

From: Robert W. Evans
To: [Consultation 2018](#)
Subject: Feedback on alternate legal service providers
Date: September-12-18 10:34:34 AM

When a person buys a home, they are provided with papers that make sure they understand the subject clauses, seller's disclosures, the terms of any mortgage or loan, and when a person gets married or winds up in a common law relationship, they do not even get a pamphlet.

Spousal relationships are some of the most serious and complicated legal relationships most people will ever enter. What the family law bar needs is a higher quality of service, and not a higher quantity of service. Therefore, I support more resources directed toward improving the family law and the court system, but I think it would be a mistake to have paralegals representing emotionally charged parties in court on contested applications.

--

Robert W. Evans
Barrister & Solicitor
RWE Law Corporation
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From: Glen Greene
To: [Consultation 2018](#)
Cc: [Sarah Westwood](#)
Subject: Alternate Legal Service Providers
Date: September-13-18 12:15:15 PM
Attachments: [Law Society Sept12.18.pdf](#)

Dear Sir or Madam,

Attached please find Mr. Greene's letter of today's date regarding your email of September 11, 2018.

Thank you,

Jen

Legal Assistant

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BARRISTER AND SOLICITOR

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*Providing Services as a Law Corporation

OUR FILE: 1-1
YOUR FILE:

September 12, 2018

Via Email: consultation2018@lsbc.org

Law Society of British Columbia
845 Cambie Street
Vancouver, BC V6B 4Z9

Dear Sir/Madam:

Re: Alternate Legal Service Providers

This letter is in response to the email of the 11th of September 2018 which requests that submissions be sent to the Law Society. I'm not clear if it is to be directed to any given committee or group.

The society sought "feedback on alternate legal service providers".

Your email suggested that the Benchers would be seeking an amendment to the *Legal Professions Act* to establish and regulate new classes of "legal service providers".

I write to assure the Benchers, should the Benchers proceed with that, that I at least am completely opposed to such an amendment. "Watering down services" does not help anybody who needs legal help. If we have utility as a profession, my essential submission is that we should maintain those standards first. In any event, I am prepared to also say that I have reviewed the reports and I disagree entirely with the identification of the problem. The clearest example that I deal with continually is in the family law context where I am faced with the choice made by parents, in the face of contested proceedings, to spend \$25 000 to \$50 000 on a "new snowmobile" instead of the legal fees to obtain visitation rights to their children or to pay child maintenance to their children.

The last thing that we need is to provide further interference with such a litigant being exposed by somebody who has paid a lawyer, but who is confronted with a new "half lawyer" who is very good at preparing elegant affidavits to disguise the fact that the snowmobile is "used for work" or some other nonsense.

To deal with your particular interests, as identified in paragraph 21 of the consultation paper, I provide the following comments:

1. Framework in Schedule A - there is nothing the framework in schedule A that I think is going to be a benefit to the public in this province. The entire structure of the "permitted matters" including operate a trust account!? or to act as a mediator or "prepare orders" (in court?), is not only denigrating to the seriousness of what lawyers do now, it is exactly where the problems are coming from with social workers who have of a variety descriptions, who give legal advice around the court. We are constantly having to deal with advice that has been given to citizens by court workers, "justice workers", "native counselors" which advice is wrong and more significantly "wrongheaded", creating expectations in the citizens that then can't be met. The framework not only authorizes that interference with a lawyer's work, it makes it more likely to be worse. We are offered the "bait" that the "family law legal service providers" will be "trained to standards set by the Law Society" - I would presume the same standards that are being taught to our students at the PLTC, who receive a two month course in "letter writing" given by volunteers from the Vancouver Bar. To be clear, my opinion of PLTC is that is a drain on the resources of the students, without benefit.
2. Is the framework likely to achieve the desired outcomes? - No. It will ensure that litigation is expanded - it will simply be far more complicated and expensive for the litigant than now.
3. Does the framework miss any type of legal services you consider should be included - No, in my opinion, the Law Society has no business in creating "watered down legal professionals".
4. Should the service providers be officers of the court - No. In addition to the fact that the courts have already refused that proposal, I suggest that we might listen to the courts. My recollection is that the concern that the courts had is that it is difficult enough for the Bench to maintain its relationship with counsel that the Bench used to be a part of.
5. Is there a broader possible scope of practice not contained in the framework that is appropriate for alternate legal professionals who are engaged in collaborative or non adversarial processes.

I have no idea what that sentence means?

6. What services contained in the framework are the most complex and fraught with risk of significant and/or enduring harm to the client (or their children) if not performed by an experienced lawyer?

I have a perfect example - I regularly am confronted with an application to vary an interim order for the residence of children. On every single occasion, the application has been promoted in one fashion or another by a lawyer "on the record or not" who is inexperienced and apparently has not read the law.

I have never been confronted with such an experience where experienced counsel were on the case.

7. Should the proposed new service providers be subject to the same professional conduct/ethical responsibilities as lawyers?

No - a legal assistant works in the office of a lawyer. There he/she, under the supervision of the lawyer is automatically subject to the "best practice guidelines" and the professional conduct and ethical responsibilities that lawyers are required to follow in supervising legal assistants.

I have had legal assistants who have become professional independent conveyance (read Notaries). I have had experience in dealing with the ethical problems they got into in that role and in fact correcting those problems. They did not have those problems when they were working for me.

8. Other reforms for the provision of family law legal services that could be addressed through the use of alternate legal service professionals.

Right now the government fails to provide sufficient reports to provide s. 221 reports under the *Family Law Act*. The waiting time is a year. When the reports are finally delivered, they are of variable use. The legislature saw fit to put that proposal for providing evidence to assist families in litigation. It didn't work. Why does the Law Society consider that it is any better at "passing legislation" that is going to require people then to fulfill these new positions, not just for a report, but full legal representation.

In general, I urge the Benchers to reject any further expansion of these proposals through the amendment of the statute or in any other fashion. Perhaps the Benchers need reminding - practicing law is not simply filling in forms. Surely the Benchers under the *Legal Professions Act* have an obligation to ensure that this profession at least is going to continue to continue to be a profession and not an administrator of clerks.

Yours truly,

Glenford Emerson Greene
Barrister & Solicitor

GEG/jm

Cc: Bencher - Sarah Westwood
Lawyers of the Bulkley Valley

From: Donald Wilson
To: [Consultation 2018](#)
Subject: Proposal to establish a new class of legal service professional.
Date: September-20-18 2:41:01 PM
Attachments: [Outlook-1488830890.png](#)
[180920 LT LSBC submissions on working group.pdf](#)

Please see attached my written submissions, as requested, relating to the above-referenced subject.

Kind regards,

Donald N.S. Wilson
Barrister & Solicitor
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September 20, 2018

Via Email: consultation2018@lsbc.org

Law Society of British Columbia
845 Cambie Street,
Vancouver, BC
V6B 4Z9

RE: Proposal to establish a new class of legal service professional

I write in response to your request for input regarding a proposal to establish a new class of legal service professional (“Alternate Providers”) to practice in the area of family law. I read the ‘Family Law Legal Service Providers: Consultation Paper’ (the “Consultation Paper”), dated September 2018 produced by the Alternate Legal Service Provider Working Group (the “Working Group”).

The Consultation Paper fails to support its principal premise: that Alternate Providers would be cheaper than family lawyers. Their premise is probably wrong.

More importantly, making legal services cheap or accessible is not a core mandate of the Law Society of British Columbia (“LSBC”). In fact, this objective is contrary to the core duty of the LSBC to protect the profession of lawyers and the public’s confidence therein.

Cost of Alternate Providers

It is not clear why the Benchers or Working Group believe Alternative Providers will be cheaper. The Consultation Paper has only one sentence on the subject. It explains: Alternate Providers “will have lower costs of entry to the profession and will therefore be able to charge less than a lawyer would charge.” (p. 4, para. 13)

How exactly this “lower cost of entry” will be achieved is not set out. Neither does the Consultation Paper consider any other factor that might determine what a family lawyer charges. In short, the Consultation Paper neglects to support the fundamental premise of the entire project.

I can think of the following major source of costs for entry into and maintenance in our profession:

- 1) Education (Both tuition and opportunity costs)
 - a. Undergraduate degree (generally required);
 - b. Law School;
 - c. PLTC;
 - d. Continuing Professional Development;
- 2) Practice Insurance;
- 3) Law Society Dues;
- 4) Compliance with Law Society rules (specific trust accounting requirements, identification requirements, etc.);
- 5) Professional standards (staff of a certain competency, reliable office systems, etc)

The Consultation Paper does not explicitly identify which costs it aims to cut for these alternative providers or how. We are left to guess.

1) Education

If the amount and/or quality of mandatory education is more than is needed to competently practice law, I suggest the education requirements be reviewed for all members.

Why is the proposed educational program for Alternate Providers not available for family lawyers? Who will pay for it?

2) Practice Insurance

The practice risks of the Alternate Providers would be similar to family lawyers. If the insurance is excessive for this area of law, I suggest that family lawyers pay a lower premium.

3) Law Society Dues

Dues could be lowered for all members by:

- a) discontinuing all working groups and task forces, along with all other make-work projects;
- b) eliminating all LSBC projects except for those related to discipline, trust assurance, lawyer services and necessary administration;
- c) reducing the number of benchers;

It is a sad irony that this present Working Group will directly contribute to the increased cost of legal services in the province by consuming money for salaries and administrative costs which can only come from consumers of legal services.

4) Compliance with Law Society guidelines and regulations

I do not see how Alternate Providers could be subject to less onerous LSBC regulations than family lawyers;

5) Professional Standards

Skirting or reducing professional standards would not be a desirable way to reduce the costs of legal services.

In my view, the reason family legal services cost as much as they do is because of the quality of professional work required to provide them, and certainly not only “entry cost”. If I am correct, Alternative Providers will eventually charge more or less what family lawyers charge now – because this is how much it costs to do the job well.

No matter how “open” you make the system, nobody is going to practice if they are losing money (including opportunity cost).

The Proper Duty of the LSBC

This project is trying to solve problems squarely in the domain of the provincial government, namely more accessible family law remedies. The proper channel for the correction of these remedies is either a simpler or less ambitious family law legislative scheme or social funding from the provincial government.

Instead, this Working Group proposes a solution that compromises the very profession the LSBC is empowered to protect. It proposes to create a new class of membership explicitly designed to compete with lawyers.

Protecting the profession of the lawyer is core to the mandate of the LSBC. If Benchers wish to pursue a different mandate it is incumbent upon those Benchers to find another vehicle for their objectives.

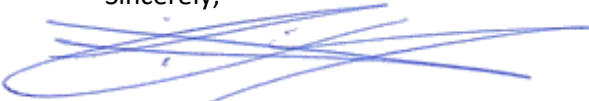
Success in the proposed initiative will be proportionate to the failure in our governing body's core mandate.

It is not a proper responsibility of the LSBC to ensure access to justice or legal representation for all.

Summary

I encourage the Benchers to discontinue this Working Group and abandon the project. This is the best way to reduce the cost of legal services in British Columbia without compromising your core responsibilities.

Sincerely,



Donald N.S. Wilson
Barrister & Solicitor

From: David Hart
To: [Consultation 2018](#)
Subject: consultation paper-Family Law Legal Service Providers
Date: September-20-18 2:58:53 PM
Attachments: [image001.png](#)

Below are the preliminary responses of myself and my associate-as requested.
I have reviewed the consultation paper provided by the working group and have the following comments at this time:

It appears to be De Rigeur for our profession to accede to the view publicly promoted by our governing body and the Bench at both levels that the legal process, whether by way of litigation or providing specialized professional services to the public in general and ,not incidentally ,upholding and pursuing the Rule of Law, can best be served by removing the “grasping: ambulance chasing ,litigation promoting “ lawyers from the process and ceding all aspects of professional legal services to members of the public seeking self- gratification through assuming the mantle of service providers whether by way of holding themselves out as mediators or counsellors utilizing ill prepared and ill- defined social “solutions” to the emotional ;behavioural /and relationship problems of individuals .rather than ensuring the continued access of the public to the services opinions and advice of highly trained generally experienced and rational and logical thinking individuals who are free of social agendas and the desire for self -agrandisement by cloaking themselves with nebulous qualifications recognized and promoted by government organisations.

It seems to me that the Legal Aid system fulfils all the needs of society as identified by the “Working Group” and the funds involved in promoting the suggested Alternate Service Providers would best be utilized in expanding and rationalizing the Legal Aid system

Yours Respectfully.

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