



Tab 2

## **Report to Convocation February 27, 2014**

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### **Report of the Treasurer's Advisory Group on Access to Justice Working Group**

#### **WORKING GROUP MEMBERS**

**Treasurer Thomas Conway (Chair)**

**Howard Goldblatt (Vice-Chair)**

**Chris Brett**

**Marion Boyd**

**Cathy Corsetti**

**Adriana Doyle**

**Susan Hare**

**Michael Lerner**

**William McDowell**

**Janet Minor**

**Purpose of Report: For Decision**

**Prepared by Public Affairs**

## **PROPOSAL FOR A NEW LAW SOCIETY APPROACH TO ACCESS TO JUSTICE**

### **Motion**

1. **That Convocation approve the creation of a framework to facilitate the reinforcement and integration of access to justice objectives, including intersecting equity principles, into the core business, functions and operational planning of the Law Society, the key components of which are as follows, and as further described in this report:**
  - a. **An internal focus on access to justice, including equity principles, as a strategic objective underpinning the Law Society's work, which will include:**
    - i. **aligning resources to enhance the Law Society's approach to developing access to justice objectives integrated across program areas; and**
    - ii. **strategically reviewing, reconsidering and, where appropriate, amending the Law Society's rules, regulations, policies and practices to foster change and innovation and achieve the Law Society's access to justice objectives.**
  - b. **An external focus through which the Law Society will facilitate a standing forum for collaboration on access to justice by:**
    - i. **reconstituting the Treasurer's Advisory Group on Access to Justice as a standing forum called The Action Group on Access to Justice; and**
    - ii. **providing administrative and other resources necessary to assist in convening and supporting the ongoing functioning of the standing forum.**
  - c. **The development of appropriate metrics to measure the effectiveness of steps and actions taken by the Law Society.**
  - d. **In addition to periodic updates, an evaluation and report to Convocation within three years on achievements, challenges and improvements pertaining to the development and implementation of the access to justice framework.**

## INTRODUCTION

2. There are major access to justice gaps in this country. The National Action Committee on Access to Justice in Civil and Family Matters and others have highlighted:
  - a. As many as one in three people will experience at least one legal problem in a given three year period. Few will have the resources to solve them.
  - b. Members of poor and vulnerable groups are particularly prone to legal problems. They experience more legal problems than higher income earners and more secure groups.
  - c. The problems people have often multiply; that is, having one kind of legal problem can often lead to other legal, social and health related problems.
  - d. Legal problems have social and economic costs. Unresolved legal problems adversely affect people's lives and the public purse.
  
3. As the Honourable Frank Iacobucci noted in his recently released report on *First Nations Representation on Ontario Juries* (Tab 2.1) the justice system generally as applied to First Nations peoples, particularly in the North, is in crisis. He notes a set of broad and systemic issues at the heart of the current dysfunctional relationship between Ontario's justice system and Aboriginal peoples in this province.
  
4. The current justice system, which is inaccessible to so many, disproportionately impacts members of immigrant, Aboriginal and rural and northern populations, and other vulnerable groups. It is unable to respond adequately to the problem and is unsustainable.
  
5. In addition, the legal professions themselves are facing significant change as they endeavour to remain viable, competitive and relevant in the face of challenges presented by globalization, technology and changing client demands (see most recently the CBA's *Legal Futures Initiative*). Not least of the challenges facing the profession is access to justice and a perception that the legal profession is out of touch, not representative of the populations it serves, and itself creates barriers to low and middle income Ontarians accessing legal services and justice.

6. In the face of this growing understanding of the challenges, the legal professions are urged to redefine professionalism and ensure a strong focus on serving the public. In this context, the Law Society has an opportunity to profoundly influence change and respond, within the scope of its authority, to the challenges people are facing in accessing justice in this province.
7. This report from the Treasurer' Advisory Group on Access to Justice (TAG) Working Group proposes a framework for change that would see the Law Society lead and innovate on these important issues.
8. The proposals in this report have been revised since first presented to Convocation for information and discussion on January 23, 2014. The proposals have benefitted from significant input and advice from a range of committees, individual benchers, and Law Society advisory groups such as the Treasurer's Liaison Group, the Equity Advisory Group, and the Aboriginal Working Group. Discussions have also occurred with other stakeholder groups and associations and numerous written submissions have been received commenting on the proposals. In response to this significant input received, the proposals have been clarified, refined, and amended.

## **BACKGROUND**

9. The Law Society has been engaged with issues pertaining to access to justice for years: from the work of the standing Committee on Access to Justice, to the regulation of paralegals introduced in 2007. In fact, the Law Society's mandate was enhanced with the legislative amendments introducing paralegal regulation to include a specific duty with regard to access to justice:

### **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:

...

2. The Society has a duty *to act so as to facilitate access to justice* for the people of Ontario. 2006, c. 21, Sched. C, s. 7.
10. Law societies across the country have been engaged in a number of diverse initiatives aimed at improving public access to legal services, ranging from those designed to prevent legal problems from arising, to those aimed at expanding knowledge and services for the self-represented, to those that increase access to legal assistance. There is growing recognition, however, of the limitations of these one-off, ad hoc approaches.
11. Despite significant individual and organizational efforts, including those of the law societies, the “crisis” only seems to be growing, highlighted perhaps most starkly by the numbers of self-represented litigants appearing in courts across the country. As a result, the attention being focussed on the need to address the imperative to provide more effective and meaningful access to justice in the last few years has been unprecedented.
12. The Law Society has responsibility for a broad range of regulatory activities, including standard setting, rule making, policy development and implementation, licensing, investigation and prosecution of complaints against lawyers and paralegals, adjudication of conduct, competence and capacity matters and imposition and monitoring of penalties. Across this range of activities there is significant scope to influence a cultural shift, foster innovation, and stimulate change that will better “facilitate access to justice for the people of Ontario.”
13. In response to growing pressures and to further explore opportunities for the Law Society to enhance its role and provide leadership on these issues, the Treasurer identified access to justice as a priority during his term as Treasurer. In January 2013 he met with the Chairs of the Access to Justice, Government Relations, and Equity and Aboriginal Issues Committees. The Chairs were overwhelmingly supportive of seeking an enhanced role for the Law Society on these issues and agreed that focussed consultations within the profession and stakeholder groups would help to inform what that role should or could be.

14. Accordingly, the Treasurer's Advisory Group on Access to Justice (TAG) was established to seek information and advice from a broad cross-section of those involved in the justice sector: organizations whose core mandate involves addressing access to justice, lawyer and paralegal associations, representatives of groups promoting equity and diversity in the legal professions, courts and government representatives, and academics (list of the groups and organizations who have participated in TAG meetings attached as **Tab 2.2**).
15. Although established for a specific and limited purpose, TAG has already had the effect of facilitating a broader collaborative dialogue and galvanizing interest and energy. Posts to the Treasurer's Blog over the past year, as well as regular updates provided to Convocation and press coverage and attention, have helped to keep the profession informed about the Law Society's activities and evolving plans in regard to a new approach to access to justice issues.

#### **TAG - What the Law Society Has Heard**

16. Numerous meetings of TAG participants have occurred, both formally and informally, over the past year. Those dialogues culminated in a symposium in October 2013: *Creating a Climate for Change*. A group of key leaders and decision-makers dedicated to improving access to justice gathered for concrete and practical discussions about structures and mechanisms for implementing change, particularly as related to an enhanced role for the Law Society on these issues as it fulfils its legislative mandate.
17. Two background papers were prepared for the symposium: one to highlight key themes emerging from the many reports and recommendations of the last several years; and one to provide an overview of the scope of activities and organizations focused on improving access to justice in Ontario (*Access to Justice Themes: "Quotable Quotes,"* **Tab 2.3**; *Legal Organizations and Access to Justice Activities in Ontario,* **Tab 2.4**). The final report from the symposium summarizes the nature of input and ideas the Law Society received about an appropriate role (*Creating a Climate for Change: Report from the TAG Symposium, October 29, 2013,* **Tab 2.5**).

18. The core of the advice and input received through the TAG dialogues and symposium has been remarkably consistent and includes:
- a. Meaningful change will require changing the discourse – finding a common voice; engaging the public; creating a political climate for change.
  - b. “Putting people first” requires an understanding that barriers to access to justice are both the cause and the effect of the disadvantages experienced today by various communities in Ontario society;
  - c. In changing the discourse, the Law Society is well positioned to act as a catalyst/facilitator/educator:
    - i. Providing a forum for dialogue and collaboration – bringing diverse actors together and enabling “those in charge” to work together;
    - ii. Exploring and developing mechanisms to ensure broader public awareness: of the services available and how to access them; and of the importance of access to justice for all Ontarians more generally.
  - d. Change – focussed, systemic and sustained - is necessary across the justice sector and across disciplinary boundaries; as an agent of change, the Law Society can lead and foster innovation within its own regulatory context by, for instance:
    - i. addressing any regulatory impediments to, or creating inducements for, innovation generally in the delivery of legal services;
    - ii. ensuring regulation of professional competence and conduct is appropriately balanced against the broader public interest in access to justice;
    - iii. examining alternative structures that could better facilitate innovative approaches to the provision of legal services;
    - iv. providing education and inducement for the professions to be better engaged on the issues and solutions;
    - v. considering the scope of paralegal practice;
    - vi. reaching out to diverse communities, particularly those where barriers to access to justice have been identified, and sharing and encouraging research on their needs and perspectives;
    - vii. considering inducements for rural and other service delivery methods that would help address geographic barriers to access to justice.

19. Collaboration, and mechanisms to facilitate it, were central topics at every TAG meeting over the past year and were emphasized again at the TAG Symposium in October. Participants there strongly encouraged the Law Society to maintain the leadership it has shown in bringing diverse players together. There is now momentum and an expectation created that the Law Society will have an ongoing role in facilitating a collaborative dialogue in Ontario.

### **Other Initiatives that have Informed the Law Society's Approach**

20. Many reports were reviewed and highlighted for the TAG Symposium. Three national reports released in 2013 were of particular significance in informing and shaping the TAG Working Group's proposal for a new Law Society approach to access to justice:
  - a. *A Roadmap for Change*, Report of the National Action Committee on Access to Justice in Civil and Family Matters (October 2013) (**Tab 2.6**)
  - b. *Reaching Equal Justice: an Invitation to Envision and Act*, Report of the Canadian Bar Association's Envisioning Equal Justice Initiative (November 2013) (**Tab 2.7**)
  - c. *The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants*, final report, Dr. Julie Macfarlane (May 2013) (**Tab 2.8**).
21. Each of these reports (and their supporting background papers) has specific recommendations pertaining to law societies and professional regulation. The reports are consistent in the types of innovations they say law societies should be contemplating. As summarized by the Action Committee on Access to Civil and Family Justice in *A Roadmap for Change* (at page 14):

“Specific innovations and improvements that should be considered and potentially developed include:

- Limited scope retainers – “unbundling”;
- Alternative business and delivery models;
- Increased opportunities for paralegal services;



- Increased legal information services by lawyers and qualified non-lawyers;
  - Appropriate outsourcing of legal services;
  - Summary advice and referrals;
  - Alternative billing models;
  - Legal expense insurance and broad-based legal care;
  - Pro bono and low bono services;
  - Creative partnerships and initiatives designed to encourage expanding access to legal services – particularly to low income clients;
  - Programs to promote justice services to rural and remote communities as well as marginalized and equity seeking communities; and
  - Programs that match unmet legal needs with unmet legal markets.”
22. All of these reports also agree that access to justice is a multi-faceted issue that requires responses within and beyond the formal justice system. Most importantly, each report highlights the lack of leadership and collaboration on access to justice issues as being central to the reason that change and improvement continue to be such a challenge. The system’s players are urged to change their focus:
- “Within our current constitutional, administrative and sectoral frameworks, much more collaboration and coordination is not only needed but achievable. We can and must improve collaboration and coordination not only across and within jurisdictions, but also across and within all sectors and aspects of the justice system (civil, family, early dispute resolution, courts, tribunals, the Bar, the Bench, court administration, the academy, the public, etc.). We can and must improve collaboration, coordination and service integration with other social service sectors and providers as well.” (NAC, *A Roadmap for Change*, p. 7)
23. The importance of collaboration is highlighted in each report with specific recommendations for the creation of a collaborative forum, in one form or another, which brings together system players and its users and stimulates action for change.
24. Adopting a collaborative approach was also highlighted in the Law Society of Upper Canada, Legal Aid Ontario and Pro Bono Law Ontario’s joint report *Listening to*

*Ontarians* (attached at **Tab 2.9**). It states “We believe that accessibility to the civil justice system would improve if organizations committed to access to justice committed to sharing information and working together” (at page 60).

25. Other significant Ontario reports have also highlighted the importance of collaboration; including the Karen Cohl and George Thomson report *Connecting across Language and Distance* and the report prepared by The Honourable Paul Rouleau and Paul Le Vay *Access to Justice in French*. Both reports recommend a coordinated approach for enhancing linguistic and rural access to legal information and services.
26. And, of course, the Honourable Frank Iacobucci’s report on *First Nations Representation on Ontario Juries* (**Tab 2.1**) provides a stark and chilling reminder of the particular crisis Ontario’s Aboriginal peoples face in accessing justice, and cannot be ignored. It too speaks of the need for systemic and cooperative action.
27. All of these reports have provided, in effect, a menu of innovations and changes that the Law Society, within its statutory mandate, must embrace, pursue and support. The challenge is to do so in an organized and strategic way, coordinated across program areas of the Law Society, and across partners within and beyond the justice sector who can contribute collectively to systemic and lasting changes.

### **The Key Role of Equity**

28. The Law Society’s ongoing involvement with equity issues through engagement with external groups, consultation with the professions, and reviewing and conducting related research, has also informed the Law Society’s current approach to clarifying and defining its access to justice mandate.
29. In May 1997, the Law Society of Upper Canada unanimously adopted the *Bicentennial Report and Recommendations on Equity Issues in the Legal Profession* (the “*Bicentennial Report*”) which forms the foundation to the equity and diversity work of the Law Society.

The *Bicentennial Report* reviewed the status of women, and members of the Aboriginal, Francophone, racialized, disability, gay, lesbian, bisexual and transgender communities in the profession. The *Bicentennial Report* made sixteen recommendations that have since guided the Law Society as it promotes equality and diversity within the legal profession.

30. The adoption of the *Bicentennial Report* led to a series of systemic changes to promote equality and diversity within the legal profession and within the Law Society. The changes included the creation of an infrastructure to address these issues, including a standing committee of Convocation, advisory groups and the internal capacity. This in turn has led to the creation of programs such as: public education programs for members of the public and the profession; professional development programs for the profession; the adoption of significant policy initiatives such as the modification of the *Rules of Professional Conduct* and the *Paralegal Rules of Conduct* to address harassment and discrimination and the obligation of lawyers and paralegals to offer services in the French language; and significant research and policy development initiatives, such as the Challenges Faced by Racialized Licensees project and the consultations with the Aboriginal bar and lawyers with disabilities. The Aboriginal Bar Consultation Report provided numerous recommendations to support Aboriginal licensees that the Law Society has implemented or is pursuing including: networking, certified specialist designation in Aboriginal Law, and mentoring.
31. It is clear from research and consultations conducted to date that the concept of access to justice must include a consideration of Aboriginal, Francophone and equity-seeking communities. There is now ample evidence that these communities experience disproportionate barriers in the current justice system. At the same time, in the name of access to justice, the legal professions must be representative of the community they serve. As a result, the promotion of equity in the legal professions, and the enhancement of access to justice for Ontarians, must be viewed as complementary and interrelated challenges.
32. There will never be real access to justice without the involvement of legal professions that are inclusive, diverse and representative. Conversely, access to justice will not be attained

if members of Aboriginal, Francophone and equity-seeking communities continue to face barriers to access. Within the scope of its authority and mandate, the Law Society must therefore approach the interrelated dimensions of the equity and access to justice issues in a coordinated and simultaneous way.

### **A NEW LAW SOCIETY APPROACH TO ACCESS TO JUSTICE**

33. It is apparent from all of the above that access to justice comprises a broad category of issues and responses that cannot all be addressed at once or by one entity. While not alone in shouldering the responsibility for promoting access to justice, it must be recognized that the Law Society does play and must play a central role in shaping and guiding the legal professions and in influencing change and innovation.
34. In order to be most effective, the Law Society needs a clear and new framework within which these issues and emerging recommendations must be considered. This framework would ensure that access to justice and related equity issues are considered in a strategic, systematic and sustained way, consistent with – and integrated into – the Law Society’s core functions with regard to professional competence and professional conduct.
35. This is not a proposal to supplant those core functions but, rather, to supplement and enhance them, recognizing the growing public interest in and demand for improved access to justice. This is a proposal to break down siloed thinking and approaches, both internally and externally, to enable better integration of efforts and objectives which will “facilitate access to justice for the people of Ontario.”
36. Creating a new framework with structural and resource supports within which these issues can be considered allows the Law Society to take the many reports and recommendations that already exist and begin to consider what they mean for the regulator and for system partners more broadly in working collaboratively to achieve meaningful and long lasting change.

37. The TAG Working Group proposes that the details of this new framework, including mechanisms for engagement with the users of the system and other stakeholders in order to identify priorities and processes for change, be developed over the next few months. With Convocation's approval, the details of the framework would be developed around two key components, one with an internal focus and one – a standing forum – focusing externally.

**Key Component – Internal**

38. The first key component of the proposed framework would require a critical, holistic and ongoing examination of the Law Society's own rules, regulations, policies and programs – both existing and proposed – to assess their effectiveness in meeting access to justice objectives. Where access to justice objectives have not already been identified, they should be considered. In identifying access to justice objectives, a particular emphasis should be placed on consideration of how those objectives would benefit those who can be among the most marginalized in society, including Aboriginal peoples, racialized communities, people with disabilities, and other equity-seeking groups.
39. This exercise would be informed to a great extent by the reports and recommendations that have emerged over the last year or so. The framework will ensure that those reports and recommendations are considered in a systematic and coordinated way across program areas. This will include a process and timeline to address, specifically and practically, proposals including those recommended by the Action Committee, Canadian Bar Association, and others such as,
- a. alternative business and delivery models;
  - b. increased opportunities for paralegal services;
  - c. increased legal information services by lawyers and qualified non-lawyers;
  - d. regulation with respect to outsourcing of legal services;
  - e. regulation with respect to the provision of summary advice and referrals.

40. In conjunction with the proposed external forum, the framework will also allow for further consideration of other issues and opportunities including those related to the following:
  - a. alternative billing models;
  - b. legal expense insurance and broad-based legal care;
  - c. pro bono and low bono services;
  - d. creative partnerships and initiatives designed to encourage expanding access to legal services – particularly to low income clients – including enhancements to legal aid;
  - e. programs to promote justice services to rural and remote communities as well as marginalized and Aboriginal, Francophone and equity seeking communities; and
  - f. programs that match unmet legal needs with unmet legal markets.
  
41. Operational changes already implemented by the Chief Executive Officer present an opportunity to align resources to the development and implementation of the proposed framework. The CEO has begun a reorganization of certain program areas to more efficiently and effectively deliver and support the Law Society's core functions. A new Division – Strategic Policy, Communications and Corporate Relations - has been created with a new Executive Director appointed as of February 3, 2014. This new Division will integrate issues management, access and equity, government and stakeholder relations, strategic communications, and Convocation and Committee support, into a new reporting and operating structure.
  
42. A core task of the new Division, with guidance from Convocation, will be to develop the details of the proposed framework necessary to fully integrate and implement a new approach to access to justice issues, including through identification of its guiding principles, objectives, work plans and outcomes/deliverables. Performance and outreach measures will be developed to ensure ongoing evaluation of the ability of the new Division to achieve its objectives.

43. The new Division will serve to ensure that a consistent and supported approach is taken across the organization in articulating and meeting access to justice objectives. The Division will position itself to provide expert advice and perspective on access to justice and related equity issues to support the core functions of the Law Society regarding professional competence and conduct. It will continue to liaise with members of Aboriginal, Francophone and equity partners to ensure various perspectives are appropriately considered. In addition, ongoing liaison will occur with the Canadian Bar Association, the Action Committee, and others to continue discussions with regard to the implementation of the recommendations they have made.
44. As more support, focus and structure is brought to the Law Society's approach to responding to access to justice issues and the recommendations emerging over the last year or so, there will be the ability to more nimbly and effectively respond to opportunities for dialogue and partnerships. The Law Society can be better positioned to develop informed, innovative and lasting change on a systemic basis.
45. As example, establishing this framework and integrating access to justice and equity issues into the Law Society's core business and operational planning will allow more strategic and coordinated responses between intersecting issues of access to justice and equity such as the challenges faced in obtaining access to justice in French, and by Aboriginal people and members of equity-seeking communities in accessing legal services. All of these issues have highlighted the need to be informed by the system users and to respond collaboratively with system partners. The framework proposed will better position the Law Society to do that in a more informed and coordinated way.
46. Within the new framework, the Law Society will engage with Aboriginal leadership and continue to liaise with the Aboriginal bar on access to justice issues, and will do so better equipped and informed about the role the Law Society has and the scope of its ability to respond to the challenges Aboriginal people face. A more structured framework and approach will enable more effective engagement ensuring that feedback provided to the Law Society can be appropriately considered and applied.

47. Similarly, as the Law Society responds to the *Access to Justice in French* report, or others, it can do so in a more coordinated, focused and effective way.
48. Committing to and fulfilling this component of the proposed framework also positions the Law Society to better support the second key component, an external forum. By integrating access to justice objectives into its core business and functions, the Law Society can lead by example and maintain the credibility needed to lead and support external partners.

**Key Component – External – Standing Forum on Access to Justice**

49. The second key component recommended by the TAG Working Group would see the Law Society provide the coordination and infrastructure support necessary to create and sustain a standing forum for collaboration on access to justice. This external forum will help to ensure that the Law Society's activities are complementary and supportive of the work of other key partners and, importantly, informed by users and service providers most familiar with their issue-specific challenges and opportunities. The Law Society recognizes that broad support of these partners and Ontarians generally is essential to achieving and sustaining meaningful change.
50. This type of cooperation and collaboration has been repeatedly identified as a necessary precursor to practical and long-lasting change. The lack of coordination and collaboration has been identified as a key “implementation gap” or impediment to moving forward with systemic change.
51. This proposal should be seen as a first step in realizing the structures that the Action Committee and Canadian Bar Association have recommended. No other body in Ontario has yet stepped forward to provide the infrastructure necessary to the collaborative forum all have recommended. The Law Society is uniquely positioned to do so and to convene meetings of a broad cross-section of system partners and beyond.



52. The TAG Working Group proposes that TAG be reconstituted to become “The Action Group on Access to Justice”. The types of support proposed to be provided to The Action Group by the Law Society include:
- a. convening and facilitating meetings;
  - b. relying on the Law Society’s significant and positive government and stakeholder relations to build and sustain strategic partnerships necessary for success, and to influence change, as appropriate;
  - c. providing administrative and related support in the coordination of meetings and tasks flowing therefrom; and
  - d. assisting in the collection, analysis and dissemination of information.
53. Here again, the operational changes already underway present an opportunity to offer this support. The newly created Division would liaise with and provide the administrative and outreach support to the ongoing work of The Action Group. This is not anticipated to require new resources but would be accomplished largely through realignment and efficiencies found as the new Division reorganizes staff and functions.
54. The Action Group would seek to secure diverse participation ranging from key leaders in governments, courts, academia, and bar and paralegal associations, as well as representatives of Aboriginal, Francophone and equity partners, legal aid and clinics, and other legal and non-legal organizations and groups who play a role in providing access to justice in the province.
55. It is proposed that The Action Group’s participants would together develop a shared vision and common agenda for change. The various studies, reports and recommendations of the last several years provide a solid foundation from which to quickly achieve that task. The Action Group would also benefit from continued liaison with and advice from members of the Canadian Bar Association’s Reaching Equal Justice Initiative and members of the National Action Committee, including the Honourable Mr. Justice Thomas Cromwell, who

have themselves participated in TAG dialogues and provided such detailed and thoughtful advice and support to date.

56. Once developed, the common agenda could, in turn, lead to agreed-upon actions and strategies to be implemented in a complementary and cooperative way by The Action Group's participants. In this respect, it would be essential that The Action Group's participants be prepared to pursue the implementation of identified activities that are mutually reinforcing of one another and clearly linked back to the common agenda.
57. The Action Group could meet regularly as a whole and in topic-focused sub-groups. The Action group could also host an annual symposium to serve both as a mechanism to "report out" the work it has undertaken in the previous year, and to build and sustain interest and momentum around a common agenda for the following year.
58. Funding for actions and strategies agreed to by The Action Group's participants would come from the participants' usual funding sources. As The Action Group's participants cooperate and collaborate toward a common agenda and vision, there is opportunity to leverage funding much more effectively and efficiently. This approach will also allow the Law Society to move away from being perceived as a funder of access initiatives. Rather, the Law Society's contribution would be through its facilitative leadership and infrastructure support to The Action Group and through its own internal efforts to consider its policies and practices in light of access to justice objectives.
59. As stated, The Action Group would serve, at least initially, as the mechanism by which diverse partners are brought together, supported by the facilitation and infrastructure the Law Society is able to provide. The Law Society would maintain policy governance oversight of the functioning of The Action Group only to the extent of satisfying itself that its contribution of facilitation and infrastructure remains consistent with the Law Society's access to justice objectives more generally.

60. In addition to providing the infrastructure and facilitative support, the Law Society would participate in a substantive way as a member of The Action Group in developing the common agenda and translating The Action Group's identified priorities into action items for consideration in Law Society business and approaches. Possible action items would, of course, be considered through the Law Society's usual policy development and decision-making processes. Participation on The Action Group would contribute to the first key component of the proposed framework by further informing the Law Society on strategic priorities and actions it can take within its regulatory scope that will best support a more systemic reform effort.

#### **Enhancements to the work of Law Society Committees to Support the Framework**

61. A new integrated Law Society approach to access to justice presents an opportunity to rejuvenate the work of committees and build upon the solid foundations already established.
62. The framework proposed includes an ambitious goal of more fully integrating access to justice objectives across policy and program areas, by engaging in a holistic, systematic and ongoing examination of Law Society rules, regulations, policies and practices. At the outset at least, this will engage staff and benchers in a different and challenging dialogue and require considerable coordination and cooperation organizationally.
63. All committees will need to remain open to discussions of the overall access to justice and related equity agenda as the framework evolves. Committee members will be called upon to ensure its integration and success across policy and program areas, working closely with senior management and staff.
64. In recognition of the need on the part of the Law Society to approach the interrelated dimensions of the equity and access to justice issues in a coordinated and simultaneous way, there would also be value in closer cooperation between the Access to Justice Committee and the Equity and Aboriginal Issues Committee.

65. Greater coordination and cooperation between these two committees would help to ensure that equity principles inform the discussion of access to justice and that access to justice is taken into account in the formulation of equity policies and initiatives. This would allow for a sharing and integration of diverse expertise and perspectives that can be brought to bear on both equity and access issues in a focused, strategic and sustained way, enhancing the development and implementation of the new framework proposed.
66. Coordination and cooperation across all committees is expected to happen quite naturally and informally. Opportunities also exist within existing rules and operating principles that can facilitate cross-appointments, joint meetings, and other mechanisms to support the overall coordination and integration of the new framework.
67. The TAG Working Group is nonetheless mindful that more formal structures and mechanisms may be appropriate to achieving these overarching objectives of coordination and integration. There are also legitimate governance questions that have been raised by the TAG Working Group's proposals since first introduced to Convocation in January. In order to ensure that these issues and questions are appropriately considered, the TAG Working Group recommends that these issues be referred to the Governance Working Group for further consideration and consultation, as appropriate.

### **Financial Implications**

68. The TAG Working Group has considered the potential costs of this proposal and has determined that it would be premature to provide cost figures. In large measure, policy and administrative support to reorganized Committees and The Action Group would be realized through efficiencies achieved in the operational realignment.
69. Operating budgets, particularly to support The Action Group forum, are unknown until The Action Group has been reconstituted and agreement reached with participants on how it will function. For 2014, operating expenses will be drawn from existing budgets; requests

for funding for 2015 and subsequent years will go through usual review and approval processes.

## CONCLUSION

70. As the Honourable Mr. Justice Thomas Cromwell has said: access to justice is at a critical stage in this country; change is urgently needed. Because of its demonstrated ability to respond to change in the legal environment, including the integration of equity principles into its operations, the Law Society has a unique role to play in shaping the profession and fostering change within the scope of its regulatory authority.
71. It is time for the Law Society to adopt a more strategic and holistic approach to access to justice issues. The framework proposed provides a path to proceed forward in a focused and supported way. It is the next step in achieving a long-identified strategic priority of the Law Society and critical to better fulfilling its legislative mandate.