



The Law Society of
Upper Canada | Barreau
du Haut-Canada

Professional Development, Competence & Admissions Committee **September 23, 2004**

Report to Convocation

Purpose of Report: Information

Policy Secretariat
(Sophia Sperdakos 416-947-5209)

THE REPORT

Terms Of Reference/Committee Process

1. The Committee met on September 14, 2004. Committee members Bill Simpson (Vice-Chair), Peter Bourque and Kim Carpenter-Gunn attended. Bill Simpson chaired the meeting. Staff members Diana Miles and Sophia Sperdakos also attended.
2. The Committee is reporting on the following matters:

Information

- New Licensing Program – Blueprints
- Professional Development and Competence Director's Benchmark Quarterly Report

INFORMATION

NEW LICENSING PROGRAM – BLUEPRINTS

3. In December 2003 Convocation approved a new licensing program to commence in 2006. The Professional Development and Competence department has been directed to design and implement the new program and present the proposed new approach to Convocation for approval.
4. In June 2004 Convocation received an information report setting out the competencies that will underlie the new program. The report outlined the development process and set out the specific competency profiles that will form the backbone of the licensing examinations and the skills and professional responsibility program.
5. Having developed and validated the competencies, the next stage in the design process was to develop the licensing examination blueprints and the skills and professional responsibility program curriculum design. The blueprints have now been completed using the competency profiles as a foundation.

6. The Director of Professional Development and Competence has prepared a report outlining the blueprinting process and providing the blueprints for Convocation's information. The report and blueprints are set out at **APPENDIX 1**. If benchers have questions or require further information on the blueprints they should contact the Director of Professional Development and Competence.

7. To date, 1,614 lawyers in Ontario have had substantial input into the development of the new licensing process. This will continue over the coming months.

DIRECTOR'S QUARTERLY BENCHMARK REPORT

8. **APPENDIX 2** contains the Director of Professional Development and Competence's quarterly benchmark report and articling placement report, for Convocation's information.



The Law Society of
Upper Canada | Barreau
du Haut-Canada

NEW LICENSING PROCESS FOR ADMISSION TO THE BAR IN ONTARIO

- A. Status Report on the Development of the New Licensing Process
- B. Blueprint Documents for the Barrister and Solicitor Licensing Examinations

Prepared for:
Professional Development, Competence & Admissions Committee

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September 2004

A. Status Report on the Development of the New Licensing Process

Licensing Examinations Development Process

1. As a first step in the process of developing the competencies for the examinations, a team of nineteen exemplar practitioners representing different practice areas, sizes, professional and personal demographics, convened for eight days to create an initial draft of the competencies required of an entry-level lawyer. A competency is defined as a “knowledge, skill, ability, attitude or judgment required for entry-level practice.”
2. Following the initial development of the entry-level barrister and solicitor competency profiles, a series of four focus groups were conducted across Ontario providing an opportunity for practitioners to review the competencies and suggest additions, deletions and modifications to the competency statements.
3. Following the focus groups, another experienced team of lawyers reviewed and approved the focus group comments and suggestions and the competency profile was prepared for final validation through a provincial membership survey.
4. 4000 members, randomly chosen and representative of the demographics of the profession, were sent the competency validation survey. The 421 returned surveys were used to validate the overall competency profiles as well as determine a relative hierarchy of importance among the competencies within the profiles.
5. Competencies were rated to determine the extent to which they will be represented on the licensing examinations. Importance of a competency is determined by the applicability, frequency and consequence (risk factor) of each competency as applied to an entry-level practitioner.
6. The rating or weighting of these competencies formed the backbone of the next important phase in the development of the new licensing examinations, the blueprinting process.
7. The blueprinting process is the most important process in the derivation of licensing examinations. It is used to determine the basis for test specifications (types of questions, length of examinations, scoring methodology), to provide direction to the exam developers who will derive content for the examinations, and as a way of verifying that the examination questions are valid and representative of entry-level practice. The questions on an examination will vary, but they will always be linked to the competencies.
8. Over the course of six days in June, a Barrister Blueprint Working Group and a Solicitor Blueprint Working Group (once again consisting of exemplar practitioners) reviewed the weighted competencies validated through the

processes outlined above. The members of the Working Groups considered the input from the competency development teams, focus groups and the survey results. The Working Group members achieved unanimous agreement in relation to all Blueprint decisions.

9. The final Blueprints for the Barrister and Solicitor Licensing Examinations are currently before the Professional Development, Competence & Admissions Committee for consideration and referral to Convocation. The Blueprint Documents are attached at **Tab 1** and **Tab 2**.
10. Demographic information on the participants involved in the working groups and focus groups for both the licensing examinations and the Skills and Professional Responsibility Program competency development is attached at **Tab 3**. Survey analysis and demographic information on the respondents to the survey is contained in the Blueprints.

Next Steps

Development of the Licensing Examination Questions

11. Question development (also known as item writing) must be based on the previously defined and validated competencies using the parameters specified in the Blueprint. The examination item writers will be directed to draft only those questions that will measure the previously established and validated competencies and other parameters to be assessed.
12. Item writing for the examinations will commence in late September. Item writers will receive training on how to develop effective questions based on the Blueprint specifications. Question development for both examinations will be completed by the end of February 2005 with review and validation of all of the questions to commence in March 2005.
13. To protect the integrity and the security of the developed examination questions, all item developers and examinations reviewers will be required to sign a confidentiality agreement not to discuss the contents of the questions with any party other than appointed Law Society representatives and agents.
14. PD&C Department staff will work closely with the Law Society's current performance evaluation technology (PET) provider, TDA Inc., to ensure that appropriate security enhancements are in place for the new licensing examination environment. TDA Inc.'s clients are educational and testing organizations ranging from school boards, colleges, universities and professional certification boards to corporations throughout North America. TDA Inc.'s client list is extensive and includes the Canadian Association of General Surgeons, Institute of Chartered Accountants of Ontario, the National Dental Examining Board of Canada, Royal Canadian Mounted Police, and numerous other organizations engaged in licensing activities.

Articling Term and Enhancements

15. Articling will continue to play an important competence function in the new licensing process. Enhanced educational supports are contemplated under the new model to ensure that students receive the tools they need to prepare for practice. An Articling Enhancement Survey to past and current principals and newly called lawyers (4000 total) has been undertaken and the response rate so far has been excellent (over 25%).
16. A report will be presented to Committee and then referred to Convocation in November 2004. The report will outline the length of articling term based on feedback from the survey and provide a proposed list of educational enhancements that will be developed by the PD&C Department to support this component of the licensing process.

Skills and Professional Responsibility Program

17. The validation of the most important skills and professional responsibility competencies to be taught and assessed in the Skills and Professional Responsibility Program has been completed and was presented in June.
18. The curriculum for the Skills and Professional Responsibility course, which will dictate the length of the Program, will be presented to Committee and then referred to Convocation in January 2005.

Operations

19. Alongside the formal development of the content for the licensing process, the PD&C Department staff has been working on the administrative and operational issues for implementation of the new process. This includes a complete review of all the current policies and procedures, by-laws and all administrative activities required to implement the Skills and Professional Responsibility Program, the Licensing Examinations and the Articling Program.
20. Policy and by-law activities will be coordinated and completed with other departments such as Professional Regulation, Membership Services and Legal Affairs to ensure continuity and clarity so that all parties are fully apprised and operational in the spring of 2006.
21. In addition to the above internal operational activities, the Deans of the law schools and their students are being kept fully apprised of all components of the development and this will continue as each component is presented at Convocation. The law schools and their students will be provided, on a regular basis, with communications and reminders about the new licensing process and the impact of this change on the admissions process.

22. In addition, PD&C communicates regularly with the Directors and Managers of Students and Associates at law firms (approximately 50 individuals) to discuss upcoming changes and the impact on scheduling and articling procedures.

Lawyer Participation To Date

23. Up to this point in the process 1614 lawyers in Ontario have had substantial input into the development of the new licensing process, validation and blueprinting of the licensing examinations, defining the competencies for the instruction and assessment in the Skills and Professional Responsibility Program, the term of the Articling Program, and the proposed educational enhancements during Articling.

B. Executive Summary: Blueprint Documents for the Barrister and Solicitor Licensing Examinations

1. The Executive Summary sets out the key aspects of the Blueprint documents which will be used to derive future licensing examinations. For specifics, refer to the Barrister Blueprint Document at **Tab 1** and the Solicitor Blueprint Document at **Tab 2**.

Blueprint Document

2. The foundation of the barrister and solicitor licensure examinations begins with the Licensure Examinations Blueprint document. The Blueprint provides a summary of:
 - a) the development processes followed;
 - b) the content to be assessed (what is tested);
 - c) the structure of the examinations (the method by which the content is to be tested);
 - d) the representative contexts presented within the examinations (the situations within which the content is to be tested);
 - e) the scoring of the examinations.
3. The Blueprint is essentially the recipe that outlines all the ingredients for the examinations and the relative proportions of each. What is being assessed, along with the experience for the candidates, is always replicated as closely as possible.
4. The Blueprint serves the following purposes:
 - a) ensures the relevance of the examinations by indicating links to the competency profile for entry-level Barristers and Solicitors;
 - b) maximizes the functional equivalence of alternative forms of the examinations;
 - c) provides direction for content developers when writing new items (questions) for the examinations; and
 - d) facilitates evaluations of the appropriateness and effectiveness of the examinations by content experts and other stakeholders.
5. The competency-based Blueprint advances the above purposes by definitively stating what is assessed, for what purpose, to what extent, with what types of

items, in what contexts and to what standards. It also provides documentation of the processes leading to each of these decisions.

Blueprint Development Process and Specifications

6. The current Blueprints were developed by a Barrister Working Group and a Solicitor Working Group comprised of exemplar lawyers representing a cross section of different practice areas, sizes, and professional and personal demographics. The Blueprint documents reflect all the testing specifications those Working Groups believe are necessary for the future success of the examinations and the candidates taking the examinations.
7. The members of the Working Groups considered the input and outcomes derived by 498 lawyers involved in the examination competency development process to this stage.
8. The Working Group members achieved unanimous agreement in relation to all Blueprint decisions. Those decisions are set out below.

Candidates

9. The academic prerequisite to be eligible to write the Licensing examinations as a student-at-law is either:
 - a) Graduation from a common law program, approved by the Law Society, in a university in Canada; or
 - b) Certificate of qualification issued by the National Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Committee of Canadian Law Deans.

Competencies to be Assessed

10. It is important the competencies assessed by the examinations are those that:
 - a) have the most direct impact on public protection;
 - b) influence effective and ethical practice; and
 - c) can be measured reliably and validly by the assessment item (question) format used by the examinations.

Examinations

11. The competencies have been weighted to determine the extent to which they will be represented on the examinations. All of the competencies fall into one of four categories based on criticality and frequency. Every competency will not

necessarily be included on a particular version of the examinations; however, competency weightings ensure the competencies that are the most important to the purpose of licensure are assessed more thoroughly.

Structure of the Examinations

12. The examinations will consist of four-option multiple-choice questions.
13. The multiple-choice questions are presented as both “independent” items (the text provided is used to answer one question) and in “cases” typical of general legal practice where 4 to 10 items are linked to each case. In the latter situation, a scenario or set of facts will be provided and the student will answer a number of questions pertaining to the specific scenario.
14. A range of 75 - 85% of the questions will be independent and 15 – 25% of the questions will be case-based.
15. The examinations will be open book.
16. The length of the examinations is typically driven by their purpose, the number of competencies to be assessed, and practicality concerns (e.g., resource availability and demands placed on candidates). To ensure reliable results for the total pass score and adequate coverage of the defined competency categories, each Examination will consist of approximately 250 questions.
17. Based on this number of questions, the assessment length on each Examination will be approximately seven hours. The specific length of time to complete the examinations, time limits and break duration will be determined in the pilot testing phase. Both English and French examinations will be pre-tested for the length of time required to write.
18. As has been the Law Society’s practice, accommodations may be granted on the basis of individually assessed needs. Such accommodations have included extra time to write, split sessions, assistance of scribes and readers, and various other provisions.

Reference Materials

19. The correct answers to all the Examination questions will be found in the reference materials. The Law Society will compile the reference materials at the same time as the examinations and the candidates will be provided with these materials in advance of the examinations.
20. Candidates will be permitted to mark the materials and bring them to the examinations. Immediately upon completion of the examinations, each candidate will be required to return all materials, including the copy of the reference materials used at the examination sitting, to the Law Society for security purposes.

21. It is noted that all admissions materials continue to be made available for the students on the e-Learning site at all times during the licensing process and can be printed as the students wish.

Context

22. The specific context variables in which the examination questions will be set has also been determined. This adds realism to the examinations while at the same time, ensuring that a particular context is not overemphasized. The context variables reflect a representation of an entry-level lawyer's day-to day practice and they are broken down according to:
 - a) client types (e.g., individuals, corporations, partnerships, charities);
 - b) client situations (e.g., civil litigation, real estate, family law); and
 - c) legal environments (e.g., sole practitioner, law firm, government, legal clinic).

Scoring the Examination

23. The Angoff method will be used. This methodology is widely used in setting standards for professional assessments and is the scoring method currently used in the Law Society admissions process.
24. In applying the Angoff method, when Examination questions are more difficult, the required pass mark on that question will be lower; when Examination questions are less difficult, the required pass mark on that question will be higher. Both adjustments keep the underlying required standard constant. As questions change, the pass marks will change to precisely reflect any questions that are removed as well as those that are added.
25. An Examination Review Working Group comprised of content experts will review the results of the pilot testing extensively. This Working Group will then set the pass mark for each Examination. Identifying the pass mark for each Examination requires that each question be rated in terms of the percentage of candidates anticipated to answer correctly.
26. The Examination answer sheets will be scanned and scored using computer software. Only one outcome will result from scoring the Examination, overall pass/fail. The unsuccessful candidates will receive an evaluation form that will identify their relative strengths and weaknesses vis-à-vis the major competency categories. This will assist the candidates to enhance their performance for the next sitting of the Examination. Candidates will be allowed to write each Examination a total of 3 times before being required to reapply to the licensing process. Convocation has already approved that candidates will have three years

in which to pass the examinations for a potential total of nine sittings of each examination.

27. A number of statistics will be used to assess the effectiveness of the examinations, diagnostic categories, and individual questions. Candidate feedback is also obtained following each administration of the examinations to further assess its subjective validity and effectiveness from the perspective of candidates. Candidate feedback will include ratings of the adequacy of time limits, question clarity, relevance to practice and the perceived fairness of the assessment.

Summary

28. The Blueprint parameters will be reviewed on an annual basis and/or when significant changes occur in the profession and practice which would require modifications to the examinations. Subject matter experts will be involved in this review process in the form of a Barrister Advisory Group and a Solicitor Advisory Group. The Professional Development, Competence & Admissions Committee will select the members of the Advisory Groups. Qualifications and terms of reference for membership in the Advisory Groups will be developed for this purpose in Fall 2004 with a view to establishing the Advisory Groups early 2005.

TAB 1

**BLUEPRINT DOCUMENT
FOR THE
BARRISTER LICENSURE EXAMINATION**

**Prepared for the
LAW SOCIETY OF UPPER CANADA**

**Prepared by the
PERFORMANCE ASSESSMENT GROUP INC.**

July 2004

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Blueprint Development Overview

The foundation of the Barrister Licensure Examination (hereafter referred to as the “Examination”) begins with the Barrister Licensure Examination Blueprint document (hereafter referred to as the “Blueprint”). The Blueprint provides a summary of the development processes followed, the content to be assessed (i.e., what is tested), the structure of the Examination (the method by which the content is to be tested), the representative contexts presented within the Examination (the situations within which the content is to be tested) and the scoring of the Examination. The Blueprint is essentially the recipe that outlines all the ingredients for the Examination and the relative proportions of each so what is being assessed, along with the experience for the candidates, is always replicated as closely as possible.

Background to the Assessment Process

In December 2003, Convocation approved the implementation of a competency-based licensure process for admission to the Bar in Ontario. Traditionally, candidates have taken a series of substantive law courses in addition to skills training provided by the Law Society of Upper Canada (hereafter referred to as the “LAW SOCIETY”) over a four month period and were required to pass examinations and skills assessments as part of the requirements to be admitted to the Bar. Starting in 2006, candidates will attend a mandatory skills training program and assessments and will be required to write two newly developed competency-based licensure examinations. One examination will focus on the competencies expected of entry-level lawyers performing in the capacity of a Barrister, while the other will focus on the competencies expected of entry-level lawyers performing in the capacity of a Solicitor. All candidates will be required to pass both examinations and the skills assessments.

Barrister Licensure Examination Blueprint Purposes

The Blueprint serves the following purposes:

- ensures the relevance of the Examination by indicating links to the competency profile for entry-level Barrister’s;
- maximizes the functional equivalence of alternative forms of the Examination;
- provides direction for content developers when writing new items for the Examination; and
- facilitates evaluations of the appropriateness and effectiveness of the Examination by content experts and other stakeholders.

The competency-based Blueprint advances the above purposes by definitively stating what is assessed, for what purpose, to what extent, with what types of items, in what contexts, to what standards, and provides documentation of the processes leading to each of these decisions.

The PERFORMANCE ASSESSMENT GROUP has developed a comprehensive Blueprint system that identifies five types of key assessment information including the process, content, structure, context and scoring of the Examination. In summary:

Process

- A clear statement of the purpose of the Examination;
- A definition of the candidate target population;
- The methodology employed for all key Blueprint activities; &
- A list of the content experts involved in the Blueprint development process.

Content

- Competencies related to the purpose of the Examination;
- Entry-level Barrister competency weightings;
- Entry-level Barrister competency categories; &
- Cognitive domain weightings of the Examination.

Structure

- Item format of the Examination;
- Item presentation (e.g., individual, case, multiple response) of the Examination;
- Response format (e.g., selected, constructed, written, computerized answer sheets) of the Examination;
- The Examination length, duration and breaks;
- Assessment aids permitted for writing the Examination;
- Percentage of “new” content to appear on new versions of the Examination;
- The number of experimental items to be assessed on each administration of the Examination; &
- Number of forms of the Examination.

Context

- Client type (e.g., individual, family, population, community) specified in the Examination;
- Client age & gender specified in the Examination;
- Client legal situation specified in the Examination;
- Client culture included in the Examination; &
- Occupational environment (e.g., health care setting) specified in the Examination.

Scoring

- Standard setting method(s) employed for the Examination;
- An overview of the scoring procedures of the Examination; &
- The acceptable statistical item characteristics.

The Blueprint Process

Process information provides important documentation of the methodology used to develop the contents of the Blueprint. Despite its global focus, process information is a key component for establishing the content validity of the Examination

The Blueprint was developed based on the input of a Blueprint Development Working Group (hereafter the “Working Group”). The Working Group consisted of eight (8), experienced and respected Barristers. For the names of the Working Group members, please refer to the Acknowledgements section in Appendix B.

The current Blueprint was developed by the Working Group of exemplar lawyers representing different practice types, sizes, and professional and personal demographics to reflect all the testing specifications they believe are necessary for the future success of the Examination. These specifications were derived from group processes and not based on the content of the current examinations.

What follows is an overview of the process followed to develop this Blueprint; however, additional process information is included within every section of the Blueprint.

1. The Purpose of the Barrister Licensure Examination

The Examination is designed to assess competency in civil and criminal litigation, family law, public law, and related ethics and professional responsibility issues. Candidate competency is assessed on a pass/fail basis.

The Examination is one criterion used in making the decision to license an entry-level lawyer. Licensure can be defined as the official recognition by the Law Society of Upper Canada (Law Society) that an individual has met all the qualifications specified by the Law Society and is, therefore, approved to practice as a lawyer in Ontario. Successful completion of the Barrister Licensure Examination is a necessary, but not the only prerequisite for a lawyer to be licensed to practice law. The ultimate goal of the Examination is to protect the public.

2. The Candidates for the Barrister Licensure Examination

The academic prerequisite to be eligible to write the Licensing examinations as a student-at-law is either:

- a) Graduation from a common law program, approved by the Law Society, in a university in Canada; or
- b) Certificate of qualification issued by the National Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Committee of Canadian Law Deans.

3. Blueprint Methodology

A Working Group participated in the development of the Blueprint. The Working Group was composed of experienced lawyers who identified their practice as being representative of the work performed primarily by “Barristers”.

The Working Group and the PERFORMANCE ASSESSMENT GROUP facilitators systematically defined the specifications of the Blueprint through consultation with a number of resources and group discussions. Core resources used by the facilitators included:

- *Standards for Educational and Psychological Testing* (APA, 1999)
- *Certification: A NOCA Handbook* (NOCA, 1996)
- *Blueprint Development Overview and Working Document* (PERFORMANCE ASSESSMENT GROUP INC., 2000)

The PERFORMANCE ASSESSMENT GROUP’S *Blueprint Development Overview and Working Document* (2000) served as a guide for developing the five major components of the Blueprint. For each issue involving a Working Group decision, the PERFORMANCE ASSESSMENT GROUP facilitators presented an overview of the importance of the decision and the potential consequences of various courses of action. When determining a particular Blueprint specification, relevant archival information was consulted followed by considerable discussion among the Working Group members. In some cases, representatives of the Law Society were called upon to provide clarification, historical context or other information collected by the Law Society to assist the Working Group members in arriving at a decision. The Working Group members achieved unanimous agreement in relation to all Blueprint decisions.

A brief biographical data form was distributed to all Working Group members. This data has been retained to demonstrate to stakeholders the individuals providing content direction for the program are experienced and accomplished professionals who are qualified, as a group, to participate in performing these important licensure program activities. The names of the Working Group appear in Acknowledgement section of the Blueprint (Appendix B).

It is the recommendation of the Working Group that the Blueprint parameters be revisited on a regular cycle (e.g., every 3 to 5 years) and/or when significant changes to the profession occur requiring modifications to the Examination described in this Blueprint.

Content Variables

Content variables involve the essential nature of what is being measured by the items comprising the Examination. They specify the competencies to be assessed and define how these competencies will be sampled and to what extent. Competency categories have also been identified and the cognitive domains to be addressed by the Examination content have been defined and weighted.

When content variables call for percentages of the Examination to be allocated to different variables, these have been expressed as ranges (e.g., 35 - 45%) to allow for the Examination to be compiled when numerous percentages must be met simultaneously.

1. The Competencies to be Assessed

It is important the competencies assessed by the Examination are those that:

- a) have the most direct impact on public protection;
- b) influence effective and ethical practice; &
- c) can be measured reliably and validly by the assessment item format used by the Examination.

As a first step in the process of developing the competencies for the Examination, a team of eleven (11) experienced and respected Barristers convened for four days to create an initial draft of the competencies required of an entry-level Barrister. A competency is defined as a “knowledge, skill, ability, attitude or judgement required for entry-level practice.” A number of resources were consulted in the creation of this initial draft including the *BAC Skills Chart* (LSUC, 2003); *The Competency Profile: BC Admission Program* (2001); *Competency Profile: Western Provinces* (Canadian Centre for Professional Legal Education; 2003); and the *Law Society Rules of Professional Conduct* (LSCU, 2003). Following the initial development of the entry-level Barrister competency profile, a series of four focus groups were conducted across Ontario providing an opportunity for Barristers to review the competencies and suggest additions, deletions, and modifications to the wording of the competency statements. Following the focus groups, an experienced team of Barristers reviewed and approved the focus group comments and suggestions and the competency profile was prepared for final validation through a provincial membership survey.

The validation survey was sent to 2000 Barristers across Ontario through a random selection process. One hundred ninety seven Barristers responded to the survey. Analysis of the sample provided support that those lawyers who participated in the survey adequately represented all regions of Ontario, areas of practice, and size and type of practices. A summary of the demographic analysis is provided in Appendix C.

2. Competency Weightings

Competencies have been weighted to determine the extent to which they will be represented on the Examination. Every competency will not necessarily be included on a particular version of the Examination; however, competency weightings ensure the competencies that are the most important to the purpose of licensure are assessed more thoroughly.

The following ratings scales were used to determine each competency's relevance, criticality and frequency for the purpose of assisting in the process of weighting the Examination:

Is this competency RELEVANT/APPROPRIATE for ENTRY-LEVEL BARRISTERS?

1. Yes
2. No

How CRITICAL is it if ENTRY-LEVEL BARRISTERS FAIL to perform this competency appropriately?

1. Not important (causes no harm or consequences to a Barrister's practice or to the client).
2. Minimally important (causes an inconvenience to a Barrister's practice or to the client).
3. Moderately important (may negatively affect a Barrister's practice or the client's interest).
4. Critically important (creates a situation that jeopardizes a Barrister's practice or the client's interests).

How OFTEN, on average, do ENTRY-LEVEL BARRISTERS perform this competency?

1. Rarely (once or less per month).
2. Weekly (about once per week).
3. Daily (about once per day).
4. Ongoing (throughout a working day).

As a preliminary step, the Working Group reviewed the data for competency relevance. Upon reviewing the statistical summary for each competency, 64 competencies were deleted from the final profile resulting in 236 competencies to be assessed using the Examination. Of the 64 competencies deleted, 30 were removed from the profile to be assessed through the skills assessment program. The remaining 34 competencies were deleted due to their low relevance or because they were deemed to be sufficiently measured through other existing competencies.

Based on this information, a four-variable classification system was adopted (a fully factorial design crossing criticality with frequency). The four-variable classification system is illustrated below:

	A) More Frequently Performed	B) Less Frequently Performed
1) More Critical	1-A	1-B
2) Less Critical	2-A	2-B

In order to maximize control over the weighting of the competencies for the Examination, the Working Group attempted to allocate equal numbers of competencies to each applicable competency-weighting category. By having equal numbers of competencies in each rating category, the categories can be weighted optimally to ensure the most critical/frequently performed competencies are represented by more Examination items than competencies of lesser criticality/frequency.

ENTRY-LEVEL BARRISTER COMPETENCY RATING RESULTS

	A) More Frequently Performed	B) Less Frequently Performed
1) More Critical	59 competencies (35 - 45% of the Examination)	59 competencies (25 - 35% of the Examination)
2) Less Critical	59 competencies (15 - 25% of the Examination)	59 competencies (5 - 15% of the Examination)

Eight competencies from the 1-A category were identified as “**crucial competencies**”. These competencies were identified to ensure they are measured by at least one question on every version of the Examination. These “crucial competencies” are identified in Appendix D.

The table that follows outlines the competencies falling into each criticality/frequency category, the weighting of each of the four categories, the average number of items that will be reflected on the Examination by category and the average number of Examination items per competency in each category (based on a 250 item Examination). A complete list of the entry-level Barrister competencies by Competency Category and criticality/frequency ratings is provided in Appendix E and F respectively.

COMPETENCY WEIGHTING FOR THE EXAMINATION

Critical /Freq	Number of Competencies	Percent of Total Competencies	Weighting for the Examination	Average items per Examination	Average Items per Competency
1-A	59	25%	35 - 45%	100	1.69
1-B	59	25%	25 - 35%	75	1.27
2-A	59	25%	15 - 25%	50	0.85
2-B	59	25%	5 - 15%	25	0.42
overall	236	100%	100%	250	1.1

3. Competency Categories

The categorizing framework that is used to organize the competencies is important whenever candidates are to be provided with performance feedback organized by each competency category. In order for such feedback to be meaningful, the competencies representing each category must be assessed by a sufficiently high number of Examination items to provide reliable results. This can be accomplished in one of two ways. Either there must be a large number of competencies in each category, or the competencies within the category must be measured by a large number of Examination items.

The tables that follow outline the competency categories and the number of competencies in each, plus the average number of questions that would be anticipated to represent each category based on a 250 item Examination.

BARRISTER COMPETENCY CATEGORIES	Average # of Examination items per category
1. Ethical and Professional Responsibilities (22 competencies: 15 x 1-A, 2 x 1-B, 4 x 2-A, 1 x 2-B)	32
2. Knowledge of the Law (94 competencies: 18 x 1-A, 14 x 1-B, 20 x 2-A, 42 x 2-B)	83
3. Establishing and Maintaining the Barrister-Client Relationship (25 competencies: 7 x 1-A, 2 x 1-B, 14 x 2-A, 2 x 2-B)	27
4. Problem/Issue Identification, Analysis, and Application of Expert Knowledge (14 competencies: 9 x 1-A, 1 x 1-B, 4 x 2-A, 0 x 2-B)	20
5. Dispute Resolution (19 competencies: 3 x 1-A, 1 x 1-B, 14 x 2-A, 1 x 2-B)	19
6. Litigation Process (62 competencies: 7 x 1-A, 39 x 1-B, 3 x 2-A, 13 x 2-B)	69
TOTAL AVERAGE EXAMINATION ITEMS	250

In general, “subscales” containing fewer than approximately 25 items will not yield results with a degree of reliability that would support meaningful feedback for failing candidates. As can be seen from the above table, it may be possible to provide failing candidates with meaningful feedback for four (4) categories of Barrister competencies: Ethical and Professional Responsibilities, Knowledge of the Law, Establishing and Maintaining the Barrister-Client Relationship, and the Litigation Process.

4. Cognitive Domain Weightings

To ensure that competencies are measured at different levels of cognitive ability, each question on the Examination will be written to reflect the following cognitive taxonomy (an adaptation of a taxonomy originally developed by Bloom in 1956).

Knowledge/Comprehension (KC): The ability to recall facts, policies, procedures, standards, research findings, etc. (e.g., citing ethical guidelines when asked to do so).

Application (AP): The ability to apply knowledge/comprehension in a straightforward applied situation (e.g., recognizing the appropriate procedure to employ when faced with a routine (uncomplicated) situation).

Critical Thinking (CT): The ability to apply knowledge/comprehension in complex applied situations. Requires analytical problem solving in addition to knowledge/comprehension and application (e.g., selecting and prioritizing appropriate courses of action when faced with complex situations; recognizing the relative importance of conflicting pieces of information and arriving at a conclusion requiring sound judgment).

COGNITIVE DOMAINS	% OF EXAMINATION
Knowledge/Comprehension:	15 - 25%
Application:	40 - 50%
Critical Thinking:	30 - 40%
TOTAL	100%

Structural Variables

Structural variables include those characteristics determining the general design and appearance of the Examination. They define the format and presentation of the Examination items, the length and duration of the Examination, and special functions of Examination items (e.g., anchor items for the purpose of equating pass marks). As with content variables, when structural variables require percentages to be allocated, these are also expressed as ranges (e.g., 40 - 50%).

1. Item/Tool Type

The Examination will be comprised of four-option multiple-choice items.

2. Item Presentation

The multiple-choice items are presented as “independent” items (the text provided is used to answer one item) and in “cases” typical of general legal practice where 4-10 items are linked to each case. A range of 75 - 85% of the items will be independent and 15 – 25% of the items will be case-based.

The Examination will originally be presented and responded to in a pencil-and-paper format.

3. Examination Length

The length of the Examination is typically driven by the purpose of the Examination, the number of competencies to be assessed, and practicality concerns (e.g., resource availability and demands placed on participants). To ensure reliable results for the total score and adequate coverage of the defined competency domain, the Examination will consist of 200 to 300 items.

4. Examination Duration, Books & Breaks

The duration of the Examination depends on the length of the Examination to be administered. Unless performance under time pressure is integral to the competencies being measured, candidates’ performance should not be confounded by lack of time. Assessments measuring candidates’ performance unconstrained by time are referred to as “power” assessments; whereas, assessments differentiating candidates based on the number of correct responses provided in a “time limited” situation are referred to as “speed” assessments. Typically, when time limits are placed on assessments of competence, these limits are intended to be reasonable for the vast majority of candidates to be able to complete all items (i.e., a power assessment strategy). A rule of thumb for multiple-choice items is to allow approximately 70 seconds per independent item and about 90 seconds per case-based item. Therefore, based on the number of items presented above, the assessment length will be seven (7) hours

in duration. Time limits and break duration will be finalized following pilot testing for both the English and French versions of the Examination.

When the assessment process approaches three and one half hours in duration, candidates will be permitted a break. To ensure consistency, the Examination will be divided into two “booklets”. A booklet is a partial form of the assessment administered within its own time limitation, at the completion of which a break of 30 - 60 minutes will be provided.

5. Assessment Aids Permitted

The types of assessment aids candidates will be permitted to bring to the Examination is contingent upon the content being assessed on any given version of the Examination. Each item will be referenced to a specific source where the correct answer can be found and a determination will be made regarding which specific items merit the use of candidate aids (resources). These resources will be compiled with the Examination and provided to each candidate by the Law Society. After considerable discussion, the Working Group recommended the Law Society provide candidates with all the permitted written materials prior to the Examination. Candidates will be permitted to mark these materials prior to the Examination, however, immediately upon completion of the Examination, each candidate will be required to return ALL these materials to the Law Society for Examination security purposes.

6. Percentage of New Content for New Versions of the Examination

When new versions of the Examination are planned (i.e., three administrations per year with the primary administration in July) there is a need to have the content of these versions vary to protect the integrity of the licensure program. When candidates become familiar with assessment content, their resulting scores may be contaminated by this knowledge and are no longer a pure assessment of their individual competence/performance. In order to ensure consistency across various forms of the Examination, a core percentage of items are selected to remain constant from one version to the next (typically those with superior item characteristics). Additional items are added that did not appear as operational on the previous administration of the Examination. The Working Group determined the range of “new” items to appear on subsequent administrations of the Examination will be 25% - 50%.

7. Experimental Items

Closely tied to the percentage of “new” content on subsequent versions of the Examination is the issue of experimental items. Experimental items are included on versions of the Examination for the purpose of gathering statistical information, but are NOT used in calculating candidates’ scores. The Working Group determined experimental items will constitute approximately 5 – 10% of each version of the Examination.

8. Forms of the Examination

Most assessment programs specify a minimum of two forms of the assessment tool (English and French). Larger assessment programs may specify more than one English form of the assessment tool that generally differ only in the experimental items included. When multiple forms of the Examination are used, it is possible to assess many more experimental items each year for inclusion on subsequent versions of the Examination. The number of forms of the Examination will depend upon the number of candidates writing the Examination. In general, a new form will be created for every 200 candidates writing the Examination. Each form will contain the same operational questions. The only difference will be the experimental questions.

STRUCTURAL VARIABLES	EXAMINATION SUMMARY
Administration Time:	7 hours
Break Time:	1 hour
Independent Items	75 - 85%
Case-based Items	15 - 25%
Total Number of Questions	200 - 300
“New” Content	25 - 50%
Experimental Items	5 - 10%
Number of Forms	1 for every 200 candidates
Examination Booklets:	2
Examination Aids:	To Be Determined

Contextual Variables

Context variables qualify the content domain by specifying the legal contexts in which the assessment questions will be set (e.g., client type, client culture, client situation and occupational environment). As with content and structure variables, when contextual variables call for percentages of the Examination to be allocated to different variables, these are expressed as ranges (e.g., 15 - 25%).

1. Client Type

By specifying the types of clients that will appear in the Examination, one step has been taken toward ensuring the Examination reflects a realistic representation of the entry-level Barrister's day-to-day practice. While not all items in the Examination will introduce a client, it is beneficial to set guidelines for items where the presentation of one or more clients is required to assess the competencies.

In order to develop an Examination representative of the types of clients entry-level Barristers will typically encounter, the Working Group consulted a number of resources including the data obtained from the survey respondents. From this information, the following breakdown of client types was developed:

TYPES OF CLIENTS	% OF EXAMINATION
Individuals	65 - 75%
Partnerships and Unincorporated Associations	0 - 5%
Corporations	10 - 20%
Statutory Bodies	0 - 5%
Governments (federal, provincial, municipal)	5 - 15%
TOTAL	100%

2. Client Situation

Specifying the various legal “contexts” adds realism to the Examination while at the same time, ensures a particular context is not over-emphasized. It is important to realize that some competencies will not need to be assessed using a legal context (e.g., knowledge questions) however, where necessary, it is important to create a context that candidates perceive is realistic. Specific client legal situations were discussed and weighted by the Working Group as representative of a typical entry-level Barrister’s practice. The following breakdown was developed:

LEGAL CONTEXT	% OF EXAMINATION
Administrative Law	5 - 15%
Civil Litigation	35 - 45%
Criminal/Quasi Criminal Law	20 - 30%
Family/Matrimonial Law	20 - 30%
TOTAL	100%

3. Legal Environment

Specifying the various legal “environments” adds realism to the Examination while ensuring a particular environment is not over-emphasized. Such issues as sole proprietor, legal clinic, or government office are all examples of different legal environments in which an entry-level Barrister might work. It is important to realize that some competencies will not need to be assessed using a legal environment (e.g., knowledge questions) however, where necessary, it is important to create a context that candidates perceive as realistic.

Specific legal environments were discussed and weighted by the Working Group as representative of a typical entry-level Barrister’s practice. The following breakdown was developed:

LEGAL ENVIRONMENT	% OF EXAMINATION
Sole Practitioner	20 - 30%
Law Firm	55 - 65%
Legal Clinic	0 - 5%
In-House Counsel (Private)	0 - 5%
Government	5 - 15%
TOTAL	100%

4. Client Culture

While the Examination will not test candidates' knowledge of specific values, beliefs and practices linked to individual cultures, it will require candidates to demonstrate awareness, sensitivity, and respect for cultural values, beliefs, and practices. When information related to client culture is presented in Examination items, this will be done without introducing biases or stereotypes.

Scoring the Examination

1. Standard and Pass Mark Setting Method Employed

Because the Examination will be designed to assess a candidate's competence with a focus on safe, effective, and ethical practice, setting a standard is not strictly a question of how well a participant is performing relative to her/his peers (i.e., normative standards), but rather how effectively the candidate is providing effective, and ethical services in the public interest from an absolute perspective. In theory, the average performance of a sample of the profession does not guarantee acceptable levels of performance. This is particularly true when one considers that the normative data will originally be based on a smaller administration of the Examination. If, by chance, this sample turns out to be particularly weak (or strong) performers, the feedback provided to subsequent participants may be overstating (or understating) their competence.

The procedure used to set the standard for the Examination must be one that provides an indication of whether or not participants have achieved a sufficient level of mastery of their content domain (i.e., absolute standards). Furthermore, various levels of performance need to be set within each of the diagnostic categories in order to provide a meaningful diagnostic profile to the participants. Given that an extensive body of research supports the use of the Angoff method in setting standards for professional assessments, a version of this process will be used to set the standard for the Examination.

The standard for the Examination will be based on an understanding of “minimal competence”, defined as the level of competence that separates those who should receive a license to practice law from those who should not. A panel of content experts will be charged with developing the definition of minimal competence by discussing the differences between different levels of competence (mastery, incompetence and minimal competence). Through extensive discussions, the expert panel will agree upon a definition of what would be expected of an individual who is “at the borderline” of competence to practice law in the capacity of a Barrister. The expert panel will also discuss the potential consequences of setting the standard either too high or too low in terms of the impact this would have on candidates, the public, the Law Society and the legal profession. Using this carefully derived “working standard,” the content experts will then proceed to the second step in the process, identifying the pass mark for a specific version of the Examination.

Identifying the pass mark for the Examination requires each item (i.e., multiple-choice) be rated by content experts in terms of the percentage of minimally competent candidates who “will” answer the item correctly. Ratings may vary from 0 – 100% and are recorded in increments of 5% (e.g., 60%, 65%, 70%, etc.). The content expert ratings for each item are then tabulated to arrive at a mean (arithmetic average) item rating. The pass mark for the Examination is based on the grand mean (overall average) of all the items that will count towards the scores of candidates.

The Angoff method is fair because it is based on a standard derived from the ability level required of the minimally competent candidate. When Examination items are more difficult, the required pass mark will be lower; when Examination items are less difficult, the required pass mark will be higher. Both

adjustments keep the underlying required standard constant. As items change, the pass marks will change to precisely reflect any items that are removed as well as those that are added.

It is important to note that the pass mark for the overall Examination and each of its diagnostic categories will be developed to provide guidance to candidates in the identification of their relative strengths and weaknesses. Finally, it should be noted that the working standard will become increasingly refined over time as content experts expand upon their previous work and new content experts are brought into the process with fresh perspectives.

2. An Overview of the Scoring Procedures

The Examination response sheets will be scanned and scored using computer software. Each correctly answered multiple-choice item will contribute one (1) point to a candidate's score. Candidates final scores will be converted to a percentage and compared to the percentage pass mark for the Examination. Only one outcome will result from scoring the Examination, overall pass/fail.

3. Statistical Analyses

A number of statistics will be used to assess the effectiveness of the Examination, diagnostic categories, and individual items. These statistics include: Cronbach's Alpha, p values, Point Biserial Correlations, and distractor analyses. Candidate feedback is also obtained following each administration of the Examination to further assess its subjective validity and effectiveness from the perspective of candidates. Candidate feedback will include ratings of the adequacy of time limits, item clarity, relevance to practice and the perceived fairness of the assessment.

APPENDIX A

Barrister Licensure Examination Blueprint Summary Sheet

<i>STRUCTURE</i>			
All Items: Medium	Paper & pencil	Duration (time):	7.0 Hours
All Responses: Medium	Paper & pencil	Booklets (#):	2
M-C Individual Items:	75 - 85%	Breaks (#/time):	1 / 60 minutes
M-C Case Items:	15 - 25%	New content (%):	25 - 50%
M-C Response Presentation:	Four-option	Experimental Items (%):	5 - 10%
M-C Length (#):	200 - 300 Items	Forms (#):	1 Per 200 Candidates
Assessment Aids:	To Be Determined		

<i>CONTENT</i>					
1-A Weighting:	40 – 50%	2-A Weighting:	15 – 25%		
1-B Weighting:	25 – 35%	2-B Weighting:	5 – 15%		
Knowledge/Comprehension:	15 – 25%	Critical Thinking:	30 – 40%		
Application:	40 – 50%				
A	B	C	D	E	F
Ethical and Professional Responsibilities	Knowledge of the Law	Establishing and Maintaining the Barrister-Client Relationship	Problem/Issue Identification, Analysis, and Application of Expert Knowledge	Dispute Resolution	Litigation Process
6 CRUCIAL (1, 3, 5, 12, 15, 18)	2 CRUCIAL (27, 28)	Not weighted	Not weighted	Not weighted	Not weighted

<i>CONTEXT</i>					
Client Types:	Individual Clients	65 – 75%	Corporations	10 – 20%	
	Governments	5 – 15%	Partnerships and Unincorporated Associations	0 – 5%	
	Statutory Bodies	0 – 5%			
Legal Context:	Civil Litigation	35 – 45%	Criminal/Quasi Criminal Law	20 – 30%	
	Family/ Matrimonial Law	20 – 30%	Administrative Law	5 – 15%	
Legal Environment:	Law Firm	55 – 65%	Sole Practitioner	20 – 30%	
	Government	5 – 15%	In-House Counsel	0 – 5%	
	Legal Clinic	0 – 5%			
Client Culture	The assessment program reflects awareness, sensitivity, and respect for cultural values, beliefs, and practices. Cultural issues are integrated within the Examination without introducing cultural stereotypes or biases.				

Acknowledgements

The following individuals participated in the creation of the Law Society Entry-Level Barrister Competency Profile:

- Michael Bowman
- Ronald Caza
- May Cheng
- Dianne Corbiere
- Josee Forest-Niesing
- Brian Gover
- Kristen Lopes
- Barbara Thompson
- Douglas Watters
- Ivan Whitehall
- Francesca Yaskiel

The following individuals participated in the focus group review of the Law Society Entry-Level Barrister Competency Profile:

- Mr. Justice Elliott Allen
- Philip Augustine
- George Biggar
- Daniel Boivin
- Jonathan Brunet
- James Butson
- May Cheng
- Carole Dahan
- Diana Dimmer
- John Foreman
- Brian Gover
- Daniel Guttman
- Kenneth Hall
- Ian Hull
- Marion Korn
- Tim Lowman
- Alfred Mamo
- Patrick J. Murphy
- Wendela Napier
- Ann Nelson
- Lise Parent
- Norman Peel, QC
- Roger Rowe
- Jeffrey Schlemmer
- Carene Smith
- Sandra Thomas
- Mr. Justice David Wake
- Douglas Watters
- Ivan Whitehall

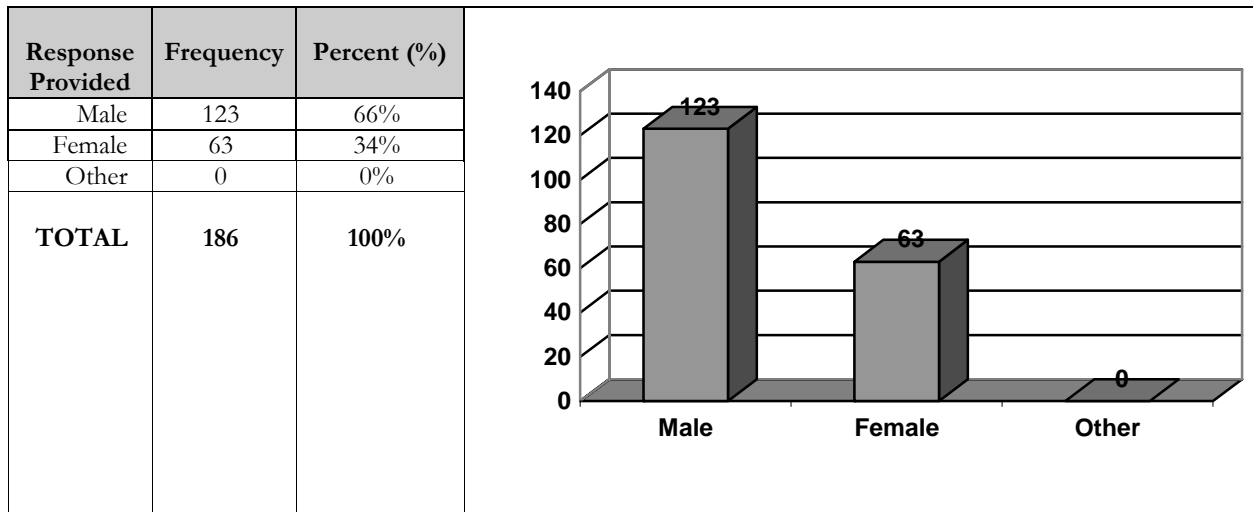
The following individuals participated in the Law Society Barrister Blueprint Development Meeting:

- Osbourne Barnwell
- Josee Forest-Niesing
- Henny Harmsen
- Jeffery G. Hewitt
- Susan Metzler
- Stephen Pitel
- Francine Roach
- Rhona Waxman

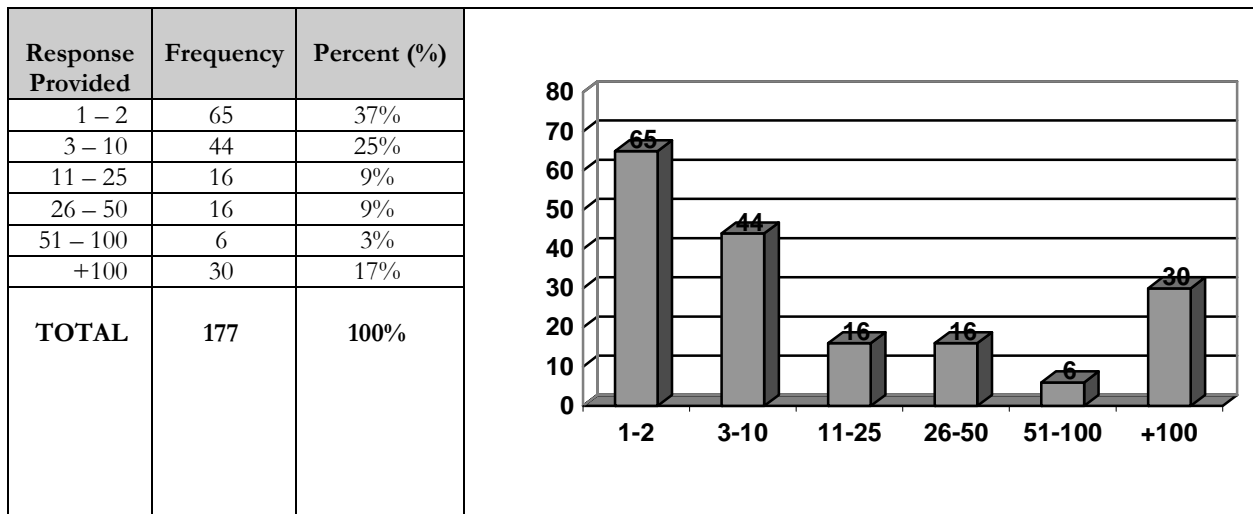
APPENDIX C

Summary of the Demographic Characteristics of Those Responding to the Survey of the Competencies for Entry-Level Barristers

1. What is your gender?

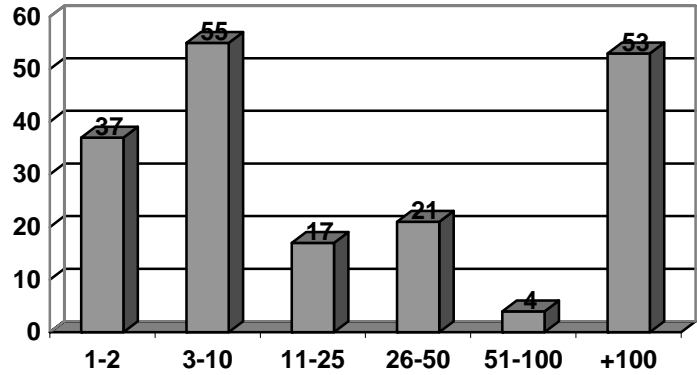


2. How many lawyers are in your practice?



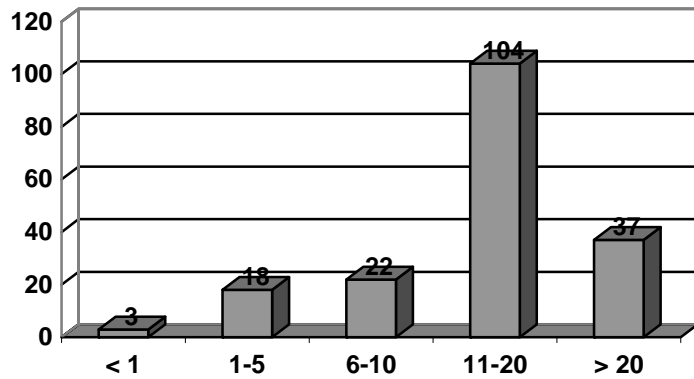
3. How many individuals (including lawyers, non-lawyer employees and partners) are in your practice?

Response Provided	Frequency	Percent (%)
1 – 2	37	21%
3 – 10	55	29%
11 – 25	17	9%
26 – 50	21	11%
51 – 100	4	2%
+100	53	28%
TOTAL	188	100%



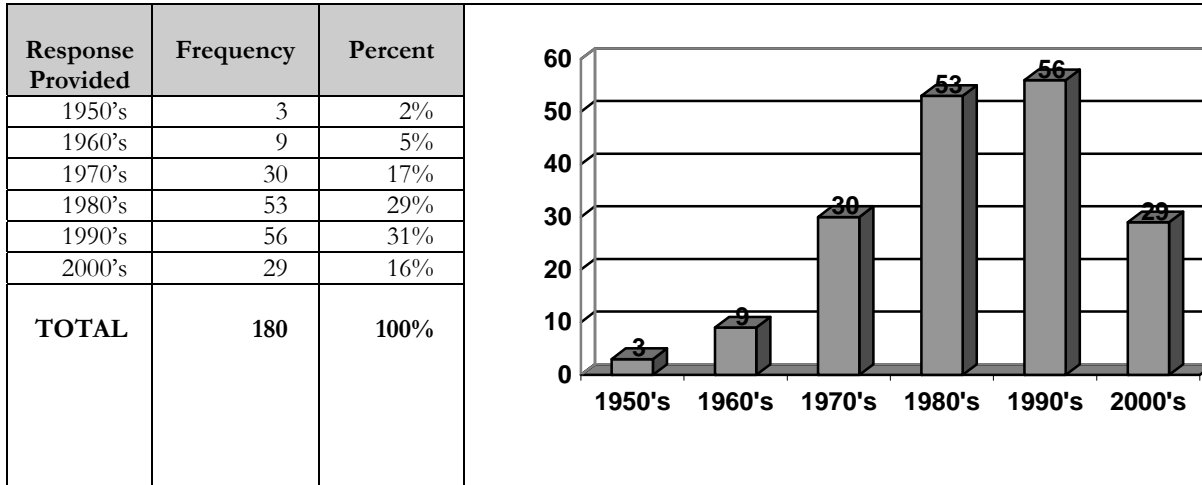
4. How many years have you been practising law?

Response Provided	Frequency	Percent
< 1 year	3	2%
1 – 5 years	18	10%
6 – 10 years	22	12%
11 – 20 years	104	57%
> 20 years	37	20%
TOTAL	184	100%

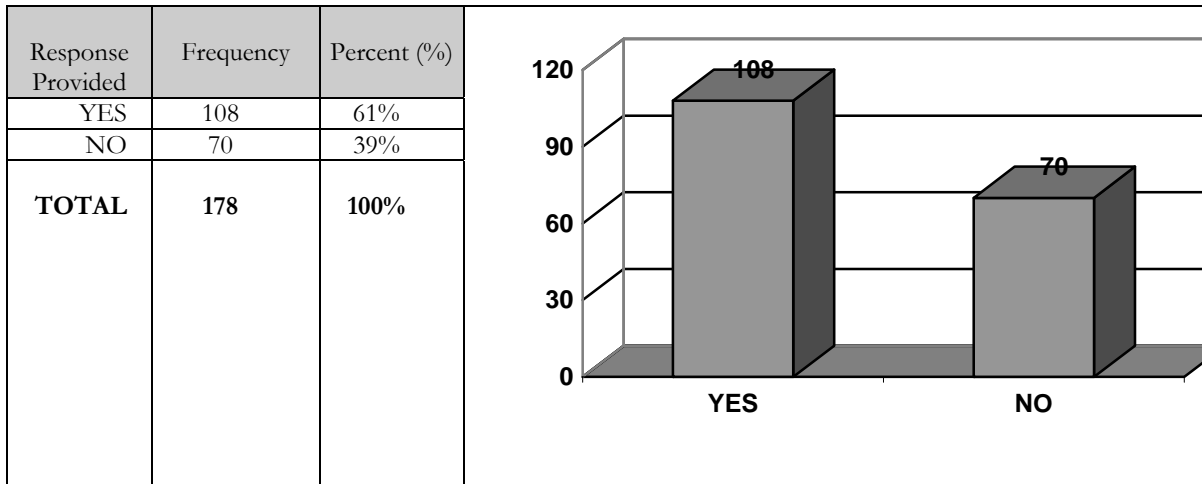


5. What was your year of call to the bar?

Respondents were originally asked to provide the exact year of call; however, for ease of interpretation this data has been recoded to reflect call to bar for each of five decades ranging from the 1950's to the 2000's.



6. Are you engaged in the private practice of law?



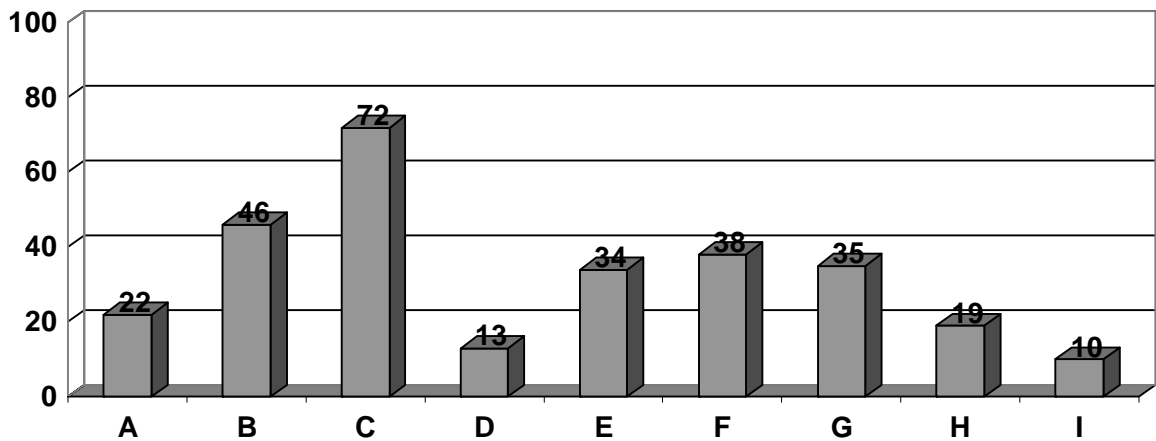
6. If you **ARE** engaged in the private practice of law what are your **main areas of practice**?

Respondents were asked to select ANY areas of private practice they considered to reflect their “main areas of practice” from the following list:

- ADR/Mediation services
- Administrative Law
- Civil litigation
- Corporate/Commercial Law
- Criminal/Quasi Criminal Law
- Employment/Labour Law
- Family/Matrimonial Law
- Wills, Estates, Trusts Law
- Real Estate Law

To determine the percentage of respondents considering each area to be a “main area of practice” the total number of valid responses to question #6 (N=197) was used as a baseline for comparison; however, due to multiple responses, the totals across practice areas do not sum to 100%. As a result, the summary table provides only the frequency and percentage of respondents endorsing each area of private practice (valid and cumulative percentages cannot be calculated). The summary statistics for questions 6a-i appear on the next page.

Response Provided		Freq	Valid total N	Percent	Response Provided		Freq	Valid total N	Percent
A	ADR/Mediation services	22	197	11%	F	Employment/Labour Law	38	197	19%
B	Administrative Law	46	197	23%	G	Family/Matrimonial Law	35	197	18%
C	Civil litigation	72	197	37%	H	Wills, Estates, Trusts Law	19	197	10%
D	Corporate/Commercial Law	13	197	7%	I	Real Estate Law	10	197	5%
E	Criminal/Quasi Criminal Law	34	197	17%					



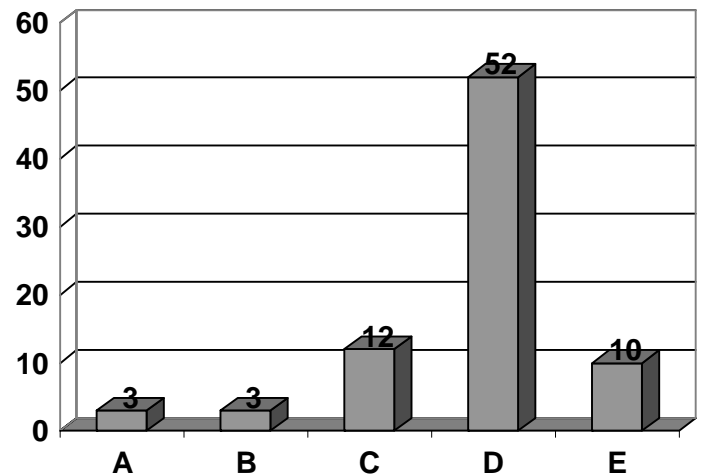
6a. If you **ARE** engaged in the private practice of law what are your **main areas of practice**? (select **all** that apply). **OTHER:**

Although an “OTHER” category was NOT provided on the survey, a couple of respondents wrote in an “OTHER” area of private practice they considered to be among their “main areas of practice”. These responses are summarized below along with the number of respondents providing each one (frequency):

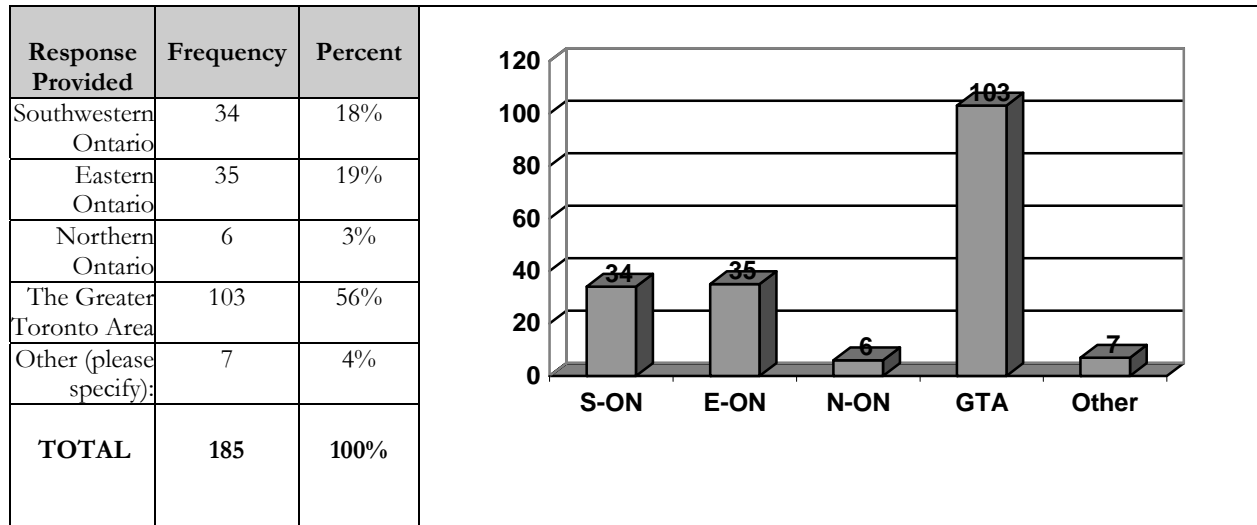
#	Response Provided	Frequency
1	GOVERNMENT MEDIATOR	1
2	CORPORATION	1
3	LEGAL AID	2
4	COUNSEL REGULATORY BODY	1
5	LABOUR ARBITRATION	1
6	UNEMPLOYED	1
7	COUNSEL	1

6b. If you are **NOT** engaged in the private practice of law please select the **ONE (1)** category that best represents, through your employment or engagement, your primary activity in law.

Response Provided	Frequency	Percent
A Employed – Legal Clinics	3	4%
B Education	3	4%
C Legal counsel (in-house)	12	15%
D Employed - government lawyer	52	65%
E Other (please specify):	10	13%
TOTAL	80	100%



7. Where do you practice law?

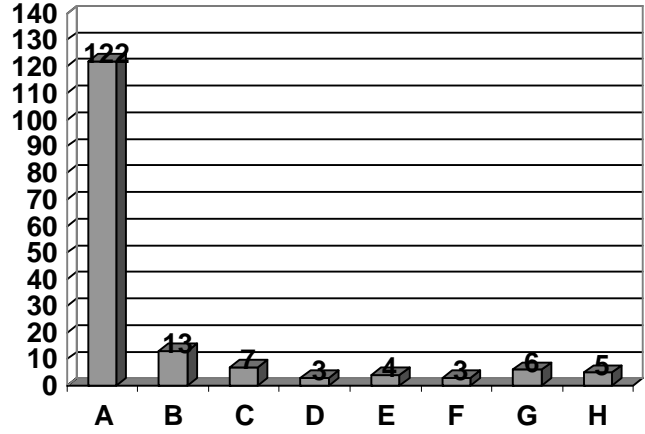


An “OTHER” category WAS provided on the survey for respondents who did not find their practice location among the options provided. These responses are summarized below along with the number of respondents providing each one (frequency):

#	Response Provided	Frequency
1	CENTRAL ONTARIO	1
2	TORONTO	1
3	MUSKOKA	2
4	BRITISH COLUMBIA	1
5	NIAGARA	2

8. Do you consider yourself to be a member of an equality seeking community (Please select all that apply?)

	Response Provided	Frequency	Percent
A	None	122	62%
B	Race or Ethnocultural Background	13	7%
C	Religion or Creed	7	4%
D	Aboriginal	3	2%
E	Francophone	4	2%
F	Disability	3	2%
G	Language Other Than English or French	6	3%
H	Sexual Orientation/Gender Identity	5	3%
	TOTAL	197	100%



CRUCIAL COMPETENCIES
MANDATORY FOR TESTING ON EVERY EXAMINATION

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES

Ethics and Professionalism

- declines to act or seeks appropriate assistance when the matter is beyond own abilities (A 1).
- avoids or manages conflicts of interest (e.g., clarifies joint retainers, acting against a client, dealing with self-represented persons, doing business with a client [e.g., borrowing from a client], acting for family members) (A 3).
- recognizes and fulfils duties relating to confidentiality and disclosure (e.g., solicitor-client privilege) (A 5).
- avoids engaging in sharp practice (A 12).
- recognizes all obligations to the court under the Rules and as an officer of the court (A 15).
- demonstrates integrity (e.g., honesty, meeting financial obligations, duty to report misconduct, responsibility to the Law Society, responsibility to other lawyers) (A 18).

B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW

Limitation Periods

- demonstrates an understanding of the Limitations Act 2002 (B 27).
- recognizes current and applicable limitation periods at the commencement of and during the course of the proceedings (B 28).

ENTRY-LEVEL BARRISTER COMPETENCIES BY CATEGORY

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES	
Ethics and Professionalism	
1.	declines to act or seeks appropriate assistance when the matter is beyond own abilities.
2.	accepts only retainers that are reasonable and capable of performance under law.
3.	avoids or manages conflicts of interest (e.g., clarifies joint retainers, acting against a client, dealing with self-represented persons, doing business with a client [e.g., borrowing from a client], acting for family members).
4.	charges fair and reasonable fees and disbursements (e.g., division of fees and referral fees, full disclosure of fees, appropriation of funds).
5.	recognizes and fulfils duties relating to confidentiality and disclosure (e.g., solicitor-client privilege).
6.	obtains all necessary consents at the time of the retainer, respecting reasonable disclosure to third parties (e.g., pursuant to relevant privacy legislation).
7.	ensures staff understands and adheres to relevant Rules of Professional Conduct (e.g., confidentiality, solicitor-client privilege, justified disclosure, integrity, honesty).
8.	delegates and supervises appropriately (e.g., provides opportunities for others to learn, enhances cost efficiencies for the client, does not delegate where inappropriate).
9.	withdraws from representation in compliance with the rules of the Law Society, the court or tribunal (e.g., optional withdrawal, mandatory withdrawal, client request for withdrawal).
10.	understands the obligation to keep the client informed.
11.	fulfils all undertakings and does not give an undertaking that cannot be fulfilled.
12.	avoids engaging in sharp practice.
13.	recognizes duties to the administration of justice (e.g., encourages respect for the administration of justice, dealing with the media, public statements, lawyer as a witness).
14.	recognizes issues involving the Law Society books and records bylaws (e.g., manages trust funds, preserves the clients' property).
15.	recognizes all obligations to the court under the Rules and as an officer of the court.
16.	avoids becoming the tool or dupe of an unscrupulous client (e.g., proceeds of crime, evidence, fraud).
17.	recognizes any other issues involving the Law Society Rules of Professional Conduct (e.g., dishonesty or fraud by the client, administration of justice, reporting other lawyers' conduct where appropriate).
18.	demonstrates integrity (e.g., honesty, meeting financial obligations, duty to report misconduct, responsibility to the Law Society, responsibility to other lawyers).
19.	demonstrates an understanding of the obligation to represent the client within the limits of the law (e.g., takes appropriate steps to ensure that the lawyer maintains professional distance from the client).

20. markets and advertises ethically as per Law Society Rules (e.g., making services available, law firm name, letterhead, advertising, offering professional services).
21. approaches ethical issues in accordance with the Law Society model (e.g., follow the law, look to the rules, seek guidance from senior barristers or practice advisory, exercise caution when in “gray areas”).
22. maintains appropriate professional relationships with lawyers, students, employees and others (e.g., treats others with courtesy and respect, avoids sexual harassment and human rights violations, respects multi-cultural issues, respects the relationship of opposing counsel and their client).

B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW

Jurisdiction and Fundamentals

23. identifies the appropriate jurisdiction (e.g., federal/provincial, statutory/regulatory).
24. identifies the appropriate forum.
25. identifies issues related to the Canadian Charter of Rights and Freedoms.
26. identifies issues related to the Constitution Act, 1867 (e.g., division of powers) and the Constitution Act, 1982 (e.g., Aboriginal rights).

Limitation Periods

27. demonstrates an understanding of the Limitations Act 2002.
28. recognizes current and applicable limitation periods at the commencement of and during the course of the proceedings.

Evidence

29. applies the appropriate statutory rules of evidence (e.g., federal and provincial legislation).
30. applies the appropriate common law rules of evidence (e.g., hearsay).
31. demonstrates an understanding of different rules of evidence for various tribunals.

Principles of Statutory Interpretation

32. applies the principles of statutory interpretation (e.g., federal and provincial Interpretation Acts, subordinate legislation, and common law, Charter).

Public Law

33. demonstrates an understanding of aspects of the Canadian Charter of Rights and Freedoms and the related case law.

34. demonstrates knowledge of primary public law including the following statutes and related case law:
 - a. Crown Liability and Proceedings Act, Proceedings Against the Crown Act, & Public Authorities Protection Act.
 - b. Federal Court Act.
 - c. Human Rights Legislation.
 - d. Judicial Review Procedures Act.
 - e. Statutory Powers Procedure Act.
35. demonstrates knowledge of secondary public law including the statutes and related case law (e.g., Access to Information Act; Competition Act; Employment Standards Act 2000; Freedom of Information and Protection of Privacy Act; Immigration and Refugee Protection Act; Ombudsman Act; PIPEDA).
36. demonstrates an understanding of the basic principles of administrative law (e.g., procedure: natural justice and fairness, substantive review of public decision making).
37. demonstrates an understanding of practice before administrative tribunals (e.g., advocacy before administrative tribunals).
38. demonstrates an understanding of the review of federal and provincial administrative action (e.g., jurisdiction, practice and procedure).
39. demonstrates an understanding of standing to sue or to apply for judicial review.
40. demonstrates an understanding of appeals, judicial review and standard of review.
41. demonstrates an understanding of civil procedure in Charter litigation including appropriate notices to the Attorneys General.
42. demonstrates an understanding of litigating Charter claims (i.e., legal, factual, evidentiary and procedural foundations).
43. demonstrates an understanding of Charter remedies (e.g., available remedies, tactical considerations).

Criminal Procedure

44. demonstrates knowledge of primary criminal procedure including the following statutes and related case law:
 - a. Charter of Rights and Freedoms.
 - b. Controlled Drugs and Substances Act and Regulations.
 - c. Criminal Code.
 - d. Youth Criminal Justice Act.
45. demonstrates knowledge of secondary criminal procedure and provincial regulatory law including the statutes and related case law (e.g., Highway Traffic Act; Pardons Act; Provincial Offences Act, Safe Schools Act).
46. demonstrates an understanding of the interrelationship between criminal law consequences and other rights and privileges (e.g., family and immigration).
47. demonstrates an understanding of professional responsibilities in criminal practice (e.g., duty to the client, duty to the court, duty to society).
48. demonstrates an understanding of the role of the police and crown in the judicial system.

49. demonstrates an understanding of the classification of offences and trial jurisdiction.
50. demonstrates an understanding of investigatory powers (e.g., search and seizure, investigation and questioning of suspects).
51. demonstrates an understanding of judicial interim release and bail review procedures.
52. demonstrates an understanding of crown disclosure and third party production (e.g., the Crown has an ongoing obligation to disclose all relevant information, Crown briefs are the property of the Crown).
53. considers disclosure obligations on defence counsel (e.g., expert reports, alibi defences).
54. demonstrates an understanding of pretrial conferences.
55. demonstrates an understanding of the various Rules of Court.
56. demonstrates an understanding of diversion options.
57. demonstrates an understanding of pleas (e.g., voluntary, informed, secondary consequences).
58. demonstrates an understanding of the preliminary inquiry.
59. demonstrates an understanding of compelling witnesses.
60. demonstrates an understanding of pre-trial applications in criminal proceedings.
61. demonstrates an understanding of representing clients with psychiatric issues.
62. demonstrates an understanding of the criminal trial (e.g., modes of trial, pre-hearing conference, trial procedure, jury selection).
63. demonstrates an understanding of sentencing (e.g., purpose and objectives, principles of sentencing, sentencing powers and restrictions, distinction between reformatory and penitentiary sentences, availability of conditional sentences, DNA orders, weapons prohibitions).
64. demonstrates an understanding of appeals and bail pending appeals (e.g., indictable appeals, the sentence hearing, summary conviction appeals).
65. demonstrates an understanding of aboriginal peoples and the criminal justice system (e.g., jurisdiction - on reserve and off reserve).

Family Law

66. demonstrates knowledge of primary family law including the following legislation and related case law:
 - a. Children's Law Reform Act.
 - b. Family Law Act.
67. demonstrates knowledge of secondary family law including the statutes and related regulations and case law (e.g., Change of Name Act; Family Responsibility and Support Enforcement Act; Income Tax Act; Indian Act; Marriage Act; Pension Benefits Act; Pension Benefits Division Act; Succession Law Reform Act; The Partition Act).
68. demonstrates an understanding of the conduct of an action in family law proceedings.
69. demonstrates an understanding of the Family Law Rules (e.g., motions, conferences, offers to settle, costs, case management, timelines).
70. demonstrates an understanding of divorce law and procedure (e.g., Divorce Act).
71. demonstrates an understanding of custody and access and the enforcement of a custody order (e.g., mobility rights).
72. demonstrates an understanding of law relating to matrimonial property.

73.	demonstrates an understanding of the law relating to spousal support.
74.	demonstrates an understanding of the law relating to child support (e.g., Child Support Guideline Regulations).
75.	demonstrates an understanding of the law relating to cohabitation.
76.	demonstrates an understanding of the law relating to same-sex relationships and marriages.
77.	demonstrates an understanding of financial disclosure in family law matters.
78.	demonstrates an understanding of enforcement of support orders.
79.	demonstrates an understanding of tax principles of family law.
80.	demonstrates an understanding of domestic contracts.
81.	demonstrates an understanding of representing clients who have been exposed to violence or are accused of perpetrating violence.
82.	demonstrates an understanding of child protection law (e.g., Child and Family Services Act.).
83.	demonstrates an understanding of aboriginal law in a family context.
84.	demonstrates an understanding of all options available for the resolution of family law disputes.
85.	demonstrates an understanding of the role of The Children's Lawyer.
86.	demonstrates knowledge of the interrelationship of family law consequences and other areas of the law (e.g., criminal, real estate).
87.	demonstrates an understanding of appeals under the Family Law Rules.
88.	demonstrates an understanding of the valuation of specific assets (e.g., pension, share options).
Civil Litigation	
89.	demonstrates an understanding of the rules of civil procedure (e.g., Ontario Rules of Civil Procedure, Federal Rules of Court, 1998).
90.	applies the appropriate rules of civil procedure (e.g., Ontario Rules of Civil Procedure, Federal Rules of Court, 1998).
91.	demonstrates an understanding of the jurisdiction and organization of the courts of Ontario.
92.	demonstrates an understanding of capacity and parties under disability.
93.	demonstrates an understanding of the procedural issues relevant to estate and trust law litigation (e.g., capacity).
94.	demonstrates an understanding of parties (persons or entities who can sue and be sued) and joinder.
95.	demonstrates an understanding of the commencement of proceedings (e.g., statement of claim, notice of action, application).
96.	demonstrates an understanding of service of process.
97.	demonstrates an understanding of the law of remedies.
98.	demonstrates an understanding of pleadings (e.g., content, time for delivery, form of pleadings, purpose of pleadings).
99.	demonstrates an understanding of disposition without trial (e.g., summary judgment, determination of an issue before trial).
100.	demonstrates an understanding of subsidiary claims (e.g., counterclaims, cross claims, third party claims).
101.	demonstrates an understanding of court-directed mediation.

- 102. demonstrates an understanding of interlocutory proceedings and their purposes.
- 103. demonstrates an understanding of discovery and its purposes.
- 104. demonstrates an understanding of offers to settle and costs.
- 105. demonstrates an understanding of pre-trial conferences and case management.
- 106. demonstrates an understanding of simplified procedure under Rule 76.
- 107. demonstrates an understanding of the enforcement of judgments (e.g., examination in aid of execution, writs of seizure and sale, garnishment).
- 108. demonstrates an understanding of the appeal process.

C. ESTABLISHING AND MAINTAINING THE BARRISTER-CLIENT RELATIONSHIP

Identifying the Client

- 109. takes appropriate steps to determine the client and the client's role (e.g., multiple parties, spouses/family members, business partners, trustee vs. beneficiary, officers/directors/shareholders vs. corporation, authority to bind).
- 110. takes appropriate steps to avoid problems associated with phantom clients.
- 111. obtains identification from the client where appropriate (e.g., follows the Proceeds of Crime [Money Laundering] and Terrorist Financing Act, takes steps to identify fraudulent transactions).

Conflicts of Interest

- 112. uses a conflict of interest checking system.
- 113. identifies potential conflicts of interest before acquiring confidential information (e.g., multiple parties).
- 114. takes appropriate action in situations where an actual or potential conflict of interest is identified (e.g., referral for independent legal advice, decline to act, disclose the conflict to the client and obtain consent, establish firewall procedures where appropriate, advises the client of the consequences in the event the potential conflict materializes, documents the steps taken when a potential conflict of interest has been identified).

Interviewing Principles

- 115. determines the client's goals, objectives and expectations.
- 116. makes an initial assessment of whether or not the client's goals, objectives, and expectations can be met through legal processes and ethical solutions.
- 117. asks questions to determine whether or not the client is capable of giving instructions (e.g., mental capacity, authority, duress, undue influence).

The Retainer

- 118. establishes the scope of the retainer (e.g., confirms the identity of the client, outlines the capacities being represented, explains any limitations related to client instructions).

119. identifies the instructing client (i.e., who has the authority to provide instructions).
120. confirms the actions to be taken by the parties in the retainer.
121. sets out and explains the basis for fees and disbursements in the retainer (e.g., special or extraordinary disbursements, rates for various personnel performing the work, hourly versus alternative rates, periodic rate increases, contingency arrangements).
122. outlines the delegation of responsibilities in the retainer (e.g., within the firm, external consultants, client).
123. confirms the acceptable forms of client communication in the retainer (e.g., media and timeframes).
124. addresses solicitor-client privilege and privacy issues in the retainer (e.g., distribution of e-mails, sharing information with other advisors).
125. addresses conflict of interest issues in the retainer (e.g., termination, confidentiality, consent).
126. addresses termination issues in the retainer (e.g., non-payment of fees, no instructions, loss of confidence).
127. confirms the retainer and any limitations in writing.
128. obtains a monetary retainer where appropriate.
129. confirms changes to the retainer as appropriate (e.g., new client instructions, method/channels for making changes).

Client Communications

130. communicates with clients in a timely and effective manner (e.g., returns messages in a timely manner, copies the client on correspondence as appropriate, advises on developments).
131. manages and updates the client's expectations with respect to timeframes, results, and costs.
132. recognizes and is sensitive to clients' circumstances, special needs, and intellectual capacity (e.g., multi-cultural, language [need for interpreters], gender, disability, socioeconomic status, demeanour).
133. explains to clients the risk of communicating the details of the case by means of electronic media (e.g., cell phones, e-mail).
134. maintains an electronic or written record for each matter for which the lawyer is retained.

D. PROBLEM/ISSUE IDENTIFICATION, ANALYSIS, AND ASSESSMENT

Information Gathering, Case Analysis and Planning

135. obtains relevant facts and documents.
136. recognizes urgency and takes emergency steps where necessary (e.g., injunctive relief, issuing a claim to preserve rights).
137. reviews and identifies relevant facts and documents.
138. identifies the factual and legal issues.
139. identifies and obtains additional information and/or resources as needed (e.g., experts, legal research, specialized counsel).
140. conducts or delegates research and investigations related to the matter as appropriate.

141. complies with all privacy legislation.

Notice to Affected Parties

142. identifies those who may be entitled to notice of the proceedings (e.g., Attorneys General, municipality, insurers) and provides appropriate notice.

Theory of the Case

143. develops an informed theory of the case based on the lawyer's assessment of the facts and law.

144. reassesses the theory of the case as the case evolves.

Litigation Strategy

145. develops an appropriate plan and strategies in consultation with the client to achieve desired results.

146. considers and communicates to the client the costs and consequences of various courses of action.

147. recommends and obtains instructions from the client regarding the most effective tools to achieve desired results.

E. ALTERNATIVE DISPUTE RESOLUTION

Negotiation

148. demonstrates an understanding that negotiation is an integral part of the conduct of the matter from inception to completion.

149. identifies disputed versus undisputed issues.

150. identifies issues that can be negotiated.

151. explains to the client the potential consequences of negotiating or failing to negotiate.

152. obtains instructions concerning negotiations.

153. explores opportunities to negotiate or otherwise resolve issues short of litigation.

154. identifies the strategy and tactics to be used in negotiation.

155. prepares the client for the negotiation process.

156. uses principles of effective negotiation.

157. documents the resolution of issues through negotiation.

Mediation and Dispute Resolution

158. demonstrates an understanding of various dispute resolution mechanisms (e.g., mediation, arbitration).

159. identifies issues appropriate for dispute resolution.

160. explains to the client the potential consequences of mediating or failing to mediate.

- 161. obtains instructions concerning mediation.
- 162. identifies additional remedies that may be uniquely available through dispute resolution.
- 163. considers appropriate dispute resolution options (e.g., mediation, arbitration).
- 164. identifies the strategy and tactics to be used during dispute resolution.
- 165. prepares the client for the dispute resolution process.
- 166. documents the resolution of issues through dispute resolution.

F. LITIGATION PROCESS

Initiating Litigation

- 167. considers decision-maker (e.g., judge or jury).

Disclosure, Production, and Discovery

- 168. demonstrates an understanding of applicable document disclosure and discovery requirements.
- 169. obtains timely disclosure, production and discovery as required.
- 170. provides timely disclosure and discovery as required.
- 171. advises the client of disclosure obligations (e.g., full and complete disclosure; ensuring the preservation of relevant documents for disclosure, knowledge of privilege issues).
- 172. prepares for the conduct of any discovery process (e.g., preliminary inquiry, examination for discovery).
- 173. prepares the client for any discovery process.
- 174. takes appropriate steps to enforce disclosure and discovery rights.

Trial or Hearing Preparation

- 175. meets timelines for trial or hearing.
- 176. determines the evidence required to support the theory of the case.
- 177. marshals evidence (e.g., obtains witness statements, expert reports, preserves evidence).
- 178. obtains discovery or other relevant transcripts.
- 179. reviews relevant transcripts.
- 180. manages trial or hearing related documents.
- 181. determines the evidence to be called.
- 182. demonstrates an understanding of the use of expert evidence at trial (e.g., expert reports, qualifying the expert).
- 183. identifies the order of the evidence to be called.
- 184. demonstrates an understanding of Requests to Admit where relevant (e.g., facts and documents).
- 185. demonstrates an understanding of any notice and delivery requirements for specific documentary evidence (e.g., business records, medical and other expert reports).
- 186. demonstrates an understanding of the requirements of a family law trial for the filing of updated financial statements and net family property statements.
- 187. demonstrates an understanding of the purpose and proper form of direct examination.

188. prepares own witnesses for direct examination.
189. ensures the attendance of witnesses (e.g., subpoena/summons to witness).
190. demonstrates an understanding of the purpose and proper form of cross-examination (e.g., impeachment, eliciting evidence helpful to own case).
191. prepares own witnesses for cross-examination.
192. prepare for cross-examination of witnesses of other parties.
193. demonstrates an understanding of the purpose and proper form of re-examination (e.g., rehabilitate the credibility of the witness, clarify evidence).
194. explains to witnesses the purpose of re-examination.
195. prepares any applications for relief under the Charter and service on the Crown.
196. anticipates and prepares objections and possible motions.
197. considers issues of admissibility of evidence.
198. prepares submissions on costs, where applicable.
199. prepares submissions on sentence, where applicable.

Applications to Court, Judicial Reviews and Prerogative Remedies

200. demonstrates an understanding of the rules and tests for applications, judicial reviews and prerogative remedies.
201. considers if applications, judicial reviews and prerogative remedies are warranted.
202. meets applicable timelines for applications, judicial reviews and prerogative remedies.
203. reviews the merits of applications, judicial reviews and prerogative remedies with the client.
204. obtains client instructions regarding applications, judicial reviews and prerogative remedies.
205. ensures applications, judicial reviews and prerogative remedies are taken to the proper forum.
206. prepares all the necessary documents for conduct of applications, judicial reviews and prerogative remedies (e.g., application for judicial review, application records, preparation of facta, order transcript).
207. makes oral submissions concerning applications, judicial reviews and prerogative remedies.
208. demonstrates an understanding of costs principles relating to applications, judicial reviews and prerogative remedies where available and appropriate.

Conduct of the Trial or Hearing

209. deals with any preliminary matters (e.g., jurisdictional, pretrial motion, exclusion of witnesses and publication bans, jury selection).
210. plans the delivery of evidence to support the theory of the case.
211. considers whether or not to call a particular witness (e.g., the accused in a criminal trial).
212. adduces admissions (e.g., introduces excerpts of transcripts where applicable, presents agreed statements of fact).
213. initiates and responds to motions as appropriate.
214. raises appropriate objections on the record.

Appeals

- 215. demonstrates an understanding of the rules and tests for an appeal of the decision.
- 216. considers if an appeal is warranted.
- 217. meets the timelines for appeals.
- 218. reviews the merits of an appeal with the client.
- 219. obtains client instructions regarding appeals.
- 220. ensures appeals are taken to the proper forum.
- 221. prepares all the necessary documents for conduct of an appeal (e.g., notices of appeal, order transcript, appeal books, compendium, preparation of facta).
- 222. prepares and argues the appeal.
- 223. demonstrates an understanding of costs principles relating to an appeal.
- 224. demonstrates awareness of the procedure to file a notice of appeal in the name of the client only to preserve appellate rights.
- 225. demonstrates awareness of the availability of settlement conferences and the ongoing availability of dispute resolution in appeals.

Post-Disposition of Matter

- 226. ensures the matter has been disposed of appropriately (e.g., minutes of settlement, judgment/order issued and entered, final releases, dismissal order).
- 227. provides final reports and accounting to clients.
- 228. conducts a final review of the file prior to closing the file.

**ENTRY-LEVEL BARRISTER COMPETENCIES BY
CRITICALITY/FREQUENCY CLASSIFICATION**

Group 1-A

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES	
Ethics & Professionalism	
1.	declines to act or seeks appropriate assistance when the matter is beyond own abilities.
2.	accepts only retainers that are reasonable and capable of performance under law.
3.	avoids or manages conflicts of interest (e.g., clarifies joint retainers, acting against a client, dealing with self-represented persons, doing business with a client [e.g., borrowing from a client], acting for family members).
4.	recognizes and fulfils duties relating to confidentiality and disclosure (e.g., solicitor-client privilege).
5.	ensures staff understands and adheres to relevant Rules of Professional Conduct (e.g., confidentiality, solicitor-client privilege, justified disclosure, integrity, honesty).
6.	fulfils all undertakings and does not give an undertaking that cannot be fulfilled.
7.	avoids engaging in sharp practice.
8.	recognizes duties to the administration of justice (e.g., encourages respect for the administration of justice, dealing with the media, public statements, lawyer as a witness).
9.	recognizes issues involving the Law Society books and records bylaws (e.g., manages trust funds, preserves the clients' property).
10.	recognizes all obligations to the court under the Rules and as an officer of the court.
11.	recognizes any other issues involving the Law Society Rules of Professional Conduct (e.g., dishonesty or fraud by the client, administration of justice, reporting other lawyers' conduct where appropriate).
12.	demonstrates integrity (e.g., honesty, meeting financial obligations, duty to report misconduct, responsibility to the Law Society, responsibility to other lawyers).
13.	demonstrates an understanding of the obligation to represent the client within the limits of the law (e.g., takes appropriate steps to ensure that the lawyer maintains professional distance from the client).
14.	approaches ethical issues in accordance with the Law Society model (e.g., follow the law, look to the rules, seek guidance from senior barristers or practice advisory, exercise caution when in "gray areas").

15. maintains appropriate professional relationships with lawyers, students, employees and others (e.g., treats others with courtesy and respect, avoids sexual harassment and human rights violations, respects multi-cultural issues, respects the relationship of opposing counsel and their client).

B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW

Jurisdiction and Fundamentals

16. identifies the appropriate jurisdiction (e.g., federal/provincial, statutory/regulatory).
17. identifies the appropriate forum.

Limitation Periods

18. demonstrates an understanding of the Limitations Act 2002.
19. recognizes current and applicable limitation periods at the commencement of and during the course of the proceedings.

Evidence

NA

Principles of Statutory Interpretation

NA

Public Law

20. demonstrates an understanding of aspects of the Canadian Charter of Rights and Freedoms and the related case law.
21. demonstrates an understanding of the basic principles of administrative law (e.g., procedure: natural justice and fairness, substantive review of public decision making).

Criminal Procedure

22. demonstrates knowledge of primary criminal procedure including the following statutes and related case law: Criminal Code.
23. demonstrates an understanding of professional responsibilities in criminal practice (e.g., duty to the client, duty to the court, duty to society).

Family Law

24. demonstrates knowledge of primary family law including the following legislation and related case law: Family Law Act.
25. demonstrates an understanding of divorce law and procedure (e.g., Divorce Act).
26. demonstrates an understanding of law relating to matrimonial property.
27. demonstrates an understanding of the law relating to spousal support.
28. demonstrates an understanding of the law relating to child support (e.g., Child Support Guideline Regulations).

Civil Litigation

29. demonstrates an understanding of the rules of civil procedure (e.g., Ontario Rules of Civil Procedure, Federal Rules of Court, 1998).
30. applies the appropriate rules of civil procedure (e.g., Ontario Rules of Civil Procedure, Federal Rules of Court, 1998).
31. demonstrates an understanding of the commencement of proceedings (e.g., statement of claim, notice of action, application).
32. demonstrates an understanding of pleadings (e.g., content, time for delivery, form of pleadings, purpose of pleadings).
33. demonstrates an understanding of offers to settle and costs.

C. ESTABLISHING AND MAINTAINING THE BARRISTER-CLIENT RELATIONSHIP

Identifying the Client

34. takes appropriate steps to determine the client and the client's role (e.g., multiple parties, spouses/family members, business partners, trustee vs. beneficiary, officers/directors/shareholders vs. corporation, authority to bind).

Conflicts of Interest

35. uses a conflict of interest checking system.
36. identifies potential conflicts of interest before acquiring confidential information (e.g., multiple parties).
37. takes appropriate action in situations where a potential conflict of interest is identified (e.g., referral for independent legal advice, decline to act, disclose the conflict to the client and obtain consent, establish firewall procedures where appropriate, advises the client of the consequences in the event the potential conflict materializes, documents the steps taken when a potential conflict of interest has been identified).

Interviewing Principles

38. asks questions to determine whether or not the client is capable of giving instructions (e.g., mental capacity, authority, duress, undue influence).

The Retainer

39. establishes the scope of the retainer (e.g., confirms the identity of the client, outlines the capacities being represented, explains any limitations related to client instructions).

Client Communications

40. communicates with clients in a timely and effective manner (e.g., returns messages in a timely manner, copies the client on correspondence as appropriate, advises on developments).

D. PROBLEM/ISSUE IDENTIFICATION, ANALYSIS, AND ASSESSMENT

Information Gathering, Case Analysis and Planning

41. maintains an electronic or written record for each matter for which the lawyer is retained.
42. obtains relevant facts and documents.
43. recognizes urgency and takes emergency steps where necessary (e.g., injunctive relief, issuing a claim to preserve rights).
44. reviews and identifies relevant facts and documents.
45. identifies the factual and legal issues.

Notice to Affected Parties

46. identifies those who may be entitled to notice of the proceedings (e.g., Attorneys General, municipality, insurers) and provides appropriate notice.

Theory of the Case

NA

Litigation Strategy

47. develops an appropriate plan and strategies in consultation with the client to achieve desired results.
48. considers and communicates to the client the costs and consequences of various courses of action.

49. recommends and obtains instructions from the client regarding the most effective tools to achieve desired results.

E. ALTERNATIVE DISPUTE RESOLUTION

Negotiation

50. obtains instructions concerning negotiations.
51. uses principles of effective negotiation.
52. documents the resolution of issues through negotiation.

Mediation and Dispute Resolution

NA

F. LITIGATION PROCESS

Initiating Litigation

NA

Disclosure, Production, and Discovery

53. demonstrates an understanding of applicable document disclosure and discovery requirements.
54. obtains timely disclosure, production and discovery as required.
55. provides timely disclosure and discovery as required.
56. advises the client of disclosure obligations (e.g., full and complete disclosure; ensuring the preservation of relevant documents for disclosure, knowledge of privilege issues).
57. prepares for the conduct of any discovery process (e.g., preliminary inquiry, examination for discovery).

Trial or Hearing Preparation

58. determines the evidence required to support the theory of the case.
59. marshals evidence (e.g., obtains witness statements, expert reports, preserves evidence).

Applications to Court, Judicial Reviews and Prerogative Remedies

NA

Conduct of the Trial or Hearing

NA

Appeals
NA
Post-Disposition of Matter
NA

Group 1-B

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES	
Ethics & Professionalism	
1.	withdraws from representation in compliance with the rules of the Law Society, the court or tribunal (e.g., optional withdrawal, mandatory withdrawal, client request for withdrawal).
2.	avoids becoming the tool or dupe of an unscrupulous client (e.g., proceeds of crime, evidence, fraud).
B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW	
Jurisdiction and Fundamentals	
3.	identifies issues related to the Canadian Charter of Rights and Freedoms.
4.	identifies issues related to the Constitution Act, 1867 (e.g., division of powers) and the Constitution Act, 1982 (e.g., Aboriginal rights).
Evidence	
NA	
Principles of Statutory Interpretation	
NA	
Public Law	
NA	
Criminal Procedure	
5.	demonstrates knowledge of primary criminal procedure including the following statutes and related case law: Charter of Rights and Freedoms.
6.	demonstrates an understanding of investigatory powers (e.g., search and seizure, investigation and questioning of suspects).
7.	demonstrates an understanding of judicial interim release and bail review procedures.
8.	demonstrates an understanding of crown disclosure and third party production (e.g., the Crown has an ongoing obligation to disclose all relevant information, Crown briefs are the property of the Crown).
9.	demonstrates an understanding of pleas (e.g., voluntary, informed, secondary consequences).

10. demonstrates an understanding of the criminal trial (e.g., modes of trial, pre-hearing conference, trial procedure, jury selection).
11. demonstrates an understanding of sentencing (e.g., purpose and objectives, principles of sentencing, sentencing powers and restrictions, distinction between reformatory and penitentiary sentences, availability of conditional sentences, DNA orders, weapons prohibitions).

Family Law

12. demonstrates knowledge of primary family law including the following legislation and related case law: Children’s Law Reform Act.
13. demonstrates an understanding of custody and access and the enforcement of a custody order (e.g., mobility rights).
14. demonstrates an understanding of tax principles of family law.
15. demonstrates an understanding of child protection law (e.g., Child and Family Services Act.)

Civil Litigation

16. demonstrates an understanding of parties (persons or entities who can sue and be sued) and joinder.

C. ESTABLISHING AND MAINTAINING THE BARRISTER-CLIENT RELATIONSHIP

Identifying the Client

17. obtains identification from the client where appropriate (e.g., follows the Proceeds of Crime [Money Laundering] and Terrorist Financing Act, takes steps to identify fraudulent transactions).

Conflicts of Interest

NA

Interviewing Principles

NA

The Retainer

18. identifies the instructing client (i.e., who has the authority to provide instructions).

Client Communications

NA

D. PROBLEM/ISSUE IDENTIFICATION, ANALYSIS, AND ASSESSMENT

Information Gathering, Case Analysis and Planning

19. identifies and obtains additional information and/or resources as needed (e.g., experts, legal research, specialized counsel).

Notice to Affected Parties

NA

Theory of the Case

NA

Litigation Strategy

NA

E. ALTERNATIVE DISPUTE RESOLUTION

Negotiation

NA

Mediation and Dispute Resolution

20. obtains instructions concerning mediation.

F. LITIGATION PROCESS

Initiating Litigation

NA

Disclosure, Production, and Discovery

21. prepares the client for any discovery process.

22. takes appropriate steps to enforce disclosure and discovery rights.

Trial or Hearing Preparation

23. meets timelines for trial or hearing.
24. obtains discovery or other relevant transcripts.
25. reviews relevant transcripts.
26. manages trial or hearing related documents.
27. determines the evidence to be called.
28. demonstrates an understanding of the use of expert evidence at trial (e.g., expert reports, qualifying the expert).
29. demonstrates an understanding of Requests to Admit where relevant (e.g., facts and documents).
30. demonstrates an understanding of the requirements of a family law trial for the filing of updated financial statements and net family property statements.
31. demonstrates an understanding of the purpose and proper form of direct examination.
32. prepares own witnesses for direct examination.
33. ensures the attendance of witnesses (e.g., subpoena/summons to witness).
34. demonstrates an understanding of the purpose and proper form of cross-examination (e.g., impeachment, eliciting evidence helpful to own case).
35. prepares own witnesses for cross-examination.
36. prepare for cross-examination of witnesses of other parties.
37. prepares any applications for relief under the Charter and service on the Crown.
38. considers issues of admissibility of evidence.
39. prepares submissions on costs, where applicable.
40. prepares submissions on sentence, where applicable.

Applications to Court, Judicial Reviews and Prerogative Remedies

41. demonstrates an understanding of the rules and tests for applications, judicial reviews and prerogative remedies.
42. meets applicable timelines for applications, judicial reviews and prerogative remedies.
43. obtains client instructions regarding applications, judicial reviews and prerogative remedies.
44. ensures applications, judicial reviews and prerogative remedies are taken to the proper forum.
45. demonstrates an understanding of costs principles relating to applications, judicial reviews and prerogative remedies where available and appropriate

Conduct of the Trial or Hearing

46. plans the delivery of evidence to support the theory of the case.
47. considers whether or not to call a particular witness (e.g., the accused in a criminal trial).
48. initiates and responds to motions as appropriate.

Appeals

- 49. demonstrates an understanding of the rules and tests for an appeal of the decision.
- 50. considers if an appeal is warranted.
- 51. meets the timelines for appeals.
- 52. reviews the merits of an appeal with the client.
- 53. obtains client instructions regarding appeals.
- 54. ensures appeals are taken to the proper forum.
- 55. prepares all the necessary documents for conduct of an appeal (e.g., notices of appeal, order transcript, appeal books, compendium, preparation of facta).
- 56. prepares and argues the appeal.
- 57. demonstrates an understanding of costs principles relating to an appeal
- 58. demonstrates awareness of the procedure to file a notice of appeal in the name of the client only to preserve appellate rights.

Post-Disposition of Matter

- 59. ensures the matter has been disposed of appropriately (e.g., minutes of settlement, judgment/order issued and entered, final releases, dismissal order).

Group 2-A

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES	
Ethics and Professionalism	
1.	charges fair and reasonable fees and disbursements (e.g., division of fees and referral fees, full disclosure of fees, appropriation of funds).
2.	obtains all necessary consents at the time of the retainer, respecting reasonable disclosure to third parties (e.g., pursuant to relevant privacy legislation).
3.	delegates and supervises appropriately (e.g., provides opportunities for others to learn, enhances cost efficiencies for the client, does not delegate where inappropriate).
4.	understands the obligation to keep the client informed.
B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW	
Jurisdiction and Fundamentals	
NA	
Limitation Periods	
NA	
Evidence	
5.	applies the appropriate statutory rules of evidence (e.g., federal and provincial legislation).
6.	applies the appropriate common law rules of evidence (e.g., hearsay).
Principles of Statutory Interpretation	
7.	applies the principles of statutory interpretation (e.g., federal and provincial Interpretation Acts, subordinate legislation, and common law, Charter).
Public Law	
NA	
Criminal Procedure	
8.	demonstrates knowledge of primary criminal procedure including the following statutes and related case law: Youth Criminal Justice Act.

- 9. demonstrates an understanding of the role of the police and crown in the judicial system.
- 10. considers disclosure obligations on defence counsel (e.g., expert reports, alibi defences).
- 11. demonstrates an understanding of the classification of offences and trial jurisdiction.

Family Law

- 12. demonstrates an understanding of the conduct of an action in family law proceedings.
- 13. demonstrates an understanding of the Family Law Rules (e.g., motions, conferences, offers to settle, costs, case management, timelines).
- 14. demonstrates an understanding of the law relating to cohabitation.
- 15. demonstrates an understanding of financial disclosure in family law matters.
- 16. demonstrates an understanding of enforcement of support orders.
- 17. demonstrates an understanding of all options available for the resolution of family law disputes.

Civil Litigation

- 18. demonstrates an understanding of capacity and parties under disability.
- 19. demonstrates an understanding of service of process.
- 20. demonstrates an understanding of the jurisdiction and organization of the courts of Ontario.
- 21. demonstrates an understanding of the law of remedies.
- 22. demonstrates an understanding of subsidiary claims (e.g., counterclaims, cross claims, third party claims).
- 23. demonstrates an understanding of interlocutory proceedings and their purposes.
- 24. demonstrates an understanding of discovery and its purposes.

C. ESTABLISHING AND MAINTAINING THE BARRISTER-CLIENT RELATIONSHIP

Identifying the Client

- 25. takes appropriate steps to avoid problems associated with phantom clients.

Conflicts of Interest

NA

Interviewing Principles

- 26. determines the client's goals, objectives and expectations.
- 27. makes an initial assessment of whether or not the client's goals, objectives, and expectations can be met through legal processes and ethical solutions.

The Retainer

28. confirms the actions to be taken by the parties in the retainer.
29. sets out and explains the basis for fees and disbursements in the retainer (e.g., special or extraordinary disbursements, rates for various personnel performing the work, hourly versus alternative rates, periodic rate increases, contingency arrangements).
30. outlines the delegation of responsibilities in the retainer (e.g., within the firm, external consultants, client).
31. confirms the acceptable forms of client communication in the retainer (e.g., media and timeframes).
32. addresses solicitor-client privilege and privacy issues in the retainer (e.g., distribution of e-mails, sharing information with other advisors).
33. addresses conflict of interest issues in the retainer (e.g., termination, confidentiality, consent).
34. addresses termination issues in the retainer (e.g., non-payment of fees, no instructions, loss of confidence).
35. confirms the retainer and any limitations in writing.
36. obtains a monetary retainer where appropriate.

Client Communications

37. manages and updates the client's expectations with respect to timeframes, results, and costs.
38. recognizes and is sensitive to clients' circumstances, special needs, and intellectual capacity (e.g., multi-cultural, language [need for interpreters], gender, disability, socioeconomic status, demeanour).

D. PROBLEM/ISSUE IDENTIFICATION, ANALYSIS, AND ASSESSMENT

Information Gathering, Case Analysis and Planning

39. conducts or delegates research and investigations related to the matter as appropriate.
40. complies with all privacy legislation.

Notice to Affected Parties

NA

Theory of the Case

41. develops an informed theory of the case based on the lawyer's assessment of the facts and law.
42. reassesses the theory of the case as the case evolves.

Litigation Strategy

NA

E. ALTERNATIVE DISPUTE RESOLUTION

Negotiation

- 43. demonstrates an understanding that negotiation is an integral part of the conduct of the matter from inception to completion.
- 44. identifies disputed versus undisputed issues.
- 45. identifies issues that can be negotiated.
- 46. explains to the client the potential consequences of negotiating or failing to negotiate.
- 47. explores opportunities to negotiate or otherwise resolve issues short of litigation.
- 48. identifies the strategy and tactics to be used in negotiation.
- 49. prepares the client for the negotiation process.

Mediation and Dispute Resolution

- 50. demonstrates an understanding of various dispute resolution mechanisms (e.g., mediation, arbitration).
- 51. identifies issues appropriate for dispute resolution.
- 52. explains to the client the potential consequences of mediating or failing to mediate.
- 53. identifies additional remedies that may be uniquely available through dispute resolution.
- 54. identifies the strategy and tactics to be used during dispute resolution.
- 55. prepares the client for the dispute resolution process.
- 56. documents the resolution of issues through dispute resolution.

F. LITIGATION PROCESS

Initiating Litigation

NA

Disclosure, Production, and Discovery

NA

Trial or Hearing Preparation

NA

Applications to Court, Judicial Reviews and Prerogative Remedies

57. prepares all the necessary documents for conduct of applications, judicial reviews and prerogative remedies (e.g., application for judicial review, application records, preparation of facta, order transcript).

Conduct of the Trial or Hearing

58. raises appropriate objections on the record.

Appeals

NA

Post-Disposition of Matter

59. provides final reports and accounting to clients.

Group 2-B

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES

Ethics and Professionalism

1. markets and advertises ethically as per Law Society Rules (e.g., making services available, law firm name, letterhead, advertising, offering professional services).

B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW

Jurisdiction and Fundamentals

NA

Limitation Periods

NA

Evidence

2. demonstrates an understanding of different rules of evidence for various tribunals.

Principles of Statutory Interpretation

NA

Public Law

3. demonstrates knowledge of primary public law including the following statutes and related case law: Crown Liability and Proceedings Act, Proceedings Against the Crown Act, Public Authorities Protection Act.
4. demonstrates knowledge of primary public law including the following statutes and related case law: Federal Court Act.
5. demonstrates knowledge of primary public law including the following statutes and related case law: Human Rights Legislation.
6. demonstrates knowledge of primary public law including the following statutes and related case law: Judicial Review Procedures Act.
7. demonstrates knowledge of primary public law including the following statutes and related case law: Statutory Powers Procedure Act.

8. demonstrates knowledge of secondary public law including the statutes and related case law (e.g., Access to Information Act; Competition Act; Employment Standards Act 2000; Freedom of Information and Protection of Privacy Act; Immigration and Refugee Protection Act; Ombudsman Act; PIPEDA).
9. demonstrates an understanding of practice before administrative tribunals (e.g., advocacy before administrative tribunals).
10. demonstrates an understanding of the review of federal and provincial administrative action (e.g., jurisdiction, practice and procedure).
11. demonstrates an understanding of standing to sue or to apply for judicial review.
12. demonstrates an understanding of appeals, judicial review and standard of review.
13. demonstrates an understanding of civil procedure in Charter litigation including appropriate notices to the Attorneys General.
14. demonstrates an understanding of litigating Charter claims (i.e., legal, factual, evidentiary and procedural foundations).
15. demonstrates an understanding of Charter remedies (e.g., available remedies, tactical considerations).

Criminal Procedure

16. demonstrates knowledge of primary criminal procedure including the following statutes and related case law: Controlled Drugs and Substances Act and Regulations.
17. demonstrates knowledge of secondary criminal procedure and provincial regulatory law including the statutes and related case law (e.g., Highway Traffic Act; Pardons Act; Provincial Offences Act, Safe Schools Act).
18. demonstrates an understanding of the interrelationship between criminal law consequences and other rights and privileges (e.g., family and immigration).
19. demonstrates an understanding of pretrial conferences.
20. demonstrates an understanding of the various Rules of Court.
21. demonstrates an understanding of diversion options.
22. demonstrates an understanding of the preliminary inquiry.
23. demonstrates an understanding of compelling witnesses.
24. demonstrates an understanding of pre-trial applications in criminal proceedings.
25. demonstrates an understanding of representing clients with psychiatric issues.
26. demonstrates an understanding of appeals and bail pending appeals (e.g., indictable appeals, the sentence hearing, summary conviction appeals).
27. demonstrates an understanding of aboriginal peoples and the criminal justice system (e.g., jurisdiction - on reserve and off reserve).

Family Law

- 28. demonstrates knowledge of secondary family law including the statutes and related regulations and case law (e.g., Change of Name Act; Family Responsibility and Support Enforcement Act; Income Tax Act; Indian Act; Marriage Act; Pension Benefits Act; Pension Benefits Division Act; Succession Law Reform Act; The Partition Act).
- 29. demonstrates an understanding of the law relating to same-sex relationships and marriages.
- 30. demonstrates an understanding of domestic contracts.
- 31. demonstrates an understanding of representing clients who have been exposed to violence or are accused of perpetrating violence.
- 32. demonstrates an understanding of aboriginal law in a family context.
- 33. demonstrates an understanding of the role of The Children’s Lawyer.
- 34. demonstrates knowledge of the interrelationship of family law consequences and other areas of the law (e.g., criminal, real estate).
- 35. demonstrates an understanding of appeals under the Family Law Rules.
- 36. demonstrates an understanding of the valuation of specific assets (e.g., pension, share options).

Civil Litigation

- 37. demonstrates an understanding of the procedural issues relevant to estate and trust law litigation (e.g., capacity).
- 38. demonstrates an understanding of disposition without trial (e.g., summary judgment, determination of an issue before trial).
- 39. demonstrates an understanding of court-directed mediation.
- 40. demonstrates an understanding of pre-trial conferences and case management.
- 41. demonstrates an understanding of simplified procedure under Rule 76.
- 42. demonstrates an understanding of the enforcement of judgments (e.g., examination in aid of execution, writs of seizure and sale, garnishment).
- 43. demonstrates an understanding of the appeal process.

C. ESTABLISHING AND MAINTAINING THE BARRISTER-CLIENT RELATIONSHIP

Identifying the Client

NA

Conflicts of Interest

NA

Interviewing Principles

NA

The Retainer

44. confirms changes to the retainer as appropriate (e.g., new client instructions, method/channels for making changes).

Client Communications

45. explains to clients the risk of communicating the details of the case by means of electronic media (e.g., cell phones, e-mail).

D. PROBLEM/ISSUE IDENTIFICATION, ANALYSIS, AND ASSESSMENT

Information Gathering, Case Analysis and Planning

NA

Notice to Affected Parties

NA

Theory of the Case

NA

Litigation Strategy

NA

E. ALTERNATIVE DISPUTE RESOLUTION

Negotiation

NA

Mediation and Dispute Resolution

46. considers appropriate dispute resolution options (e.g., mediation, arbitration).

F. LITIGATION PROCESS

Initiating Litigation

47. considers decision-maker (e.g., judge or jury).

Disclosure, Production, and Discovery

NA

Trial or Hearing Preparation

48. identifies the order of the evidence to be called.

49. demonstrates an understanding of any notice and delivery requirements for specific documentary evidence (e.g., business records, medical and other expert reports).

50. demonstrates an understanding of the purpose and proper form of re-examination (e.g., rehabilitate the credibility of the witness, clarify evidence).

51. explains to witnesses the purpose of re-examination.

52. anticipates and prepares objections and possible motions.

Applications to Court, Judicial Reviews and Prerogative Remedies

53. considers if applications, judicial reviews and prerogative remedies are warranted.

54. reviews the merits of applications, judicial reviews and prerogative remedies with the client.

55. makes oral submissions concerning applications, judicial reviews and prerogative remedies.

Conduct of the Trial or Hearing

56. deals with any preliminary matters (e.g., jurisdictional, pretrial motion, exclusion of witnesses and publication bans, jury selection).

57. adduces admissions (e.g., introduces excerpts of transcripts where applicable, presents agreed statements of fact).

Appeals

58. demonstrates awareness of the availability of settlement conferences and the ongoing availability of dispute resolution in appeals.

Post-Disposition of Matter

59. conducts a final review of the file prior to closing the file.

Bibliography

The following sources were either referenced directly or otherwise consulted in the development of the Law Society of Upper Canada Barrister Licensure Examination Blueprint Document.

American Educational Research Association, American Psychological Association, National Council on Measurement in Education (1999). Standards for educational and psychological testing. Washington, D.C.: American Educational Research Association.

Angoff, W.H. (1971). Norms, scales, and equivalent scores. In R.L. Thorndike (Ed.), Educational measurement (2nd Ed.). Washington, D.C.: American Council on Education.

Biddle, R.E. (1993). How to set cutoff scores for knowledge tests used in promotion, training, certification, and licensing. Public Personnel Management, 22(1), 63-79.

Bloom, B.S. (1956). Taxonomy of educational objectives, handbook 1: The cognitive domain. New York: McKay.

Browning, A.H., Bugbee, Jr., A.C., & Mullins, M.A. (1996). Certification: A NOCA handbook. Washington, D.C.: National Organization for Competency Assurance.

Canadian Psychological Association (1985). Guidelines for educational and psychological testing. Ottawa, Ontario: Canadian Psychological Association.

Council on Licensure, Enforcement and Regulation (1993). Development, administration, scoring and reporting of credentialing examinations: Recommendations for board members. Lexington, Kentucky: CLEAR.

Crocker, L. & Algina, J. (1986). Introduction to classical & modern test theory. New York: Holt, Rinehart and Winston.

Haladyna, T.M. (1994). Developing and validating multiple choice test items. Hillsdale, New Jersey: Lawrence Erlbaum.

Harvey, (1991). Job analysis. In M.D. Dunnette and L.M. Hough (Eds.) The handbook of industrial/organizational psychology: Second edition volume 2. pp. 71 – 164. Palo Alto, CA: Consulting Psychologists Press.

Thomas, S. & Scheuneman, J. (1998). Developing and maintaining a high quality certification program. NCME Workshop.

Williams, M.C. & Braham, J.K. (2000). Blueprint Development Overview and Working Document. Ottawa, Ontario: Performance Assessment Group Inc.

Williams, M.C. & Braham, J.K. (2003). Report to Convocation on Establishing a Standardized, Reliable, Valid, Fair and Defensible Licensure Program. Ottawa, Ontario: Performance Assessment Group Inc.

**BLUEPRINT DOCUMENT
FOR THE
SOLICITOR LICENSURE EXAMINATION**

**Prepared for the
LAW SOCIETY OF UPPER CANADA**

**Prepared by the
PERFORMANCE ASSESSMENT GROUP INC.**

July 2004

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Blueprint Development Overview

The foundation of the Solicitor Licensure Examination (hereafter referred to as the “Examination”) begins with the Solicitor Licensure Examination Blueprint document (hereafter referred to as the “Blueprint”). The Blueprint provides a summary of the development processes followed, the content to be assessed (i.e., what is tested), the structure of the Examination (the method by which the content is to be tested), the representative contexts presented within the Examination (the situations within which the content is to be tested) and the scoring of the Examination. The Blueprint is essentially the recipe that outlines all the ingredients for the Examination and the relative proportions of each so what is being assessed, along with the experience for the candidates, is always replicated as closely as possible.

Background to the Assessment Process

In December 2003, Convocation approved the implementation of a competency-based licensure process for admission to the Bar in Ontario. Traditionally, candidates have taken a series of substantive law courses in addition to skills training provided by the Law Society of Upper Canada (hereafter referred to as the “Law Society”) over a four month period and were required to pass examinations and skills assessments as part of the requirements to be admitted to the Bar. Starting in 2006, candidates will attend a mandatory skills training program and assessments and will be required to write two newly developed competency-based licensure examinations. One examination will focus on the competencies expected of entry-level lawyers performing in the capacity of a Solicitor, while the other will focus on the competencies expected of entry-level lawyers performing in the capacity of a Barrister. All candidates will be required to pass both examinations and the skills assessments.

Solicitor Licensure Examination Blueprint Purposes

The Blueprint serves the following purposes:

- ensures the relevance of the Examination by indicating links to the competency profile for entry-level Solicitor’s;
- maximizes the functional equivalence of alternative forms of the Examination;
- provides direction for content developers when writing new items for the Examination; and
- facilitates evaluations of the appropriateness and effectiveness of the Examination by content experts and other stakeholders.

The competency-based Blueprint advances the above purposes by definitively stating what is assessed, for what purpose, to what extent, with what types of items, in what contexts, to what standards, and provides documentation of the processes leading to each of these decisions.

The PERFORMANCE ASSESSMENT GROUP has developed a comprehensive Blueprint system that identifies five types of key assessment information including the process, content, structure, context and scoring of the Examination. In summary:

Process

- A clear statement of the purpose of the Examination;
- A definition of the candidate target population;
- The methodology employed for all key Blueprint activities; &
- A list of the content experts involved in the Blueprint development process.

Content

- Competencies related to the purpose of the Examination;
- Entry-level Solicitor competency weightings;
- Entry-level Solicitor competency categories; &
- Cognitive domain weightings of the Examination.

Structure

- Item format of the Examination;
- Item presentation (e.g., individual, case, multiple response) of the Examination;
- Response format (e.g., selected, constructed, written, computerized answer sheets) of the Examination;
- The Examination length, duration and breaks;
- Assessment aids permitted for writing the Examination;
- Percentage of “new” content to appear on new versions of the Examination;
- The number of experimental items to be assessed on each administration of the Examination; &
- Number of forms of the Examination.

Context

- Client type (e.g., individual, family, population, community) specified in the Examination;
- Client age & gender specified in the Examination;
- Client legal situation specified in the Examination;
- Client culture included in the Examination; &
- Occupational environment (e.g., health care setting) specified in the Examination.

Scoring

- Standard setting method(s) employed for the Examination;
- An overview of the scoring procedures of the Examination; &
- The acceptable statistical item characteristics.

The Blueprint Process

Process information provides important documentation of the methodology used to develop the contents of the Blueprint. Despite its global focus, process information is a key component for establishing the content validity of the Examination

The Blueprint was developed based on the input of a Blueprint Development Working Group (hereafter the “Working Group”). The Working Group consisted of six (6), experienced and respected Solicitors. For the names of the Working Group members, please refer to the Acknowledgements section in Appendix B.

The current Blueprint was developed by the Working Group of exemplar lawyers representing different practice types, sizes, and professional and personal demographics to reflect all the testing specifications they believe are necessary for the future success of the Examination. These specifications were derived from group processes and not based on the content of the current examinations.

What follows is an overview of the process followed to develop this Blueprint; however, additional process information is included within every section of the Blueprint.

1. The Purpose of the Solicitor Licensure Examination

The Examination is designed to assess competency in non-litigation areas including primarily real estate; wills, trust and estate planning and administration; tax; corporate and commercial law; and related ethics and professional responsibility issues. Competence will be assessed on a pass/fail basis.

The Examination is one criterion used in making the decision to license an entry-level lawyer. Licensure can be defined as the official recognition by the Law Society that an individual has met all the qualifications specified by the Law Society and is, therefore, approved to practice as a lawyer in Ontario. Successful completion of the Examination is a necessary, but not the only, prerequisite for a lawyer to be licensed to practice law. The ultimate goal of the Examination is to protect the public.

2. The Candidates for the Solicitor Licensure Examination

The academic prerequisite to be eligible to write the Licensing examinations as a student-at-law is either:

- a) Graduation from a common law program, approved by the Law Society, in a university in Canada; or
- b) Certificate of qualification issued by the National Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Committee of Canadian Law Deans.

3. Blueprint Methodology

A Working Group participated in the development of the Blueprint. The Working Group was composed of experienced lawyers who identified their practice as being representative of the work performed primarily by “Solicitors”.

The Working Group and the PERFORMANCE ASSESSMENT GROUP facilitators systematically defined the specifications of the Blueprint through consultation with a number of resources and group discussions. Core resources used by the facilitators included:

- *Standards for Educational and Psychological Testing* (APA, 1999)
- *Certification: A NOCA Handbook* (NOCA, 1996)
- *Blueprint Development Overview and Working Document* (PERFORMANCE ASSESSMENT GROUP INC., 2000)

The PERFORMANCE ASSESSMENT GROUP’S *Blueprint Development Overview and Working Document* (2000) served as a guide for developing the five major components of the Blueprint. For each issue involving a Working Group decision, the PERFORMANCE ASSESSMENT GROUP facilitators presented an overview of the importance of the decision and the potential consequences of various courses of action. When determining a particular Blueprint specification, relevant archival information was consulted followed by considerable discussion among the Working Group members. In some cases, representatives of the Law Society were called upon to provide clarification, historical context or other information collected by the Law Society to assist the Working Group members in arriving at a decision. The Working Group members achieved unanimous agreement in relation to all Blueprint decisions.

A brief biographical data form was distributed to all Working Group members. This data has been retained to demonstrate to stakeholders the individuals providing content direction for the program are experienced and accomplished professionals who are qualified, as a group, to participate in performing these important licensure program activities. The names of the Working Group appear in Acknowledgement section of the Blueprint (Appendix B).

It is the recommendation of the Working Group that the Blueprint parameters be revisited on a regular cycle (e.g., every 3 to 5 years) and/or when significant changes to the profession occur requiring modifications to the Examination described in this Blueprint.

Content Variables

Content variables involve the essential nature of what is being measured by the items comprising the Examination. They specify the competencies to be assessed and define how these competencies will be sampled and to what extent. Competency categories have also been identified and the cognitive domains to be addressed by the Examination content have been defined and weighted.

When content variables call for percentages of the Examination to be allocated to different variables, these have been expressed as ranges (e.g., 35 - 45%) to allow for the Examination to be compiled when numerous percentages must be met simultaneously.

1. The Competencies to be Assessed

It is important the competencies assessed by the Examination are those that:

- a) have the most direct impact on public protection;
- b) influence effective and ethical practice; &
- c) can be measured reliably and validly by the assessment item format used by the Examination.

As a first step in the process of developing the competencies for the Examination, a team of eight (8) experienced and respected Solicitors convened for four days to create an initial draft of the competencies required of an entry-level Solicitor. A competency is defined as a “knowledge, skill, ability, attitude or judgement required for entry-level practice.” A number of resources were consulted in the creation of this initial draft including the *BAC Skills Chart* (LSUC, 2003); *The Competency Profile: BC Admission Program* (2001); *Competency Profile: Western Provinces* (Canadian Centre for Professional Legal Education; 2003); and the *Law Society Rules of Professional Conduct* (LSCU, 2003). Following the initial development of the entry-level Solicitor competency profile, a series of four focus groups were conducted across Ontario providing an opportunity for Solicitors to review the competencies and suggest additions, deletions, and modifications to the wording of the competency statements. Following the focus groups, an experienced team of Solicitors reviewed and approved the focus group comments and suggestions and the competency profile was prepared for final validation through a provincial membership survey.

The validation survey was sent to 2000 Solicitors across Ontario through a random selection process. One hundred ninety seven Solicitors responded to the survey. Analysis of the sample provided support that those lawyers who participated in the survey adequately represented all regions of Ontario, areas of practice, and size and type of practices. A summary of the demographic analysis is provided in Appendix C.

2. Competency Weightings

Competencies have been weighted to determine the extent to which they will be represented on the Examination. Every competency will not necessarily be included on a particular version of the Examination; however, competency weightings ensure the competencies that are the most important to the purpose of licensure are assessed more thoroughly.

The following ratings scales were used to determine each competency's relevance, criticality and frequency for the purpose of assisting in the process of weighting the Examination:

Is this competency RELEVANT/APPROPRIATE for ENTRY-LEVEL SOLICITORS?

1. Yes
2. No

How CRITICAL is it if ENTRY-LEVEL SOLICITORS FAIL to perform this competency appropriately?

1. Not important (causes no harm or consequences to a Solicitor's practice or to the client).
2. Minimally important (causes an inconvenience to a Solicitor's practice or to the client).
3. Moderately important (may negatively affect a Solicitor's practice or the client's interest).
4. Critically important (creates a situation that jeopardizes a Solicitor's practice or the client's interests).

How OFTEN, on average, do ENTRY-LEVEL SOLICITORS perform this competency?

1. Rarely (once or less per month).
2. Weekly (about once per week).
3. Daily (about once per day).
4. Ongoing (throughout a working day).

As a preliminary step, the Working Group reviewed the data for competency relevance. Upon reviewing the statistical summary for each competency, 64 competencies were deleted from the final profile resulting in 188 competencies to be assessed using the Examination. Of the 64 competencies deleted, 32 were removed from the profile to be assessed through the skills assessment program. The remaining 32 competencies were deleted due to their low relevance or because they were deemed to be sufficiently measured through other existing competencies.

Based on this information, a four-variable classification system was adopted (a fully factorial design crossing criticality with frequency). The four-variable classification system is illustrated below:

	A) More Frequently Performed	B) Less Frequently Performed
1) More Critical	1-A	1-B
2) Less Critical	2-A	2-B

In order to maximize control over the weighting of the competencies for the Examination, the Working Group attempted to allocate equal numbers of competencies to each applicable competency-weighting category. By having equal numbers of competencies in each rating category, the categories can be weighted optimally to ensure the most critical/frequently performed competencies are represented by more Examination items than competencies of lesser criticality/frequency.

ENTRY-LEVEL SOLICITOR COMPETENCY RATING RESULTS

	A) More Frequently Performed	B) Less Frequently Performed
1) More Critical	47 competencies (35 - 45% of the Examination)	47 competencies (25 - 35% of the Examination)
2) Less Critical	47 competencies (15 - 25% of the Examination)	47 competencies (5 - 15% of the Examination)

The table that follows outlines the competencies falling into each criticality/frequency category, the weighting of each of the four categories, the average number of items that will be reflected on the Examination by category and the average number of Examination items per competency in each category (based on a 250 item Examination). A complete list of the entry-level Solicitor competencies by Competency Category and criticality/frequency ratings is provided in Appendix D and E respectively.

COMPETENCY WEIGHTING FOR THE EXAMINATION

Critical /Freq	Number of Competencies	Percent of Total Competencies	Weighting for the Examination	Average items per Examination	Average Items per Competency
1-A	47	25%	35 - 45%	100	2.13
1-B	47	25%	25 - 35%	75	1.60
2-A	47	25%	15 - 25%	50	1.06
2-B	47	25%	5 - 15%	25	0.53
overall	188	100%	100%	250	1.33

3. Competency Categories

The categorizing framework that is used to organize the competencies is important whenever candidates are to be provided with performance feedback organized by each competency category. In order for such feedback to be meaningful, the competencies representing each category must be assessed by a sufficiently high number of Examination items to provide reliable results. This can be accomplished in one of two ways. Either there must be a large number of competencies in each category, or the competencies within the category must be measured by a large number of Examination items.

The tables that follow outline the competency categories and the number of competencies in each, plus the average number of questions that would be anticipated to represent each category based on a 250 item Examination.

SOLICITOR COMPETENCY CATEGORIES	Average # of Examination items per category
1. Ethical and Professional Responsibilities (24 competencies: 13 x 1-A, 5 x 1-B, 4 x 2-A, 2 x 2-B)	41
2. Knowledge of the Law (105 competencies: 14 x 1-A, 23 x 1-B, 24 x 2-A, 44 x 2-B)	115
3. Establishing and Maintaining the Solicitor-Client Relationship (26 competencies: 9 x 1-A, 7 x 1-B, 10 x 2-A, 0 x 2-B)	41
4. Fulfilling the Retainer (33 competencies: 11 x 1-A, 12 x 1-B, 9 x 2-A, 1 x 2-B)	53
TOTAL AVERAGE EXAMINATION ITEMS	250

In general, “subscales” containing fewer than approximately 25 items will not yield results with a degree of reliability that would support meaningful feedback for failing candidates. As can be seen from the above table, it may be possible to provide failing candidates with meaningful feedback for all four (4) categories of Solicitor competencies: Ethical and Professional Responsibilities, Knowledge of the Law, Establishing and Maintaining the Solicitor-Client Relationship, and Fulfilling the Retainer.

4. Cognitive Domain Weightings

To ensure that competencies are measured at different levels of cognitive ability, each question on the Examination will be written to reflect the following cognitive taxonomy (an adaptation of a taxonomy originally developed by Bloom in 1956).

Knowledge/Comprehension (KC): The ability to recall facts, policies, procedures, standards, research findings, etc. (e.g., citing ethical guidelines when asked to do so).

Application (AP): The ability to apply knowledge/comprehension in a straightforward applied situation (e.g., recognizing the appropriate procedure to employ when faced with a routine (uncomplicated) situation).

Critical Thinking (CT): The ability to apply knowledge/comprehension in complex applied situations. Requires analytical problem solving in addition to knowledge/comprehension and application (e.g., selecting and prioritizing appropriate courses of action when faced with complex situations; recognizing the relative importance of conflicting pieces of information and arriving at a conclusion requiring sound judgment).

COGNITIVE DOMAINS	% OF EXAMINATION
Knowledge/Comprehension:	25 - 35%
Application:	35 - 45%
Critical Thinking:	25 - 35%
TOTAL	100%

Structural Variables

Structural variables include those characteristics determining the general design and appearance of the Examination. They define the format and presentation of the Examination items, the length and duration of the Examination, and special functions of Examination items (e.g., anchor items for the purpose of equating pass marks). As with content variables, when structural variables require percentages to be allocated, these are also expressed as ranges (e.g., 40 - 50%).

1. Item/Tool Type

The Examination will be comprised of four-option multiple-choice items.

2. Item Presentation

The multiple-choice items are presented as “independent” items (the text provided is used to answer one item) and in “cases” typical of general legal practice where 4 - 10 items are linked to each case. A range of 65 - 75% of the items will be independent and 25 – 35% of the items will be case-based.

The Examination will originally be presented and responded to in a pencil-and-paper format.

3. Examination Length

The length of the Examination is typically driven by the purpose of the Examination, the number of competencies to be assessed, and practicality concerns (e.g., resource availability and demands placed on participants). To ensure reliable results for the total score and adequate coverage of the defined competency domain, the Examination will consist of 200 to 300 items.

4. Examination Duration, Books & Breaks

The duration of the Examination depends on the length of the Examination to be administered. Unless performance under time pressure is integral to the competencies being measured, candidates’ performance should not be confounded by lack of time. Assessments measuring candidates’ performance unconstrained by time are referred to as “power” assessments; whereas, assessments differentiating candidates based on the number of correct responses provided in a “time limited” situation are referred to as “speed” assessments. Typically, when time limits are placed on assessments of competence, these limits are intended to be reasonable for the vast majority of candidates to be able to complete all items (i.e., a power assessment strategy). A rule of thumb for multiple-choice items is to allow approximately 70 seconds per independent item and about 90 seconds per case-based item. Therefore, based on the number of items presented above, the assessment length will be seven (7) hours

in duration. Time limits and break duration will be finalized following pilot testing for both the English and French versions of the Examination.

When the assessment process approaches three and one half hours in duration, candidates will be permitted a break. To ensure consistency, the Examination will be divided into two “booklets”. A booklet is a partial form of the assessment administered within its own time limitation, at the completion of which a break of 30 - 60 minutes will be provided.

5. Assessment Aids Permitted

The types of assessment aids candidates will be permitted to bring to the Examination is contingent upon the content being assessed on any given version of the Examination. Each item will be referenced to a specific source where the correct answer can be found and a determination will be made regarding which specific items merit the use of candidate aids (resources). These resources will be compiled with the Examination and provided to each candidate by the Law Society. After considerable discussion, the Working Group recommended the Law Society provide candidates with all the permitted written materials prior to the Examination. Candidates will be permitted to mark these materials prior to the Examination, however, immediately upon completion of the Examination, each candidate will be required to return ALL these materials to the Law Society for Examination security purposes.

6. Percentage of New Content for New Versions of the Examination

When new versions of the Examination are planned (i.e., three administrations per year with the primary administration in July) there is a need to have the content of these versions vary to protect the integrity of the licensure program. When candidates become familiar with assessment content, their resulting scores may be contaminated by this knowledge and are no longer a pure assessment of their individual competence/performance. In order to ensure consistency across various forms of the Examination, a core percentage of items are selected to remain constant from one version to the next (typically those with superior item characteristics). Additional items are added that did not appear as operational on the previous administration of the Examination. The Working Group determined the range of “new” items to appear on subsequent administrations of the Examination will be 25% - 50%.

7. Experimental Items

Closely tied to the percentage of “new” content on subsequent versions of the Examination is the issue of experimental items. Experimental items are included on versions of the Examination for the purpose of gathering statistical information, but are NOT used in calculating candidates’ scores. The Working Group determined experimental items will constitute approximately 5 – 10% of each version of the Examination.

8. Forms of the Examination

Most assessment programs specify a minimum of two forms of the assessment tool (English and French). Larger assessment programs may specify more than one English form of the assessment tool that generally differ only in the experimental items included. When multiple forms of the Examination are used, it is possible to assess many more experimental items each year for inclusion on subsequent versions of the Examination. The number of forms of the Examination will depend upon the number of candidates writing the Examination. In general, a new form will be created for every 200 candidates writing the Examination. Each form will contain the same operational questions. The only difference will be the experimental questions.

STRUCTURAL VARIABLES	EXAMINATION SUMMARY
Administration Time:	7 hours
Break Time:	1 hour
Independent Items	65 - 75%
Case-based Items	25 - 35%
Total Number of Questions	200 - 300
“New” Content	25 - 50%
Experimental Items	5 - 10%
Number of Forms	1 for every 200 candidates
Examination Booklets:	2
Examination Aids:	To Be Determined

Contextual Variables

Context variables qualify the content domain by specifying the legal contexts in which the assessment questions will be set (e.g., client type, client culture, client situation and occupational environment). As with content and structure variables, when contextual variables call for percentages of the Examination to be allocated to different variables, these are expressed as ranges (e.g., 15 - 25%).

1. Client Type

By specifying the types of clients that will appear in the Examination, one step has been taken toward ensuring the Examination reflects a realistic representation of the entry-level Solicitor's day-to-day practice. While not all items in the Examination will introduce a client, it is beneficial to set guidelines for items where the presentation of one or more clients is required to assess the competencies.

In order to develop an Examination representative of the types of clients entry-level Solicitors will typically encounter, the Working Group consulted a number of resources including the data obtained from the survey respondents. From this information, the following breakdown of client types was developed:

TYPES OF CLIENTS	% OF EXAMINATION
Individuals	50 - 65%
Corporations	15 - 25%
Governments (federal, provincial, municipal)	5 - 15%
Partnerships and Unincorporated Associations	5 - 10%
Statutory Bodies	0 - 5%
Charities and Not For Profit Organizations	0 - 5%
TOTAL	100%

2. Client Situation

Specifying the various legal “contexts” adds realism to the Examination while at the same time, ensures a particular context is not over-emphasized. It is important to realize that some competencies will not need to be assessed using a legal context (e.g., knowledge questions) however, where necessary, it is important to create a context that candidates perceive is realistic. Specific client legal situations were discussed and weighted by the Working Group as representative of a typical entry-level Solicitor’s practice. The following breakdown was developed:

LEGAL CONTEXT	% OF EXAMINATION
Corporate/Commercial Law	35 - 45%
Real Estate Law	25 - 35%
Wills, Estates, Trusts Law	25 - 35%
TOTAL	100%

3. Legal Environment

Specifying the various legal “environments” adds realism to the Examination while ensuring a particular environment is not over-emphasized. Such issues as sole proprietor, legal clinic, or government office are all examples of different legal environments in which an entry-level Solicitor might work. It is important to realize that some competencies will not need to be assessed using a legal environment (e.g., some general knowledge/comprehension questions) however, where necessary, it is important to create a context that candidates perceive as realistic.

Specific legal environments were discussed and weighted by the Working Group as representative of a typical entry-level Solicitor’s practice. The following breakdown was developed:

LEGAL ENVIRONMENT	% OF EXAMINATION
Law Firm	35 - 50%
Sole Practitioner	20 - 30%
In-House Counsel (Private)	15 - 25%
Government	5 - 15%
Legal Clinic	0 - 5%
TOTAL	100%

4. Client Culture

While the Examination will not test candidates' knowledge of specific values, beliefs and practices linked to individual cultures, it will require candidates to demonstrate awareness, sensitivity, and respect for cultural values, beliefs, and practices. When information related to client culture is presented in Examination items, this will be done without introducing biases or stereotypes.

Scoring the Examination

1. Standard and Pass Mark Setting Method Employed

Because the Examination will be designed to assess a candidate's competence with a focus on safe, effective, and ethical practice, setting a standard is not strictly a question of how well a participant is performing relative to her/his peers (i.e., normative standards), but rather how effectively the candidate is providing effective, and ethical services in the public interest from an absolute perspective. In theory, the average performance of a sample of the profession does not guarantee acceptable levels of performance. This is particularly true when one considers that the normative data will originally be based on a smaller administration of the Examination. If, by chance, this sample turns out to be particularly weak (or strong) performers, the feedback provided to subsequent participants may be overstating (or understating) their competence.

The procedure used to set the standard for the Examination must be one that provides an indication of whether or not participants have achieved a sufficient level of mastery of their content domain (i.e., absolute standards). Furthermore, various levels of performance need to be set within each of the diagnostic categories in order to provide a meaningful diagnostic profile to the participants. Given that an extensive body of research supports the use of the Angoff method in setting standards for professional assessments, a version of this process will be used to set the standard for the Examination.

The standard for the Examination will be based on an understanding of “minimal competence”, defined as the level of competence that separates those who should receive a license to practice law from those who should not. A panel of content experts will be charged with developing the definition of minimal competence by discussing the differences between different levels of competence (mastery, incompetence and minimal competence). Through extensive discussions, the expert panel will agree upon a definition of what would be expected of an individual who is “at the borderline” of competence to practice law in the capacity of a Solicitor. The expert panel will also discuss the potential consequences of setting the standard either too high or too low in terms of the impact this would have on candidates, the public, the Law Society and the legal profession. Using this carefully derived “working standard,” the content experts will then proceed to the second step in the process, identifying the pass mark for a specific version of the Examination.

Identifying the pass mark for the Examination requires each item (i.e., multiple-choice) be rated by content experts in terms of the percentage of minimally competent candidates who “will” answer the item correctly. Ratings may vary from 0 – 100% and are recorded in increments of 5% (e.g., 60%, 65%, 70%, etc.). The content expert ratings for each item are then tabulated to arrive at a mean (arithmetic average) item rating. The pass mark for the Examination is based on the grand mean (overall average) of all the items that will count towards the scores of candidates.

The Angoff method is fair because it is based on a standard derived from the ability level required of the minimally competent candidate. When Examination items are more difficult, the required pass mark will be lower; when Examination items are less difficult, the required pass mark will be higher. Both

adjustments keep the underlying required standard constant. As items change, the pass marks will change to precisely reflect any items that are removed as well as those that are added.

It is important to note that the pass mark for the overall Examination and each of its diagnostic categories will be developed to provide guidance to candidates in the identification of their relative strengths and weaknesses. Finally, it should be noted that the working standard will become increasingly refined over time as content experts expand upon their previous work and new content experts are brought into the process with fresh perspectives.

2. An Overview of the Scoring Procedures

The Examination response sheets will be scanned and scored using computer software. Each correctly answered multiple-choice item will contribute one (1) point to a candidate's score. Candidates final scores will be converted to a percentage and compared to the percentage pass mark for the Examination. Only one outcome will result from scoring the Examination, overall pass/fail.

3. Statistical Analyses

A number of statistics will be used to assess the effectiveness of the Examination, diagnostic categories, and individual items. These statistics include: Cronbach's Alpha, p values, Point Biserial Correlations, and distractor analyses. Candidate feedback is also obtained following each administration of the Examination to further assess its subjective validity and effectiveness from the perspective of candidates. Candidate feedback will include ratings of the adequacy of time limits, item clarity, relevance to practice and the perceived fairness of the assessment.

APPENDIX A

Solicitor Licensure Examination Blueprint Summary Sheet

STRUCTURE			
All Items: Medium	Paper & pencil	Duration (time):	7.0 Hours
All Responses: Medium	Paper & pencil	Booklets (#):	2
M-C Individual Items:	65 - 75%	Breaks (#/time):	1 / 60 minutes
M-C Case Items:	25 - 35%	New content (%):	25 - 50%
M-C Response Presentation:	Four-option	Experimental Items (%):	5 - 10%
M-C Length (#):	200 - 300 Items	Forms (#):	1 Per 200 Candidates
Assessment Aids:	To Be Determined		

CONTENT			
1-A Weighting:	40 – 50%	2-A Weighting:	15 – 25%
1-B Weighting:	25 – 35%	2-B Weighting:	5 – 15%
Knowledge/Comprehension:	25 – 35%	Critical Thinking:	25 – 35%
Application:	35 – 45%		
1	2	3	4
Ethical and Professional Responsibilities	Knowledge of the Law	Establishing and Maintaining the Solicitor-Client Relationship	Fulfilling the Retainer
<i>Not weighted</i>	<i>Not weighted</i>	<i>Not weighted</i>	<i>Not weighted</i>

CONTEXT				
Client Types:	Individual Clients	50 – 65%	Corporations	15 – 25%
	Governments	5 – 15%	Partnerships and Unincorporated Associations	5 – 10%
	Statutory Bodies	0 – 5%	Charities and Not For Profit Organizations	0 – 5%
Legal Context:	Corporate/ Commercial Law	35 – 45%	Wills, Estates, Trusts Law	25 – 35%
	Real Estate Law	25 – 35%		
Legal Environment:	Law Firm	35 – 50%	Sole Practitioner	20 – 30%
	In-House Counsel	15 – 25%	Government	5 – 15%
	Legal Clinic	0 – 5%		
Client Culture	The assessment program reflects awareness, sensitivity, and respect for cultural values, beliefs, and practices. Cultural issues are integrated within the Examination without introducing cultural stereotypes or biases.			

Acknowledgements

The following individuals participated in the creation of the Law Society Entry-Level Solicitor Competency Profile:

- Jordan Atin
- Donald Burke
- Caterina Galati
- Raymond Leclair
- Gregory Mulligan
- Kevin O'Hara
- Donald Thomson
- Reginald Watson

The following individuals participated in the focus group review of the Law Society Entry-Level Solicitor Competency Profile:

- Steve Altwerger
- Heather Austin-Skaret
- Sally Burks
- Thomas Chalmers
- Gregory Clark
- Jeremy Farr
- Jim Ferguson
- Caterina Galati
- Todd Greenbloom
- Grant Inglis
- Raymond Leclair
- James Little
- Robin Macknight
- Michele Mannering-Hynes
- Lynn LeMesurier
- Catherine McKendry
- Lou Radomsky
- Laird Rasmussen
- Stephanie Ross
- Donald Rycroft
- Jana Steele
- Donald Thomson
- Christopher White

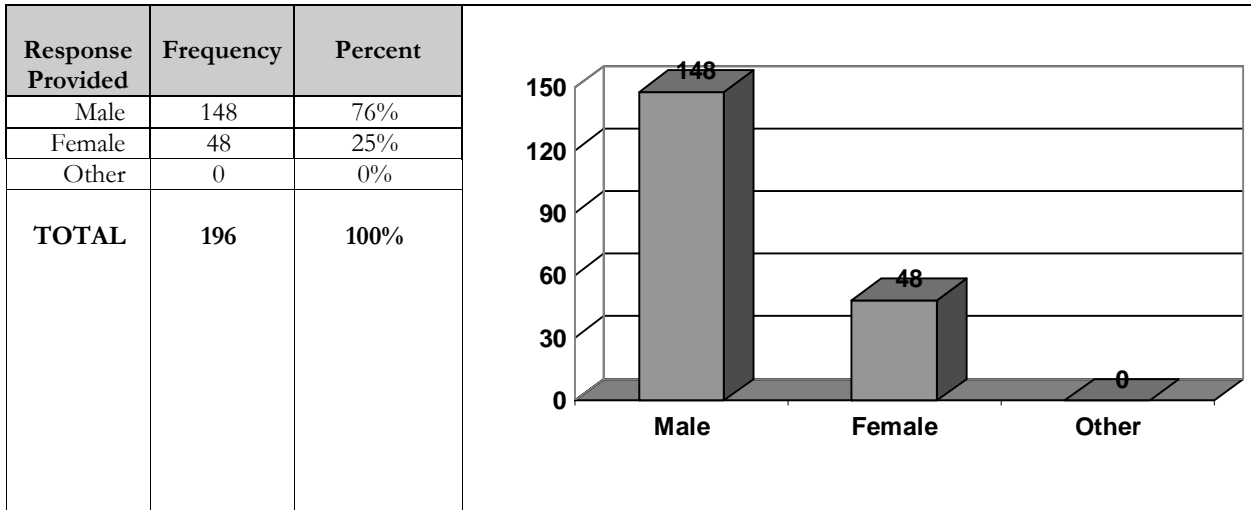
The following individuals participated in the Law Society Solicitor Blueprint Development Meeting:

- Margaret Best
- Raymond Leclair
- Bruce MacNaughton
- Catherine McKendry
- Wendy O'Neill
- Reginald Watson

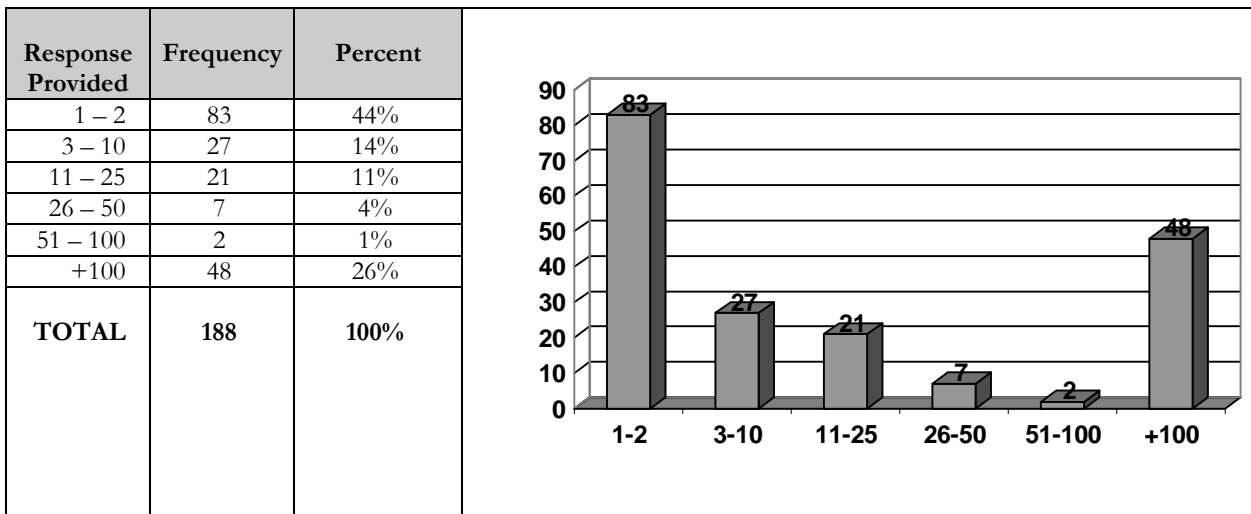
APPENDIX C

Summary of the Demographic Characteristics of Those Responding to the Survey of the Competencies for Entry-Level Solicitors

1. What is your gender?

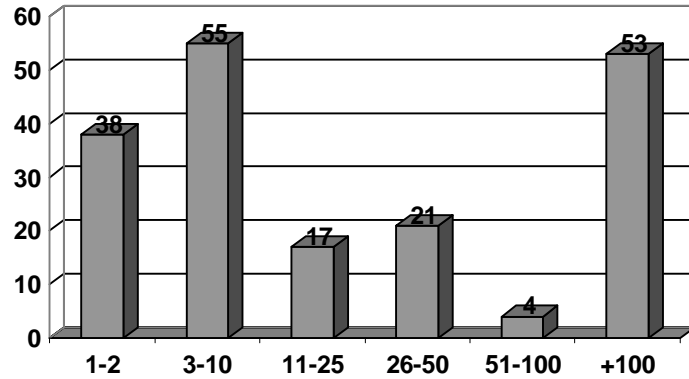


2. How many lawyers are in your practice?



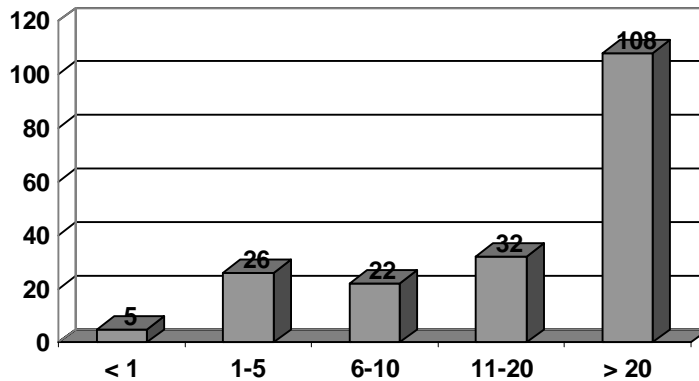
3. How many individuals (including lawyers, non-lawyer employees and partners) are in your practice?

Response Provided	Frequency	Percent
1 – 2	38	20%
3 – 10	55	29%
11 – 25	17	9%
26 – 50	21	11%
51 – 100	4	2%
+100	53	28%
TOTAL	188	100%



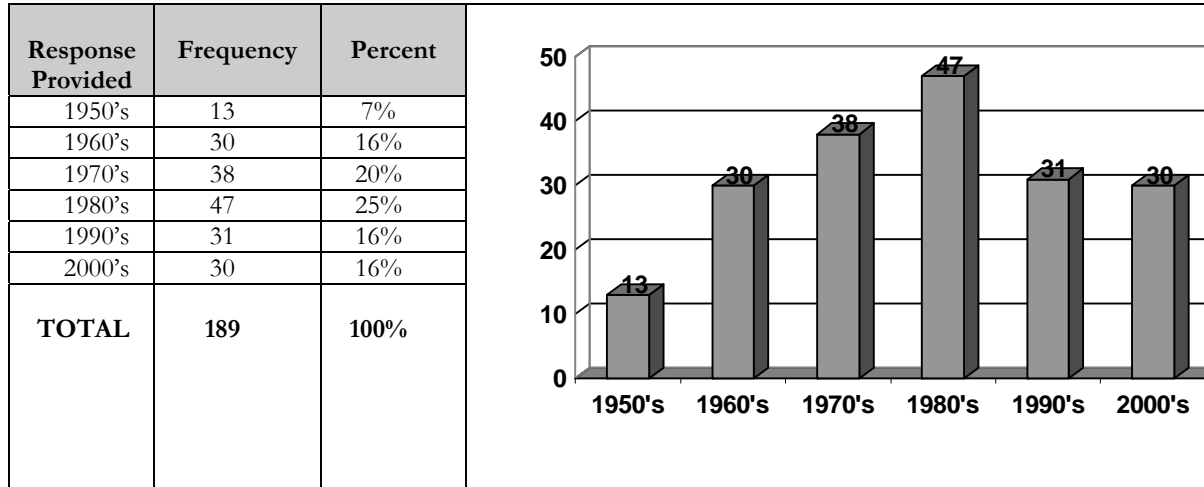
4. How many years have you been practising law?

Response Provided	Frequency	Percent
< 1 year	5	3%
1 – 5 years	26	14%
6 – 10 years	22	11%
11 – 20 years	32	17%
> 20 years	108	56%
TOTAL	193	100%

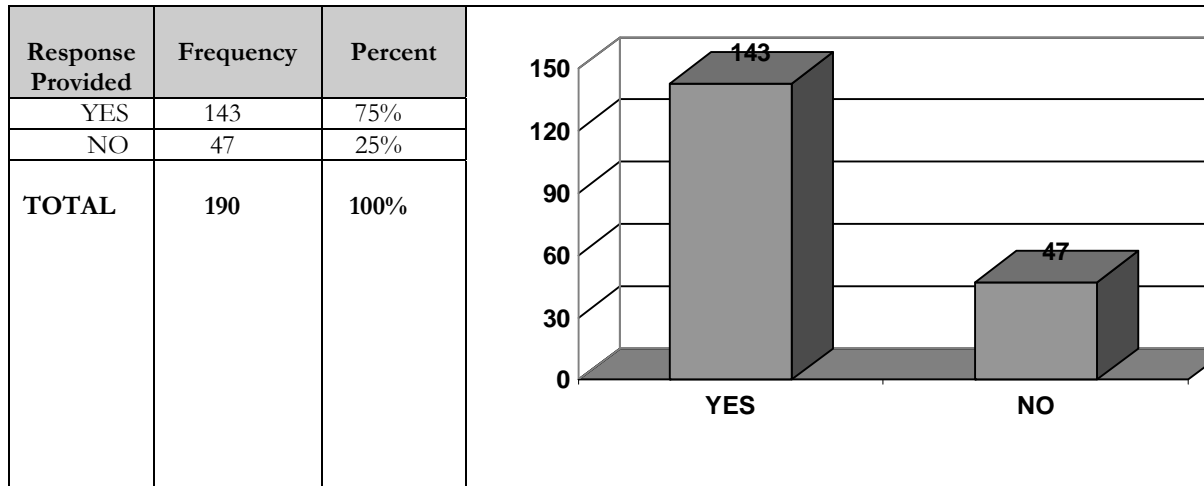


5. What was your year of call to the bar?

Respondents were originally asked to provide the exact year of call; however, for ease of interpretation this data has been recoded to reflect call to bar for each of five decades ranging from the 1950's to the 2000's.



6. Are you engaged in the private practice of law?



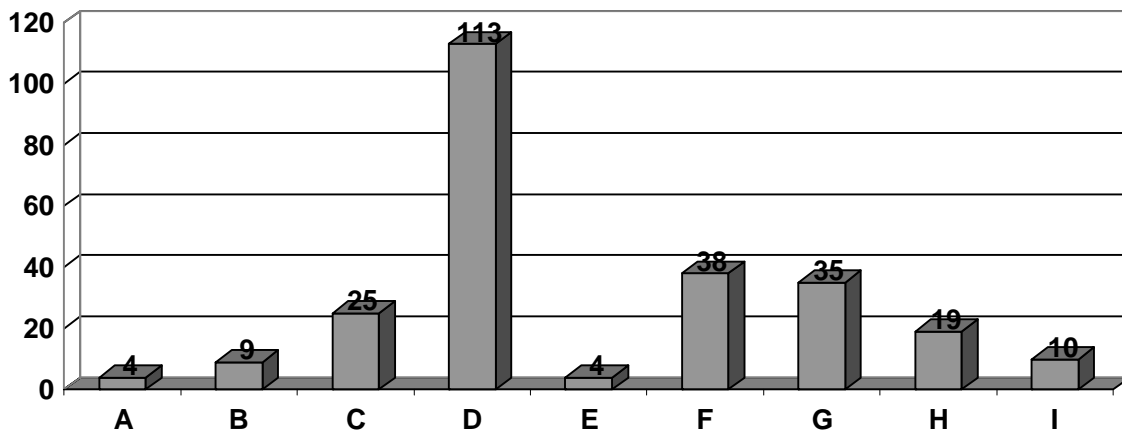
6a. If you **ARE** engaged in the private practice of law what are your **main areas of practice**?

Respondents were asked to select ANY areas of private practice they considered to reflect their “main areas of practice” from the following list:

- ADR/Mediation services
- Administrative Law
- Civil litigation
- Corporate/Commercial Law
- Criminal/Quasi Criminal Law
- Employment/Labour Law
- Family/Matrimonial Law
- Wills, Estates, Trusts Law
- Real Estate Law

To determine the percentage of respondents considering each area to be a “main area of practice” the total number of valid responses to question #6 (N=197) was used as a baseline for comparison; however, due to multiple responses, the totals across practice areas do not sum to 100%. As a result, the summary table provides only the frequency and percentage of respondents endorsing each area of private practice (valid and cumulative percentages cannot be calculated). The summary statistics for questions 6a-i appear on the next page.

Response Provided		Freq	Valid total N	Percent	Response Provided		Freq	Valid total N	Percent
A	ADR/Mediation services	4	190	2%	F	Employment/Labour Law	9	190	5%
B	Administrative Law	9	190	5%	G	Family/Matrimonial Law	12	190	6%
C	Civil litigation	25	190	13%	H	Wills, Estates, Trusts Law	85	190	45%
D	Corporate/Commercial Law	113	190	60%	I	Real Estate Law	74	190	39%
E	Criminal/Quasi Criminal Law	4	190	2%					

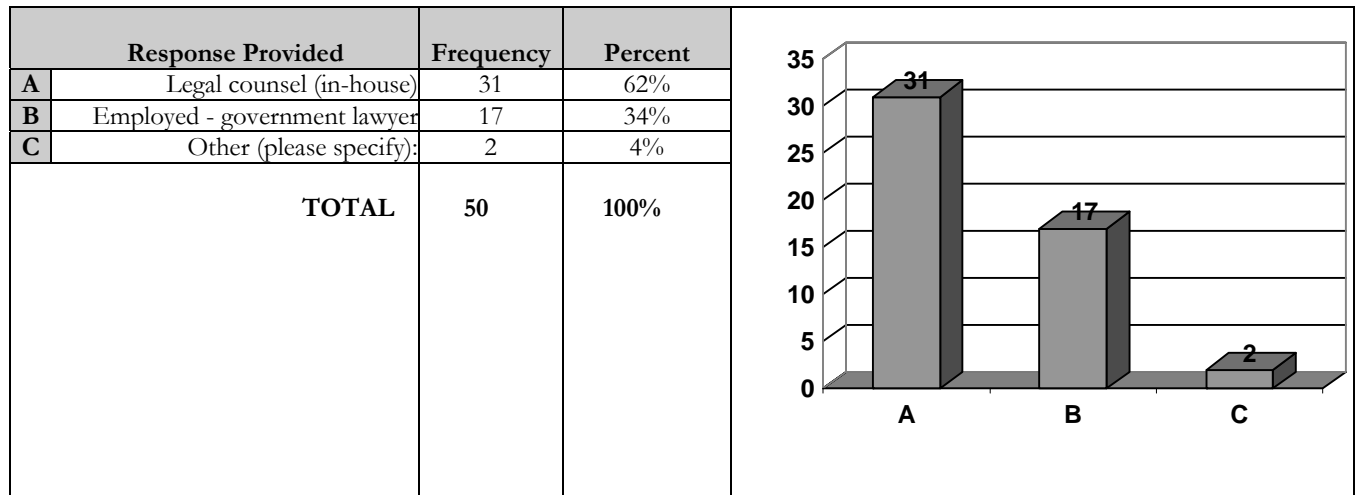


- 6a) If you **ARE** engaged in the private practice of law what are your **main areas of practice?** (select **all** that apply). **OTHER:**

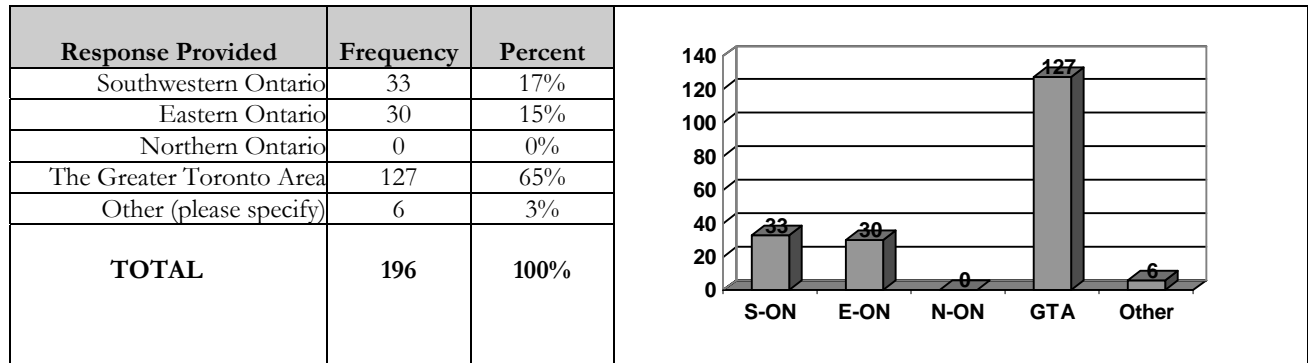
Although an “OTHER” category was NOT provided on the survey, a couple of respondents wrote in an “OTHER” area of private practice they considered to be among their “main areas of practice”. These responses are summarized below along with the number of respondents providing each one (frequency):

#	Response Provided	Frequency
1	GOVERNMENT MEDIATOR	1
2	CORPORATION	1
3	LEGAL AID	2
4	COUNSEL REGULATORY BODY	1
5	LABOUR ARBITRATION	1
6	UNEMPLOYED	1
7	COUNSEL	1

- 6b. If you are **NOT** engaged in the private practice of law please select the **ONE (1)** category that best represents, through your employment or engagement, your primary activity in law.



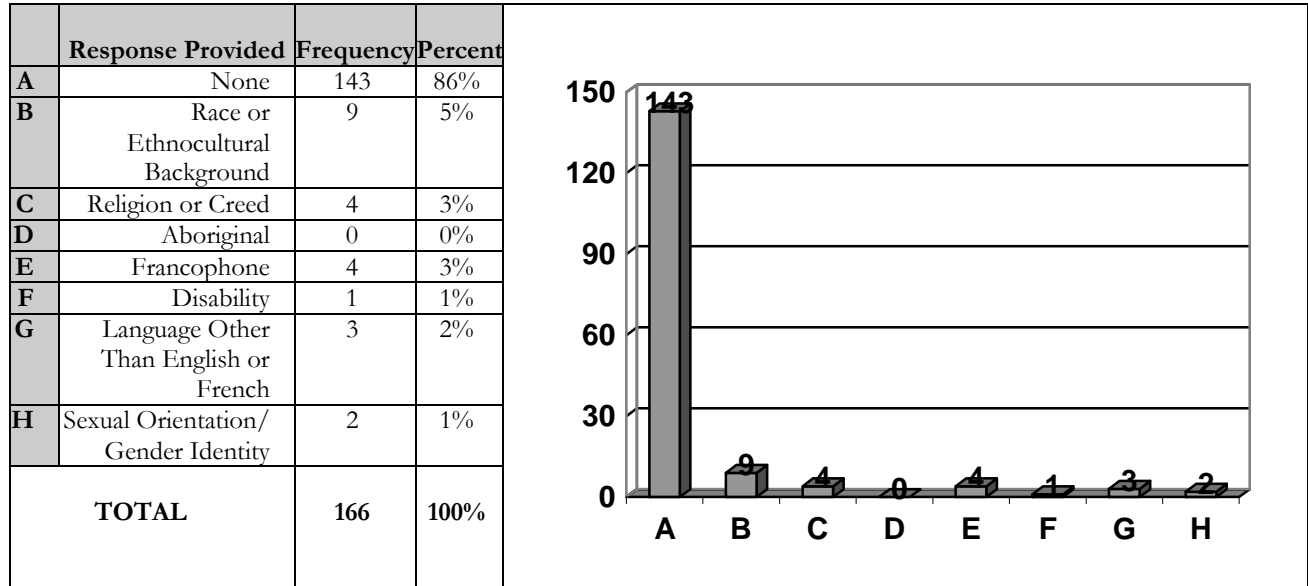
7. Where do you practice law?



An “OTHER” category WAS provided on the survey for respondents who did not find their practice location among the options provided. These responses are summarized below along with the number of respondents providing each one (frequency):

#	Response Provided	Frequency
1	CENTRAL ONTARIO	1
2	TORONTO	1
3	MUSKOKA	2
4	BRITISH COLUMBIA	1
5	NIAGARA	2

8. Do you consider yourself to be a member of an equality seeking community (Please select all that apply?)



ENTRY-LEVEL SOLICITOR COMPETENCIES BY CATEGORY

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES	
Ethics and Professionalism	
1.	declines to act or seeks appropriate assistance when the matter is beyond own abilities.
2.	accepts only retainers that are reasonable and capable of performance under law.
3.	completes all contractual obligations under the retainer.
4.	avoids or manages conflicts of interest (e.g., clarifies joint retainers, acting against a client, dealing with self-represented persons, doing business with a client [e.g., borrowing from a client], acting for family members).
5.	charges fair and reasonable fees and disbursements (e.g., division of fees and referral fees, full disclosure of fees, appropriation of funds).
6.	recognizes and fulfils duties relating to confidentiality and disclosure (e.g., solicitor-client privilege).
7.	obtains all necessary consents at the time of the retainer, respecting reasonable disclosure to third parties (e.g., pursuant to relevant privacy legislation).
8.	ensures staff understands and adheres to relevant Rules of Professional Conduct (e.g., confidentiality, solicitor-client privilege, justified disclosure, integrity, dishonesty or fraud by the client, title insurance rule).
9.	delegates and supervises appropriately (e.g., provides opportunities for others to learn, enhances cost efficiencies for the client, does not delegate where inappropriate such as the ultimate review of a title search report).
10.	withdraws from representation in compliance with the rules of the Law Society, the court or tribunal (e.g., optional withdrawal, mandatory withdrawal, client request for withdrawal).
11.	understands the obligation to keep the client informed.
12.	fulfils all undertakings and does not give an undertaking that cannot be fulfilled.
13.	avoids engaging in sharp practice.
14.	recognizes and fulfils fiduciary obligations.
15.	recognizes duties to the administration of justice (e.g., encourages respect for the administration of justice, dealing with the media, public statements, lawyer as a witness).
16.	recognizes issues involving the Law Society books and records bylaws (e.g., preserves the clients' property).
17.	avoids becoming the tool or dupe of an unscrupulous client (e.g., proceeds of crime, evidence, fraud).
18.	recognizes any other issues involving the Law Society Rules of Professional Conduct (e.g., dishonesty or fraud by the client, administration of justice, reporting other lawyers' conduct where appropriate, obligations to the court).
19.	demonstrates integrity (e.g., honesty, meeting financial obligations, duty to report misconduct, responsibility to the Law Society, responsibility to other lawyers).

20. demonstrates an understanding of the obligation to represent the client within the limits of the law (e.g., takes appropriate steps to ensure that the lawyer maintains professional distance from the client).
21. demonstrates awareness of issues involving electronic registration (e.g., not sharing diskettes, privacy issues, understanding technology).
22. markets and advertises ethically as per Law Society Rules (e.g., making services available, law firm name, letterhead, advertising, offering professional services).
23. approaches ethical issues in accordance with the Law Society model (e.g., follow the law, look to the rules, seek guidance from senior lawyers or practice advisory, exercise caution when in “gray areas”).
24. maintains appropriate professional relationships with lawyers, students, employees and others (e.g., treats others with courtesy and respect, avoids sexual harassment and human rights violations, respects multi-cultural issues, respects the relationship of opposing counsel and their client).

B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW POLICY, PROCEDURES AND FORMS

Knowledge of General Statutes, Common Law, Policy, Procedures and Forms

25. demonstrates knowledge of statutes of general application and principles of statutory interpretation.
26. demonstrates knowledge of fundamental common law (e.g., law of contracts, agency law, trust law, torts law, law of property).
27. demonstrates knowledge of purposes, procedures and forms related to substantive law.
28. demonstrates a general awareness of specialty areas (e.g., environmental law, employment and labour law).

Real Estate

29. demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law:
 - a. Commercial Tenancies Act.
 - b. Condominium Act, 1998.
 - c. Construction Lien Act.
 - d. Conveyancing and Law of Property Act.
 - e. Estate Administration Act.
 - f. Family Law Act.
 - g. Land Registration Reform Act.
 - h. Land Titles Act.
 - i. Land Transfer Tax Act.
 - j. Real Properties Limitations Act.
 - k. Mortgages Act.

	l. Ontario New Home Warranties Plan Act.
	m. Planning Act (except Section 50)
	n. Registry Act.
	o. Tenant Protection Act, 1997.
	p. Vendor and Purchasers Act.
	q. Succession Law Reform Act.
	r. Execution Act
30.	demonstrates knowledge of secondary real estate statutes and related regulations and case law (e.g., Beds of Navigable Water Act; Building Code Act, 1992; Business Corporations Act [Ontario and Federal]; Certification of Titles Act; Section 347 of the Criminal Code; Conservation Authorities Act; Fire Marshall's Act; Income Tax Act [Federal and Provincial]; Indian Act; Interest Act; Municipal Act, 2001; Municipal Tax Sales Act; Personal Property Security Act; Power Corporation Act; Public Utilities Act; Road Access Act; Technical Standards and Safety Act; Statute of Frauds; Surveys Act; Tax Sales Confirmation Act).
31.	demonstrates an understanding of agreements of purchase and sale (e.g., new and used residential, condominiums, commercial and vacant land).
32.	demonstrates an understanding of conveyancing (e.g., estate, rural, agricultural, waterfront, new and used residential, condominiums, commercial and vacant land).
33.	demonstrates an understanding of property insurance instructions.
34.	demonstrates an understanding of the land registration systems in Ontario.
35.	demonstrates an understanding of title searching (i.e., in an electronic and non automated system).
36.	demonstrates an understanding of off-title due diligence.
37.	demonstrates an understanding of subdivision control: Section 50 of the Planning Act.
38.	demonstrates an understanding of plans and surveys.
39.	demonstrates an understanding of requisitions on title and off-title matters.
40.	demonstrates an understanding of the standard mortgage/charge transaction.
41.	demonstrates an understanding of enforcement of mortgage/charge security.
42.	demonstrates an understanding of preparation for closing, closing and post-closing procedures.
43.	demonstrates an understanding of special concerns for residential rental properties (e.g., single unit and multiple unit).
44.	demonstrates an understanding of remedies (e.g., vendors and purchasers applications, conditions, repudiation, rescission, specific performance, damages, rectification).
45.	demonstrates an understanding of title insurance (e.g., advantages, conditions, limitations).
46.	demonstrates an understanding of GST and real estate.
47.	demonstrates an understanding of commercial transactions.
48.	demonstrates an understanding of electronic registration.
49.	demonstrates an awareness of aboriginal property issues.
50.	demonstrates an understanding of the use of trusts and related liability issues.
51.	demonstrates an understanding of commercial leasing (e.g., priority issues and non disturbance agreements).

- 52. demonstrates an understanding of leasehold interests including life leases.
- 53. demonstrates an understanding of priority of claims.
- 54. demonstrates an understanding of municipal law applications (e.g., zoning, minor variances).

Wills, Trusts, and Estate Administration and Planning

- 55. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law:
 - a. Accumulations Act.
 - b. Estates Act.
 - c. Estates Administration Act.
 - d. Family Law Act.
 - e. Health Care Consent Act, 1996.
 - f. Income Tax Acts.
 - g. Perpetuities Act.
 - h. Rules of Civil Procedure (Rules 74 & 75).
 - i. Substitute Decisions Act, 1992.
 - j. Succession Law Reform Act.
 - k. Trustee Act.
- 56. demonstrates knowledge of secondary wills, trusts, and estate statutes and related regulations and case law (e.g., Child and Family Services Act; Children’s Law Reform Act; Crown Administration of Estates Act; Estate Administration Tax Act, 1998; Indian Act; Insurance Act; Mental Health Act; Powers of Attorney Act; Trillium Gift of Life Network Act [formerly Human Tissue Gift Act], Variation of Trusts Act).
- 57. demonstrates an understanding of trusts and estate planning.
- 58. demonstrates an understanding of will, trust, and power of attorney drafting and execution (e.g., multiple wills, alter-ego trusts, inter vivos trusts, Henson trusts, powers of attorney for property, and powers of attorney for personal care).
- 59. demonstrates an understanding of capacity law (e.g., wills, powers of attorney, guardianship applications, mental health law).
- 60. demonstrates an understanding of taxation at death and of trusts.
- 61. demonstrates an understanding of the impact of the Family Law Act on estate planning, administration and litigation (e.g., property and support issues related to same-sex, married and common law spouses).
- 62. demonstrates an understanding of administration of estates (e.g., testate and intestate estates, estate trustee duties, asset administration, income tax, estate administration tax, accounting).
- 63. demonstrates an understanding of estate litigation (e.g., will challenges, interpretation applications, variation of trusts, dependent support, and claims against an estate, equalization applications).

- 64. demonstrates an understanding of fiduciary law (e.g., executors and attorneys powers and duties).
- 65. demonstrates an awareness of cross-border issues (e.g., income and other tax issues, conflicts of law, forced heirship).

Business Law

- 66. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law:
 - a. Assignments and Preferences Act.
 - b. Bankruptcy and Insolvency Act.
 - c. Bulk Sales Act.
 - d. Business Corporations Act (Ontario)/Canada Business Corporations Act.
 - e. Business Names Act.
 - f. Corporations Information Act.
 - g. Creditors Relief Act.
 - h. Fraudulent Conveyances Act.
 - i. Income Tax Acts.
 - j. Limitations Act.
 - k. Limited Partnerships Act.
 - l. Partnerships Act.
 - m. Personal Property Security Act.
 - n. Securities Act.
- 67. demonstrates knowledge of secondary business law statutes and related regulations and case law (e.g., Arthur Wishart Act; Bank Act; Canada Corporations Act; Companies' Creditors Arrangement Act; Competition Act; Corporations Act [Ontario]; Criminal Code; Employment Standards Act; Excise Tax Act; Extra Provincial Corporations Act; Franchise Act; Investment Canada Act; Interest Act; Personal Information Protection and Electronic Documents Act; Retail Sales Tax Act).
- 68. demonstrates an understanding of the different methods of carrying on business (e.g., the advantages and disadvantages of sole proprietorships, partnerships, corporations, co-ownerships, joint ventures).
- 69. demonstrates an understanding of partnership agreements.
- 70. demonstrates an understanding of taxation of corporations and their shareholders.
- 71. demonstrates an understanding of the advantages and disadvantages of incorporating in other jurisdictions.
- 72. demonstrates an understanding of the impact of employment and labour law on transactions.
- 73. demonstrates an understanding of the creation and maintenance of the corporation (e.g., incorporation procedure, organization, amendments).
- 74. demonstrates an understanding of the roles of directors, officers, and shareholders of a corporation (e.g., fiduciary duty, standard of care, election, rights and powers, meetings, shareholder remedies).
- 75. demonstrates an understanding of shareholder agreements.

76. demonstrates an understanding of the corporate capital structure: share capitalization (e.g., paid up capital; rights, conditions and restrictions on shares).
77. demonstrates an understanding of effecting corporate changes (e.g., Section 85 rollover, Section 86 reorganization; amalgamations, arrangements and reorganizations, windup, dissolution).
78. demonstrates an understanding of securities law implications for private companies.
79. demonstrates an understanding of due diligence in corporate and commercial transactions (e.g., appropriate searches, inquiries and investigations).
80. demonstrates an understanding of debt financing and secured transactions.
81. demonstrates an understanding of debtor and creditor's rights and remedies (e.g., secured and unsecured).
82. demonstrates an awareness of aboriginal issues in business transactions.
83. demonstrates an understanding of the purchase and sale of the business (i.e., shares or assets).
84. demonstrates an understanding of GST and RST on commercial transactions.
85. demonstrates an understanding of charities and not-for-profit law.
86. demonstrates an understanding of franchising and licensing.
87. demonstrates an awareness of cross-border issues (e.g., International Sale of Goods Act; Sale of Goods Act, income tax, business immigration).
88. demonstrates an understanding of intellectual property issues (e.g., patents, copyrights, trade marks).
89. demonstrates an understanding of the impact of the Personal Information Protection and Electronic Documents Act (PIPEDA) on business transactions.

C. ESTABLISHING AND MAINTAINING THE SOLICITOR-CLIENT RELATIONSHIP

Identifying the Client

90. takes appropriate steps to determine the client and the client's role (e.g., multiple parties, spouses/family members, business partners, trustee vs. beneficiary, officers/directors/shareholders vs. corporation, authority to bind).
91. takes appropriate steps to avoid problems associated with phantom clients.
92. obtains identification from the client where appropriate (e.g., follows the Proceeds of Crime [Money Laundering] and Terrorist Financing Act, takes steps to identify fraudulent transactions, mortgage/charge financing).

Conflicts of Interest

93. uses a conflict of interest checking system and monitors for conflicts of interest on an ongoing basis.
94. identifies potential conflicts of interest before acquiring confidential information (e.g., multiple parties).

95. takes appropriate action in situations where a potential conflict of interest is identified (e.g., referral for independent legal advice, decline to act, disclose the conflict to the client and obtain consent, establish firewall procedures where appropriate, advises the client of the consequences in the event the potential conflict materializes, documents the steps taken when a potential conflict of interest has been identified, properly withdraws).

Interviewing Principles

96. determines the client's goals, objectives and expectations.
97. makes an initial assessment of whether or not the client's goals, objectives, and expectations can be met through legal processes and ethical solutions.
98. determines whether or not the client is capable of giving instructions (e.g., mental capacity, authority, duress, undue influence).
99. determines issues that might affect the resolution of the problem.

The Retainer

100. establishes the scope of the retainer (e.g., confirms the identity of the client, outlines the capacities being represented, explains any limitations related to client instructions).
101. identifies the instructing client.
102. confirms the actions to be taken by the parties in the retainer.
103. sets out and explains the basis for fees and disbursements in the retainer (e.g., special or extraordinary disbursements, rates for various personnel performing the work, hourly versus alternative rates, periodic rate increases, contingency arrangements).
104. outlines the delegation of responsibilities in the retainer (e.g., within the firm, external consultants, client).
105. confirms the acceptable forms of client communication in the retainer (e.g., medium and timeframes).
106. addresses solicitor-client privilege and privacy issues in the retainer (e.g., distribution of e-mails, sharing information with other advisors).
107. addresses conflict of interest issues in the retainer (e.g., termination, confidentiality, consent).
108. addresses termination issues in the retainer (e.g., non-payment of fees, no instructions, loss of confidence, conflicts of interest).
109. confirms the retainer and any limitations in writing.
110. obtains a monetary retainer where appropriate.
111. confirms changes to the retainer as appropriate (e.g., new client instructions, method/channels for making changes).

Client Communications

112. communicates with clients in a timely and effective manner (e.g., formal reporting, returns phone calls in a timely manner, copies the client on correspondence as appropriate, advises on developments).

- 113. manages and updates the client's expectations with respect to timeframes, results, and costs.
- 114. recognizes, and is sensitive to, clients' circumstances, special needs, and intellectual capacity (e.g., multi-cultural, language [need for interpreters], gender, disability, socioeconomic status, demeanour).
- 115. explains to clients the risk of communicating the details of the case by means of electronic media (e.g., cell phones, e-mail).

D. FULFILLING THE RETAINER

File Administration

- 116. maintains an electronic and written record for each matter for which the lawyer is retained.

Information Gathering and File Analysis

- 117. obtains and reviews relevant facts and documents.
- 118. recognizes urgency and takes emergency steps where necessary (e.g., registers a caution on title, construction liens).
- 119. ascertains the completeness of the documentation provided by the client.
- 120. identifies the factual and legal issues.
- 121. identifies and obtains additional information and/or resources as needed (e.g., experts, legal research, specialized counsel).
- 122. conducts or delegates research and investigations related to the matter as appropriate.
- 123. complies with all privacy legislation.

Developing the Action Plan

- 124. generates options and recommendations and presents them to the client.
- 125. identifies the risks and costs of various options.
- 126. confirms client instructions with respect to options and recommendations.

Executing the Action Plan

- 127. conducts due diligence as appropriate for the client.
- 128. prepares and/or reviews documentation, searches, and plans as appropriate for the transaction.
- 129. communicates with the other parties in a timely manner (e.g., other lawyers, title insurers).
- 130. utilizes and revises checklists where appropriate.
- 131. determines and satisfies third party requirements (e.g., property insurance, title insurance, lender requirements, appropriate consents and clearances, environmental evaluations).
- 132. identifies problems, solutions/options and obtains client instructions (e.g., conflicts, title search issues).
- 133. conducts negotiations related to the matter as appropriate.

Closing the Transaction

- 134. prepares a closing agenda as appropriate.
- 135. provides interim reports on a timely basis as required (e.g., to the lender, title insurance).
- 136. reviews documentation with the client and obtains signatures as appropriate.
- 137. updates searches and certificates and obtains necessary preclosing clearances and consents as appropriate.
- 138. supervises staff or others involved in the closing.
- 139. arranges closing logistics (e.g., transfer of funds, execution page delivery and third party consents).
- 140. arranges for appropriate undertakings (e.g., to discharge mortgages/charges).
- 141. conducts a final review of the checklist.
- 142. takes appropriate steps when the transaction fails to close (e.g., tender).
- 143. completes the transaction in a timely and appropriate manner (e.g., exchange of deliverables [e.g., documents, property], complete registrations).

Post-Closing Actions

- 144. ensures appropriate undertakings, both given and received, are completed (e.g., discharges mortgages/charges).
- 145. advises all necessary parties of the closing.
- 146. obtains documents to complete the file (e.g., title insurance policies).
- 147. provides final reports and accounting to clients and third parties.
- 148. conducts a final review of the file prior to making the file inactive.

**ENTRY-LEVEL SOLICITOR COMPETENCIES BY
CRITICALITY/FREQUENCY CLASSIFICATION**

Group 1-A

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES	
Ethics & Professionalism	
1.	declines to act or seeks appropriate assistance when the matter is beyond own abilities.
2.	completes all contractual obligations under the retainer.
3.	avoids or manages conflicts of interest (e.g., clarifies joint retainers, acting against a client, dealing with self-represented persons, doing business with a client [e.g., borrowing from a client], acting for family members).
4.	recognizes and fulfils duties relating to confidentiality and disclosure (e.g., solicitor-client privilege).
5.	ensures staff understands and adheres to relevant Rules of Professional Conduct (e.g., confidentiality, solicitor-client privilege, justified disclosure, integrity, dishonesty or fraud by the client, title insurance rule).
6.	understands the obligation to keep the client informed.
7.	fulfils all undertakings and does not give an undertaking that cannot be fulfilled.
8.	recognizes and fulfils fiduciary obligations.
9.	recognizes issues involving the Law Society books and records bylaws (e.g., preserves the clients' property).
10.	demonstrates integrity (e.g., honesty, meeting financial obligations, duty to report misconduct, responsibility to the Law Society, responsibility to other lawyers).
11.	demonstrates an understanding of the obligation to represent the client within the limits of the law (e.g., takes appropriate steps to ensure that the lawyer maintains professional distance from the client).
12.	approaches ethical issues in accordance with the Law Society model (e.g., follow the law, look to the rules, seek guidance from senior Solicitors or practice advisory, exercise caution when in "gray areas").
13.	maintains appropriate professional relationships with lawyers, students, employees and others (e.g., treats others with courtesy and respect, avoids sexual harassment and human rights violations, respects multi-cultural issues, respects the relationship of opposing counsel and their client).

B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW, POLICY, PROCEDURES AND FORMS

Knowledge of General Statutes, Common Law, Policy, Procedures and Forms

14. demonstrates knowledge of statutes of general application and principles of statutory interpretation.
15. demonstrates knowledge of fundamental common law (e.g., law of contracts, agency law, trust law, torts law, law of property).

Real Estate

16. demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Construction Lien Act.
17. demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Family Law Act.
18. demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Execution Act.
19. demonstrates an understanding of subdivision control: Section 50 of the Planning Act.
20. demonstrates an understanding of electronic registration.

Wills, Trusts, and Estate Administration and Planning

21. demonstrates an understanding of will, trust, and power of attorney drafting and execution (e.g., multiple wills, alter-ego trusts, inter vivos trusts, Henson trusts, powers of attorney for property, and powers of attorney for personal care).
22. demonstrates an understanding of capacity law (e.g., wills, powers of attorney, guardianship applications, mental health law).
23. demonstrates an understanding of the impact of the Family Law Act on estate planning, administration and litigation (e.g., property and support issues related to same-sex, married and common law spouses).
24. demonstrates an understanding of fiduciary law (e.g., executors and attorneys powers and duties).

Business Law

25. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Business Corporations Act (Ontario)/Canada Business Corporations Act.
26. demonstrates an understanding of the different methods of carrying on business (e.g., the advantages and disadvantages of sole proprietorships, partnerships, corporations, co-ownerships, joint ventures).

27. demonstrates an understanding of due diligence in corporate and commercial transactions (e.g., appropriate searches, inquiries and investigations).

C. ESTABLISHING AND MAINTAINING THE SOLICITOR-CLIENT RELATIONSHIP

Identifying the Client

28. takes appropriate steps to determine the client and the client's role (e.g., multiple parties, spouses/family members, business partners, trustee vs. beneficiary, officers/directors/shareholders vs. corporation, authority to bind).

Conflicts of Interest

29. uses a conflict of interest checking system and monitors for conflicts of interest on an ongoing basis.

Interviewing Principles

30. determines the client's goals, objectives and expectations.
31. makes an initial assessment of whether or not the client's goals, objectives, and expectations can be met through legal processes and ethical solutions.
32. determines whether or not the client is capable of giving instructions (e.g., mental capacity, authority, duress, undue influence).

The Retainer

33. establishes the scope of the retainer (e.g., confirms the identity of the client, outlines the capacities being represented, explains any limitations related to client instructions).
34. confirms the actions to be taken by the parties in the retainer.

Client Communications

35. communicates with clients in a timely and effective manner (e.g., formal reporting, returns phone calls in a timely manner, copies the client on correspondence as appropriate, advises on developments).
36. manages and updates the client's expectations with respect to timeframes, results, and costs.

D. FULFILLING THE RETAINER

File Administration

37. maintains an electronic and written record for each matter for which the Solicitor is retained.

Information Gathering and File Analysis	
38.	obtains and reviews relevant facts and documents.
39.	recognizes urgency and takes emergency steps where necessary (e.g., registers a caution on title, construction liens).
40.	identifies the factual and legal issues.
41.	identifies and obtains additional information and/or resources as needed (e.g., experts, legal research, specialized counsel).
42.	conducts or delegates research and investigations related to the matter as appropriate.
Developing the Action Plan	
43.	generates options and recommendations and presents them to the client.
Executing the Action Plan	
44.	conducts due diligence as appropriate for the client.
45.	utilizes and revises checklists where appropriate.
46.	identifies problems, solutions/options and obtains client instructions (e.g., conflicts, title search issues).
Closing the Transaction	
47.	updates searches and certificates and obtains necessary preclosing clearances and consents as appropriate.
Post-Closing Actions	
	NA

Group 1-B

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES

Ethics & Professionalism

1. accepts only retainers that are reasonable and capable of performance under law.
2. charges fair and reasonable fees and disbursements (e.g., division of fees and referral fees, full disclosure of fees, appropriation of funds).
3. withdraws from representation in compliance with the rules of the Law Society, the court or tribunal (e.g., optional withdrawal, mandatory withdrawal, client request for withdrawal).
4. avoids becoming the tool or dupe of an unscrupulous client (e.g., proceeds of crime, evidence, fraud).
5. recognizes any other issues involving the Law Society Rules of Professional Conduct (e.g., dishonesty or fraud by the client, administration of justice, reporting other lawyers' conduct where appropriate, obligations to the court).

B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW, POLICY, PROCEDURES AND FORMS

Knowledge of General Statutes, Common Law, Policy, Procedures and Forms

NA

Real Estate

6. demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Planning Act (except Section 50).
7. demonstrates an understanding of agreements of purchase and sale (e.g., new and used residential, condominiums, commercial and vacant land).
8. demonstrates an understanding of conveyancing (e.g., estate, rural, agricultural, waterfront, new and used residential, condominiums, commercial and vacant land).
9. demonstrates an understanding of the land registration systems in Ontario.
10. demonstrates an understanding of title searching (i.e., in an electronic and non automated system).
11. demonstrates an understanding of off-title due diligence.
12. demonstrates an understanding of requisitions on title and off-title matters.
13. demonstrates an understanding of the standard mortgage/charge transaction.
14. demonstrates an understanding of preparation for closing, closing and post-closing procedures.
15. demonstrates an understanding of title insurance (e.g., advantages, conditions, limitations).
16. demonstrates an understanding of commercial transactions.

Wills, Trusts, and Estate Administration and Planning

17. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Family Law Act.

Business Law

18. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Bankruptcy and Insolvency Act.
19. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Income Tax Acts.
20. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Personal Property Security Act.
21. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Securities Act.
22. demonstrates an understanding of the impact of employment and labour law on transactions.
23. demonstrates an understanding of the creation and maintenance of the corporation (e.g., incorporation procedure, organization, amendments).
24. demonstrates an understanding of the roles of directors, officers, and shareholders of a corporation (e.g., fiduciary duty, standard of care, election, rights and powers, meetings, shareholder remedies).
25. demonstrates an understanding of effecting corporate changes (e.g., Section 85 rollover, Section 86 reorganization; amalgamations, arrangements and reorganizations, windup, dissolution).
26. demonstrates an understanding of securities law implications for private companies.
27. demonstrates an understanding of the purchase and sale of the business (i.e., shares or assets).
28. demonstrates an understanding of the impact of the Personal Information Protection and Electronic Documents Act (PIPEDA) on business transactions.

C. ESTABLISHING AND MAINTAINING THE SOLICITOR-CLIENT RELATIONSHIP

Identifying the Client

29. takes appropriate steps to avoid problems associated with phantom clients.
30. obtains identification from the client where appropriate (e.g., follows the Proceeds of Crime [Money Laundering] and Terrorist Financing Act, takes steps to identify fraudulent transactions, mortgage/charge financing).

Conflicts of Interest

31. identifies potential conflicts of interest before acquiring confidential information (e.g., multiple parties).

32. takes appropriate action in situations where a potential conflict of interest is identified (e.g., referral for independent legal advice, decline to act, disclose the conflict to the client and obtain consent, establish firewall procedures where appropriate, advises the client of the consequences in the event the potential conflict materializes, documents the steps taken when a potential conflict of interest has been identified, properly withdraws).

Interviewing Principles

33. determines issues that might affect the resolution of the problem.

The Retainer

34. confirms the retainer and any limitations in writing.

Client Communications

35. recognizes, and is sensitive to, clients' circumstances, special needs, and intellectual capacity (e.g., multi-cultural, language [need for interpreters], gender, disability, socioeconomic status, demeanour).

D. FULFILLING THE RETAINER

File Administration

NA

Information Gathering and File Analysis

NA

Developing the Action Plan

NA

Executing the Action Plan

NA

Closing the Transaction

36. prepares a closing agenda as appropriate.
37. reviews documentation with the client and obtains signatures as appropriate.

38. arranges closing logistics (e.g., transfer of funds, execution page delivery and third party consents).
39. arranges for appropriate undertakings (e.g., to discharge mortgages/charges).
40. conducts a final review of the checklist.
41. takes appropriate steps when the transaction fails to close (e.g., tender).
42. completes the transaction in a timely and appropriate manner (e.g., exchange of deliverables [e.g., documents, property], complete registrations).

Post-Closing Actions

43. ensures appropriate undertakings, both given and received, are completed (e.g., discharges mortgages/charges).
44. advises all necessary parties of the closing.
45. obtains documents to complete the file (e.g., title insurance policies).
46. provides final reports and accounting to clients and third parties.
47. conducts a final review of the file prior to making the file inactive.

Group 2-A

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES	
Ethics & Professionalism	
1.	obtains all necessary consents at the time of the retainer, respecting reasonable disclosure to third parties (e.g., pursuant to relevant privacy legislation).
2.	delegates and supervises appropriately (e.g., provides opportunities for others to learn, enhances cost efficiencies for the client, does not delegate where inappropriate such as the ultimate review of a title search report).
3.	avoids engaging in sharp practice.
4.	demonstrates awareness of issues involving electronic registration (e.g., not sharing diskettes, privacy issues, understanding technology).
B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW, POLICY, PROCEDURES AND FORMS	
Knowledge of General Statutes, Common Law, Policy, Procedures and Forms	
5.	demonstrates knowledge of purposes, procedures and forms related to substantive law
6.	demonstrates a general awareness of specialty areas (e.g., environmental law, employment and labour law).
Real Estate	
7.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Condominium Act, 1998.
8.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Land Registration Reform Act.
9.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Land Titles Act.
10.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Land Transfer Tax Act.
11.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Registry Act.
12.	demonstrates an understanding of property insurance instructions.
13.	demonstrates an understanding of plans and surveys.
14.	demonstrates an understanding of special concerns for residential rental properties (e.g., single unit and multiple unit).
15.	demonstrates an understanding of GST and real estate.
16.	demonstrates an understanding of priority of claims.

Wills, Trusts, and Estate Administration and Planning

- 17. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Health Care Consent Act, 1996.
- 18. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Income Tax Acts.
- 19. demonstrates an understanding of trusts and estate planning.
- 20. demonstrates an understanding of administration of estates (e.g., testate and intestate estates, estate trustee duties, asset administration, income tax, estate administration tax, accounting).

Business Law

- 21. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Limitations Act.
- 22. demonstrates an understanding of partnership agreements.
- 23. demonstrates an understanding of taxation of corporations and their shareholders.
- 24. demonstrates an understanding of shareholder agreements.
- 25. demonstrates an understanding of the corporate capital structure: share capitalization (e.g., paid up capital; rights, conditions and restrictions on shares).
- 26. demonstrates an understanding of debtor and creditor's rights and remedies (e.g., secured and unsecured).
- 27. demonstrates an understanding of GST and RST on commercial transactions.
- 28. demonstrates an understanding of intellectual property issues (e.g., patents, copyrights, trade marks).

C. ESTABLISHING AND MAINTAINING THE SOLICITOR-CLIENT RELATIONSHIP

Identifying the Client

NA

Conflicts of Interest

NA

Interviewing Principles

NA

The Retainer

- 29. identifies the instructing client.

30. sets out and explains the basis for fees and disbursements in the retainer (e.g., special or extraordinary disbursements, rates for various personnel performing the work, hourly versus alternative rates, periodic rate increases, contingency arrangements).
31. outlines the delegation of responsibilities in the retainer (e.g., within the firm, external consultants, client).
32. confirms the acceptable forms of client communication in the retainer (e.g., medium and timeframes).
33. addresses solicitor-client privilege and privacy issues in the retainer (e.g., distribution of e-mails, sharing information with other advisors).
34. addresses conflict of interest issues in the retainer (e.g., termination, confidentiality, consent).
35. addresses termination issues in the retainer (e.g., non-payment of fees, no instructions, loss of confidence, conflicts of interest).
36. obtains a monetary retainer where appropriate.
37. confirms changes to the retainer as appropriate (e.g., new client instructions, method/channels for making changes).

Client Communications

38. manages and updates the client's expectations with respect to timeframes, results, and costs.

4. FULFILLING THE RETAINER

File Administration

NA

Information Gathering and File Analysis

39. complies with all privacy legislation.
40. ascertains the completeness of the documentation provided by the client.

Developing the Action Plan

41. identifies the risks and costs of various options.
42. confirms client instructions with respect to options and recommendations.

Executing the Action Plan

43. prepares and/or reviews documentation, searches, and plans as appropriate for the transaction.
44. communicates with the other parties in a timely manner (e.g., other solicitors, title insurers).
45. determines and satisfies third party requirements (e.g., property insurance, title insurance, lender requirements, appropriate consents and clearances, environmental evaluations).
46. conducts negotiations related to the matter as appropriate.

Closing the Transaction

47. supervises staff or others involved in the closing.

Post-Closing Actions

NA

Group 2-B

A. ETHICAL AND PROFESSIONAL RESPONSIBILITIES	
Ethics & Professionalism	
1.	recognizes duties to the administration of justice (e.g., encourages respect for the administration of justice, dealing with the media, public statements, lawyer as a witness).
2.	markets and advertises ethically as per Law Society Rules (e.g., making services available, law firm name, letterhead, advertising, offering professional services).
B. KNOWLEDGE OF THE LAW: ONTARIO AND FEDERAL LEGISLATION AND CASE LAW, POLICY, PROCEDURES AND FORMS	
Knowledge of General Statutes, Common Law, Policy, Procedures and Forms	
NA	
Real Estate	
3.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Commercial Tenancies Act.
4.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Conveyancing and Law of Property Act.
5.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Estate Administration Act.
6.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Real Properties Limitations Act.
7.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Mortgages Act.
8.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Ontario New Home Warranties Plan Act.
9.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Tenant Protection Act, 1997.
10.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Vendor and Purchasers Act.
11.	demonstrates knowledge of substantive real estate law including the following primary statutes and related regulations and case law: Succession Law Reform Act.

12. demonstrates knowledge of secondary real estate statutes and related regulations and case law (e.g., Beds of Navigable Water Act; Building Code Act, 1992; Business Corporations Act [Ontario and Federal]; Certification of Titles Act; Section 347 of the Criminal Code; Conservation Authorities Act; Execution Act; Fire Marshall's Act; Income Tax Act [Federal and Provincial]; Indian Act; Interest Act; Municipal Act, 2001; Municipal Tax Sales Act; Personal Property Security Act; Power Corporation Act; Public Utilities Act; Road Access Act; Technical Standards and Safety Act; Statute of Frauds; Surveys Act; Tax Sales Confirmation Act).
13. demonstrates an understanding of enforcement of mortgage/charge security.
14. demonstrates an understanding of remedies (e.g., vendors and purchasers applications, conditions, repudiation, rescission, specific performance, damages, rectification).
15. demonstrates an awareness of aboriginal property issues.
16. demonstrates an understanding of the use of trusts and related liability issues.
17. demonstrates an understanding of commercial leasing (e.g., priority issues and non disturbance agreements).
18. demonstrates an understanding of leasehold interests including life leases.
19. demonstrates an understanding of municipal law applications (e.g., zoning, minor variances).

Wills, Trusts, and Estate Administration and Planning

20. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Accumulations Act.
21. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Estates Act.
22. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Estates Administration Act.
23. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Perpetuities Act.
24. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Rules of Civil Procedure (Rules 74 & 75).
25. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Substitute Decisions Act, 1992.
26. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Succession Law Reform Act.
27. demonstrates knowledge of substantive will and estate law including the following primary statutes and related regulations and case law: Trustee Act.
28. demonstrates knowledge of secondary wills, trusts, and estate statutes and related regulations and case law (e.g., Child and Family Services Act; Children's Law Reform Act; Crown Administration of Estates Act; Estate Administration Tax Act, 1998; Indian Act; Insurance Act; Mental Health Act; Powers of Attorney Act; Trillium Gift of Life Network Act [formerly Human Tissue Gift Act], Variation of Trusts Act).
29. demonstrates an understanding of taxation at death and of trusts.

- 30. demonstrates an understanding of estate litigation (e.g., will challenges, interpretation applications, variation of trusts, dependent support, and claims against an estate, equalization applications).
- 31. demonstrates an awareness of cross-border issues (e.g., income and other tax issues, conflicts of law, forced heirship).

Business Law

- 32. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Assignments and Preferences Act.
- 33. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Bulk Sales Act.
- 34. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Business Names Act.
- 35. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Corporations Information Act.
- 36. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Creditors Relief Act.
- 37. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Fraudulent Conveyances Act.
- 38. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Limited Partnerships Act.
- 39. demonstrates knowledge of substantive business law including the following primary statutes and related regulations and case law: Partnerships Act.
- 40. demonstrates knowledge of secondary business law statutes and related regulations and case law (e.g., Arthur Wishart Act; Bank Act; Canada Corporations Act; Companies' Creditors Arrangement Act; Competition Act; Corporations Act [Ontario]; Criminal Code; Employment Standards Act; Excise Tax Act; Extra Provincial Corporations Act; Franchise Act; Investment Canada Act; Interest Act; Personal Information Protection and Electronic Documents Act; Retail Sales Tax Act).
- 41. demonstrates an understanding of the advantages and disadvantages of incorporating in other jurisdictions.
- 42. demonstrates an understanding of debt financing and secured transactions.
- 43. demonstrates an awareness of aboriginal business issues in business transactions.
- 44. demonstrates an understanding of charities and not-for-profit law.
- 45. demonstrates an understanding of franchising and licensing.
- 46. demonstrates an awareness of cross-border issues (e.g., International Sale of Goods Act; Sale of Goods Act, income tax, business immigration).

C. ESTABLISHING AND MAINTAINING THE SOLICITOR-CLIENT RELATIONSHIP

Identifying the Client

NA

Conflicts of Interest

NA

Interviewing Principles

NA

The Retainer

NA

Client Communications

NA

D. FULFILLING THE RETAINER

File Administration

NA

Information Gathering and File Analysis

NA

Developing the Action Plan

NA

Executing the Action Plan

NA

Closing the Transaction

47. provides interim reports on a timely basis as required (e.g., to the lender, title insurance).

Post-Closing Actions

NA

Bibliography

The following sources were either referenced directly or otherwise consulted in the development of the Law Society of Upper Canada Solicitor Licensure Examination Blueprint Document.

American Educational Research Association, American Psychological Association, National Council on Measurement in Education (1999). Standards for educational and psychological testing. Washington, D.C.: American Educational Research Association.

Angoff, W.H. (1971). Norms, scales, and equivalent scores. In R.L. Thorndike (Ed.), Educational measurement (2nd Ed.). Washington, D.C.: American Council on Education.

Biddle, R.E. (1993). How to set cutoff scores for knowledge tests used in promotion, training, certification, and licensing. Public Personnel Management, 22(1), 63-79.

Bloom, B.S. (1956). Taxonomy of educational objectives, handbook 1: The cognitive domain. New York: McKay.

Browning, A.H., Bugbee, Jr., A.C., & Mullins, M.A. (1996). Certification: A NOCA handbook. Washington, D.C.: National Organization for Competency Assurance.

Canadian Psychological Association (1985). Guidelines for educational and psychological testing. Ottawa, Ontario: Canadian Psychological Association.

Council on Licensure, Enforcement and Regulation (1993). Development, administration, scoring and reporting of credentialing examinations: Recommendations for board members. Lexington, Kentucky: CLEAR.

Crocker, L. & Algina, J. (1986). Introduction to classical & modern test theory. New York: Holt, Rinehart and Winston.

Haladyna, T.M. (1994). Developing and validating multiple choice test items. Hillsdale, New Jersey: Lawrence Erlbaum.

Harvey, (1991). Job analysis. In M.D. Dunnette and L.M. Hough (Eds.) The handbook of industrial/organizational psychology: Second edition volume 2. pp. 71 – 164. Palo Alto, CA: Consulting Psychologists Press.

Thomas, S. & Scheuneman, J. (1998). Developing and maintaining a high quality certification program. NCME Workshop.

Williams, M.C. & Braham, J.K. (2000). Blueprint Development Overview and Working Document. Ottawa, Ontario: Performance Assessment Group Inc.

Williams, M.C. & Braham, J.K. (2003). Report to Convocation on Establishing a Standardized, Reliable, Valid, Fair and Defensible Licensure Program. Ottawa, Ontario: Performance Assessment Group Inc.

Competency Development Participant Demographics*

Gender	Practice Area	Location	Firm Size	Equality Seeking Communities
Men = 88 Women = 72	Aboriginal Law = 2 Administrative = 11 Bankruptcy = 3 Business = 18 Civil Litigation = 41 Construction = 1 Criminal = 16 Employment/Labour = 8 Environmental = 2 Family Law = 23 General Practice = 15 Immigration = 2 Intellectual Property = 2 Mediation = 4 Public Law = 6 Real Estate = 20 Securities = 2 Tax = 2 Wills/Estates = 10 Other* = 11 * Includes judiciary, academy, professional development	GTA = 11 Kingston = 3 London = 17 Ottawa = 33 Thunder Bay/ Sudbury/North Bay = 16 Toronto = 64 Windsor = 6 Other* = 10 * Includes, for example: Nepean, Niagara Falls, Owen Sound, Goderich, Port Colborne, Guelph, Stittville	Sole = 28 Small (2 to 5) = 29 Medium (6 to 29) = 29 Large (30 plus) = 39 Non-private practice* = 35 * Includes: judiciary, academy, in-house counsel, legal clinic lawyers, government lawyers	Aboriginal = 5 African-Canadian = 8 Arab/West Asian = 1 Chinese Canadian = 2 Disability = 1 Francophone = 14 Latin American = 1 Sexual Orientation = 1 South Asian = 2 *one participant placed in two categories – Chinese Canadian/Francophone
<i>160 participants</i>	<i>20 practice areas</i>	<i>6 city centres plus several smaller communities</i>	<i>4 firm sizes plus several non-private practice scenarios</i>	<i>34 participants from equality seeking communities</i>

*Does not include survey participants



The Law Society of
Upper Canada

Barreau
du Haut-Canada

QUARTERLY BENCHMARK REPORT
PROFESSIONAL DEVELOPMENT & COMPETENCE DEPARTMENT
(2nd Quarter 2004 Statistics)

FOR INFORMATION ONLY

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September 2004

BENCHMARKS AND KEY INDICATORS REPORT

Practice Management Guidelines

Web traffic report for Practice Management Guidelines (number of visits)

Guideline	November & December 2002	2003	January to June 2004
Executive Summary Page	741	5,085	898
Client Service & Communication	71	1,488	3,638
File Management	108	930	1,475
Financial Management	93	553	296
Technology	71	597	1,036
Professional Management	43	584	449
Time Management	83	924	966
Personal Management	33	423	640
Closing Down Your Practice	32	558	263
Total	1,275	11,142	9,661

Self-assessment Tool

The Best Practices Self-assessment Tool was introduced on Friday, June 25, 2004. As at June 30, 2004, there were 188 registered users of the Tool.

Specialist Certification

The Specialist Certification Program redesign was effective January 2004.

	2001	2002	2003	June 2004
Number of Specialists	617	611	609	655
Specialists in Toronto Area	349	344	341	365
Specialists outside Toronto	268	267	268	291
Number of Specialty Areas	10	10	10	13

Continuing Legal Education

	2001	2002	2003	January to June 2004
Number of CLE programs (all formats)	67	63	71	41
Attendance at CLE programs	8,539	11,788	18,269	10,898
Average attendance per program	127	187	262	266
Number of programs on ILN	-	-	35	27
Attendance at ILN locations	-	-	4,014	2,109
Average attendance at ILN locations per program	-	-	115	78
Number of Teleseminars	-	-	5	5
Attendance at Teleseminars	-	-	2,468	2,513
Average attendance at Teleseminars	-	-	494	503
Number of synchronous (live) webcast programs through BAR-eX	N/A	N/A	12	16
Attendance at synchronous webcast programs through BAR-eX	N/A	N/A	213	375
Average attendance at synchronous webcast programs through BAR-eX	N/A	N/A	18	23
Bursaries provided	140	151	444	139
Units/publications sold (paper, CD and PDF)	8,249	11,424	11,028	6,248

e-Transactions Site

Web traffic report for CLE portion of e-Transactions site

	2003	January to June 2004
Number of visits on CLE page	38,954	35,282

Web purchase report for CLE portion of e-Transactions site

Product	2003	January to June 2004
Book purchases	524	630
Program registrations	1,103	806
ILN program registrations	503	328
Teleseminar registrations	321	363
Video streams	27	20
Registrations for asynchronous (archived) webcasts through BAR-eX	120	34
PDF purchases	36	28
CD-ROM purchases	9	42

BAC Materials Online

	2003 (November & December)	January to June 2004
Number of Members who have purchased the BAC Materials Online (\$0)	1,070	2,963

Practice Advisory

	2001	2002	2003	January to June 2004
Total member calls for advice	5,435	5,715	5,303	3,004

Breakdown of Callers

	2001	2002	2003	January to June 2004
Sole practitioners	2,363	2,465	2,399	1,275
Other members	2,150	2,354	2,372	1,175
Non-members*	922	896	532	554

*non member category consists of the following: Articling students, Secretary or Bookkeeper at firm, Manager or Administrator at firm, Law Society staff, Law Clerk or Paralegal at firm and other (sales person, lawyer outside Ontario, etc.)

Practice Advisory Mentor Program

	2001	2002	2003	January to June 2004
Number of new mentors	N/A	N/A	6	11
Number of matches	N/A	30	91	55

Spot Audit

Number of Audits Conducted

	2001	2002	2003	January to June 2004
Books and records audits	718	506	529	268
Complex audits	319	401	528	286
Total audits	1,037	907	1,057	554

Audits referred to Investigations/undertakings obtained	42	70	56	21
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Practice Review

	2001 (first year of new process)	2002	2003	January to June 2004
Number of authorizations into program	16	20	19	33
Number of authorizations through internal referrals	3	8	11	9
Total	19	28	30	42

Total Practice Reviews Conducted *	18	50	45	16
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* A portion represents follow-up practice reviews for members that volunteered into the program prior to mandatory reviews being enacted in 1999. As a result, more reviews are being shown as conducted than authorized. A significant number of reviews in 2002 & 2003 fall within this category.

Bar Admission Course

	2001	2002	2003	January to June 2004
Enrolment	1,247	1,312	1,317	1,465
Average attendance skills phase	80%	72%	74%	70%
Average attendance substantive phase	48%	42%	48%	N/A
Tuition Fees	\$4,400	\$4,400	\$4,400	\$4,400
National Mobility Agreement transfer candidates	-	-	41	44
Non-National Mobility Agreement transfer candidates	-	-	26	1
Total Transfer candidates	61	93	67	45

BAC e-Learning Site

Web traffic report for BAC e-Learning Site

	2003	January to June 2004
Number of visits	55,660	32,908

Articling and Placement Services

	2001	2002	2003	January to June 2004
International Articles	29	16	11	6
National Articles		14	16	7
Part time Articles		5	8	4
Joint Articles		0	2	3
Biographic paragraphs posted	53	62	99	48
Job postings	163	129	104	49
New Articling Mentors	N/A	N/A	N/A	0
New Articling Mentees	N/A	N/A	N/A	28

Articling Placement

	2001	2002	2003	2004
Students actively seeking placement as at August of each year*	N/A	N/A	299	368
Number of BAC students	N/A	N/A	1,257	1,332

*Please find attached the July 2004 Articling Placement Report.

Education Support Services

	2001	2002	2003	January to June 2004
Distance education – number of locations	15	29	71	28
Distance education – number of students	28	46	103	115
Number of students who have received Accommodation*	11	29	127	144
Number of students who have been assisted with a special needs accommodation**	47	33	56	106
Number of students who have received tutoring	60	72	45	26
OSAP – number of applicants	333	258	342	365
Repayable Allowance Program approvals	47	57	37	51
Repayable Allowance Program amount awarded	\$170,700	\$213,395	\$117,167	\$196,973

* Accommodation requests cover issues such as bereavement, pregnancy and time conflicts

**Special Needs Accommodation requests cover issues such as disabilities, medical conditions, dyslexia, hearing and vision impairments

Great Library

	2001	2002	2003	January to June 2004
Materials catalogued and classified	1,806	2,005	2,179	646*
Number of visits on the Great Library Web site	N/A	651,826	608,781	318,424
Catalogue searches on Web site	N/A	132,923	199,191	83,517
Number of information requests	71,000	47,000	48,800	23,840
Pages copied in custom copy service	68,437	56,159	43,815	21,623
Pages copied on self-copiers	481,473	397,957	337,313	152,798
Seminars held	4	6	12	6
Attendance at seminars	N/A	N/A	43	88
Attendance at orientation tours and general instruction	413	350	360	249
Corporate Records and Archives new entries into records database	N/A	2,157	5,199	3,496

* Low number due to processing the migrating records into the new electronic catalogue