



**Law Society**  
of Ontario

**Barreau**  
de l'Ontario

**Tab 6**

## **Technology Task Force**

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### **Update Report to Convocation on Access to Innovation**

June 28, 2022

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## 1. Purpose

The purpose of this report is to provide an update on activities related to Access to Innovation, the regulatory sandbox for innovative technological legal services.

## 2. Context

In August 2018, the Technology Task Force was formed in response to the rapid evolution in technologies such as artificial intelligence that are transforming the ways in which legal services are delivered. As the legal services regulator in Ontario, the Law Society has a keen interest in understanding how these legal technologies will impact the public's access to high-quality legal services. To that end, the Task Force was charged with exploring three areas: (1) the role of technologies in the delivery of legal services; (2) the Law Society's role as a regulator in a changing, tech-enabled environment; and (3) how the Law Society can encourage innovation in the professions through the use of tech to better deliver legal services.

The Task Force submitted an Update Report<sup>1</sup> to Convocation in November 2019 that discusses the technological landscape for legal services, implications for access to justice and the regulation of legal services, and potential regulatory directions. The Task Force's work also included: an examination of legal technologies in Canada and abroad; consideration of how other legal regulators are addressing tech; an exploration of trends and issues in the development and regulation of legal tech; and consideration of the impact of legal tech on the public, the professions and the industry.

Following this extensive study, the Task Force prepared a report recommending the creation of a regulatory sandbox for innovative legal technologies (now called the Access to Innovation project or A2I).<sup>2</sup> The report discusses the impetus for recommending the sandbox and its key features, benefits, risks, costs, and resource requirements. In April 2021, Convocation approved the Task Force's recommendation.

## 3. Overview of Access to Innovation

A2I is a five-year regulatory sandbox pilot project that allows legal innovators to serve consumers while complying with risk-based public protection requirements. The "regulatory sandbox" model is a popular policy tool regulators employ to engage with innovative service providers that do not fit well within the existing regulatory framework. First popularized in the financial services sector, regulatory sandboxes are "safe zones" in

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<sup>1</sup> Technology Task Force Update Report, November 29, 2019, online: <https://lawsocietyontario.azureedge.net/media/iso/media/about/convocation/2019/technologytaskforce-report-en.pdf>.

<sup>2</sup> Technology Task Force Report on Regulatory Sandbox for Innovative Technological Legal Services, April 22, 2021, online: <https://lawsocietyontario.azureedge.net/media/iso/media/about/convocation/2021/convocation-april-2021-technology-task-force-report.pdf>.

which potentially beneficial products, services, business models and delivery mechanisms can be test-run, subject to tailored operating conditions and under regulatory supervision.

A2I is open to a broad range of legal innovators involving any legal function and at all stages of development or operation. Applications will be accepted from any type of service provider – lawyer or paralegal licensee, non-licensee, law firm, business or not-for-profit organization. Applicants’ tools or programs must feature the innovative delivery of legal services via technology.

Legal innovators may apply to join A2I at any point during the five-year pilot period, rather than at certain fixed intake periods. Applicants must demonstrate that they provide a sufficient quality of service while mitigating risks of harm to consumers.

Approval to participate in A2I means that a provider can operate in Ontario for an agreed period of time, subject to operating and reporting requirements that protect the public. A2I participants operate pursuant to a new category of permitted exception from licensure under By-Law 16.<sup>3</sup>

A2I participants that meet expectations during their operating period can receive permits from the Law Society to continue providing legal services in Ontario on an ongoing basis.

The A2I project has the following five benefits:

1. *Facilitating access to justice* – By safely removing and adjusting regulatory barriers, the project encourages the development and operation of innovative technological legal services that can reach new legal consumers in new ways, especially in areas of high unmet legal need.
2. *Protecting the public* – By carefully assessing and supervising service providers, the A2I project ensures that consumers feel confident that they can make informed choices about the services they receive, are protected from risks of incompetent or unethical services and have recourse available, if necessary.
3. *Spurring innovation* – By reducing regulatory uncertainty and offering routes to approved service provision, the A2I project gives legal innovators confidence that they can grow sustainable operations and encourages them to continue developing innovative new legal solutions for Ontarians. By establishing operating criteria and parameters, A2I can also help give legal innovators targets for the features and protections they need to build into their service models. This helps shape the responsible development of innovative tools.

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<sup>3</sup> By-Law 16: Innovative Technological Legal Services, <https://lso.ca/about-lso/legislation-rules/by-laws/by-law-16>.

4. *Supporting regulatory re-evaluation* – By gathering real, detailed evidence about innovative technological legal services, the A2I project helps inform decision-making about the Law Society’s regulatory framework.
5. *Educating legal professionals and the public* – By highlighting new and innovative ways of providing legal services, the project helps legal professionals understand the opportunities and challenges associated with legal technology and helps members of the public identify new opportunities to access legal help. Legal professionals can observe consumer interest in these new service models and can enhance their work by using, adapting to, or developing their own innovative services.

#### **4. Establishing A2I’s Infrastructure**

Following Convocation’s approval of the regulatory sandbox, the Law Society began to establish the infrastructure for the A2I project, including creating an advisory council and stakeholder roundtable, recruiting an A2I manager, and developing A2I’s operational framework.

##### **Advisory Council**

The Technology Task Force report of April 2021 recommended the creation of an Advisory Council, composed of external experts, to help steer A2I to meet its objectives. The Advisory Council launched in October 2021 with its inaugural meeting. Council members assist the Law Society on a voluntary basis with key aspects of A2I’s operations, including providing strategic advice to A2I’s management team, reviewing applications from prospective A2I participants, making approval recommendations, and playing an ongoing role in monitoring outcomes.

In July 2021, the Law Society began recruiting individuals to serve on the Advisory Council. The call for applications appeared in the Ontario Reports, social media channels such as Twitter, a blog post in the Law Society’s Gazette, and the Licensee Update. The call for applications closed on September 1, 2021. The Law Society received more than 85 applications.

The Law Society selected 12 talented leaders from an array of professional backgrounds to serve on the Advisory Council. Members represent a range of expertise, such as legal technology and innovation; legal regulation and professional ethics; priority legal practice areas such as family law and immigration; regulatory sandboxes; and government or judicial administration. The group is also diverse, including six women, six racialized individuals, licensees (both practicing and non-practicing), and members of the public.

The members of the Advisory Council are:<sup>4</sup>

1. Lynne Vicars (Chair) – Principal, Lynne Vicars ADR

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<sup>4</sup> <https://www.lso.ca/about-lso/access-to-innovation/a2i-team>.

2. Carla Swansburg (Vice-Chair) – Chief Executive Officer, Cleary X
3. Andrew Arruda – Chief Executive Officer, Automate Medical
4. Rui Chen – Chief Technology Officer, TalentLift
5. Jennifer Gold – Partner, Wood Gold LLP
6. Kingsley Jesuorobo – Principal, Kingsley Jesuorobo & Associates
7. Neelam Jolly – Data Governance and Fraud Consultant, Payments Canada
8. P. Bradley Limpert – Principal, Limpert & Associates
9. Ghayda Nassar – Technology, Cybersecurity, and Privacy Leader & Consultant, Liberty Cybersecurity
10. Amy Salyzyn – Associate Professor, University of Ottawa Faculty of Law
11. Nye Thomas – Executive Director, Law Commission of Ontario
12. Thomas Wardman – Chief Technology Officer, Chartered Professional Accountants of Canada

Since October 2021, the Advisory Council has met 11 times as a full group, and members have also participated in smaller sub-meetings from time to time. The Advisory Council has been closely involved in the work of building the A2I project's operating framework, and we are grateful for their ongoing contributions.

### **Stakeholder Roundtable**

At Convocation on April 22, 2021, the Chair of the Technology Task Force committed to creating a stakeholder roundtable to involve the wider legal community in conversations about the A2I project. The roundtable is a group of representatives from stakeholder and partner organizations who meet at least twice a year to receive updates and share their perspectives regarding the work of the A2I project.

The members of the roundtable are representatives from:

1. Ministry of the Attorney General for Ontario
2. Department of Justice Canada
3. Ontario Superior Court of Justice
4. Federation of Ontario Law Associations
5. Toronto Lawyers Association
6. Ontario Paralegal Association
7. Ontario Bar Association
8. L'Association des juristes d'expression française de l'Ontario
9. Ontario Trial Lawyers Association
10. The Advocates' Society
11. Roundtable of Legal Diversity Associations
12. North Peel & Dufferin Community Legal Clinic

The A2I team met with the roundtable in June 2021 and November 2021 and will meet again in June 2022. Members of the roundtable bring a valuable perspective to A2I's work and have provided A2I staff with many useful connections. The Law Society thanks the roundtable members for their contributions.

## **A2I Staff**

A2I is administered by a small staff team, composed of a manager, a program administrator, and a part-time data analyst, with support from others within the Law Society, the Advisory Council and the roundtable. In the summer and fall of 2021, the Law Society completed thorough candidate searches to recruit for the manager, program administrator, and data analyst positions.

## **Operational Framework**

The A2I team has done extensive work to build the project's operational framework. This work has included:

- developing a two-stage application process and application forms;
- developing application approval criteria and internal protocols for application reviews (the application and approval process is described in more detail below);
- developing data reporting and analysis protocols and participant evaluation metrics; and
- meeting regularly with the leaders of the legal sandboxes in Alberta, British Columbia and Utah to share information and ideas.

### *Application and Approval Process*

The application process is used to support responsible approval decisions that give the Law Society assurances about the services that the applicant will provide. The A2I team created a two-stage application process to facilitate this aim.

The A2I team developed and adapted the two-stage application process through the experience of working with the earliest applicants. It is proving particularly beneficial to earlier-stage applicants that are still in the conceptualization or developmental phases. These applicants are typically not yet able to provide some of the details or assurances that are necessary for operating in the sandbox environment. However, by completing the Stage 1 application (described below) and receiving that level of approval, these still-developing applicants can receive provisional approval as well as feedback and guidance that can help them to continue developing their service with confidence.

Stage 1 of the application process focuses primarily on information about an applicant's overall concept and their approach to providing legal help. The A2I team reviews the application to ensure that: (i) the applicant's proposed service fits the mandate of the A2I project, (ii) the service could offer a valuable and innovative legal solution to Ontarians if implemented as planned, and (iii) the applicant has made sufficient progress developing the service and appears capable of operating the service.

The A2I team created approval criteria checklists to guide whether to grant approval at each stage of the application process. The approval criteria are linked to the project's objectives and to identified key risks of harms. The application questions and approval criteria at both stages of the process reflect significant work by staff and the Advisory Council to identify key regulatory issues and explore innovative approaches to them.

Stage 1 approval is a key progressive step in the application process. Although it does not confer the Law Society's permission to participate in the A2I project, Stage 1 approval offers a preliminary assessment that the applicant has the potential to be approved and encourages the applicant to advance to Stage 2 review. During Stage 1, the A2I team identifies potential strengths and weaknesses and provides feedback to the applicant that can guide further development.

Applicants that have received Stage 1 approval are invited to submit a Stage 2 application form. Stage 2 approval gives the applicant permission to participate in the A2I project.

The A2I team, including the independent Advisory Council, reviews the applications at both stages. Applicants that demonstrate that their service is sufficiently effective and beneficial to consumers, and appropriately mitigates any risks involved, receive approval to participate in the A2I project.

## **5. Communications and Outreach**

The External Relations and Communications (ERC) team is leading communications and outreach for A2I, including creating the name, graphic look and branding for the project. ERC's wide-ranging promotion of the project aims to raise A2I's profile among the public and within the professions, promote understanding of how the project works and its goals, and attract applicants. ERC has developed and executed various communications tactics related to milestones in the project. One such milestone was the appointment of the Advisory Council members and the hiring of the A2I manager, which was announced via a news release and through other channels. When the A2I project officially launched on November 3, 2021, ERC unveiled the dedicated A2I website, which houses information about the project.<sup>5</sup> ERC also promoted the launch widely, including via a news release and social media.

In addition to the communication of key events in the life of the project, ERC promotes and supports A2I on an ongoing basis. For example, ERC raises awareness of the project within the professions via social media posts and write-ups in the Licensee Update. Most recently, ERC developed a promotional video to explain the project and attract applicants, which is featured on the A2I website and the Law Society's YouTube channel.

In addition to ERC's communications efforts, the A2I team has engaged in its own outreach. The A2I team has reached out widely to industry leaders and potential applicants and has had numerous discussions with prospective applicants. Moreover, the A2I team has presented about the project to several organizations and audiences, including the Federation of Law Societies of Canada, the Canadian Bar Association, the Ontario Bar Association, and at law school classes, legal innovation events, and legal community organization meetings. These presentations serve to both educate attendees about the project and encourage innovators to apply.

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<sup>5</sup> <https://lso.ca/about-lso/access-to-innovation>; <https://lso.ca/a-propos-du-barreau/acces-a-l-innovation>.

## **6. Funding**

The April 2021 report to Convocation recognized that the sandbox would benefit from external funding. Currently, A2I is funded from the Law Society's general revenues. The A2I team has explored the following external financing options and continues to monitor other possible funding sources.

### **Law Foundation of Ontario (LFO)**

In April 2021, the Law Society submitted an application for funding to the LFO's responsive grant program. The program provides successful applicants with one-time project grants that support innovative, community-based ideas to improve access to justice. There are two tiers of funding available: up to \$25K and \$25K to \$100K.

In June 2021, the Law Society was awarded a grant in the maximum amount of \$100K. The first installment of \$50K was disbursed in September 2021 and subsequent payments will be made in September of 2022 and 2023. The Law Society is grateful for the LFO's generous support.

### **Justice Partnership and Innovation Program (JPIP)**

The Law Society applied for funding from the Department of Justice's JPIP in November 2021. One of the key goals of JPIP funding is to promote innovations in the justice system to ensure greater access to justice. We requested funding of approximately \$1.2M beginning in JPIP's fiscal year commencing April 1, 2023. We have had discussions with JPIP representatives about the project and they provided preliminary feedback on our application. They expect to be able to provide a decision in the fall of 2022.

### **Federal Economic Development Agency for Southern Ontario (FedDev)**

In September 2021, the Law Society applied for funding from FedDev's Regional Innovation Ecosystem stream. Funding under this stream supports not-for-profit organizations that contribute to fueling an entrepreneurial environment conducive to business innovation and growth. We are seeking funding of approximately \$1.7M to cover the costs of A2I over the five-year duration of the project. We have had discussions with FedDev representatives about the project and our application is currently under review.

### **McLachlin Fund**

The McLachlin Fund's primary objective is to improve civil and family justice by supporting the development, implementation and evaluation of innovative solutions to access to justice problems.

There is a two-stage application process: a letter of intent followed by a full application from those applicants who are invited to the application stage. In April 2021, the Law Society submitted a letter of intent requesting funding of \$180K, the maximum amount. In August 2021, we were informed that we would not be proceeding to the application stage. The McLachlin Fund advised that they received many strong letters of intent from across the country and were not able to fund many of the worthwhile projects that were submitted for consideration.

## 7. Current Status and Looking Forward

Since its approval in April 2021, the A2I team has built the foundation of the project and A2I is now fully operational and well-positioned for growth.

Interest from prospective applicants has been positive since launching the project in November 2021. As of May 30, 2022, A2I had received seven applications. Of those applicants, one has been fully approved for participation, pending final agreement on certain operating conditions. Four others have been granted Stage 1 approval. One application is under active consideration, while another was not approved.<sup>6</sup>

Since launching the project, the A2I team has also had many conversations with individuals and organizations that have expressed interest in participating. Some of those are in the process of preparing A2I applications. For earlier-stage organizations, A2I application timing is often dependent on, or secondary to, other business developments.

Interest has come from a wide variety of people and organizations, including individual licensees and law firms, legal technology companies, and public sector institutions. Most proposals to date have involved technological platforms that guide users through the preparation of legal documents. They tend to be designed for users whose circumstances are relatively straightforward in relation to the legal documents, and they have mechanisms for screening out users whose circumstances are too complex or out of scope.

The availability of this sandbox has particularly piqued the interest of numerous law students, who have contacted the A2I team to express a medium- or longer-term goal to develop an innovative service that would fit A2I's parameters. Another observed trend has been the increasing interest from approved participants in other legal sandboxes, who are now looking to Ontario as another area of opportunity.

The Technology Task Force has offered some helpful suggestions for additional sources of potential applicants. The Task Force recommended that the A2I team raise the profile of the project among law firms that work with technology start-up companies and encourage them to inform their tech clients about A2I. Another suggestion was that the A2I team attend national and international legal technology conferences to connect with innovators from other jurisdictions who may be interested in testing their legal technologies in the Ontario market. The A2I team thanks the Task Force for its suggestions and is acting on them.

With the foundation of the project now in place, and thanks to informational resources, outreach efforts, and growing awareness of the project, interest in participating in A2I has

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<sup>6</sup> The application that was not approved involved a proposal that was determined to comply with the Law Society's regulatory requirements, and therefore did not have any need to participate in the A2I project. The A2I team provided guidance to help the applicant understand both the decision and the Law Society's regulatory requirements. This was a positive outcome for the applicant.

been steadily building since its launch. We expect that interest to increase once the first approved participants can be publicly announced.

Providers of business-to-business (B2B) legal technologies aimed at licensees have expressed interest in participating in the A2I project. To date, B2B tools have not been the focus of the project. However, through these conversations and other outreach with industry leaders, we see an opportunity to apply a similar sandbox approach to B2B legal tech providers that wish to engage with the Law Society. We are considering options for integrating B2B legal tools from interested providers within the A2I project in a way that would align with A2I's objectives and benefit Ontarians, legal innovators, legal professionals, and the Law Society's policy-making function. The A2I team is analyzing the B2B legal technologies from interested innovators to determine whether they fall within the parameters of A2I.

Including B2B legal technologies in A2I would raise awareness of the project and could prompt more applications, from both providers of direct-to-public tools and B2B legal tech innovators. Importantly, a B2B stream would serve A2I's objectives of facilitating access to justice, protecting the public, spurring innovation, supporting regulatory re-evaluation, and educating legal professionals and the public. First, B2B tools would help licensees do their jobs more effectively and efficiently, allowing matters to be finalized more quickly. This could enhance access to justice by decreasing the cost of legal services. Second, incorporating B2B legal technologies from interested innovators into the project would give licensees the confidence that the tools are reliable and would help protect the public from exposure to unsound legal tech. Third, the inclusion of B2B tools would encourage legal innovators to develop innovative new solutions to help licensees better serve their clients. These tools could help lawyers and paralegals connect with potential clients more efficiently, communicate more effectively with clients, perform tasks more quickly and easily, and better manage their files. Fourth, a B2B stream would allow the Law Society to gather detailed evidence about the operation of B2B tools to help inform decisions about the appropriate scope of regulation of such tools. Lastly, a B2B stream would highlight new ways of providing legal services and help licensees understand the opportunities and challenges associated with B2B legal tech. It would also help the public understand how legal technologies can be used to facilitate the provision of legal services.

Incorporating B2B legal tech tools into A2I also aligns with the Law Society's efforts to support licensee technological competence. As the COVID-19 pandemic has illustrated, lawyers and paralegals need to have basic competence in technology to meet the needs of their clients and to function effectively. In May 2022, Convocation approved a new competence framework that includes a recommendation that the Law Society adopt the commentary regarding technological competence in the Federation of Law Societies of Canada's *Model Code of Professional Conduct*.<sup>7</sup> The commentary sets out an obligation to be technologically competent in a manner appropriate to the licensee's circumstances. The inclusion of legal technologies aimed at lawyers and paralegals in the A2I project

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<sup>7</sup> Federation of Law Societies of Canada *Model Code of Professional Conduct*, s. 3.1-2. online: <https://flsc.ca/wp-content/uploads/2019/11/Model-Code-October-2019.pdf>.

would demonstrate how licensees can use tech to enhance their practices and encourage them to become more technologically proficient.

Moving forward, the A2I project will continue to work with interested new applicants and approved participants to support the development of innovative and effective new kinds of legal services. We are also exploring opportunities to harmonize the A2I project with legal sandboxes in other jurisdictions. A harmonized approach to sandbox processes would help legal innovators navigate the various sandboxes. This would make it easier for providers to apply to and operate within multiple sandboxes, thus facilitating the goal of spurring innovation. Further, harmonization of evaluation metrics would allow regulators in different jurisdictions to better compare outcomes and determine what kinds of innovations are working, which are less successful and why.

We also intend to use the opportunity and space that the A2I project provides to re-evaluate approaches to legal regulation and to explore new approaches to existing Law Society policies and programs.

We will continue to report to Convocation on A2I and as the project progresses, we look forward to providing deeper analysis and further observations from the project. We are excited to continue the work of the A2I project over the coming years.