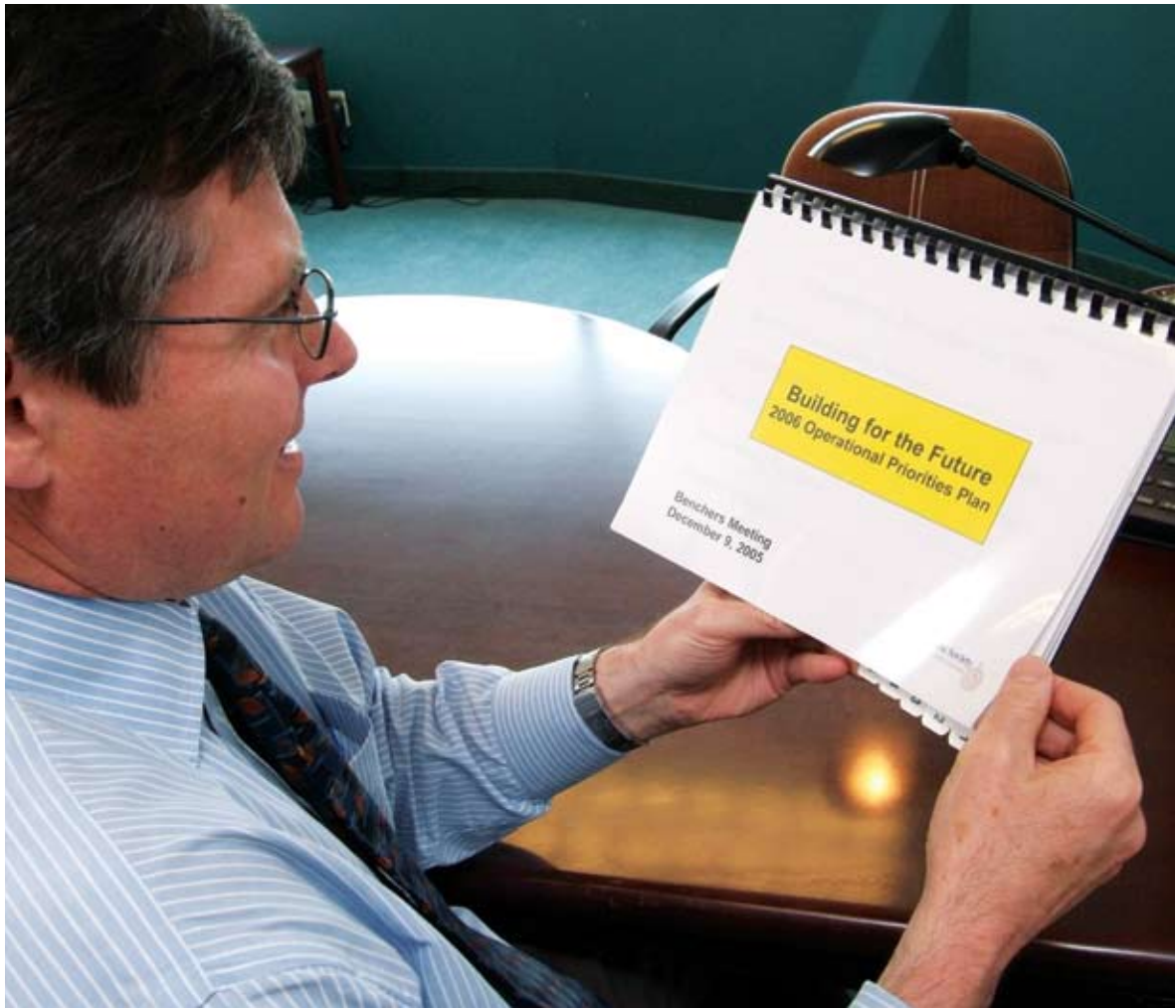


FIVE NEW PROGRAMS

Enhancing our effectiveness



CEO Tim McGee reviews the Law Society's 2006 Operational Priorities Plan.

Over the past year, the Law Society developed five new programs to implement the five objectives of Building for the Future, the Benchers' operational priorities plan, for 2006: the Trust Assurance Program, the In-house Custodianship Program, the Small Firm Task Force, the Government Relations Program and the Bencher Support Program.

Enhancing the Society's operational effectiveness was the broad policy goal driving the Building for the Future approach.

TRUST ASSURANCE PROGRAM: UNIVERSAL AND SELF-REPORTING

Developing a new trust assurance program will improve risk management, build stronger, more cooperative relationships with lawyers, and relieve most law firms of the need to file an external accountant's report.

For many years the Law Society monitored trust compliance by requiring all law firms to file an annual trust report accompanied by the report of an accountant. The combination of these reports was considered adequate to allow Society staff to exercise the judgement and discretion necessary to determine if the circumstances of any particular firm raised issues regarding the proper handling and administration of trust funds and to follow up as required.

The new Trust Assurance Program, which began operation in December 2006 under the leadership of program manager Don Terrillon, CGA, introduced a number of changes to the way the Law Society performs its trust review responsibilities.

Notable among these changes is a new, more extensive annual trust report that eliminates the need for an accountant's report for most established law firms. New firms are required to file an accountant's report with their trust report for two years, establishing a baseline against which their compliance with the trust accounting rules can be measured.

Firms with compliance ratings that raise concerns about their trust accounting practices will also have to file an accountant's report with their trust report. The compliance rating is based on an examination of past trust reports. Any exceptions are assigned a weight based on the nature of the exception and the risk it could pose to the public. More highly weighted exceptions include prohibited large cash transactions, deposits to incorrect bank accounts, insufficient funds in trust and failure to remit taxes. Other factors taken into consideration include areas of practice and number and size of trust transactions.

All law firms will also be subject to a compliance audit to ensure their books, records and accounts comply with the requirements of the *Legal Profession Act*, the Law Society Rules and the *Professional Conduct Handbook*. The goal is to audit each firm at least once every six years. This will be a straightforward review for most firms, providing them an opportunity to raise questions about trust systems and procedures. The au-

dit will generally be selected at random. Some indicators may, however, trigger an audit, such as failure to file a trust report, referral from another Law Society department or a compliance rating that raises concerns about the firm's trust accounting practices.

Effective and consistent training is key

"The quality and consistency of the work of our trust assurance auditors will be crucial to the success of our new program. Effective and consistent training is a major priority. That's why we've focused on developing the program first, and that's why we've staged the hiring of our auditors. We hope to have our full complement of trust auditors in place by the end of 2007."

Don Terrillon, CGA,
Program Manager

What Other Jurisdictions Do

	Annual Report	Accountant's Report	Self Report for Trust Accounts	Site Visit	Years Audit*	Number of Audits/Yr per Auditor	New Lawyers Initial Accountant's Report
Alberta	Yes	Yes	No	Yes	7	50	Yes
Manitoba	Yes	Yes	Yes	Yes	5	60	No
Ontario	Yes	Yes	Yes	Yes	6	75	No
New Zealand	Yes	Yes	No	Yes	N/A	N/A	Yes
BC (pre-December 2006)	Yes	Yes	No	No	N/A	N/A	No
BC (post-December 2006)	Yes	Some Firms***	Yes	Yes	6	70**	Yes

* Audit Cycle - number of years between each audit per firm

** Based on a complement of eight Trust Assurance Auditors

*** If indicated by compliance ratings



Graeme Keirstead, Manager, Custodianship and Special Fund.

IN-HOUSE CUSTODIANSHIPS: COST-EFFECTIVE AND EFFICIENT

If a lawyer is unable to attend to his or her client's needs because of illness, retirement, death, suspension or disbarment, the Law Society may apply to the court under s. 50 of the *Legal Profession Act* for the appointment of a custodian.

The custodian will then arrange temporary conduct of the lawyer's practice or wind it up, depending on the circumstances and the terms of the order.

Building for the Future, the Law Society's operational priorities plan for 2006, includes provision for the Society's in-house delivery of custodial services by a dedicated custodianship group, with

three specific goals:

- permanent reduction in overall cost of delivery;
- improved overall efficiency; and
- better leveraging and integration of internal services.

By December 2006, the new custodianship department was up and running under the direction of Acting Manager⁴

Graeme Keirstead, an eight-year Law Society staff lawyer with both professional conduct and custodianship experience.

The historical record shows that two-thirds of BC custodianships are accompanied by discipline proceedings and, that two-thirds of custodianships take place in the Lower Mainland. This combination of factors contributes sig-

⁴ In April 2007, Graeme Keirstead was appointed Manager, Custodianship and Special Fund

nificantly to the case for setting up an in-house custodianship program.

"Investigation, judgement and logistics are three vital elements of any custodianship that runs alongside a professional discipline proceeding," Graeme notes. "Apart from the anticipated cost savings achieved when Law Society staff lawyers replace outside lawyers as custodians, we can tap the experience of our colleagues in the professional conduct, investigation and discipline areas.

"We're also able to save money and time by bringing in house the administrative work of cataloguing and securing client files, conducting mass mail-outs to clients, and dealing with disclosure requests by Canada Revenue Agency and other authorities. Having a significant majority of custodianships occur in the Lower Mainland will make it that much easier to take advantage of our in-house capabilities and resources."

Last November more than 100 current and former colleagues gathered at a reception to mark the retirement of Mary Ann Cummings, the Law Society's long-time Manager of Special Compensation Fund and Custodianship.

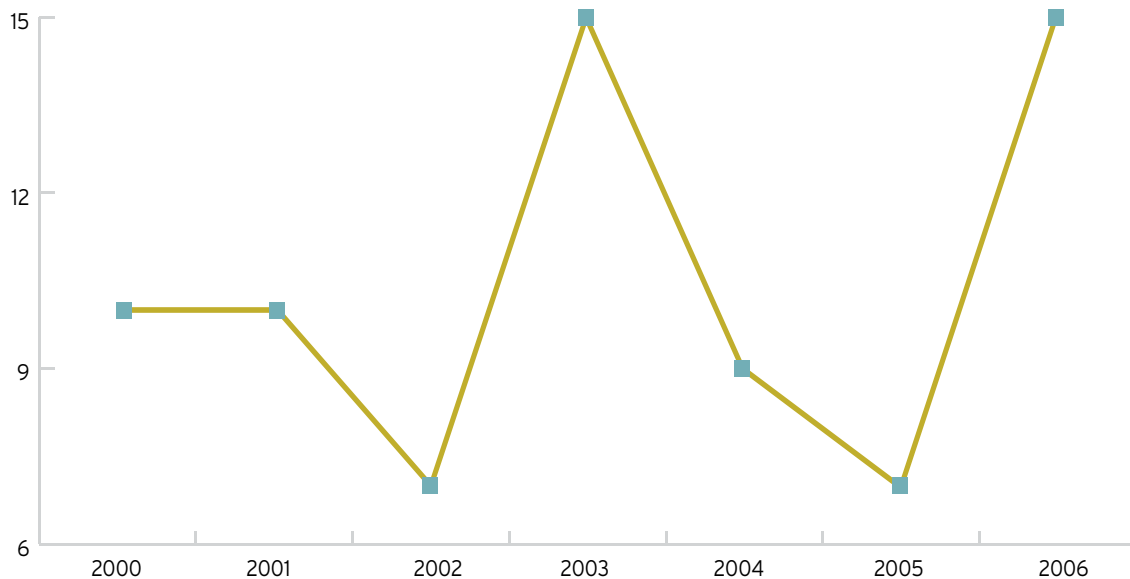
"Mary Ann's enabling approach to training and to mentorship has prepared us well," Graeme says. "Always generous with her knowledge, she also provided people with opportunities to gain first-hand experience, and to develop confidence in their own judgement."

Graeme relies on broad and deep personal interests to inform and balance his judgement. A visit to his office reveals the eclectic range of his tastes in art, music and literature. "So much of custodianship work turns on how we deal with pressure and stress," he says. "We have to make tough decisions daily. Those decisions often turn on how we assess and interact with lawyers going through great personal difficulty as their inabil-

ity to manage their practices hits home. Maintaining and projecting composure in tense situations and treating people with dignity and respect are qualities that I try to bring to work every day."

Sections 50(1) and 51 of the *Legal Profession Act*

The *Legal Profession Act* charges both the Law Society and the custodian with a great deal of responsibility and authority. With or without notice, the Society may apply for a court order appointing a custodian of the practice of a lawyer to take possession of or control over all or part of the property of the lawyer, and to determine the status of, manage, arrange for the conduct of and, if appropriate, terminate the practice of the lawyer.



Total Number of Custodianships 2000-2006



Kensi Gouden, Practice Standards counsel (front) with Law Society staff and contractors who worked together to develop the Small Firm Practice Course: (left to right) Lenore Rountree, Doug Munro, Debra DeGaust and Drew Jackson.

POST-CALL EDUCATION: SUPPORTING BC'S SMALL FIRM LAWYERS AND CONTINUING PROFESSIONAL DEVELOPMENT

The need for continuing professional development is a fact of life for 21st century lawyers. Laws change and evolve, new areas of practice emerge and old ones shrink. In 2006 the Law Society addressed these and other professional development issues through two major initiatives, both following recommendations of the Lawyer Education Task Force.

The Small Firm Practice Course

After a year of intensive effort by a development team led by Practice Standards counsel Kensi Gouden⁵, the Law Society's online Small Firm Practice Course went live on January 1, 2007.

"The heart of this story is the collaboration between our outside contractors and Law Society staff," says Kensi, who has been with the Law Society for eight years and now oversees the Practice Standards program. "We were able to combine our in-house expertise with the excellent work of private practitioners

and contractors and complete the project on schedule and under budget."

Our research revealed that nearly 35 per cent of BC's practising lawyers are sole practitioners and another 20 per cent work in firms of two to four lawyers. Outside the major urban centres,

⁵ In April 2007, Kensi Gouden was named the Law Society's Manager, Standards and Professional Development.



Members of the 2006 Lawyer Education Task Force at work, led by Chair Gordon Turriff, QC (right).

sole and small firm practitioners provide the vast majority of legal services in the province. These practitioners face a variety of pressures relating to the nature of their organizational structures, practice locations and clientele.

The Small Firm Practice Course is free, self-paced and available through the Law Society's website. It is designed with self-testing components that allow lawyers to measure their command of key practice issues such as business planning and trust accounting. The course also explores various practice pitfalls, including conflicts, client screening and file management.

Exploring Continuing Professional Development Options

In December 2006, the Benchers approved a preliminary report by the Lawyer Education Task Force, recommending further consideration of continuing professional development for BC's practising lawyers.

"Continuing professional development will demonstrate to the public the Law Society's commitment to ensuring BC lawyers maintain the necessary level of competence after their call to the bar," says Gordon Turriff, QC, task force chair for 2006.

The task force report emphasized that credit for continuing professional de-

velopment should not be limited to attending legal education courses, but should include a broad range of activities such as mentoring programs, in-house educational programs and attendance at professional study group meetings.

The Lawyer Education Task Force will review the various options and present a recommended program to the Benchers by the end of 2007.

WORKING WITH GOVERNMENT: BUILDING PRODUCTIVE RELATIONSHIPS

A critical part of Law Society's 2006 operational priorities plan is devoted to building productive, working relationships with government.

The Law Society of BC receives its mandate through provincial statute – the *Legal Profession Act* – and serves the people of the province by protecting the public interest in the administration of justice.

One might assume such relationships would occur naturally. As with all valuable relationships, however, the Law Society's relationships with government require attention in order to function well. In 2006, the Law Society went through a strategic analysis of its mandate and operations to identify areas where it can work together with government to improve the justice system in BC. Part of this planning process included the identification and integration of best practices in public affairs for self-regulating professions.

The Benchers and senior staff have engaged in regular meetings with both elected and non-elected officials in the provincial government to ensure effective and responsible communications. In

addition to discussing the Law Society's role in regulating the legal profession and changes the Society would like to see to its governing legislation, the Society also made efforts to assist government where appropriate. A small example of this is the provision of a variety of Law Society public education materials to each MLA's office across the province. This will assist the MLAs' staff in referring their constituents to the Society in appropriate circumstances.

The Law Society's efforts to work in the public interest remain apolitical and multi-partisan. The efforts have been well received by both government and opposition MLAs, and should ensure good working relationships in the future. On the federal front, we are continuing to work through the Federation of Law Societies to develop a positive dialogue with the Government of Canada.

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Law Society General Counsel and Director of Policy and Legal Services Jeff Hoskins.

BENCHER SUPPORT PROGRAM

A key factor in making Bencher support a priority in the 2006 operational priorities plan was the significant Bencher turnover in 2005-2006.

"Eight new Benchers were elected in November 2005 and another in January 2006," notes Jeff Hoskins, the Law Society's General Counsel and Director of Policy and Legal Services. "That's more than one-third of our full complement of 25 elected Benchers. Also, two of our six Lay Benchers were newly appointed. As a result, orientation and training of new Benchers were two of our top staff priorities for 2006."

The bencher support plan consisted of three initiatives:

- Bencher orientation and training;
- tribunal decision-making support; and
- committee organizational support.

Bencher Orientation and Training

David Newell, the Law Society's Corporate Secretary since 1998, led the development of three training modules over the course of 2005. "Bencher orientation has always been an important part of my job," David says. "The Benchers' responsibilities fall into three broad areas: governance, legislation and adjudication.

"Our new Benchers have voracious appetites for information," David explains. "So, the challenge in creating these training modules was to provide the Benchers with enough material over those three

broad areas of responsibility without taking up too much of their time."

Tribunal Decision-making Support

General Counsel Jeff Hoskins is available to provide advice to hearing tribunals and to review decisions before their release. "The Benchers are volunteers with heavy demands on their time," Jeff notes. "We strive to do whatever we can to help them achieve consistently high quality in their tribunal decisions, in law, clarity and timeliness."

The Law Society also benefits from the wide-ranging skills of Michelle Robertson, who has served as Hearing Administra-

BencherNet

Late in 2005 the Law Society launched BencherNet, an online collection of information and resources for the Benchers. Corporate Secretary David Newell defined the project's performance requirements and content specifications, and Programmer/Analyst Catherine Intharangsy handled technical design and programming.

"During my years as Corporate Secretary, I have tried to provide the Benchers with the information they need – when, where and how they need it, from all corners of the organization," David recalls. "Overload and obsolescence have always been the twin challenges to managing that information effectively.

"Now, hearing schedules and reports, agendas and minutes for Bencher and committee meetings, along with our comprehensive board manual and other Bencher resources, can be accessed and updated quickly and as needed."

tor since 1998. Michelle prepares hearing panels and Bencher reviews for the President's approval, catalogues and retains custody of exhibits, and posts hearing reports to the Society website.

Committee Organization and Structure

Under the Bencher support plan, staff assisted the committees to set manageable priorities early in the year and to find ways to maximize the effectiveness of Bencher and volunteer time. In December 2006, the Regulatory Policy Committee was created to assist the Benchers to develop consistent and integrated policy on regulatory issues.



David Newell – The Law Society's Corporate Secretary

In September 1998, David Newell took on the newly created position of Law Society Corporate Secretary, which brought together a number of staff functions – related by their shared focus on supporting the Benchers' work. The Corporate Secretary is the Benchers' primary staff liaison. A 1986 graduate of UBC's Faculty of Law, David joined the Law Society in 1991 as a staff lawyer in what was then called the Complaints Department, following five years of general practice with the North Vancouver firm of Ratcliff and Company. David is renowned for his encyclopedic knowledge of Law Society history.