

**The Law Society of Upper Canada
Strategic Plan
2000 - 2003**

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INTRODUCTION

The purpose of our strategic planning initiative is to develop a shared vision for the Law Society of Upper Canada and establish priorities that will guide Convocation in decision-making and allocation of resources. The Law Society has a strong track record of initiative and achievement - examples include the Ontario Legal Aid Plan, a mandatory insurance program and compensation fund, the Bar Admission Course, and the hiring of a Chief Executive Officer to restructure, modernize and reduce the operating costs of the Society. The Law Society has a history of responding to change when a compelling need is demonstrated. The pace and nature of changes currently confronting the profession, the challenges of effective regulation, and the pressure on resources require that we work together to plan effectively, proactively and strategically.

Since benchers met together at Hockley Valley in October 1999, the Strategic Planning Committee has met for seven lengthy sessions. Members of the Committee are Gavin MacKenzie, Ron Manes (co-chairs), Eleanore Cronk, Dino DiGiuseppe, Susan Elliott, Abe Feinstein, Vern Krishna, Barbara Laskin, and Marilyn Pilkington. John Saso, Richard Tinsley, Anji Husain and Katherine Corrick also attended the Committee's meetings.

The Committee undertook a situation assessment to identify key issues and assess the degree of consensus on those issues. The Committee surveyed benchers and staff, and consulted with three former Attorneys General, two former lay benchers, and the President of LPIC. The Committee reviewed Law Society research over the past decade, trends in self-regulation of the legal profession in England, Australia, and Quebec, and developments in other self-regulating professions (including physicians, accountants and engineers). Finally, the Committee presented an earlier draft of this report to benchers in an information session on March 30, 2000. This work enabled the Committee to understand better the external and internal forces shaping the thinking of benchers.

This document sets forth a proposed strategic plan for discussion and debate. It reflects the Committee's consensus that in order to achieve its vision and objectives,

- # the Law Society must focus on its core mandate as expressed in the Role Statement, and significantly enhance the effectiveness of its competence, complaints and discipline, and communications functions;
- # the Law Society must reform its governance structures and processes to facilitate effective policy development and decision-making; and
- # the Law Society must reallocate its efforts and resources, examining existing programs and new initiatives to determine whether they fit within the core mandate and whether they could be delivered more effectively by other organizations or institutions.

The Committee hopes that benchers will find reflected in this plan their concerns about - and aspirations for - the Law Society. The Committee expresses its appreciation to Marcie Anderson

who facilitated its deliberations with great skill and to Katherine Corrick who ably supported its work in every way.

PURPOSE OF THIS DOCUMENT

The purpose of this document is to recommend the overall strategic direction for the Law Society of Upper Canada for the 2000-2003 period. It seeks to capture a vision for the Law Society and offers a direction for the Law Society to achieve that vision. It must be distinguished from an implementation plan. Once a strategic plan is in place, an implementation plan can be developed, specifying the steps to be taken and choices to be made to achieve the vision. This plan proposes changes to the way we govern and the services we offer as two means to achieve our vision. The Committee is not seeking Convocation's approval to implement these proposed changes at this time. Rather, it is seeking Convocation's approval to thoroughly examine the proposed changes and conduct feasibility studies on each, taking into consideration all relevant financial and other implications. The results of these studies will be presented to Convocation, which will then be in a position to fully debate and determine the merits of each of the proposals.

A strategic plan is not a static document, incapable of change once approved by Convocation. Effective organizations constantly review and amend their strategic plans as conditions and priorities change. The Committee proposes that this strategic plan be a living document and that Convocation continue the process of strategic planning and priority setting.

LAW SOCIETY ROLE

All members of the Strategic Planning Committee and a large majority of benchers who responded to our survey strongly endorsed our Role Statement. In pursuing strategic decisions, the Committee used the Role Statement as its touchstone.

Role Statement

Adopted by Convocation, October 27, 1994

The Law Society of Upper Canada exists to govern the legal profession in the public interest by,

ensuring that the people of Ontario are served by lawyers who meet high standards of learning, competence and professional conduct; and

upholding the independence, integrity and honour of the legal profession,

for the purpose of advancing the cause of justice and the rule of law.

As we fulfill our role, the Committee affirms the responsibility that we have to govern and lead the profession by,

ensuring access to and delivery of legal services by competent, ethical lawyers;

addressing issues that relate to professionalism, the rule of law, access to justice, and the independence of the legal profession and judiciary; and

influencing the evolution of the legal profession in Ontario.

SUMMARY OF SITUATION ASSESSMENT

The following represent the most important conclusions arising from the analysis and consultation.

The Need for Change

1. We have a compelling need to improve our governance

- # Benchers, staff and others the Committee consulted are unanimous in their expression of dissatisfaction with our current governance.

- # Key aspects of dissatisfaction include,
 1. inefficient decision making;
 2. unclear lines of responsibility; and
 3. size of governing body.

This is a chronic and longstanding problem that has been studied and discussed periodically over the last 20 years.

2. We must focus on our core functions to enhance performance and improve cost effectiveness

- # All of our consultations pointed to a need to do fewer things, better. Benchers are dissatisfied with our performance in our core functions of competence, complaints and discipline. This dissatisfaction was echoed in our external consultations.

- # Compared to other self-regulatory bodies, we undertake a broader range of programs. This breadth of services appears to have encouraged less than optimal performance in certain of our core service areas.

3. Performing our core functions well is key to maintaining our independence

While our self-regulatory status is not currently in question, self-regulation is under intense scrutiny in other jurisdictions.

- # In England and New South Wales, law societies have seen their independence and regulatory powers curtailed by government. Lack of clear focus on regulatory functions by these law societies was a key factor motivating government intervention. Both of these law societies openly perform a representative function as well as a regulatory function.

- # The Ontario College of Physicians and Surgeons is under review by government, apparently as a result of concern over its complaints process.

4. Trends in the legal profession have substantially increased the need for another body that can strongly represent the profession's interest

- # New means of delivering legal services, including paralegals, multidisciplinary practices, multinational practices, and the internet are challenging the profession and threatening the health of the general practitioner.
- # Lawyers are divided in their expectations of the role the Law Society should play in advancing the profession's interest. It is clear that lawyers expect the Law Society to lead on matters affecting the profession generally. On those rare issues in which the public interest conflicts with the profession's interest, the Law Society must act in the public interest. The advancement of the profession's interest must fall to another body at least in these cases.
- # We must recognize that any intensification of the Law Society's role in representing member interests could lead to further dilution of our responsibility to govern in the public interest. Ultimately, such dilution will represent a major risk to our continued self-regulatory status and independence.

5. Lack of program focus has led to high cost to members that may well be unnecessary

- # Our member fees are significantly higher than those of similar bodies for other professions.

6. There appears to be low public awareness and poor member understanding of our role

- # This may, in part, reflect the diffuse nature of our program offering. It may also flow from the inadequacy or ineffectiveness of our communications.

STRATEGIC PLAN

Our Vision for 2000 to 2003

Over the next three years, the Law Society will lead the legal profession by pursuing three major directions.

1. We will enhance the professionalism and competence of lawyers by designing and implementing,
 - # a systematically reliable process for demonstrably measuring competence; and
 - # a coordinated continuum of education, including precall education, to help practising lawyers develop and maintain competence.
2. We will intensify our efforts to respond promptly and effectively to public complaints through dispute resolution and discipline.
3. We will ensure that the public of Ontario has a better understanding of the roles of the Law Society and the legal profession.

To enable us to dedicate increased efforts to these major directions, we must,

- # improve the effectiveness of our governance;
- # focus existing resources more tightly, with an emphasis on,
 - a) enhancing our performance and outcomes in our core services of competence, complaints, and discipline, and
 - b) reducing or eliminating service areas that are not essential to our role; and
- # implement a coherent, co-ordinated, strategic approach to communicating with the public and members to promote greater awareness and understanding of our role and the principles we uphold.

Improving Governance

Improvement to our governance is critical to this new direction. The Committee recommends that the following changes be made to our governance.

A) Convocation

- # That the Treasurer be the spokesperson for Convocation.
- # That we form an Executive Committee with responsibility for managing and streamlining Convocation's agenda and advising the Treasurer.
- # That we create and enforce clear rules of debate to facilitate effective decision-making.
- # That we review the size and composition of Convocation to determine whether the bench could be structured to enable more effective decision-making on policy matters. The recommendation of the Committee is that the size of the bench engaged in policy decision-making be reduced. A study will be undertaken to examine options on how to best accomplish this. The composition of a smaller bench must reflect diversity and regional representation.
- # That we develop a process for monitoring the implementation of the strategic plan.

B) Committees

- # That we create and implement a process for the establishment and oversight of committees, task forces and working groups. The process will include a clear set of criteria around establishment and continuance of such groups. We will review our current groups in light of these criteria. The Committee recommends that the Treasurer more frequently exercise the authority to rotate committee chairs, to enable a greater number of benchers to participate.
- # That we reaffirm the obligation of committees to bring forward options as part of reports to Convocation, with appropriate analysis of advantages and disadvantages, whether or not the committee recommends a particular option.

C) Reporting Relationships

- # That the composition of the Senior Management Team be changed to reflect the importance of our core regulatory functions.
- # That the Treasurer be accountable to Convocation for monitoring and evaluating the performance of the CEO, consistent with the policy governance model. That the CEO liaise with the Treasurer on a regular basis. That we address and resolve the reporting relationship of the Secretary.

D) Staff Roles

- # That policy staff be directed, and appropriately resourced, to analyze and inform Convocation on emerging trends and issues.

Focusing Our Resources

To achieve our vision and long-term objectives, we will reallocate our effort and resources over the next three years.

A) We will recommit to our core regulatory functions and intensify our efforts to enhance performance

We will allocate more resources to core functions to enable significant improvements in performance and development of new approaches. Functions that will receive incremental resources are those that represent priorities, where performance must be improved and where resource constraints have caused performance to fall below expectations. These include,

- # competence initiatives
- # complaints and discipline
- # public affairs and communications

B) We will review programs and services that can be provided by other parties, to enable greater focus on our regulatory role and to free up resources to fund the increased investments defined above

We will undertake this process at a pace that enables third parties to deliver. We are hopeful that the proposed Ontario Bar Association will come into being. This may facilitate the transfer of certain services, and will affect the Law Society's current funding of the County and District Law Presidents' Association, and perhaps, such organizations as LINK - Lawyers Assistance Program, Ontario Bar Assistance Program and Ontario Centre for Advocacy Training. We will also identify those programs over which the Law

Society should maintain oversight, although they may be delivered by third parties. Specifically, we recommend an examination of the feasibility of other organizations delivering the following programs.

- # Bar Admission instruction and examinations
- # management of articling
- # Continuing Legal Education (program delivery)
- # Requalification education
- # Lawyer referral
- # Practice Advisory (practice management aspects, not professional responsibility issues)

The Committee identified the above programs as potential candidates for delivery by third parties based on the following criteria:

- # Degree of fit with our core role, function and values, and importance to fulfilling our role.
- # The degree to which the program promotes achievement of our priorities and goals as expressed in our Role Statement and the strategic plan.
- # Our qualification relative to other organizations (current and potential) to provide the service. We will take into account both relative effectiveness and cost efficiency.

The Committee recognizes that several options may exist for the delivery of these services. If Convocation agrees in principle that we should consider third party delivery, the Committee would then conduct a feasibility study that would include an examination of such aspects as,

- # the degree to which the Law Society would wish or need to retain oversight;
- # the financial and operational impact; and
- # potential third party suppliers or partners.

Our Long Term Objectives

The 2000 to 2003 bench will pursue the following objectives. We will measure our success through demonstrable change in the following. To measure our success we will first establish our current level of success in each objective and then measure our progress at regular intervals.

1. We will achieve greater public confidence in the Law Society's ability to regulate the profession in the public interest.
2. We will assure competence levels among practising lawyers. Specific measurable goals to achieve this by the year 2003 are,
 - # having a demonstrable, systematically reliable process for measuring competence in place; and
 - # establishing a coordinated continuum of education, including precall education, to help practising lawyers develop and maintain competence.
3. The public, members and government will have a higher awareness and understanding of our role.
4. We will achieve a higher satisfaction rating among both complainants and members with the complaints and discipline processes.
5. We will assume a leadership role to improve access of individuals and small businesses to legal services.

Our Key Initiatives

Over the 2000 to 2003 period, we will undertake the following major initiatives.

Service Initiatives

1. We will design and implement a process for measuring competence and work with other stakeholders to establish a coordinated continuum of education

- # Our Professional Development and Competence Committee has identified alternative approaches to ensuring competence and is embarking on a series of consultations.
- # The Professional Development and Competence Committee will recommend the preferred approach later in 2000. Its recommendation will be taken into account as we set the 2001 budget.

Key elements of this recommendation are likely to include,

- # a shared vision of professional education, including specialist accreditation, in collaboration with specialist institutes and law schools;
- # admission standards that reflect our commitment to ensuring that the people of Ontario are served by lawyers who meet high standards of learning, competence and professional conduct; and
- # a competence model and structure that creates capacity for evaluation and meeting standards.

2. We will improve our complaints process to speed up resolution while maintaining a rigorous devotion to procedural and substantive fairness.

3. We will enhance diversity among legal practitioners

- # We will continue to focus efforts to enhance diversity to ensure access to all segments of the population.

4. We will improve public, and particularly individual and small business, access to legal services

Effectiveness Initiatives

1. **We will improve the effectiveness of governance through implementing the recommended changes to our structure and our processes**
2. **We will improve our planning and budget management processes**
 - # Conduct continuing monitoring of performance against expectations on all key programs.
 - # Install strategic planning as a continuing process.
 - # Alter the budgeting process to ensure that priority planning precedes and informs annual budgeting.

Communications Initiatives

1. **We will enhance public awareness of our role and contribution**
 - # Implement an overall communications strategy to build public awareness based on researched understanding of current opinions. Pursue a series of initiatives directed at our target audiences: the public (e.g., call centre, website); members (e.g., Treasurers' tour); and media (e.g., secure favourable media relations and coverage).
 - # Conduct a communications audit that enables us to identify opportunities and address deficiencies in our communications.
2. **We will enhance member understanding of our role**
 - # Clearly communicate our role and focus through existing vehicles (e.g., *Ontario Lawyers Gazette*, *Ontario Reports*, website.)
 - # Seize opportunities to involve, consult, and interact with members throughout Ontario.
 - # Familiarize benchers with the Law Society's communications plan and goals, and equip them to play a greater role in realizing them.