

TAB 6



Report to Convocation April 26, 2018

SPOT Team

Team Members

Cathy Corsetti
Jacqueline Horvat
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Jonathan Rosenthal

Purpose of Report: Information

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Overview

1. The SPOT (Steps, Progress, Opportunities, and Tactics) Team was created in response to the reports of discrimination and harassment coming out of the Articling Experience Survey. Benchers Cathy Corsetti, Jacqueline Horvat, Barbara Murchie, Tanya Walker, and Jonathan Rosenthal were appointed to review existing Law Society supports and consider what, if any, additional actions should be taken.

Assessment and Action Items

2. The Spot Team undertook a review of the existing programs, policies and processes in all operational areas of the Law Society, and assessed their effectiveness and what, if any, improvements were required.
3. The Team found that proactive procedures and significant supports are integrated throughout the organization's programs and services, and that these are grounded in an appropriate and effective regulatory framework.
4. To ensure a continuation of the Law Society's leadership as the landscape evolves, the Team has identified the following action items as enhancements to the current procedures and supports, as discussed below.
 - a. Amending and strengthening the rules of conduct
 - b. Reviewing and assessing the Discrimination and Harassment Counsel Program
 - c. Enhancing marketing of Discrimination and Harassment Counsel and Member Assistance Programs
 - d. Developing materials for lawyer and paralegal candidates and Principals to more overtly address the issue of harassment and discrimination in the professions
 - e. Engaging with stakeholders and sharing best practices
 - f. Continuing to offer and develop relevant CPD Programs
 - g. Augmenting data collection processes to better track progress.

Background

5. The Law Society's Professional Development and Competence Committee commissioned the Articling Experience Survey to examine the experiences of articling candidates. The research was commissioned as part of the Dialogue on Licensing, the Law Society's comprehensive review of the lawyer licensing process.

6. The survey was aimed at lawyers who had completed their articling in 2014-2015, or 2015-2016 and those candidates who were in the 2016-2017 articling process at the time of the survey.
7. The findings from one section of the survey, relating to articling candidates experiencing sexual harassment and racial and gender discrimination, resulted in the Treasurer establishing the SPOT Team and committing to the following actions:
 - a. Engage with law firms and legal departments in a variety of settings in order to share best practices in addressing issues surrounding harassment and discrimination, including examining how best to establish safe spaces where candidates, lawyers, paralegals and the public can confidentially report instances of harassment and discrimination;
 - b. Increase promotion of the Law Society's services and supports to assist people who experience discrimination or harassment, including the Discrimination and Harassment Counsel and the Member Assistance Programs; and
 - c. Review Section 6.3 (Sexual Harassment) and Section 6.3.1 of the *Rules of Professional Conduct* related to discrimination and harassment, to ensure they are up-to-date and reflective of the latest statutory changes and case law; emphasize Rule 6.3-3 which states that 'a lawyer shall not sexually harass a colleague, a staff member, a client or any other person.'
8. The Treasurer appointed the SPOT Team to review existing supports and planned actions and provide guidance to staff and Convocation as to additional steps that should be undertaken. Specifically, the Treasurer requested the Team:
 - a. Receive and review a work plan to address the three commitments to action;
 - b. Consider the inventory of all services and supports that the Law Society offers in response to indications or complaints of discrimination and harassment;
 - c. Consider what, if any, other short-term plans should be included as part of the Law Society's response.

Review of Existing Supports and Planned Actions

Amendments to the Rules of Conduct

9. The Professional Regulation Committee reviewed the current regulatory and statutory framework, and considered amendments to further strengthen the *Rules* to address the issues highlighted in the Articling Experience Survey.
10. The Committee found that the *Rules* clearly and unambiguously prohibit discrimination and harassment, and do not appear to require significant changes. However, the

Committee is proposing amendments to emphasize existing obligations for lawyers and paralegals to highlight recent legislative changes applicable to all workplaces.

11. The Committee is bringing the proposed amendments to the lawyers' *Rules of Professional Conduct* to April Convocation for consideration. The *Paralegal Rules of Conduct* and the Paralegal Guidelines will be reviewed by the Paralegal Standing Committee.

Discrimination and Harassment Counsel Program

12. The Law Society has been providing the Discrimination and Harassment Counsel (DHC) program to the Ontario public, licensing candidates, lawyers and paralegals free-of-charge since 1999. The DHC confidentially assists anyone who may have experienced discrimination or harassment on human rights grounds by a lawyer, paralegal or licensing candidate.
13. The DHC program is funded by the Law Society; however, it operates independently and all information received by the DHC is held in strict confidence. The DHC provides regular reports to Convocation on its activities and the number, as well as the type of complaints received. The most recent report was included in the [Equity and Indigenous Affairs Committee \(EIAC\) report to February, 2018 Convocation](#).
14. EIAC periodically reviews the DHC program to ensure the program continues to meet the evolving needs of the public and professions. Recent improvements include the establishment of two alternate DHCs to enhance accessibility to the program across the province.
15. EIAC is currently undertaking an extensive review and assessment of the DHC program as part of the implementation of the recommendations of the Challenges Faced by Racialized Licensees Working Group Final Report.
16. The review has three phases. Phase I is a literature review, which has been completed; Phase II is an interview stage; and Phase III will involve an optional survey of the profession and licensing candidates with respect to knowledge of the program, use of the program and ideas on how to increase its effectiveness.
17. As it proceeds with its review, EIAC plans to consider questions such as how the DHC program could evolve to better address systemic issues.
18. The SPOT Team also proposes that in its review of the program EIAC consider what, if any, steps may be taken to encourage complainants to complain to the Law Society. Given the potential seriousness, the Team feels a proportional regulatory response would best protect the public, licensing candidates and licensees.

Promotion of DHC program

19. The DHC program is marketed to licensees and members of the public through a variety of channels including a dedicated DHC site, the Law Society website, the Ontario Reports, e-newsletters and social media. The Client Service Centre, Practice Supports and Resources and other program areas also regularly refer individuals to the DHC. The DHC have also been included in the Equity Legal Education Series which has provided opportunities to promote the program.
20. Since the release of the Articling Experience Survey in January, the Law Society initiated a communications plan to raise awareness of the DHC program and to ensure that licensees and licensing candidates are aware of the services it offers. The Law Society also plans to enhance its marketing of the Member Assistance Program in the coming months. See [TAB 6.1](#) for an overview of communications and referral processes.

Candidate Supports in the Licensing Process

21. The Licensing and Accreditation department offers a series of resources and supports to lawyer and paralegal licensing candidates, as well as articling Principals and other participants in the licensing processes.
22. The majority of service requests are received from candidates seeking assistance from the Law Society in core areas, including but not limited to applying for financial assistance, finding an articling position, arranging testing accommodations, and obtaining tutoring. Increasingly, candidates are also seeking guidance and supports in relation to personal circumstances that may include physical and/or mental health challenges, family obligations, and other special needs. Staff has been trained in managing these types of requests to ensure the provision of timely, detailed, and helpful responses.
23. Where applicable, candidates are referred to the Member Assistance Program, the DHC program, the Practice Management Helpline, and the Law Society Referral Service, among others. These services are listed on the [Licensing Process webpage](#) and are included in communications with candidates when they apply to the licensing process. Newly licensed lawyers and paralegals can also access these and other services in a [dedicated area of the website](#).
24. The Law Society's Articling Office has an internal protocol in place for addressing candidate concerns or complaints about their articling experiences, which average three-five per month. Concerns typically pertain to the quality of the training, relationship issues between the candidate and Articling Principal, or the Principal's conduct. The manager or counsel will provide guidance to the candidate, which will include options for escalation and resolution. Depending on the circumstances, these may include coaching the candidate on strategies for raising the issues with the Principal, Law

Society staff intervening and speaking to the Principal directly, the candidate making a formal complaint to the Law Society, or the candidate terminating the placement and seeking independent legal advice. In these circumstances, referrals to the DHC and the Member Assistance Program are provided and use of these services is encouraged. In most cases, candidates do not want to engage in formal complaints or legal proceedings and are looking for strategies to get through the process in order to move on and become licensed.

25. In response to the recent findings contained in the Articling Experience Survey, the Licensing and Accreditation Department is developing materials for candidates and Principals to more overtly address the issue of harassment and discrimination in the professions. The materials will provide lawyer and paralegal candidates with details about the resources available and information about their rights, should they experience or witness harassment or discrimination. The materials for Principals will outline their obligations and provide information about creating safe spaces for candidates. The materials include an information sheet to all lawyer and paralegal licensing candidates about the DHC program and services. These materials will be incorporated into communications with candidates about the licensing process, the website and other outreach as appropriate, in order to ensure that all participants are aware of these supports.

Continuing Professional Development (CPD) Programs

26. The Law Society offers CPD programs to educate and support lawyers and paralegals in addressing and reducing harassment and discrimination in the workplace. Recent and upcoming programs include:
 - a. 2018 In-House Counsel Summit (February) - *Five Essential Steps to a Diverse and Inclusive Legal Department*
 - b. 2018 Solo & Small Firm Conference (June) - The Conference is directly focused on Professionalism and Practice Management topics to assist lawyers and paralegals in understanding and addressing common issues that face them in practice. Topics include: *Office Policies for the Modern Work Environment*; and *Disability and Accommodation Issues in your Practice*.
27. Planning for future CPD programming will include development of content to support lawyer and paralegal education in workplace best practices across different training areas and contexts, as appropriate.

External Engagement – Proposal for Roundtables and Sharing of Best Practices

28. As part of its overall stakeholder engagement strategy, the Law Society organizes a series of roundtables with a cross-section of key stakeholders including:

- a. Treasurer's Liaison Group
 - b. Early Careers Roundtable
 - c. Law Students Roundtable
 - d. In-house Corporate Counsel Roundtable
 - e. Public Sector Roundtable
 - f. Managing Partners Roundtable
29. Roundtables provide a venue for constructive dialogue between the Law Society and its stakeholders.
30. The SPOT report will be placed on the agendas for roundtables and scheduled throughout the spring of 2018 to inform a discussion with stakeholders on the Law Society's ongoing work to address discrimination and harassment.

Sharing Best Practices

31. The SPOT Team also proposes that a roundtable with representatives from the Law Firm Diversity and Inclusion Network and other subject matter experts be organized to facilitate sharing of best practices.
32. Following the roundtable, these best practices will be further shared to support the professions.
33. Existing resources provided by the Law Society, in particular resources to assist smaller firms in developing their own policies and procedures, will be included along with information on the requirements under the conduct rules and obligations under the *Occupational Health and Safety Act*.
34. The publication of the SPOT Team report and the compilation of best practices will be used as communication platforms for the Law Society to further promote its services and enhance awareness of the issues.

Enhanced Data Collection

35. The SPOT Team is proposing the following enhancements to the Law Society's current data collection processes to better track progress in the reduction of incidences of discrimination and harassment:
- a. Repeat the articling experience survey on a cyclical basis, as determined by the Professional Development and Competence Committee, and conduct a similar survey of paralegal candidates. (To be considered by the Professional Development and Competence Committee);
 - b. Add questions to lawyer and paralegal change of status surveys to probe whether discrimination or harassment played a part in the licensee's decision to leave a workplace;

- c. Ensure the inclusion survey sent to all licensees every four years captures issues related to sexual discrimination and harassment. This survey was originally conducted as part of the Challenges Faced by Racialized Licensees project. It was repeated in 2017 and will be conducted again in 2021.

Conclusion

36. Having reviewed existing services and supports and plans for additional actions, the SPOT Team is confident that the Law Society is continuing to move proactively and effectively in its efforts to reduce discrimination and harassment in the professions.
37. The Team is pleased with the depth and quality of the supports provided and the priority given to the issues across the organization – in particular through the coordinated efforts of Licensing and Accreditation, Practice Supports and Resources, the Client Service Centre, and the Discrimination and Harassment Counsel and Member Assistance Programs.
38. Key to maintaining momentum will be the Equity and Indigenous Affairs Committee's review and assessment of the Discrimination and Harassment Counsel Program; and the Professional Development and Competence Committee's ongoing review of the articling and work placement components of the licensing processes, in light the Articling Experience Survey and the recommendations of the SPOT Team.
39. The Team proposes that the CEO ensure progress and developments are monitored on an ongoing basis and that the CEO report, as appropriate, to the Treasurer and Convocation.

TAB 6.1

Discrimination and Harassment Program (DHC) and Member Assistance Program (MAP) - Promotion and Referral Activities

The Law Society provides the Discrimination and Harassment Counsel and Member Assistance Programs. Below is an overview of how key areas within the Law Society promote and make referrals to these programs.

Client Service Centre

1. The Law Society's Client Service Centre ("CSC") is the front line for providing information to licensees and the general public. When appropriate, the CSC advises licensees of the resources available to them, including the Discrimination and Harassment Counsel program and the Member Assistance Program. For example, staff in the Call Centre and Membership Services provide information about the Member Assistance Program and information available on the Law Society's website for lawyers and paralegals who may be experiencing mental health or addictions issues. Staff in Membership Services, the Call Centre, Complaints & Compliance and By-Law Administration Services also provide licensees with information about the exemption process if a licensee indicates that he or she is unable to work due to mental health or addictions issues. The CSC also provides information about the Discrimination and Harassment Counsel program to members of the public and licensees, in appropriate circumstances.
2. The CSC must exercise a certain level of discretion when fielding calls or emails. Depending on the situation, a licensee who indicates that he or she is struggling to maintain practice due to health issues might be referred to Trustee Services for assistance. If a family member of a licensee contacts the Law Society, staff in the CSC would still mention some of the resources available above, depending on the situation.

Practice Supports and Resources Department

Practice Supports and Resources presents the continuum of supports available to licensees through online resources, directly to inquirers, and on one occasion in 2017 CAN partnered with the Equity Advisor in outreach that included an overview of the DHC.

Examples and links are listed below.

Practice Management Helpline:

[PMH Landing page](#) – includes promotion of and a link to MAP

Where inquirers indicate that they have experienced discrimination or harassment in the workplace or within the legal professions, PMH will raise the DHC as one of the options available for addressing this conduct.

PMH reminds inquirers who seem to be in distress or who state or imply that they are experiencing personal, mental health or wellness issues of the range of services available through MAP. PMH refers inquirers to MAP's webpage and/or provides them with MAP's phone number, where appropriate.

Coach and Advisor Network:

[CAN Request Time page](#) – includes promotion of and a link to MAP

[CAN's Resources for Participants page](#) - includes promotion of and a link to MAP

[CAN's Practice Management Considerations Resources](#) – includes Other Support available on page 2 which includes MAP

Best Practices for Coaches and Advisors – archived webcast May 2017 – included a representative from MAP (Doron Gold) as one of the panellists presenting on the continuum of supports available.

Proposal for additional focused training for CAN volunteers in the Fall of 2018 is currently being prepared by Homewood Health. This training would include an overview of the services available through MAP, identifying signs and symptoms of issues that may be assisted by MAP and strategies to respectfully communicate the limits of CAN's mandate and the other services available to licensees.

External Relations and Communications

Since the release of the Articling Report in January, which indicated incidences of harassment and discrimination during articling placements, the media relations and communications team at the Law Society has initiated a communications plan to raise awareness of the Discrimination and Harassment Counsel (DHC) program and ensure licensees and candidates are aware of the services it offers.

Ontario Reports ads

Several cover page ads have been placed in Ontario Reports to promote the DHC. Ads appeared on February 16 and 23, and March 16.



**Preventing
Discrimination
and
Harassment
in the legal profession**

If you feel you have experienced discrimination or harassment contact the Discrimination and Harassment Counsel (DHC) Program:

Toll-Free Telephone: 1-877-790-2200
Email: assistance@dhcounsel.on.ca
Website: www.dhcounsel.on.ca/en-ca

Social Media

A twitter post featuring the below graphic was pushed out on the Law Society's Twitter account on February 9, 2018. The English post received 3,116 impressions with 46 engagements. The French post received 1,377 impressions with nine engagements.



LSO @LawSocietyLSO · Feb 9

The Discrimination and Harassment Counsel (DHC) provides free confidential information and support. dhcounsel.on.ca/en-ca

**Preventing
discrimination
and
harassment
in the legal profession**

Have you experienced discrimination or harassment by a lawyer, paralegal or candidate in the licensing process?

You are not alone.

The Discrimination and Harassment Counsel (DHC) provides free confidential information and support.

Contact Us:

Toll-Free Telephone: 1-877-790-2200
Email: assistance@dhcounsel.on.ca
Website: www.dhcounsel.on.ca/en-ca

LSO @LawSocietyLSO · Feb 9

La conseillère juridique en matière de discrimination et de harcèlement (CJDH) offre des renseignements et des services confidentiels gratuits.
dhcounsel.on.ca/fr-ca

Translate from French

Enrayer
**la discrimination
et le
harcèlement**
dans la profession juridique



Faites-vous l'objet de discrimination ou de harcèlement de la part d'un(e) avocat(e), d'un(e) parajuriste ou d'un(e) candidat(e) du processus d'accès à la profession ?

Vous n'êtes pas seul(e).

La conseillère juridique en matière de discrimination et de harcèlement (CJDH) offre des renseignements et des services confidentiels gratuits.

Contactez-nous :

Téléphone sans frais : 1 877 790-2200
Courriel : assistance@dhcounsel.on.ca
Site Web: www.dhcounsel.on.ca/fr-ca

Email to Licensees:

An email to all licensees containing a link to a flyer about the DHC was distributed on February 9, 2018. A copy of the email and the one page information flyer are included below.

Copy of Email to Licensees

From: Law Society Communications [<mailto:communications@lsuc.on.ca>]

Sent: February-09-18 11:34 AM

Subject: Know your rights: Preventing discrimination and harassment in the legal professions

Trouble viewing this email? [Read it online](#)



Know your rights: Preventing discrimination and harassment in the legal professions

Harassment and discrimination impact every sector and every business. As a result of heightened awareness, the Law Society is redoubling its efforts to ensure that lawyers, paralegals and students are aware of the [Discrimination and Harassment Counsel \(DHC\) Program](#).

Operating for more than 19 years, the Law Society's Discrimination and Harassment Counsel confidentially assists anyone who may have experienced discrimination or harassment by a lawyer or paralegal.

Please [click here](#) to view our flyer with more details about this valuable program, along with contact information.

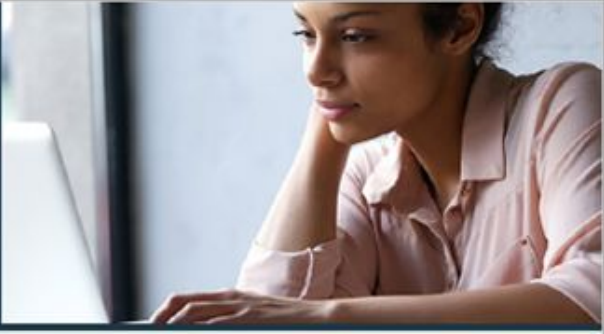
We encourage you to share this information with your peers and licensing candidates. The DHC can be reached at 1-877-790-2200 or via assistance@dhcounsel.on.ca



OSGOODE HALL, 130 QUEEN ST. W., TORONTO, ON M5H 2N6



Copy of Flyer Shared with Licensees



**Preventing
discrimination
and
harassment
in the legal profession**

Have you experienced discrimination or harassment?

You are not alone.

KNOW YOUR RIGHTS:

If you witness a lawyer or paralegal engaging in discrimination or harassment based on human rights grounds, or if you feel that you have experienced such discrimination or harassment by a lawyer, paralegal or licensing candidate, you can contact the Discrimination and Harassment Counsel (DHC). There is no fee for the DHC's services.

DHC Services:


- Listening to your concerns;
- Clarifying the issues;
- Providing confidential information;
- Reviewing your options and avenues of recourse (such as, for example, filing a complaint with the Law Society of Ontario or filing an application with the Ontario Human Rights Tribunal);
- Explaining the advantages and disadvantages of each option;
- Referring you to other resources that may be of assistance; and
- Where appropriate, serving as a neutral facilitator in mediation or conciliation to resolve complaints.

Established in 2001, the DHC Program is funded by the Law Society of Ontario, operating independently in a separate office in which all information received is kept confidential. For information on the confidentiality of this service, visit dhcounsel.on.ca/en-ca/confidentiality.

CONTACT US:

If you feel you have experienced discrimination or harassment contact the DHC Program:

Toll-Free Telephone: 1-877-790-2200
Email: assistance@dhcounsel.on.ca
Website: www.dhcounsel.on.ca/en-ca

 Law Society of Ontario | Barreau de l'Ontario

Feedback on social media to the email included the below tweet, and general reaction to the email and flyer was positive.



Tip Sheet

A tip sheet for candidates and principles to address issues of harassment and discrimination during the work placement portion of the licensing process is also in the process of being developed for the licensing department to email out.

Future activities:

- Further promotion of DHC and the Member Assistance Program (MAP) through social media channels
- Inclusion of DHC and MAP reminders in eBulletins and Convocation Update emails to licensees
- A video interview with the DHC counsels about the work of the organization and what services it provides – timing for deployment late March