



An Access to Justice Vision for the Law Society of British Columbia

Access to Justice Advisory Committee:

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Prepared for: *Benchers*

Prepared by: *Policy and Planning Department*

Purpose: *Decision*

Purpose of this report

In the “Mandate Letter” to the Chair of the Access to Justice Advisory Committee at the beginning of the year, the President asked that the Committee “develop a Law Society Vision Statement regarding access to justice, prioritizing access to legal services as specifically within the Law Society’s mandate”.

How the Committee developed the access to justice vision

The Committee developed the appended access to justice vision (the “Vision”) over the course of several meetings. The Committee’s process involved a review of a number of previous Law Society policies that articulated positions about access to justice and legal services. These included:

- The Vision for Publicly Funded Legal Aid (March 2017);
- The Vision for how Lawyers can Advance Access to Justice (September 2017);
- The Pro Bono Funding Policy (July 2013);
- Principles for how to improve access to justice through innovation and regulatory reform;¹
- Mandatory Indigenous Intercultural Competency Training (December 2019);
- Endorsing Access to Justice BC’s Triple Aim Framework (September 2018);
- Section 3 of the *Legal Profession Act*.²

Each of these sources was important in developing the Vision, but the Vision for Publicly Funded Legal Aid stood out as a recent touchstone that directly speaks to an aspect of access to justice and legal services as it contained elements reflective of many of the other sources.

In concert with a review of these supporting resources, the Committee applied the following analytical framework:

1. What are the core elements of access to justice?
2. How is the Law Society’s mandate related to access to justice?

¹ These principles were contained in the Committee’s 2018 year-end report to the Benchers, and are not adopted policy *per se*, but the Committee is of the view they were useful for developing the Vision.

² This included consideration of the policy decision that led to the amendment of s. 3 in 2012 to remove reference to the Law Society being an advocate for members’ interest.

3. What do we mean by access to legal services? How does access to legal services advance access to justice? Are there ways to advance access to justice without access to legal services?
4. What concepts for improving access to justice, including by improving access to legal services, fall within the Law Society's mandate?
5. With concepts that fall within the Law Society's mandate, what concepts are solely within the Law Society's control, and what concepts require collaboration?
6. What concepts for improving access to justice fall outside the Law Society's mandate? Does the Law Society have a role to play in supporting others to address these issues?
7. How can the concepts be categorized in terms of importance, feasibility and potential positive impact?
8. How can the concepts identified be synthesized into the Vision?

This work led to the development of a set of principles that were eventually incorporated into the Vision. Access to justice is a complex subject, and while the Committee recognizes that the sources listed above and the process it followed did not cover all bases, the Committee is of the view the process was sufficient to inform the Vision in a principled manner.

The Committee intends the Vision to be a flexible document that the Law Society can use to inform future policy and Strategic Plan work related to access to justice and legal services.

Recommendation

BE IT RESOLVED that the Benchers adopt the Access to Justice Vision for the Law Society of British Columbia as prepared by the Committee and as appended to this report.

/DM

/Appendix

Appendix: Access to Justice Vision for the Law Society of British Columbia

Preamble

Meaningful Access to Justice means that our justice systems, and the legal services that support them, are available, affordable, understandable and effective. Meaningful Access to Justice not only provides essential service to the people who must resort to our legal systems, but also sustains the rule of law on which our democracy depends. Without Meaningful Access to Justice, people do not receive the legal help that they need and public confidence in the rule of law and indeed, in democracy itself may falter.

The Law Society believes that:

1. Democracy depends on the rule of law and Meaningful Access to Justice is necessary to maintain it;
2. Meaningful Access to Justice can be achieved through several means, including the vindication of legal rights through our formal and informal dispute resolution systems, through law reform, and through political reform;
3. Legal service providers, including lawyers who are authorized to provide legal services for a fee, have an obligation to make their services appropriately accessible to the public;
4. Access to legal services has a regulatory component, and the Law Society should take appropriate steps to allow for legal markets and services to develop to address those needs;
5. Meaningful Access to Justice requires digitization of justice systems and legal services, as well as transformation of how those systems and services are delivered in order to reduce or eliminate the barriers identified below;
6. As the justice systems and legal services are modernized, particularly through technological solutions, it is important to ensure the solutions do not create new systemic barriers to Meaningful Access to Justice. This requires thoughtful design at the creation phase of any new approach to achieve the goal of equal access for all.
7. There are many barriers to Meaningful Access to Justice, including:
 - how our laws are developed - particularly their scope and complexity;
 - how law is implemented, enforced, interpreted and how disputes are resolved;

- how our rules governing practice may prevent lawyers from creating new business models, new partnerships, new services and products, and keep out potential innovators who have made other industries more efficient, effective and resilient;
- the cost of delivering legal services;
- how lawyers direct their services, and how the government funds or does not fund legal services;
- how geographical barriers affect access to legal services and the justice system;
- historic disadvantages due to individual circumstances, including but not limited to economic means, education, race, religion, language skills, sexual orientation, disability, and gender; and
- the systemic barriers people face in accessing the systems and services that exist for managing and resolving legal problems.

The Vision

The Law Society plays an important role in reducing barriers to and enhancing Meaningful Access to Justice in British Columbia. The Law Society will address barriers to Meaningful Access to Justice by:

1. reviewing its regulatory and strategic policy, as needed, and making the necessary changes to reduce or remove barriers that are within the Law Society's authority to control guided by its statutory obligation to ensure the public is well-served by competent and ethical legal professionals;
2. understanding the nature of the barriers that lie outside the Law Society's authority to control and by exploring whether the Law Society has a role to play in helping people and groups overcome those barriers, whether by lending its voice to law and policy reform or by other advocacy efforts;
3. applying Access to Justice BC's Triple Aim measurement framework (which requires improving access for all British Columbians, including groups with particular interests, improving user experience, and improving costs in proportion to the benefits) to the Law society's development of strategic and regulatory policy;
4. analyzing available data and taking an objective, evidence-based approach to the Law Society's decisions and engagement with others in the justice sector;
5. listening to and learning from the diversity of perspectives of British Columbians; in particular, by understanding how some groups are particularly disadvantaged or face

acute barriers to accessing justice, and by striving to develop policy that is responsive to those realities;

6. demonstrating leadership to help British Columbians achieve Meaningful Access to Justice. This leadership may include spearheading policy and rule reforms, and supporting government and other justice system stakeholders in developing new and innovative services. The Law Society recognizes that, from time to time, it will be necessary to advance transformative changes to our laws, legal system and related services.

While the Law Society recognizes that the challenges of access to justice and the barriers people face often manifest themselves as the problems of individuals, they are, in fact, shared problems in our society. Recognizing this, the Law Society commits to advance its Access to Justice Vision in a collaborative and constructive manner, with the Society's public interest mandate at the heart of its efforts.