

Innovating Regulation

A Collaboration of the Prairie Law Societies



Consultation Report | September 2016

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Introduction

From May to June 2016, the law societies of Alberta, Saskatchewan and Manitoba (the “Prairie Law Societies”) collaborated to consult with lawyers in those jurisdictions on entity and compliance-based regulation. The prairie collaboration enables each law society to benefit from the knowledge and experiences of each partner law society.

This report provides a summary of the consultation.

Our joint consultation provided an opportunity for two-way dialogue – to educate, as well as to gather information to help identify challenges, mitigate risks and make informed decisions about the future regulation of the legal profession.

This was the first consultation of this nature, with a range of online and face-to-face consultation tools used in order to compare effectiveness that will inform future consultation efforts:

- A discussion paper and abstract was published to our website to focus thinking and debate.
- A consultation hub – www.lawsocietylistens.ca – was created to inform and encourage engagement and to serve as a base for all our consultation materials including:
 - Document library of resource materials
 - Videos
 - Moderated discussion forum
 - Consultation questions
 - Calendar of key dates
 - Event registration
 - Paper responses
 - Detailed analytics
- Face-to-face consultations were held with the legal profession to educate stakeholders about the issues, initiate discussion and solicit input, including:
 - Six Alberta Town Halls
 - Three Manitoba presentations
 - One Saskatchewan panel discussion
- Webinars (one in each province) were coordinated to extend the reach of our face-to-face meetings, offering an opportunity for live, online participation as well as for viewing the recorded webinar.

In reviewing the following analysis, it should be taken into consideration that the number of lawyers who participated in our consultation is too small a sample to be considered statistically representative. Given that this consultation is the first time the Prairie Law Societies have called for input on this scale from our lawyers, the level of engagement was conservative, yet promising.

Consultation Summary

Consultation as a means of building an effective relationship with our stakeholders is characterized by sharing of information, transparency, trust and a balance of power. Given this was our first foray into consultation with the profession, we anticipated a sense of skepticism and that initial engagement would be relatively small. However, this is a long game. The Prairie Law Societies are committed to a long-term engagement with the profession that evolves over time.

We embraced a spirit of experimentation with consultation strategies to determine which are most effective. We will strive to continuously improve our consultation efforts.

General

- Lawyers seemed to appreciate efforts made by the Prairie Law Societies to consult with them as part of improving the relationship with lawyers.
- While some were initially skeptical about the motivators for the consultation, lawyers appreciated the opportunity to provide input.
- Some lawyers indicated they would like the dialogue to continue before any decisions are made.
- Lawyers may have viewed the consultation as too conceptual and may be more comfortable providing input on specific issues and details.

Entity Regulation

- A majority of lawyers agreed that workplace culture and client demands have some influence on the way they practise.
- When asked what entities should be regulated by the Law Society, a majority (72%) of lawyers on the consultation hub selected all of the entities choices provided.
- Lawyers agreed with the need for the regulator to improve lawyer competency and avoid claims/complaints and want the law societies to use a risk-based strategic approach.
- Lawyers strongly suggested that regulation should be proportionate and scalable. (Specific concerns were raised about duplication of regulation for sole and small practitioners).
- Lawyers raised concerns whether entity regulation is necessary to achieve the goals of this project and, if so, if it requires legislative changes.
- Concerns were raised about entity regulation enabling alternative business structures.

Compliance-Based Regulation

- Over half (51.5%) of lawyers on the consultation hub either agreed or strongly agreed that management principles would improve customer service.
- When asked if management principles should vary for sole practitioners, there was a fairly even divide amongst lawyers on the consultation hub. Most of those who answered 'yes' were sole practitioners (81%) citing an extra layer of regulation, scalability and resourcing concerns.
- A majority (57%) of lawyers on the consultation hub rejected both the equity and diversity and access to justice management principles.

- Lawyers agreed it would be beneficial to receive helpful resources from the Law Society to improve competency and avoid claims/complaints.
- The benefits of compliance-based entity regulation to the profession and public should form the basis of future communication and be supported by facts.

Consultation Strategies

- Lawyers generally appreciated the range of options to provide their input including face-to-face consultation sessions, the consultation hub and webinars.
- Lawyers engaged with the consultation hub by reading information, watching videos and downloading resources. However, analytics indicate they did not necessarily use the website to provide their input. We can only speculate as to the reasons why:
 - a. Members of the profession are not used to being asked by the regulator for their input on major issues and have a lack of familiarity with consultation.
 - b. The consultation hub content was divided into separate sections, making it difficult to find all the consultation questions.
 - c. Consultation questions not being specific enough, as indicated by the large number of neutral responses on the consultation hub.
 - d. Members of the profession did not feel strongly enough about the issues to voice their opinions.

Detailed Analysis

Consultation Hub

During the two-month consultation period, we had **1,810** total website views on www.lawsocietylistens.ca. Over **1,100** unique visitors viewed the *Starting the Dialogue* information page featuring a document library, which included our discussion paper and abstract, Town Hall registration and President/Executive Director videos. In addition, **736** visitors visited multiple pages on the site.

Over **1,000** website visitors interacted with the consultation hub by viewing a video, downloading a document, visiting multiple pages and/or answering consultation questions.

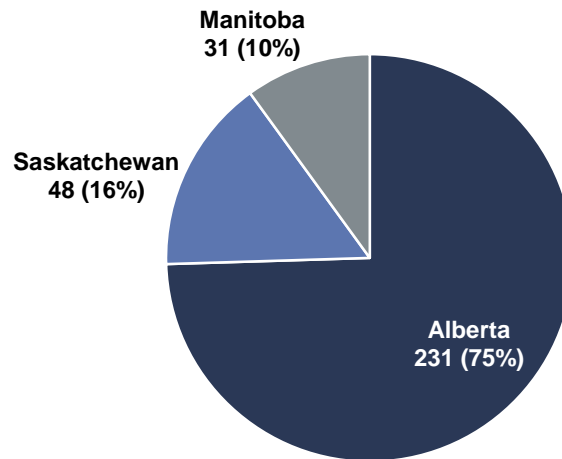
The five videos featured on our consultation hub received **410** views. The Innovating Regulation Discussion Paper and Abstract were downloaded over **200** times. The FAQ section had **283** views and **143** lawyers pre-registered for Alberta Town Halls through our consultation website.

While the above data indicates many lawyers accessed our website to inform themselves on the consultation, the response rate to our consultation questions was significantly less. Consultation question participation varied from **15 – 54** responses per question. The public discussion forum on alternative business structures (ABS) drew **23** contributors.

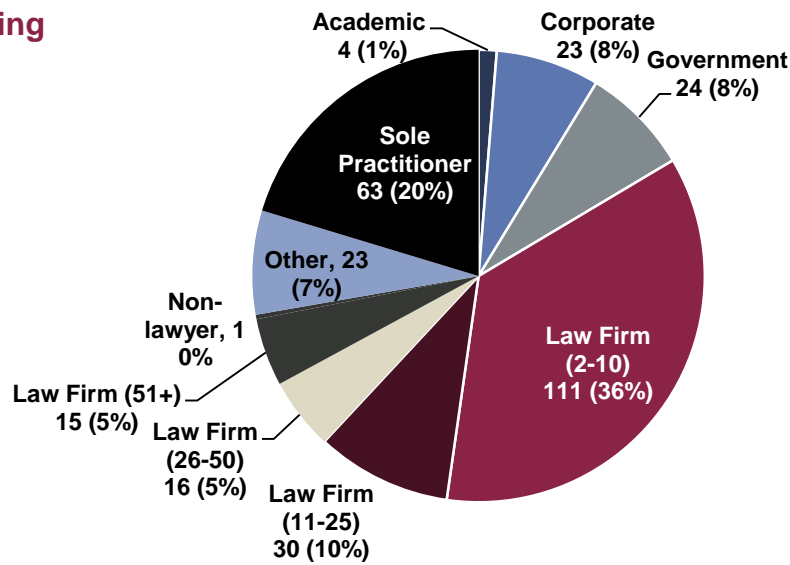
We had **309** registered users on the consultation hub, with all but two identifying as lawyers. As a result, we will be referring to respondents as “lawyers” throughout this report.

Consultation Hub Registrant Demographics

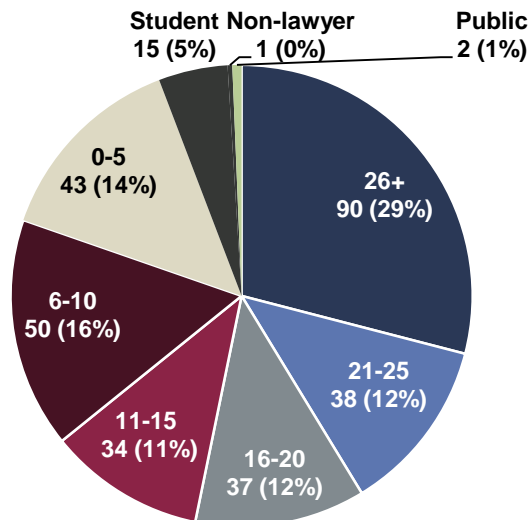
Province



Practice Setting



Years Practising



Observations

The consultation hub was set up to receive visitors from Alberta, Saskatchewan and Manitoba. Alberta has 9,575 active and 2,165 inactive lawyers, Saskatchewan has 1,905 active and 503 inactive lawyers and Manitoba has 2,064 active and 2,346 inactive lawyers, for a total of 18,557 active and inactive lawyers in the three provinces. Participation on the consultation hub was open to any lawyer, regardless of practicing status, as well as other members of the legal community and the public.

The majority of lawyers who registered for the consultation hub were from Alberta. This might be attributed to Alberta having more lawyers than the other provinces and registrations for the Alberta Town Halls being submitted through the website.

A large portion of lawyers who registered for the consultation website have been practising for over 26 years (29%), followed by those with 6-10 years practising experience (16%). This observation suggests the online consultation strategy was not a barrier to participation for specific age demographics. The practice experience for the remainder of lawyers who used the consultation hub varied and was comparatively balanced.

Notably, lawyers from small firm or sole practitioner settings accounted for over half of consultation registrants. Corporate and government lawyers collectively made up 16% of registered lawyers.

Consultation Questions

1. How does the culture of your workplace influence the way you practice?

(51 respondents)

A large contingent of lawyers (88%) agreed the culture of their workplace influences their practice. They cited ethics and practice skills, client needs and quality of service, productivity and hours and billing practices as areas where they are influenced by their workplace culture. In contrast, some sole practitioners indicated they are in control of their workplace culture and, as a result, influence their own practice.

“The culture of the workplace is a significant influence on practice in terms of what the relationship is with clients and other law firms as well as understanding and incorporating best practice in terms of ethical and effective practice”

“As a young lawyer, I follow what the more experienced lawyers do or recommend. If that’s how they practice, I’m more likely to mimic it because I assume it’s correct.”

“Subtle pressure to meeting billing targets causes increased workloads. It would be easier to do great work if the workload was lighter.”

2. How do client demands influence the way you practise? (51 respondents)

A large majority of lawyers (92%) agreed client demands have some degree of influence on the way they practise. The predominant comment from nearly half of the lawyers surveyed referenced pressure from clients to complete work in increasingly shorter periods of time. Lawyers volunteered that they addressed this time pressure by: managing expectations upfront, constant communication with clients, prioritizing files, and choosing clients more carefully. However, some lawyers also admitted quality of legal services can be negatively impacted by the time crunch.

It is interesting to note that many lawyers stated that pervasive electronic communication (email, text messaging, etc.) creates an expectation of immediate response. Further they stated that availability to clients takes up an increasing amount of lawyers’ time and has an adverse impact on work-life balance. Other common client demands cited by lawyers included lower fees, inquiries on a broad range of practice areas and unethical requests.

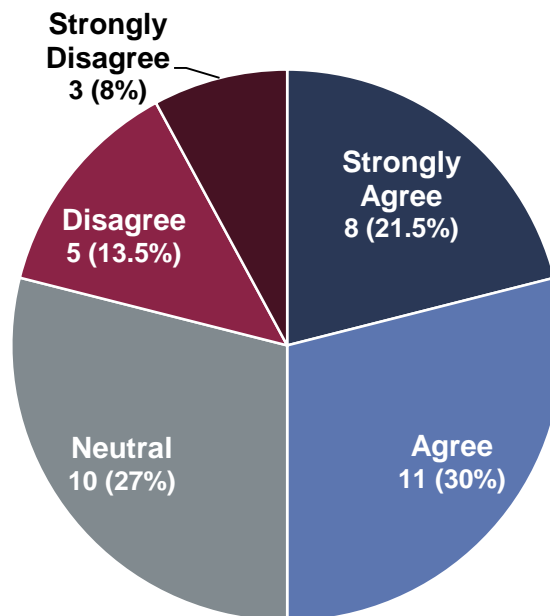
“Clients can put pressure – particularly time pressure – on decisions and actions. This results in things sometimes not being as carefully considered as they ought to be.”

“Clients expect fast work, excellent work and affordable pricing. Any two of those three goals are normally possible and that needs to be understood by clients.”

“Client demands are tempered in line with issues pertaining to ethical considerations, code of conduct, morality, personal considerations and legal precedent.”

“At the end of the day, without the client, I have no work. So, what they need done is what I do. It can be difficult to balance their desires with what is actually possible, so much of my job is managing expectations.”

3. Implementing the proposed management principles would improve customer service by minimizing ethical and other professional issues. (37 respondents)



Over half (51.5%) of lawyers who answered this question either agreed or strongly agreed while eight lawyers (21.5%) disagreed or strongly disagreed. Ten lawyers (27%) were neutral.

4. What changes might you recommend to the management principles under consideration by the Prairie Law Societies? (37 respondents)

One third of lawyers were satisfied with the five core management principles and had no changes. Twelve (31%) were supportive of the principles but had recommendations, including:

- incorporating ethics management and a greater emphasis on communications skills, particularly around use of plain language
- ensuring understanding and provide education of the management principles
- offering incentives for compliance
- offering flexibility in compliance standards for different practice settings
- using a phased approach to the rollout of principles

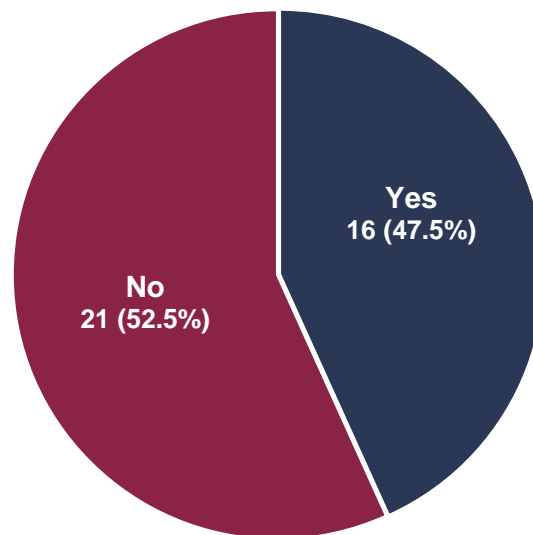
Some lawyers indicated they needed further information before providing recommendations. Six lawyers viewed the management principles as a burdensome and ineffective extra layer of regulation.

"I believe that the management principles as described would be appropriate and would ensure that all entities met certain standards that would assist their lawyers in providing competent and ethical service."

“These principles are already in place in our firm. But taking a management principles approach would allow us to tailor some management procedures to our practice rather than simply taking steps to comply with Law Society rules.”

“The best way the Law Society can serve me is to trust me to make sound decisions and to be available to support me when I need help.”

5. Should management principles differ for sole practitioners? (37 respondents)



6. If so, why? (16 respondents)

Of the lawyers who answered “yes”, 13 (81%) were sole practitioners or from small firms (2-10 lawyers). The rationale for those who indicated management principles should differ was:

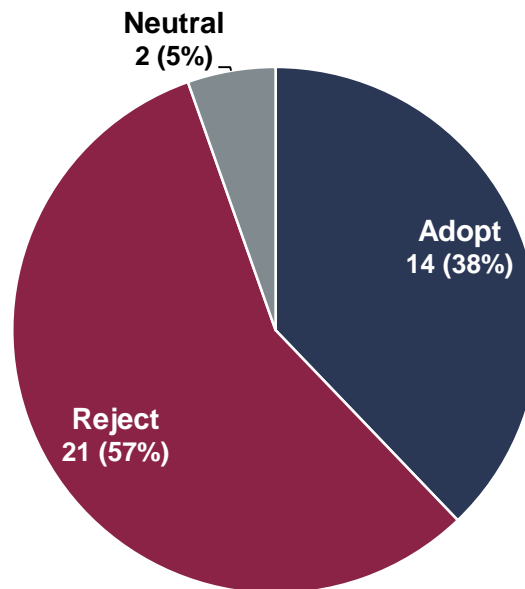
- Double regulation – each sole practitioner is already regulated as an individual lawyer and there is usually no one else at the firm.
- Resourcing concerns – additional regulation takes away from billable hours of the sole practitioner, adding administrative time to address compliance requirements.
- Scalability – principles may be the same but monitoring/reporting of compliance requires different expectations.
- Additional policies are ineffective – more policies will not lead to better business practices or improved provision of legal services by sole practitioners.

“The LSA must ensure that in crafting new meaningful entity regulation that it does not simply increase what are already significant competitive disadvantages to lawyers (both financial and in terms of time commitments required for regulatory compliance).”

“I feel that active management of myself is not required and may pose a significant administrative burden on me. I would rather see tools that sole practitioners could sign on to on an optional basis if they are seen to make work easier or more efficient or if disciplinary action has had to be taken against a particular sole practitioner.”

7. Why might the Prairie Law Societies adopt or reject the equity, diversity and inclusion management principle under consideration by other Canadian law societies?

(37 respondents)



Twenty one lawyers (57%) said they would reject the management principle. The most common reason why was that it is viewed as a business decision and there is no need for regulatory quotas. Others reasons stated were: it should be, or is, regulated through another form of legislation; it is too difficult to comply with in small or rural firms due to lack of availability; it is too subjective; and it could be endorsed by the Law Societies but not formally regulated.

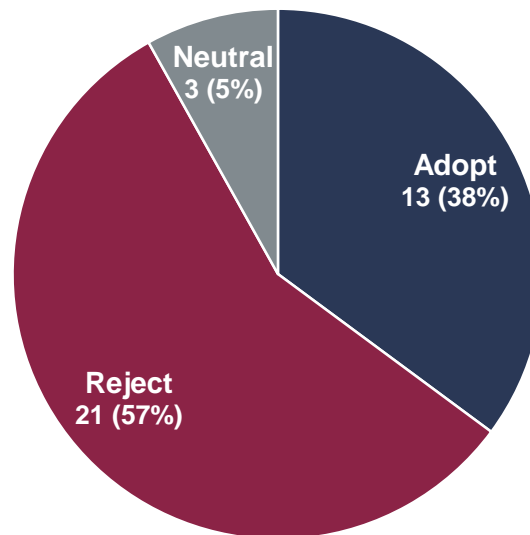
Fourteen lawyers (38%) said they would adopt the equity, diversity and inclusion management principle, citing the principle should already be in place and that it is an important aspect of any work environment in today's society to serve a diverse public population and that law firms should not be held below this standard.

"This is a very difficult area to find a breach in - unless it is blatant and obvious. A requirement that each lawyer undertake to respect these areas is good like apple pie is...but it's not within an objective compliance programme's well-oiled machinery. These goals (equity, diversity and inclusion) should never outstrip hiring the correct person - regardless of any other overall general platitude about doing the right thing."

"In general my view is to streamline regulation as much as possible (without losing effectiveness of public interest protections). There are already human rights codes and various other checks and balances on business practices. I would simply encourage the law societies to look at each possible new explicit regulation or obligation and before approving it ask, Is this issue already regulated? If so, what benefit can be obtained by additional explicit regulation and does it outweigh placing additional burdens on law society members?"

“Building a more diverse workplace, and one that is equitable to all people, should be on the agenda of all businesses, law service providers included. If it is not, and shows no signs of being recognized as an important aspect of any work environment, then the regulator should be able to mandate that attention is paid to these issues. It should not be something law service providers get to opt out of.”

8. Why might the Prairie Law Societies adopt or reject the access to justice management principle under consideration by other Canadian law societies?
(37 respondents)



Twenty one lawyers (57%) said they would reject the principle. A common reason was the thought that access to justice is the responsibility of the government and not the Law Society and legal entities. Some felt volunteerism is a personal or business decision of individual lawyers and law firms or that it would be more effective for law societies to endorse and reward access to justice initiatives by legal entities through incentives rather than mandate it.

Thirteen lawyers (38%) said they would adopt the principle. A common response was lawyers and legal entities bear some responsibility to ensure access to legal services and having a principle in place would more evenly divide that responsibility amongst firms. Others stated it is in the public interest and within the mandate of the Law Society and would help enhance the public image of the legal profession.

Lawyers on both sides of the question suggested compliance with the principle could be scalable or that there may be a threshold where it might apply to avoid being onerous.

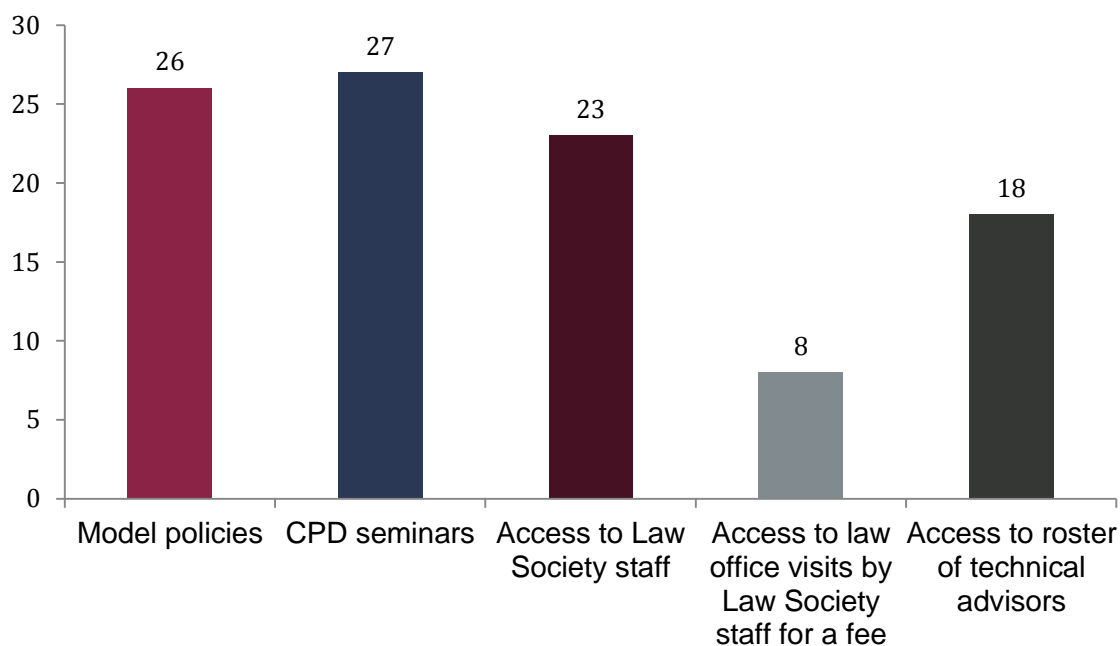
“I feel that this is a community driven initiative in that law firms ought to be conscious of the needs of the community in which they operate.”

“Lawyers should be encouraged to engage in access to justice. It needs to be a voluntary process versus a mandated process. Perhaps those who participate in access to justice initiatives could have a different incentive to encourage voluntary participation.”

“It makes no sense for a service provider in a competitive marketplace (and legal services is competitive, irrespective of what society may think) to point out more cost-effective ways of obtaining the service, let alone being required to do so. Certainly there is no obligation on the alternate (mostly unregulated) service providers to send potential customers to lawyers to obtain the services.”

9. What resources would assist your practice setting to achieve compliance with the management principles under consideration by the Prairie Law Societies?

(32 respondents) A list of choices was provided and lawyers could select more than one option.



10. Other resources?

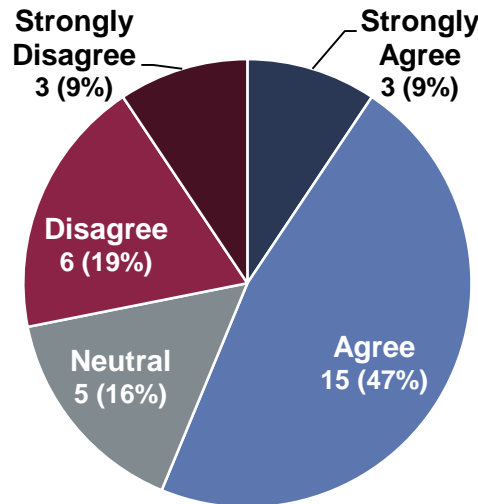
Other resources suggested by lawyers were:

- Law office visits by Law Society staff for no fee
- Mandatory business classes in law school/CPLED
- Risk management seminars
- Bulletins about complaint trends and avoidance measures
- All resources should be available at a reasonable cost and easily accessible

“The law society is going to have to adjust from telling us what we should do, to facilitating change. It is the difference between dictating and working together, the latter the law society is not known to do, or if it does, not doing it well.”

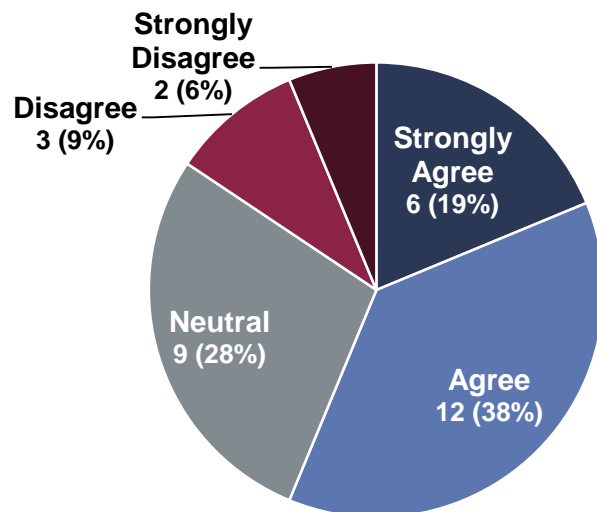
The following three questions provided no opportunity for commentary:

11. A regular entity self- assessment questionnaire would be effective in monitoring and measuring compliance. (32 respondents)



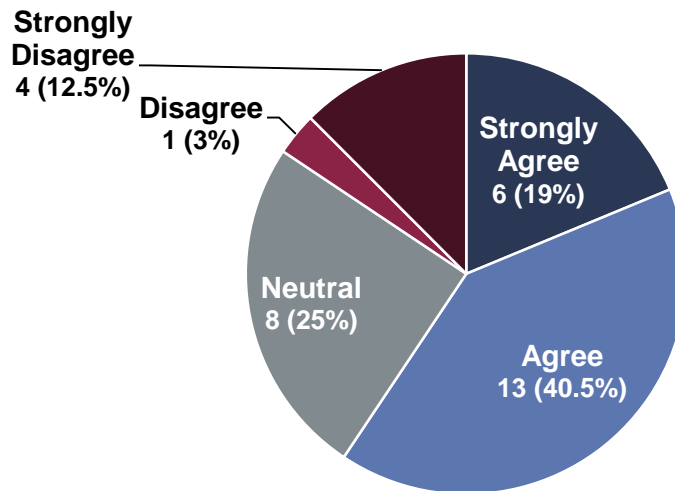
Over half (56%) of lawyers either agreed or strongly agreed. Nine lawyers (28%) either disagreed or strongly disagreed and five (16%) were neutral.

12. Spot audits of entities would be effective in monitoring and measuring compliance. (32 respondents)



Over half of lawyers (56%) either agreed or strongly agreed. A considerable number of lawyers (28%) were neutral. Five (16%) lawyers either disagreed or strongly disagreed.

13. Meeting/review process with the Law Society would be effective in monitoring and measuring compliance. (32 respondents)



Over half of lawyers (59%) either agreed or strongly agreed. A quarter of lawyers were neutral. Five (16%) lawyers either disagreed or strongly disagreed.

14. How might these methods differ for sole practitioners? (32 respondents)

Of those who answered who question, 70% identified as a sole practitioner or a small firm lawyer. A small number said there should be no difference in compliance methods for sole practitioners. A strong recommendation put forward was that any compliance methods considered should be low-cost, scalable, require minimal time investment and be easily implemented/monitored compliance systems. Other suggestions were that meetings and spot audits might be more effective than forms and self-assessments, and that model policies and other resources provided by the Law Society would be helpful in implementation.

Feedback indicated small firm practitioners have similar requirements as sole practitioners and should be treated the same.

“As a sole practitioner, I am concerned that reporting and recording requirements do not take time away from the delivery of legal services to clients.”

“My limited experience has been that senior sole practitioners are annoyed by the Law Society’s self-assessment questionnaires for CPD and by the prospect of additional self-assessment questionnaires for the proposed regulatory changes. It is viewed as a waste of time and a copy-and-paste exercise that detracts from our limited time to meet the demands of clients. I think a meeting/review process with the Law Society would be more effective in actually implementing the principles and ensuring compliance.”

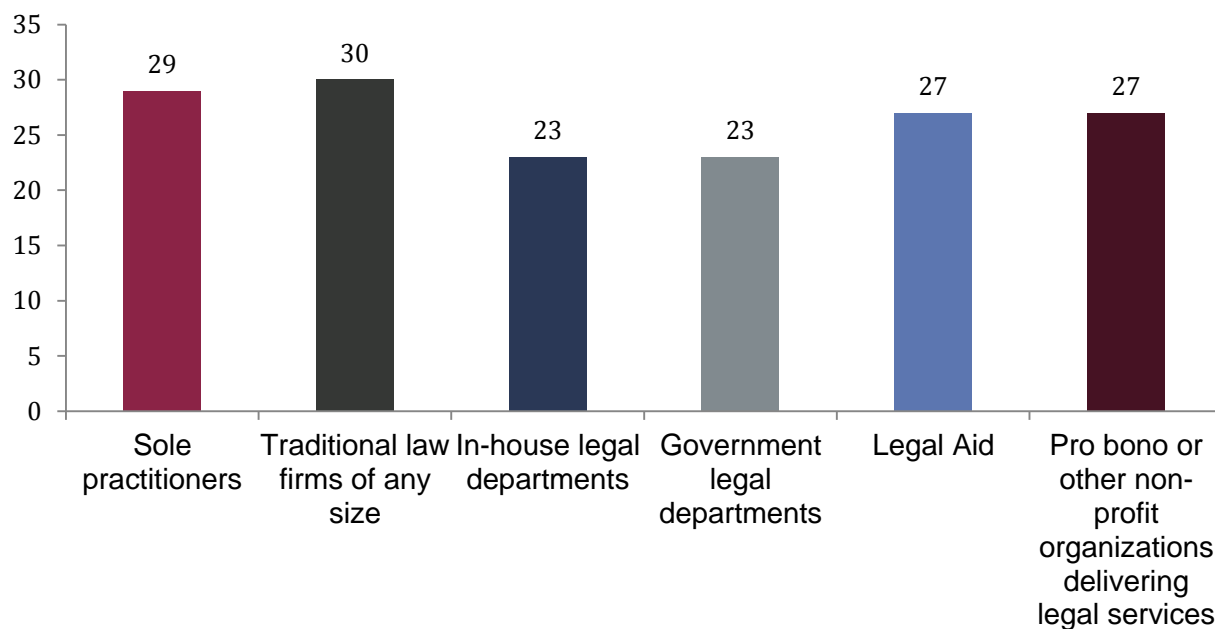
“...there is very little difference in self-regulation of the individual lawyer and entity regulation of a firm with only a few lawyers.”

15. How might these methods differ for regional, national or international firms? (32 respondents)

The results for this question varied and many lawyers were unsure or did not have enough information to provide a response. One-third of lawyers said methods should not differ. One important observation to note was the need for common management principles across jurisdictions to support national mobility.

“Care would be required to ensure that the requirements of our Law Societies did not conflict with those in other jurisdictions in which those firms operate. However, in my view those firms would need to be in compliance with the same regulations as all others practicing in our jurisdiction”

16. Based on what you have read, what entities do you believe should be regulated by the Law Society? (32 respondents) A list of choices was provided and lawyers could select more than one option.



Twenty three lawyers (72%) selected all of the entities. One lawyer did not select any entities to be regulated.

In comments related to this question, half of the lawyers stated that all lawyers take the same oath and should be held to the same basic regulatory standard.

17. Please provide other suggestions about how entities could be regulated. (15 respondents)

There was a wide variability of answers to this open-ended question, including:

- Regulation should recognize risk
- Consideration of a phased approach
- There is no need for more regulation

- Implementation and monitoring of entity regulation should be low-cost and a minimal time investment
- Scale and scope should vary with basic minimum standard
- Pre-prepared, pre-approved model policies, checklists with some room for flexibility
- Paralegals or non-lawyers should not be allowed to provide legal services

“Regulation must recognize the significantly different risk profiles of firms: e.g. a firm that deals regularly with a small group of known clients vs. a firm that deals on a one-time basis with a large number of new clients. Also, the nature of the practice: collaborative with client vs. standard legal service model.”

“Simply have the ability for a law society to punish a firm and not simply the lawyer in a situation where the law society determines that the firm culture is all or partly to blame for the misconduct in question. This could be done under the current regime with minor tweaks.”

“Arguably, by the law societies opening up surveys such as this for a regular form of public engagement they will have the best opportunity to gauge the effectiveness of regulations moving forward...”

ABS Discussion Forum Comments

In addition to the formal consultation questions posed to members about entity regulation and compliance-based regulation, the consultation hub included a discussion forum that provided lawyers with the opportunity to discuss their views on alternative business structures (ABS). Members were provided with three examples of ABSs that the Prairie Law Societies might consider: lawyer and non-lawyer co-ownership of legal practices, multi-disciplinary practices, and expanded provision of legal services by non-profits. The lawyers could post comments, and those initial comments could be further commented upon by other lawyers

As the Prairie Law Societies are in the very early stages of exploring ABSs, only one general question was posed: “What alternative approaches to the delivery of legal services, listed above or otherwise, might you consider using and why?” 16 lawyers posted comments on the discussion forum. The most strongly supported comment (with seven other lawyers agreeing and none expressing disagreement) was:

“The supposed rationale behind ABS and NLO arrangements in The UK and Australia was “access to justice”. In other words, many people went without legal representation because they couldn’t afford it. The idea was that ABS/NLO set-ups could deliver cheap access to legal services. It has not worked out that way. As we know, the vast majority of self-represented litigants are in family law. With or without money, personal injury litigants have long had affordable access to justice because plaintiffs’ counsel work on contingency fee bases. However, in the UK and Australia, the NLO’s (read: Slater Gordon) have simply monopolized the personal injury field and virtually ignored family law. Not only have they not provided any significant access to justice that was not previously available, but they have not even made the services that they do provide cheaper than what was previously available. The net result is the destruction of the small firm and the advent of the “big box” firm, and the loss of the personalized one-on-one service that the client deserves. Do the western

law societies really need to sell out professionalism, and indeed our souls as lawyers to corporate interests. The various stock markets already do a good job of providing an outlet for speculators, without adding us as additional "speculates."

Other common themes raised in the discussion forum can be summarized by the following comments:

"...I am a registered family mediator - I would be interested in a "wholistic family law" practice that includes family lawyers, psychologists and counsellors for adults and children, financial planners that could provide a team-based service for clients. I think there is a key role for arbitrators with an understanding of family law for those clients that need someone else to make a decision for them, this would free up court services for complex legal arguments."

"...at this preliminary stage it would appear to me that in order to have value and meaning, members' comments and perspectives on the entity regulation need to be in consideration of the ABS, or potential ABS, outcomes. The factors and issues involved in alternate business structures will likely affect the perspectives on entity regulation."

"I think non-legal ownership of law practices should be avoided and discouraged. The interests and objectives of legal and non-legal owners are not mutual, excepting the matter of profit. How this is achieved in a milieu of legal and non-legal ownership is not always compatible with the rules that govern the practice of law in the minds of non-legal owners and I think would prove to be a disservice to the public."

Paper Responses

Nine paper responses to our Innovating Regulation Discussion Paper were collected through the consultation website and by email. We sought permission from the author(s) of the response papers to publish their submissions. We have attached the responses, for which permission has been granted, as an appendix to this report. Organizations submitting paper responses included the Alberta Civil Trial Lawyers Association (ACTLA), the Saskatchewan Trial Lawyers Association (STLA) and the Justice Sector Constellation of the Calgary Poverty Reduction Initiative. Five of the paper responses commented on alternative business structures in relation to entity or compliance-based entity regulation. Three papers requested additional consultation with the profession prior to any further expansion of regulation and indicated that more data is needed. Other paper responses described:

- The need for more affordable legal services as a key factor in determining the appropriate approach to future regulation.
- A personal account from an Alberta lawyer reflecting on a recent complaint experience and how processes could be changed to achieve a more effective experience and outcome for everyone involved; and how the complaint process needs to reflect a more proactive regulatory mindset.
- Concern that law societies should allow for delivery of legal services with the least regulatory interference as possible.
- Agreement with the concept of the Law Society taking a more proactive approach within our current regulatory framework. Disagreement that this approach is conditional upon entity regulation of law firms.

- Support of regulation of all legal entities but strong opposition to the delivery of legal services and practice of law by non-lawyers, as well as opposition to the ownership of law firms by non-lawyers.
- Concern about the idea of entity regulation and how it may unfold to allow for publically traded law corporations that run contrary to the Code of Conduct and public ethics.
- An academic paper submission on implications of non-lawyer ownership and management for Canadian legal practices.
- Lack of understanding of how, given sole practitioners make up a majority of law society complaints, entity regulation could provide a further means to reduce complaints over those lawyers who are already regulated individually.

Live Consultation Sessions

All Prairie Law Societies held in-person presentations and live webinar broadcasts.

Alberta Town Halls and Webinar

Representatives of the Law Society of Alberta hosted six Town Halls across the province. Each Town Hall was comprised of a brief presentation, engaged participants in discussion and extended the opportunity for questions and feedback.

A webinar held on June 15 extended the reach of this experience to rural practitioners and those lawyers unable to attend Town Halls in their city.

Lawyers in attendance at the Town Halls expressed appreciation that Law Society representatives took the time to come to their communities, particularly in the smaller cities, and consult. A number of webinar attendees indicated they appreciated the format as a convenient and user-friendly way of gathering information, and encouraged the use of webinars for future presentations. The net effect seemed to be “the Law Society has never done this before and it is appreciated.”

It is difficult to measure the success of the Town Halls. Attendance is not purely indicative of interest and benchmarking against consultation in other industries might not be instructive. Anecdotally we heard lawyers at several Town Halls were acting as a proxy for a larger number of lawyers at their firm, tasked with attending and asking questions. The attendance should be viewed from the lens of this being the first large-scale consultation undertaken by the Law Society and as a first-step toward a long-term goal of developing a more transparent, trusting relationship between the regulator and the lawyers we regulate.

Overall Town Hall attendance was 182 lawyers in six cities and the webinar. Attendance at each location is below.

Location	Attendance
Calgary Wednesday, May 25 at Kahanoff Centre	32
Medicine Hat Thursday, May 26 at Esplanade Arts and Heritage Centre	9
Lethbridge	17

Friday, May 27 at University of Lethbridge	
Red Deer Monday, May 30 at Red Deer College	15
Edmonton Tuesday, May 31 at Shaw Conference Centre	35
Webinar Wednesday, June 15	63
Grande Prairie Thursday, June 16 at Grande Prairie College	11
Total	182

Saskatchewan Panel Session and Webinar

Representatives of the Law Society of Saskatchewan hosted a panel discussion at their Annual General Meeting on Thursday, June 16 with 60 lawyers in attendance. Panel members included Benchers from the Law Societies of Saskatchewan, Upper Canada and British Columbia, as well as the President of the Federation of Law Societies of Canada. Panel members spoke about the approaches being considered in their own jurisdiction and the importance of striving for consistency across the country.

A webinar presented by Benchers of the Law Society was held on May 18 with 216 lawyers tuning in to the live presentation and seven lawyers viewing the recorded webinar. Webinar attendance counted toward CPD hours.

The Law Society also extended offers to all local bar associations to speak with members about the consultation topics. The Battlefords Bar Association accepted the invitation and representatives of the Law Society of Saskatchewan travelled to North Battleford to make a presentation and hold a discussion with members of the bar.

All presentations seemed to be well-received by those in attendance, with attendees expressing general support for the idea of entity regulation and compliance-based regulation, with some hesitation and apprehension about ABS.

Manitoba Presentations and Webinar

Representatives of the Law Society of Manitoba presented at the Public Sector Lawyer Subsection on May 27, with 14 lawyers in attendance. A luncheon presentation was held on May 31 with 11 in attendance and a Northern Bar presentation on Friday, June 9 with 22 lawyers. A total of 47 lawyers attended face-to-face presentations.

A webinar was held on June 6, with 51 lawyers tuning in to the live presentation and 28 lawyers viewing the recorded webinar. Webinar attendance counted toward CPD hours.

Common Themes

While the focus of discussions of the live consultations held by the Prairie Law Societies varied, the following common themes emerged in questions and statements voiced by attendees.

1. Perception of entity regulation as an additional layer of regulation

This sentiment is indicative of a certain lack of trust associated with a long-standing punitive reputation of the Law Society.

“There is a huge cultural shift that needs to happen between lawyers and the Law Society.” – Edmonton Town Hall

“Will this create more work for lawyers who do not have disciplinary issues?” – Medicine Hat Town Hall

2. Lawyers want us to be risk-focused (i.e., in terms of area of practice, size of practice and transitional periods)

Lawyers were particularly interested in our statistics on the biggest risk areas for complaints and claims. Several recommended a targeted, strategic approach to addressing areas of higher risk. Prevalent questions were “Have you looked at targeted entity regulation as opposed to blanket regulation?” and “If we are going to be using resources in the best fashion, should we focus on the areas of practice that are the riskiest?”

“A small percentage of the profession causes the problems. So are you potentially going to use a hammer to kill an ant?” – Manitoba Presentation

3. Ongoing support of Law Society is critical to improving practice management

Practitioners of all practice settings and practice areas want easy and affordable access to resources that would help improve how they manage their practices and service clients. As evidenced in this quote from the Red Deer Town Hall:

“If the Law Society wants to start to walk with lawyers, you would have to introduce a program where lawyers not only have the written materials, but the law society helps with facilitation and implementation. Put together a group of people/resources available to lawyers when they reach out. Not only providing a list of draft proposals.” – Red Deer Town Hall

“Do you anticipate the Law Society will provide templates to help solo practitioners benchmark their management systems against what the Law Society believes to be ‘best practice’?” – Saskatchewan Webinar

4. Concern about the impact on small and sole practitioners

A number of sole practitioners in attendance at the Alberta Town Hall sessions voiced concerns about the “little guy” and potential for increased costs and additional regulatory requirements taking up too much of their billable time. That said, they were eager for the Law Society to provide more resources to make their jobs easier and more efficient.

“As a sole practitioner, the Law Society already has control. This shift in regulation could demotivate people from participating as sole practitioners.” – Edmonton Town Hall

“You will be placing the biggest burden on sole/small practitioners. This should be the starting point for resources to ensure this is front of mind.” – Lethbridge Town Hall

5. Future decision-making should be grounded in good data, strategic and require further collaboration and ongoing communication with lawyers

“Lawyer engagement is a critical piece to this. Do a good job of communicating the underlying end goal. Be careful with the burdensome perception of this. Focus on the benefits for lawyers.” – Lethbridge Town Hall

“Sales approach to lawyers might be: how do you want to make more money with less stress? This is a best practice model for doing so.” – Red Deer Town Hall

6. Concern about costs of implementation and operation of compliance-based entity regulation

A common response was that a change in regulation should not increase lawyers’ membership or insurance fees. Concerns were also expressed about the potential for increased costs at the firm level.

7. General understanding and agreement with our proactive regulatory approach

Lawyers in each city commented “you’re on the right track”.