



Report of the Survey of Firms with Under 100 Lawyers

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The Law Society of
Upper Canada

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du Haut-Canada

REPORT OF FINDINGS OF SURVEYS OF JUSTICIA FIRMS OF UNDER 100 LAWYERS

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INTRODUCTION

Launched in November 2008, the Justicia Project was the first of its kind in Canada and has grown to include 57 participating law firms across the province, with one out-of-province firm. Several other provincial law societies are following Ontario's lead and more than 75 law firms across Canada have joined or are about to make a long-term commitment to Justicia.

Through the Justicia Project, law firms indicated their commitment to develop resources to support the advancement of women in private practice. Ontario's Justicia firm representatives worked together to identify and adopt principles and best practices regarding tracking gender demographic information, flexible work arrangements, networking and business development, and mentoring and leadership skills development for women.

Between December 2008 and February 2009, the Law Society of Upper Canada (the Law Society) conducted a survey of law firms participating in the Justicia project. At that time, there were fifty-three firms committed to the project. The survey was conducted to identify practices and programs adopted by firms to assist in retaining women lawyers in private practice. In February and March 2012, the Law Society conducted a second survey of Justicia law firms to outline progress in the implementation of Justicia resources. At that time, there were 57 Justicia firms. There remained 57 participating firms when the Law Society conducted its third survey of participating firms between January and May 2014.

This report is an analysis of the 2014 responses to the survey of firms of under 100 lawyers ("firms").¹ In 2014, twelve small and medium firms participated in the survey. The Questionnaire is presented at Appendix 1.

In 2013, Professor Fiona Kay published *Leaving Law and Barriers to Re-entry*, a longitudinal study of nearly 1,600 Ontario lawyers surveyed across a twenty-year period. In the abstract to her study, Professor Kay notes: "We find that women are leaving private practice at higher rates than men. These departures appear to be largely the consequence of organizational structures and a practice culture that remain resistant to flexible schedules, time gaps between jobs, and parental and other leaves."²

The analysis in this report shows that the small and medium size Justicia firms have adopted a culture that more readily allows for flexible schedules. Justicia has been successful in creating awareness of barriers faced by women. Firms have participated in the development of resources that are applicable to the small and medium firm environment, and they have adopted some of the Justicia best-practices.

¹ The participating firms ranged in size from around 15 lawyers to approximately 85 lawyers and firms are usually located in Toronto, often with other offices in Ontario and out of Ontario.

² Professor Fiona Kay, *Leaving Law and Barriers to Re-entry: A Study of Departurees from and Re-entries to Private Practice* (Kingston: A report to the Law Society of Upper Canada, 2013) at iii.

GENDER DEMOGRAPHIC DATA

Collection of Data

The survey results indicated that most of the responding firms collected gender demographic data prior to Justicia. Some firms noted that they did not collect gender demographic data because of their small size (3 firms); it was not thought to be important track gender demographic data or not a priority (2 firms); or they had simply not considered it.

Half of the responding firms indicated that they now collect gender demographic data based on the following categories:

- a. articling students;
- b. associates;
- c. associates lateral hires;
- d. partnership admission to equity partner;
- e. equity partners.

To a slightly lesser extent, respondents indicated that they collect gender demographic data on summer students³, articling students hired back as associates⁴, partnership admission (income partners)⁵, partner lateral hires⁶, income partners⁷ and counsel positions.⁸ Very few responding firms indicated that they collect gender demographic data on senior management and leadership positions.⁹ Sixty-seven percent (67%) of responding firms collect gender demographic data on maternity leaves, and 33% collect data on parental and other leaves.

Half of responding firms that collect gender demographic data report collecting the data annually, while the other firms collect the data every two years or as needed.

A number of responding firms that collect gender demographic data indicated that they provide access to the findings to their managing partner (83%), their executive/management committees (67%), their human resources department (67%) and their partners (50%). One responding firm provides the data to their practice group leads and associates.

Responding firms noted that they use the gender demographic data when considering hiring new lawyers, either laterally or from the existing articling students, or to review trends.

³ 67% of responding firms. Two firms did not have such position.

⁴ 83% of responding firms that collect data.

⁵ 67% of responding firms that collect data. Two firms indicated not having such position.

⁶ 50% of responding firms that collect data.

⁷ 50% of responding firms that collect data. Two firms noted not having income partners.

⁸ 67% of responding firms that collect data.

⁹ 33% and 50% respectively.

Trends in Retention of Women

Only one responding firm indicated that over the last three years they had seen an increase in the retention of associates or partners at the firm. It attributes this to the work/life balance that can be achieved when working in a small firm outside of Toronto. One firm noted that anecdotally there appears to be an increase in retention that would be attributed to business reasons.

Two responding firms reported an increase in the number of women who advanced into income partnership in the last 3 years. They attribute this to an increase in women associates.

Five firms indicated that they have seen an increase in the number of women who advanced into equity partnership in the last 3 years. Some attribute this to an increase of women associates or to timing.

MATERNITY/PARENTAL LEAVES

Policies

Respondents were asked to indicate whether they had maternity and parental leave policies prior to Justicia. Fifty-eight percent (58%) of respondents indicated that they had a maternity policy for associates and 42% a parental leave policy for associates. Only three firms had a maternity leave policy for partners and only two had a parental leave policy for partners.

Six of the seven firms that had policies prior to Justicia indicated that they had reviewed their policies based on the Justicia resources. Five firms that did not have maternity or parental leave policies prior to Justicia indicated that they have since adopted maternity and parental leave policies since the launch of Justicia.¹⁰

All responding firms found the Justicia maternity/parental leave policy templates somewhat helpful (5 firms) or very helpful (7 firms) and five firms noted that they made changes to their policies as a result of the templates, while two indicated that the review of policies is in process.

Eligibility

The firms impose the following eligibility criteria:

Maternity leave policy for women associates

Women associates	Number of firms
Full-time	7
Part-time	5
Full-time after 1 year of service with firm	2
Part-time after 3 years of service with firm	1

Maternity leave policy for women partners

Women partners	Number of firms
Full-time equity partners	7
Part-time equity partners	5

Parental leave policy for women associates

¹⁰ One firm adopted a maternity and parental leave policy for associates, one firm adopted maternity leaves policies for associates and partners and one firm adopted a maternity and parental leave policy for both associates and partners. One firm had a maternity leave policy for associates prior to Justicia but developed one for partners and a parental leave policy for associates. One firm had a maternity and parental leave policy for associates and adopted such policy for partners.

Women Associates	Number of firms
Full-time	5
Part-time	4
Contract	1

Parental leave policy for men associates

Men Associates	Number of firms
Full-time	5
Part-time	4
Contract	1

Parental leave policy for women partners

Women Partners	Number of firms
Full-time equity partners	3
Part-time equity partners	1
Part-time income partners	1
Part-time income partners	1

Parental leave policy for men partners

Men Partners	Number of firms
Full-time equity partners	3
Part-time equity partners	1
Full-time income partners	1
Part-time income partner	1

Benefits, firm practices and impact on partnership admission – Associates' benefits

Participants were asked to describe the benefits under their maternity and parental leave policies for associates, such as length of leave and remuneration.

Responding firms differed in their maternity leave benefits for associates:

- a. four firms noted that the arrangements are ad hoc;
- b. one firm provides 17 weeks of top-up to 100% of salary;

- c. one firm provides top-up assistance for 17 weeks based on 75% of the associates' annual salary with a maximum top-up amount of \$20,000;
- d. one firm provides full pay for three months and the associate can take 12 months of leave;
- e. one firm provides 8 weeks of top-up pay if the associate has over 2 years of service;
- f. one firm provides coverage between 85 to 95% of base compensation for a 25 week period;

Three firms indicated that there is no impact on the advancement to partnership while two firms indicates that, depending on the length of the leave, it may have an impact on the timing for advancement into partnership.

Responding firms differed in their parental leave benefits for associates:

- a. three firms indicated that the parental leave eligibility is consistent with the *Employment Standards Act*;
- b. one firm provides 35 weeks with 9 weeks at 100% income provided the person has been at the firm for one year:
- c. one firm provides coverage at between 85 and 95% of base compensation for a 25 week period with no impact on advancement into partnership;
- d. one firm provides ad hoc arrangements;

One firm indicated that there may be an impact on advancement into partnership.

Benefits and firm practices – Partner

Firm benefits under maternity leave policies for partners vary greatly. For example, firms have adopted the following schemes:

- a. \$40,000 payment, spread for up to one year as determined by the partner on leave;
- b. maternity leave for up to 6 months at 60% of base draw;
- c. time off, 17 weeks draw continues;
- d. in the past partners have taken approximately 16 to 20 weeks with full draw but the policy is under review;
- e. pregnancy leave for 6 months full compensation, only once every 3 years;

- f. up to 9 months maternity leave allowed with 17 weeks full draw and notional billings attributed to period of leave;
- g. case by case.

Firms were less likely to provide benefits under parental leave policies for partners. Of the firms that do, the practices vary and include the following:

- a. case by case;
- b. no remuneration;
- c. parental leave for men at 9 weeks full compensation but only once every 3 years;
- d. time off for 35 weeks with full draw.

Parental Tool Kit

Participants were asked whether their firms have used the Justicia parental tool kit. Only 2 firms had not used it. The other firms found it somewhat (7) or very helpful (3).

FLEXIBLE WORK ARRANGEMENTS

Policies

Participating firms were asked whether they have written flexible work arrangement (FWA) policies. Four firms indicated that they have adopted written FWA policies since the beginning of Justicia, while one firm is in the process of developing a FWA policy. Five firms indicated not having a policy but providing ad hoc FWAs, while two firms do not provide FWAs. All firms that have written FWA policies or provide FWAs on an ad hoc basis do so for both men and women and for associates and partners.

FWA Guide

Seven responding firms indicated having used the FWA Guide developed in Justicia. Of those, four firms found it very helpful while three firms found it somewhat helpful.

Deloitte FWA Profitability Model

None of the responding firms indicated that they use the Deloitte FWA profitability model.

Target Hours

The firms were asked about the minimum target hours for a FWA at the firm. Five of the firms indicated that the arrangements are made on a case by case basis, while one firm indicated that they do not have minimum target hours.

The responding firms offered the following answers to the question: Do you have non billable target hours for your FWAs? Four of the firms indicated that the agreements are negotiated. Two firms said that they did not have non billable target hours, while two firms indicated that they do.

Compensation and Bonuses

Participants were asked whether the compensation for a FWA is calculated based on a percentage relative to target FWA hours compared to full-time targets.

Three of the responding firms indicated that it depends on the negotiated arrangements, while four firms answered yes.

Five firms indicated that FWA associates are eligible for bonuses while 2 firms indicated that it depends on the negotiated arrangement.

Length of FWAs

Participants were asked whether the firm limits how long a lawyer can stay on an FWA. Five firms do not limit how long an associate can stay on an FWA, while four firms do not have time

limits for income partners or equity partners. Two firms indicated that they do have time limits for associates, income partners or equity partners on FWA.

One firm commented that the FWA arrangements are reviewed every six months and another firm indicated that all FWAs are negotiated.

Partnership Eligibility

Participants were asked whether FWA associates are eligible for partnership. Four firms noted that FWA associates are eligible for partnership, while one firm noted that they try to be flexible.

The firms have approximately the following number of lawyers on FWAs.

Firm	Approximate number of FWA lawyers for firms that offer FWAs
Women associates	10
Men associates	2
Women partners (income)	2
Men partners (equity)	1

LEADERSHIP POSITIONS

The following represents the number of women lawyers in senior leadership positions:

Position	Numbers
Managing Partner	3
Chief Operating Officer or equivalent	3
Executive committee or equivalent	7
Compensation committee or equivalent	12
Partnership admission committee or equivalent	8
Associates committee or equivalent	7
Department or practice group leads	1
Director of professional development	1

JUSTICIA GUIDES

Seven firms indicated being familiar with the Law Society's Contract Registry.

Ten firms indicated that they have provided their executive committee or an equivalent committee with the *Career Advancement into Partnership: Guide for Law Firms*.

Responding firms also made the *Career Advancement into Partnership: Guide for Associates* available through the Justicia portal (5 firms) or the firm's intranet (2 firms), or by distributing the guide to all associates (7 firms), partners (6 firms), executive committee members (4 firms), articling students (2 firms), female partners (1 firm) and female associates (1 firm). Two firms indicated that the guide was very well received, with one firm indicating that the associates thought the guide was great. One firm indicated that they have recently given all associates and articling and summer students access to the Justicia portal and all the resources.

Responding firms have also made the *Guide to Developing Successful Flexible Work Arrangements* available through the Justicia portal (6 firms) or the firm's intranet (3 firms). They also distributed the guide to all associates (6 firms), partners (5 firms), articling students (3 firms), executive committee members (4 firms), female associates (1 firm) and female partners (1 firm).

Responding firms have made the *Guide to Business Development for Women Lawyers* available through the Justicia portal (6 firms) and the firm's intranet (5 firms). They also distributed the guide to all their associates (10 firms), partners (5 firms), articling students (3 firms), female associates and female partners (1 firm) and executive committee members (2 firms). One firm noted that they received good feedback from associates.

Responding firms have made the *Justicia Guide to Women's Leadership in Law Firms* available through the Justicia portal (5 firms) and through the firm's intranet (3 firms). They also distributed the guide to all their associates (5 firms), partners (4 firms), articling students (2 firms), executive committee members (3 firms), female partners and female associates (1 firm).

Since the Justicia symposium on May 28, 2014, the guides are now readily available through the [public Justicia portal](#).

Responding firms have noted that the Justicia resources are very useful. One firm noted everyone was very supportive and thought the product was excellent. One firm noted that the director of professional development found the resources helpful. Another firm indicated using the materials during focus group meetings. One firm received very positive feedback from women lawyers but also from men and women mentors. They also used the guides to have further discussions, initiatives and workshops.

**JUSTICIA IMPLEMENTATION SURVEY 2014
QUESTIONNAIRE**

Demographic Data

Name of your firm (voluntary)

Number of lawyers

Location/city of your firm (please list all that apply)

Gender Data Collection

2. Prior to Justicia, did your firm collect and maintain gender demographic data for the purpose of monitoring and tracking the retention and advancement of women lawyers in the firm?

3. If you answered "no", does your firm now collect gender demographic data as a result of Justicia?

4. If you answered "yes", did your firm review its methodology by using the gender data collection template developed in the Justicia Project?

5. Does your firm collect gender demographic data about the following? (answer all that apply)

Yes

No

**We do not
have that
position at
the firm**

Summer students

**Articling
students**

**Number of
articling students**

	Yes	No	We do not have that position at the firm
hired back as associates			
Associates			
Associate lateral hires			
Partnership admission (Income Partners)			
Partnership admission (Equity)			
Partners (Income)			
Partners (Equity)			
Partner lateral hires			
Counsel			
Maternity leaves			
Parental leaves			
Other leaves			
Senior management			
Leadership positions			
Other (e.g. contract lawyers)			

6. How often does your firm collect gender demographic data?

7. Who has access to the gender demographic data? (answer all that apply)

- Managing Partner
- Executive/management committee
- Practice group leaders
- Partners
- Associates
- Human Resources

Other (please specify)

8. Please describe how your firm uses the gender demographic data:

9. Have you seen an increase in the retention of associates or partners at your firm in the last 3 years? To what do you attribute this to?

10. Have you seen an increase in the number of women who advanced into income partnership in the last 3 years? To what do you attribute this to?

11. Have you seen an increase in the number of women who advanced into equity partnership in the last 3 years? To what do you attribute this to?

Maternity/Parental Leave Policies

12. Did your firm have the following policies prior to Justicia? (answer all that apply)

	Yes	No
Maternity leave policy for associates		
Parental leave policy for associates		
Maternity leave policy for partners		
Parental leave policy for partners		

13. If your firm had maternity/parental leave policies prior to Justicia, has your firm reviewed those policies against the templates prepared by Justicia?

14. if you answered "no", has your firm adopted maternity/parental leave policies since the launch of Justicia?

	Yes	No	Not applicable
Maternity leave policy for associates			
Maternity leave policy for partners			
Parental leave policy for associates			
Parental leave policy for partners			

15. How helpful were the maternity/parental leave policy templates prepared by Justicia?

Very helpful

Somewhat helpful

Not helpful

Not used

16. Did your firm make any changes in its maternity/parental leave policies as a result of this review?

17. Who is eligible under your maternity leave policy for associates? (answer all that apply)

	Yes	No	We do not have that position at the firm	Not applicable
Full-time women associates no matter amount of time at the firm				
Full-time women associates after				

	Yes	No	We do not have that position at the firm	Not applicable
a specified period at the firm				
Part-time women associates no matter amount of time at the firm				
Part-time women associates after a specified period at the firm				
Contract women associates no matter amount of time at the firm				
Contract women associates after a specified period at the firm				

18. Who is eligible under your maternity leave policy for partners? (answer all that apply)

	Yes	No	We do not have that position at the firm	Not applicable
Full-time women equity partners no matter amount of time at the firm				
Full-time women equity partners after a specified period at the firm				
Part-time women equity partners no matter amount of time				

	Yes	No	We do not have that position at the firm	Not applicable
at the firm				
Part-time women equity partners after a specified period at the firm				
Full-time income partners no matter amount of time at the firm				
Full-time income partners after a specified period at the firm				
Part-time income partners no matter amount of time at the firm				
Part-time income partners after a specified period at the firm				

19. Who is eligible under your parental leave policy for associates? (answer all that apply)

	Yes	No	We do not have that position at the firm	Not applicable
Full-time women associates no matter amount of time at the firm				
Full-time women associates after a specified period at the firm				
Part-time women				

	Yes	No	We do not have that position at the firm	Not applicable
associates no matter amount of time at the firm				
Part-time women associates after a specified period at the firm				
Contract women associates no matter amount of time at the firm				
Contract women associates after a specified period at the firm				
Full-time men associates no matter amount of time at the firm				
Full-time men associates after a specified period at the firm				
Part-time men associates no matter amount of time at the firm				
Part-time men associates after a specified period at the firm				
Contract men associates no matter amount of time at the				

	Yes	No	We do not have that position at the firm	Not applicable
firm				
Contract men associates after a specified period at the firm				

20. Who is eligible under your parental leave policy for partners? (answer all that apply)

	Yes	No	We do not have that position at the firm	Not applicable
Full-time women equity partners no matter amount of time at the firm				
Full-time women equity partners after a specified period at the firm				
Part-time women equity partners no matter amount of time at the firm				
Part-time women equity partners after a specified period at the firm				
Full-time women income partners no matter amount of time at the firm				
Full-time women income partners after a specified period at the firm				

	Yes	No	We do not have that position at the firm	Not applicable
Part-time women income partners no matter amount of time at the firm				
Part-time women income partners after a specified period at the firm				
Full-time men equity partners no matter amount of time at the firm				
Full-time men equity partners after a specified period at the firm				
Part-time men equity partners no matter amount of time at the firm				
Part-time men equity partners after a specified period at the firm				
Full-time men partners no matter amount of time at the firm				
Full-time men income partners after a specified period at the firm				
Part-time men income partners no matter				

	Yes	No	We do not have that position at the firm	Not applicable
amount of time at the firm				
Part-time men income partners after a specified period at the firm				

21. Please describe the benefits under your maternity policy for associates (length of leave, remuneration, impact on advancement to partnership)

22. Please describe the benefits under your parental leave policy for associates (length of leave, remuneration, impact on advancement to partnership)

23. Please describe the benefits under your maternity leave policy for partners (length of leave, remuneration)

24. Please describe the benefits under your parental leave policy for partners (length of leave, remuneration)

25. How helpful was the model parental tool kit developed by Justicia?

- Very helpful
- Somewhat helpful
- Not helpful
- Not used

26. Does your firm have a written flexible work arrangement (FWA) policy?

- No, but the firm offers FWAs on an ad hoc basis
- Yes, had one prior to Justicia
- Had one prior to Justicia but updated it as a result of Justicia
- Yes, adopted since the beginning of Justicia
- In the process of developing one

- In the process of reviewing our policy

27. Who is eligible for FWAs? (answer all that apply):

	Yes under a written policy	Yes eligible for ad hoc FWAs
Women		
Men		

28. Who is eligible for FWAs? (answer all that apply)

	Yes under a written policy	Yes under ad hoc FWAs	We do not have that position at the firm
Associates			
Partners (Income)			
Partners (Equity)			

29. How helpful was the FWA guide developed through Justicia?

- Very helpful
- Somewhat helpful
- Not helpful
- Not applicable

30. Does your firm use the Deloitte profitability model to calculate the cost of FWAs?

- Yes
- No

Comment

31. How helpful is the Deloitte profitability model to calculate the cost of FWAs?

- Very helpful
- Somewhat helpful
- Not helpful
- Not used

32. What are the minimum target hours for FWAs under either your written FWA policy or ad hoc arrangements?

33. Do you have non billable target hours for your FWAs (either under the policy or ad hoc arrangements)?

- Yes
- No
- Depends on the negotiated arrangement

If so, what is the target?

34. Do you calculate compensation for a FWA of a percentage relative to target FWA hours compared to full-time hour targets? (i.e. If full-time billable target is 1800 hours and FWA billable hours are 1200, then FWA compensation is 66% of full-time compensation)

35. Are FWA associates eligible for bonuses?

36. Does your firm limit how long an associate or partner can stay on an FWA?

	Yes	No	We do not have that position at the firm
Associates			
Partners (Income)			
Partners (Equity)			

37. If yes, what is the length of time?

If yes, what is the length of time?

Associates

Partners (Income)

Partners (Equity)

38. Are associates on FWAs eligible for partnership?

- Yes
- No
- Not applicable

Comment

39. Approximately how many lawyers are on FWAs annually?

Approximately how many

lawyers are on
FWAs annually?
Women
associates

Men associates

Women partners
(Income)

Men partners
(Income)

Women partners
(Equity)

Men partners
(Equity)

40. Please list the number of women lawyers in senior leadership positions in your firm:

Please list the
number of women
lawyers in senior
leadership
positions in your
firm: Managing
Partner

Chief Operating
Officer or
equivalent

Regional
managing partner

Executive
committee or
equivalent

Compensation
committee or
equivalent

Partnership
admission
committee or
equivalent

Associates
committee or
equivalent

Department or
practice group
leads

Others (please list)

41. Are you familiar with the Law Society of Upper Canada Contract Lawyers' Registry?

- Yes
- No

If so, has your firm used any lawyers from the Registry and what was your experience?

42. Has the Justicia guide "Career Advancement into Partnership : Guide for Law Firms" been provided to your executive committee or equivalent committee?

- Yes
- No

If yes, what is the feedback, if any?

43. Please indicate who has received the Justicia guide "Career Advancement into Partnership : Guide for Associates" (answer all that apply)

- All summer students
- All articling students
- All associates
- All partners
- All female summer students
- All female articling students
- All female associates
- All female partners
- The executive committee members
- It is available through intranet
- It is available through the Justicia portal

If yes, what is the feedback, if any?

44. Please indicate who has received the "Guide to Developing Successful Flexible Work Arrangements" (answer all that apply)

- All summer students
- All articling students
- All associates

- All partners
- All female summer students
- All female articling students
- All female associates
- All female partners
- The executive committee members
- It is available through intranet
- It is available through the Justicia portal

Other (please specify)

45. Please indicate who has received the "Guide to Business Development for Women Lawyers" in your firm (answer all that apply)

- All summer students
- All articling students
- All associates
- All partners
- All female summer students
- All female articling students
- All female associates
- All female partners
- The executive committee members
- It is available through intranet
- It is available through the Justicia portal

Other (please specify)

46. Please indicate who has received the "Justicia Guide to Women's Leadership in Law Firms" in your firm (answer all that apply)

- All summer students
- All articling students
- All associates
- All partners

- All female summer students
- All female articling students
- All female associates
- All female partners
- The executive committee members
- It is available through intranet
- It is available through the Justicia portal

Other (please specify)

47. Do the lawyers in your firm find the Justicia resources useful? Please explain.

48. Are the Justicia resources provided to new law students, articling students and lawyers when they join the firms? (answer all that apply)

- All new law students
- All new articling students
- All new lawyers
- All new female law students
- All new female articling students
- All new female lawyers
- Available on the firm's intranet
- Available through Justicia portal
- Not provided

If not provided, please explain reason

49. Please provide further comments that may be of assistance.