

March 13, 2015

Via Email

Josée Bouchard, Director, Equity
The Law Society of Upper Canada
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Dear Mr. Bouchard,

Re: Comments on the Law Society of Upper Canada Developing Strategies for Change: Addressing Challenges Faced by Racialized Licensees Consultation Paper

Association of Law Officers of the Crown (ALOC) welcomes the opportunity to provide comments on the Law Society of Upper Canada Developing Strategies for Change: Addressing Challenges Faced by Racialized Licensees consultation paper.

ALOC represents lawyers and articling students employed by the government of Ontario, with the exception of lawyers in the Criminal Law Division, who are represented by the Ontario Crown Attorney's Association (OCAA). ALOC's members are employed in legal service branches across government as well as in various agencies, boards and commissions. ALOC is involved in a range of activities of interest to its members including collective bargaining to negotiate the terms of our Collective Agreement, advocating on behalf of our members and organizing education and training sessions. As a labour organization our mission is defending independence, defining professionalism and empowering Crown Counsel.

ALOC's comments with respect to Developing Strategies for Change: Addressing Challenges Faced by Racialized Licensees consultation paper was prepared by an informal survey that was distributed to ALOC members to canvass their experiences as public sector government lawyers or articling students working for the government. ALOC structured the survey questions based on the consultation paper findings. We were interested in finding if our members shared similar experiences to their private sector colleagues in the legal profession.

Our survey received 95 responses to which 87 percent of respondents were in counsel positions and the remainder of the respondents were articling students. In our survey, 52% of the respondents identified as non-racialized, 39% identified as racialized and 9 % of respondents were unsure how to identify.

Discrimination and stereotyping

ALOC members shared their experiences with overt and systematic discrimination. When asked if they have experienced discrimination at work 40% of respondents said yes. Most of the respondents indicated they have experienced some form of discrimination while working for private firms before working for the government. Most respondents of the survey expressed they have experienced discrimination from colleagues, management and clients. Some respondents indicated they felt this had an impact on their job security, case files or work assignment, and their work environment. Further, a number of respondents stated they decided to find employment in the public sector since they perceive it to be more diverse than the private sector. Further, a number of respondents expressed they were satisfied with the switch to the public sector because they felt their work environment was more inclusive and fair.

Over the years ALOC membership demographics have changed reflecting a more diverse workforce. Despite this change there seemed to be a common concern that racialized people are underrepresented in government. Notwithstanding this concern 40 % of our survey respondents felt that racialized persons were expected to perform to a higher standard of work than others in the legal profession. Again, majority believed this was based off of general assumptions their colleagues or clients had in the private sector.

An overwhelming majority of respondents felt that racialized persons face barriers entering into practice or through career advancement. Many respondents shared when they spoke with their racialized peers from law school their colleagues found it difficult to obtain articling positions or employment shortly after their call. Most respondents shared they have not experienced these difficulties in government and contribute it to the appropriate tools being in place to support racialized licensees. Although they consider the supports to be in place they also highlighted although to a lesser extent than the private sector there are still barriers present in the public sector which are identified later in this report.

Mentorship and Networking Opportunities

The Ministry of Attorney General (MAG) has mentorship programs including diversity mentorship programs for ALOC members. Respondents indicated they felt mentorship programs were helpful and have had positive experiences from these programs. ALOC's findings differ from the consultation paper as it is expressed in the report that racialized licensees lack mentorship.

The majority of our members who responded to the survey expressed they were aware of mentorship programs provided by MAG and found them to be easily accessible. Further, senior counsel expressed their willingness to provide mentoring to junior lawyers. Similar to the consultation paper findings they believe there is a lot to gain in the legal profession with these programs in place.

The consultation paper highlighted professional networks as a significant career advantage. ALOC members expressed they believed networking may be helpful if they need assistance or advice on their files but, networking is not considered a resourceful tool for advancement in government since advancement is based off of a performance system.

Entry into the Profession and Career Advancement

The consultation paper expressed there were key differences between racialized and non-racialized licensees pertaining to entry into the profession and career advancement. Our survey produced different results. When asked if our members found suitable articling positions 99% of respondents indicated they did and when asked if they were able to find a suitable job shortly after being licensed 86% of the respondents answered yes.

Similar to the consultation paper findings racialized lawyers have expressed their racial identity has been a barrier during their career. Our survey listed a number of factors including but not limited to race, gender identity, sexual orientation, and time off work to care for children that could be considered barriers to lawyers in their careers. 37% of respondents selected ethnicity/ race and time off work to care for children were challenges or barriers in their careers. Following these barriers were gender identity, age and physical appearance. Further, as a result of the above barriers a majority of the respondents expressed these challenges influenced their choice to initially work for the government or make a career move into government. The majority who chose to work for the government explained it is "more diverse friendly" compared to the private sector and is accommodating or flexible to religious obligations and childcare needs. Most of the respondents

shared the common view that they have seen improvements within the government over the years in regards to fairer employment practices. Some of the practices included better accommodations or flexibility to diminish these barriers.

How should the LSUC act as a catalyst for the establishment of diversity programs within the legal profession?

- 45 % of respondents to ALOC's survey believed the diversity project was a preferred method to how the LSUC can play a role. Some highlighted the importance of adding an inclusive component to the project.
- ALOC's survey indicated that 36% of respondents think the LSUC can act as a catalyst through the self-assessment option. Some respondents believe based on the results produced by the self-assessment option it can provide valuable guidance to the LSUC and the potential role they will have in establishing these programs.
- 40% of respondents chose the option to require standards and emphasized resources and training for people who make hiring decisions.
- 17% of respondents felt the LSUC should not have a role in establishing diversity programs and 8 % selected other as an option.

In the feedback provided by members some articulated race is not a separate issue therefore the LSUC should use an intersectional approach to include other barriers such as gender and age. Recommendations to this approach included ensuring and enforcing inclusive policies and reviewing hiring and promotion decisions. Further, a number of respondents indicated that LSUC fees should be reduced or a relief should be provided to individuals in need as this can act as a barrier to entering and having a career within the legal profession.

How could the Law Society enhance the profession's cultural competence through its continuing professional development (CPD) programs?

- ALOC's survey results found 47 % of respondents believe the LSUC could enhance cultural competence by including the topics of cultural competence, diversity and inclusion in the Professional Responsibility and Practice (PRP) Course.

- 45% of respondents felt that the LSUC require that licensees complete annually, or less frequently, one hour of cultural competence CPD that would count as part of the three required hours of professionalism.
- 30 % of respondents selected the option to provide annual voluntary accredited CPD Programs on cultural competence. Some members shared the view that there should not be a voluntary option to learn about cultural competence instead they thought it ought to be a mandatory requirement in CPD.

ALOC's survey provided for members to offer comments and a majority shared in their remarks the legal profession is underrepresented by racialized licensees. Some shared the belief that the legal profession will not become more inclusive or diverse friendly until the demographics change.

Another option some respondents thought might aid in culture competence is by involving racialized licensees and listening to their concerns and experiences as this may provide better opportunities to create change in the legal profession. In addition, some members who responded to the survey believe the LSUC should reach out to other diversity associations to create networking events and educational events and advertise these events to non- racialized licensees which might help to foster more inclusive networks in the legal profession.

In conclusion, based on ALOC's survey results the public sector seems to be a more inclusive and diverse workplace then the private sector. With that being said ALOC members who responded to the survey have suggested there is room for improvement within their workplace, the common view being racialized licensees are underrepresented in government. This was the main concern shared but respondents also expressed common concerns with promoting a more inclusive and equal legal profession specifically in the private sector. ALOC hopes our members' comments and suggestions will be helpful to the LSUC in prompting a diverse, inclusive and free of discrimination legal profession. Thank you again for the opportunity to provide comments on this important issue.

Sincerely,



Lisa Cianciulli, Labour Relations Officer

