

Tab 4
Report to Convocation
February 25, 2021

Priority Planning Committee

Committee Members:

Teresa Donnelly (Chair)
Jacqueline Horvat (Vice-Chair)
Robert Burd
Joseph Chiumminto
Dianne Corbiere
Cathy Corsetti
Joseph Groia
Philip Horgan
Nancy Lockhart
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Megan Shortreed
Andrew Spurgeon
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Purpose Of Report: Decision And Information

James Varro, Director Office Of The CEO And Corporate Secretary

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Priority Planning Committee

Recommendations for Strategic Change – Reducing the Frequency of Committee Meetings and Convocations

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Motion

That on the recommendation of the Priority Planning Committee, Convocation approve a revised schedule for committee meetings and Convocations, and a standardization of the process for consideration of complex policy initiatives in preparation for Convocation's decision-making, as set out in this report.

A. Executive Summary

This report, based on a report from the CEO, includes two recommendations, the first respecting changes to committee meeting and Convocation scheduling and the second respecting changes to certain processes for policy development through committees and Convocation. The objective is to improve the effectiveness and efficiency of decision-making protocols to support bench decision-making and oversight responsibilities.

The current monthly meeting cycle for committees and the two-week time period for preparation of reports for Convocation following these meetings creates a number of challenges for both benchers and management, including

- Adequacy of time to prepare for meetings,
- Adequacy of time to consider, question and bring required analysis to policy issues,
- The challenge of creating the desired quality of materials for meetings within this timeframe,
- The time scheduled for meetings, which often is not sufficient for full deliberation, expression of viewpoints, arriving at an informed decision and timely closure,
- The tight turn around time to produce high quality reports for Convocation following committee meetings that often does not account for the complexity of issues that are being addressed and time needed for analysis and presentation before they are made available for decision by benchers, and
- For benchers, the adequacy of time for preparation for Convocation.

The first recommendation is to revise the bench meeting schedule so that Convocation meets four times a year - once each quarter, in March, June, September and November - and committees meet in alternating months. The revised schedule would permit committee meetings to be of longer duration (at a minimum, three to four hours) or as determined by the chair. In this schedule, in most if not all cases, agendas and materials for meetings would be posted nearly two weeks ahead of a committee meeting or Convocation. Further, all committee meetings and Convocations would be virtual as the Law Society continues to follow appropriate COVID-19 pandemic meeting protocols.

Fewer meetings should

- provide more opportunity for committees to direct required research and analysis to support sound policy development,

- enable more focused deliberations, questions, probing and informed recommendations,
- give benchers more control over the time needed to prepare for meetings and create a more reasonable timeframe for preparation and reflection on important policy issues,
- allow more time for committee chairs to plan their committee's work more effectively over a bencher term,
- create economies relating to bencher expenses and remuneration, and the resources required to support the committees' and Convocation's policy development process.

The second recommendation would institute a sequenced process for the development of complex policy issues from committees to Convocation, staged over a period of months, to allow benchers sufficient time to prepare for discussion and decision at Convocation. The key changes are the following:

- Final reports on complex matters for Convocation would be staged over a period of two or more months, including
 - preliminary release of a report to benchers,
 - an *in camera* bencher information session on the report and its policy recommendations, followed by
 - a final report for decision at an upcoming Convocation;
- Interim information reports from committees would be provided to Convocation at regular intervals to keep benchers informed of the progress of longer-term policy work.

The recommendation is that these changes begin in early 2021 and continue, subject to an initial review after one year and a more substantive review before or at the end of two years.

Implementation of the recommendations would also create certain operational efficiencies based on Convocation moving to quarterly meetings, committees meeting no more than five times in a year and all meetings conducted as virtual meetings. The cost savings amount to an estimated \$765,000 against the 2020 budget and savings of \$480,000 against current 2021 budget adjustments.

Background

A. Issues with the Current Schedule and Process

To fulfill their decision-making responsibilities, benchers require sufficient time to review materials and prepare adequately for discussion. Benchers have expressed concerns about their ability to fulfill these responsibilities given the Law Society's ambitious committee meeting and Convocation schedule.

The current monthly meeting cycle for committees (acknowledging that some committees meet more than monthly, others meet less frequently) and the two-week time period for preparation of

reports for Convocation following these meetings create a number of challenges for both benchers and management. These challenges affect the effectiveness and efficiency of benchers' decision-making.

In particular, the following are key concerns about the current process:

Reflection and Consideration

- The current schedule does not necessarily allow benchers or staff sufficient time to process information, determine next steps and do follow-up investigation and research.

Preparation of Materials

- The compressed timeframe for preparation of required materials for every agenda is very challenging for management and can affect the ability to produce the desired high-quality agendas and supporting materials.
- As an unintended consequence of the current schedule, materials may have either too much ancillary information (which creates a sense of 'information overload,' going beyond what is essential for review and decision-making) or insufficient information. This can result in an uneven product, which in turn can impede the ability to make effective recommendations and engage in sound decision-making.

Meeting Duration

- The time scheduled for meetings can also be a barrier to full deliberation, expression of viewpoints, arrival at an informed decision and timely closure.
- Currently, meetings are between one and a half hours and three hours. Depending on the issues on the agenda, this may not provide the time needed to fully discuss, question and consider an issue and arrive at a well thought out recommendation.
- With many viewpoints typically offered in a meeting, it can be difficult to settle issues in the allotted time. In some cases, when the next iteration of a report is provided for consideration and appears to fail to address an issue that individual committee members believed warranted inclusion, this may result in revisiting significant portions of the previous meeting discussion(s).
- These challenges are exacerbated by a sense of urgency that ensues when the deadline for reports for the next Convocation is looming, with concerns about the ability to prepare a reasonably comprehensive report for decision-making at Convocation.

Convocation Materials and Decisions

- Operationally, the two-week timeframe between committee week and Convocation is highly problematic. Essentially, seven business days exist following committee meetings to complete a report for Convocation, which generally results in a rush to finalize documentation, obtain authorization from Chairs/Vice-Chairs to proceed, and then post the

materials in required format within the current required timeframe for bencher use—on the Friday prior to Convocation.

- This short turnaround time does not always reflect the complexity of issues that are being addressed and which require sufficient time for analysis and presentation before they are made available for decision by benchers and for public consumption.
- For benchers, the period between the Friday posting and Convocation the following Thursday often does not provide sufficient time to review materials, read the content thoroughly, reflect on the issues and prepare for discussion. This is especially so if the issues are complex or the materials voluminous.

The Proposed Changes

In the interests of ensuring effective and efficient processes for bencher decision-making, the Committee, based on the CEO's report, is recommending that there be a revised meeting schedule for committees and Convocation, and a standardization of the review process for complex policy initiatives in preparation for Convocation's decision-making

A. Changes to Meeting Cycles

The recommendation is to modify the committee-Convocation meeting cycle beginning as soon as feasible in 2021, with an interim review after one year and to be reviewed not later than two years after implementation. The following are the key changes:

- Convocation would be convened four times a year (once each quarter), in March, June, September and November and would be scheduled for full day meetings;
- Committee meetings would be scheduled in alternating months and for longer duration as required (for example, three to four hours, or as determined by the committee chair);
- In most if not all cases, agendas and materials for meetings would be posted nearly two weeks ahead of a committee meeting or Convocation;
- In recognition of the ongoing need to avoid health risks, all committee meetings and Convocations in the proposed revised schedule, below, would be virtual as the Law Society continues to follow appropriate COVID-19 pandemic meeting protocols.

Any critical issues requiring approval by Convocation in the intervening months can be addressed through a special Convocation called by the Treasurer, as required. For example, a special Convocation in the summer months is typically scheduled to approve committee and other appointments. Similarly, additional committee meetings may be scheduled at the discretion of the committee chair in consultation with the Treasurer. However, given the important rationale for fewer meetings, this should be the exceptional circumstance to deal with urgent or pressing matters only.

A proposed schedule below, using the 2021 calendar year as the example, includes the committees and task forces that typically meet on a regular monthly schedule. Working groups would continue to be scheduled on an *ad hoc* basis as required.

Recommendations for Strategic Change

Month (2021)	Committee/Task Force Meetings	Convocation
January	Access to Justice Competence Task Force Equity and Indigenous Affairs Priority Planning Professional Regulation Tribunal	
February	Audit and Finance Compensation Fund Paralegal Standing Committee Professional Development and Competence Technology Task Force	
March	No scheduled meetings	Convocation
April	Audit and Finance Access to Justice Competence Task Force Equity and Indigenous Affairs Priority Planning Professional Regulation Tribunal	
May	Compensation Fund Paralegal Standing Committee Professional Development and Competence Technology Task Force	
June	Access to Justice Audit and Finance Competence Task Force Equity and Indigenous Affairs Priority Planning Professional Regulation Tribunal	Convocation
July	No scheduled meetings	
August	No scheduled meetings	
September	Audit and Finance Compensation Fund Paralegal Standing Committee Professional Development and Competence Technology Task Force	Convocation

Recommendations for Strategic Change

October	Access to Justice Audit and Finance ¹ Competence Task Force Equity and Indigenous Affairs Priority Planning Professional Regulation Tribunal	
November	Audit and Finance Compensation Fund Paralegal Standing Committee Professional Development and Competence Technology Task Force	Convocation
December	No scheduled meetings	

As an example, the following illustrates how the new timelines would work for the preparation and posting of committee materials, committee deliberations, preparation of a report to Convocation and Convocation's consideration of it. The schedule results in an average of six weeks for preparation of committee materials.²

Professional Regulation Committee:

Committee Materials preparation	January – March 2021
Materials to Chair and Vice-Chair for review	March 17, 2021
Committee Materials posted	March 26, 2021
Committee Meeting	April 8, 2021
Convocation Materials posted	June 11, 2021
Convocation	June 23, 2021

¹ This meeting would be scheduled as required for annual budget planning.

² Matters already in progress at a committee would be reported to the next upcoming Convocation, as required, once deliberations are complete and the report is ready.

Paralegal Standing Committee:

Committee Materials preparation	September – October 2021
Materials to Chair and Vice-Chair for review	October 22, 2021
Committee Materials posted	October 29, 2021
Committee Meeting	November 10, 2021 ³
Convocation Materials posted	March 11, 2022
Convocation	March 24, 2022

B. Standardizing Processes

The recommendation is to standardize specific review and reporting processes for complex policy initiatives. The following are the key changes:

- Final reports on complex policy issues for Convocation would be staged over a period of two or more months, to allow benchers sufficient time to prepare for discussion and decision at Convocation. This approach would include a preliminary release of a report to benchers, an *in camera* bencher information session on the report and its policy recommendations, followed by a final report for decision at an upcoming Convocation;
- Interim information reports from committees would be provided to Convocation at regular intervals to keep benchers informed of the progress of longer-term policy work.

Feedback from benchers and management has shown that they find the bencher information and discussion sessions on complex policy reports extremely useful, prompting excellent questions and informative discussion. The objective is to make this a regular part of the process of review and decision-making on complex policy initiatives, as part of a staged approach to a final report to Convocation.

Interim reports on complex policy initiatives that have a longer horizon will assist with the information needs of benchers, who may lose track of matters given competing demands. It also provides a means to obtain benchers' views and comments on these ongoing matters.

³ If a second committee meeting is required before a report to Convocation can be finalized, the meeting in February is available.

C. Rationale for the Changes

The recommendations are aimed at improving the efficiency of decision-making protocols to ensure effective policy development and decisions by committees and Convocation.

Policy matters typically require extensive pre-Convocation work by committees before becoming the subject of informed debate and decision in Convocation. Benchers need sufficient time to do their work supported by focussed, comprehensive materials that enable effective development and implementation of policy and accountable and transparent decision-making. This aligns with the requirements of the Law Society's Governance Practices and Policies, which speak to the important role committees and their leadership play in policy development and Convocation's responsibility to establish policies for the governance of Ontario lawyers and paralegals.

The current meeting schedule does not build in the time needed by benchers. While Convocations are usually scheduled to end around or shortly after the noon hour, a recent adjustment to the schedule was required as experience showed that Convocations currently can extend beyond the morning and into the afternoon. Some benchers still are unable to stay until the end of meetings and as such can miss important debates and votes. This affects the ability of Convocation as a whole to diligently exercise its oversight function.

While benchers would need to commit to full day Convocations for the four-meeting per year schedule, a standardized, longer commitment in their calendars will ensure that all benchers can be available for important decisions. Advance notice of the schedule for the quarterly meetings will permit better planning, and more importantly, fewer Convocations in the year effectively gives time back to benchers. Combined with the standardized reporting process for complex policy matters, the recommendations should result in a more satisfactory experience for benchers, allow management and staff to prepare timely, quality materials and create operational efficiencies, including longer term cost savings.

Specifically, fewer meetings should

- provide more opportunity for committees to direct required research and analysis to support sound policy development,
- enable more focused deliberations, questions, probing and informed recommendations,
- give benchers more control over the time needed to prepare for meetings and create a more reasonable timeframe for preparation and reflection on important policy issues,
- allow more time for committee chairs to organize and chart their committee's work more effectively over a bencher term,
- permit benchers to more effectively manage their time commitments at the Law Society with their practices/employment or other commitments, including the choice of committees they wish to attend, and
- create economies relating to bencher expenses and remuneration, and the resources required to support the committees' and Convocation's policy development process.

Regularized interim reporting and a standardized process for staged reporting provides greater opportunity for review and contemplation, makes good use of bencher time and improves the quality of policy decision-making.

Recommendations for Strategic Change

Finally, operational efficiencies would be achieved. Revised calculations, shown below, have been made to the 2021 adjusted budget allocations for bencher disbursements, functions and remuneration ⁴with new adjustments based on the recommended changes in the frequency of governance meetings set out in this report.

The following new assumptions, aligning with the recommendations, were used for the adjustments:

- Convocation moves to quarterly meetings
- Committees meet no more than five times per year
- All meetings are virtual⁵

As shown, the savings amount to an estimated \$765,000 against the 2020 budget and an additional saving of \$480,000 against the current 2021 budget adjustments.

	2020 Budget (\$)	2021 Draft Budget (\$)	2021 Budget Under this Recommendation (\$)
Bencher Expenses	550,000	380,000	320,000
Bencher Functions	460,000	400,000	330,000
Bencher Remuneration	700,000	650,000	300,000
Totals	1,715,000	1,430,000	950,000⁶

D. Implementation

If Convocation approves these recommendations, the following steps would be taken to implement them:

⁴ The current 2021 budget proposals for these expenditures were adjusted based on 50% of Convocations and Committee meetings moving to a virtual format in 2021 with the remainder remaining in-person.

⁵ Any future resumption of in-person meetings will reduce the cost savings as a result of bencher expenses for travel to Toronto and remuneration for out-of-town bencher travel time if claimed.

⁶ In this table, the \$400,000 figure is based on the assumption that if COVID-19 restrictions are lifted, there may be some in-person bencher or other types of events held in the year.

Recommendations for Strategic Change

- The Law Society would roll out the new schedule as soon as feasible in 2021, subject to an initial review within a year followed by a review at the end of two years;
- The Law Society would identify and manage other operational functions and requirements implicated by the modified schedule.

As By-Law 3 provides flexibility to the Treasurer in scheduling Convocations⁷ and does not prescribe a committee meeting schedule, the recommendations would not be offside regulatory requirements.

⁷ Section 77 of By-Law 3 reads as follows:

Convocation: when held

77. Convocation shall be held on the fourth Thursday of each month, except the months of July, August and December, unless otherwise directed by the Treasurer.



Law Society
of Ontario

Barreau
de l'Ontario

Tab 4.2

Priority Planning Committee

Update on 2019 – 2023 Strategic Plan Implementation

February 25, 2021

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Issue for Consideration

This report provides an update on the implementation of the key objectives approved by Convocation for the Law Society's 2019-2023 Strategic Plan.

A. Introduction

In February 2020, Convocation approved the 2019-2023 Strategic Plan for the Law Society. The key objectives in the Plan are:

- Achieving proportionate regulation
- Ensuring competence and quality of service
- Determining appropriate scope of regulation
- Facilitating access to justice

Since February, these objectives have been pursued in tandem with other work already in progress, including ongoing implementation of previously approved priorities.

Further, consideration of the four objectives reveals a number of linkages and interdependencies among them, set out below, that have been taken into account as the Law Society implements the Plan.

- Proportionate regulation and change in the scope of regulation must be achieved in ways that maintain appropriate standards of competence and quality of service.
- Ensuring the competence and quality of service provided by lawyers and paralegals is central to the Law Society's mandate, and informs proportionate regulation.
- Changes to the scope of regulation could facilitate the public's access to justice.
- Enhanced access to justice must maintain appropriate standards of competence and quality of service.

In implementing the Plan, benchers and management are reminded that a successful strategic plan

- guides the Law Society to optimally fulfill its mandate,
- provides benchers and management with a common understanding of what each component of the strategic plan means and why each is important,
- is broadly supported by benchers and management,
- is measurable or lends itself to measurability and accountability,
- inspires, engages and guides the Law Society's benchers and management over the four year term,
- is used by benchers as a lens for policy-making,
- is used by management to guide day-to-day strategic thinking, and

- facilitates the optimal use of the Law Society's resources.

The impact of the COVID-19 pandemic on Law Society governance process and operations has obviously affected the progress of initiatives under the Plan. However, to the extent possible, management has utilized operational tactics that will support achieving outcomes associated with the key objectives, in consultation with committees and task forces tasked with framing policy decisions related to the objectives.

The organization also revised operational approaches to ensure ongoing alignment of functions with the Law Society's priorities while changing supports and resources to adapt to the situation presented by the pandemic . These "pivots" to ensure the Law Society is responsive to this challenging situation resulted in some new avenues of support for licensees, some of which are discussed in this report. Examples are:

- establishing the 2021 Annual Fee COVID-19 Deferral Option to allow eligible licensees to defer the payment of their 2021 Annual Fees until 2022;
- releasing complimentary existing and responsive online CPD program content and adapting CPD requirements to the physical distancing protocols of the pandemic response;
- amending licensee guidance resources and developing targeted COVID-19 FAQs as additional practice resources.

Implementation of the strategic plan also necessarily involved a consideration of resource/budget implications and required cost recommendations, as appropriate, to be integrated into 2021 and future budget planning cycles in the bench term.

Reproduced below are the key objectives, their significance and a description of actions, as approved by Convocation in February 2020, updated to show what the Law Society has done under each objective.

Progress on the Key Objectives of the 2019-2023 Strategic Plan

Achieving Proportionate Regulation

Why This Is Significant

Regulation of Ontario's lawyers and paralegals should be sufficient to protect the public interest and not excessive so as to become an unnecessary burden on those who are regulated.

What the Law Society Will Do

Given the strong consensus among benchers on the need for and benefits of self-regulation, the Law Society will explore proportionate regulation using the risk to the public as the guiding principle. This may involve streamlining processes and regulatory functions related to the day-to-day interactions and obligations of licensees, as distinct from complaints and discipline procedures, by focusing on regulation of core activities that most directly protect the public.

February 2021 Update - What the Law Society Has Done

1. Initial work of the Proportionate Regulation Task Force (created August 2019) with transition of issues to regulatory committees
2. Ongoing work of the Technology Task Force (created in 2018; see the November 2019 report)
3. Implementation of streamlined Annual Report Filings process (report to June 2020 PPC)
4. Permission for licensing candidates to choose between an administrative licensing process or participation in a formal licensing ceremony (call to the bar) (decision in June 2020)
5. Removal of the requirement for licensing candidates to sign the Rolls of the Court of Appeal and the Superior Court of Ontario (decision in June 2020)
6. A shift to more condensed and online licensing examinations (four hours) and a significantly more accessible delivery platform in response to the pandemic (spring 2020)
7. Removal of the requirement for the Law Society to approve the names of licensee professional corporations. (decision in June 2020)
8. Removal of requirements that licensees notify the Law Society before entering into affiliations, apply for approval before entering into multi-discipline partnerships and file annual reports in respect of an affiliation or a multi-discipline partnership (decision in June 2020)
9. Removal of the reciprocity requirement for the issuance of a Foreign Legal Consultant permit (decision in June 2020)
10. Approval in principle to permit Quebec lawyers to practise in Ontario subject to the same terms and conditions as lawyers from other Canadian provinces (decision in June 2020)
11. Discontinuation of the Professional Conduct and Practice in Ontario Course. (decision in June 2020)

12. Adoption of a single default period for the requirements to pay an annual fee, report on compliance with CPD requirements and file an annual report, beginning in 2021 (decision in August 2020)
13. Elimination of all late fees for non-compliance with the requirements above (decision in August 2020)
14. Reduction of the default periods for the requirements above to 30 days for 2021 and 2022 and to a further reduced period for 2023, to enable a prompt suspension process for a licensee who fails to comply with the requirements by the required date (decision in August 2020)

B. Ensuring Competence and Quality of Service

Why This Is Significant

As the competence of lawyers and paralegals is central to the Law Society's mandate to protect the public interest, the Law Society's regulation must ensure that lawyers and paralegals maintain their professional knowledge and skills and provide legal services competently and professionally throughout their careers.

What the Law Society Will Do

The important role for the Law Society in ensuring that lawyers and paralegals maintain and enhance competence is found in the statutory function to ensure that lawyers and paralegals meet standards of learning and professional competence that are appropriate for the legal services they provide.

The Law Society will explore the effectiveness of its regulation of post-license competence to ensure the maintenance and enhancement of high quality services to the public from licensees. Through appropriate, targeted methods, the Law Society will focus on

- opportunities to support the increased viability of newer licensees as competent professionals and their ongoing development,
- the potential to enhance competence through limited licensing/credentialing options,
- mitigation of any risk of longer serving licensees providing services of diminished quality, and
- better engagement with licensees to inform them about the nature and benefits of Law Society competence-focussed resources.

February 2021 Update - What the Law Society Has Done

1. Ongoing development of the scope of activities for paralegals in criminal law matters as a result of federal Bill-75 changes (decision in September 2019)
2. Evolving CPD offerings to support increased demand for digital learning opportunities and addressing on a broad range of legal practice competencies and career stages (spring 2020)
3. A shift to more condensed and online licensing examinations (four hours) and a significantly more accessible delivery platform in response to the pandemic (spring 2020)
4. COVID-19 FAQs prepared and published to address a range of practice management and business of law activities to support licensee competence and quality of service (spring 2020)
5. Support for numerous engagement activities through the Office of the Treasurer that target the value and benefits of LSO competence-focussed resources (i.e. regional roundtables, Treasurer's Liaison Group, law association meetings) (ongoing)
7. Referral of consideration of competence programs and activities to the Competence Task Force (created August 2020)

C. Determining Appropriate Scope of Regulation

Why This is Significant

As the self-regulator of legal services in Ontario and the legal professionals who provide them, ensuring effectiveness of regulation requires that the Law Society periodically confirm the scope of what and how it regulates, particularly in an environment where accessibility of affordable legal services is an issue and significant advances in technology and related innovations are taking place.

What the Law Society Will Do

The Law Society will explore a number of issues and consider proposals that in the public interest may expand or clarify the scope of its regulatory authority over legal service providers. This could include but would not be limited to the following:

- technology in practice and related innovations;
- direct-to-consumer services regulation;
- services provided by non-licensees;

- practice-specific regulation, which may also align with limited licensing options as enhancements to competency and quality of service; and
- the relationship of scope to access to justice.

The analysis should address the benefits and risks to the public of changing the scope of regulation or permitting certain unregulated services.

February 2021 Update - What the Law Society Has Done

1. Ongoing work of the Technology Task Force (created in 2018; see the November 2019 report)
2. Removal of exemption from paralegal regulation of Injured Worker Outreach Services workers (decision in February 2020)
3. Family Legal Service Provider consultation (reported June 2020)

D. Facilitating Access to Justice

Why This Is Significant

Recognizing the difficulty experienced by many Ontarians in accessing affordable legal services, the Law Society's statutory obligation to regulate so as to facilitate access to justice – and advancing confidence in the regulator's commitment to the public interest - is of strategic significance.

What the Law Society Will Do

The Law Society will determine the direction and extent of activities that it will undertake to regulate so as to facilitate access to justice. This includes determining the most effective ways to regulate legal services. This should be done in a manner that directly and appropriately facilitates and does not unnecessarily restrict access to justice while protecting the public interest.

February 2021 Update - What the Law Society Has Done

1. Amendments to conflict of interest rules of conduct respecting short term limited legal services through Legal Aid Ontario (decision in October 2019)
2. Ongoing work of the Technology Task Force (created in 2018; see the November 2019 report)
3. Family Legal Service Provider consultation (reported June 2020)

4. Support for the work of The Action Group on Access to Justice that includes information exchange on implementation of programs and procedures by stakeholders in Ontario to facilitate access to justice in family law (October-November 2020).
5. Amendments to rules of conduct respecting contingency fee reforms (decision in October 2020)