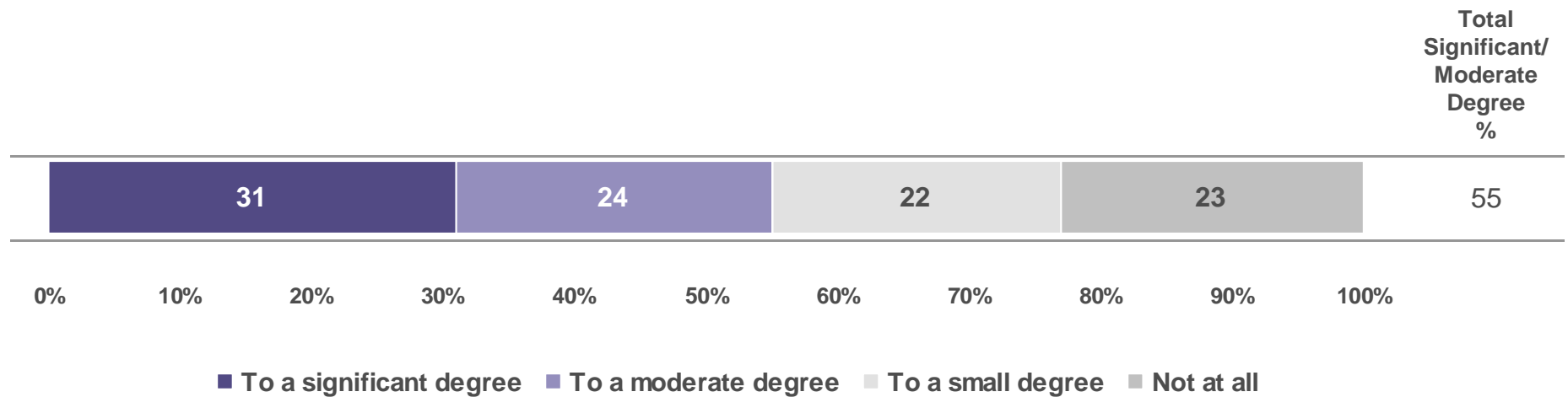


Influence of Debt on Career Choices

- ◆ More than half of the ways in which these respondents describe the effect that debt had on their career choices are negative descriptions or references to career options that would not be feasible. These include:
 - Needing a job right away or having to accept any position offered (15%);
 - Accepting a job that may not have been the first choice in their area of interest (14%);
 - Being unable to accept pro-bono, Legal Aid, or internship positions (10%);
 - Being unable to practice in a preferred location or having to relocate (6%).



Influence of Debt on Career Choices



Q.28 To what degree, if at all, did the debt you were carrying after leaving law school influence your career choices?
 Base: Respondents who entered law school with debt and/or incurred debt during law school (n=758)



Effect of Debt on Career Choices

	Total Sample	
	2013	2007
n=	582	817
	%	%
Look for high paying/ high salary/ high remuneration jobs	39	49
Needed a job that helped me pay down my debt	32	24
Could not chose pro bono/ Legal Aid/ unpaid/ internship positions	10	10
Had to seek out job in large corporate/ commercial firm/ Bay Street firm	7	9
Need a job right away/ accept any position that is offered	15	9
Accept a job that may not have been first choice in area of interest	14	8
Unable to practice in preferred location/ had to relocate	6	7
Unable to seek out jobs in the public sector	2	6
Seek out position with job security/ stable employment	8	5
Seek out less interesting but more lucrative positions	2	3
Unable to pursue further education/ academia	2	3
Limited choices/ unable to be choosy over job	5	3
Had to seek out jobs in private sector	3	2
Unable to chose to be a sole practitioner	3	2
All other mentions (equal to or less than 1%)	1	3
None/ No answer/ Don't know	4	5

Q.29 Please describe how that debt affected your career choices?

Base: Among those whose debt affected career choices



Employment during Law School

- ◆ About half of respondents (53%) report that they were employed for pay during the school term at some point while they were attending law school.
- ◆ There are no differences by either gender or membership in an equality-seeking community in the incidence of working for pay at some point during law school. Consistent with other aspects of the examination of financial considerations, however, there are differences among mature students.
 - Those who were mature students when they were attending law school are directionally more likely than are those who were not mature students to report working at some point during law school (59% and 52%, respectively).
- ◆ Interestingly, there appears to be only a weak relationship between debt and the incidence of working for pay while in law school.
 - Those who incurred debt during law school are directionally more likely than are those who did not to report working (55% and 48%, respectively).
 - The incidence of working during law school among those who incurred debt prior to law school is statistically equivalent to the incidence among those who entered law school free of debt.
- ◆ Those who were employed for pay during law school were asked during which of the three years they were working. The smallest proportion of these students were working in first year (53%). This increases significantly to 80% of these respondents working in second year and remains at about the same level in third year (83%).
- ◆ While there are no differences by either gender or membership in an equality-seeking community, there are once again differences among mature students.
 - Those who were mature students while attending law school are significantly more likely than are those who were not to report working in first year (62% and 51%, respectively).
- ◆ Also more likely among those who worked at some point during law school to have been working in first year are those who were in debt when they entered law school as compared with those who were not (66% and 46%, respectively).



Employment during Law School

- ◆ Among those respondents who were working during each of the respective years, the mean number of reported hours per week worked 15.32 in first year, 13.97 in second year and 14.40 in third year.
- ◆ As might be expected, respondents who had incurred debt prior to law school report a higher mean for hours worked per week in each of the three years of law school when compared to those who entered law school without debt:
 - Year 1 – 16.61 hours per week as compared to 14.17 hours per week;
 - Year 2 – 16.05 and 12.59, respectively;
 - Year 3 – 16.73 and 13.01, respectively.
- ◆ Mean hours worked per week do not differ significantly by either gender or membership in an equality-seeking community, but they do among mature students.
- ◆ Those who were mature students during law school report a higher mean number of hours worked per week during each year of law school than do those who were not mature students:
 - Year 1 – 18.28 and 14.29;
 - Year 2 – 16.75 and 13.14;
 - Year 3 – 17.13 and 13.63.



Law School Programs to Address Student Debt Loads

- ◆ Awareness of law school programs to address student debt loads appears somewhat limited, as less than half of respondents (43%; 48% in 2007) are aware of such programs being available at the school they attended.
- ◆ There is no difference in awareness by gender, membership in an equality-seeking community or mature student status.
- ◆ However, and presumably because they had need of such programs and took steps to learn what was available, there are significant differences by debt profile:
 - Those who entered law school in debt (51%) are significantly more likely than those who entered law school without debt (39%) to report awareness of such programs.
 - The difference in awareness between those who incurred debt in law school and those who did not is even wider (51% and 16%, respectively).
- ◆ Among those aware, about six-in-ten (59%) have used the program, 28% report that they were not eligible for it, and 14% did not use it.
- ◆ The only difference by subgroup in usage of these programs is found among members of an equality-seeking community. These respondents are:
 - Directionally less likely to have used such a program (53%, compared to 62% among respondents who are not a member of an equality-seeking community); and,
 - Significantly more likely to report that they were not eligible for the program (34% and 24%, respectively).



Law School Programs to Address Student Debt Loads

- ◆ Among those who used one of these programs, the mean amount of debt relieved was \$6,630. As a percentage of total debt, the greatest proportion of respondents (32%) report that between 1% and 9% of their debt was relieved.
- ◆ Fully 42% of respondents who used such a program either do not know how or cannot recall how much of their debt was relieved.
- ◆ Among those who applied for relief under the program but were refused, about one-third (32%) say that this was because they did not meet the criteria or that they were for some other reason not eligible for the program.
- ◆ Among those who provided a more detailed explanation, the reasons for the refusal tend to suggest that in some way their need was not sufficient.
 - Over half (54%) say that the reason was that their income was too high (26%) or that they had assets (9%), that their parents' income was too high (9%), or that their spouse or partner's income was too high (10%).
 - For 15% the reason was that they did not have enough debt;
 - For 4% the reason was that they did not qualify for OSAP (suggesting that this is a precondition for some debt relief programs).
- ◆ Among the 14% who knew about the program and simply chose not to use it, the principal reason is that either they had no debt or had insufficient debt to warrant applying (42%). A further 30% either knew they weren't eligible (25%) or thought that they wouldn't be (5%).



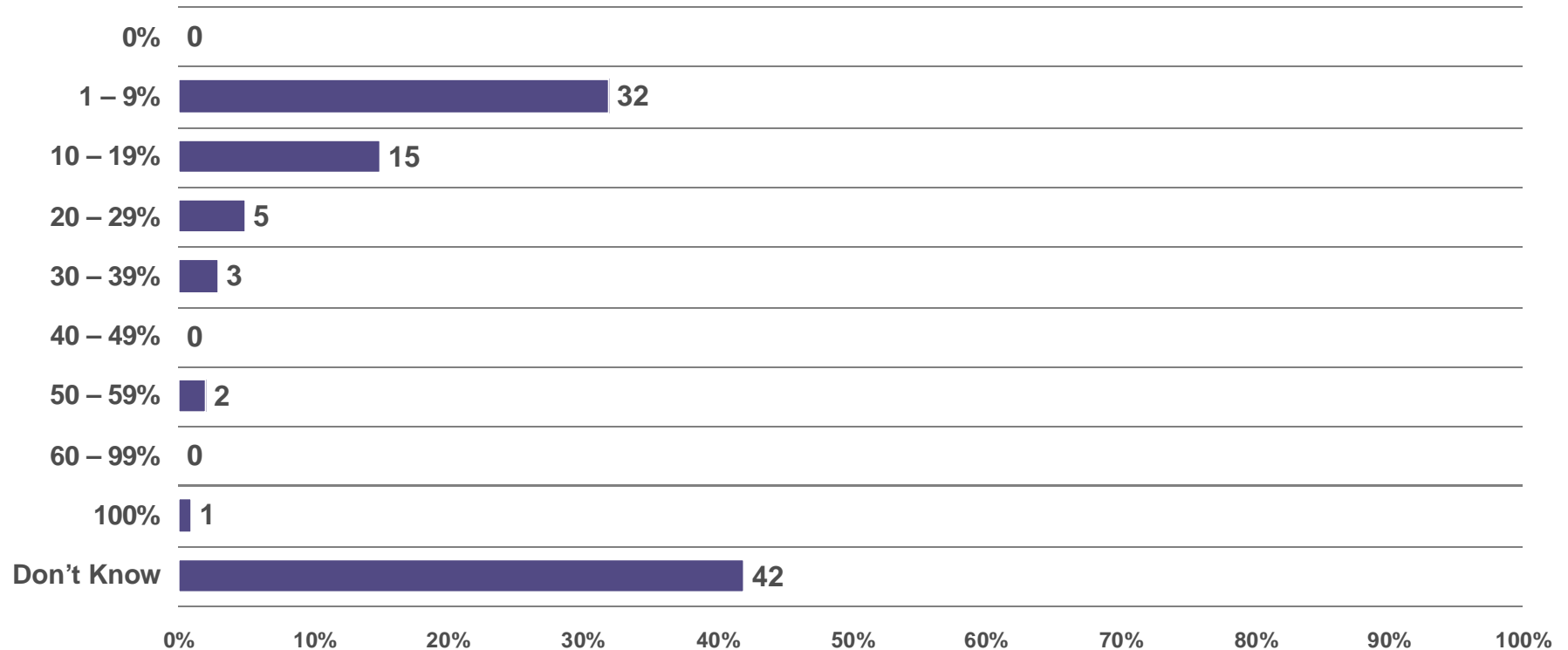
Awareness and Use of Programs to Address Student Debt Load in Law Schools

	Total Sample	
	2013	2007
	%	%
Did the law school have a program to address student debt loads?	n = 972	n = 1303
Yes	43	48
No	14	14
Not sure	43	38
Have you used that program?	n = 421	n = 625
Yes	59	54
No	14	18
Was not eligible	28	28

- Q.31 Did the law school (s) that you attended have either a formal or informal program, such as tuition forgiveness, debt relief or bursaries, to address student debt loads?
 Base: All respondents
- Q.32 Have you used that program?
 Base: Respondents aware of either a formal or informal program to address student debt load at the law school they attended.



Percentage of Overall Debt Relieved



Q.32 Have you used that program? If yes, please indicate how much of your debt was relieved and what percentage of your overall debt that represented.
Base: Respondents who have used the program (n=247)



Reasons For Not Using the Program

	Total Sample	
	2013	2007
n=	57	111
	%	%
No debt/ Not needed	42	41
Not eligible	25	19
I didn't believe I was eligible	5	12
Others needed it more	7	8
Not enough provided/ Not worth the trouble	5	6
Unaware of programs/ my eligibility for programs	7	5
Refused/ Applied but was unsuccessful	2	4
Other	2	11
Don't know/ Can't recall	5	3
No answer	5	4

Q.32 Have you used that program? If no, please explain why you have not used the program.

Base: Among non-users of the program



Reasons Why Not Eligible For Program

	Total Sample	
	2013	2007
n=	117	177
	%	%
Did not meet criteria/not eligible	32	14
I earn too much/my income too high	26	28
Not enough debt	15	13
Partner's/spouse's income too high	10	5
Parents' income too high	9	12
I had assets (e.g., RRSP, savings, car)	9	10
NCA/ Out of province/ Foreign student	5	3
I did not qualify for OSAP	4	5
I had a bank loan	3	3
No answer	3	-
Don't know	5	4

Q.32 Have you used that program? If not eligible, please explain why you were not eligible.

Base: Among those who were not eligible to use the program

TAB 7.3

FOR INFORMATION
CHANGE OF STATUS REPORT

70. In 2008, the Retention of Women in Private Practice Working Group conducted a series of consultations to better understand movements among women within the legal profession in Ontario.
71. The Final Consultation Report of the Retention of Women in Private Practice Working Group put forth a series of recommendations to promote the advancement of women in the private practice of law.
72. Recommendation 2 reads as follows: “That the Law Society, in collaboration with legal associations where appropriate, provide direct support to women in large and medium firms through programs such as a leadership and professional development institute and on-line resources, as described in the report.” Under Recommendation 2, the Retention of Women in Private Practice final report referred to a “change of status survey”, suggesting that such initiative would provide up-to-date information about factors that lead to changes in career paths and keep track of reasons behind a status move.
73. In order to better understand and begin benchmarking movements and changes among women in the legal profession, The Law Society of Upper Canada commissioned The Strategic Counsel to undertake a longitudinal study that surveys members who filed a change of status.
74. The findings from the first wave (those who changed their status in 2009) and second wave (those who changed their status in 2010) of the longitudinal research regarding changes of status have been published and were intended to inform the Law Society about gender-related trends in the profession in addition to informing the development of initiatives to support and retain women and men in the profession.
75. In 2012, the Law Society began conducting a Change of Status survey with paralegals. It is anticipated that the Paralegal Change of Status Survey will continue until the end of 2014 for a report in 2015.

76. The 2013 Change of Status report presents the findings of the study of lawyers for 2010 to 2012. The report is presented at **Tab 7.3.1**.
77. Over the three year period, 16,377 change of status notifications were submitted to the Law Society by lawyers. Women represent approximately 60% of the change of status sample, which stands in contrast to the Law Society's lawyer member base in which women represented between 39% and 41% of the profession.
78. Findings indicate that there is a decline in those holding a private practice position after their change of status and there are commensurate increases in those practising in non-private positions and in those who report that they are not practising law.
79. A number of key trends are evident: the proportion of those holding government/public agency positions after a change of status is on the decline. In 2010, almost one-quarter (24%) of those who made a change of status reported that their change led them to a government/public agency position. That proportion decreased in 2011 to 15%, and again in 2012 to 13%.
80. There is a decline in those holding positions in larger and small to medium-sized private practice firms. By contrast, the incidence of sole practitioners has risen. The incidence of women in private practice prior to a change of status is 50%, whereas the proportion of men in private practice prior to a change is at 58%. After a change of status, the proportion of both women and men in private practice settings declines, although the drop for women is greater (-9 points to 41%) than it is for men (-6 points to 52%). Also, women are particularly likely to be leaving private practice 5 to 9 years after being called to the bar
81. The research suggests that significant proportions of both men and women leave private practice when they have a child under 6 years of age at home. However, men appear to return to private practice after this life stage whereas women do not.
82. There are significant increases in the proportions of those who have moved from private practice to non-private practice reporting that their new position offers a variety of benefits/employment policies that their previous position did not. By contrast, those who

have stayed in private practice identify only a few benefits/policies that are available to them in their new position.

83. The advantages associated with a move from one private practice setting to another are distinct from those associated with a move from private to non-private practice. Those remaining in private practice are more likely to believe that their new setting offers them better practice opportunities. Those who have moved into non-private practice believe that their new position offers better job security, benefits and work-life balance.
84. Women who have remained in private practice are more likely than women who have moved into a non-private practice setting to associate a number of things with their current position: the pay is good, the position allows them to use their talents/legal skills, they have the freedom to decide what to do in the job and, they have control over the scheduling.
85. Women who have moved from private practice to a non-private practice setting are much more likely than those who stayed in private practice to agree that their current position offers the following characteristics compared with their previous position: the job security is good, the benefits are good, the workload is not as heavy, the job is not as stressful and the job allows me to balance career and family. There is only one significant difference between women and men who have moved from private to non-private practice. The need to find work-life balance is a greater potential driver of a change of status among women than it is among men.
86. Respondents were asked without being prompted to describe, in their own words, the key factors that influenced their change of status. The reasons given are varied, and no single issue or set of issues dominates. Yet, there are significant differences between those moving within private practice and those moving from private to non-private practice, as well as by gender, in the factors cited. Mentioned most frequently are practice opportunity-related factors, followed by the position from which the respondent moved ended or changed and work-life balance. Work-life balance is the issue on which those who have remained in private practice and those who have moved from private practice to a non-private practice setting differ most starkly. Among those who have remained in

private practice, only 16% mention work-life balance considerations as a reason for their change. Among the private to non-private practice group, the proportion who cite work-life balance is more than three times greater (50%).

87. For the first two factors discussed, there are no significant differences by gender. For the work-life balance issue, however, a difference does emerge: One-in-five women (22%) who remained in private practice identified work-life balance as a factor in their change. The proportion among men who remained in private practice is less than half of that (10%). Among those who moved from private to non-private practice, women (54%) are again more likely to mention this issue than are men (44%).
88. On a prompted basis, the top two factors most likely to be driving a change in status are that the new position allows respondents to use their talents and legal skills and that the new position allows balance between career and family.
89. Among those who remained in private practice, job opportunity-related factors are most likely to be identified as important: “The job allows me to use my talents and legal skills” and “I have the freedom to decide what I do in my job”.
90. By contrast, the issue most likely to be considered a driver of change among those who have moved from a private to non-private position is that “the job allows me to balance career and family” (71%). It is the top ranked driver by a considerable margin among this group. By comparison, only 37% of those who remained in a private practice setting consider career/family balance as an important reason for their change, making it their third ranked factor overall. The second most important driver among those moving from private to non-private status is that the new position is “less stressful” (mentioned by 64%).
91. Of the 19 drivers examined, there are four upon which women place greater importance, regardless of whether they moved from one private practice position to another or from private to non-private practice: the job allows me to balance career and family, the job is less stressful, my current position offers flexible full-time work hours, and there is paid maternity or parental leave.

92. In conclusion, women are leaving private practice in greater numbers than men, despite the fact that they represent a smaller proportion of lawyers in private practice. The results suggest that the stage at which women are most likely to be leaving private practice is when there are dependents in the home and the youngest dependent is under 6 years of age. This is also the case for men. What distinguishes men from women, however, is their behaviour after this stage of child rearing. Men are more likely to go back into private practice after their youngest dependent moves out of the pre-school stage, whereas women do not. Women and men appear to be moving within private practice and out of private practice into non-private positions for many of the same reasons. Further, for the most part, those reasons appear to be similar in influence as drivers of change. However, there are several exceptions. Women are leaving private practice to a greater extent than men are in order to find work environments that allow them to balance their career and family, that allow flexible work arrangements, that do not require a workload which is too heavy, that are less stressful, and provide that paid maternity/parental leave as well as other benefits.

**Change of Status Research
2010-2012**

**Report of Key Findings Submitted to
The Law Society of Upper Canada**

March 2011

Table of Contents

I. Background and Research Methodology.....	1
A. Background	2
B. Research Methodology	2
C. Areas of Investigation	3
D. Key to Reading Statistical Significance	4
E. Caution Regarding Sample Sizes	4
II. Executive Summary.....	5
A. Background	6
B. Focus of Analysis in 2010-2012 Report.....	6
C. Respondent Characteristics.....	6
D. Work Setting – Previous Versus Current Status Among the Total Sample	7
E. Benefits and Employment Policies as Potential Influencers in a Change of Status	13
F. Perceptions of Previous Versus Current Position	14
G. Reasons for a Change of Status – Unaided	15
H. Factors Considered Important in the Decision to Make a Change of Status (Aided)	17
I. Conclusions.....	19
III. Demographic Characteristics of Survey Respondents.....	20
IV. Change of Status - Overall Trends	25
A. Previous Position versus Current Position – A Decline in Private Practice	26
B. The Decline in Private Practice Based on Size of Private Firm	28
C. Smaller Proportions are Moving into Practice in Government/Public Agencies	29
D. Increasing Proportions are Moving Into Retirement	30
E. Significant Proportions of Those Changing Status are Moving into or Returning from Maternity/Parental Leave	31
V. Characteristics Status Change – (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	34
A. Comparison of Change of Status Characteristics of Total Sample Versus Sample in Which Parental Leave and Retirement are Not Factors.....	35
B. Overall Change of Status Characteristics Based on Gender	38
C. Gender Differences Year over Year.....	39
D. Practice Type into Which Women and Men Have Transitioned	40
VI. Characteristics of Those Whose Change of Status Originated In Private Practice (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	42
VII. Area of Practice (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	47
VIII. Unaided Reasons for a Change in Status (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	50
E. Unaided Reasons for Change of Status	51

Table of Contents

IX. Change of Status Characteristics Based on Year of Call (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	56
A. Women Compared to Men – Practice Type Prior to a Change of Status	57
B. Women Compared to Men – Incidence of Being in Private Practice Prior to and After Change of Status	59
X. Change of Status Characteristics Based on Youngest Dependent in the Home (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)61	
A. Women Compared to Men – Practice Type Based On Youngest Dependent in Home	62
B. Women Compared to Men – Incidence of Being in Private Practice Prior to and After Change of Status	64
XI. Change of Status Characteristics Based on Equity Status (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	66
A. Definition of Equity-Seeking Communities.....	67
XII. Benefits and Operating Policies Available in Previous and Current Position (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	71
XIII. Attributes of Previous and Current Position (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	81
A. Practice Opportunities – Those Who Have Stayed in Private Practice	83
B. Benefits and Job Security - Those Who Have Stayed in Private Practice.....	84
C. Work Life Balance and Stress - Those Who Have Stayed in Private Practice	85
D. Practice Opportunities - Those Who Have Moved From Private Practice to Non-Private Practice.....	86
E. Benefits and Job Security - Those Who Have Moved From Private Practice to Non-Private Practice	87
F. Work-Life Balance and Stress - Those Who Have Transitioned From Private Practice to Non-Private Practice	88
XIV. Importance of Specific Issues in Driving Change of Status (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	90
A. Approach to Exploring Drivers of Change of Status	91
XV. Likely Return to Private Practice (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement).....	101
A. Likelihood of Returning	102
B. Timing of Likely Return to Private Practice	103

I. Background and Research Methodology

Background and Research Methodology

A. Background

In 2008, the Retention of Women in Private Practice Working Group of The Law Society of Upper Canada ("the Law Society") conducted a series of consultations to better understand movements within the legal profession in Ontario among women.

The Final Consultation Report of the Working Group put forth a series of recommendations to promote the advancement of women in the private practice of law.

In order to better understand and begin benchmarking movements and changes within the legal profession among women, The Law Society commissioned *The Strategic Counsel* ("TSC") to undertake an annual study among lawyers who file a change of status.

In 2013, three waves of research data (2010-2012) have been combined in order to inform the Society about gender-related trends in the profession in addition to informing the development of initiatives to support and retain women and men in the profession.

B. Research Methodology

This report presents results from a survey conducted online among a sample of members who changed status in 2010, 2011 and 2012. Although data was collected in 2009, it is not presented here due to the differences in questions asked in 2009 and those asked in 2010-2012.

Members are required to inform the Law Society immediately when their work or practice status changes. At the end of each month, *The Strategic Counsel* receives a file of those who provided The Law Society with a change of status notification. TSC then "cleans" the file, removing duplicate records and those records for which an email address was not supplied. Once the cleaning process is complete, TSC sends out email invitations requesting participation in the Change of Status Survey to those individuals.

In 2012, 5666 lawyer members filed a change of status with the Law Society. This is higher than the previous two years: 5535 filed a change of status in 2011 and 5179 did so in 2010.

Over the past three years, the number of lawyer members of the Law Society has grown: 2010 – 42,189 lawyers; 2011 – 43,393; 2012 - 44,642. Thus, approximately 12%-13% of lawyer members submitted a change of status in each of the three years.

Background and Research Methodology

Among the members who filed a change of status in 2012, 4,733 had provided the Law Society with an active email address. This represents a slight increase over 2011 (4,657) and 2009 (4,126).

A total of 1236 lawyers completed the online survey in 2012. In 2011 and 2010, the numbers were 1289 and 1214, respectively.

The response rates for the three waves of this study have been strong – 26% in 2012, 30% in 2011 and 29% in 2010.

Overview of Survey Population, Survey Sample and Response Rates

	2010	2011	2012
Change of Status Population: Number of records sent by The Law Society to The Strategic Counsel	5179	5535	5666
Survey Population: Number of email invitations sent after removing duplicate email addresses and those with no email addresses	4126	4657	4733
Survey Sample: Number of members who completed the questionnaire	1214	1389	1236
Response rate: Survey Sample ÷ Survey Population	29%	30%	26%

C. Areas of Investigation

The survey instrument was designed to obtain information from each change of status survey respondent about:

- Their previous status (i.e., their status prior to filing a change of status); and
- Their current status (i.e., their status after filing a change of status).



Respondents were asked a number of detailed questions related to their previous and current positions including:

- Practice setting;
- Main areas of practice;
- Benefits and policies provided in the workplace;
- The importance of specific reasons in driving a change of status; and,
- Attitudes concerning their workplace environment.

Background and Research Methodology

D. Key to Reading Statistical Significance

In order to show significant differences between groups, the following symbols are used. Unless otherwise noted, all differences reported are significant at the 95% confidence interval.

- ↑ = Significantly greater proportion relative to the previous status or position results.
- ↓ = Significantly lower proportion relative to the previous status or position.
-  (Yellow highlighting) = A significant smaller proportion relative to the specified comparison group.
-  (Green highlighting) = A significant greater proportion relative to the specified comparison group.

E. Caution Regarding Sample Sizes

The sample sizes for some of the groups examined in this research are quite small. When this is the case, it is noted in the report. While only significant changes are reported, these results should nonetheless be considered directional.

II. Executive Summary

Executive Summary

A. Background

Over the three year period from 2010 to 2012, 16377 change of status notifications were submitted to the Law Society by lawyer members. The average each year is 5,459 submissions. Based solely on 2012 membership data from the Law Society, the number of change of status submissions made (5666 in total) represents about 12.5% of members.

B. Focus of Analysis in 2010-2012 Report

Among the total sample of members who responded, 10% and 4%, respectively, filed a change of status notice because they were leaving for or returning from parental leave. As the primary objective of this research is to examine changes of status related to practice setting, the data for members whose change of status relates to parental leave has been excluded from most of the analysis in this report.

Year over year, an increasing proportion of respondents to the change of status survey report that they are moving into retirement (3% in 2010, 6% in 2011 and 9% in 2012). This group has also been excluded from much of the analysis as they show a very weak tendency (less than 1%) of returning to practice, let alone private practice.

C. Respondent Characteristics

Overall, those changing status are disproportionately women.

Among all respondents, the representation of women compared to men remains fairly consistent for each of the three years:

- In 2010, women represented 60% of the change of status sample. That proportion decreased only slightly in both 2011 and 2012 to 58%.
- These proportions stand in contrast to the Law Society's lawyer member base in which women represented 39% in 2010, 40% in 2011, and 41% in 2012.

Survey respondents are younger.

Almost half or a greater proportion of survey respondents in 2010, 2011 and 2012 were under 40 years of age compared to 32% of Law Society members overall in each of the three years.

While the respondent group is relatively younger, an increasing proportion of the sample is over 50 years of age (23% in 2010, 28% in 2011 and 31% in 2012).

Executive Summary

D. Work Setting – Previous Versus Current Status Among the Total Sample

There is a decline in those holding a private practice position after their change of status.

A high level overview of the characteristics of those who have changed status shows that:

- Almost one-half (48%) were in a private practice position prior to changing status;
- 26% were in a non-private practice position;
- 26% were not in the practice of law.

After the change of status, the proportion in private practice is 8 points lower at 40%. There are commensurate increases in those practising in non-private positions (29%) and in those who report that they are not practising law (31%).

Among the total sample of respondents, a number of key trends are evident:

Year over year, the proportion holding government/public agency positions after a change of status is on the decline.

In 2010, over one-third of those who changed status moved to a position in non-private practice. This proportion drops fully 12 points to 24% in 2012. This drop is mainly attributable to a decline in the proportions moving into a government or a public agency position over the three years.

- In 2010, almost one-quarter (24%) of those who made a change of status reported that their change led them to a government/public agency position. That proportion decreased in 2011 to 15%, and again in 2012 to 13%.

While there is a smaller group moving into government work year over year, the government/public agency category still has a net gain in terms of the proportion of change of status respondents who moved to this practice setting (14% were in a government/public agency in their previous position compared to 17% in their current position).

There is a decline in those holding positions in larger and small to medium-sized private practice firms. By contrast, the incidence of sole practitioners has risen.

Overall, the greatest proportion of those who have changed status report that they originally practised in a small to medium-sized firm (24% were in a firm of 5 to 50 lawyers in their previous position). Another 14% were practising in a large firm (more than 50 lawyers). Only 10% report having been sole practitioners.

While the trend is away from private practice, there has nonetheless been a small increase over the past three years in the proportion of respondents who are in sole practice after their change of status (10% were in sole practice prior to their change while 13% were in sole practice following their change).

Executive Summary

The loss of private practitioners is occurring within large firms as well as smaller to medium-sized firms:

- There has been a 6-point drop in the proportion of individuals in private practice in a large firm (50+ lawyers (from 14% prior to a change in status to 8% in their current position).
- There is a 5-point in the proportion practising in a small to medium-sized firm (from 24% prior to a change in status to 19% in their current position).

There is an overall decline in the proportion of both women and men who hold a private practice position after a change of status compared to their position prior to that change.

Prior to the change in status, 42% of women were in private practice compared with 57% of men.

After the change in status, only 36% of women report holding a position in private practice (a decline of 6 points). Among men, the proportion is 46% (a decline of 11 points).

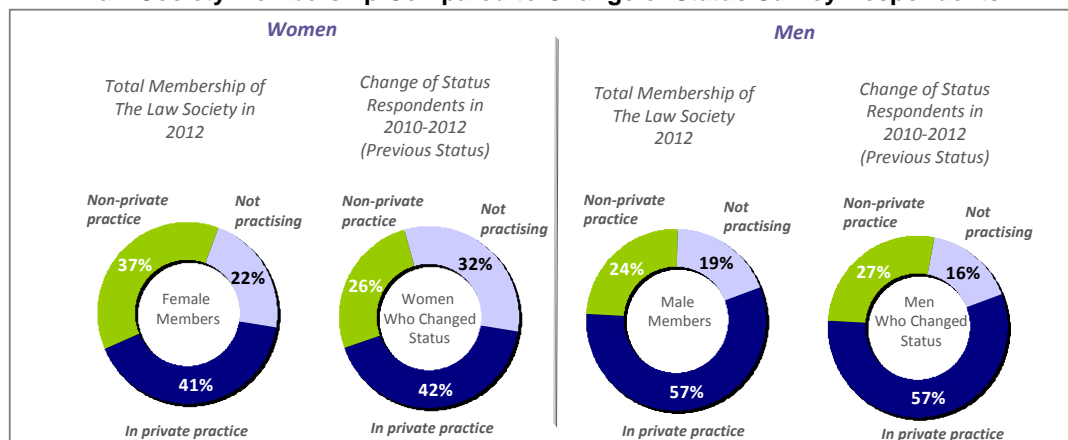
These declines among both women and men mask the impact of maternity/parental leave and retirement on the incidence of private practice.

Those moving into and returning from parental leave represent a large group of change of status submissions. Yet, for most, maternity/parental leave does not appear to be a trigger for a change of practice position.

First, we address the issue of maternity/parental leave. Fully 14% of all respondents report that that they are either returning from maternity/parental leave (10%) or moving into maternity/parental leave (4%). The vast majority of these respondents are women (98%).

An examination of the women returning from maternity leave reveals that the majority (75%) return to their original position. Among this group, 42% were in private practice. This proportion in private practice is consistent with the incidence of women in private practice among the Law Society's membership (41%).

**Incidence of Women and Men in Private Practice
Law Society Membership Compared to Change of Status Survey Respondents**



Executive Summary

Among those returning to practice from maternity leave, 25% report that the position they are returning to is different from the one they held when they went on maternity leave. This group represents a small number of respondents (n=79). Accordingly, this finding should be considered directional. A majority of these women (56%) report that they are currently in private practice.

Because three-quarters of those returning from maternity leave are returning to their original practice position, and on the assumption that a similar proportion of those who are currently on maternity leave will return to their private practice position, these two groups are excluded from the remainder of the analysis.

Increasing numbers of lawyers are moving into retirement.

There is evidence that an increasing number of Ontario lawyers are moving into retirement.

- The proportion of respondents who report that they have transitioned into retirement has tripled, increasing from 3% in 2010, to 7% in 2011 and again to 9% in 2012.
- Further, these lawyers are disproportionately male (fully 70% of those who have moved into retirement in the past three years).

The data suggest that only a very small proportion of retirees will return to practice (1% of change of status submissions). Therefore, these respondents have also been excluded from the remainder of the analysis.

In real numbers, there are more women leaving private practice than men (excluding those whose change is due to maternity/parental leave or retirement)

Analysis of the remaining group of respondents reveals that the incidence of women in private practice prior to a change of status is 50% (8 points higher than the 42% of the total sample represented by women who are in private practice), whereas the proportion of men in private practice prior to a change remains statistically unchanged at 58% (57% of the total sample are in private practice). After a change of status, however, the proportion of both women and men in private practice settings declines, although the drop for women is greater (-9 points to 41%) than it is for men (-6 points to 52%).

(2010-2012 results combined)	Women in Private Practice		Men in Private Practice	
	Previous Position	Current Position	Previous Position	Current Position
SAMPLE EXCLUDING THOSE WHOSE CHANGE OF STATUS RELATED TO MATERNITY/PARENTAL LEAVE OR RETIREMENT	50%	41%	58%	52%

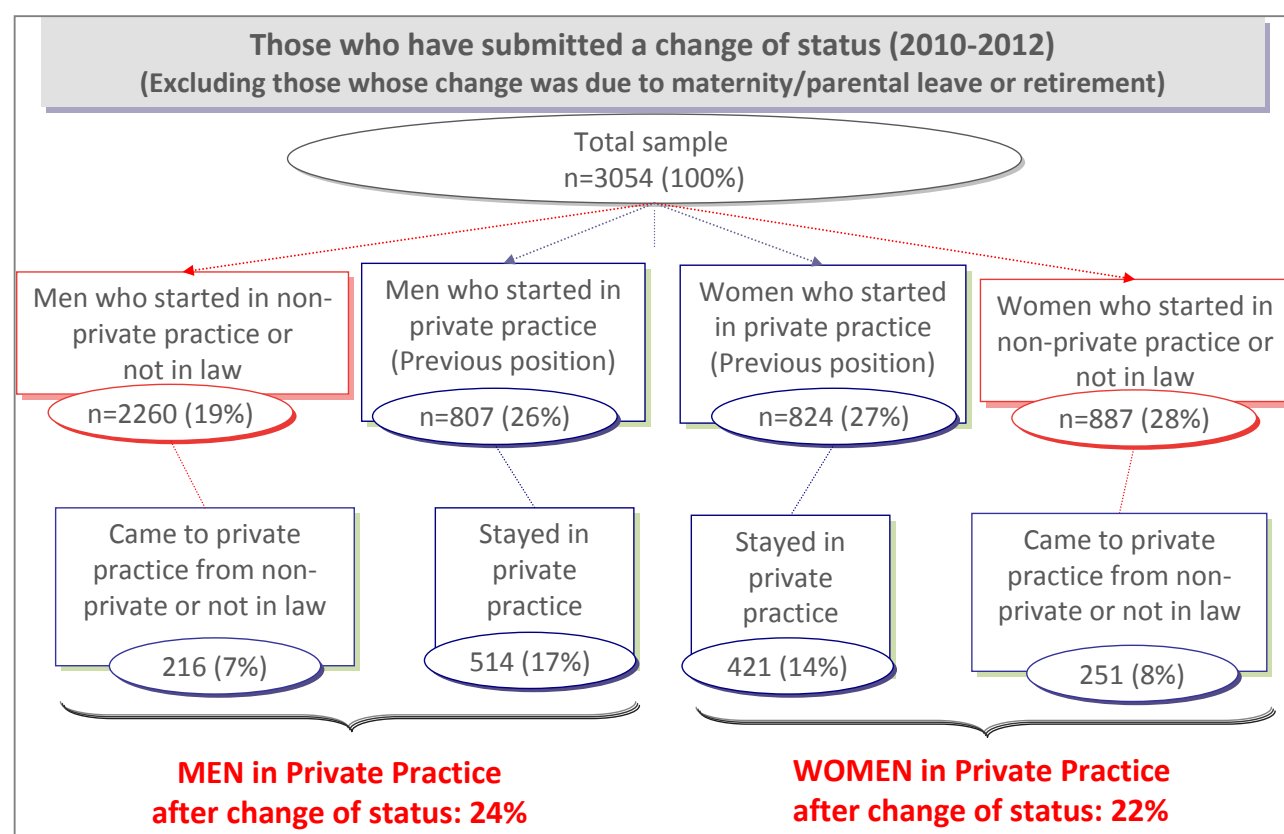
Executive Summary

So what do these proportions mean in real numbers of lawyers leaving private practice?

The chart below illustrates that women in private practice prior to a change in status represent 27% of all those who submitted a change of status notification (824 women). Men who were in private practice represent 26% (807 men).

After the change in status, 14% of women stayed in private practice, and a further 8% entered private practice from a non-private practice position or from a setting in which they were not practising law. Combined, this means that 22% of women are in private practice after a change of status (672 women), a drop of 5 points.

Among men, 17% remained in private practice and another 7% entered private practice from another setting. Combined, this means that 24% of men are in private practice following a change in status (730 men), a 2-point decline.



An analysis has been undertaken to explore whether there are certain periods during the career of a lawyer in which there is a greater tendency for women to be leaving private practice and whether there are any particular factors which influence women to leave private practice.

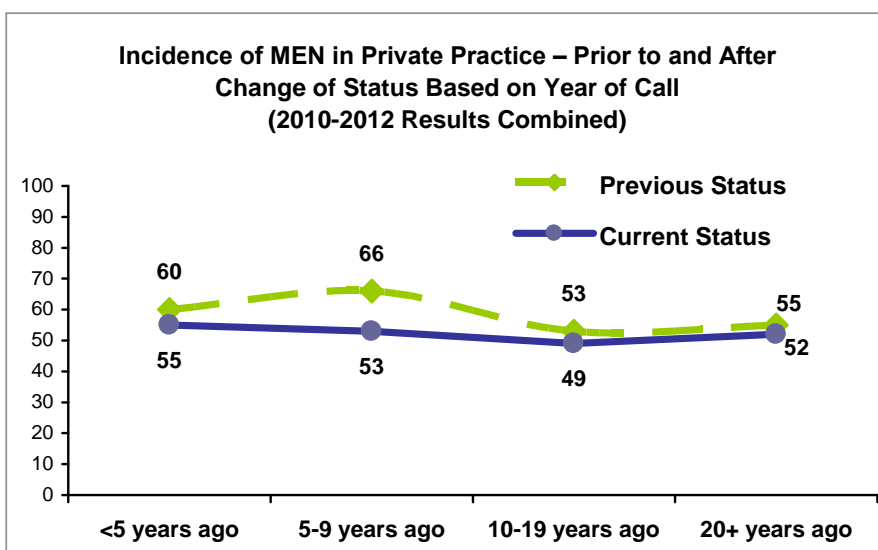
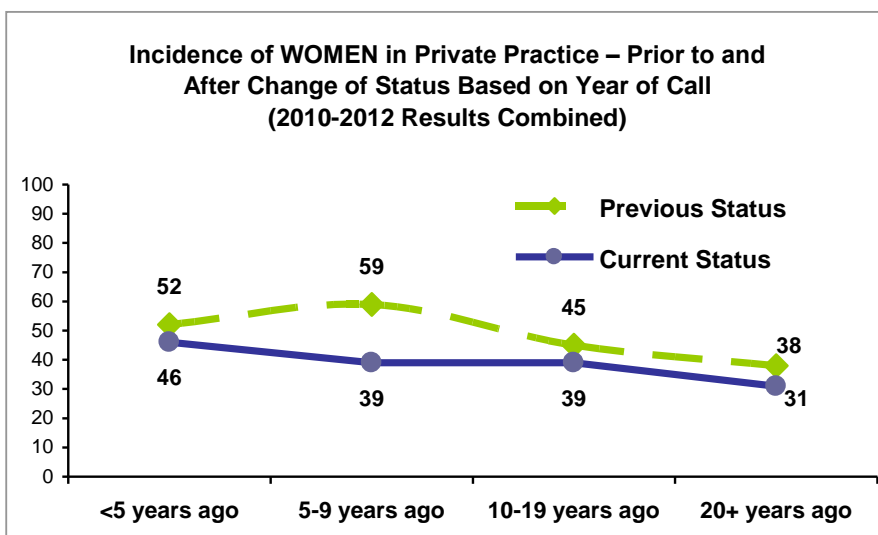
Executive Summary

Women are particularly likely to be leaving private practice 5 to 9 years after being called to the bar (excluding those whose change is due to maternity/parental leave or retirement).

An examination of the incidence of women and men in private practice based on year of call discloses that, regardless of length of time at the bar, women are less likely than men to have been in a private practice position both prior to and after their change of status. Further, as women progress in their careers, they are increasingly less likely than men to be in private practice.

The incidence of women being in private practice after a change in status drops when they have been called for 5 to 9 years. Close to 6-in-10 women whose year of call was 5-9 years ago (59%) report that they were in a private practice position prior to their change, but only four-in-ten of this group (39%) report being in private practice after their change – a 20-point drop. For the remaining groups of women based on year of call, the gap in the proportions in private practice prior to and after a change are much smaller (maximum of 7-points).

By contrast, the incidence of men in private practice after a change of status varies little based on year of call. Further, the drop in the proportion of men in private practice both prior to and following a change of status is less pronounced than it is among women.



Executive Summary

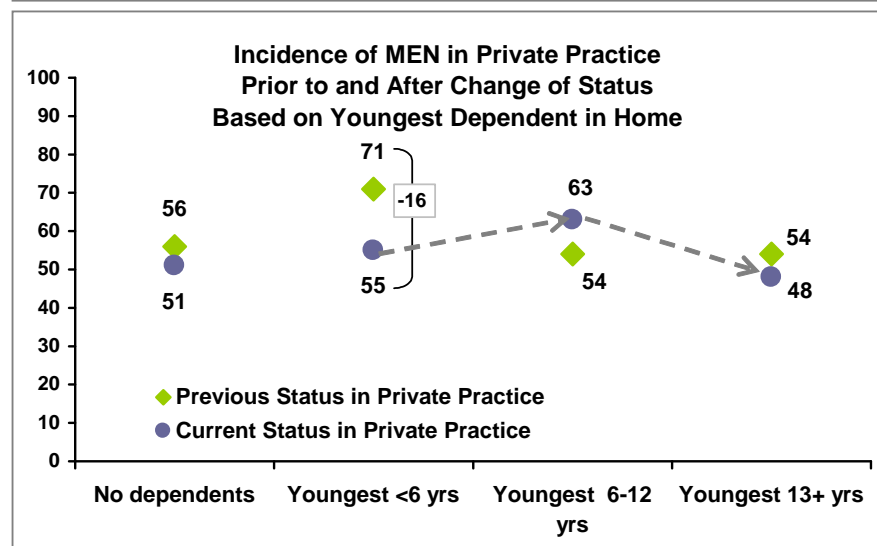
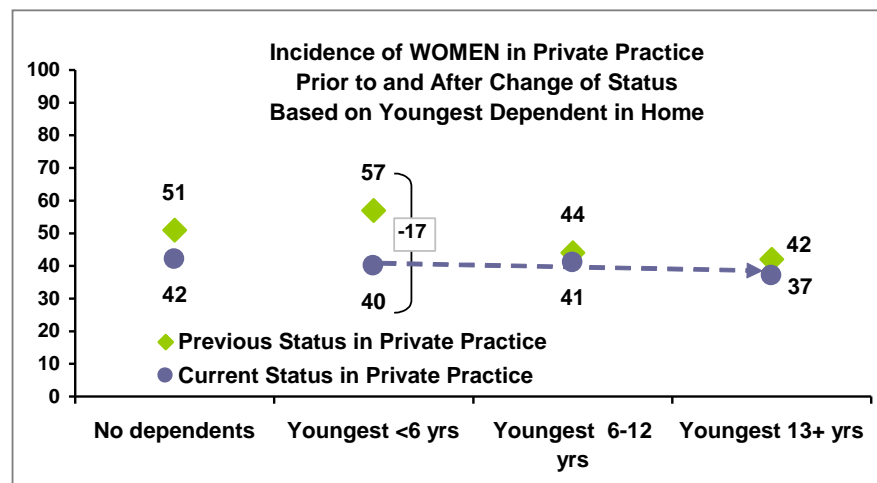
The research suggests that significant proportions of both men and women leave private practice when they have a child under 6 years of age at home. However, men appear to return to private practice after this life stage whereas women do not.

It is when there is a child under 6 years of age at home that the greatest movement out of private practice occurs for both men and women (a 17-point drop for women and 16-point drop for men).

The results suggest that as children in the household grow older (up to 12 years of age), there is actually an increase in the proportion of men who are practising in a private setting after a change of status (from 55% when there are dependents under 6 years of age in the household to 63% when the youngest dependent is 6-12 years of age).

By contrast, there is no such increase among women. The proportion in private practice following the change of status remains statistically unchanged at 41% when the youngest dependent in the home is 6-12 years of age compared to the 40% when the youngest dependent is under 6 years of age.

In fact, it is when the youngest dependent in the home is 6-12 years of age that the gap in the incidence of women and men in private practice after a change of status is the widest (22 points). The gaps at the other stages are smaller (15 points or less).



Executive Summary

E. Benefits and Employment Policies as Potential Influencers in a Change of Status

There are significant increases in the proportions of those who have moved from private practice to non-private practice reporting that their new position offers a variety of benefits/employment policies that their previous position did not. By contrast, those who have stayed in private practice identify only a few benefits/policies that are available to them in their new position.

An investigation into which benefits or employment policies were available to respondents in their previous position compared with those that are available in their new position has been undertaken to explore whether these benefits/policies are potential drivers of a change of status. An increase in the incidence of these benefits/policies from previous to current position may suggest that they, in some measure, played a role in the decision to change positions. While an analysis of this nature cannot determine a direct relationship, these incidences do provide a perspective as to the types of workplace benefits/policies that are valued by lawyers.

Examining those who started out in a private practice position, the results suggest there are differences in the availability of specific benefits/policies for those who remained in a private practice position compared with those who moved to a non-private practice setting:

- First, when moving from one private practice position to another private practice position, there are only a few benefits/policies that are more likely to be available in the current position than they were in the previous position.
 - For both men and women, the incidence of flexible full-time work hours being offered has increased.
 - Among women, part-time work is also more likely to be available in the current position than it was in the previous position. There is no significant difference among men.
 - For the remainder of the benefits/policies explored, either the availability decreased in the current job or there is no significant change in the incidence of availability.

Among those who moved from a private practice position to a non-private practice setting, the results differ dramatically. There are increases in the incidence of many benefits/policies tested in the current position compared to the previous position:

- Four pension and insurance offerings were explored in the research (medical insurance, a dental plan, long-term disability and a pension plan). The availability of all four increased among both men and women from their previous position to the current position.
- Flexible work options (flexible full-time work hours and job sharing) have also increased significantly for both men and women from previous to current position. Women are also more likely to have part-time work available to them in their current position.
- Both women and men are more likely to report that a number of parental benefits are offered in their new position that were not offered in their previous position (paid maternity leave, paid parental leave, child care benefits and day care facilities). While not the case among women, there is also an increase in the availability of unpaid parental leave for men in their new position.
- Finally, there is an increase in availability of sick leave and leave of absence or sabbatical offerings among both men and women in their current position compared to their previous position.

Executive Summary

Do any of these play a significant role in driving a change of status? The fact that many are now available to both women and men who have moved into a non-private position (from a private practice position) suggests that practice settings that offer these benefits are of greater appeal to a sub group of those who moved to a non-private practice setting from private practice.

F. Perceptions of Previous Versus Current Position

The advantages associated with a move from one private practice setting to another are distinct from those associated with a move from private to non-private practice. Those remaining in private practice are more likely to believe that their new setting offers them better practice opportunities. Those who have moved into non-private practice believe that their new position offers better job security, benefits and work-life balance.

The research explores attributes that respondents associate with their previous position versus their current position. The results reinforce previous findings that those who remain in a private practice setting believe that they have gained different types of advantages in their new position than those who have moved from private practice to a non-private practice setting. Particularly when trying to understand why women are leaving private practice, this area of investigation provides some key insights.

Respondents were asked to indicate the extent to which they agree with statements about what their previous position offered them in terms of practice opportunities, benefits and work-life balance. They were then asked to indicate the extent to which they agree that their current position offers these same things.

Women who have remained in private practice are more likely than are women who have moved into a non-private practice setting to associate a number of things with their current position to a greater extent than they associated them with their previous position:

- The pay is good (up 7 points – no significant change among those who moved into non-private practice);
- Allows me to use my talents/legal skills (up 19 points compared to a 9-point increase);
- Freedom to decide what I do in my job (up 25 points compared to no significant change); and,
- Control the scheduling (up 24 points compared to an 8-point increase).

The perceived advantages of moving to into a new private practice setting identified by men do not differ significantly.

Executive Summary

Women who have moved from private practice to a non-private practice setting are much more likely than those who stayed in private practice to agree that their current position offers the following characteristics compared with their previous position:

- Job security is good (up 28 points compared with 10 points among those who stayed in private practice);
- The benefits are good (up 29 points - no significant change among those who stayed in private practice);
- My workload is too heavy (drop of 50 points compared with an 11-point decline);
- My job is very stressful (drop of 58 points compared with a 14-point decline); and,
- Job allows me to balance career and family (up fully 67 points compared to a 22-point increase).

There is only one significant difference between women and men who have moved from private to non-private practice. It is the gap in the proportion who believe that their previous position “allows me to balance career and family” compared to the proportion who believe this of their current position (a 67 point gain for women, compared with a 53 point gain for men). This difference suggests that the need to find work-life balance is a greater potential driver of a change of status among women than it is among men. As reported below, when asked on an unaided basis why respondents are moving out of private practice, this issue comes to the fore.

G. Reasons for a Change of Status – Unaided

Unaided reasons for a change in status are varied. Those who have moved from private practice to a non-private practice setting are much more likely to identify greater work-life balance as an influencing factor in their change of status than are those who have remained in private practice

One of the key objectives of the research is to explore what factors may be leading lawyers to change their status. The research explored this issue through both unaided and aided questions.

Respondents were asked to describe, in their own words, the key factors that influenced their change of status. The reasons given are varied, and no single issue or set of issues dominates. Yet, there are significant differences between those moving within private practice and those moving from private to non-private practice, as well as by gender, in the factors cited.

Mentioned most frequently are practice opportunity-related factors (41% mentioned issues such as the opportunity to take on new challenges, better quality of work, better opportunity for advancement, greater independence, better work environment, better location, better mentorship).

Mentioned second most frequently is that the position from which the respondent moved ended or changed in some manner (mentioned by one-quarter of respondents). However, this is less of a driver to change among those who have moved within private practice (19%) or those who moved from private to non-private practice (8%). It is the main reason cited by those who moved from private practice to a position not in law (37%).

Executive Summary

Mentioned third most frequently is work-life balance. This is the issue on which those who have remained in private practice and those who have moved from private practice to a non-private practice setting differ most starkly. Among those who have remained in private practice, only 16% mention work-life balance considerations as a reason for their change. Among the private to non-private practice group, the proportion who cite work-life balance is more than three times greater (50%).

For the first two factors discussed, there are no significant differences by gender. For the work-life balance issue, however, a difference does emerge:

- One-in-five women (22%) who remained in private practice identified work-life balance as a factor in their change. The proportion among men who remained in private practice is less than half of that (10%).
- Among those who moved from private to non-private practice, women (54%) are again more likely to mention this issue than are men (44%).

Remuneration is mentioned by 13% of respondents overall, although this is a stronger driver among those moving from private to non-private practice (22%) than it is among those who moved within private practice positions (15%) and those no longer practising law (6%).

Factors Influencing a Change of Status - Unaided (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	All respondents	Remained in private practice	Moved from private practice to non-private practice	Moved from private practice to not in law
Positive characteristics of new position (e.g., better opportunities, quality of work, better opportunities for advancement, better able to use skills, better work environment; better mentorship)	41	40	46	26
Position/contract ended or requirement to leave position (e.g., laid off, contract ended, age issues, relocation, end of articling, sent back to original position after secondment, health problems, change in ownership of firm structure, found job articling)	26	19	8	37
Work-life balance	21	16	50	24
Remuneration	13	15	22	6
Starting new firm or promotion	8	19	2	6
Negative characteristics of current position	9	9	14	19
Discrimination/ Harassment	2	3	2	2

Executive Summary

H. Factors Considered Important in the Decision to Make a Change of Status (Aided)

Respondents were also asked directly to indicate the extent to which certain factors are important to a decision to change status. In total, 19 factors were explored, including practice opportunity-related factors (e.g., use of skills, availability of mentorship programs), culture or work-management options that contribute to work-life balance (e.g., flexible hours, availability of part-time hours or leaves), and benefits-related offerings (e.g., pensions).

These questions were asked only of those whose change of status involved either a move into a paid position or from one paid position to another. Those who moved to or from maternity/parental leave, to or within non-paid positions, unemployment or retirement were not asked.

On a prompted basis, the top two factors most likely to be driving a change in status are that the new position allows respondents to use their talents and legal skills and that the new position allows balance between career and family. Over four-in-ten identify each of these as important reasons for their change in status (46% and 41%, respectively).

About one-third of respondents consider the freedom to decide what they do in their jobs, control over scheduling, less stress, better pay and good job security as important factors in a decision to make a change. These issues represent the second tier of factors based on relative importance.

Those who remained in private practice differ completely from those who moved into non-private practice in the two reasons most likely to be perceived as important.

Among those who remained in private practice, job opportunity-related factors are most likely to be identified as important: "The job allows me to use my talents and legal skills" and "I have the freedom to decide what I do in my job" (46% and 47%, respectively rate these factors as important as a reason for their change of status).

By contrast, the issue most likely to be considered a driver of change among those who have moved from a private to non-private position is that "the job allows me to balance career and family" (71%). It is the top ranked driver by a considerable margin among this group. By comparison, only 37% of those who remained in a private practice setting consider career/family balance as an important reason for their change, making it their third ranked factor overall. The second most important driver among those moving from private to non-private status is that the new position is "less stressful" (mentioned by 64%).

The driver common to the top three list for both those who have moved from private to non-private practice and those who have remained in private practice is "use of my talents and legal skills". However, the proportion who identify this as an important factor is greater among the former group (57%) than it is among those who have remained in private practice (37%).

Executive Summary

As the table below illustrates, other strong reasons for change among those moving into non-private practice focus on benefits and workload. They are viewed as important drivers of change by significantly greater proportions of those who moved into non-private practice than those who remained in private practice.

**Top Five Reasons Influencing a Change of Status – Aided
Based On a Move From A Previous Setting of Private Practice**

Those who stayed within a private practice setting			Those who have moved from a private practice position to a non-private position		
Ranking		% who rate issue as important	Ranking		% who rate issue as important
1	I have the freedom to decide what I do in my job. <i>Shared with...</i> The job allows me to use my talents and legal skills	47% 46%	1	The job allows me to balance career and family	71%
2	I control the scheduling	42%	2	The job is less stressful	64%
3	The job allows me to balance career and family	37%	3	The job allows me to use my talents and legal skills	57%
4	The pay is better	34%	4	My workload has decreased <i>Shared with...</i> There is a pension plan in my current position	52% 50%
5	The job is less stressful <i>Shared with...</i> Job security is good	31% 31%	5	The job security is good	48%

Of the 19 drivers examined, there are four upon which women place greater importance, regardless of whether they moved from one private practice position to another or from private to non-private practice:

- The job allows me to balance career and family;
- The job is less stressful;
- My current position offers flexible full-time work hours; and,
- There is paid maternity or parental leave.

Executive Summary

I. Conclusions

Women are leaving private practice in greater numbers than men, despite the fact that they represent a smaller proportion of lawyers in private practice.

The results suggest that the stage at which women are most likely to be leaving private practice is when there are dependents in the home and the youngest dependent is under 6 years of age. This is also the case for men. What distinguishes men from women, however, is their behaviour after this stage of child rearing. Men are more likely to go back into private practice after their youngest dependent moves out of the pre-school stage, whereas women do not.

Women and men appear to be moving within private practice and out of private practice into non-private positions for many of the same reasons. Further, for the most part, those reasons appear to be similar in influence as drivers of change. However, there are several exceptions. Women are leaving private practice to a greater extent than men are in order to find work environments that allow them to balance their career and family, that allow flexible work arrangements, that do not require a workload which is too heavy, that are less stressful, and provide that paid maternity/parental leave as well as other benefits.

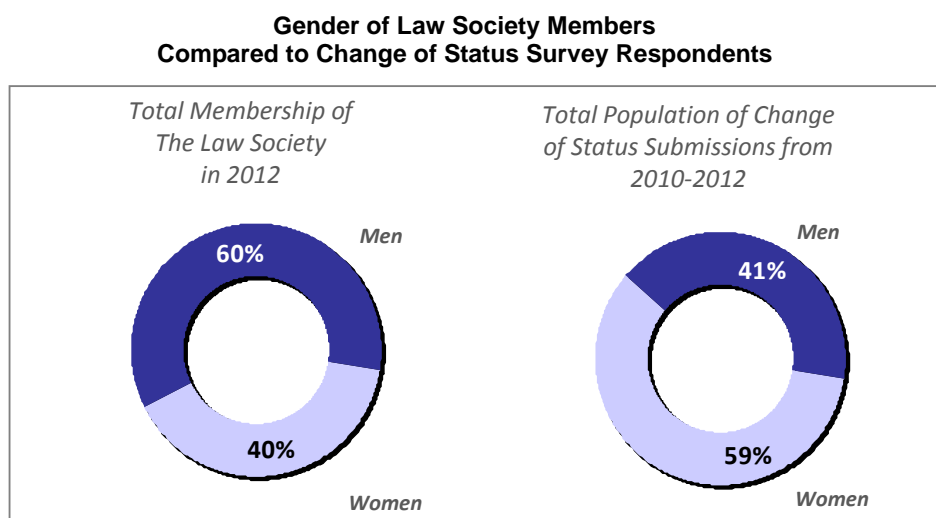
III. Demographic Characteristics of Survey Respondents

Demographic Characteristics of Survey Respondents

The section illustrates the demographic characteristics of those who have participated in the Change of Status survey in the past three years. These respondent characteristics are contrasted with the characteristics of the lawyer member base as determined by the Law Society.

Gender of Members Compared with Survey Respondents

- The membership of Law Society was composed of 40% women and 60% men at the end of 2012.
- By comparison, women are much more strongly represented among those who have made a change of status submission from 2010 to 2012. Among this group, fully 59% are women.



- While the incidence of women within the LSUC membership has been increasing incrementally year over year (from 39% in 2010 to 41% in 2012), their representation among change of status respondents has declined very slightly (from 60% in 2010 to 58% in 2012).

Gender of Law Society Members Compared to Change of Status Survey Respondents

		2010		2011		2012	
		Law Society Membership Statistics	Survey Respondents	Law Society Member-ship Statistics	Survey Respondents	Law Society Membership Statistics	Survey Respondents
n=		42,169	1,214	43,213	1,389	44,642	1,236
		%	%	%	%	%	%
Women		39	60	40	58	41	58
Men		61	40	60	42	59	42

Demographic Characteristics of Survey Respondents

Age of Members Compared with Survey Respondents

The population of Law Society members over the age of 65 years has been increasing over the past 3 years, from 10.2% to 11.8%. The incidence of those over the age of 65 among Change of Status survey respondents has more than doubled (from 3% in 2010 to 7% in 2012).

**Age of Law Society Members
Compared to Change of Status Survey Respondents**

n=	2010		2011		2012	
	Law Society Membership Statistics	Survey Respondents	Law Society Membership Statistics	Survey Respondents	Law Society Membership Statistics	Survey Respondents
	42,169	1,214	43,213	1,389	44,642	1,236
	%	%	%	%	%	%
<30 years of age	5.8	8	6.1	5	6.5	6
30-39 years	26.7	49	26.2	42	25.7	42
40 to 49 years	25.2	20	24.7	25	24.6	21
50 to 65 years	32.0	20	32.1	22	31.4	24
Over 65 years	10.2	3	11.0	6	11.8	7
TOTAL	100	100	100	100	100	100

Demographic Characteristics of Survey Respondents

Year of Call

The higher incidence of more mature lawyers in the Law Society's membership is also evident when examining year of call. There has been an increase in the proportion of those called to the bar 20 years ago or more over the past three years. This is also the case among Change of Status survey respondents.

In 2010, 19% of survey respondents were called to the bar 20+ years ago. That proportion has increased to 27% in 2012. The increasing group of more mature lawyers in Ontario is having an effect on the Change of Status survey findings. This is discussed in the next section of the report.

**Year of Call of Law Society Members
Compared to Change of Status Survey Respondents**

	2010		2011		2012	
	Law Society Membership Statistics	Survey Respondents	Law Society Membership Statistics	Survey Respondents	Law Society Membership Statistics	Survey Respondents
	n=					
	42,169	1,214	43,213	1,389	44,642	1,236
	%	%	%	%	%	%
< 5 years ago	17	30	To be provided by Law Society	24	To be provided by Law Society	25
5 to 9 years ago	17	29	To be provided by Law Society	25	To be provided by Law Society	24
10 to 19 years ago	24	22	To be provided by Law Society	25	To be provided by Law Society	24
20 or more years ago	41	19	To be provided by Law Society	26	To be provided by Law Society	27

Demographic Characteristics of Survey Respondents

Self-Ascribed Racial Characteristics

The Law Society does not release data about lawyer membership in equity-seeking communities. However, the Change of Status survey did explore whether respondents identify as members of an equity-seeking community.

In each of the three years examined, over one-in-ten respondents self-identify as a member of a racialized equity-seeking community. Similar proportions self-identify with a non-racialized equity-seeking community.

Membership in an Equity-Seeking Community

	2010	2011	2012
	Survey Respondents	Survey Respondents	Survey Respondents
n=	1,214	1,389	1,236
	%	%	%
RACIALIZED EQUITY-SEEKING	16	13	13
NON-RACIALIZED EQUITY-SEEKING	15	16	18
Francophone	5	7	6
Gay/Lesbian/Bisexual	3	3	3
Person with disabilities	3	3	3
Aboriginal/ First Nations	2	1	2
Jewish	2	2	2
Other*	4	4	1
DO NOT IDENTIFY WITH AN EQUITY-SEEKING COMMUNITY	69	71	69

* Christian; immigrant; foreign-trained; non-visible ethnic or religious minority; woman/ mother/ pregnant; elderly person; Arab; Sikh

Change of Status Q.4: Please check any of the following characteristics with which you self-identify.

Change of Status Q.5: If you have self-identified as being Aboriginal or racialized/person of colour, please specify how you identify yourself.

IV. Change of Status - Overall Trends

Change of Status – Overall Trends

A. Previous Position versus Current Position – A Decline in Private Practice

Overall, the Change of Status survey results suggest that there is a movement away from private practice among those who have submitted a change of status in the past three years.

The analysis provides an overview of the type of position held by respondents prior to their change of status and the type of position they currently hold. Results are presented to illustrate the degree to which there has been movement away from private practice to the practice of law outside of private practice (“non-private practice”) and to a setting or situation in which an individual is not currently practising law (“not practising law”). This latter category includes retirement, maternity/parental leave and other types of leave.

As the following table illustrates, in each of 2010, 2011 and 2012, there has been an overall decline in the proportion of those in private practice after a change of status. Across the three years, 48% of those who submitted a change of status started out in private practice. After the change in status, a smaller 40% were in private practice, an 8-point decline.

**Incidence of Those in Private Practice in Previous and Current Positions
Among Total Sample of Change of Status Respondents**

	Private practice in <u>previous</u> position	Private practice in <u>current</u> position	GAP
2010 (n=1214)	45	38	- 7
2011 (n=1389)	50	40	-10
2012 (n=1236)	48	42	- 6
COMBINED 2010-2012 (n=3839)	48	40	- 8

Change of Status – Overall Trends

These results do not provide a clear picture of the movement to and from private practice positions. While significant proportions of Change of Status survey respondents have left private practice, there are also segments of lawyers who have held positions in non-private practice or who were not practising law who have moved into private practice after their change of status. This has ensured that the incidence of those in private practice been replenished to a certain degree.

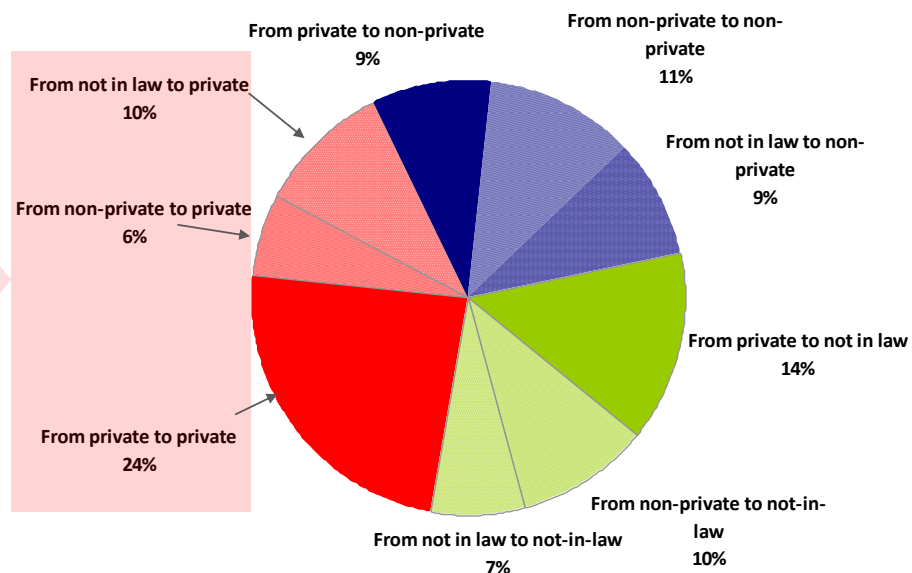
The 40% who report that they are in private practice after a change of status is composed of:

- 24% who began in a private practice position and stayed in a private practice position;
- 6% who began in a non-private practice position and moved to private practice; and,
- 10% who were not practising law and transitioned to a private practice position.

Overview of Incidence of Those in Private Practice in Previous and Current Positions

2010-2012 Overview of Change of Status Activity

	Was in private practice in <u>previous</u> position	In private practice in <u>current</u> position
2010	45	38
2011	50	40
2012	48	42
COMBINED 2010-2012 (N=3839)	48	40



Change of Status – Overall Trends

B. The Decline in Private Practice Based on Size of Private Firm

Overall, the greatest proportion of those who have submitted a change of status report that they originally practiced in a small to medium-sized firm (24% were in a firm of 5 to just under 50 lawyers in their previous position). Another 14% were practising in a large firm (more than 50 lawyers). Only 10% report having been sole practitioners.

While the overall trend is away from private practice, there has nonetheless been a small increase over the past three years in the proportion of respondents who are in sole practice after their change of status.

- While 10% of respondents over the three years of the survey report that their previous position was in sole practice, 13% are currently in sole practice.

The loss of private practitioners is occurring within large firms and smaller to medium-sized firms.

- There is a 6-point drop in the proportion of individuals in private practice in a large firm (50 lawyers or more) after a change of status (from 14% in their previous position to 8% in their current position).
- There is a 5-point decrease in the proportion practising in a small to medium-sized firm (5 to 40 lawyers) (from 24% in their previous position to 19% in their current position).

Incidence of Those in Private Practice in Previous and Current Positions Among Total Sample of Change of Status Respondents

	TOTAL SAMPLE OF RESPONDENTS							
	2010 (n=1214)		2011 (n=1389)		2012 (n=1236)		Combined 2010-2012 (n=3839)	
	PREVIOUS	CURRENT	PREVIOUS	CURRENT	PREVIOUS	CURRENT	PREVIOUS	CURRENT
	%	%	%	%	%	%	%	%
In private practice	45	38↓	50	40↓	48	42↓	48	40↓
In sole practice	10	12	10	11	10	15↑	10	13↑
Private firm – 5 to 50 lawyers	20	18	25	20↓	25	19↓	24	19↓
Private firm – more than 50 lawyers	15	8↓	15	9↓	13	8↓	14	8↓

Change of Status – Overall Trends

C. Smaller Proportions are Moving into Practice in Government/Public Agencies

There are a number of other trends noted in the overall Change of Status results.

The first is a decline in the incidence of those whose change of status has led them to a current position in non-private practice. In 2010, over one-third of those who had changed status went to a position in non-private practice. This proportion drops fully 12 points to 24% in 2012. This drop is mainly attributable to a decline in the proportion who have moved into a government or a public agency position over the three years.

- In 2010, almost one-quarter (24%) of those who made a change of status reported that their change led them to a government/public agency position. That proportion decreased in 2011 to 15%, and again in 2012 to 13%.

While there is a smaller group moving into government work year over year, the government/public agency category still has a net gain in terms of the proportion of change of status respondents who ended up in this type of work settings (from 14% who were in a government/public agency in their previous position compared to 17% in their current position).

**Incidence of Those in Non-Private Practice in Previous and Current Positions
Among Total Sample of Change of Status Respondents**

	TOTAL SAMPLE OF RESPONDENTS							
	2010 (n=1214)		2011 (n=1389)		2012 (n=1236)		Combined 2010-2012 (n=3839)	
	PREVIOUS	CURRENT	PREVIOUS	CURRENT	PREVIOUS	CURRENT	PREVIOUS	CURRENT
	%	%	%	%	%	%	%	%
In non-private practice	28	36↑	26	27	25	24	26	29↑
Government or a public agency	17	24↑	13	15↑	14	13	14	17↑
In-house counsel for a private Corporation	5	6	6	4↓	4	3	5	4
Education	2	2	2	2	2	3	2	2
Other (includes: judge, crown, legal clinic, NGO, and other work settings)	3	2	1	3	3	3	5	6

Change of Status – Overall Trends

D. Increasing Proportions are Moving Into Retirement

As noted previously, there is evidence of an increasing segment among Change of Status respondents who are moving into retirement.

- The proportion of those submitting a Change of Status notification indicating that they have transitioned into retirement increases from 3% in 2010 to 7% in 2011, and again to 9% in 2012.
- The probability is high that this group will not return from retirement to move into practice (private or otherwise) in the future. On average, only 1% of Change of Status respondents indicate that they came out of retirement.

Incidence of Those Not in Law In Previous and Current Positions Among Total Sample of Change of Status Respondents

n=	TOTAL SAMPLE OF RESPONDENTS							
	2010 (n=1214)		2011 (n=1389)		2012 (n=1236)		Combined 2010-2012 (n=3839)	
	PREVIOUS	CURRENT	PREVIOUS	CURRENT	PREVIOUS	CURRENT	PREVIOUS	CURRENT
Not practising law	27	26	24	33↑	27	34↑	26	31↑
Maternity/parental leave	11	4	8	6	10	4	9	5
Not working in law (non-law position)	5	9↑	6	7	6	10↑	6	8↑
Not working for pay	6	6	6	8↑	7	7	6	7
Retired	1	3↑	<1	7↑	1	9↑	1	6↑
Unemployed	1	2	2	1	2	2	2	2
Other	3	2	2	4	3	2	2	3

It is noteworthy that men are significantly more likely than women to report a transition into retirement (11% over the past three years among men compared with only 3% among women).

Change of Status – Overall Trends

E. Significant Proportions of Those Changing Status are Moving into or Returning from Maternity/Parental Leave

As shown in the previous table, an average of 14% of respondents over three years (2010, 2011 or 2012) report that they were either returning from or going into a period of parental leave:

- 10% report that their change of status involves a return from maternity/parental leave;
- 4% report that they are moving into maternity/parental leave.

Women comprise the vast majority of the group whose change of status involves moving into or returning from maternity/parental leave (95% of those where parental leave is a factor or 13% of all Change of Status survey respondents).

Change of Status Related to Parental Leave

	All Survey Respondents 2010-2012
	n=3839
	%
Women who changed status and parental leave was a factor	13
Men who changed status and parental leave was a factor	1
Women who changed status and parental leave was not a factor	45
Men who changed status and parental leave was not a factor	41

Those who indicated they are returning from a parental/maternity leave [11% in 2012 (n=128); 8% in 2011 (n=112); 10% in 2012 (n=118)] were asked a set of detailed questions to determine if they had returned to their previous position after their leave or whether they had changed their position upon their return from leave.

Change of Status – Overall Trends

Among the group of women returning from a maternity leave (n=349), most but not all returned to their previous position (76%) after their maternity/parental leave. Women in this group are similar to other women in terms of their likelihood of being in private practice. Four-in-ten are in private practice upon their return from a maternity leave.

The sample of women who have changed their position after returning from maternity leave is small (n=78). Thus, any analysis of this group should be considered directional only. Based on the results for this limited group, they seem slightly more likely (56%) than the average (41%) to have moved into a position in private practice.

Change of Status Characteristics Among Women Who Have Returned From a Maternity Leave Compared to Those Whose Change Does not Involve Maternity/Parental Leave or Retirement

	WOMEN Those who returned to the <u>same position</u> they had prior to their maternity leave (n=349)	WOMEN Those who returned to a <u>different position</u> to the one they held prior to their maternity leave (n=78)	WOMEN: Those whose change of status does not involve maternity leave or retirement (n=1661)
	%	%	%
In private practice	40	56	41
In sole practice	8	1	12
Private firm – 5 to 50 lawyers	23	37	19
Private firm – More than 50 lawyers	9	18	10
In non-private practice	49	33	34
Government or a public agency	34	17	20
In-house counsel for a private corporation	6	6	5
Education	3	3	3
Other (includes: judge, crown, legal Clinic, NGO, and other practice types)	6	8	6
Not practising law	11	11	25
Not working in law (non-law position)	7	11	9
Not working for pay	1	-	10
Other	3	-	6

Change of Status – Overall Trends

In addition to the one-in-ten who have returned from maternity/parental leave, approximately one-in-twenty Change of Status respondents indicate that they are currently on maternity/parental leave.

This proportion is likely underestimated. In 2012, The Strategic Counsel examined all of the email “bounce backs”¹ received in response to the emails inviting participation in this study sent to those who submitted a Change of Status notification. Approximately 130 bounce backs (3% of those who were sent an email invitation) indicated that the email recipient was on parental leave.

¹ “Bounce backs” refers to emails for which Strategic Counsel received an automated response from the originating email address, which were not delivered to the intended recipient. A number of

**V. Characteristics Status Change –
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Characteristics of Status Change – Excluding Parental Leave and Retirement

A. Comparison of Change of Status Characteristics of Total Sample Versus Sample in Which Parental Leave and Retirement are Not Factors

In both the total sample of Change of Status survey respondents and the sample excluding those whose change is due to maternity/parental leave or retirement, there is a decline in the proportions in private practice after a change of status:

- A decline of 8-points among the total sample (from 48% previous position to 40% current position)
- A decline of 7-points among the group excluding retirees and those whose change involved maternity/parental leave.

Incidence of Those in Private Practice in Previous and Current Positions

TOTAL SAMPLE	Was in private practice in <u>previous</u> position	In private practice in <u>current</u> position	GAP
2010	45	38	- 7
2011	50	40	-10
2012	48	42	- 6
COMBINED 2010-2012 (N=3839)	48	40	- 8
EXCLUDING THOSE WHOSE LEAVE IS DUE TO MATERNITY/PARENTAL LEAVE OR RETIREMENT	Was in private practice in <u>previous</u> position	In private practice in <u>current</u> position	GAP
2010	51	42	- 9
2011	55	47	- 8
2012	54	49	- 5
COMBINED 2010-2012 (N=3839)	53	46	- 7

Q.6 Your previous status or position means the position you were in immediately prior to notifying the Law Society. Your current status or position means the position you are in now. From among the following, please indicate your practice or work setting while you were in your previous status category or position as well as your current practice or work setting.

Characteristics of Status Change – Excluding Parental Leave and Retirement

The remainder of the analysis provided in this report is undertaken excluding those who have changed status for maternity/parental leave or retirement.

The table on the following page provides a detailed overview of the type of position held by these respondents prior to their change of status and the type of position they currently hold.

It illustrates the same trends that were first evident among the total sample of respondents:

- While the overall trend away from private practice still holds, there is an increase in the proportion who are currently in sole practice;
- The proportion who practice at a large law firm (over 50 lawyers) decreases after a change of status (from 16% who held a position in a large firm in their previous position to 10% who do so in their current position);
- The proportion of those who are currently in a government/public agency position has declined from 2010 to 2012 (from 23% in 2010 to 13% in 2012).
 - Yes a government/public agency position remains a key destination for those changing status. Almost one-in-five who have changed status are currently working for government or a public agency (17%).

Characteristics of Status Change – Excluding Parental Leave and Retirement

Practice Type or Work Setting – Previous Versus Current Position in 2010, 2011 and 2012 (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	PREVIOUS POSITION				CURRENT POSITION			
	2010	2011	2012	2010-2012	2010	2011	2012	2010-2012
	998	1104	955	3057	998	1104	955	3057
	%	%	%	%	%	%	%	%
NET: PRIVATE PRACTICE (BOTH OUTSIDE AND IN TORONTO)	51	55	54	53	42	47↓	49	46
NET: PRIVATE PRACTICE OUTSIDE TORONTO	24	27	27	25	19↓	24↓	27	23
Sole practice outside of Toronto	6	6	7	6	7	7	11↑	8
Private law firm outside Toronto with 5 lawyers or less	7	8	7	7	5	7	6	6
Private law firm outside of Toronto with 6 to 10 lawyers	2	3	5	3	2	2	3	2
Private law firm outside Toronto with 11 to 50 lawyers	4	6	5	5	3	4↓	4	4
Private law firm outside Toronto with > 50 lawyers	5	4	3	4	2↓	4	3	3
NET: PRIVATE PRACTICE IN TORONTO	27	28	27	28	23↓	23↓	22↓	23↓
Sole practice in Toronto	4	4	4	4	7↑	6↑	7↑	7
Private law firm in Toronto with 5 lawyers or less	5	4	4	5	4	3	3	3
Private law firm in Toronto with 6 to 10 lawyers	2	3	2	2	2	3	2	3
Private law firm in Toronto with 11 to 50 lawyers	4	6	5	5	4	3↓	3	3
Private law firm in Toronto with > 50 lawyers	12	11	12	12	6↓	8↓	7↓	7
NET: NON-PRIVATE PRACTICE	31	27	24	28	37↑	28	25	30
In-house counsel for a private corporation	5	6	4	5	6	5	4	5
Government or a public agency	16	14	13	14	23↑	16↑	13	17↑
Education	2	2	2	2	3	2	3	2
Crown	2	2	2	2	2	1↓	1	2
Judge	<1	<1	<1	<1	-	<1	<1	<1
Legal clinic	1	1	<1	1	<1	<1	<1	<1
Non-governmental organization (NGO)	1	1	1	1	1	1	1	1
Some other setting	4	2	3	3	2↓	3	3	3
NET: NOT PRACTISING LAW	18	18	21	19	22↑	25↑	26	24
Not working in law (working outside law)	6	6	7	6	10↑	8	12↑	10
Retired	<1	<1	1	<1	0	0	0	0
Unemployed	2	2	2	2	2	2	2	2
On leave	1	1	1	1	1	1	1	1
Not working for pay	7	7	9	8	8	10	9	9
Other – legal related	2	1	2	2	1	4↑	2	2

Q.6 Your previous status or position means the position you were in immediately prior to notifying the Law Society. Your current status or position means the position you are in now. From among the following, please indicate your practice or work setting while you were in your previous status category or position as well as your current practice or work setting.

Base: All respondents excluding those whose change is due to maternity/parental leave or those who have retired

Characteristics of Status Change – Excluding Parental Leave and Retirement

B. Overall Change of Status Characteristics Based on Gender

Analysis of the group of respondents excluding those whose change was due to maternity/parental leave or retirement reveals that the incidence of women in private practice prior to a change of status is 50% (8 points higher than the 42% of the total sample represented by women who are in private practice), whereas the proportion of men in private practice prior to a change remains statistically unchanged at 58% (57% of the total sample are in private practice). After a change, however, the proportion of both women and men in private practice settings declines, although the drop for women is greater (-9 points to 41%) than it is for men (-6 points to 52%).

Previous and Current Positions of Change of Status Respondents

TOTAL SAMPLE (2010-2012 results combined)	Women (n=2252)		Men (n=1584)	
	Previous	Current	Previous	Current
In private practice	42	36↓	57	46↓
In non-private practice	26	33↑	27	22↓
Not in law	32	31	16	32↑
EXCLUDING THOSE WHOSE LEAVE RELATED TO MATERNITY/PARENTAL LEAVE OR RETIREMENT (2010-2012 results combined)	Women (n=1661)		Men (n=1393)	
	Previous	Current	Previous	Current
In private practice	50	41↓	58	52↓
In non-private practice	29	34↑	25	25
Not in law	21	25↑	17	23↑

Q.6 Your previous status or position means the position you were in immediately prior to notifying the Law Society. Your current status or position means the position you are in now. From among the following, please indicate your practice or work setting while you were in your previous status category or position as well as your current practice or work setting.

Characteristics of Status Change – Excluding Parental Leave and Retirement

C. Gender Differences Year over Year

While overall, there has been a decline in the proportion in private practice after a change of status, the actual proportion of those who are in a private practice setting after their change of status has been increasing among men over the past three years.

- In 2010, 48% of men ended up in a private practice position after their change of status. In 2011, that proportion increased to 53%, and in 2012, the incidence was up to 57%. This represents a 9-point increase over just three years.
- There is a commensurate decline in the proportion of men reporting that they have moved into a non-private (from 32% in 2010 to only 18% in 2012)

The same trend has not been evident among women.

**Change of Status Characteristics Among Women and Men Year Over Year
(Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)**

	2010		2011		2012	
	PREVIOUS	CURRENT	PREVIOUS	CURRENT	PREVIOUS	CURRENT
	%	%	%	%	%	%
WOMEN						
In private practice	45	37↓	53	42↓	50	42↓
In non-private practice	34	40	28	32	26	31
Not-in-law	21	23	19	26	24	27
MEN						
In private practice	57	48↓	58	53↓	59	57↓
In non-private practice	28	32	25	24	23	18
Not-in-law	15	20↑	17	23↑	18	23↑

Base of Women: Women who have changed status, excluding those whose change was due to parental leave and those who have retired (2010 n=543, 2011 n=605; 2012 n=513; 2010-2012 n=1661)

Base of Men: Men who have changed status, excluding those whose change was due to parental leave and those who have retired (2010 n=453, 2011 n=498; 2012 n=442; 2010-2012 n=1393)

Characteristics of Status Change – Excluding Parental Leave and Retirement

D. Practice Type into Which Women and Men Have Transitioned

The research provides other insights into gender differences of those who have made a change of status submission.

The results suggest that women who have made a change of status are less likely to have practised in or to being currently practising in sole proprietorship.

- In their previous position, 8% of women were in sole practice compared to 13% of men. This gap widens slightly when current position is examined. Women are less likely to hold a sole private practice position after their change (12%) than are men (19%)
- These results do underscore, however, that the incidence of those in sole practice increases after a change of status, regardless of gender.

Women are more likely than men to have been in a government/public agency position both prior to their change of status, and in their current position:

- In their previous position, 16% of women held one of these positions compared to 12% of men – a 4-point gap.
- This gap widens slightly when current position is examined. Women are more likely to hold a government/public agency position (20%) than are men (13%) – a 7-point gap.

Finally, while the gap is not large, there is a significantly greater proportion of women than men reporting that they hold a position in which they are not practising law, and are not working for pay in both their previous and current positions.

- About one-in-ten women report that they were not working for pay in their previous position (9%) and in their current position (10%)
- These proportions are small among men (6% for previous position and 7% for current position).

Characteristics of Status Change – Excluding Parental Leave and Retirement

Previous Versus Current Position Among Women and Men in 2010-2012 (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	WOMEN		MEN	
	Previous Status	Current Status	Previous Status	Current Status
	2010-2012	2010-2012	2010-2012	2010-2012
	1661	1661	1393	1393
NET: PRIVATE PRACTICE (BOTH OUTSIDE AND IN TORONTO)	50	41	58	52
Sole practice	8	12↑	13	19↑
Private law firm with 5 - 50 lawyers	27	19↓	29	23↓
Private law firm with > 50 lawyers	15	10	17	10
NET: NON-PRIVATE PRACTICE	29	34↑	25	25
In-house counsel for a private corporation	5	5	6	5
Government or a public agency	16	20↑	12	13
Education	2	3	2	2
Crown	2	2	2	2
Some other setting (e.g., crown, judge, legal clinic, non-governmental organization)	4	4	3	3
NET: NOT PRACTISING LAW	21	25↑	17	23↑
Not working in law (working outside law)	6	9↑	7	11↑
Retired	<1	-	1	-
Unemployed	2	2	1	2
On leave	1	1	1	1
Not working for pay	9	10	6	7
Other – legal related	2	3	1	2

Q.6 Your previous status or position means the position you were in immediately prior to notifying the Law Society. Your current status or position means the position you are in now. From among the following, please indicate your practice or work setting while you were in your previous status category or position as well as your current practice or work setting.

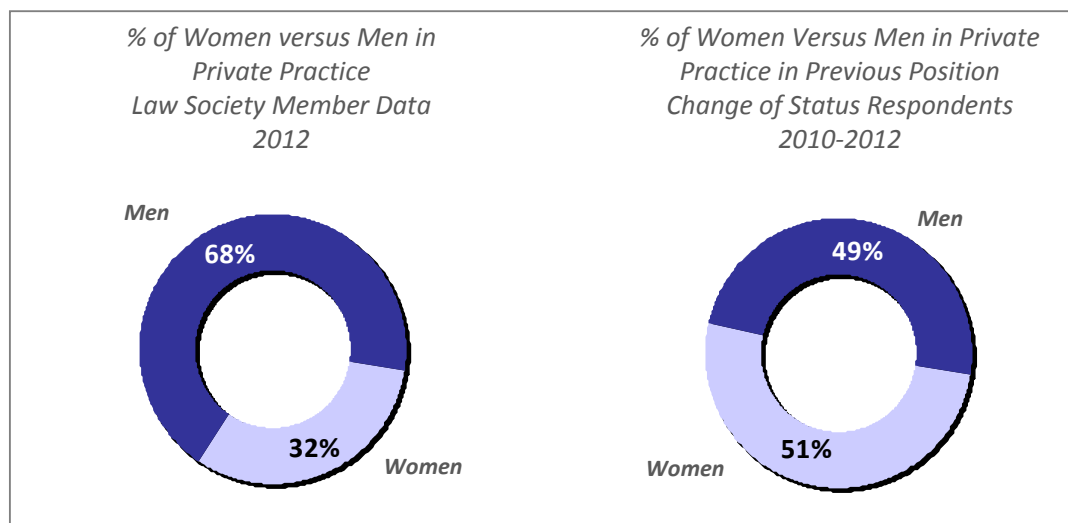
Base: Those who have changed status in 2010-2012, excluding those whose change was due to parental leave

**VI. Characteristics of Those Whose Change
of Status Originated In Private Practice
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Characteristics of Those Whose Change of Status Originated In Private Practice

What are the characteristics of those who have changed status with an originating position in private practice?

First, they are disproportionately likely to be women compared to the Law Society's current membership statistics. As of the close of 2012, just under of one-third of Law Society members who practise in a private setting were women (32%). Men were twice as likely to be in a private practice setting (68%). Among those submitting a change of status from a position in private practice, however, a much higher proportion (51%) are women.



In actual numbers, among members who are in private practice, more women (n=824) are submitting change of status notifications than are men (n=807). Further, the following table illustrates that of those members, women (51%) are less likely to be in private practice after their change of status than are men (64%).

Destination of a Change of Status among Those Whose Previous Status Was Private Practice (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

CURRENT POSITION	THOSE WHOSE PREVIOUS POSITION WAS IN PRIVATE PRACTICE		
	ALL RESPONDENTS 2010-2012	WOMEN 2010-2012	MEN 2010-2012
n=	1633	824	807
	%	%	%
Stayed in private practice	57	51	64
Went into non-private practice	22	25	18
No longer practising law	21	24	18

Characteristics of Those Whose Change of Status Originated In Private Practice

What further distinguishes women from men who began in a private practice position is their work setting in their current position.

- Men are much more likely to go into sole practice (22%) than are women (13%). Men are also more likely than are women to be working in small to mid-sized firms (29% and 25%, respectively).
- Women are more apt to move to a government/public agency position (12% and 8%, respectively).
- Women are also more likely to be leaving the practice of law (24% and 18%), and to describe themselves as not working for pay (10% and 6%).
- There are no other significant differences by gender here.

Destination of a Change of Status Among Those Whose Previous Status Was Private Practice (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	THOSE WHOSE PREVIOUS POSITION WAS IN PRIVATE PRACTICE		
	ALL RESPONDENTS 2010-2012	WOMEN 2010-2012	MEN 2010-2012
n=	1633	824	807
CURRENT POSITION	%	%	%
Stayed in private practice	57	51	64
Sole practice	18	13	22
Private law firm with 5 - 50 lawyers	13	25	29
Private law firm with > 50 lawyers	26	13	13
NET: NON-PRIVATE PRACTICE	22	25	18
In-house counsel for a private corporation	5	5	5
Government or a public agency	10	12	8
Education	2	3	1
Some other setting (e.g., crown, judge, legal clinic, non-governmental organization)	5	5	4
NET: NOT PRACTISING LAW	21	24	18
Not working in law (working outside law)	7	7	7
Unemployed or on leave	3	4	3
Not working for pay	8	10	6
Other – legal-related	2	2	2

Characteristics of Those Whose Change of Status Originated In Private Practice

In addition to being disproportionately women, those who filed a change of status notification from a private practice position also appear to be slightly younger:

- Among all respondents, 50% are under 40 years of age compared with 54% of those who were in private practice when they filed their change of status. Similarly 53% of the total sample were called to the bar less than 10 years ago compared to 58% of those who were in private practice at the time they filed their change of status.

Previous Versus Current Position Among Women and Men in 2010-2012
(Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	TOTAL – ALL RESPONDENTS	TOTAL – THOSE WHOSE PREVIOUS STATUS WAS IN PRIVATE PRACTICE
AGE		
<30 years of age	8	7
30-39 years	42	47
40 to 49 years	23	22
50 to 65 years	23	20
Over 65 years	4	5
CALLED TO THE BAR		
Less than 5 years ago	30	31
5 to 9 years ago	23	27
10 to 19 years ago	23	21
20 or more years ago	24	2

Characteristics of Those Whose Change of Status Originated In Private Practice

Those who stayed in private practice following their change of status differ demographically from those who moved to a non-private practice position or to a setting in which they are not practising law.

Those who have remained in private practice are more likely to be male (55%) than are those who moved to non-private practice and those who moved out of law (about four-in-ten, respectively).

Those who moved out of private practice into a non-private position are disproportionately likely to be younger. Fully 61% are less than 40 years of age whereas only about half of those who remained in private practice (50%) or who moved out of law (52%) are under 40 years of age.

Previous Versus Current Position Among Those Whose Originating Position (Previous Position) was Private Practice in 2010-2012 (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	In a Private Practice Position Prior to a Change Of Status and...			
	TOTAL – THOSE WHOSE PREVIOUS STATUS WAS IN PRIVATE PRACTICE (n=1633)	Remained in Private Practice (Private practice both in previous and current position) (n=936)	Went from Private Practice to Non- Private Practice (n=356)	Went from Private Practice to Not-in- Law (n=341)
GENDER				
Women	51	45	59	57
Men	49	55	41	43
AGE				
<30 years of age	7	6	8	6
30-39 years	47	44	53	46
40 to 49 years	22	23	19	15
50 to 65 years	20	21	17	20
Over 65 years	5	5	3	14
CALLED TO THE BAR				
Less than 5 years ago	31	27	35	29
5 to 9 years ago	27	25	32	26
10 to 19 years ago	21	25	17	13
20 or more years ago	2	23	16	32

**VII. Area of Practice
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Areas of Practice

In seeking to better understand what is driving lawyers, in particular women, to leave private practice, principal area of law practised is examined among those who have moved within private practice in comparison to those who have gone to non-private practice.

The table on the following page clearly illustrates that there are no significant changes in the principal areas of law practised between previous position and current position.

Among those who have moved to non-private practice, however, there are decreases in the proportions who report several areas of law as a principal practice in the new position as compared to the previous position:

- Civil Litigation - Plaintiff/ Defendant (down 14 points from previous to current status)
- Family/Matrimonial law (down 4 points from previous to current status)
- Real estate law (down 4 points from previous to current status)

Conversely, there is an increase in the proportion who report administrative law as a principal area of practice in their current compared to previous position (5% and 2%, respectively).

Areas of Practice

Principal Area of Practice: Previous versus Current Position (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

(% who report that the area of law noted is their principal area of law practised)

	n=	PREVIOUS POSITION PRINCIPAL AREA OF LAW				CURRENT POSITION PRINCIPAL AREA OF LAW			
		2010-2012	Private to private	Private to non-private	Private to not-in-law	2010-2012	Private to private	Private to non-private	Private to not-in-law
		%	%	%	%	%	%	%	
Aboriginal Law		1	<1	<1	<1	1	1	1	Not applicable
Administrative Law		4	1	1	2	4	1	5	Not applicable
Bankruptcy & Insolvency Law		1	1	1	2	1	1	1	Not applicable
Construction Law		1	1	1	<1	1	1	1	Not applicable
Criminal/Quasi Criminal		10	9	9	3	10	9	9	Not applicable
Environmental Law		1	1	1	1	1	1	2	Not applicable
Family/Matrimonial Law		8	12	9	11	8	12	5	Not applicable
Immigration Law		2	2	1	2	2	2	2	Not applicable
Intellectual Property Law		4	5	4	4	3	5	2	Not applicable
International Law		1	<1	<1	1	1	<1	1	Not applicable
Language Rights Law		-	-	-	-	<1	<1	-	Not applicable
Poverty Law		1	-	1	-	<1	<1	1	Not applicable
Real Estate Law		7	10	7	8	6	11	3	Not applicable
Tax Law		3	2	3	3	2	2	3	Not applicable
Civil Litigation - Plaintiff/Defendant		18	25	23	23	15	23	9	Not applicable
Corporate/Commercial Law (corporate/ wills, estates, trusts/ securities)		18	17	21	23	17	17	19	Not applicable
Employment/Labour Law (employment/ labour/ workplace safety)		6	6	8	7	6	6	6	Not applicable
ADR/Mediation Services		<1	-	1	1	1	<1	1	Not applicable
Human Rights/Social Justice		2	1	-	2	2	1	1	Not applicable
Other		13	7	8	9	18	8	30	Not applicable

Q.7 Please indicate the three principal areas of law you practised or in which you worked while you were in your previous status category or position and also the principal areas of law in which you are practising or working in your current status category or position.

**VIII. Unaided Reasons for a Change in Status
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Unaided Reasons for a Change in Status

E. Unaided Reasons for Change of Status

One of the key objectives of the research is to explore what factors may be leading lawyers to change their status. The research explored this issue through both unaided and aided questions.

To obtain an unaided perspective, respondents were asked to describe, in their own words, the key factors that influenced their decision to change their status or position.

Overall, the reasons given are varied, and no single issue or set of issues dominate. There are significant differences in the reasons provided by those moving within private practice and those moving from private to non-private practice. There are also differences by gender.

The reasons cited most frequently are related to opportunity-related factors provided in a new position (36%). Among those who have transitioned from one private practice position to another (40%), these reasons are mentioned to a greater degree than the average (36%), and are even more salient among those who have transitioned from a private to a non-private practice position (46%). They play a more limited role among those who moved from private practice to a position outside of law (26%).

The set of reasons mentioned second most frequently relate to a position ending (e.g., being laid off or a contract ending), or to a situation that disallows a lawyer from practising (e.g., leave of absence due to health reason, inability to find a position). This set of reasons is provided by about one-quarter of respondents (26%) but plays less of a role among those who have moved within private practice (19%) and those who moved from private to non-private practice (8%). It is the main reason cited among those who moved from private practice to a position outside law (37%).

What fundamentally distinguishes those who have stayed in private practice from those who have moved from private to non-private practice is the importance of work-life balance issues in driving a change of status. Among those who have stayed in private practice, only 16% mention work-life balance considerations as a reason for their change. Among the private to non-private practice group, by contrast more than three times the proportion (fully 50%) mention this issue.

Up until this point, there have been no significant differences between women and men in the reasons identified as key factors influencing a change of status. For the work-life balance issue, however, a difference does emerge:

- Women are almost twice as likely as men to identify work-balance issues as influencing their decision to change (26% among women compared with 14% among men).
- Taking into account both gender and practice setting, over one-half of women who moved to a non-private practice position (54%) identify work-balance reasons for their move compared to a smaller proportion among men (45%). Among those women who stayed in private practice, 22% identify these issues compared with 9% of men.

Unaided Reasons for a Change in Status

Remuneration is mentioned by 13% of respondents, although this issue is a stronger driver among those moving from private to non-private practice (22%) than it is among those who moved within private practice positions (15%).

Starting up a new practice or a promotion are key reasons for a change of status among those who have remained in private practice (19%). Among the other groups, the proportion who provide these reasons is very small (2% or less).

Unaided Reasons for a Change in Status

Main Reasons for a Change of Status (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	Among those whose change of status did not involve a maternity or parental leave – WITH RETIREDs REMOVED			Among those whose change of status did not involve a maternity or parental leave – WITH RETIREDs REMOVED		
	2010-2012	MEN	WOMEN	Private to private	Private to non-private	Private to Not in law
Sample size n=	3057	1393	1661	936	356	341
	%	%	%	%	%	%
OPPORTUNITIES IN NEW POSITION (NET)	36	35	37	40	46	26
Better opportunities/new challenges/ better quality of work	9	9	9	7	13	4
Better able to use my skills/ subject matter for work/ Change in practice area/ different type of work	7	6	7	5	10	7
Better opportunity for advancement/ opportunity for advancement/ promotion	5	6	5	7	5	3
Independence/ greater control in work	5	6	4	9	3	3
Job security / stability	4	4	5	4	9	2
Better work environment	4	3	4	6	4	3
Better location	3	2	3	3	4	1
Better position/ position I wanted/ more job satisfaction	4	4	3	3	4	3
Better mentorship	2	1	3	3	4	3
To give back to community/ greater public service opportunity	1	1	1	<1	3	1
Better support at new position (e.g., colleagues or staff)/ more of a team environment	2	2	2	3	2	4
POSITION/CONTRACT ENDED OR REQUIREMENT TO LEAVE POSITION (NET)	26	26	26	19	8	37
Laid off/ termination of employment/ previous structure terminated	5	6	5	4	1	13
Contract ended / Contract not renewed	3	3	4	1	6	5
Age/ Practiced long enough/ semi-retired	3	6	1	4	1	4
Health problems/ health problems of family members	3	3	4	1	1	10
Went back to original position from secondment/ back to original position	2	1	2	1	-	1
Was previously unemployed	2	2	3	<1	1	<1
Change in ownership/ change in firm structure	2	2	2	4	<1	1
Relocation	2	2	3	3	1	1
Parental leave/ returned after parental leave	1	<1	3	2	<1	<1
End of articling/Unemployed after articling/ could not find job after articling	1	1	<1	<1	1	<1
Back to school/continuing education	1	1	2	<1	1	3
Returning from clerkship	<1	<1	<1	-	1	-
Found job after articling	<1	<1	<1	<1	-	-

Continued...

Unaided Reasons for a Change in Status

Main Reasons for a Change of Status (Continued) (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	2010-2012	MEN	WOMEN	Private to private	Private to non-private	Private to Not in law
Sample size n=	3057	1393	1661	936	356	341
	%	%	%	%	%	%
WORKLIFE BALANCE (NET)	21	14	26	16	50	24
Work/life balance - work/family balance	8	6	11	5	28	9
Better hours/ control over hours/ better control of schedule/ flexible work schedule	6	4	8	5	15	3
Reduction in stress/ burn out at job	6	3	7	3	14	10
Child care/ child care requirements/ want to spend more time with children or family	5	2	6	4	9	5
Reduction in workload/ workload	2	2	3	2	5	4
Spousal requirements/ spouse's career needs	<1	<1	<1	1	<1	<1
REMUNERATION/BENEFITS (NET)	13	13	14	15	22	6
Better remuneration/ pay/ stable income/ needed income	11	11	12	14	15	6
Benefits/ better benefits/pension	3	3	4	1	14	1
STARTING NEW FIRM OR PROMOTION (NET)	8	9	8	19	2	3
Starting new firm/ started new sole practice	3	4	3	7	1	2
Starting new partnership/ became partner	3	3	3	11	-	-
Promotion/ progressing legal career	2	2	1	2	1	1
NEGATIVE ASPECTS OF PREVIOUS JOB (NET)	9	8	10	9	14	19
Didn't like job/didn't like firm/ bad fit	4	3	5	5	5	11
Too much pressure to bill hours/ pressure to bring in clients	2	2	2	1	5	4
Time to leave type of practice/ didn't like type of practice	1	1	1	<1	4	3
Type of work/ did not like type of work	1	1	1	1	3	2
Dispute at previous job/ conflict at previous job	2	2	1	3	1	3
DISCRIMINATION/HARASSMENT (NET)	2	2	3	3	3	4
Discrimination/ harassment	2	1	1	2	2	1
Equity issues/ treatment of women/ treatment of women with children	1	<1	1	1	1	<1

Continued...

Unaided Reasons for a Change in Status

Main Reasons for a Change of Status (Continued) (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	2010-2012	MEN	WOMEN	Private to private	Private to non-private	Private to Not in law
Sample size n=	3057	1393	1661	936	356	341
	%	%	%	%	%	%
OTHER REASONS						
Found a job/ needed a job/ received offer of employment	3	2	3	1	1	<1
Did not want to work in law/ no longer want to work in law/ not working in law /don't want to pay fees	2	3	2	1	2	5
Return to law/ desire to return to law/ return to law part time from retirement	2	2	2	<1	<1	1
Practising outside Ontario/ not residing in Ontario	2	2	2	2	1	1
Economy	1	1	1	1	<1	1
Came out of retirement	<1	-	<1	-	-	-
Other	7	8	5	6	5	6
NO CHANGE/NOT APPLICABLE (NET)	3	4	3	5	-	1
No perceived change in status (e.g. name change only, error, change of address)	2	3	2	3	-	-
Not applicable	1	1	1	1	-	1
Few less responsibility	<1	<1	<1	<1	<1	<1
Company went down/firm closure	<1	<1	<1	<1	<1	1
Financial reasons/ income	1	2	1	2	2	2
Not stated	1	1	<1	1	1	<1

Q.15 What were the key factors that influenced your decision to change your status or position?

**IX. Change of Status Characteristics Based
on Year of Call
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Change of Status Characteristics Based on Year of Call

A. Women Compared to Men – Practice Type Prior to a Change of Status

The first thing that becomes evident when looking at women in private practice compared to men based on year of call is that women who have changed status are less likely to have held a previous position in private practice, regardless of year of call.

The largest gap in having been in private practice is among those called to the bar 20 years ago or more. While 54% of men in this group started out in a private practice position prior to their change of status, only 35% of women did so.

% Previous Status in PRIVATE PRACTICE among Women and Men Based on Year of Call (2010-2012 Results Combined) (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

Year of Call	WOMEN in PRIVATE PRACTICE in Previous position	MEN in PRIVATE PRACTICE in Previous position	GAP (Between women and men)
<5 Years ago	52	60	-8
5-9 years ago	59	66	-7
10-19 years ago	45	53	-8
20+ years ago	38	55	-17

Base : Women excluding those whose change was due to parental leave or retirement (2010-2012 combined – called to bar <5 years n=551, 5-9 years age n=432, 10-19 years ago n=429; 20+ years n=249)

Base : Men excluding those whose change was due to parental leave or retirement (2010-2012 combined – called to bar <5 years n=551, 5-9 years age n=432, 10-19 years ago n=429; 20+ years n=249)

By contrast, women are more likely than men to have been in a non-private practice position prior to their change.

% Previous Status in NON-PRIVATE PRACTICE among Women and Men Based on Year of Call (2010-2012 Results Combined) (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

Year of Call	WOMEN in NON-PRIVATE PRACTICE in Previous position	MEN in NON-PRIVATE PRACTICE in Previous position	GAP (Between women and men)
<5 Years ago	23	18	+5
5-9 years ago	27	24	Not significant
10-19 years ago	37	32	+5
20+ years ago	35	27	+7

Change of Status Characteristics Based on Year of Call

Women are also more likely than men, for the most part, to have come to their change of status from outside of the practice of law, regardless of their year of call.

% Previous Status NOT-IN-LAW among Women and Men Based on Year of Call (2010-2012 Results Combined) (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

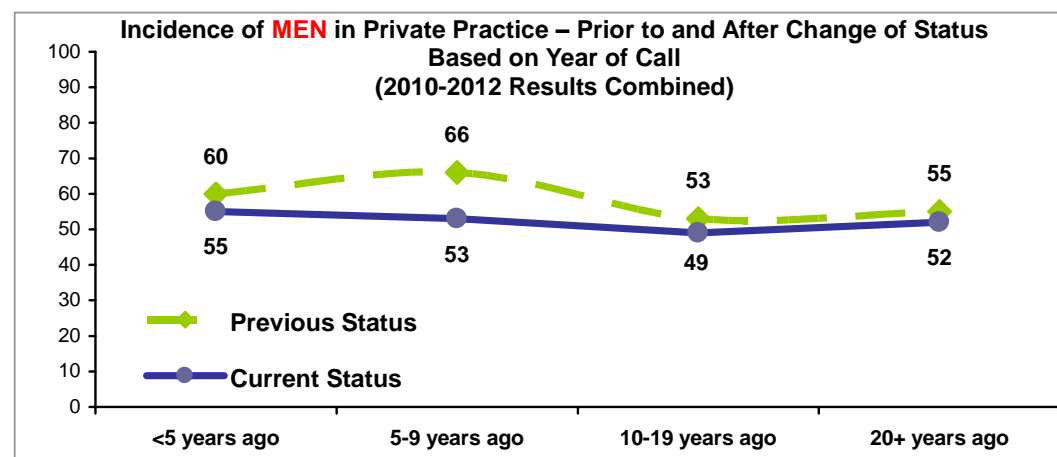
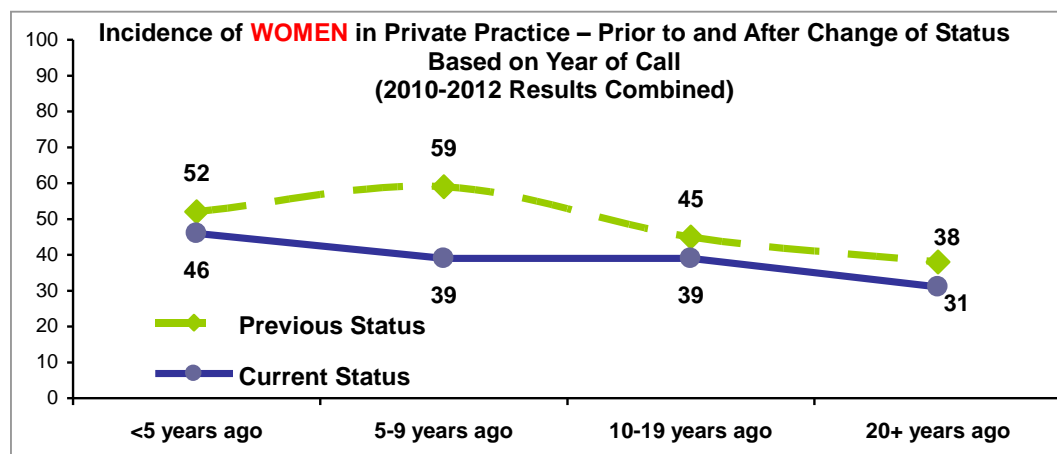
Year of Call	WOMEN Previous position NOT-IN-LAW	MEN Previous position NOT-IN-LAW	GAP (Between women and men)
<5 Years ago	26	22	-4
5-9 years ago	14	10	-4
10-19 years ago	18	16	Not significant
20+ years ago	27	18	-11

Change of Status Characteristics Based on Year of Call

B. Women Compared to Men – Incidence of Being in Private Practice Prior to and After Change of Status

After a change in status, women are significantly less likely than men to hold private practice positions, with the gap between women and men in private practice being particularly wide among those called to the bar 5-9 years ago.

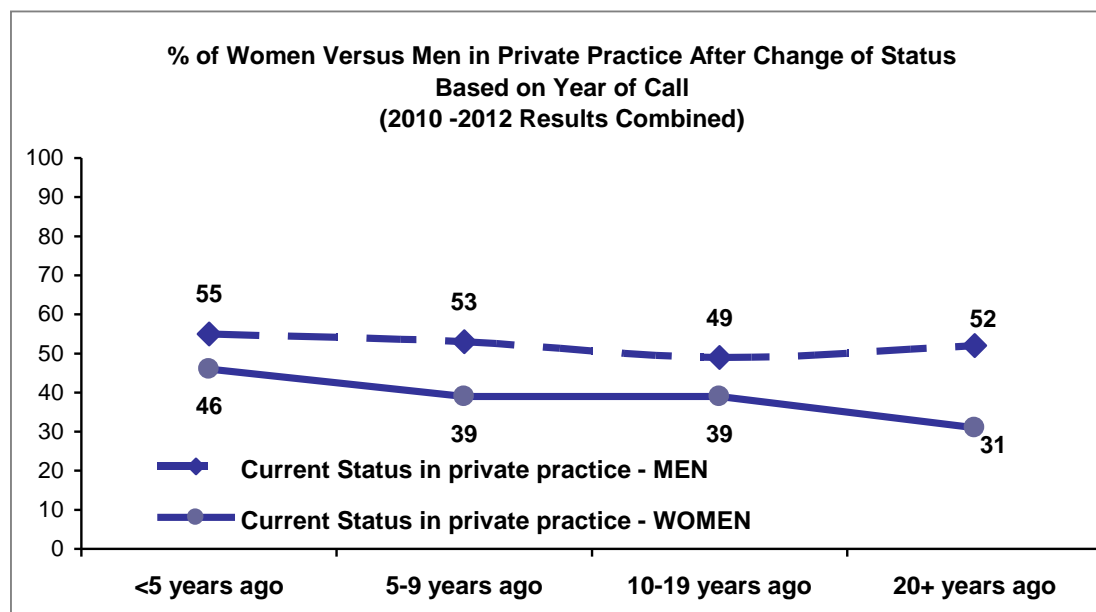
- The proportion of women in private practice among the group most recently called to the bar (<5 years ago) decreases 6 points (from 52% previous position in private practice to 46% current position private practice)
- For those called 5-9 years ago, 39% of women are currently in a private practice position, a drop of 20 points from a prior position. This period of practice strongly coincides with the early child rearing age.
- By contrast, over one-half of men (53%) called to the bar in this period (5-9 years ago) are in private practice after a change of status. This represents a greater proportion than women. Further, the gap for men between previous and current position in private practice is significantly smaller (drop of 13 points compared to the drop of 20 points for women).



Change of Status Characteristics Based on Year of Call

- Once in the bar for 10-19 years, smaller proportions of men and women are submitting change of status submissions where their previous practice position is one in a private setting (45% and 53%, respectively, compared to the 59% and 66% among those called to the bar 5-9 years ago).
 - Among these lawyers, there is a much smaller decline in the proportions ending up in a private practice position (39% for women, a decline of 6 points and 49% of men, a decline of 4 points).
- At 20 years or more in the bar, women are again dropping out of private practice at a greater rate than men.
 - 38% of women submitting a change of status at this stage report starting from a private practice position, with only 31% practising in a private setting after a change of status – a drop of 7-points.
 - By contrast a majority of men submitting a change of status at this stage are in private practice (55%), and a majority hold a private practice position after their change (52%), a decline of only 3-points.

In summary, at each period based on year of call, greater proportions of men are submitting change of status submissions where their previous position is one in a private practice setting. Yet, at each period, it is women who are exhibiting greater declines in the likelihood of being in private practice after their change of status. In addition, they are significantly less likely to be in a private practice position after their change of status compared to men as the following overview chart illustrates.



**X. Change of Status Characteristics Based
on Youngest Dependent in the Home
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Change of Status Characteristics Based on Youngest Dependent in Home

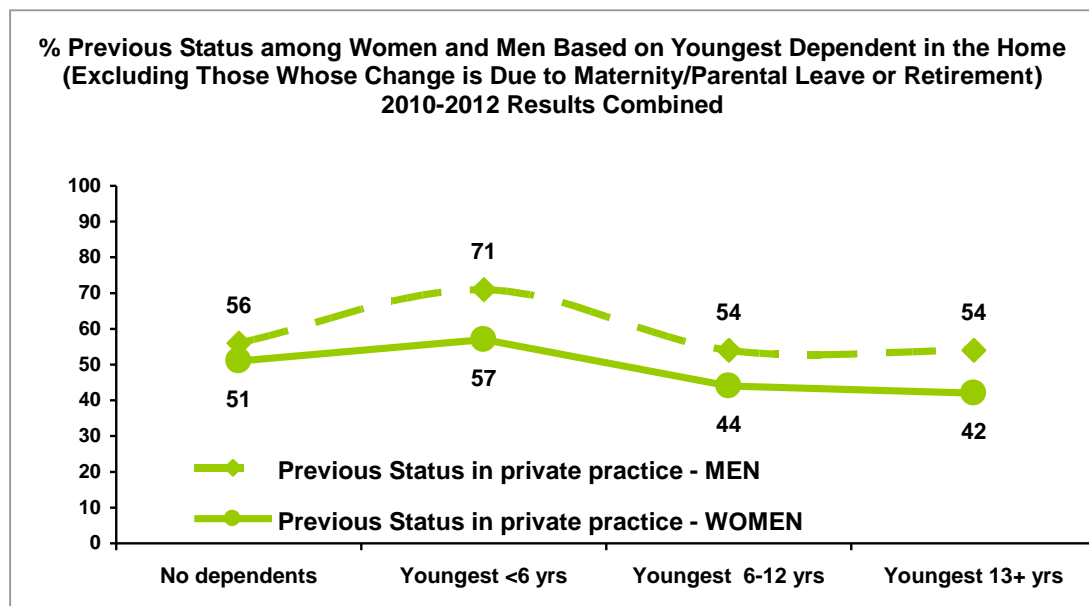
A. Women Compared to Men – Practice Type Based On Youngest Dependent in Home

As noted in the examination of change in status based on year of call, the gap between the incidence of women and men who are in private practice after their change of status is particularly acute in this period 5-9 years post-call. This period often coincides with a life stage period during which women and men are most likely to have children.

A deeper analysis of the results based on the existence of dependents under the age of 18 in the household has been undertaken in order to examine its effect on movement away from private practice. The results suggest that during the early children rearing years, as well as the period when children are still in elementary school, the incidence of moving to or staying within private practice is much weaker among women than it is among men.

The table below illustrates that as soon as there are young children in the home, women are much less likely than men to be making a change of status that starts from a position of private practice.

- With no dependents in the home, similar proportions of both women and men who made a change of status started out in a private practice position: Half of women (51%) initiate a change of status from a position in private practice. The proportion among men is only slightly greater at 56%.
- In the early child rearing years (youngest dependent <6 years), fully 71% of men who change status start from a position in private practice. Among women, the proportion is much smaller at 57%. So while the proportions of both women and men in private practice at this stage are higher than those with no dependents, the increase among women (up 6 points) is much smaller than that among men (up 15 points).
- Then, the proportion of women starting from a position in private practice continues to decline as the youngest dependent ages (44% of women start from a private practice position when their youngest dependent is 6-12 years compared to 54% of men).



Change of Status Characteristics Based on Youngest Dependent in Home

% Previous Status among Women and Men Based on Youngest Dependent in the Home (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement) (2010-2012 Results Combined)

Dependents in the Home	WOMEN – Previous Position in NON-PRIVATE PRACTICE	MEN – Previous Position in NON-PRIVATE PRACTICE	GAP (Between women and men)
No dependents in home	27	25	Not significant
Youngest dependent is <6 years of age	33	19	+13
Youngest dependent is 6-12 years of age	36	35	Not significant
Youngest dependent is 13+ years of age	31	26	Not significant
Dependents in the Home	WOMEN - Previous position NOT-IN-LAW	MEN - Previous position NOT-IN-LAW	GAP (Between women and men)
No dependents in home	23	19	Not significant
Youngest dependent is <6 years of age	11	9	Not significant
Youngest dependent is 6-12 years of age	20	11	+9
Youngest dependent is 13+ years of age	27	20	+7

Base : Women excluding those whose change was due to parental leave or retirement (2010-2012 combined – no dependents n=985, youngest <6 years n=269, youngest 6-12 years n=185; youngest 13+ years n=141)

Base : Men excluding those whose change was due to parental leave or retirement (2010-2012 combined – no dependents n=749, youngest <6 years n=192, youngest 6-12 years n=108; youngest 13+ years n=164)

Women are also more likely than men, for the most part, to have come to their change of status from outside of the practice of law, regardless of their year of call.

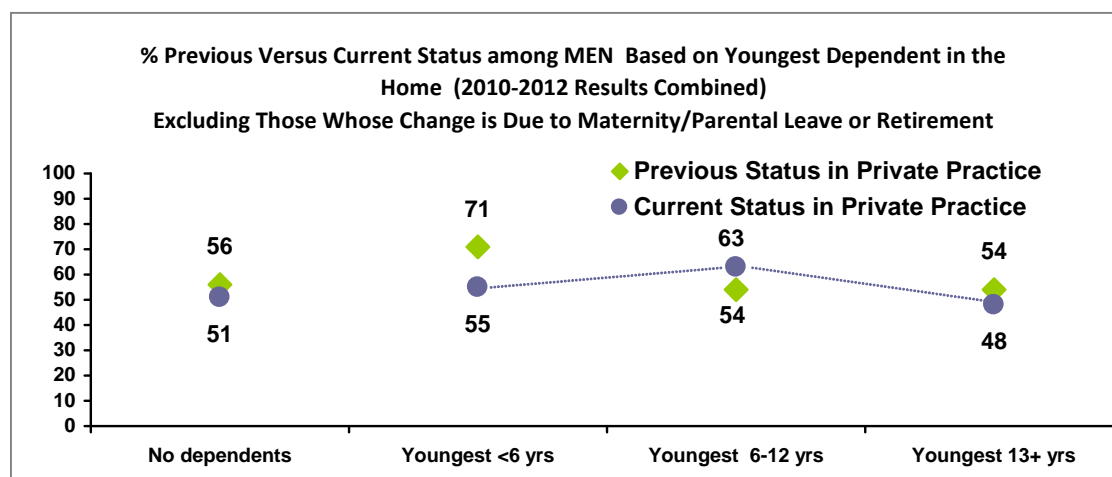
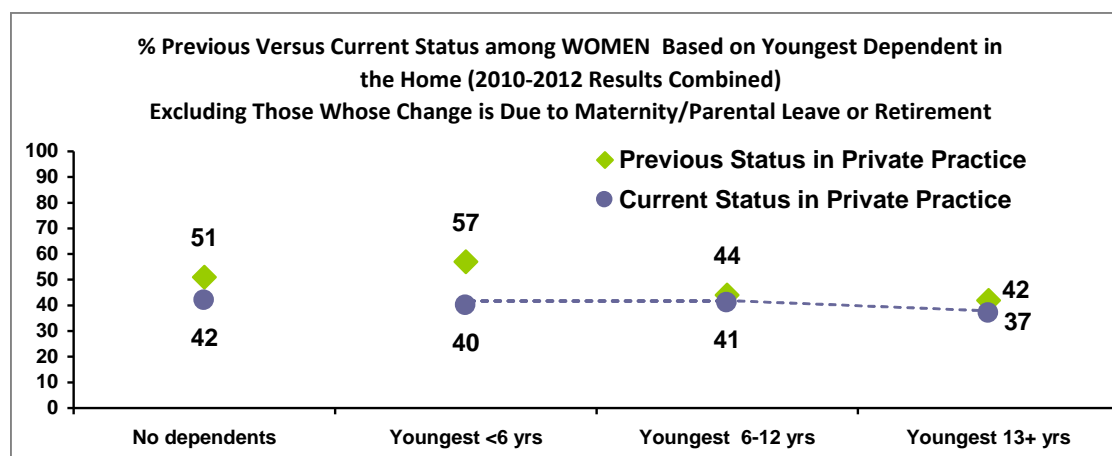
Change of Status Characteristics Based on Youngest Dependent in Home

B. Women Compared to Men – Incidence of Being in Private Practice Prior to and After Change of Status

For women, there are significant declines in the proportions reporting they are in private practice after a change of status, regardless of whether there are dependents in the home, or based on the age of dependents. Yet, there is one life-stage period during which the decline greatest: When there are dependent children in the household and the youngest is under 6 years of age.

- For women, the decline is -17 points (from 57% in private practice in a previous position versus 40% in their current position). For men, the decline is not significantly different at -16 points (from 71% in private practice in a previous position versus 55% in their current position).

Among men, the trend is different. While there are declines in the proportions in private practice after a change when there are no dependents in the home and when the youngest dependent is under six years of age, there is actually a significant increase in the proportion reporting they are in private practice after their change when the youngest dependent in the home is 6-12 years of age.



Change of Status Characteristics Based on Youngest Dependent in Home

These trends lead to stark differences in the incidence of women versus men reporting they are in private practice after a change of status based on youngest dependent in the home.

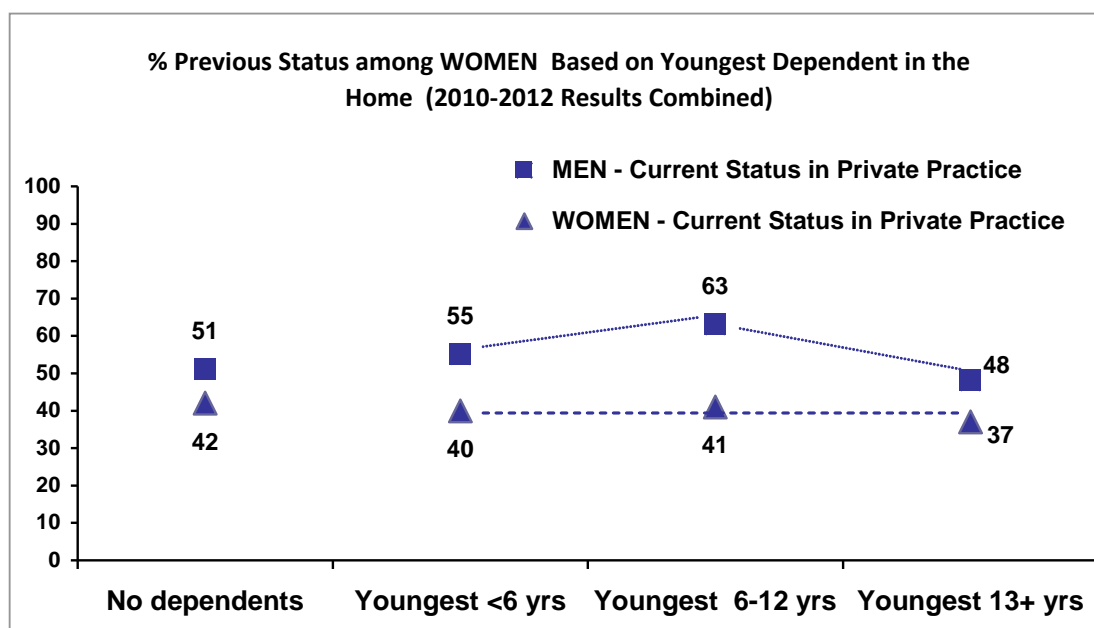
Over one-half of men are in a private practice position after their change of status (i.e., in their current position) if they have no dependents in the home (51%), dependents with the youngest being under 6 years of age (55%) and with the youngest dependent being 6-11 years of age (63%). In fact, the results indicate that as children within the household grow older, men are more likely to end up in private practice. Only among men with the youngest dependent being 13 years of age or older is there a drop in the proportion in private practice in their current position (down to 48%).

Compare these findings with women, and the differences are stark as the charts on the following page clearly illustrate. About four-in-ten women hold a current position in private practice regardless of age of dependents after a change of status. This means that during the period when the youngest dependent in the home is under the age of 13 years, women are much less likely to hold a position in private practice compared to men.

- 15 point gap for those with youngest dependent under 6 years of age: 40% of women are in private practice versus 55% of men.
- 22 point gap for those with youngest dependent being 6-12 years of age: 41% of women are in private practice versus 63% of men.

When the youngest dependent in the home is 13 years of age and older, the gap tends to close slightly:

- 11 point gap: 37% of women are in private practice versus 48% of men.



**XI. Change of Status Characteristics Based
on Equity Status
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Change of Status Characteristics Based on Equity-Seeking Status

A. Definition of Equity-Seeking Communities

In this report, those defined as members of a “racialized” equity-seeking community are those who selected the “racialized/person of colour (visible minority)” response option to the following question or who specifically referred to their race in the description they provided to the “Other – please specify” response category.

Please check any of the following characteristics with which you self-identify. (Please select all that apply)

- ☐ Aboriginal
- ☐ Francophone
- ☐ Transgender/Transsexual
- ☐ Gay/Lesbian/Bisexual
- ☐ Racialized/person of colour (visible minority)
- ☐ Person with disabilities
- ☐ A creed or religion that you believe is subject to prejudice or disadvantage
- ☐ Other (Please specify) _____
- ☐ I do not self-identify with any of these personal characteristics

Those referred to as members of a non-racialized equity-seeking community selected one of the categories on the above list other than “racialized/person of colour (visible minority)” or “I do not self-identify with any of these personal characteristics”.

In each of the three years, slightly more than two-thirds of respondents do not self-identify with an equity-seeking community. Close to one-in-six self-identify as belonging to a racialized equity-seeking community and the same proportion self-identify as belonging to another equity-seeking community.

Self-Identified Membership in Equity-Seeking Communities (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	2010	2011	2012
	n=998	N=1104	n=955
	%	%	%
Do not self-identify with an equity-seeking community	68	70	67
Self-identify as member of a “racialized” equity-seeking community	16	15	14
Self-identify as member of a non-racialized equity-seeking community	16	15	19

Change of Status Characteristics Based on Equity-Seeking Status

There is a decline in the incidence of those in private practice among those who do not self-identify as belonging to an equity-seeking community (down 7 points to 48% in current position). A commensurate increase is evident in the proportion who report that they are no longer practising law (up 5 points from 19% to 24%).

The trend among members of an equity-seeking community is similar to that found among those who are not members of such a community. Among both those who identify as members of a racialized equity-seeking community and those who identify as members of a non-racialized equity-seeking community, there are declines in the proportions reporting that they are working in private practice after their change of status:

- 53% to 46% among the racialized equity-seeking group.
- 47% to 40% among the non-racialized equity-seeking group.

The non-racialized equity-seeking group distinguishes itself from the other two in that they were less likely to be in a private practice position prior to their change of status. Since all three groups have equal declines in the proportions in private practice after a change of status, this means members of a non-racialized equity-seeking group are significantly less likely to currently be practising in a private setting (40%) compared to the other two groups (48% among the non-equity-seeking group and 46% among the racialized equity-seeking group).

Change of Status Characteristics Based on Equity-Seeking Status

Practice Type or Work Setting – Previous Versus Current Position (2010-2012) Based on Equity Seeking Status (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	PREVIOUS POSITION			CURRENT POSITION		
	Non-Equity Seeking	Racialized Equity	Non-Racialized Equity	Non-Equity Seeking	Racialized Equity	Non-Racialized Equity
Sample size n=	2085	460	512	2085	460	512
	%	%	%	%	%	%
NET: PRIVATE PRACTICE (BOTH OUTSIDE AND IN TORONTO)	55	53	47	48	46	40
NET: PRIVATE PRACTICE OUTSIDE TORONTO	27	20	26	25	17	22
Sole practice outside of Toronto	7	5	7	8	8	7
Private law firm outside Toronto with 5 lawyers or less	7	7	8	6	5	8
Private law firm outside of Toronto with 6 to 10 lawyers	3	2	2	3	2	1
Private law firm outside Toronto with 11 to 50 lawyers	6	4	5	5	1	3
Private law firm outside Toronto with > 50 lawyers	4	2	4	3	1	3
NET: PRIVATE PRACTICE IN TORONTO	28	33	21	23	29	18
Sole practice in Toronto	4	6	3	6	9	7
Private law firm in Toronto with 5 lawyers or less	4	7	4	4	5	3
Private law firm in Toronto with 6 to 10 lawyers	2	3	3	2	5	2
Private law firm in Toronto with 11 to 50 lawyers	5	8	4	3	4	3
Private law firm in Toronto with > 50 lawyers	13	9	7	8	6	3
NET: NON-PRIVATE PRACTICE	26	28	31	28	32	34
In-house counsel for a private corporation	6	4	4	4	5	4
Government or a public agency	14	15	20	15	19	18
Education	1	2	1	2	3	4
Crown	2	1	2	2	1	2
Legal clinic	<1	1	1	1	1	1
Non-governmental organization (NGO)	<1	2	1	1	1	2
Some other setting	3	3	2	3	2	3
NET: NOT PRACTISING LAW	19	19	22	24	22	26
Not working in law (working outside law)	7	4	8	9	9	9
Unemployed	2	3	2	3	3	2
On leave	2	1	2	1	-	3
Not working for pay	7	9	7	8	8	9
Other – legal related	1	2	3	3	2	3

Q.6 Your previous status or position means the position you were in immediately prior to notifying the Law Society. Your current status or position means the position you are in now. From among the following, please indicate your practice or work setting while you were in your previous status category or position as well as your current practice or work setting.

Change of Status Characteristics Based on Equity-Seeking Status

An examination based on gender does not provide a clear picture as to whether women in specific equity-seeking communities are leaving private practice to a greater degree than women who do not self-identify with any of these communities.

Women who do not self-identify as a member of an equity-seeking community and those who do self-identify with a racialized equity-seeking community do not appear to differ in their likelihood of being in private practice either prior to or after a change of status. Although there is little significant difference in the current position among women who self-identify as a member of a non-racialized equity-seeking community, these women were less likely to have been in private practice in their previous position.

Men who self-identify with a racialized equity-seeking community are no less likely to be in a private practice position after than their change of status than prior to it. By contrast, the proportions of those who are in private practice after their change of status among those who self-identify with a non-racialized equity-seeking group and those who do not self-identify with either of the two-equity seeking communities decreases (-8 points and -6 points) after a change in status.

**Change of Status Characteristics Among Women and Men
Based on Equity Seeking Status
(Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)**

	Those Who <u>Do Not</u> Self-Identify as a Members of an Equity- Seeking Community		Those Who Self- Identify as a Member of a Racialized Equity- Seeking Community		Those Who Self- Identify as a Member of a Non-Racialized Equity-Seeking Community	
	PREVIOUS	CURRENT	PREVIOUS	CURRENT	PREVIOUS	CURRENT
	%	%	%	%	%	%
Women	n=1102	n=1102	n=294	n=294	n=265	n=265
In private practice	51	42	50	39	42	37
In non-private practice	28	33	28	35	36	38
Not-in-law	21	25	22	26	22	25
Men	n=982	n=982	n=166	n=166	n=245	n=245
In private practice	60	54	57	58	51	43
In non-private practice	24	23	28	27	27	29
Not-in-law	16	23	15	15	22	28

**XII. Benefits and Operating Policies Available
in Previous and Current Position
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Benefits and Employment Policies Offered in Previous and Current Position

Employers often offer a variety of benefits and employment policies in order to attract employees. Examples of these benefits and policies include:

- Health-related (e.g., medical, dental, long-term disability, sick leave);
- Financial benefits (e.g., pension plans);
- Flexible work arrangements (e.g., job sharing, part-time work, flexible work hours);
- Parental benefits (e.g., paid or unpaid parental leave, childcare benefits);
- Career advancement options (e.g., part-time partnerships, continuing legal education, formal mentoring policy); and,
- Harassment or equity policies (e.g., harassment and discrimination policy, accommodation for special needs policy);

Respondents were asked to indicate whether the benefits or employment policies noted above were offered by their previous employer/firm and whether their current position offers them.

An increase in the incidence of these benefits/policies from previous to current position may suggest that they, in some measure, play a role in the decision to change positions. While it cannot be determined if they “drive” the decision to change, these incidences do provide a perspective as to the types of workplace benefits/policies that are valued by lawyers.

Health-related benefits are amongst the most likely to be offered in both previous and current positions:

- Medical insurance (66% report this benefit in their previous position, 60% their current position);
- A dental plan (64% report this benefit in their previous position, 59% in their current position);
- Long-term disability (52% report this benefit in their previous position, 49% in their current position).

Close to one half or more of respondents report that their employer/firm offered three other benefits/policies.

- Continuing legal education (64% have this benefit in their previous position, 61% in their current position).
- Harassment and discrimination policy (54% report this benefit in both their previous position and current positions).
- Sick leave (49% report this benefit in their previous position, 47% in their current position).

Across the six different benefits noted above, there are declines or no significant changes in the proportions of respondents who report that the benefits are offered at their current versus their previous position. The results for both women and men are consistent with the total sample.

- These results suggest that such benefits/policies are not likely to be strong factors in driving a change of status. If they were, it would be expected that there would be an increase in the incidence of those who say that their current position offers the benefit/or policy relative to their previous position.

Benefits and Employment Policies Offered in Previous and Current Position

There are a number of benefits/policies for which the incidence is low both in previous and current position. Five percent or less of all respondents report that either their current or their previous position offers the following:

- Child care benefits;
- Day care facilities;
- Part-time partnerships.

Further, high proportions of respondents do not know whether either their previous position or their current position offers these benefits. This finding, along with the lack of difference in the incidence of those who are aware that their employer offers these benefits, suggests that they are not actively sought out by many in their decision to change status.

Incidence of Benefit or Policy Offered in Previous Versus Current Position Among Total Sample (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	PREVIOUS POSITION	CURRENT POSITION
n=	2621	2621
	%	%
Financial and Health-Related Benefits/Plans		
Medical Insurance	66	60↓
A dental plan	64	59↓
Long-term disability	52	49↓
A pension plan	29	34↑
Flexible Work Options		
Flexible full-time work hours	29	42↑
Part-time work	17	21↑
Job sharing	4	6↑
Parental Benefits		
Paid maternity leave	26	26
Paid parental leave	20	21
Unpaid maternity leave	18	18
Unpaid parental leave	17	18
Child care benefits	4	5
Day care facilities	2	3
Partnership Options		
Income partnerships	15	14
Part-time partnerships	3	3
Leave Options		
Sick leave	49	47
Leave of absence or sabbatical	22	25↑
Other Offerings/Policies		
Continuing legal education	64	61↓
Harassment and discrimination policy	54	54
Accommodation for special needs policy	33	36↑
Formal mentoring policy	28	29

Benefits and Employment Policies Offered in Previous and Current Position

A number of benefits/policies may have more influence of a change of status because respondents are significantly more likely to report that these benefits/policies are offered in their current position relative to their previous position. Many of these relate specifically to more flexible work arrangements:

- Flexible full-time work hours (29% previous position/42% current position – 13 point increase).
- Leave of absence or sabbatical (22% previous position/25% current position – 3 point increase).
- Part-time work (17% previous position/21% current position – 4 point increase).
- Job sharing (4% previous position/6% current position – 2 point increase).

In addition to these work arrangement-related benefits, there are two other benefits/policies proportions noting that their new position offers these:

- A pension plan (29% previous position/34% current position – 5 point increase).
- Accommodation for special needs policy (33% previous position/36% current position – 3 point increase).

The likelihood that those benefits/policies are factors in a change is most strongly evident among women.

- Flexible full-time work hours (31% previous position/45% current position – 14 point increase).
- Part-time work (19% previous position/24% current position – 5 point increase).
- Job sharing (4% previous position/7% current position – 3 point increase).
- Leave of absence or sabbatical (24% previous position/29% current position – 3 point increase).
- A pension plan (32% previous position/39% current position – 5 point increase).
- Accommodation for special needs policy (34% previous position/40% current position – 5 point increase).

Among men, there are only two benefits where significant increases are evident. For each, the proportion of men indicating that the benefit is available in a current position is significantly lower than it is for women.

- Flexible full-time work hours (28% previous position/38% current position – 10 point increase).
- Part-time work (14% previous position/18% current position – 4 point increase)

For the remainder of benefits/policies, there are no significant differences in the proportions saying they are available at their current position compared with their previous position among either men or women.

Benefits and Employment Policies Offered in Previous and Current Position

Incidence of Benefits/ Policies at Previous Versus Current Position Total sample (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

(% who report that their previous/current position offers or offered the benefit/operating policy)

	TOTAL SAMPLE		WOMEN		MEN	
	PREVIOUS POSITION	CURRENT POSITION	PREVIOUS POSITION	CURRENT POSITION	PREVIOUS POSITION	CURRENT POSITION
n=	2621	2621	1393	1393	1226	1226
	%	%	%	%	%	%
Financial and Health-Related Benefits/Plans						
Medical Insurance	66	60↓	67	64	64	56↓
A dental plan	64	59↓	65	63	63	55↓
Long-term disability	52	49↓	54	52	50	45↓
A pension plan	29	34↑	32	39↑	27	28
Flexible Work Options						
Flexible full-time work hours	29	42↑	31	45↑	28	38↑
Part-time work	17	21↑	19	24↑	14	18↑
Job sharing	4	6↑	4	7↑	5	5
Parental Benefits						
Paid maternity leave	26	26	36	35	16	15
Paid parental leave	20	21	23	25	17	17
Unpaid maternity leave	18	18	26	23	11	11
Unpaid parental leave	17	18	20	21	14	15
Child care benefits	4	5	5	6	4	4
Day care facilities	2	3	3	4	2	3
Partnership Options						
Income partnerships	15	14	13	12	17	16
Part-time partnerships	3	3	3	4	3	3
Leave Options						
Sick leave	49	47	53	53	45	41
Leave of absence or sabbatical	22	25↑	24	29↑	21	21
Other Offerings/Policies						
Continuing legal education	64	61↓	65	64	63	57
Harassment and discrimination policy	54	54	55	59↑	53	50
Accommodation for special needs policy	33	36↑	34	40↑	32	32
Formal mentoring policy	28	29	27	31↑	29	28

Q.14: For both your previous position and your current position, please indicate whether each of the following was/is offered to you. If you don't know or if it was/is not applicable to your situation you may indicate that.

Benefits and Employment Policies Offered in Previous and Current Position

An examination of the benefits/policies offered solely among those who began their change of status with a position in private practice suggests that if benefits and policies are at least in some measure drivers of a change, those that have an effect on a change from private to non-private practice are:

- Job sharing (up 7 points from previous to current position);
- Paid maternity leave (up 28 points from previous to current position);
- Paid parental leave (up 10 points from previous to current position);
- Unpaid parental leave (up 8 points from previous to current position);
- Sick leave (up 32 points from previous to current position);
- Harassment and discrimination policies (up 35 points from previous to current position); and,
- Accommodation for special needs policies (up 38 points from previous to current position).

These increases are not evident among those who have made a move within private practice.

Among those who have made a change in private practice settings, the only benefits/policies that are more likely to be offered in the new position are:

- Flexible full-time work hours (up 12 points from previous to current position);
- Part-time work (up 6 points from previous to current position); and,
- Paid maternity leave (up 4 points from previous to current position).

Benefits and Employment Policies Offered in Previous and Current Position

**Incidence of Benefits/Policies at Previous Versus Current Position
Among Those Whose Original Position Was in Private Practice
(Excludes Those Whose Change in Status is Related to Maternity/Parental Leave or Retirement)**

	PRIVATE TO PRIVATE		PRIVATE TO NON-PRIVATE		PRIVATE TO NOT IN LAW	
	PREVIOUS POSITION	CURRENT POSITION	PREVIOUS POSITION	CURRENT POSITION	PREVIOUS POSITION	CURRENT POSITION
	Offers benefit or operating policy	Offers benefit or operating policy	Offers benefit or operating policy	Offers benefit or operating policy	Offers benefit or operating policy	Offers benefit or operating policy
n=	936	936	356	356	341	205
	%	%	%		%	%
Financial and Health-Related Benefits/Plans						
Medical Insurance	65	55↓	65	80↑	60	38↓
A dental plan	63	53↓	60	79↑	58	37↓
Long-term disability	47	41↓	46	71↑	41	30↓
A pension plan	5	5	6	73↑	7	29↑
Flexible Work Options						
Flexible full-time work hours	29	41↑	26	47↑	25	30
Part-time work	11	17↑	15	24↑	16	18
Job sharing	3	4	3	10↑	3	6
Parental Benefits						
Paid maternity leave	11	15↑	16	44↑	11	16
Paid parental leave	19	9↓	28	38↑	20	16
Unpaid maternity leave	17	15	26	25	17	11↓
Unpaid parental leave	14	13	21	29↑	13	12
Child care benefits	3	2	3	11	3	4
Day care facilities	1	1	1	7	1	3
Partnership Options						
Income partnerships	27	28	27	2	19	5↓
Part-time partnerships	4	5	4	2	3	2
Leave Options						
Sick leave	37	32↓	40	72↑	35	30
Leave of absence or sabbatical	11	13	13	44↑	18	15
Other Offerings/Policies						
Continuing legal education	71	66↓	72	76	62	23↓
Harassment and discrimination policy	46	43	49	84↑	37	35
Accommodation for special needs policy	19	21	20	58↑	18	21
Formal mentoring policy	31	30	37	38	26	17↓

Benefits and Employment Policies Offered in Previous and Current Position

WOMEN COMPARED TO MEN Status of Benefits/ Policies at Previous Versus Current Position Among Those Whose Original Position Was in Private Practice Excludes Those Whose Change in Status is Related to Maternity/Parental Leave or Retirement

	PRIVATE TO PRIVATE			PRIVATE TO NON-PRIVATE			PRIVATE TO NOT IN LAW		
	PREVIOUS POSITION	CURRENT POSITION	GAP	PREVIOUS POSITION	CURRENT POSITION	GAP	PREVIOUS POSITION	CURRENT POSITION	GAP
FINANCIAL AND HEALTH-RELATED BENEFITS/PLANS	Offers benefit or operating policy	Offers benefit or operating policy		Offers benefit or operating policy	Offers benefit or operating policy		Offers benefit or operating policy	Offers benefit or operating policy	
n=	421	421		209	209		194	110	
	%	%		%	%		%	%	
WOMEN									
Medical Insurance	70	59	-11	66	82	+16	59	40	-19
A dental plan	67	57	-10	60	81	+21	57	37	-20
Long-term disability	52	47	-6	44	72	+28	40	29	-11
A pension plan	5	6	NS	8	77	+69	6	32	+26
MEN									
n=	514	514		146	146		147	95	
	%	%		%	%		%	%	
Medical Insurance	62	52	-10	64	77	+13	60	36	-24
A dental plan	59	49	-10	61	76	+15	60	36	-24
Long-term disability	43	37	-6	47	69	+22	42	31	-11
A pension plan	5	4	NS	4	67	+63	8	26	+18

Note: NS= Change is not significant

	PRIVATE TO PRIVATE			PRIVATE TO NON-PRIVATE			PRIVATE TO NOT IN LAW		
	PREVIOUS POSITION	CURRENT POSITION	GAP	PREVIOUS POSITION	CURRENT POSITION	GAP	PREVIOUS POSITION	CURRENT POSITION	GAP
FLEXIBLE WORK OPTIONS									
n=	421	421		209	209		194	110	
	%	%		%	%		%	%	
WOMEN									
Flexible full-time work hours	30	47	+13	29	49	+20	25	31	+6
Part-time work	14	24	+10	19	23	NS	18	20	NS
Job sharing	2	5	NS	2	13	+11	2	5	NS
MEN									
n=	514	514		146	146		147	95	
	%	%		%	%		%	%	
Flexible full-time work hours	27	36	+9	21	42	+21	24	28	NS
Part-time work	9	11	NS	10	25	+15	14	16	NS
Job sharing	3	4	NS	3	7	+4	4	6	NS

Note: NS= Change is not significant

Benefits and Employment Policies Offered in Previous and Current Position

WOMEN COMPARED TO MEN Status of Benefits/ Policies at Previous Versus Current Position (Continued) Among Those Whose Original Position Was in Private Practice (Excludes Those Whose Change in Status is Related to Maternity/Parental Leave or Retirement)

	PRIVATE TO PRIVATE			PRIVATE TO NON-PRIVATE			PRIVATE TO NOT IN LAW		
PARENTAL BENEFITS	PREVIOUS POSITION	CURRENT POSITION	GAP	PREVIOUS POSITION	CURRENT POSITION	GAP	PREVIOUS POSITION	CURRENT POSITION	GAP
n=	421	421		209	209		194	110	
	%	%		%	%		%	%	
WOMEN									
Paid maternity leave	32	26	-6	38	54	+16	23	18	NS
Paid parental leave	15	12	NS	16	39	+23	11	13	NS
Unpaid maternity leave	27	25	NS	35	33	NS	25	13	-12
Unpaid parental leave	19	18	NS	24	30	NS	12	11	NS
Child care benefits	3	2	NS	4	11	+7	3	3	NS
Day care facilities	2	2	NS	0	7	+7	2	2	NS
MEN									
n=	514	514		146	146		147	95	
	%	%		%	%		%	%	
Paid maternity leave	9	6	NS	15	29	+14	16	14	NS
Paid parental leave	8	6	NS	15	36	+21	12	19	NS
Unpaid maternity leave	8	7	NS	13	15	NS	7	9	NS
Unpaid parental leave	10	8	NS	16	29	+13	13	14	NS
Child care benefits	3	2	NS	3	10	+7	3	6	NS
Day care facilities	1	0	NS	1	8	+7	1	5	NS

Note: NS= Change is not significant

	PRIVATE TO PRIVATE			PRIVATE TO NON-PRIVATE			PRIVATE TO NOT IN LAW		
PARTNERSHIP AND LEAVE OPTIONS	PREVIOUS POSITION	CURRENT POSITION	GAP	PREVIOUS POSITION	CURRENT POSITION	GAP	PREVIOUS POSITION	CURRENT POSITION	GAP
n=	421	421		209	209		194	110	
	%	%		%	%		%	%	
WOMEN									
Income partnerships	27	30	NS	27	1	-26	17	2	-15
Part-time partnerships	5	9	+4	4	2	NS	3	1	NS
Sick leave	42	38	NS	41	75	+34	38	33	NS
Leave of absence or sabbatical	11	15	NS	12	46	+34	18	17	NS
MEN									
n=	514	514		146	146		147	95	
	%	%		%	%		%	%	
Income partnerships	27	27	NS	27	2	-25	22	8	-14
Part-time partnerships	3	3	NS	3	1	NS	3	4	NS
Sick leave	34	27	-7	38	66	+28	31	27	NS
Leave of absence or sabbatical	11	11	NS	15	42	+27	18	12	NS

Note: NS= Change is not significant

Benefits and Employment Policies Offered in Previous and Current Position

WOMEN COMPARED TO MEN Status of Benefits/ Policies at Previous Versus Current Position (Continued) Among Those Whose Original Position Was in Private Practice (Excludes Those Whose Change in Status is Related to Maternity/Parental Leave or Retirement)

OTHER BENEFITS/ POLICIES	PRIVATE TO PRIVATE			PRIVATE TO NON-PRIVATE			PRIVATE TO NOT IN LAW		
	PREVIOUS POSITION	CURRENT POSITION		PREVIOUS POSITION	CURRENT POSITION	GAP	PREVIOUS POSITION	CURRENT POSITION	GAP
n=	421	421		209	209		194	110	
	%	%		%	%		%	%	
WOMEN									
Continuing legal education	76	71	-5	71	78	+7	62	25	-37
Harassment and discrimination policy	45	44	NS	48	87	+39	39	40	NS
Accommodation for special needs policy	18	21	NS	20	59	+39	15	24	+9
Formal mentoring policy	32	33	NS	33	38	+5	25	18	-7
MEN									
n=	514	514		146	146		147	95	
	%	%		%	%		%	%	
Continuing legal education	67	62	-5	73	73	NS	61	21	-40
Harassment and discrimination policy	46	42	-4	52	79	+27	35	28	-7
Accommodation for special needs policy	19	21	NS	20	55	+35	21	18	-3
Formal mentoring policy	30	27	NS	41	38	NS	27	15	-12

Note: NS= Change is not significant

**XIII. Attributes of Previous and Current
Position
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Attributes of Previous and Current Position

One of the key objectives of the research is to better understand the factors that may be leading lawyers to leave private practice and the factors that encourage lawyers to stay in private practice. One means of assessing this issue was through exploring some of the perceived benefits and values of their current versus their previous position among those who have changed status.

Respondents were asked a series of questions in order to assess this:

Please indicate how strongly you agree or disagree with the following statements as they relate to your previous status or position and your current status or position. Please do this using a scale from 1 to 5, where "1" means that you agree strongly and "5" means that you disagree strongly. If you don't know or you do not feel the statement is applicable to you, you may indicate that.

Previous Position	Strongly Agree					Strongly Disagree	Don't know	Not Applicable
	1	2	3	4	5			
The pay is good								
I have the freedom to decide what I do in my job								
I control the scheduling								
The benefits are good								

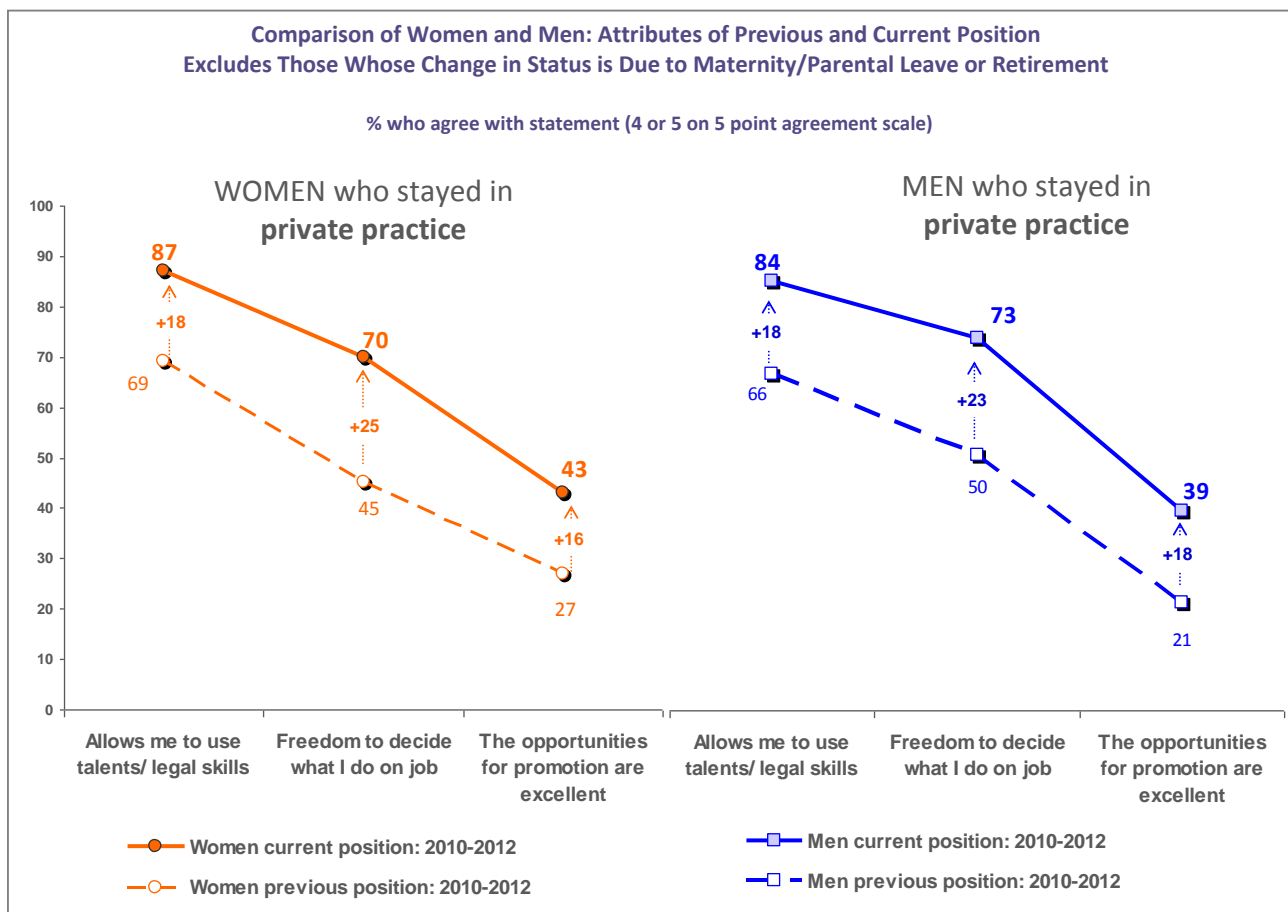
An increase in the incidence of agreement or disagreement that any one of these attributes is associated with the previous or current position may suggest that the attribute played some role in the decision to make a change in status. While it cannot be determined whether these attributes "drive" the decision to change, the comparison provides some perspective as to the types of workplace benefits/conditions that are valued by lawyers.

Attributes of Previous and Current Position

A. Practice Opportunities – Those Who Have Stayed in Private Practice

A comparison of women and men who have moved from one private practice position to another finds similar perceptions of practice opportunities in both their prior and current positions. For both women and men, there are significant improvements as a result of a change:

- Allows me to use my talents/ legal skills (18 point increase from previous to current position among both women and men);
- Freedom to decide what I do on the job (25 point increase among women and 23 point increase among men);
- The opportunities for promotion are excellent (16 point increase among women and 18 point increase among men).



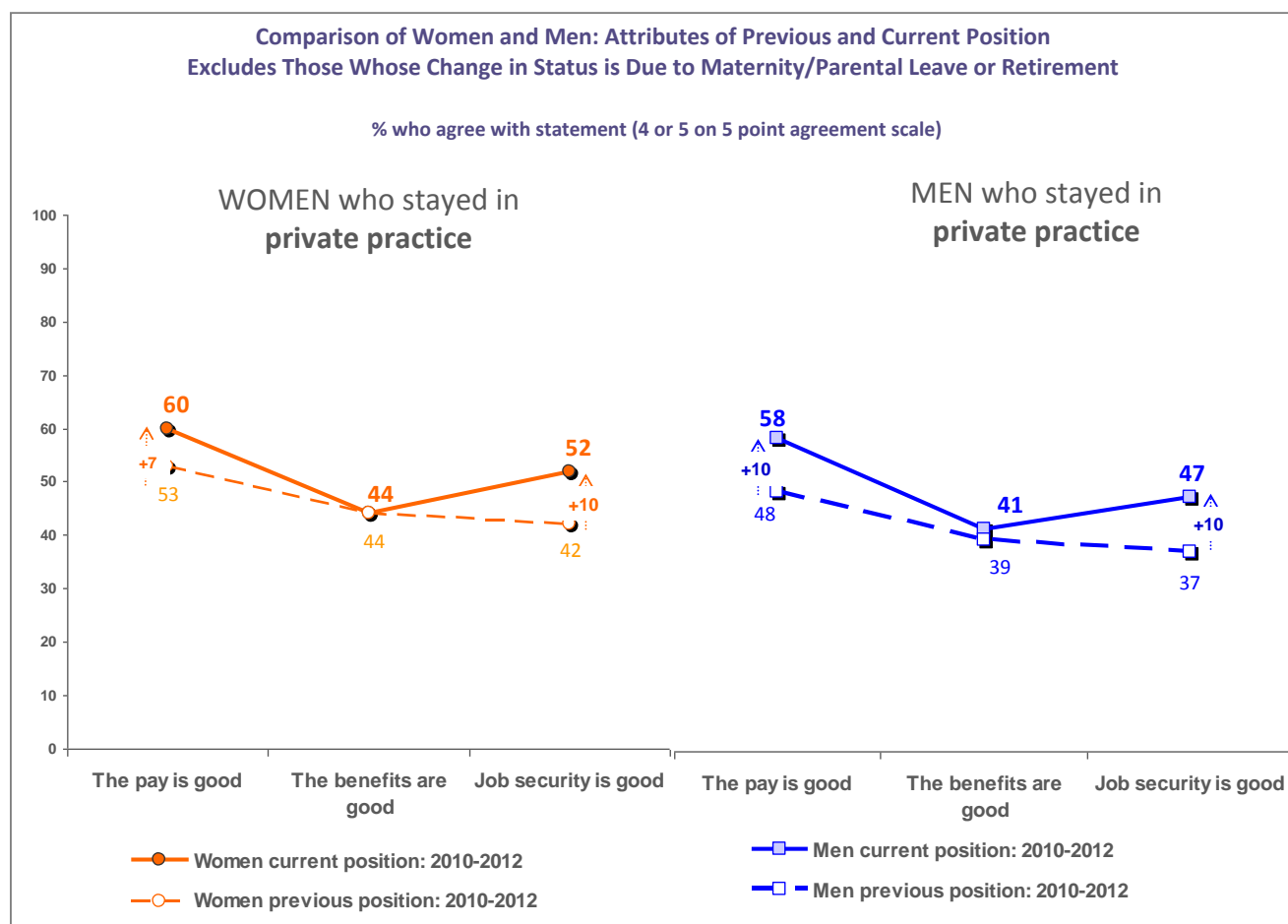
Attributes of Previous and Current Position

B. Benefits and Job Security - Those Who Have Stayed in Private Practice

Among those who have stayed in a private practice setting, perceived improvements are less pronounced when it comes to job benefits and security. Women and men are once again similar in their perceptions:

- The pay is good (7 point increase from previous to current position among women and 10 point increase among men);
- The benefits are good (no significant increase among either women or men);
- The job security is good (10 point increase among both women and men).

These results suggest that both men and women who are moving within private practice settings are benefiting more in the area of job skills and opportunities than they are from changes in salaries and benefits.



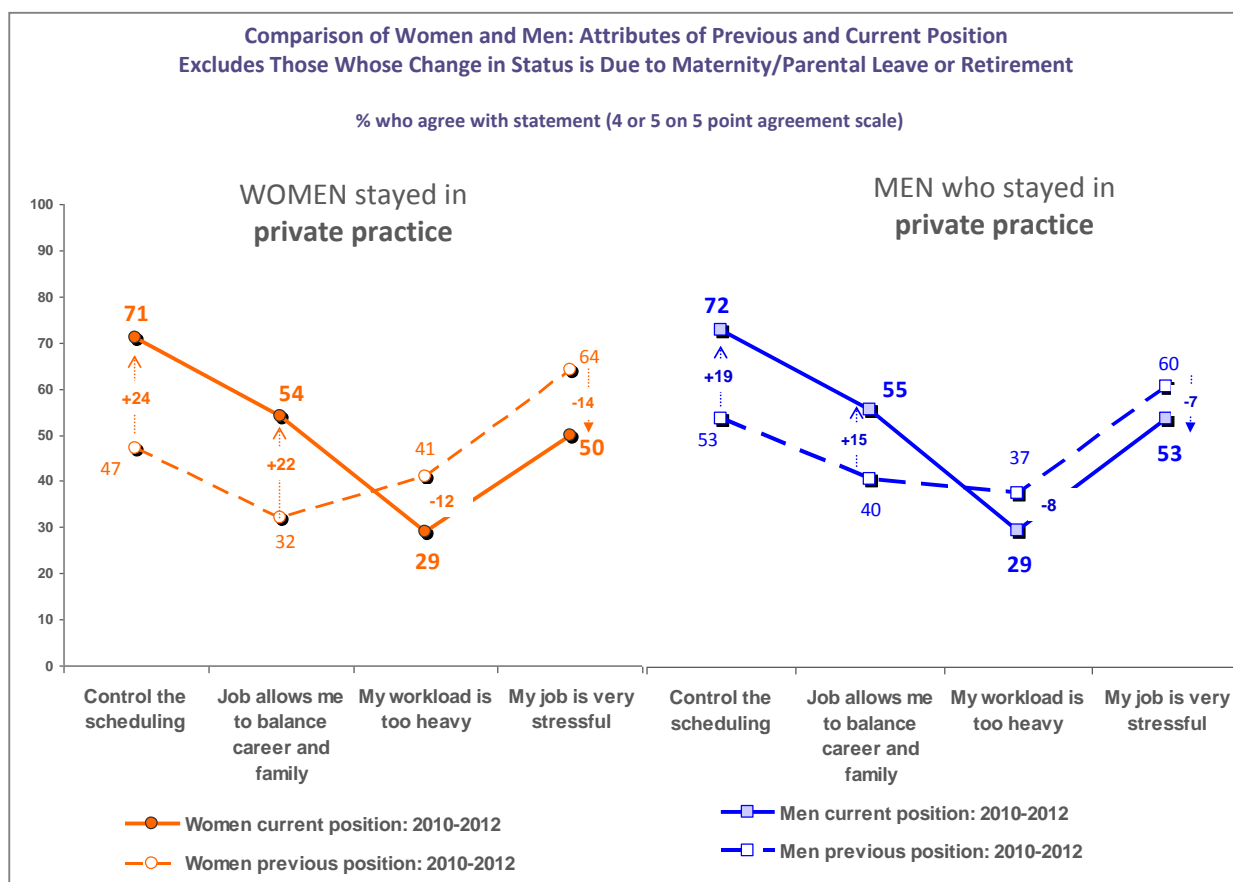
Attributes of Previous and Current Position

C. Work Life Balance and Stress - Those Who Have Stayed in Private Practice

When it comes to work-life balance and stress management, women and men who have moved within private practice are again very similar in their attitudes. Greater proportions of both women and men believe that their current position affords them control of scheduling, balance between career and family, a more manageable workload and a less stressful work situation:

- I control the scheduling (24 point increase from previous to current position among women and 19 point increase among men);
- The job allows me to balance career and family (22 point increase among women and 15 point increase among men);
- My workload is too heavy (12 point decrease among women and 8 point decrease among men); and,
- My job is very stressful (14 point decrease among women and 7 point decrease among men).

While there are significant improvements for both genders, it appears that women who have stayed in a private practice setting feel they have achieved greater improvements on these issues than men. This suggests that women may place greater emphasis on finding positions that address these issues.

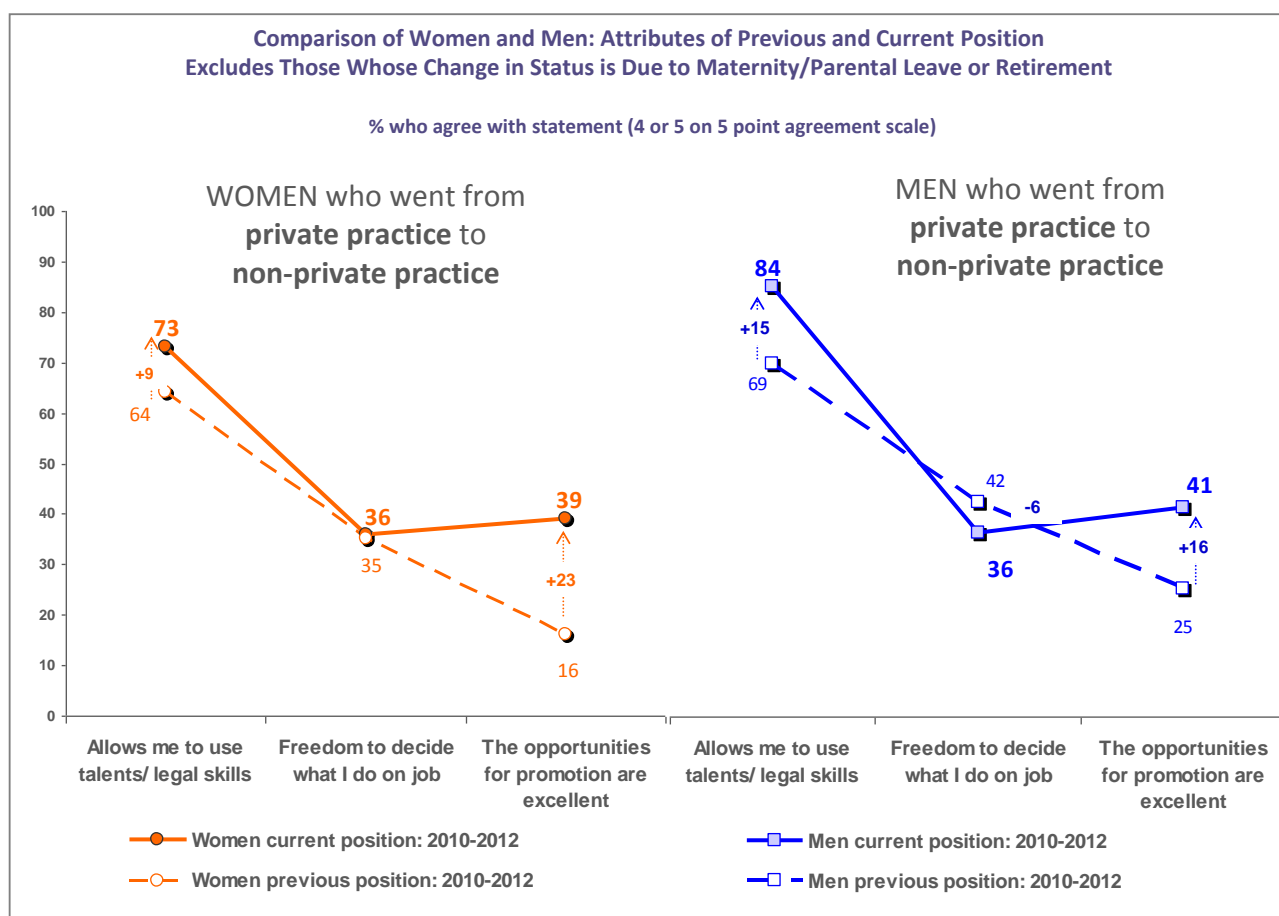


Attributes of Previous and Current Position

D. Practice Opportunities - Those Who Have Moved From Private Practice to Non-Private Practice

Analysis of those who have changed their status from a private practice position to a non-private practice position again finds that there are consistent perceptions among women and men. Greater proportions agree that their new position offers opportunity to use their talents and for promotion than agreed that their previous position offered these opportunities. However, there is no strong improvement in the proportions reporting that their new position allows them freedom to decide what they do on the job over their previous position.

The only significant difference between women and men appears to be that men are more likely than are women to agree that their new position “allows me to use my talents and legal skills” (84% and 73%, respectively).



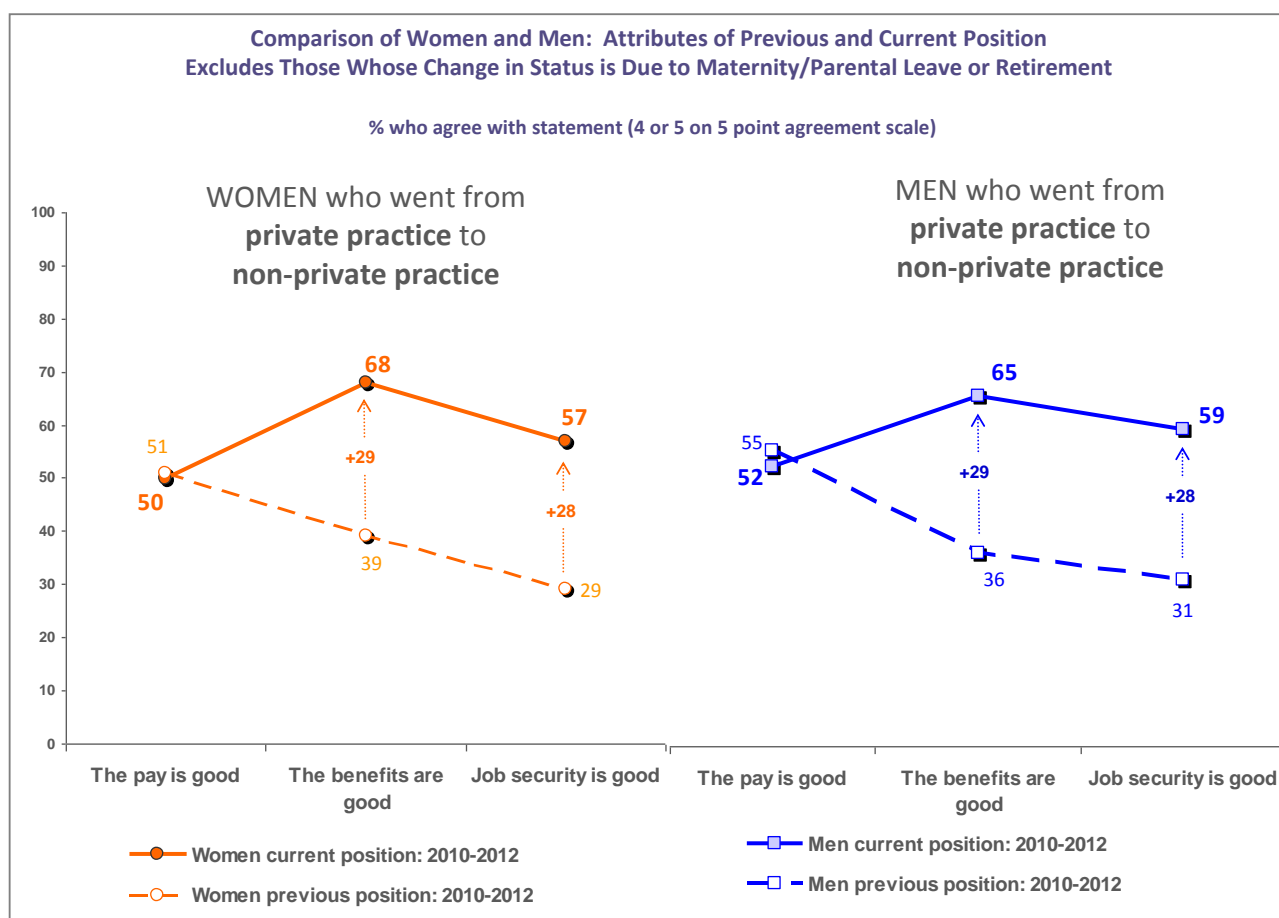
Attributes of Previous and Current Position

E. Benefits and Job Security - Those Who Have Moved From Private Practice to Non-Private Practice

There are large improvements in the proportions of both women and men who agree that their current position offers good benefits and job security compared to the proportions who agreed that the previous position had these characteristics.

- The benefits are good (29-point increase from previous to current position among both women and men)
- The job security is good (28-point increase from previous to current position among both women and men)

There is no significant change in the proportions who agree that the “pay is good” for either women or men.



Attributes of Previous and Current Position

F. Work-Life Balance and Stress - Those Who Have Transitioned From Private Practice to Non-Private Practice

Again, there are similar trends of improvement for issues related to work-life balance and job stress among both women and men who have moved into non-private practice. There are large increases in the proportions who believe their new position “allows me to balance career and family” compared to their previous position:

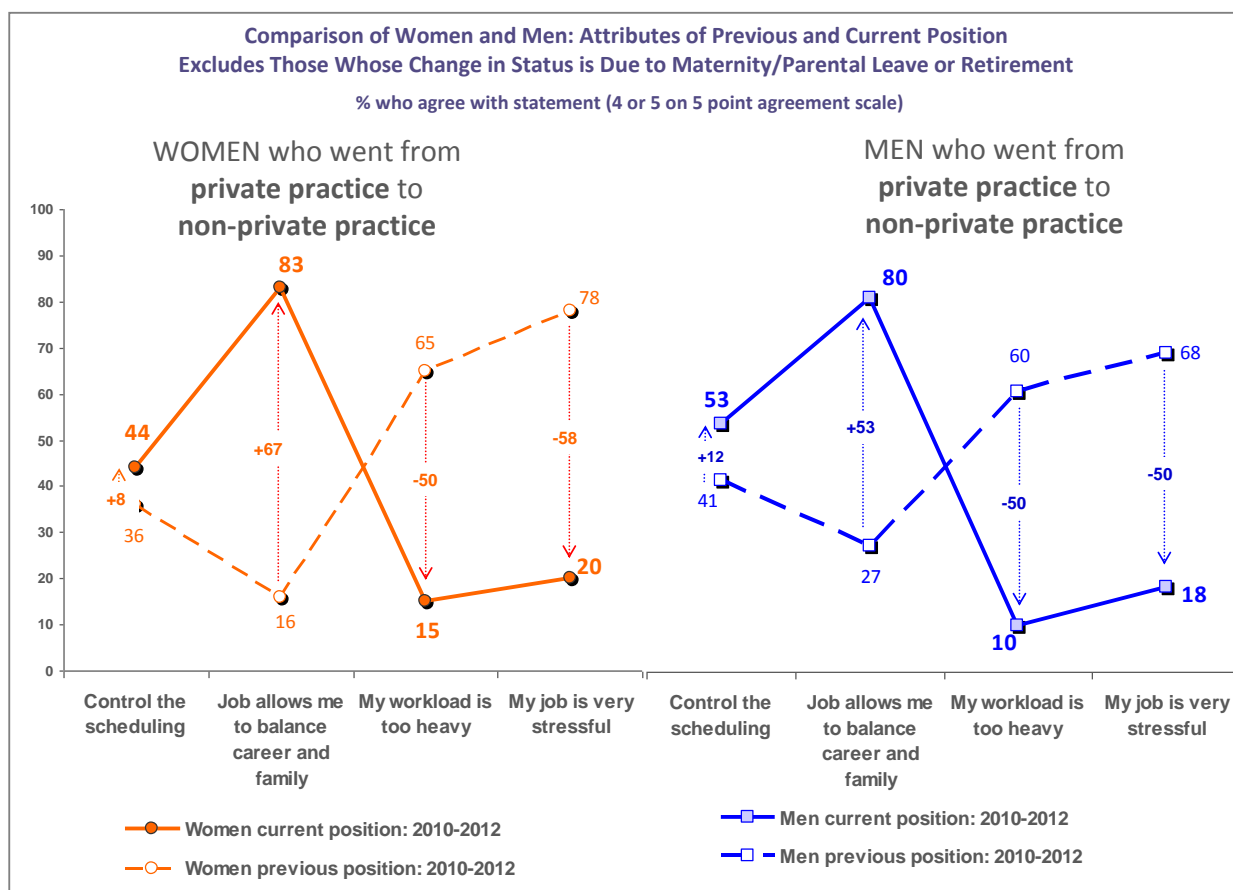
- The job allows me to balance career and family (67-point increase among women and 53-point increase among men).

Further, both genders are much less likely to agree that in their current positions either that their workload is too heavy or their new position is very stressful.

- My workload is too heavy (50 point decrease among both women and men); and,
- My job is very stressful (58-point decrease among women and 50-point decrease among men).

On one issue related to work-life balance, the improvements from previous to current position are relatively weaker:

- I control the scheduling (8-point increase among women and 12-point increase among men).



Attributes of Previous and Current Position

Women who have stayed in private practice are more likely than are women who have moved into a non-private practice setting to agree that their current position offers the following practice opportunities:

- The pay is good (up 7 points – no significant change among those who moved into non-private practice);
- Allows me to use my talents/legal skills (up 19 points compared to a 9-point increase);
- Freedom to decide what I do in my job (up 25 points compared to no significant change); and,
- Control the scheduling (up 24 points compared to an 8-point increase).

By contrast, women who have moved to a non-private practice setting are much more likely than those who stayed in private practice to agree that their current position offers the following characteristics:

- Job security is good (up 28 points compared with 10 points for those who stayed in a private practice setting);
- The benefits are good (up 29 points - no significant change for those who stayed in a private practice setting);
- My workload is too heavy (drop of 50 points compared with an 11-point decline);
- My job is very stressful (drop of 58 points compared with a 14-point decline); and,
- Job allows me to balance career and family (up fully 67 points compared versus 22 points).

Attributes of Previous and Current Position Among Women Who Remained in Private Practice and Those Who Have Moved to Non-Private Practice (Excludes Those Whose Change in Status is Related to Maternity/Parental Leave or Retirement)

	WOMEN who remained in a private practice setting			WOMEN who moved from private practice to non-private practice		
	Previous Status	Current Status	GAP	Previous Status	Current Status	GAP
	2010-2012	2010-2012	2010-2012	2010-2012	2010-2012	2010-2012
	%	%	(+/-)	%	%	(+/-)
PRACTICE OPPORTUNITIES						
The job allows me to use my talents and legal skills	69	87	+18	64	73	+9
I have the freedom to decide what I do in my job	45	70	+25	35	36	NOT SIGNIFICANT
The opportunities for promotion are excellent	27	43	+16	16	39	+23
PAY AND BENEFITS						
The pay is good	53	60	+7	50	51	NOT SIGNIFICANT
The benefits are good	44	44	NOT SIGNIFICANT	39	68	+29
Job security is good	42	52	+10	29	57	+28
WORK-LIFE BALANCE AND STRESS						
I control the scheduling	47	71	+24	36	44	+8
The job allows me to balance career and family	32	54	+22	16	83	+67
My workload is too heavy	41	29	-12	65	15	-50
My job is very stressful	64	50	-14	78	20	-58

**XIV. Importance of Specific Issues in Driving
Change of Status
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Importance of Specific Issues in Driving Change of Status

A. Approach to Exploring Drivers of Change of Status

Another means of determining what drives a change of status is to ask respondents directly the extent to which a number of factors were important reasons for their recent change of status. Respondents were asked to rate the importance of 19 factors in their decision to move from their previous status to their current status on a scale from 1 to 5 where a "5" means the issue was "very important" factor and a "1" means the issue was "not at all important".

Please indicate how important each of the following were in your decision to move from your previous status or position to your current status or position. Please do this using a scale from 1 to 5, where "1" means that it was not important at all and a "5" means that it was very important. If you don't know or you do not feel the statement is applicable to you, you may indicate that.

	Not at all important					Very important	Don't know	Not Applicable
	1	2	3	4	5			
The pay is better								
I have the freedom to decide what I do in my job								
I control the scheduling								
The benefits are better								
The job allows me to use my talents and legal skills								

Importance of Specific Issues in Driving Change of Status

Just over three-quarters of those who have changed status were shown these questions (2010-2012 n=2623). The remainder of respondents were ineligible to answer these questions because they have moved to or within a non-paid position, gone on leave, or have become unemployed.

The reason most often identified as driving a change of status is that a new position allows better use of talents and skills. Almost one-half (46%) cite "using my talents and legal skills" as an important reason for their change of status, providing a rating of "4" or "5".

Second in importance is that a change has allowed respondents "to balance career and family" (mentioned by 41% of respondents as important).

A third tier of reasons relates to measures of control within the workplace. Just over one-third identify the "freedom to decide what I do in my job" and "I control the scheduling" as an important factor driving a change of status (37% and 36%, respectively).

A fourth tier of issues relates to stress, security of employment and remuneration:

- My job is less stressful (33%);
- The pay is better (31%); and,
- Job security is good (29%).

About one-quarter of respondents identify the following issues as important drivers in their change of status:

- The opportunities for promotion are excellent (27%);
- My current position offers flexible full-time work hours (26%); and,
- My workload has decreased (23%).

The remainder of the factors tested are mentioned by 20% or less of respondents.

The table on the following page illustrates that over half of respondents indicate that a number of benefits listed are not applicable in their current position (i.e., their current status does not provide these benefits). As such, they clearly did not play an important role in the decision to change status.

Importance of Specific Issues in Driving Change of Status

Importance of Specific Issues in Driving a Change of Status (Excluding Those Whose Change in Status is Not Related to Maternity/Parental Leave or Retirement)

	2010-2012 RESULTS COMBINED			
	IMPORTANT (4 OR 5 ON SCALE)	NEUTRAL (3 ON SCALE)	NOT IMPORTANT (1 OR 2 ON SCALE)	NOT APPLICABLE OR DON'T KNOW
	%	%	%	%
The job allows me to use my talents and legal skills	46	15	10	29
The job allows me to balance career and family	41	15	12	33
I have the freedom to decide what I do in my job	37	15	17	32
I control the scheduling	36	16	16	32
My job is less stressful	33	15	17	36
The pay is better	31	11	24	35
Job security is good	29	17	16	39
The opportunities for promotion are excellent	27	16	15	43
My current position offers flexible full-time work hours	26	10	16	48
My workload has decreased	23	15	23	40
The benefits are better	20	13	23	44
There is a pension plan in my current position	16	5	16	63
There is a formal mentoring policy in my current position	12	7	19	62
My current position offers part-time work	10	4	21	65
There is paid maternity or parental leave	10	5	24	62
My current position offers a leave of absence or sabbatical	10	5	20	65
There is accommodation for special needs policy at my current position	5	4	21	70
There is job sharing in my current position	3	3	21	73

Q.13aa Please indicate how important each of the following were in your decision to move from your previous status or position to your current status or position. Please do this using a scale from 1 to 5, where "1" means that it was not important at all and a "5" means that it was very important. If you don't know or you do not feel the statement is applicable to you, you may indicate that.

Base: Those who made a change of status excluding those whose change was due to maternity/ parental leave and retirement (n=2621)

Importance of Specific Issues in Driving Change of Status

A comparison of those who have made a move originating in a position in private practice with the total sample suggests that there are certain issues that play a greater role among those in private practice as drivers of change. There are five factors that those who started in private practice deem to be important relative to the total sample.

- The job allows me to balance career and family (45% versus average of 41%);
- I have the freedom to decide what I do in my job (41% versus 37% average);
- My job is less stressful (40% versus average of 32%);
- Job security is good (34% versus average of 29%); and,
- My workload has decreased (29% versus average of 23%).

**Importance of Specific Issues in Driving a Change of Status
COMPARISON OF TOTAL SAMPLE WITH THOSE
WHOSE ORIGINATING POSITION WAS IN PRIVATE PRACTICE
(Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)**

	2010-2012 RESULTS COMBINED	
	Total Sample who have made a change of status	Previous position in private practice
	n=2621	n=1440
SAMPLE INCLUDING DK/NOT STATED	%	%
The job allows me to use my talents and legal skills	46	44
The job allows me to balance career and family	41	45
I have the freedom to decide what I do in my job	37	41
I control the scheduling	36	39
My job is less stressful	33	40
The pay is better	31	30
Job security is good	29	34
The opportunities for promotion are excellent	27	29
My current position offers flexible full-time work hours	26	28
My workload has decreased	23	29
The benefits are better	20	22
There is a pension plan in my current position	16	16
There is a formal mentoring policy in my current position	12	12
My current position offers part-time work	10	9
There is paid maternity or parental leave	10	9
My current position offers a leave of absence or sabbatical	10	10
There is accommodation for special needs policy at my current position	5	4
There is job sharing in my current position	3	4

Q.13aa Please indicate how important each of the following were in your decision to move from your previous status or position to your current status or position. Please do this using a scale from 1 to 5, where "1" means that it was not important at all and a "5" means that it was very important. If you don't know or you do not feel the statement is applicable to you, you may indicate that.

Importance of Specific Issues in Driving Change of Status

Comparing those who have stayed in private practice with those who have moved out of private practice or out of law suggests that those who have moved from private to non-private practice are more likely than the other groups to cite a number of issues as drivers of their change of status.

- The issues upon which they differ most strongly from the other groups are:
 - The job allows me to balance career and family (71% versus average of 45%);
 - My job is less stressful (64% and 40%, respectively);
 - The job allows me to use my talents and legal skills (57% and 46%);
 - My workload has decreased (52% and 29%);
 - There is a pension plan in my current position (50% and 16%);
 - Job security is good (48% and 34%);
 - The benefits are better (42% and 22%);
 - There is paid maternity or parental leave (21% and 9%); and,
 - My current position offers a leave of absence or sabbatical (19% and 10%).
- Those who remained in private practice assign greater importance to two of the factors tested.
 - I have the freedom to decide what I do in my job (47% versus 41% average); and,
 - The pay is better (34% versus average of 30%).
- Among those who moved from private practice to a position in which they are not practising law, no single factor appears to be more important relative to the other groups. The four issues which are most likely to be viewed as important in the decision to change position are:
 - The job allows me to balance career and family (42% consider it important);
 - My job is less stressful (42%);
 - My workload has decreased (34%); and,
 - The job allows me to use my talents and legal skills (32%).

Importance of Specific Issues in Driving Change of Status

Importance of Specific Issues in Driving a Change of Status (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

(% who rate issue as a 4 or 5 on 5-point scale where 5 means "very important")

	2010-2012 RESULTS COMBINED			
	Previous position in private practice	Moved from private to private practice	Moved from private to non-private practice	Moved from private practice to out of law
	n=2621	n=906	n=336	n=198
SAMPLE INCLUDING DK/NOT STATED	%	%	%	%
The job allows me to use my talents and legal skills	46	46	57	32
The job allows me to balance career and family	45	37	71	42
I have the freedom to decide what I do in my job	41	47	30	29
I control the scheduling	39	42	38	28
My job is less stressful	40	31	64	42
The pay is better	30	34	29	17
Job security is good	34	31	48	24
The opportunities for promotion are excellent	29	29	31	25
My current position offers flexible full-time work hours	28	29	32	19
My workload has decreased	29	19	52	34
The benefits are better	22	16	42	16
There is a pension plan in my current position	16	3	50	16
There is a formal mentoring policy in my current position	12	11	19	7
My current position offers part-time work	9	9	10	7
There is paid maternity or parental leave	9	6	21	6
My current position offers a leave of absence or sabbatical	10	7	19	10
There is accommodation for special needs policy at my current position	4	3	9	2
There is job sharing in my current position	4	3	5	4

Q.13aa Please indicate how important each of the following were in your decision to move from your previous status or position to your current status or position. Please do this using a scale from 1 to 5, where "1" means that it was not important at all and a "5" means that it was very important. If you don't know or you do not feel the statement is applicable to you, you may indicate that.

Importance of Specific Issues in Driving Change of Status

A Comparison of Men and Women Who Remain in Private Practice

Comparing women and men who remained in private practice following their change of status and their reasons for the change, the top three most frequently mentioned reasons are the same and relate to the latitude that private practice provides in terms of use of skills and control.

The three top reasons are that *"I have the freedom to decide what I do in my job"*, *"the job allows me to use my talents and legal skills"*, and *"I control the scheduling"*. At least four-in-ten men and women who have stayed in private practice identify these issues as important in their change of status. It is noteworthy that across these three drivers, there are no significant differences between men and women in the proportions who mention them.

On the next tiers of reasons for a change within private practice, there are some differences by gender. Women who have remained within private practice are more likely than men to identify a number of factors as drivers of their decision to make a change:

- The job allows me to balance career and family (41% of women identify this as an important driver compared to 33% among men);
- The current position offers flexible full-time work hours (36% among women compared with 23% among men); and,
- The job is less stressful (36% among women compared with 26% among men).

By contrast, men are more likely than women to report that they have changed their private practice position in order to achieve better pay (37% and 30%, respectively).

While less frequently mentioned as drivers of change within private practice, about one-in-ten women mention the following issues, a significantly greater proportion than men.

- There is a formal mentoring policy in my current position (14% compared to 8% among men);
- My current position offers part time work (12% compared to 6% among men); and,
- There is paid maternity or parental leave (10% compared to 2% among men).

Importance of Specific Issues in Driving Change of Status

Importance of Specific Issues in Driving a Change of Status (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

THOSE WHO HAVE MOVED WITHIN PRIVATE PRACTICE - WOMEN COMPARED WITH MEN (% who rate issue as a 4 or 5 on 5-point scale where 5 means "very important")

	2010-2012 RESULTS COMBINED	
	WOMEN Who have stayed within private practice	MEN Who have stayed within private practice
	n=421	n=500
	%	%
The job allows me to use my talents and legal skills	47	44
The job allows me to balance career and family	41	33
I have the freedom to decide what I do in my job	48	46
I control the scheduling	45	40
My job is less stressful	36	26
The pay is better	30	37
Job security is good	34	29
The opportunities for promotion are excellent	31	27
My current position offers flexible full-time work hours	36	23
My workload has decreased	22	17
The benefits are better	16	15
There is a pension plan in my current position	3	3
There is a formal mentoring policy in my current position	14	8
My current position offers part-time work	12	6
There is paid maternity or parental leave	10	2
My current position offers a leave of absence or sabbatical	8	5
There is accommodation for special needs policy at my current position	3	4
There is job sharing in my current position	4	3

Importance of Specific Issues in Driving Change of Status

A Comparison of Men and Women Who Moved From Private Practice to Non-Private Practice

For both men and women who have changed to a non-private practice position, the reasons for change differ substantially (based on the proportion who consider the issue to be an important driver of change) from those who have remained in private practice.

The reason cited by the greatest proportion of both men and women for a change to non-private practice is that *"the job allows me to balance career and family"* (75% and 64%, respectively). While a leading reason for both women and men, it is more likely to be mentioned by women. This reason is cited by nearly twice the proportion of both men and women who moved into non-private practice compared to those who remained within private practice (41% among women and 33% among men who stayed in private practice). Among those who remained in private practice, it is a second tier issue rather than a first tier, or primary, driver of change.

Women are also strongly likely to identify *"my job is less stressful"* as a key reason for change (71%) into non-private practice. They are considerably more likely to view it as a driver than men who have made this change (54%). Further, they are twice as likely to consider it as important compared to women who have remained within private practice (36%).

Women and men who have moved into non-private practice from a private position, as well as those men and women who have stayed within private practice place the issue of their new position *"allows me to use my talents and legal skills"* as one of the top two reasons for their change in status. It should be noted, however, that those moving into non-private practice are significantly more likely than are those who remained in private practice to view this as an important reason for their change.

- 60% among women moving to non-private practice compared to 47% among women remaining in private practice
- 53% among men moving to non-private compared to 44% among men remaining in private practice.

Other key reasons moving to non-private practice are:

- There is a pension plan in my current position (58% among women, although a lower proportion among men 40%);
- The workload has decreased (56% among women and 48% among men); and,
- Job security is good (50% among women and 43% among men).

Importance of Specific Issues in Driving Change of Status

Importance of Specific Issues in Driving a Change of Status (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

THOSE WHO HAVE MOVED FROM PRIVATE TO NON-PRIVATE PRACTICE - WOMEN COMPARED WITH MEN

(% who rate issue as a 4 or 5 on 5-point scale where 5 means "very important")

	2010-2012 RESULTS COMBINED			
	WOMEN	MEN	WOMEN	MEN
	Have stayed within private practice		Moved from private to non-private practice	
	n=421	n=500	n=209	n=138
SAMPLE INCLUDING DK/NOT STATED	%	%		
The job allows me to use my talents and legal skills	47	44	60	53
The job allows me to balance career and family	41	33	75	64
I have the freedom to decide what I do in my job	48	46	34	26
I control the scheduling	45	40	39	38
My job is less stressful	36	26	71	54
The pay is better	30	37	32	25
Job security is good	34	29	51	43
The opportunities for promotion are excellent	31	27	37	24
My current position offers flexible full-time work hours	36	23	36	26
My workload has decreased	22	17	56	48
The benefits are better	16	15	46	37
There is a pension plan in my current position	3	3	58	40
There is a formal mentoring policy in my current position	14	8	22	15
My current position offers part-time work	12	6	13	7
There is paid maternity or parental leave	10	2	27	13
My current position offers a leave of absence or sabbatical	8	5	21	15
There is accommodation for special needs policy at my current position	3	4	10	7
There is job sharing in my current position	4	3	7	3

**XV. Likely Return to Private Practice
(Excluding Those Whose Change is Due to
Maternity/Parental Leave or Retirement)**

Likely Return to Private Practice

A. Likelihood of Returning

Less than one-third (30%) of those who have left private practice indicate that they are likely to return. Over one-half of this group report that they will be unlikely to return. Just over one-in-ten are unsure.

Those who have moved from a private practice position to a position where they are not practising law are more likely than those who have moved to non-private practice to anticipate a return to private practice (36% and 25%, respectively).

There are no significant differences between women and men in likelihood of returning to private practice, regardless of whether they have moved into non-private practice positions or settings not in the practice of law.

Likelihood of Returning to Private Practice – Among Those who Have Moved to Other Practice Settings (Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

	2010-2012 RESULTS COMBINED		
	Previous position originated in private practice	Moved from private practice to non-private practice	Moved from private practice to not in law
	n=695	n=354	n=198
	%	%	%
NET Likely	30	25	36
Very likely	11	6	16
Somewhat likely	19	19	20
Not very likely	28	21	25
Not at all likely	29	20	27
NET Not Likely	57	61	52
Don't know/not applicable	13	14	12

Q.16 If your change of status or position involved a departure from **private practice**, how likely do you believe it is that you will return at some point to private practice? Would you say that it is very likely, somewhat likely, not very likely or not at all likely that you will at some point return to private practice?

Likely Return to Private Practice

B. Timing of Likely Return to Private Practice

Among those reporting that they will likely return to private practice (30% of those who have left private practice), just over one-third believe they will return to private practice within a year.

Those who moved from private practice to a setting not in law are more likely to anticipate a quick return (within a year) than are those who have left private practice for a non-private practice position (50% and 17%, respectively).

Timing of Likely Return to Private Practice
(Excluding Those Whose Change is Due to Maternity/Parental Leave or Retirement)

2010-2012 RESULTS COMBINED			
	Previous position in private practice	Moved from private practice to non-private practice	Moved from private practice to not in law
	Among the 30% who believe they will be likely to return to private practice	Among the 25% who believe they will be likely to return to private practice	Among the 36% who believe they will be likely to return to private practice
	n=210	n=85	n=124
	%	%	%
Less than 1 year	37	17	50
1-2 years	14	14	15
3-4 years	9	15	4
More than 4 years	10	24	1
Don't know	31	31	31

TAB 7.4

FOR INFORMATION

**ENDORSEMENT OF PROPOSAL FOR DEVELOPMENT OF A
CERTIFIED SPECIALIST PROGRAM IN ABORIGINAL LAW**

93. On May 30, 2013, the Certified Specialist Board approved the introduction of a new certified specialty in Aboriginal Law. The Professional Development & Competence Committee approved the introduction of the new certified specialty. The Equity and Aboriginal Issues Committee also endorses the creation of a certified specialty in Aboriginal Law.



TAB 8

**Report to Convocation
June 27, 2013**

Audit & Finance Committee

Committee Members
Christopher Bredt (Co-Chair)
Carol Hartman (Co-Chair)
John Callaghan (Vice-Chair)
Cathy Corsetti
Adriana Doyle
Susan Elliott
Seymour Epstein
Lawrence Eustace
Vern Krishna
Janet Leiper
Judith Potter
James Scarfone
Alan Silverstein
Catherine Strosberg
Robert Wadden
Peter Wardle

Purpose of Report: Decision and Information

Prepared by the Finance Department
Wendy Tysall, Chief Financial Officer, 416-947-3322 or wtysall@lsuc.on.ca

TABLE OF CONTENTS

For Decision

LAWPRO Director Compensation	TAB 8.1
In Camera Item	TAB 8.2
Capital Budget Transfers	TAB 8.3

For Information[TAB 8.4](#)

1. [Proposal for Development of a Certified Specialist Program in Aboriginal Law](#)
2. [LibraryCo Inc. First Quarter Financial Statements for the Quarter Ended March 31, 2013](#)
3. [Other Committee Work](#)

COMMITTEE PROCESS

1. The Audit & Finance Committee (“the Committee”) met on June 12, 2013. Committee members in attendance were Chris Bredt (co-chair) (phone), Carol Hartman (co-chair) (phone), John Callaghan (vice-chair), Cathy Corsetti, Adriana Doyle, Seymour Epstein, Vern Krishna, Janet Leiper, Judith Potter, Alan Silverstein, Catherine Strosberg, Robert Wadden (phone), and Peter Wardle.
2. Law Society staff in attendance: Robert Lapper, Diana Miles, Josee Bouchard, Fred Grady and Andrew Cawse.
3. Also in attendance were Benchers Howard Goldblatt, Marion Boyd and Susan McGrath and Kathleen Waters, President & CEO - LAWPRO.

TAB 8.1

FOR DECISION

LAWPRO DIRECTOR COMPENSATION

Motion:

- 4. That Convocation authorize the Treasurer to sign, on behalf of The Law Society of Upper Canada, a Resolution of the shareholders of Lawyers' Professional Indemnity Company stating that LAWPRO By-law No. 20 is approved, sanctioned and confirmed.**
5. The Law Society owns all the shares of the Lawyers' Professional Indemnity Company (LAWPRO). In April, Convocation authorized the Treasurer to sign the proxy in favour of proposed LAWPRO shareholder resolutions at the Annual and General Meeting of Shareholders of LAWPRO held in May each year including “that all acts, contracts, by-laws, proceedings, appointments, elections and payments, enacted, made, done, and taken by the directors and officers of the Company to the date hereof, as the same are set out or referred to in the resolutions of the Board of Directors, the minutes of the meetings of the Board of Directors or in the financial statements of the Company, are approved, sanctioned and confirmed”.
6. Subsequent to LAWPRO’s AGM, the LAWPRO board is recommending the approval of an amended LAWPRO By-law 20 respecting director compensation at [Tab 8.1.1](#). This is for implementation in January 2014 and the LAWPRO board is therefore requesting a shareholder resolution.
7. The Chair of LAWPRO, bencher Susan McGrath and the President & CEO of LAWPRO, Kathleen Waters, introduced the updated structure for the compensation of LAWPRO directors as described in the documentation on the following pages. In summary, an increase to LAWPRO director compensation is requested because:
 - a. the continuing increase in the responsibilities and workload of the directors;
 - b. LAWPRO’s need to undertake board renewal and attract the appropriate skills sets;

- c. regulatory risks and responsibilities and
- d. current compensation levels are below market.

LAWYERS' PROFESSIONAL INDEMNITY COMPANY

(883121)

BY-LAW 20

A by-law amending By-Law No. 18 of LAWYERS' PROFESSIONAL INDEMNITY COMPANY

Respecting the remuneration and payment of Directors and Officers of the Company

Effective January 1, 2014, By-Law No. 18 of the Company is repealed and replaced as follows:

1. Remuneration shall be paid to Directors and Officers of Lawyers' Professional Indemnity Company, including Benchers and employees of The Law Society of Upper Canada but excluding employees of Lawyers' Professional Indemnity Company, in accordance with the following, effective January 1, 2014:

- a) As set out in Schedule "A" for the calendar year 2014;
- b) As set out in Schedule "B" for the calendar year 2015; and
- c) As set out in Schedule "C" commencing January 1, 2016.

2. With respect to Benchers of The Law Society of Upper Canada, all remuneration shall be paid to The Law Society of Upper Canada, or as it shall direct.

3. All retainers will be paid quarterly, based on Board and committee membership as of the first day of the calendar quarter, and are cumulative. No adjustments in retainers will be made for changes in Board or committee composition which occur during the quarter.

Signed this ____ day of _____, 20__.

AS WITNESS the corporate seal of the Company.

Chair

Secretary

Schedule “A”

Director Remuneration for Calendar Year 2014

1. \$22,000.00 retainer per annum for each Director other than the Chair and Vice-Chair;
2. \$30,000.00 retainer per annum for each Director serving as Chair and Vice-Chair;
3. \$4,000.00 retainer per annum for each Director serving on a committee other than the committee chair;
4. \$10,000.00 retainer per annum for a Director holding the position of committee chair of any committee other than Audit Committee;
5. \$14,000.00 retainer per annum for a Director holding the position of chair of Audit Committee;
6. \$1,250.00 for each Director in attendance at a meeting of the Board of Directors; and
7. \$750.00 for each Director in attendance at a committee meeting.

Schedule “B”

Director Remuneration for Calendar Year 2015

All Director remuneration for calendar year 2015 will be the same as in Schedule “A” except for the following categories, which replace for calendar year 2015 the equivalent categories set out in Schedule “A”:

1. \$28,000.00 retainer per annum for each Director other than the Chair and Vice-Chair; and
2. \$40,000.00 retainer per annum for each of the positions of Chair and Vice-Chair.

Schedule “C”

Director Remuneration commencing January 1, 2016

All Director remuneration commencing January 1, 2016 will be the same as in Schedule “A” except for the following categories, which replace for the period commencing January 1, 2016 the equivalent categories set out in Schedule “A”:

1. \$35,000.00 retainer per annum for each Director other than the Chair and Vice-Chair; and
2. \$50,000.00 retainer per annum for each of the positions of Chair and Vice-Chair.

*THIS SECTION CONTAINS
IN CAMERA MATERIAL*

TAB 8.3

FOR DECISION

CAPITAL BUDGET TRANSFERS

Motion:

- 13. That Convocation approve budget transfers within the 2013 capital budget totaling \$305,000 to fund renovations to the 4th and 6th floors of Osgoode Hall.**
14. The Capital Allocation Fund is maintained to provide a source of funds for the acquisition and maintenance of the Society's capital assets. At December 31, 2012, the fund balance was \$4 million. The capital budget for 2013 was approved by Convocation as part of the budget process in November 2012. A total of \$3.4 million was approved for facilities and information systems capital projects this year, funded by an \$85 levy on all members.
15. Renovations to the 4th and 6th floors were not included in the 2013 budget at the time it was drawn up but are now planned for the summer months.
16. The renovations are a result of operational changes. The Legal Affairs Department is expanding, the new Tribunals Chair requires space and a centralized Project Management Office is being implemented with the space primarily being drawn from the reconfigured Information Systems area.
17. Internal costing for the renovation and furnishings, including a contingency of 5%, is \$298,000.
18. Some savings have been achieved on current capital projects. In addition there are some projects scheduled for 2013 that can be delayed to 2014 with minimal risk or extra expense. These projects, currently included in the 2013 capital budget identified as the source of funding for the renovations either through savings or by rolling them forward into 2014, total \$305,000.

Tab 8.4

REPORTS FOR INFORMATION

TAB 8.4.1

FOR INFORMATION

**PROPOSAL FOR DEVELOPMENT OF A CERTIFIED SPECIALIST
PROGRAM IN ABORIGINAL LAW**

19. **The Audit & Finance Committee received a report on the development costs for the new Certified Specialist in Aboriginal Law program, amounting to approximately \$53,000, for information and approval for inclusion in the 2014 budget.**

Background

20. Pursuant to By-Law 15 it is the function of the Certified Specialist Board to determine, among other functions, “the areas of law in respect of which licensees may be certified as specialists.” On May 30, 2013 the Certified Specialist Board approved the introduction of a new certified specialty in Aboriginal Law.
21. Although the By-law does not currently require any further approval of the Board’s decision, the Board is seeking the Professional Development and Competence Committee’s approval of the proposal as set out in that Committee’s Report to Convocation.
22. The funding consequences of the new specialty were brought to the Audit and Finance Committee for inclusion in the 2014 and 2015 budgets.

Summary of Financial Implications

23. The incremental costs of developing a certified specialist program in aboriginal law are related to the establishment of a working group of lawyers with demonstrated and extensive experience in aboriginal law and who are committed to develop and refine criteria and standards for certification in accordance with the Law Society’s competence mandate.

24. If approved, it is anticipated that the working group meetings required for the development process would commence in early 2014 and take 18 to 24 months to be completed. The projected costs of this process, comprised primarily of working group travel and accommodation are in the range of \$42,000 to \$53,000 for 2014 and \$32,000 to \$42,000 for 2015.

TAB 8.4.2

FOR INFORMATION

**LIBRARYCO INC. FINANCIAL STATEMENTS FOR THE THREE
MONTHS ENDED MARCH 31, 2013**

- 25. The Committee recommends the first quarter financial statements for LibraryCo Inc. be received by Convocation for information.**



LIBRARYCO INC.
FINANCIAL REPORT
For the three months ended March 31, 2013

KEY POINT SUMMARY

Overall Results

Results for the first quarter identify a deficit of \$136,000 compared to a budgeted deficit of \$157,000. Total expenses are \$2,734,000 and have not varied significantly from budget.

Revenues

1. Law Society grant (line 1) is the lawyer-based fee that is transferred to LibraryCo. This transfer includes amounts for central administration and quarterly transfers to the 47 libraries. The actual grant from the Law Society was \$1,875,000 and matched budgeted amounts for the period.
2. The Law Foundation of Ontario grant (line 2) is provided to LibraryCo to subsidize the purchase of electronic resources.

Expenses

3. Total expenses were \$2,734,000 compared to a budgeted total of \$2,754,000.
4. Salaries and administration expenses (line 5) are lower than budget by \$8,000 because the assistant position to the Board general manager was vacant.
5. Other expenses (line 7) are lower than budget for the period by \$8,000 primarily because of professional development, board of directors' expenses, and web initiatives.
6. The electronic products and services purchased equalled the amount budgeted.

Balance Sheet

7. Cash and short-term investments have decreased by \$365,000 due to the budgeted operating deficits and the decrease in accounts payable and accrued liabilities.
8. Prepays increased by \$29,000 as the new Directors and Officers Insurance Policy for the Associations was paid in March.
9. Accounts payable and accrued liabilities are \$283,000 lower than 2012 as Canada Law Books was paid for in January while in 2012, \$193,000 was accrued.

Other

10. Manitoulin which did not receive a grant in 2013 has continued to incur expenses and will likely run out of surplus by the beginning of 2014. The Committee noted that there are other county libraries who are using accumulated surplus to finance their operations.
11. The deadline for the libraries to report their first quarter results was April 30, 2013.

LIBRARYCO INC.**Schedule of Actual and Budgeted Revenues and Expenses****Stated in Dollars****For the three months ended March 31****Unaudited**

	2013 Actual	YTD Budget	Variance	Annual Budget
REVENUES				
1 Law Society of Upper Canada grant	1,874,631	1,874,631	-	7,498,524
2 Law Foundation of Ontario grant	722,500	722,500	-	722,500
3 Other Income	1,498	-	1,498	-
4 Total revenues	2,598,629	2,597,131	1,498	8,221,024
EXPENSES				
Head office / administration				
5 Salaries and administration	156,396	163,973	7,577	665,500
6 Professional fees	3,634	5,760	2,126	23,000
7 Other	9,250	16,975	7,725	65,705
8 Total Head office / administration expenses	169,280	186,708	17,428	754,205
Law Libraries - centralized purchases				
9 Electronic products and services	892,519	892,519	-	892,519
10 Group benefits and insurance	78,958	84,300	5,342	338,000
11 Other	31,065	26,000	(5,065)	166,800
12 Total Law Libraries - centralized purchases	1,002,542	1,002,819	277	1,397,319
13 County and District law libraries - grants	1,546,839	1,546,875	36	6,187,500
14 Capital and special needs grants	15,482	17,500	2,018	100,000
15 Total County and District Law Libraries Expenses	1,562,321	1,564,375	2,054	6,287,500
16 Total expenses	2,734,143	2,753,902	19,759	8,439,024
17 Excess of expenses over revenues	(135,514)	(156,771)	21,257	(218,000)

This statement includes the revenues and expenses of the LibraryCo entity only.

LIBRARYCO INC.**Balance Sheet****Stated in Dollars***As at March 31***Unaudited**

	2013	2012
Assets		
Current Assets		
1 Cash and short-term investments	1,183,628	1,548,292
2 Accounts receivable	18,535	17,332
3 Law Foundation grant receivable	360,500	361,000
4 Prepays	33,635	5,036
5 Total Assets	1,596,298	1,931,660
Liabilities, Share Capital and Fund Balances		
Liabilities		
6 Accounts payable and accrued liabilities	760,424	1,043,019
7 Total Liabilities	760,424	1,043,019
Share Capital and Fund Balances		
8 Share capital	200	200
9 General fund	335,674	388,441
10 Reserve fund	500,000	500,000
11 Total Share Capital and Fund Balances	835,874	888,641
12 Total Liabilities, Share Capital and Fund Balances	1,596,298	1,931,660

This Balance Sheet includes the financial resources of the LibraryCo entity only.

LIBRARYCO INC.
Statement of Changes in Fund Balances
Stated in Dollars
For the three months ended March 31

	2013		2012	
	General Fund	Reserve Fund	Total	Total
1 Balance, beginning of year	471,188	500,000	971,188	1,034,060
			-	-
2 Excess of expenses over revenues	(135,514)	-	(135,514)	(145,619)
3 Balance, end of period	335,674	500,000	835,674	888,441

TAB 8.4.3

FOR INFORMATION

OTHER COMMITTEE WORK

26. The Audit & Finance Committee reviewed the audited annual financial statements for the Pension Plan for the Employees of the Law Society of Upper Canada.



TAB 9

Report to Convocation June 27, 2013

Professional Regulation Committee

Committee Members

William C. McDowell (Chair)
Malcolm Mercer (Vice-Chair)
Susan Richer (Vice-Chair)
Paul Schabas (Vice-Chair)
John Campion
Robert Evans
Julian Falconer
Janet Leiper
Kenneth Mitchell
Daniel Murphy
Ross Murray
Jan Richardson
Linda Rothstein
Peter Wardle
Roger Yachetti

Purpose of Report: Decision and Information

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

TABLE OF CONTENTS

For Decision

In Camera Item.....	TAB 9.1
---------------------	----------------

For Information

Alternative Business Structures Working Group Report.....	TAB 9.2
---	----------------

COMMITTEE PROCESS

1. The Professional Regulation Committee (“the Committee”) met on June 13, 2013. In attendance were Malcolm Mercer (Vice Chair), Susan Richer (Vice-Chair), John Campion, Robert Evans, Janet Leiper, Ross Murray, Daniel Murphy, Linda Rothstein, and Peter Wardle. Susan McGrath attended the meeting to present the first report of the Alternative Business Structures (ABS) Working Group. Staff members attending were Zeynep Onen, Jim Varro, Naomi Bussin, Hershel Gross, Lisa Osak, and Margaret Drent.

*THIS SECTION CONTAINS
IN CAMERA MATERIAL*

FOR INFORMATION

REPORT TO CONVOCATION

ALTERNATIVE BUSINESS STRUCTURES WORKING GROUP

39. On December 9, 2011, Convocation approved its priorities for the 2011-15 Benchers term. Convocation identified an examination of Alternative Business Structures for the delivery of legal services as one of the priorities.
40. The Terms of Reference for the Alternative Business Structures (ABS) Working Group were reported to Convocation on September 27, 2012.
41. The Working Group Chairs are Susan McGrath and Malcolm Mercer. The members of the Working Group are Susan Elliott, Kenneth Mitchell, James Scarfone, Baljit Sikand, Alan Silverstein, Harvey Strosberg and Peter Wardle.
42. In accordance with the Terms of Reference, the Working Group met regularly between July 2012 and June 2013 to inform itself on developments in Canada and abroad on new and existing alternative legal service delivery models and structures, financing arrangements, and related regulatory requirements. The Working Group prepared a report which describes these deliberations in greater detail.
43. The Professional Regulation Committee and Paralegal Standing Committee reviewed this report on June 13, 2013.
44. Attached at **TAB 9.2.1** is the ABS Working Group's first report to Convocation.



Tab 9.2.1

Alternative Business Structures Working Group June 27, 2013

First Report to Convocation

Working Group Members

Susan McGrath (Co-Chair)
Malcolm Mercer (Co-Chair)
Susan Elliott
Kenneth Mitchell
James Scarfone
Baljit Sikand
Alan Silverstein
Harvey Strosberg
Peter Wardle

Purposes of Report: Information

**Prepared by the Policy Secretariat
(Juda Strawczynski – 416-947-3997)**

ALTERNATIVE BUSINESS STRUCTURES WORKING GROUP FIRST REPORT TO CONVOCATION

Introduction

1. This is the first report to Convocation of the Alternative Business Structures Working Group (“the Working Group”).
2. Since September 2012, the Working Group has engaged in a review of emerging regulatory models in other jurisdictions with a focus on business structures and alternative means of legal services delivery. The focus of the Working Group was whether these emerging regulatory models could improve the delivery of legal services in Ontario while protecting clients and the public interest.
3. Alternative business structures (“ABSs”) is a term that can apply to any form of non-traditional business structure as well as alternative means to deliver services and may include, for example:
 - a. Alternative ownership structures, such as non-lawyer investment or ownership of law firms, including equity financing ;
 - b. Firms offering legal services together with other professionals; and
 - c. Firms offering an expanded range of products and services, such as do-it-yourself legal forms.
4. As it continues with its work, the Working Group will consult with lawyers, paralegals and other interested groups in Ontario on these emerging regulatory models and their application to legal services delivery in this context. These next steps are described in greater detail later in this report.

Background

5. On December 9, 2011, Convocation approved its priorities for the 2011-15 Benchers term, which included an examination of alternative business structures for the delivery of legal services. Convocation’s April 2012 work plan for this priority highlighted that rapid

changes in legal regulation and the development of ABSs in other jurisdictions necessitated consideration of business structures and law firm financing by the Law Society. The Work Plan called for the creation of a Working Group to study the issues.

6. The Working Group was then established and is composed of Malcolm Mercer and Susan McGrath (co-chairs), Susan Elliott, Kenneth Mitchell, James Scarfone, Baljit Sikand, Alan Silverstein, Harvey Strosberg, and Peter Wardle.
7. The Working Group's Terms of Reference were reported to Convocation for information on September 27, 2012.¹ According to the first three items of the Working Group's Terms of Reference, the Working Group will:
 - a. inform itself on developments in Canada and abroad on new and existing alternative legal service delivery models and structures, financing arrangements and the related regulatory process;
 - b. consider these developments in light of regulatory requirements and develop a set of criteria to assess and prioritize these new models and structures. Criteria may include access to the services by the public (access to justice), public protection (risk assessment of various models), and other principles that inform the Law Society's public interest mandate, including the requirement that standards of professional conduct be proportionate to the significance of the regulatory objectives sought to be realized; and
 - c. determine the range of legal service delivery service models and financing arrangements that should be explored and examine the existing regulatory constraints on delivery arrangements and financing arrangements.
8. To date, the Working Group's primary focus has been on item a. above. Pursuant to its Terms of Reference, the Working Group will work to identify regulatory issues arising from alternative forms of legal service delivery that may be considered by the Law Society.

The Working Group's Activities to Date

¹ The Terms of Reference of the Alternative Business Structures Working Group are **TAB 1.2**.

9. As indicated in its mandate, the Working Group first embarked on a series of meetings and literature reviews to inform itself of current regulatory approaches to traditional structures for the delivery of legal services, and developments in ABSs, law firm financing, and related regulatory approaches in a number of other jurisdictions. In addition, we reviewed permitted structures and the practice and legal services needs context in Ontario. The review included:
 - a. an environmental scan focusing on legal services markets in different jurisdictions, regulatory approaches taken in these jurisdictions, the approach adopted to ABSs, alternative financing structures and their impacts; and
 - b. presentations to the Working Group by regulators and commentators in the areas of ABS, law firm financing and those knowledgeable on developments in the Canadian legal services marketplace, to participate in presentations to the Working Group. Between September 2012 and February 2013, the Working Group held four meetings with experts from Australia, England & Wales, the United States, and Canada.
10. The Working Group is grateful to the following individuals for sharing their knowledge and insights:
 - a. Steve Mark, Legal Services Commissioner, New South Wales (“NSW”);
 - b. Tahlia Gordon, Research and Projects Manager, Office of the Legal Services Commissioner, NSW;
 - c. Chris Kenny, Chief Executive, Legal Services Board, England & Wales;
 - d. Samantha Barrass, Executive Director, Solicitors Regulatory Authority;
 - e. Professor Paul Paton, Vice Provost, University of the Pacific, Professor of Law, and Reporter – ABA Ethics 20/20 Commission American Bar Association;
 - f. Professor Laurel Terry, Professor of Law, Penn State University;
 - g. Mitch Kowalski, Ontario lawyer and author of *Avoiding Extinction: Reimagining Legal Services for the 21st Century* (American Bar Association, 2012); and
 - h. Jordan Furlong, member of the Law Society, consultant and author of blog *Law21 – Dispatches from a legal profession on the brink* (www.law21.ca).

11. Aside from reviewing the Law Society's current permitted business structures², a wide ranging review of developments in Ontario and other jurisdictions was undertaken. The extensive material made available to the Working Group and reviewed in this first phase of the study included
- a. recent examples of innovation in the provision of legal services here and abroad;
 - b. examples of unmet legal needs and drivers for change in the current Ontario marketplace;
 - c. reports by the Competition Bureau;
 - d. regulatory constraints imposed by business structures of other regulated professions in Ontario;
 - e. other Canadian jurisdictions' experience with business structures and alternative forms of delivering services;
 - f. country-specific developments in the regulating legal services and ABSs;
 - g. legal products and/or legal services being provided over the Internet and consideration of the regulatory implications;
 - h. articles and studies considering ABSs and access to justice;
 - i. Various publications by academics, regulators, and experts related to:
 - i. business structures, law firm ownership, professionalism and legal ethics;
 - ii. regulatory barriers to innovation;
 - iii. the impacts of globalization and technology on lawyer regulation, including the effects of disruptive technologies; and

² The Law Society has for a number of years permitted both Multi-Disciplinary Partnerships (MDPs) and affiliations between licensees and non-licensees, which in certain other jurisdictions are presently prohibited.

Law Society By-Law 7 permits lawyers and paralegals to form a Multi-Discipline Practice with professionals who practice a profession, trade or occupation that supports or supplements the practice of law, or the provision of legal services. The professionals with whom a lawyer or paralegal may form an MDP may include accountants, tax consultants, trademark and patent agents. An "affiliation" refers to an arrangement according to which a lawyer or a paralegal regularly joins with a non-legal entity (such as an accounting firm) to promote and deliver services to the public.

In addition to these business structures, by adopting paralegal regulation, Ontario also offers an additional means of delivering legal services through licensed paralegals, who provide legal services within their scope of practice through the same business structures as lawyers. As noted in the recent five year review, paralegal regulation balanced consumer protection with facilitating access to justice for Ontarians, who now may access legal services through over 4,200 licensed paralegals.

- iv. risk-based and outcomes focused regulation as a potential means of enhancing lawyer competency and reducing complaints to regulators.

Innovations in Business Structures, Financing and Regulatory Approaches from Other Jurisdictions

12. The Working Group has noted that the current regulatory approaches regarding permitted business structures and financing rules for entities delivering legal services vary greatly by jurisdiction. The continuum ranges from jurisdictions restricting the delivery of legal services to traditional practice structures, where external ownership of law firms and external capital are prohibited, to jurisdictions that have expanded the range of structures through which legal services may be delivered by permitting new forms of law firm ownership and financing. A chart summarizing regulatory approaches in other jurisdictions appears at the end of this report.

Canadian Approaches

13. In Canada, each of the fourteen Canadian law societies regulates their members in the public interest. Certain Law Societies restrict the delivery of legal services to sole practitioners and lawyers practicing in partnership or under the auspices of a professional corporation. It is beyond the scope of this report to review all regulatory practices in Canada; however, the Working Group found that developments in Quebec, British Columbia and Nova Scotia are of particular relevance to the Working Group, and some of these are highlighted below.

Quebec

14. The Barreau du Quebec, aside from traditional forms of practice, permits an advocate to practice law in a limited liability partnership, a professional corporation and a multidisciplinary practice. Regulations require law firms in these practices to provide a detailed undertaking, as follows:
 - a. The entity must ensure that members who engage in professional activities within the firm have a working environment that permits compliance with any law applicable to the carrying out of professional activities.

- b. The entity must ensure that the partnership, corporation and all persons who comprise the partnership, corporation, or are employed there are in compliance with legislation and regulations.
- 15. In Quebec, ownership of professional corporations practicing law, for example, is open to members of other regulated professions and to others so long as at least 50% of the voting shares of the professional corporation are owned by lawyers or other regulated professionals.³

Nova Scotia

- 16. Since 2005, the Nova Scotia Barristers Society has had express statutory authority to regulate law firms. In Nova Scotia:
 - a. Complaints may be made to the regulator regarding a law firm for professional misconduct.
 - b. Law firms must designate a lawyer to receive communications from the Barristers Society and assist with investigations.
 - c. A firm found guilty of professional misconduct may be fined, and if a Law Society discipline panel makes an adverse finding against a law firm, the panel may order any other condition as is appropriate; and,
 - d. An inter-jurisdictional law firm must comply with all law firm regulations, and a practicing lawyer may only practice law as a member of an inter-jurisdictional law firm if the firm complies with the Nova Scotia Barristers' Society regulations.⁴

British Columbia

- 17. The Law Society of British Columbia permits multi-disciplinary practices ("MDPs"). In June 2012, the Society approved rules changes to allow paralegals (supervised by lawyers) to perform additional duties. The Law Society, B.C. Supreme Court and B.C.

³ Regulation respecting the practice of the profession of advocate within a limited liability partnership or joint-stock company and in multidisciplinary, RRQ, c B-1, r 9.

⁴ Legal Profession Act, S.N.S. 2004, c. 28.

Provincial Court have also embarked upon a two-year pilot project to permit designated paralegals to appear in court.⁵

18. British Columbia has also given preliminary consideration to alternative business structures. In October 2011, its Independence and Self-Governance Advisory Committee presented *Alternative Business Structures in the Legal Profession: Preliminary Discussion and Recommendations*. At that time, this Committee concluded as follows:

There are many calls for significant changes in the way that legal services are offered. The current model does not seem to be working in a way that allows people who need to access legal advice to obtain it in an affordable way. There will be considerable pressure to adopt new models for the delivery of legal services, and the Law Society as the regulator of lawyers and the body charged with the responsibility of protecting the public interest in the administration of justice in British Columbia must be prepared to give them serious consideration. However, core values of the legal profession and important rights that clients who need legal advice are entitled to expect must not be lost in a rush to adopt new ideas simply because business and competition models argue in their favour. Many of the protections that the legal profession offers clients have been obtained at significant cost over the centuries and to abandon them lightly would be undesirable for all concerned. However, where benefits to the consumer can be attained with proper regulation to ensure that professional values are not lost, the Law Society must develop proper regulation to allow for changes to the profession through which improved access to legal services can be attained.⁶

19. Since the release of the above report, statutory amendments have been made that confer new powers on the Law Society of B.C. to regulate law firms, similar to those available to the regulator in Nova Scotia. The *Legal Profession Amendment Act, 2012* (“LPAA”) provides that the Law Society of B.C. may:

⁵ The term “designated paralegal” in this context refers to a paralegal who can perform additional duties under a lawyer’s supervision (see <http://www.lawsociety.bc.ca/newsroom/highlights.cfm#c2663>).

⁶ Law Society of British Columbia, *Alternative Business Structures in the Legal Profession: Preliminary Discussion and Recommendations*, October 2011, pp. 21-22.

- a. receive complaints against law firms;
- b. investigate law firms;
- c. commence a discipline hearing against a law firm; and
- d. if a Law Society discipline panel makes an adverse finding against a law firm, discipline the firm by reprimand, fine, or other order or condition as is appropriate.⁷

Australia and New South Wales

20. Australia was an early adopter of ABS regulation. Since 2000, New South Wales has permitted full incorporation as have other Australian states and territories. Legal practices may incorporate under ordinary company law without any restrictions on who may own shares or on what type of business may be carried on.⁸ In May 2007, Australia was the first jurisdiction in the world to permit the public listing of a law firm. Slater & Gordon, a national firm listed on the Australian Stock Exchange.⁹
21. The New South Wales regulatory system is based in part on entity regulation. The Office of the Legal Services Commissioner (OLSC), New South Wales may audit Incorporated Legal Practices (ILPs) for their compliance pursuant to the *Legal Profession Act 2004* and the *Legal Profession Regulations 2005*. ILPs are encouraged to complete annual voluntary self-assessments regarding the entity's ethical and management infrastructures. Each ILP must have a "Legal Practitioner Director" who is responsible for implementing "appropriate management systems". This term is not defined in the legislation, although the OLSC has developed ten objectives of a sound legal practice with which ILPs must comply.¹⁰ Failure by the Legal Practitioner to implement appropriate management systems could be the basis of a finding of professional misconduct.¹¹

⁷ *Legal Profession Act*, S.B.C. 1998, c. 9.

⁸ Susan Fortney and Tahlia Gordon, "Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation", Hofstra University School of Law Legal Studies Research Paper No. 13-02 (2013).

⁹ Integrated Legal Holdings became the second listed firm on the ASX on August 17, 2008.

¹⁰ The ten areas are negligence, communication, delay, liens/file transfers, cost disclosure/billing practices/termination of retainer, conflict of interests, records management, undertakings, supervision of practice and staff, and trust account regulations. Susan Fortney and Tahlia Gordon, "Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation", *supra* note 8, p. 15.

¹¹ *Legal Profession Act 2004*, (NSW), s. 140(5).

22. The approach taken by New South Wales is outcomes-based – rather than requiring ILPs to adhere to proscriptive regulations and requirements, regulation is based on their systems. ILPs have the freedom to structure their practices in new and innovative ways that are suitable to them, as long as their systems comply with the ten principles of appropriate management systems.
23. In addition, the approach in New South Wales is based on an assessment of the risk posed by each ILP. The requirement to implement and maintain “appropriate management systems” is complemented by a comprehensive risk-profiling program and audit, or practice review program, that is conducted by the Office of the Legal Services Commissioner.¹²

England & Wales

24. England & Wales is experiencing rapid changes in how legal services are regulated and provided to the public. Following the Clementi Report, which recommended major reforms to the regulation of legal services in England & Wales, the *Legal Services Act 2007* (“LSA”) was enacted. Under the LSA, the objectives of the regulation of legal services have been broadened. In addition to protecting the public interest and improving access to justice, the regulation of legal services is also founded on objectives such as protecting and promoting consumer interests and competition. The LSA expressly permits the provision of legal services through ABSs in furtherance of these objectives.
25. Under the LSA, “legal activities” are regulated by eight separate “approved regulators”. ABSs may be approved by certain approved regulators. The first ABSs were approved by the Council of Licensed Conveyancers in October 2011, and by the Solicitors Regulatory Authority (“SRA”) in early 2012. Since then, the SRA has approved over 100 ABSs.
26. As in Australia, ABSs in England & Wales are regulated in part through entity regulation. For example, in order to be approved by the SRA, ABS applicants generally need to provide the SRA with the following information:
 - a. the firm’s regulatory history and the type of legal work to be conducted,

¹² Susan Fortney and Tahlia Gordon, “Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation”, *supra* note 8 at 11.

- b. business practices (including policies and procedures, the applicant's proposals to meet the regulatory objectives and proposed governance structure), details of personnel, indemnity insurance, client money (including how the applicant protects client money), and;
- c. a suitability declaration.

The SRA assesses ABS applicants and maintains the authority to deny ABS licenses.

27. ABSs approved to date have varied in size, structure and expertise. Some of the entities include:
- a. ABSs in which non-lawyer staff have become equity partners.
 - b. ABSs in which family members, including spouses, become part owners of a law firm.
 - c. Co-operative Legal Services ("CLS"), part of the Co-Op Group, the UK's largest mutual business, whose businesses include, among others, a national chain of food stores, banking, insurance, pharmacy, and funeral services. The Co-Op Group operates 4,800 retail outlets, and employs over 106,000 people. CLS currently provides fixed fee legal services in conveyancing, family, wills and probate, personal injury, and employment law.
 - d. Insurance defense firm (Keoghs LLP), which became an ABS and obtained a 22.5% private investment from LDC, a part of Lloyds Banking Group;
 - e. Russell Jones & Walker a 425 person, 10 location firm with most of its revenue earned from personal injury matters, which was acquired by Australia's Slater & Gordon, and converted into an ABS; and
 - f. Firms combining legal expertise with other expert services, such as an ABS firm providing human resources services together with related legal services.
28. It is important to note that new business structures were introduced in England and Wales as part of regulatory reform that included entity and outcomes-based regulation. The overall objective was to permit greater latitude for regulated entities to organize their delivery of legal services and their business models to permit flexibility to enhance competition. The regulatory model is based on principles and outcomes as requirements set out by the regulator. Firms are required to provide information to the SRA to enable

that office to assess the risk posed by the firm to its regulatory objectives.¹³ Firms are monitored to determine outcomes, and they are also risk rated to determine the nature of the monitoring. It is still too early to know whether this approach will reduce the number of complaints in England and Wales, and whether it will enhance competition such that access to legal services is improved.

The United States

29. In the United States, currently, only the District of Columbia permits limited non-lawyer ownership or management of law firms, similar to the Law Society's multi-disciplinary partnership model.
30. In 2009, the American Bar Association ("ABA") established the ABA Commission on Ethics 20/20 (the "Commission") to review the ABA Model Rules of Professional Conduct and American models of lawyer regulation in the context of the globalization of legal services and technological advancements. In November 2009, the Commission's Preliminary Issues Outline noted that "core principles of client and public protection [can] be satisfied while simultaneously permitting U.S. lawyers and law firms to participate on a level playing field in a global legal services marketplace that includes the increased use of one or more forms of alternative business structures."¹⁴
31. The Commission established a Working Group on Alternative Business Structures (the "ABA Working Group") to study this issue. By June 2011, the ABA decided against certain forms of ABSs, including MDPs, publicly traded law firms, and passive non-lawyer investment or ownership of law firms. Although the ABA Working Group continued to consider a proposal to permit non-lawyer employees of a firm to have a minority financial interest in the firm and share in the firm's profits, in April 2012, the Commission announced that it would not propose changes to ABA policy prohibiting non-lawyer ownership of law firms.

¹³ Jane Hunter, "Outcomes-Focussed Regulation in England & Wales: The Compliance Officer Roles", Quality Assurance Review, Winter 2012, p. 10.

¹⁴ ABA Commission on Ethics 20/20, *Issues Paper Concerning Alternative Business Structures* (April 5, 2011).

32. Despite the current regulatory restrictions in law firm ownership structures, more aggressive efforts are being taken by several U.S. based companies seeking to reshape how certain legal products and legal services are delivered to consumers in the United States and globally. Such private corporate innovators include, for example:
 - a. Rocket Lawyer and Legal Zoom, which are developing websites which combine “do-it-yourself” legal form services and traditional legal services, to serve individuals and corporate clients.
 - b. Axiom Law, which offers in-house counsel legal secondments, legal outsourcing services, and project management expertise, recently obtained a further \$28 million in funding from a growth equity firm.
33. There are also pressures by traditional law firms seeking to compete in broader legal services markets. For example, the New York firm of Jacoby & Myers commenced litigation in 2011 to challenge regulations in New York, New Jersey and Connecticut prohibiting non-lawyer ownership in law firms. In October 2012, the firm began selling online legal forms in addition to providing traditional legal services provided by an attorney.

The Working Group’s Observations

34. The Working Group has observed that jurisdictions embracing ABSs have done so for a number of reasons.
35. Some jurisdictions, such as England and Wales, instituted ABS regulations as a partial response to concerns about anti-competitive regulation of legal services. This also provided an opportunity to explore innovations in legal service delivery. Further, alternative delivery models were adopted in an effort to develop a robust legal services industry as part of a national economic liberalization strategy.
36. The jurisdictions that permit ABSs are of the view that these reforms will enhance access to justice, although this was not necessarily articulated as a reason for the change.
37. As part of a shift towards entity (or firm) regulation, the motivation in some jurisdictions was to more effectively address complaints of breaches of professional conduct. At least

in New South Wales, there appears to have been a substantial drop in the number of complaints as a result of entity-based and outcomes-focused regulation despite liberalization of ownership rules.

38. The Working Group notes that the circumstances that prompted change, and on occasion fundamental change, in legal services regulation elsewhere, may not exist in Ontario. However, the Working Group is of the view that an opportunity exists to learn from these developments, determine what value they may hold for lawyer and paralegal regulation in Ontario, and explore possible alternative models for the delivery of legal services. To the extent that innovative forms of legal service delivery can enhance access for the consumer, provide lawyers and paralegals with new opportunities and permit new forms of regulation by the Law Society that remain robust and effective in the public interest, the Working Group believes this merits careful study.
39. In this context, the Working Group noted regulatory and other issues that are currently the subject of Law Society attention. These include the following:
 - a. the fact that small and sole practitioners in Ontario at times struggle financially in an environment where there are also clients who are unable to afford lawyers;
 - b. an increased awareness of the issues of access to justice faced by Ontarians;
 - c. an awareness of the problem of an increasing incidence of expanding unauthorized practice by non-licensees;
 - d. the growing trend of the provision of legal services over the Internet, and related risks to the public posed by unregulated service providers;
 - e. the emergence of websites offering legal forms which may also include legal services for a public seeking self-help information;
 - f. increasing incidence of Ontario lawyers in partnership within law firms located in foreign jurisdictions; and
 - g. addressing the regulatory challenges that arise when professional conduct issues are not confined to a single licensee, but concern the firm overall.
40. The Working Group notes that its task encompasses a very large topic that could include many components of regulation. Much of the emerging regulatory activity, particularly in England and Wales is still early in its implementation. For that reason, it is too early to

assess the merits of English regulatory change, and also how it may affect regulation in Ontario. Nevertheless, there are valuable lessons to be learned from these jurisdictions, and particular aspects of these changes that should continue to be monitored. On the other hand, there has been substantial experience with new regulatory models and business structure liberalization in Australia which may be of assistance in Ontario.

41. In the next phase of the Working Group's work, out of its review of the broad sweep of regulatory change in these jurisdictions, the Working Group will identify those value propositions that merit the Law Society's continued attention as relevant to the needs of Ontarians. For example, whether any such change will enhance access to justice, and provide new practice opportunities.
42. In addition, the Working Group has identified some potential amendments that perhaps should be considered in the near term to support the Law Society's ongoing initiatives including access to justice: entity regulation, limited non-licensee ownership in law firms and a review of existing constraints on business structures. These are described further below.

Entity (Firm) Regulation

43. Jurisdictions that permit ABSs (Australian jurisdictions and England and Wales) have also amended their legislation to permit the regulation of the business entity through which professional legal services are delivered in addition to the individual professional legal service providers. As noted earlier, British Columbia, Quebec and Nova Scotia are also either regulating firms, or have the legislated authority to do so.
44. The Working Group's preliminary thoughts on entity regulation have led it to consider some potential benefits.
45. Evidence from New South Wales suggests that entity regulation, and the use of self-assessment tools promotes professional practices and conduct, and a corresponding substantial decrease in the number of complaints.¹⁵

¹⁵ Christine Parker, Tahlia Gordon, and Steve Mark "Regulating Law Firm Ethics Management: An Empirical Assessment of the Regulation of Incorporated Legal Practices in NSW", *Journal of Law and Society* (2010); Susan

46. Entity regulation could assist in addressing certain regulatory gaps, such as issues that may arise when a lawyer departs a law firm, or complaints of professional misconduct that relate to systemic issues at the entity level.
47. The Working Group will consider whether and how entity regulation may be appropriate for consideration by the Law Society.

Law Firm Ownership

48. The Australian experience (in New South Wales) suggests that it may be possible to permit some degree of outside ownership in a law firm to permit additional financing options, particularly for small and sole practitioners.
49. The Working Group's review of other Ontario regulators shows that some health professions in Ontario have permitted individuals (such as family members, in the case of medical and dental professional corporations), or investors, in the case of architecture professional corporations, to own shares.¹⁶ In Quebec, current standards permit ownership by regulated professionals generally with minority ownership by others being permitted.
50. The Working Group will consider funding options for firms in more detail including their potential impacts on professionalism, the ethical delivery of legal services and their potential to support increased financial viability in practice.

Review of Existing Constraints on Business Structures

51. Business structure and practice requirements are generally developed to ensure that licensees provide legal services that are aligned with professional responsibilities and thereby protect the public. Over time, with the emergence of new issues and in a

Fortney and Tahlia Gordon, "Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation", *supra* note 8.

¹⁶ The regulatory body for Ontario architects permits up to forty-nine percent of the voting shares in an architecture firm (either professional corporation or partnership) to be owned by an external investor. Professional engineering firms do not have minimum requirements with respect to the ownership of an engineering firm, although there must be at least one member of the regulatory body with a minimum of five years' professional experience who will assume responsibility for, and supervise the services to be provided.

changing environment, Law Society regulation may become under-inclusive, by failing to address new or emerging circumstances requiring regulation. It can also be over-inclusive, by regulating to protect against a particular harm which may no longer be an issue.

52. The *Law Society Act* requires the Society to ensure that standards of professional conduct for licensees are proportionate to the regulatory objective sought to be realized. In keeping with this objective, the Working Group believes that a review of existing constraints on business structures would be appropriate to determine whether they still serve their intended purpose, or whether they require amendment or deletion.¹⁷
53. This review could include, for example:
- a. The absolute prohibitions on fee-sharing and referral fees with non-licensees;
 - b. The requirements and restrictions for multi-discipline practices and affiliations;
 - c. The restrictions on licensees employed by non-licensees or corporate entities.
54. The Working Group notes that such shorter term projects, if recommended, would provide the Law Society with a graduated approach to alternative regulatory structures that would permit us to take advantage of what has been learned in other jurisdictions but with an evolutionary implementation that is aligned with ongoing legal services and justice activity.

Next Steps - Consultation

55. The Working Group believes that that in order to understand the full potential and impact of the various ABS changes the Working Group has noted, it is important to consult outside the Law Society.
56. During the balance of its mandate, the Working Group expects to:
- a. Engage with the professions about these issues informally through a series of communications with the profession through articles, bulletins, and meetings, in order to find out their views on these issues in general.

¹⁷ A similar initiative is currently being undertaken by the SRA in England & Wales.

- b. Host a symposium in early fall 2013 to engage more deeply on the issues during a day-long meeting. The symposium would include stakeholders such as lawyer and paralegal groups, the academic community, organizations in the justice sector and consumer groups to obtain their views on ABS regulation and law firm financing.¹⁸
 - c. Prepare a series of options for consideration by the Law Society, following the symposium. This will form the basis for a report that should eventually include options on reforms for Convocation's consideration. A discussion of reforms would include criteria for assessing these reforms. Following this report, it may be appropriate to engage in a further phase of consultation prior to regulatory changes associated with the reforms being presented to Convocation for decision.
57. Accordingly, the Working Group will present its report with options to Convocation in the spring of 2014, with both short and long term recommendations for action.

¹⁸ Existing Policy Secretariat and Professional Regulation Division budgets will cover the costs associated with the first consultation phase, based on a draft budget.

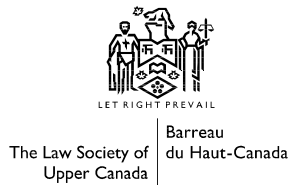
ABS Working Group
Firm Regulation and Business Structures in Other Jurisdictions

Jurisdiction	Firm Regulation	Permitted Business Structures
Quebec	Entity must ensure that members who engage in professional activities within the firm have a working environment that permits compliance with any law applicable to the carrying out of professional activities.	Ownership of professional corporations practising law is open to members of other regulated professionals so long as 50% of the voting shares of the professional corporation are owned by lawyers or other regulated professionals.
Nova Scotia	<p>Since 2005, Nova Scotia Barristers Society has had express statutory authority to regulate law firms.</p> <ul style="list-style-type: none"> - Complaints may be made to the NSBS regarding a law firm. - Law firms must designate one lawyer to receive communication from the Barristers Society and assist with investigations. - A firm found guilty of professional misconduct may be fined. If a Law Society discipline panel makes an adverse finding against a law firm, the panel may order any other condition as appropriate. 	<p>Lawyers may practice in limited liability partnerships.</p> <p>Council may make regulations</p> <ul style="list-style-type: none"> a) permitting practice arrangements between lawyers and non-lawyers.; b) respecting conditions to be met in such practice arrangements; c) providing for the registration of an entity embodying such arrangements; d) specifying any requirements respecting such arrangements that are necessary to protect the public interest.
British Columbia	The Law Society of British Columbia may receive complaints against law firms, investigate law firms, commence a discipline hearing against a law firm, and, if a Law Society discipline panel makes an adverse finding against a law firm, discipline the firm by reprimand, fine or other order or condition as is appropriate. ¹⁹	Permits Multi-Disciplinary Practice.

¹⁹ Although the legislation gives the LSBC these powers, they have not yet been used. Regulations will be developed in this area.

Jurisdiction	Firm Regulation	Permitted Business Structures
England and Wales	A system of co-regulation governs the regulation of legal services. The Legal Services Board serves as the oversight regulator. Several “approved regulators” serve to regulate legal activities restricted to legal professionals. The Solicitors’ Regulatory Authority (SRA) is an approved regulator that regulates not only solicitors, but the firms in which they work.	Alternative Business Structures permitted. The SRA takes a risk-based (as opposed to rules-based) approach to considering applications for ABSs. ABS applicants generally need to provide the SRA with: organizational details (including the firm’s regulatory history and the type of legal work to be conducted), business practices (including policies and procedures, the applicant’s proposals to meet the regulatory objectives and proposed governance structure), details of personnel, indemnity insurance, mechanisms for the protection of client funds, and a suitability declaration.
New South Wales	Incorporated Legal Practices are subject to entity regulation by the Office of the Legal Services Commissioner, NSW (OLSC). The OLSC may audit ILPs for their compliance with legislation. Each ILP must have a “Legal Practitioner Director” who is responsible for implementing “appropriate management systems”. Failure to do so could be a basis for a finding of professional misconduct for the Legal Practitioner Director.	Alternative Business Structures permitted.
New York	New York disciplines law firms as well as individual lawyers.	New York Rule of Professional Conduct 5.4 prohibits non-lawyer investment in law firms. This prohibition is being challenged by law firm Jacoby & Myers.
New Jersey	New Jersey disciplines law firms as well as individual lawyers.	ABSs prohibited.
Washington DC	Entities regulated through individual members, in part by imposing requirements on lawyers with managerial authority within a firm.	D.C. Rules of Professional Conduct R. 5.4 permit non-lawyer ownership interests in law firms if the “partnership or organization has as its sole purpose providing legal services to clients”.

*THIS SECTION CONTAINS
IN CAMERA MATERIAL*



Tab 12

Report to Convocation June 27, 2013

Priority Planning Committee

Committee Members

Thomas Conway (Chair)

Raj Anand

Marion Boyd

Christopher Bredt

Cathy Corsetti

Howard Goldblatt

Michelle Haigh

Carol Hartman

William McDowell

Susan McGrath

Malcolm Mercer

Janet Minor

Julian Porter

Purpose of Report: Information

**Prepared by the Policy Secretariat
(Jim Varro 416-947-3434)**

TABLE OF CONTENTS

Convocation's Priority Planning - Status of Work on Convocation's Priorities.....	Tab 12
Table – Status of Work on the Eight Priorities.....	Tab 12.1
<i>In camera</i> Material.....	Tab 12.2

FOR INFORMATION

**CONVOCATION'S PRIORITY PLANNING -
STATUS OF WORK ON CONVOCATION'S PRIORITIES**

Committee Process

1. The Priority Planning Committee ("the Committee") has prepared this status report for Convocation's information on the work completed or in progress on Convocation's policy agenda. This report follows the report to Convocation in April 2012 which included a work plan on the priorities.

Background

2. In March 2007, Convocation approved the following recommendations of the Governance Task Force with respect to prioritizing and planning Convocation's policy agenda:
 - a. Convocation shall institute a full review of Convocation's priorities for achieving strategic objectives for the Law Society, to be held at a meeting of benchers soon after each bencher election and as appropriate during the bencher term; and
 - b. Convocation shall establish a standing committee called the Priority Planning Committee to assist Convocation in planning its priorities. In particular,
 - i. The Treasurer shall recommend members of the Committee for Convocation's approval, in accordance with the By-Laws;
 - ii. Convocation shall appoint the chair and any vice-chairs of the Committee, in accordance with the By-Laws;
 - iii. In addition to the bencher members of the Committee, the Chief Executive Officer shall be a non-voting member of the Committee;
 - iv. The mandate of the Committee is to
 - A. recommend for Convocation's consideration and approval the priorities for policy objectives and submit those recommendations to Convocation in the process described in a. above,
 - B. periodically review the priorities previously established by Convocation, and new policy issues that may arise, and recommend to Convocation on an ongoing basis the priorities to be considered and approved by Convocation in the future, and

- C. report annually to Convocation on the status of Convocation's priorities.
3. A Planning Session was held from September 25 to 27, 2011 following the benchers election that year. At the Session, attendees identified a number of priority areas which should be the focus for 2011 to 2015. Committee meetings in the fall of 2011 resulted in the presentation to Convocation of six priority areas and two other areas linked to the effectiveness with which the Law Society carries out its mandate. These eight areas are:
- Access to Justice
 - Competency and professional standards
 - Equity, diversity and retention
 - Tribunals issues
 - Business structures and law firm financing
 - Professional regulation
 - Effective communication and outreach
 - Convocation governance effectiveness
4. On December 9, 2011, Convocation approved these priority areas.
5. Following consultation with the chairs of the standing committees and task forces and members of the senior management team, on April 26, 2012 the Committee presented to Convocation a work plan to achieve the priorities approved by Convocation for the 2011 – 2015 term. Included was an update on the implementation of initiatives that had been carried out by the Law Society to address the approved priorities and implement the work plan. At that meeting, Convocation approved the work plan.
6. Convocation also confirmed its earlier policy for the process for adding new issues and initiatives to the work plan, as follows:
- a. Depending on the nature of the issue that arises, the Treasurer may discuss it with the chair of the relevant committee and the Chief Executive Officer to

determine whether the issue can be accommodated within the current work plan. If it can be accommodated, the work plan will be amended and reported to Convocation for information.

- b. If the issue cannot be accommodated within the current work plan, the issue will have to be scoped out, and the financial and resource implications determined. The Committee will then present the issue to Convocation for its decision on whether to add it to the work plan.

- 7. This is the Committee's first report following April 2012 Convocation on the status of the initiatives undertaken to achieve Convocation's priorities.

The Status of Work on the Priorities

- 8. Earlier this month, Committee members reviewed the work done on the priorities for the 2011 – 2015 bench term. Set out in the table at **Tab 12.1** is a report on each of the priorities (summarized, based on the April 2012 report) and the status of the work done to date.
- 9. The Committee reviewed the progress of work on the priorities Convocation identified in accordance with its March 2007 policy. The review showed that significant work has been completed on the priorities. In the Committee's view, the priority planning process Convocation follows, which provides a structured approach to planning and prioritizing the Law Society's policy agenda, has assisted in advancing the effectiveness of the Law Society's mandate. The Committee will continue its work to enhance and make more robust the priority planning process in future years.

Next Steps

- 10. The Committee will continue to monitor the progress on the work on the priorities. It will also review matters that may arise that may be accommodated within the work plan for the priorities or new matters that require review and assessment before they are recommended for an addition to the work plan.

11. The Committee will also consider the impact of the Chief Executive Officer's operational review on the Law Society's strategic direction for the remaining years in the bencher term and how that may affect the priority agenda.

TAB 12.1

Status of Current Work on the Eight Priorities

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
<p>ACCESS TO JUSTICE</p> <ol style="list-style-type: none"> 1. Resources, information/communications and leadership by the Law Society; 2. Facilitating access to legal and administrative services, including publicly-accessible information, legal referral services, legal aid, alternative dispute resolution, legal expense insurance and <i>pro bono</i> services, including limited scope retainers; 3. Licensing options as a means to increase access to justice; and 4. Court and procedural reforms. 	<ul style="list-style-type: none"> • Supporting development of dedicated resources for family law litigants <p>Unified Family Law Platform (web-based) (operational June 2012)</p> <p>Development of further modules subject to review of pilot, budget and availability of staff resources</p> <ul style="list-style-type: none"> • Encouraging development of other “upfront” services and administrative services for information <p>Law Society Referral Service (including both lawyers and paralegals) implemented May 2012.</p> <ul style="list-style-type: none"> • Supporting enhancements to legal aid (<i>work has begun at committee level</i>) • Proposing/encouraging court and procedural reforms <p>Second phase of limited scope retainer study continuing, with consultations with relevant civil rules committees (see also Professional Regulation).</p> <ul style="list-style-type: none"> • Liaising with other stakeholder groups, such as Pro Bono Law Ontario, Ontario Justice Education Network and the Law Commission of Ontario on access to justice initiatives. <p>Treasurer’s Advisory Group on Access to Justice established January 2013 to co-ordinate and collaborate with various legal organizations, to provide leadership and strategic focus on access to justice.</p> <p>LIFE Project – TAG/OJEN/CLEO partnership (<i>Legal Information for Everyone</i>) to assist licensees in reaching those facing the greatest barriers in accessing justice.</p>

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
	<ul style="list-style-type: none"> Other work <p>Guidelines for residential school litigation revised February 2012.</p> <p>Policy and guidelines for funding access initiatives of external organizations, approved June 2012.</p>
<p>COMPETENCY AND PROFESSIONAL STANDARDS</p> <ol style="list-style-type: none"> 1. Entry level competencies; 2. Competence in the early years of practice; 3. Competencies by areas of practice; 4. Licensing options as a means to promote competence; 5. Measurable and enforceable practice standards; 6. Mentoring and support for licensees, including mentoring programs, advisor services, practice supports; 7. Technological applications for learning, assessment and assistance; and 8. National standards. 	<ul style="list-style-type: none"> Considering developments at the front end of legal education to enhance competence <p>Revisions to lawyer licensing program approved, November 2012 - a three-year pilot project in which candidates can either article or complete a Law Practice Program, starting in the 2014-15 licensing year; implementation underway.</p> <ul style="list-style-type: none"> Ongoing assessment of entry level competencies, with a specific focus on competency standards and assessment of newly licensed individuals <p>Lawyer licensing examination competencies review conducted throughout 2011 and new and updated competencies for testing integrated into the barrister and solicitor examinations</p> <p>Project to revise to the Paralegal Licensing Process to strengthen entry-level standards, approved October 2012.</p> <ul style="list-style-type: none"> Considering ways to develop competence in the early years of practice <p>See above respecting “Revisions to lawyer licensing program”</p> <ul style="list-style-type: none"> Focussing on competency in specific practice areas, including exploration of practice standards <p>CPD requirement amended April 2012, recognizing two new types of eligible activities</p>

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
	<p>Approval of new certified specialist designation in aboriginal law (information report to June 2013 Convocation)</p> <ul style="list-style-type: none"> • Considering initiatives to support and promote sound practice management practices, including succession planning <p>PD&C project nearly completed on contingency and succession planning; the project has created resources and information supports for lawyer and paralegal practitioners to properly plan for the orderly succession of their practices based on best practices in this area, and a Succession Planning Guide available in Fall 2013 for lawyers and paralegals.</p> <ul style="list-style-type: none"> • Developing initiatives to institutionalize mentoring, advisor and other support services for lawyers and paralegals; inputs will include information from other committees <p>Extension of member assistance program to paralegals with new provider (Homewood Human Solutions), December 2012/January 2013.</p> <ul style="list-style-type: none"> • Other work – national standards <p>Approval of new Canadian law degree program - Université de Montréal (Federation of Law Societies of Canada National Standards initiative) (April 2012)</p> <p>By-Law 4 (Licensing) amended to more closely mirror the language of the National Mobility Agreement, October 2012.</p> <p>Approval of the Federation of Law Societies of Canada's <i>National Entry to Practice Competency Profile for Lawyers and Québec Notaries</i>, January 2013.</p> <p>Approval of the National Mobility Agreement 2013, for full, permanent mobility between the Barreau du Québec and the rest of Canada (February/June 2013).</p>

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
	<ul style="list-style-type: none"> Other work <p>Approval of revisions to CPD requirements following two-year review, May 2013</p> <p>Working Group on the Delivery of Legal Information and Library Services (created by Treasurer April 2013)</p>
<p>EQUITY, DIVERSITY AND RETENTION</p> <ol style="list-style-type: none"> Processes and initiatives to ensure that equity principles are observed and promoted; The development of programs for other members of equity-seeking communities, using the Justicia model as a means to facilitate these initiatives; and Communications strategies for promoting equity and diversity. 	<ul style="list-style-type: none"> Considering development of programs to encourage law firms to enhance diversity, based on identified needs, and create reporting mechanisms - including consideration of the applicability of a “Justicia” model. <p>Justicia project extended to the end of 2013 with release of resources to the profession at large in 2014</p> <p>Career Coaching Program launched April 2012, to provide coaching services for female lawyers respecting maternity, parental or compassionate care leaves. Program expanded to apply to paralegals in 2012.</p> <p>Contract Lawyers and Paralegals Registry launched in 2008 for lawyers and expanded in 2012 to paralegals; provides resources to assist in hiring lawyers and paralegals on contract.</p> <p>Parental Leave Assistance Program (PLAP) extended and a means test approved (a net annual practice income of less than \$50,000) to be eligible for the PLAP (November 2012).</p> <p>Challenges Faced by Racialized Licensees Working Group conducting consultations with the profession to identify best-practices to address challenges. Terms of reference of the Working Group adopted October 2012.</p> <ul style="list-style-type: none"> Working in collaboration with the Professional Development and Competence Committee to identify the needs of lawyers/ paralegals from diverse communities; developing strategies and supports, where applicable, to assist in maintaining standards of competence and professional conduct.

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
	<p>Amendment to EAG terms of reference to include two paralegal positions, January 2012.</p> <p>Three new equity guides launched January 2012 and June 2013 - <i>Preventing harassment, discrimination and violence in the legal workplace: Guide to developing policies for law firms or legal organizations</i> and <i>The provision of legal services in cases involving claims of sexual abuse - an education guide for lawyers and paralegals</i> and <i>Sexual Orientation and Gender Identity: Creating an Inclusive Work Environment</i></p> <p>Partnership with the Ontario Network of Language Interpreter Services Project (in kind support), September 2012.</p> <p>Release of Report of longitudinal study on departures from private practice (<i>Leaving Law and Barriers to Re-entry: A Study of Departures and Re-entries to Private Practice</i> by Professor Fiona Kay) prepared for the Law Society (April 2013).</p> <p>Release of Report on Changes of Status in the legal profession, June 2013</p> <p>Release of Career Choices Study, June 2013</p> <ul style="list-style-type: none"> • Investigating contract compliance strategies (<i>work to begin at staff level</i>) • Developing communication plans on the importance of the commitment to diversity and legal obligations, when applicable. (<i>ongoing</i>)
<p>TRIBUNALS ISSUES</p> <ol style="list-style-type: none"> 1. Adjudicator training; 2. Use of technology in the hearing process; 3. Enhancements to procedures and processes, including file 	<ul style="list-style-type: none"> • Creating a standard for adjudicator expertise and competence to ensure quality adjudication • Enhanced training for adjudicators • Appropriate supports to ensure effective written and oral decision-making

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
<p>and case management, to improve effectiveness and efficiency;</p> <p>4. Quality of adjudication;</p> <p>5. The appropriate model for the hearing process.</p>	<p>Ongoing adjudicator training sessions, organized through the Director of Professional Development & Competence and a staff team, throughout 2012 and 2013.</p> <ul style="list-style-type: none"> • Developing a system that supports electronic materials and improving the Tribunals Office's file management processes (<i>work has begun at committee level</i>) • Ensuring that the tribunals are administratively well-resourced <p>New clerk and publications counsel positions approved in 2013 budget</p> <ul style="list-style-type: none"> • Policy guidelines or directions on key procedures <p>New Appeal Panel rules approved February 2012</p> <p>Required updates to Adjudicator Code of Conduct adopted May 2012.</p> <p><i>Rules of Practice and Procedure</i> amended to incorporate the Tariff for the Calculation of Costs (February 2013).</p> <p>Approval of new subrule 25.01 (5), February 2013 - the Hearing Panel shall consider, but is not bound by, the tariff of fees for services.</p> <ul style="list-style-type: none"> • Exploring structural changes to the tribunal to improve its effectiveness <p>Non-licensee lawyer adjudicators increased from four to six (January 2012)</p> <p>Hearing reforms adopted June 2012 (non-bencher chair, increased number of non-bencher adjudicators, application/evaluation processes); implementation ongoing</p> <ul style="list-style-type: none"> • Focussing on appropriate pre-hearing and case management practices

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
	<p><i>Rules of Practice and Procedure</i> amended respecting the Practice Direction on Adjournments (February 2013) to expand the authority of pre-hearing conference panelists to provide directions.</p>
<p>BUSINESS STRUCTURES AND LAW FIRM FINANCING</p> <ol style="list-style-type: none"> 1. Regulatory schemes that may involve new methods of oversight permitting more flexible delivery regimes/ business structures; 2. Maintaining independence and other core values within new business structures; 3. Ensuring competence, quality of work and value to the client; 4. Transparency, the client's understanding of who is the legal services provider, addressing possible conflicts of interest in alternate models; 5. Balancing more accessible legal services, possible lower cost with accountabilities for robust/ meaningful regulation; and 6. Financing of law firms and alternate structures 	<ul style="list-style-type: none"> • Creating a working group to study the issues • Reviewing information on options for alternative business structures and alternative service deliver models • Developing a plan to identify priorities and legal services delivery models for consideration • Implementing the plan including a regulatory review to determine the impact of any proposal, and consultations as appropriate <p>Alternative Business Structures Working Group terms of reference established; working group composed and work undertaken</p> <p>Status report to June 2013 Convocation</p>
<p>PROFESSIONAL REGULATION</p> <ol style="list-style-type: none"> 1. Discipline diversion and avoidance, and exploration of initiatives aimed at 	<ul style="list-style-type: none"> • Development of initiatives to address capacity issues for early identification to divert from the conduct stream as appropriate/to promote early identification of risk

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
<p>reducing the number of complaints arising from certain areas of legal practice;</p> <p>2. Expanding matters for single adjudicators;</p> <p>3. Exploring “paper” hearings (i.e. written hearings);</p> <p>4. Enhancing case management, including time limits, disclosure obligations and issue identification;</p> <p>5. Area-specific regulation, flowing from defining/establishing/enforcing area-specific practice standards.</p>	<p>Projects begun at the operational level through the Director, Professional Regulation, to enhance the ability to deal with mental health and addiction issues when they arise in the context of a complaint or investigation; includes a resource manual and targeted training.</p> <ul style="list-style-type: none"> • Review of discipline process to identify opportunities for improved timeliness e.g. possible expansion of the issues heard single adjudicators (also a Tribunals priority) <p>Policy and by-law amendments approved to authorize withdrawal of applications and withdrawal and amendments to particulars in applications by the Law Society (May 2013)</p> <p>Approval for the authority to automatically suspend a licensee’s licence for failure to pay costs (amendment to the <i>Law Society Act</i> required to implement) (June 2012).</p> <p><i>(Other work has begun at committee level)</i></p> <ul style="list-style-type: none"> • Completing next phase of review of limited scope retainers (see also Access to Justice priority) <p>Second phase of limited scope retainer study continuing, with consultations with relevant civil rules committees.</p> <ul style="list-style-type: none"> • Development of area-specific rules or other requirements to address associated risks <p>Rules of conduct/commentary amended April/May 2012 to clarify requirement to be on guard against being used to facilitate dishonesty, fraud, crime or illegal conduct.</p> <p>Lawyer conduct rules (commentary) amended respecting real estate red flags, October 2012.</p> <p>Approval of Real Estate Declaration (February 2013) to be included in Lawyer Annual Report relating to real estate-related complaints/mortgage fraud.</p>

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
	<p>Tribunals protocol established to provide a more effective mechanism for handling regulatory issues concerning practice before administrative tribunals and adjudicative agencies (April 2013).</p> <ul style="list-style-type: none"> • Other work <p>By-Law 11 amended to add a non- licensee representative to the Proceedings Authorization Committee, April 2013</p> <p>Implementation of the Federation of Law Societies of Canada Model Code of Professional Conduct ongoing, following call for input (summer 2012).</p>
<p>EFFECTIVE COMMUNICATION AND OUTREACH</p> <ol style="list-style-type: none"> 1. Reaching and connecting with the public, other stakeholders; 2. Determining how best to engage with its members, the public and other stakeholders through communications; 3. Using print, electronic media via the internet, social media and video/multimedia meetings 	<ul style="list-style-type: none"> • Public outreach through focus groups or other methods; <p>Creation and launch of social media sites on Twitter and Facebook to promote CPD Law Society CPD programming</p> <p>Development of the Treasurer's blog and social media strategy</p> <ul style="list-style-type: none"> • Qualitative surveys of newly-called lawyers (called within the last 10 years) in early 2012; resulting data to be used in considering changes to communications platform. <i>(work has begun)</i> • On-line version of the <i>Ontario Lawyers' Gazette</i> <p>Completed - launch of the online <i>Gazette</i> in April 2012</p> <ul style="list-style-type: none"> • Considering enhancements to the <i>Ontario Reports</i>. <i>(work has begun)</i> • Redesign of the public pages of the Law Society's website. <i>(work has begun)</i> • Finalizing new content management system to all Law Society sites <i>(work has begun)</i>

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
	<ul style="list-style-type: none"> Working with the Director of Public Affairs to design and implement stakeholder research (<i>ongoing</i>) Continued publication of regulatory decisions/orders on the public website, tied to the lawyer and paralegal directory. (<i>ongoing</i>) Respecting unauthorized practice, following first phase of an advertising campaign for multi-lingual communities, subsequent phases will use additional languages (<i>ongoing</i>) Message delivery to be enhanced to include single topics (e.g. single topic e-mails in a series) and short pieces; plans include incorporating social media (<i>ongoing</i>) Working with other stakeholders on a web-based law portal (see also the Access to Justice priority) <p>Unified Family Law Platform (web-based) implemented (approved December 2011)</p> <ul style="list-style-type: none"> Supporting the Treasurer's outreach initiatives (<i>ongoing</i>) Other work <p>Support to several key corporate initiatives including the following:</p> <ol style="list-style-type: none"> The Pathways Report and debate Five Year Review on Paralegal Regulation Justicia and Retention of Women Initiatives Calls to the Bar Treasurer Election Your Law: Family Law in Ontario website Unauthorized Practice Human Rights Monitoring Group activity <p>Webcast of Pathways Report debate at Convocation November 2012, including simultaneous online discussion forum with invited panel and facility for comments from the public/profession.</p>

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
<p>CONVOCATION GOVERNANCE EFFECTIVENESS</p> <ol style="list-style-type: none"> 1. Determining the internal Convocation governance issues that need to be enhanced to deliver the Law Society's mandate; 2. Examining the Law Society's committee structure, Convocation processes and related operational supports; 3. Considering other work to help to facilitate effective governance. 	<ul style="list-style-type: none"> • Examining ways to improve and make more effective Convocation's review and decision-making processes, including: <ul style="list-style-type: none"> ○ Review of the size, mandates and structure of committees ○ Considering a consent agenda for certain Convocation matters ○ Enhancements to procedural rules for Convocation ○ Considering scheduling committee meetings and Convocation less often ○ Considering the appropriate venue for Convocation <p>Paperless Committee/Convocation meetings fully implemented, April 2012</p> <p>Audit Committee and Finance Committee combined into Audit and Finance Committee (June 2012)</p> <p>Required changes to the Compensation Committee membership approved August 2012</p> <p>Working group of Priority Planning Committee reviewing issues</p> <ul style="list-style-type: none"> • Reviewing the regional bencher designation in bencher elections <p>Bencher election working group initiative continuing (terms of reference approved June 2011); report to June 2013 Convocation</p> <ul style="list-style-type: none"> • Reviewing the bencher remuneration scheme <p>By-Law 3 (Benchers, Convocation and Committees) amended April 2012 to implement the policy regarding remuneration ("top up") for lay benchers (February 2012)</p> <p>Working Group of the Audit & Finance Committee struck to address issues</p> <ul style="list-style-type: none"> • Considering enhancements to electronic process/document

PRIORITY AND DESCRIPTION	ELEMENTS OF THE PRIORITY AND STATUS OF WORK (in bold)
	<p>management (<i>work has begun operationally</i>)</p> <ul style="list-style-type: none"> • Other work <p>Approval of increase in the number of elected paralegal benchers from two to five (legislative amendment required to implement), April 2013</p> <p>Study of AGM procedures directed by Treasurer, May 2013; work to begin at working group level</p> <p>Implementation of Morris Report recommendations (November 2012) following five year review of paralegal regulation</p>

*THIS SECTION CONTAINS
IN CAMERA MATERIAL*



TAB 13

Report to Convocation June 27, 2013

Professional Development & Competence Committee

COMMITTEE MEMBERS

Janet Minor (Chair)
Barbara Murchie (Vice-Chair)
Alan Silverstein (V-Chair)
Raj Anand
Jack Braithwaite
Robert Burd
Mary Louise Dickson
Adriana Doyle
Ross Earnshaw
Larry Eustace
Jacqueline Horvat
Vern Krishna
Michael Lerner
Dow Marmur
Judith Potter
Nicholas Pustina
Jack Rabinovitch
Joseph Sullivan
Gerald Swaye
Robert Wadden
Bradley Wright

Purpose of Report: Information

**Prepared by the Policy Secretariat
(Sophia Sperdakos 416-947-5209)**

TABLE OF CONTENTS

For Information

Certified Specialty in Aboriginal Law	TAB 13.1
---	-----------------

COMMITTEE PROCESS

1. The Committee met on June 13, 2013. Committee members Janet Minor (Chair), Barbara Murchie (Vice-Chair), Alan Silverstein (Vice-Chair), Raj Anand, Jack Braithwaite, Robert Burd, Mary Louise Dickson, Adriana Doyle, Ross Earnshaw, Larry Eustace, Jacqueline Horvat, Vern Krishna, Michael Lerner, Dow Marmur, Judith Potter, Nicholas Pustina, Gerry Swaye and Robert Wadden attended. Bencher Janet Leiper also attended part of the meeting. Staff members Diana Miles and Sophia Sperdakos also attended.

TAB 13.1

INFORMATION

CERTIFIED SPECIALTY IN ABORIGINAL LAW

2. On May 30, 2013 the Certified Specialist Board approved the development of a new certified specialty in Aboriginal Law.
3. Pursuant to By-Law 15 it is the function of the Certified Specialist Board to determine, among other functions, “the areas of law in respect of which licensees may be certified as specialists.”
4. The By-law does not require any further approval of the Board’s decision, but the Board determined to seek the PD&C Committee’s approval of the proposal. The Audit and Finance Committee was also provided with the report.
5. The PD&C Committee approved the development of a certified specialty in Aboriginal Law. The development process will now be undertaken.
6. In support of the proposal that was presented to the Certified Specialist Board, feedback was first solicited from the profession on the proposed specialty, in particular from,
 - a. self-identifying Aboriginal lawyers; and
 - b. all lawyers with a call year of 2005 and earlier who indicated on the 2011 Lawyers Annual Report that they practise Aboriginal law.¹
7. The recipients were asked to indicate whether they would endorse the development of a proposal for a specialty in Aboriginal Law and whether they would participate in such development process.²

¹In total, approximately 300 emails were sent to Aboriginal lawyers and 600 emails were sent to those who identified Aboriginal Law as a practice area. There was some overlap between the two lists.

²As of March 27, 2013, 58 letters and emails of endorsement had been received from Ontario lawyers. Of those, nine respondents indicated that they endorse the development of this proposal and 49 provided their endorsement as well as their willingness to participate in the development process for the proposal and/or apply to the program should it be approved.

8. The letters received expressed the following common themes:
 - a. Aboriginal Law is a unique practice area that requires expertise in a diverse array of legal subjects, including but not limited to Constitutional law, administrative law, corporate/commercial law, estates and trusts law, real estate law, criminal law and family law.
 - b. There is growing demand for lawyers well-versed in this increasingly complex area of practice.
 - c. A specialist designation in Aboriginal Law would establish standards of knowledge, skills and expertise that would support the increasing need for legal services in this area.
9. The following summarizes the key activities of the development process for an Aboriginal Law specialty:
 - a. Initial consultation with lawyers working in the area of Aboriginal Law to determine major competency categories.
 - b. Identification and invitation to exemplars in the field of Aboriginal Law to participate on a working group for Aboriginal Law Specialist Certification (“Working Group”).
 - c. Series of meetings with the Working Group to develop and refine criteria and standards for certification.
 - d. Finalization of criteria and standards for certification for Board Approval.
10. The development process will commence in early 2014 and will take 18 to 24 months to complete. The development process will likely involve eight to ten one-day Working Group meetings in 2014 and an additional six to eight one-day meetings in 2015. The projected costs of this process are in the range of \$40,000 to \$50,000 for 2014 and \$30,000 to \$40,000 for 2015. The development costs would be allocated from the net operating income generated by the Certified Specialist Program. No further or other funding is being requested. These expenses do not include the costs of PD&C Counsel and other staff who will be supporting the development effort and who are budgeted to other organizational activities and are being reassigned.