



Dialogue on Licensing

Dialogue sur l'accès
à la profession

Topic 1: The Need For Change

Discussion Group Summary Report

Prepared by Facilitator, Janet Pierce, MBA, FCPA, FCMA, CMC

Dialogue on Licensing

What: Comprehensive analysis of the lawyer licensing process

Goal: To formulate long-term recommendations for an appropriate and sustainable licensing system for lawyers

When: Spring 2017

Where: Held in seven cities across Ontario

Purpose of the Dialogue on Licensing: To engage directly with the legal profession and other stakeholders (lead by a professional facilitator who is not a lawyer and has no vested interest in the outcome).

Reference Materials: To facilitate a more robust and fact-based dialogue, reference materials were provided on a microsite, accessible to the profession and other stakeholders: <https://lsucdialogue.ca/>

Topics: The four topics of discussion for the Dialogue on Licensing are

Topic 1: The Need For Change

Topic 2: Market Dynamics and the Lawyer Profession

Topic 3: Licensing Examinations: Assessment of Entry-level Competence (webcast)

Topic 4: Transitional Training

Topic 1 Discussion Groups: Five, two-hour discussion groups about The Need For Change were held in April

1. April 19 in Hamilton
2. April 19 in London
3. April 20 in Toronto
4. April 24 in Sudbury
5. April 27 in Ottawa

Objectives for discussion about Topic 1: The Need For Change

- To gain a better understanding of the challenges in lawyer licensing in the public interest
- To review the components of the continuum of legal learning
- To discuss the need for change
- To discuss realistic opportunities for change leading to a fair, valid, and sustainable licensing process.

Registrations and Attendance by Discussion Group Location

Discussion Group	Registered	Walked-In	No Show	Attended	Attended versus Registered
Hamilton	24	14	5	33	+ 9 (138%)
London	25	3	9	19	- 6 (76%)
Toronto	117	8	73	52	- 65 (44%)
Sudbury	21	1	6	16	- 5 (76%)
Ottawa	44	2	27	19	- 25 (43%)
Total	231	28	120	139 ¹	- 92 (60%)

¹ Sum of participants at the discussion groups, including the attendance of two lawyers who attended three of the five discussion groups.

Discussion Group Participants

135² individuals attended one or more of the five discussion groups.

- 114 lawyers (84%)
- 1 paralegal (1%)
- 7 neither a lawyer or a paralegal (5%)
- 11 licensing candidates (8%)
- 1 law student (1%)
- 1 law clerk (1%)

Organizations and Associations Represented at Discussion Groups

Of those who participated in a discussion group, 27 indicated that they were representing one of the following 19 organizations and associations:

- A2Justice (A2J) (2)
- Association des juristes d'expression française de l'Ontario (AJEFO) (4)
- Canadian Corporate Counsel Association (CCCA) (2)
- County of Carleton Law Association (CCLA) (3)
- Criminal Lawyers Association
- Equity Advisory Group
- Federation of Ontario Law Associations; Temiskaming Law Association
- LPP Candidates Association
- Ministry of the Attorney General of Ontario
- Neighbourhood Legal Services London & Middlesex
- Ontario Bar Association
- President, Middlesex Law Association
- Ryerson Law Practice Program
- South Asian Bar Association of Toronto
- Sudbury District Law Association

² Number of *unique* participants at the discussion groups; two lawyers attended three of the five discussion groups.

- The Advocates' Society (2)
- Toronto Lawyers Association (2)
- University of Ottawa, Faculty of Law, Civil Law Section
- University of Toronto Faculty of Law

Discussion Group Participants by License Date

Time-frame	Participants (%)
Licensed pre-1990	24 (18%)
Licensed 1990-1999	22 (16%)
Licensed 2000-2009	20 (15%)
Licensed 2010-2017	48 (36%)
Not licensed	20 (15%)
Total	134³ (100%)

³ License date for one (1) participant is unknown

Discussion Group Participants by Work Setting

Work Setting	Participants (%)
Medium law firm (6 – 199 lawyers)	33 (27%)
Sole practice	23 (19%)
Small law firm (2- 5 lawyers)	18 (15%)
In-house counsel for a private corporation	10 (8%)
Large law firm (200+ lawyers)	9 (7%)
Education	9 (7%)
Legal clinic	6 (5%)
Other	6 (5%)
Government or public agency	5 (4%)
Non-governmental organization (NGO)	4 (3%)
Crown's office	1 (<1%)
Tribunal	0
Total	124 ⁴ (100%)

⁴ Work setting for 11 participants is unknown.

Discussion Group Participants by Region

Region	Participants (%)
<i>Toronto (GTA)</i>	50 (40%)
<i>Central South</i> , including Waterloo (Kitchener), Burlington/Hamilton (Hamilton), Lincoln/Niagara North (St. Catharines), Welland (Welland), Brant (Brantford), Norfolk (Simcoe), Haldimand (Cayuga)	26 (21%)
<i>Southwest</i> , including Huron (Goderich), Perth (Stratford), Oxford (Woodstock), Middlesex (London), Lambton (Sarnia), Elgin (St. Thomas), Kent (Chatham), Essex (Windsor)	17 (13%)
<i>East</i> , including Prescott/Russell (L'Orignal/Hawkesbury), Ottawa-Carleton (Ottawa), Renfrew (Pembroke), Stormont/Dundas/Glengarry (Cornwall), Lanark (Perth), Lennox & Addington (Napanee), Frontenac (Kingston), Leeds & Grenville (Brockville), Hastings (Belleville)	16 (13%)
<i>Northeast</i> , including Cochrane (Timmins), Algoma (Sault Ste. Marie), Sudbury (Sudbury), Temiskaming (Haileybury), Nipissing (North Bay), Parry Sound (Parry Sound)	14 (11%)
<i>Central West</i> , including Bruce (Walkerton), Grey (Owen Sound), Dufferin (Orangeville), Wellington (Guelph), Peel (Brampton), Halton (Milton)	3 (2%)
<i>Central East</i> , including Muskoka (Bracebridge), Victoria & Haliburton (Lindsay), Simcoe (Barrie), Durham (Whitby), Peterborough (Peterborough), Northumberland (Cobourg)	0
<i>Northwest</i> , including Kenora (Kenora), Thunder Bay (Thunder Bay), Rainy River (Fort Frances)	0
Total	126 ⁵ (100%)

⁵ Region information for 9 participants is unknown.

Discussion Group Polling⁶

Three polls were conducted at each discussion group; below are the questions and the results.

Question 1: Why did you join the Dialogue on Licensing?

- A. Learn more about the licensing process – 46%
- B. Hear views of my colleagues about the licensing process - 29%
- C. Share my own views about the licensing process – 13%
- D. I have questions about licensing before I provide my input – 13%

Question 2: What component of legal learning, if changed, would have the most positive impact on assuring entry-level competence of lawyers?

- A. Law school education model – 40%
- B. Internationally trained entrants assessment model – 8%
- C. Barrister and solicitor licensing examinations –12%
- D. Transitional training – articling program, LPP or exemptions/abridgements – 39%

Question 3: If you believe that the licensing process requires change, which component do you think should be modified?⁷

- A. Licensing examinations – 32%
- B. Articling program – 24%
- C. Law practice program – 15%
- D. Transitional training as a whole (both the articling and the law practice programs) – 26%
- E. None – 4%

⁶ as the percentages provided for these results are whole numbers, the sum of these may be slightly greater than or less than 100%.

⁷ This poll was modified after Hamilton and London discussion groups to include option “D”; results for this poll reflect a weighted average percentage of responses for each option, across all discussion groups.

Topic 1: The Need For Change

Dialogue Themes

Theme	Positive/Observation	Critique/Questions	Recommendations
Law School	A law degree is useful even if you don't become a lawyer—should not limit enrolment	Too expensive; law schools making money on the back of the lawyer profession	Limit enrolment in law schools
	Clinics are a good opportunity to obtain experience	Clinics are not a requirement; not all students participate	Articling / legal job bottleneck should be addressed before entry to law school
		Too long	Reduce law school from 4 to 3 years
		Canadian law schools are a barrier to access to justice—7-8 years and high cost	Law students should be told what to expect for articling (8-10 month interview)
			Add a year to law school to incorporate the LPP for all students
	Law schools must be allowed academic freedom; Law schools should not be a vehicle for supporting the licensing process	Insufficient practical law training; too academic	Increase integration of training with law school; Law Society should not lead this effort

Theme	Positive/Observation	Critique/Questions	Recommendations
	Lakehead's Integrated Practice Curriculum (IPC) is a good model; actively seeks out placements in the north; full exposure to general practice; more opportunities to get work after law school than articling colleagues	Lakehead unpaid experience competes with LPP	More schools should adopt the Lakehead IPC model
National Committee on Accreditation (NCA) & Internationally Trained Lawyers/ Law Students		Foreign trained lawyers failing in large proportions	Need to look at how other regulated professions handle internationally trained applicants
		NCA process demonstrates lack of transparency	
		Difficult for law firms hiring candidates to assess/interpret grades of foreign trained students	
		NCA is a black box; more transparency requested	
	NCA test is better than Barrister Exam	Unnecessary overlap between US law school and NCA exams	
		What is the Law Society doing to ensure students attending non-Canadian universities are meeting requirements for licensure?	

Theme	Positive/Observation	Critique/Questions	Recommendations
Licensing Process—Barrister and Solicitor Exams	Examinations are used in all professions to distinguish competent from incompetent candidates and are an important component of licensing	Exams do not adequately assess entry level competence	
		Multiple choice exams insufficient to evaluate competency	Some US states have both multiple choice questions and written components
		NCA candidates at disadvantage on exams as they don't know the inside track (indexes, friends to study with)	
		7 hour exam too long; a stress test	Suggest 3-4 shorter exams with different focus including practical
		Exams do not assess practical skills; did not prepare candidates for practical elements of legal practice	
		Open book exams are an exercise in indexing and how fast you can look answers up	
		Exams are obstacles for French writers as they are authored in English and translated into French; failure rate in French is higher	French exams should be authored in French or candidates given longer to write as the exams are longer when translated
		Require more transparency regarding pass/fail rate; more transparency overall	

Theme	Positive/Observation	Critique/Questions	Recommendations
		Nothing concrete to show for all of your work—should have material that can be used in practice (like bar ads and the Law Practice Program (LPP))	
Transitional Training—General	Mentorship is an important component of any transitional training	Law Society overly focused on academics rather than enhancing job performance of new lawyers	Should be one universal way to train lawyers, not multiple (LPP/articling/law school)
	Practical experience must be maintained as part of the licensing process	Ranking of importance of relevant learning: clinics, LPP, law school	
	Although candidates cannot appear in court as barristers, candidates can help lawyers prepare/review documents for courts	Under family law, candidates can't appear in family court; this is a disincentive for family lawyers to hire articling candidates and is a disincentive for candidates to article in family law	Law Society should work with courts to see how they can support the training of new lawyers.
		Candidates need training/support dealing with clients, mental health issues; practice management (I was not audited for 7 years)	

Theme	Positive/Observation	Critique/Questions	Recommendations
	<p>After graduating from LPP, started my own practice but rely heavily on my mentors</p>	<p>Alarming (and risky) to allow lawyers new to the bar to open their own legal practice before sufficient experience. Does not serve public; lack of jobs means more new lawyers become sole practitioners often practising in areas where they had limited exposure, such as real estate</p>	<p>Consider graduated licensing and do not allow new lawyers to open new practice right away</p>
		<p>Students have restricted rights of appearance which is limiting their experiential training, for example, candidates cannot go to Landlord/Tenant Board or appear in Unified Family Court</p>	
		<p>Candidates or law students should be taught money management, training for dealing with clients with mental health issues and domestic violence issues</p>	
Transitional Training—Articling	<p>Articling is valuable, the traditional path, and should not be abandoned</p>	<p>Inconsistency in quality & breadth of experience in articling positions</p>	<p>Articling should not be replaced</p>
	<p>Better able to assess character with articling</p>	<p>10 month process should be more structured</p>	<p>Profession needs to support articling better (approving / supervising articling)</p>

Theme	Positive/Observation	Critique/Questions	Recommendations
	Be patient if you can't find an articling position	Insufficient articling positions	Bottleneck should be addressed before entry to law school
	Lawyering comes from the practice of law and not law school	Some candidates view articling as doing one's time (research, photocopying); others say it has deteriorated over the years	Articling positions must be high quality, skills and profession-focused opportunity
	Law Society has implemented controls to articling	For in-house articles, more than 50% of items on the principal's report would be marked as N/A; does not involve the candidates	Law Society needs to provide more oversight to articling (re: process, quality and paying candidates; unpaid articling should not be allowed)
	Preferable to LPP	In the north, it is difficult to recruit articling candidates and retain them once they become lawyers;	Activate interest in becoming a lawyer in the north (lifestyle)
		Cities outside of Toronto (London/Hamilton) compete with Toronto for articling candidates	Law Society should provide incentives for candidates to accept articling positions outside of Toronto
	I was happy to have an unpaid articling position; my alternative was to wait tables	Unfair that candidates have to accept unpaid or low paying articling positions to get experience	Law Society should provide incentives to smaller firms and sole practitioners to offer articling positions (subsidies)
		Articling system does not work for the in-house lawyer community	

Theme	Positive/Observation	Critique/Questions	Recommendations
		Hard for small firms to give broad experience to articling candidates or offer consistent training	
		Inherent bias in articling and is no longer a good system; it is a silo	
		Articling is no longer for general practitioners—firms offer articles in specialties	
Transitional Training—LPP	Several candidates indicate that the LPP program is fantastic—practical education + experience (draft docs, estates, trusts, contracts; speak; cross-examine; court appearances, etc.); like bar ads back in the day	Many (majority) of LPP candidates are racialized. There should be more open-mindedness about foreign candidates; Perhaps time will eliminate stigma against foreign trained candidates	Integrate LPP education into the licensure process for all candidates with articling
		Unfair to paint all internationally trained lawyers as being unqualified when only top tier students in UK enter law	
	Mentorship is an important element of LPP	High cost of the LPP; Articling candidates should not have to subsidize the LPP	Encourage everyone to be an LPP mentor

Theme	Positive/Observation	Critique/Questions	Recommendations
		4 months is insufficient amount of experience; lawyers were not vested in LPP candidate because of her short tenure	Extend the experience component of the LPP (6 months?)
	LPP teaches candidates how to set up a firm (project)		
	Can help candidates get licensed when they can't get articling positions		If articling was only 6 months, there would be twice as many articling positions
	The sustainability of the LPP must be discussed	There is a stigma attached to the LPP—leads to reduced job prospects	Educate the profession on LPP to reduce stigma
	LPP is flexible; combination of in person/on line learning; well-spaced; geographically inclusive; 7 areas of law	LPP may be disincentive for lawyers to move away from GTA as program is Toronto based	
	Great facilities at Ryerson	Why did Ryerson get the contract for the LPP when they don't have a law school?	
	LPP may be step in right direction as there is more control over content		LPP should not be replaced
	Hired 2 LPP candidates each year and they went on to practise		

Theme	Positive/Observation	Critique/Questions	Recommendations
Cost to Become a Lawyer		Candidates are admitted to the bar with high levels of debt	Provide relief to candidates who have debt and may not be able to get high paying Toronto position
Market Demand for Lawyers	The process is cyclical—same thing happened 36 years ago	Too many lawyers (1.6 lawyers to 1 position)	Law students should be told that there is a limit to the number of jobs available
		Are there too many lawyers than the public requires or are there insufficient articling positions leaving unmet legal needs for public?	
		Why does the Law Society care that there are insufficient articling opportunities? This is not the mandate of licensing	
		Insufficient lawyers focused on legal services / family law; litigants in family law are increasingly self-represented (65%?) and not versed in the law anyway	
Legal Profession Undergoing Change	Law profession has changed such that firms offer specialties	Articling has not kept up with this trend.	
	There is a need for diversity in the profession.	Bay St. firms are not well represented from racialized groups.	

Theme	Positive/Observation	Critique/Questions	Recommendations
Licensing Processes of Other Jurisdictions and Professions	In UK candidates must do 10 month legal practice course; 5 year supervised practice requirement; minimum salaries are set for UK trainees		Consider UK training contracts model
			Consider BC process of transitional training
			Consider Australian process where everyone (no stigma) takes something like the LPP (6 month program); articling is not mandatory, but it must be paid and it ensures consistency
			Consider teaching profession's model of restricting admission to teaching programs
Licensing Processes from Past	Learned from being in court, watching other lawyers LPP is like the bar ads back in the day.	Barrister and Solicitor Exams do not measure up to the bar ads from years ago.	
	Bar ads were great—2 week, great materials (used in career); write exam; results very transparent (written on bulletin board); 8 exams over 4 months; 16 months before you could practice; felt competent when leaving bar ads	People were unhappy back in our day too; timing of bar ads meant you couldn't work at same time; we were poor.	Why can't we return to the old system?

Theme	Positive/Observation	Critique/Questions	Recommendations
Dialogue on Licensing	Believes Law Society initiated the DOL because there are a shortage of jobs	Law Society wants to limit lawyers entering the profession due to insufficient articling positions	Law Society should determine what they want to do <u>then</u> share this with the membership
	DOL motivated by insufficient articling positions and lack of positions available post-licensing	Is Law Society willing to consider quotas on foreign students to help Canadian candidates obtain opportunities?	
		How do we ensure everyone entering the profession is capable of serving the public?	Licensing process must be founded on entry-level competence.
		Law Society wants consistency in licensing lawyers but right now there is no consistency in law schools, exams (NCA vs. Barrister/Solicitor exams), experience (LPP/IPC/articling)	
			Better succession planning due to greying of bar; licensing process must fill competency gaps due to retiring lawyers

End of Document