



Law Society
of Ontario

Barreau
de l'Ontario

Tab 3

Priority Planning Committee

2019-2023 Law Society of Ontario Strategic Plan

February 27, 2020

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Motion

That Convocation approve the Strategic Plan for the Law Society of Ontario for the 2019-2023 bencher term, as set out in this report.

A. Executive Summary

Following a bencher election, it is the responsibility of benchers to develop a Strategic Plan for the Law Society to guide policy-making and management decisions over the course of the four-year bencher term. On September 23 and 24, 2019 benchers and senior management met at a facilitated retreat to discuss strategic issues as a key step in Law Society strategic planning for this term. The discussions were based on pre-retreat bencher, management and stakeholder consultation and environmental scanning.

The result was significant common ground around and agreement on several fundamental themes aligning with the mission, mandate and principles for governance found in the *Law Society Act*.

The Priority Planning Committee has taken this result and formulated four key objectives to propose to Convocation to guide and direct the strategic agenda for the Law Society over the next four years. The key objectives, as set out in this report, relate to the following:

- Proportionate regulation
- Scope of regulation
- Competence and quality of service
- Access to justice

Background

A. Convocation's Priority Planning

As part of its mandate, the Priority Planning Committee is tasked with developing and proposing priorities for policy objectives for Convocation's consideration and approval. To fulfill this mandate, the Committee co-ordinates the planning for the priority-setting process, oversees information-gathering and consultation in preparation for a bencher retreat and management's organization of the retreat and integrates the results of the retreat in strategic priorities for Convocation's review and approval. Thereafter, the Committee's role is to monitor on Convocation's behalf the implementation of the strategic plan.

A facilitated bencher strategic planning retreat was held September 23 to 24, 2019 as part of the priority planning process. Work culminating in the September retreat began in early 2019 and



continued to the end of the summer. It involved a number of activities, including preparation of briefing materials based on research, environmental scanning and consultation/surveys.¹ These initiatives provided the information that framed the strategic issues for discussion at the retreat.²

The objectives of the retreat were to:

- generate extensive, well-informed input to the Law Society's strategic planning in the form of identification of strategic issues that should receive the most attention during this term, and
- provide benchers, many of whom are new as result of the 2019 bencher election, to add to their growing knowledge and understanding of work of the organization they are responsible to govern.

The design of the retreat was based on the understanding that the Law Society's annual budgeting process is better suited to the determination of the extent and use of resources to support strategic priorities compared to a two-day retreat. On this understanding, benchers in discussing potential areas of strategic focus for the next four years had the opportunity to provide their views on activities that are most central to the Law Society's mandate and, as such, that should be

¹ The retreat, and the preparatory stakeholder consultation and environmental scanning were designed, led and reported upon by an independent facilitator, Scott Ferguson of Progress Consulting, who has 30 years of experience leading such processes and who has worked with 20 Canadian regulators.

² The topics for discussion included:

- Protecting self-regulation
- Scope of regulation
- "Right Touch" regulation
- Competence of lawyers and paralegals
- Access to Justice
- Equality, Diversity and Inclusion
- Technology and direct-to-consumer legal services
- Technology and legal services provided by lawyers and paralegals
- Governance
- Mission and Vision.

appropriately resourced operationally. This also provided opportunity to offer general suggestions for making the best use of Law Society resources.

B. Guiding Principles

Mandate

The principal legislative mandate of the Law Society of Ontario is to regulate the practice of law and the provision of legal services in Ontario. It carries out this mandate by regulating those persons it currently licenses to provide such services, being lawyers (regulated since 1797) and paralegals (regulated since 2007) and by determining the legal services that may be provided by unlicensed persons and new classes of licensees.

The Law Society takes into account certain principles in carrying out its functions as set out in the *Law Society Act*.³

³ **4.1 It is a function of the Society to ensure that,**

- (a) all persons who practise law in Ontario or provide legal services in Ontario meet standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide; and
- (b) the standards of learning, professional competence and professional conduct for the provision of a particular legal service in a particular area of law apply equally to persons who practise law in Ontario and persons who provide legal services in Ontario.

Principles to be applied by the Society

4.2 In carrying out its functions, duties and powers under this Act, the Society shall have regard to the following principles:

1. The Society has a duty to maintain and advance the cause of justice and the rule of law.
2. The Society has a duty to act so as to facilitate access to justice for the people of Ontario.
3. The Society has a duty to protect the public interest.
4. The Society has a duty to act in a timely, open and efficient manner.
5. Standards of learning, professional competence and professional conduct for licensees and restrictions on who may provide particular legal services should be proportionate to the significance of the regulatory objectives sought to be realized.

Governance

With respect to Convocation's responsibility, strategic planning for the Law Society involves Convocation identifying **why** each strategic direction is of significance to the Law Society and **what** is at issue in implementing it. This requires defining why the objectives associated with the strategic direction need to be achieved and what the potential solutions are to do so. This process keeps the purpose of the strategic plan in focus.

With respect to management's responsibility, its focus is on **how** the objectives can be fulfilled through operations, by whom and with what resources – in other words, the means by which the strategic direction is realized. This will often require consideration of policy issues on specific matters involving various committees, task forces or working groups.

This approach aligns with the responsibilities of Convocation and the responsibilities of management set out in the Law Society's [Governance Practices and Policies](#).

Achieving Success

For the Law Society, 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 Priority Planning Committee's oversight responsibility for strategic planning includes monitoring the implementation of the strategic plan to ensure its success.

The Strategic Plan

A. Key Objectives

The Strategic Plan Convocation is requested to approve is comprised of four key objectives, set out below, that are based on the results of the bencher retreat. The themes to which they relate arose from the common ground and agreement among benchers as a result of their discussion of the topics identified. These themes focus on the Law Society's core responsibilities as a regulator.

These four objectives will be pursued in tandem with other work the Law Society is already undertaking, including ongoing implementation of previously approved priorities. Convocation's standing and other committees will also continue their policy-focused work as matters within their mandates or issues over which they have oversight are considered and evolve as a result of these objectives.

In accordance with the Governance Practices and Policies, two years into the bench term, the Strategic Plan will be reviewed. This will include an assessment of the concrete steps taken to realize the objectives, what remains to be accomplished and whether any adjustment to the strategic direction Convocation has set is warranted.⁴

1. 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.

⁴ PART 4: STRATEGIC PLANNING CYCLE - Section 1: Role of the Priority Planning Committee

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74. Two years into the bench term, the benchers are to reconvene in a meeting to review the Strategic Plan. This will include an assessment of its progress and determination of any changes or adjustments that are required to the Plan as a result of developments or events that may reasonably affect the integrity of the Plan for the remaining two years of the bench term.

2. 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.

3. 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.

4. 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.

B. Strategic Interdependencies of the Key Objectives

Consideration of the four objectives reveals a number of linkages and interdependencies among them, set out below. These should be taken into account by benchers and management as the Law Society implements the Strategic Plan through policy recommendations and operational approaches.

- 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.



Implementation

A. Policy Development

Following Convocation's approval of the Strategic Plan, the Priority Planning Committee will provide direction and guidance to the leadership of the relevant committees, task forces and/or working groups, identifying the policy work required to achieve the strategic objectives within the context of their mandates, including potential outcomes that are envisaged. This may involve the creation of work plans by these groups that illustrate the relevant issues within the scope of a committee, timelines, required resources and interdependencies of other committees as policy recommendations are developed for Convocation's consideration.

Management's responsibility will be to determine the appropriate operational tactics that will best support achieving the outcomes associated with the objectives under the Plan based on further input and feedback from committees and task forces that will serve to itemize those tactics and prioritize their importance.

This process will also consider any known resource/budget implications and will require cost recommendations to be integrated into future budget planning cycles for the bench term.

B. Ongoing Monitoring

As noted earlier, as the Strategic Plan is implemented, the Priority Planning Committee will monitor the progress of implementation and periodically review the priorities established by Convocation through the Plan. It will also consider as required any new objectives that may arise that Convocation may choose to add to the Plan as work unfolds.

C. Annual Reporting

Based on the Law Society's operational work associated with the Plan, the Committee will prepare annual reports to Convocation on the status of work under the Strategic Plan in the bench term.