



**TAB 7**

**Report to Convocation  
April 23, 2015**

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**Professional Development & Competence Committee**

**Committee Members**

Howard Goldblatt (Chair)  
Barbara Murchie (Vice-Chair)  
Alan Silverstein (Vice-Chair)  
Raj Anand  
Constance Backhouse  
Jack Braithwaite  
Robert Burd  
Mary Louise Dickson  
Ross Earnshaw  
Larry Eustace  
Peter Festeryga  
Susan Hare  
Vern Krishna  
Michael Lerner  
Marion Lippa  
Virginia MacLean  
Judith Potter  
Nicholas Pustina  
Jack Rabinovitch  
Joe Sullivan  
Gerald Swaye  
Peter Wardle

**Purpose of Report: Decision**

**Prepared by the Policy Secretariat  
(Sophia Sperdakos 416-947-5209)**

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**Decision**

Continuing Professional Development Compliance Audits

**TAB 7.1**

## COMMITTEE PROCESS

1. The Committee met on April 9, 2015. Committee members Howard Goldblatt (Chair), Barbara Murchie (Vice-Chair), Alan Silverstein (Vice-Chair), Constance Backhouse, Jack Braithwaite, Robert Burd, Mary Louise Dickson, Ross Earnshaw, Larry Eustace, Michael Lerner, Marian Lippa, Virginia MacLean, Judith Potter, Jack Rabinovitch, Joe Sullivan and Gerry Swaye attended. Staff members Diana Miles and Sophia Sperdakos also attended.

DECISION

**CPD COMPLIANCE AUDITS**

**Motion**

2. **That Convocation approve the elimination of Continuing Professional Development (“CPD”) desk audits.**

**Matter for Consideration**

3. The mandatory CPD program, originally approved in 2010, includes provision for annual CPD audits to monitor compliance. The audits were to be done in two circumstances:
  - a. As part of a lawyer practice management reviews and paralegal practice audits.
  - b. By random selection chosen from among all paralegals and lawyers subject to the requirement. These are referred to as desk audits as no site visit is required.
4. Based on the results of audits conducted since the inception of the program, it appears that CPD compliance desk audits are no longer necessary. The audits conducted as part of lawyer practice management reviews and paralegal practice audits would continue.

**Rationale**

5. The effectiveness and impact of the CPD compliance and monitoring approach was to be analyzed after a period of time as part of the evaluation of various components of the CPD recommendations.
6. Much has been done over the last number of years to streamline the program to make it as user-friendly as possible while maintaining its integrity. This is an ongoing process. Consideration of the audit process is important to the program evaluation as well as relevant for resource allocation.

**Key Issues and Considerations**

7. The report at [TAB 7.1.1: CPD Audit Results Report](#) sets out the compliance process that has been followed, its results and reasons for considering a change to the compliance process.
8. Adoption of the proposal to eliminate the desk audits would lead to a reduction of a full-time equivalent staff for the 2016 budget year.
9. Licensees, particularly those in sole and small practices, have indicated that they prefer a reduction in unnecessary regulatory administrative requirements. TAB 7.1.1 confirms such a reduction is viable without negatively affecting the program.



## **Report on CPD Audit Activities: Proposed Change in Audit Process**

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**April 2015**

## **Report on CPD Audit Activities: Proposed Change in Audit Process**

In 2010 Convocation approved a continuing professional development requirement. At the same time it approved a compliance process in which the Professional Development and Competence Division's practice audit team would conduct annual compliance reviews of lawyer and paralegal CPD completion.

The terms of the CPD audit policy were set out in the joint report of the PD&C Committee and the PSC Committee to Convocation on February 25, 2010. In that report, the following recommendations relating to CPD audits were made and approved:

### **Recommendation 16**

That there be provision for random annual CPD audits to monitor compliance with the CPD requirement, to be undertaken as part of a practice management review or paralegal practice audit; and by random selection chosen from among all paralegals and lawyers subject to the requirement.

### **Recommendation 17**

That the randomly selected CPD audits take the form of a written request for proof of completion.

### **Recommendation 18**

That there be a total of 500 audits of lawyers and 25 audits of paralegals annually respecting CPD compliance.

The program's annual objective, as approved by Convocation, is to conduct 1,000 CPD audits (lawyers: 900 and paralegals: 100) through a combination of practice management review engagements (recommendation 16 above) and desk audits (recommendation 17 and 18 above), with both audit streams assessing a licensee's compliance with the CPD documentation requirements set out in section 4 of By-law 6.1.

The records that must be maintained by licensees in support of the reporting of CPD hours filed with the Law Society include a range of information as proof of completion depending on the type of eligible activity. In a CPD audit, the compliance review will confirm of program/course/seminar registration, receipts for payment of activities, date and times and locations of attendances, sponsoring organization, copies of CPD materials, documentation supporting publications or oral presentations or groups work with colleagues.

No immediate action is taken when a licensee is found not to be in compliance. Following the CPD audits, detailed and specific information is provided to licensees to assist them to support full compliance with their CPD record keeping requirements for future activities. The licensee receives a warning, is provided with information to correct reporting in the following year, and then revisited with an audit in the following year.

No licensee has in fact been the subject of additional regulatory review or procedures for failing to meet the requirements during the initial audit or in any follow up audit. This outcome is distinct from those licensees who may have failed to report their CPD completion at year end and were administratively suspended.

Set out below are the compliance statistics for both CPD Desk Audits and Practice Management Review/Practice Audits CPD activities since 2012.

The Practice Audits department has conducted 3,161 CPD compliance audits, comprised of 1,854 CPD compliance desk audits of lawyers and paralegals and 1,307 Practice Management (lawyer) and Practice Audit (paralegal) reviews.

Of the 1,854 CPD compliance desk audits, less than 0.3% (5 licensees) were not in compliance with the record keeping requirements. A slightly higher incidence of non-compliance has been found through the in-person CPD audits conducted during reviews at the licensees' places of business.

**Compliance Statistics**

	Desk Lawyers	%	Desk Paralegals	%	Review Lawyers	%	Review Paralegals	%
<b>2012</b>								
Compliant	590	95.0%	22	84.6%	277	92.0%	89	83.2%
Non-Compliant	1	0.2%	0	0.00%	3	1.0%	2	1.8%
Partial Compliance	30	4.8%	4	15.4%	21	7.0%	16	15.0%
	<b>621</b>		<b>26</b>		<b>301</b>		<b>107</b>	
<b>2013</b>								
Compliant	553	97.7%	24	96.0%	339	96.0%	91	87.5%
Non-Compliant	2	0.3%	0	0.0%	2	0.6%	1	1.0%
Partial Compliance	11	2.0%	1	4.0%	12	3.4%	12	11.5%
	<b>566</b>		<b>25</b>		<b>353</b>		<b>104</b>	
<b>2014</b>								
Compliant	563	97.2%	35	94.6%	344	94.8%	69	87.3%
Non-Compliant	2	0.4%	0	0.00%	3	0.8%	2	2.5%
Partial Compliance	14	2.4%	2	5.4%	16	4.4%	8	10.2%
	<b>579</b>		<b>37</b>		<b>363</b>		<b>79</b>	

### **Evaluation of Process**

The PD&C Division employs two full-time equivalent staff to support the CPD compliance audit program. In addition to conducting the desk audits, CPD compliance staff facilitate the CPD audit reviews conducted by the reviewers at the licensee's place of business by pre-reviewing the CPD audit reports, verifying all internal courses and identifying specific sections for the reviewer to assess in more detail.

Of the 1,307 practice management review files conducted during the 2012-2014 period, almost 50% of the CPD compliance component of the engagement was conducted by the desk audit staff. This alleviated the need for Reviewers to conduct the preparatory work for the compliance review component, allowing them more time to focus on other more critical practice management components of the review engagement. CPD continues to be an important component of practice management and development for licensees, and part of an appropriately holistic practice review and audit process that should be conducted by the regulator, providing an opportunity for the Reviewer to discuss ongoing learning and competence development strategies with licensees, as necessary.

However, to date the outcomes of the CPD compliance audit programs suggest that there is no further need to continue with the CPD Compliance Desk Audit Program. The number of licensees with CPD record keeping deficiencies is extremely low. In addition, the Law Society now has very robust reminder processes and sanctions, including the application of late fees, to ensure that licensees maintain their CPD requirements.

### **Recommendation**

It is recommended that the PD&C Committee consider a change in the mandatory CPD requirements that would eliminate CPD compliance Desk Audits, while maintaining CPD audits conducted in formal Practice Management Review (lawyer) and Practice Audit (paralegal) visits. This in turn will lead to a reduction of one full time equivalent staff for the 2016 budget year.