

**Special Fund Fees,
Trust Administration Fees
and Low Income Clients**

Report on the Consultation

July 4, 2007

Introduction

In February of this year, the Task Force issued a consultation paper inviting interested persons to comment on the issues raised in the paper.

The paper was made available on the Law Society website and the consultation was highlighted in the March 2007 Benchers Bulletin. To facilitate the responses, the Law Society made available an online survey in conjunction with the report. In addition, several organizations which the Task Force thought might be particularly interested in the issues raised in the paper were contacted directly and invited to make submissions.

This paper reports on the results of the consultation.¹

Consultation

The consultation was directed at the issues raised in Mr. Christie's resolutions at the 2006 Annual General Meeting of the Law Society. The resolution proposed

WHEREAS the Law Society's Special Compensation Fund Fee of \$600 on every practising lawyer and the \$10 Trust Administration Fee for every trust account opened by a lawyer cause undue hardship for lawyers who have little or no trust account activity which lawyers tend to be the ones that deal most with low income clients;

BE IT RESOLVED THAT all lawyers who deposit less than \$100,000 per annum to their trust accounts be exempt from the Law Society's Special Compensation Fund Fee;

BE IT RESOLVED THAT lawyers who deposit more than \$100,000 per annum to their trust accounts will be subject to a trust administration assessment of 0.05% of the amount by which such net annual deposits to the trust account exceeds \$100,000. Such assessment will be payable at the lawyer's year end.

BE IT FURTHER RESOLVED THAT the above percentage for the assessment may be varied by the Executive if funds coming in from the assessment either exceed or are less than estimated.

Specifically, the Task Force wished to gather information about whether the Trust Administration fee and the Special Compensation Fund fee are causing undue hardship for lawyers with little or no trust activity.

Low Income Clients

The first question the Task Force was about the the respondent's understanding of who was a low-income client. The online survey asked:

Would you consider someone a low-income client if their total annual family income was equal to or less than:

\$12,000	2.56%	\$18,000	8.97%	\$24,000	24.36%	\$28,000	21.79%	\$34,000	20.51%	\$40,000	21.79%
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¹ For more detailed discussion of the survey distribution and responses, see Appendix D

Respondents views on what constitutes low-income varied, with responses fairly evenly distributed over the range of \$24,000 to \$40,000 and only 9% selecting the choices less than \$24,000.

Some respondents were critical of this question and the choices. One respondent suggested the question was misleading because it depended upon how many were in the family.

Services to Low Income Clients

The Task Force was interested in the extent to which respondents were providing services to low-income clients, however defined.

In the past year, have you provided services to low-income clients?

Yes 82% No 18%

Given the purpose of the consultation, it was not surprising that just over 82% of the respondents said they had provided services to low-income clients in the past year.

Respondents were also asked to indicate how many clients they had assisted.

If so, approximately how many clients did you assist?

1 to 10 35.48% 11 to 20 14.52% 21 to 30 12.90% More than 30 37.10%

The responses showed more than one-third assisted 10 or less and a further third assisted more than 30.

Trust Account Activity

The Task Force wished to get a sense of the degree of trust activity and whether trust funds were being deposited for purposes other than retainers or disbursements.

In the past year, did you deposit less than \$100,000 in total to your trust account?

Yes 56% No 44%

The Task Force was also interested in whether the trust account deposits on behalf of low-income clients were primarily for retainers and disbursements.

In the past year, did you deposit to your trust account funds from a low-income client for a purpose other than retainer or disbursements?

Yes 43% No 57%

Opinions

The Task Force asked three questions directed at the respondents' views on the resolutions presented at the 2006 Annual General Meeting.

The Special Compensation Fund fee represents an undue hardship for lawyers with little or no trust account activity.

Strongly Agree 55% Agree 18.75% Neutral 11.25% Disagree 3.75% Strongly Disagree 11.25%

The Law Society should exempt lawyers who deposit less than \$100,000 to their trust account annually from payment of the Special Compensation Fund fee.

Strongly Agree 51.85% Agree 17.28% Neutral 12.35% Disagree 4.94% Strongly Disagree 13.58%

Lawyers who deposit less than \$100,000 to their trust account annually should be exempt from payment of the trust administration fee on deposits to their account.

Strongly Agree 48.75% Agree 17.50% Neutral 13.75% Disagree 5.00% Strongly Disagree 15.00%

Commentary

The survey results suggest significant support for the resolutions advanced at the 2006 Annual General Meeting. However, the Task Force is mindful that the number of respondents to the consultation was small and may not be representative of the entire Law Society membership. For example, the Task Force believes it is unlikely that 82% of all practising lawyers provide legal services to low-income clients, as desirable as that might be. As a result, the Task Force is reluctant to extrapolate from the survey results to a majority of lawyers in the province. Nevertheless, it is clear that some lawyers are of the view that the fees associated with trust activity should not apply in the limited circumstances defined in the resolutions. The Task Force will take into account the results and the views expressed by those who did respond in presenting its recommendations in the Fall.

Appendix A

Survey Instrument

1. Would you consider someone a low-income client if their total annual family income was equal to or less than:

\$12,000 \$18,000 \$24,000 \$28,000 \$34,000 \$40,000

2. In the past year, have you provided services to low-income clients?

Yes No

If so, approximately how many clients did you assist?

1 to 10 11 to 20 21 to 30 More than 30

3. In the past year, did you deposit less than \$100,000 in total to your trust account?

Yes No

4. In the past year, did you deposit to your trust account funds from a low-income client for a purpose other than retainer or disbursements?

Yes No

5. The Special Compensation Fund fee represents an undue hardship for lawyers with little or no trust account activity.

Strongly Agree Agree Neutral Disagree Strongly Disagree

6. The Law Society should exempt lawyers who deposit less than \$100,000 to their trust account annually from payment of the Special Compensation Fund fee.

Strongly Agree Agree Neutral Disagree Strongly Disagree

7. Lawyers who deposit less than \$100,000 to their trust account annually should be exempt from payment of the trust administration fee on deposits to their account.

Strongly Agree Agree Neutral Disagree Strongly Disagree

8. Comments?

Appendix B

Respondent Comments

1. first question is misleading. depends upon number in the family

100,000 is the wrong cut off number! Almost all of my clients are low or marginal income clients. Once in a while they do handle bigger sums - like with a home sale or purchase or ICBC payout. I usually get one or two of these a year. So the trust costs the law society imposes on me basically get divided between these few clients. Makes it uneconomic for me to serve them, but I continue to do so because otherwise they would not get proper service.

2. is trust activity the true measure? Surely lawyers who feel aggrieved could apply for exemption based on further criteria. Perhaps they should undertake not to do any real estate related work, or other work which is over represented in claims?

Although insurance is reduced for part-time lawyers, there is no reduction in any of the Law Society charges - so in addition to being burdensome on lawyers with low-income clients, these are also burdensome on part-time lawyers

Do not accept funds in trust; therefore acting for above category of clients too much hassle and cost. Certainly SCF should not be applicable to above. More particularly LSBC should concentrate efforts on access to and funding legal services for above category.

I actually do not have a trust account, partly because I find the fees associated with trust accounts too high. I never deal with retainers, so instead I either work (on contract or by referral) for the Legal Services Society or for other lawyers.

I am a disabled lawyer who is struggling to find work.

I attempt to keep my fees as low as possible, when I am required to pay set costs as a part of remaining in practice, I must pass these on to my clients, regards of whether they have the ability to pay

I choose not to have a trust account.

I don't have a trust account. I don't do real estate. Pretty much all my clients are low income. I practise (very) part time, and there is no doubt that these fees are a hardship for me to the point that each year I consider relinquishing my membership in the Law Society. There is only one other lawyer in my very small rural community and I definitely provide a valuable service that would be missed here, so I hang in there. The Law society fees and insurance (the total of all of them) are about 25 - 30 % of my income from the practice of Law. (I do have other income from my arbitration/mediation practice)

I earn under \$50,000 a year as a single mother of 3 children and with mostly LSS and low income clients. I volunteer about 100 hours/year to CBA activities. It is getting to expensive to do this sort of charity even though it is my calling. Please contact me for more information as to what this hardship is doing to lawyers like myself (kelownalawyer@shaw.ca).

I feel the TAF is a yet another tax on the client and should be stopped. I am a sole practitioner and have no choice but to pass on the fee. With lower net income loss being paid I am finding several clients are not have been to other lawyer and advised that their case is too small for them to bother with. This is especially true if Family Maintenance enforcement is involved.

I omitted to respond to the first question because the size of the family is not stated. The government has guidelines for "poverty" and I believed these were addressed in the initial PST case. I don't think the Law Society needs to be in the business of defining poverty.

I rarely use my trust account for other than retainers. I practice primarily family law with low income clients. When I use my trust account it is generally to assist people with disabilities and/or for spousal support settlements. The amounts on which I have paid the \$10 TAF are: \$12,000.00; 5,000.00; 25,000.00; 450.00; 218.00; 58,146.00; and 20,000.00.

I represent many clients who are either low income, or on legal aid and do not practice in real estate law, and have a small amount of funds in my trust account, usually for retainer, or disbursement purposes. I practice in family law and mediation for the most part, and find it unfair that I should contribute to these funds, in the same way as lawyer who have large trust account balances, and who move large amounts of money.

I see various problems with the survey and the proposal. What is meant by "family" in question one. Income level is quite different if there are children. I therefore chose a level that splits the difference. Also many of us doing work for the low income population work part-time. The level of \$100,000 is rendered useless by doing one real estate transaction for a friend. I have also used my trust account to handle a lump sum payment received by a client that needed disbursing upon the completion of certain conditions. Wouldn't the income level of the lawyer be a more meaningful test, although, of course, everyone manipulates their accounting of income and expenses differently. I know criminal lawyers who have a greater income than I do who are less deserving of a break than I am; on the other hand they shouldn't be penalized for the mistakes of the real estate and commercial bar either.

I work exclusively with clients who have limited financial resources. I strongly disagree with having to pay the special compensation fund fee ... it should be paid by those lawyers with practices who give rise to claims of these sorts.

In addition to low income clients, your survey has forgotten that there are many low income lawyers. Lawyers who assist low income clients tend to be low income themselves, as are lawyers who are self-employed, practice on legal aid, are young, female, or have children. All of the above apply to me. Last year my income for three dependents was \$16,500. I would prefer not to have to pay the Special Compensation Fund Fee, and I think it is a hardship, not for clients, but for my children and I.

It is hard enough giving good service to my LSS clients when the tariff fees are so low. It seems the system is set up to force lawyers who provide services to low-income clients to just crank them through the system in order to make ends meet. I feel the above-noted fees that I pay to the Law Society are seriously disproportionate when I consider how much trust account activity I do compared to those at larger firms who service high-paying clients, be they criminal or civil.

Law Society and associated fees are a considerable hardship on younger, independent lawyers, and especially those seeking to service lower income persons. The current system whereby there is no pro rata of Law Society fees, or professional development program fees, works to create enormous hardship for younger lawyers, as well as to exacerbate sharp income inequality between lawyers.

Low income depends on size of family so question 1 really isn't worded well. That said, the LICO does not reflect the difficulties lower/middle income people have paying legal fees of say \$100/hour. Lastly I think the real issue is the lack of accessible legal advice and representation to many people. Lowering Law Society fees does little to change the reality of the profession functions in this province absent a comprehensive legal aid system such as that in Ontario with clinics covering all areas of law in most urban and rural communities in Ontario enabling hundreds of lawyers to make a living doing this work not to mention educating several generations of law students lawyers on providing advice to low income and marginalized peoples.

re. questions # 3 and 4, I limit my practice to Legal Aid cases only, therefore do not have a trust account

Some low income clients are mentally handicapped. Although they need help they are a risk to make claims as far as errors and omissions are concerned and with respect to Special Compensation. Remember the enormous amount of time and expense associated with Valerie. I feel that we are all in this together as a profession. If we start breaking down costs in accordance with usage it will be chaos. For instance some lawyers never take an articling student. Should they be exempt from contributing to PLTC? I am against any change from the status quo.

The Law Society should make it easy to do pro bono work. But much much more importantly, it should insist that government guarantee access to justice for poor and otherwise disadvantaged people: otherwise there is no justice system.

The Special Compensation Fund either represents a universal insurance scheme or it does not. If it does, every lawyer should be required to pay into it. If it does not, then the whole system will break-down unless assessments for the fund are based on historical claims (i.e. layers who practice real estate should pay the most significant amounts, etc., etc.).

The TAF increases costs to law firms well in excess of the fee itself and to some extent we must pass them on. The Law Society refuses to see the irony of attacking the PST yet ignoring the same arguments against the TAF.

There is no doubt that a fee of \$600 is a financial hardship for a person whose clients are low income people. While I appreciate the principle of the rest of the profession covering losses of clients of unscrupulous lawyers, I think those of us who have little or no trust account activity should either have the fee eliminated or greatly reduced.

To clarify answers to 6 and 7: deposits less than \$100,000 for the purpose of a retainer. Large deposits from house sale proceeds should not be included in the calculation, if that property is the primary or sole asset of a low-income client, which is quite often the case in family matters.

Trust accounts under a certain monetary limit (of yearly transactions) should still be monitored and subject to Law Society reporting but not be subject to any additional fees.

1. Banks financing businesses often arrange for funding to be paid directly, and not through trust accounts. Oilfield companies making purchases pay each other directly and ignore trust accounts. Those are multimillion dollar transactions; lawyers bills will reflect the risk, but funds not through trust.

12k family income is not poor, it's destitute, that's welfare rates. a person could not even consider forming a family at \$8 an hour, and that's only 17k / year. even 40k is only 9.50 / hr for a couple. how do they manage? we should give them any break we can.

2.i act for eg on reserve, mentally disabled, indigent plaintiffs in mva's and amounts recovered are often above 100k per client, yet they are still poor and have limited access to justice

3.does family income include child support? i don't think it should

4.i have acted for societies where amounts through trust exceed 1M but still society and members still indigent.

5. clients have brought me bills to review from members of criminal bar which gave me heart attacks re blatant breaches of accounting rules; encourage more compliance, not less. if accounting is simple, easier to do it. (online trust accounting???)

A report on the "Wirsig" claim should be published and the trust administration fee reevaluated.

All sole practitioners should be exempt from the TAF as it is a huge burden to figure out each time a report is due and to remember to collect it from clients. The sole practitioner pays the fee from his or her own pocket in many cases. A sole practitioner may have one or two TAF transactions each period but their trust account goes through more than 100,000 per year - the fund represents undue hardship for sole practitioners with few transactions that attract the TAF. Also the reports are due too often and it would be much simpler if we even had to pay a set fee annually with our fees. It is a huge nuisance to the small firm.

Annual income is also not a good measure - how many in the family? where do they live? etc.

I am a young refugee and criminal lawyer. Almost all of my clients are "low income clients". It is impossible for me to express the strength of my agreement with Mr. Christie's motion.

I am concerned that the annual fee and the special compensation fee will prevent me from practising law. This would be devastating for me.

I notice that this survey appears to be anonymous. If so that is dangerous as members can complete as many surveys as they wish to affect the results. I hope it is not anonymous.

I practice immigration law and this additional check of my practice is completely unnecessary.

I would propose that rather than focussing on annual trust activity, the size of the individual trust entry be taken into account. This I deposited into trust \$3178.40 representing settlement amount, fees, disbursements and taxes relating to the claim of a person on welfare. 32 such transactions would place me in the \$100,000 category, the same as the person who handled a single home conveyance. But I would pay \$320 for my \$100,000 transactions (I do not pass these on) and the part-time conveyancer would pay \$10.

I would suggest that transactions under a certain amount simply be exempt from the fee as retainers are. Alternatively, the fee should be based on the amount of funds placed into trust rather than the number of transactions used to reach that amount.

Lawyers who deposit than 500,000.00 pe client should be exempt from the trust admintatio fee.

Lawyers who work with clients who have low incomes also tend to have lower incomes. The way that this is currently structured causes the people who can least afford it (both members of the public, and of the bar) to have to pay for these issues that do not arise from this area of practice.

Please do something to help disabled, low income lawyer.

The calculation Mr. Christie proposed is not the right way to calculate the TAF. Continue with a flat fee. It is much more predictable. (at 0.05%, the TAF on any residential house transaction would exceed \$250.

The contribution of lawyers who provide legal services to the poor are not acknowledged as they should be. It costs money to do so. This adjustment should be made.

The exemption should be for firms rather than for lawyers.

The fact is, to the extent this matter is inspired by the Wirick affair, I would expect that the risk of illicit trust activity bears a closer relationship to the amount of funds in trust than the number of transactions. Similarly, for that lawyers who pass on the TAF, the burden of a \$10 fee is higher on a client such as mine whose entitlement is to less than \$2000 than it would be on a substantial transaction.

The impetus for increased fees (special comp or TAF) is for the LSBC to manage the risk of claims arising from members' failure to appropriately handle trust funds. The assessment of fees to a practitioner or firm should be proportionate to an objective measure of the risk their practice represents. Therefore, all things being equal, the most fair way to assess such fees is a percentage of trust account activity such as has been proposed.

The latter seems unworkable and at odds with the principle of the Fund in the first place. Making any accommodation of the sort requested is just the thin edge of the wedge.

The TAF is an embarrassment and should go. Clients can't believe that we'd charge money for the privilege of holding on to their money.

The trust accounting requirements are onerous for small firms and for sole practitioners.

The trust administration fee should be terminated.

This is a classic example of a poorly designed system in the first place that will not have band aids patched all over it. The compliance costs associated with the trust administration fee probably exceed the amount collected. What happens if a lawyer doesn't collect the TAF and deposits more than \$100,000. Do they collect TAF if they might exceed it then return it? Does the Law Society consider the administrative burden on lawyers when they create another exemption. It is just 1 more rule because the original system was flawed.

While this reflects badly on all lawyers, I can see the business need for some to say No. I

Appendix C Correspondence

KENYON MCGEE, Law Corporation

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April 9, 2007

Law Society Fees and Low Income Client Task Force
The Law Society of British Columbia
8th Floor, 845 Cambie Street
Vancouver, BC
V6B 4Z9

ATTENTION: Adam Whitcombe

Dear Sir:

RE: Fees and Low-Income Clients input

I write in regard to the above-noted matter.

As a lawyer who not only represents low-income clients, but because of my long residence in this relatively rural and remote area, I am required to provide identification verification for almost every passport application that comes through our area. I can advise that, yes indeed, the Special Compensation Fund payment does have a negative impact.

My practice, which is widely varied, requires me to provide many one visit appointments to extremely low-income people who have a problem which, although I may not be able to help them with in the long run, requires some form of summary advice. Meeting with them like this gives them a direction they can look to.

It has been my practice for over 15 years to charge only those who appear to have the ability to pay for this one-visit consultative service. On average, about 10% of One Visit or Lawyer Referral clients pay anything.

I also find that my practice involves much *pro bono* work for low-income neighbours of many years and of course, in a small community, almost everyone becomes a neighbour over time.

Continued...../2

Law Society Fees and Low Income Client Task Force

The Law Society of British Columbia

Attention: Adam Whitcombe

April 9, 2007

Page 2

The Special Compensation Fund is crucially important to pay off the Wirrik liability, however, the difference between a lawyer whose annual income has ranged from a high of \$30,000 to a low of zero for a year of full-time work as a lawyer, and other lawyers in our profession, especially from the larger centres where good paying clients can be included in the mix, and ability to pay, is vast.

Although the Special Compensation Fund and the Trust Administration Fee may be nothing but a *minor mosquito bite* for the well paid counsel with broadly based practices and well-heeled clients, for counsel like myself it is very difficult to pay and to collect the funds necessary to pay it while still trying to pay staff, office overhead and all the other costs associated in 2007 with the practice of law.

I do not know whether the Law Society can do anything about the Special Compensation Fund because we may still be required to put together the necessary funds to pay off the Wirrik claims and maybe others. I would, however, suggest that the Law Society consider some form of graduated payment system, much like the CLE scholarships, based on the income of counsel paying the fee. I don't know whether that is possible, practicable, or even something that is being considered.

In closing, all I can say is, yes, indeed, the Special Compensation Fund payment required from me each year does come straight from my potential for take-home income, and is not compensated for, by paying clients.

Thank you very much for your time and attention to this matter.

I remain,

Yours truly,

KENYON MCGEE, LAW CORPORATION



Per: Kenyon McGee, Barrister & Solicitor

KM/II

PIVOT LEGAL LLP

BARRISTERS & SOLICITORS

April 30, 2007

The Law Society of British Columbia
845 Cambie Street, 8th Floor
Vancouver, BC
V6B 4Z9

Dear Mr. Whitcombe:

Re: The Law Society Fee and Low Income Client Task Force

Pivot Legal LLP welcomes the opportunity to make submissions with respect to the Law Society of British Columbia's recent consultation paper, "Special Fund Fees, Trust Administration Fees and Low Income Clients." It is Pivot Legal LLP's position that the Law Society's Special Compensation Fund Fee of \$500 on every practicing lawyer causes undue hardship on those lawyers who represent low income clients.

Pivot Legal LLP is a new law firm that opened its doors in October of 2007. It is a cooperative of lawyers and legal professionals focused on providing low-cost, accessible legal services, with a mission to use the law in the public interest and foster a new culture and alternative approach to the practice of law. Pivot Legal LLP is a social enterprise of Pivot Legal Society, a non-profit legal advocacy organization located in the Downtown Eastside of Vancouver. Pivot Legal LLP combines the social engagement and impact of Pivot's non-profit advocacy model with the resources and expertise of a law firm.

Pivot Legal LLP provides financially accessible legal services, focusing in particular on the lower-middle income bracket of the population currently unable to afford representation. Pivot Legal LLP plans to use its excess revenue and resources to fund legal campaigns and precedent-setting litigation in the public interest and to offer legal services on a sliding scale.

Our law firm has been designed in a way to minimize overhead costs in order to be able to represent the segment of the population who is currently unable to afford representation. This means that all of the lawyers and legal staff at Pivot Legal LLP make a substantially lower salary in order for the firm to be able to do the work that it does. Operating a law firm is nonetheless a very costly enterprise and any extra fees or costs will necessarily impede the ability of our law firm to continue to serve low income clients.

It is our view that the Law Society of British Columbia should continue to assist lawyers who chose to represent low income clients – a path not easily taken given the way our legal profession currently operates. Given Pivot Legal LLP's focus on serving low income and middle income clients, the law firm does not currently have a high volume of trust account activity. Currently, 48 percent of our clients are either pro bono clients or were referred to the firm by Legal Services Society.

The Law Society's Special Compensation Fund Fee creates a financial burden to our law firm even though the work in which Pivot Legal LLP engages does not entail the risks that the fee is meant to address. There are many disincentives in legal practice to represent lower and middle

income clients. Accordingly, the Law Society of British Columbia should account for the impact of extra fees on lawyers representing low income clients.

Pivot Legal LLP supports the aims of the Special Trust Fund Fee scheme and supports lawyers taking responsibility for trust administration and compliance. However, in the context of a firm such as ours which is dedicated to serving low income clients, it is our view that the fee does more harm than good.

In conclusion, Pivot Legal LLP supports Member's Christie's resolution to exempt lawyers who deposit less than \$100 000 per annum to their trust accounts from the Law Society's Special Compensation Fund Fee.

Thank you for your attention.

Yours truly,



Lobat Sadrehashemi
Barrister and Solicitor



advocates for the environment

SIERRA LEGAL DEFENCE FUND

April 3, 2005

Law Society Fee and Low Income Client Task Force
The Law Society of British Columbia
845 Cambie St, 8th Floor
Vancouver, BC V6B 4Z9

Attention: Adam Whitcombe

Dear Sir:

Re: Special Fund and Trust Administration fees Review

This is with regard to the Benchers considering whether the Special Fund and Trust Administration fees affect the ability of the legal profession in British Columbia to provide service to low-income clients.

Sierra Legal Defence Fund is a non-profit charity that provides free legal services to address environmental matters. We provide legal advice related to environmental laws and policies, publish reports and opinions, and undertake legal actions, mainly judicial review or permitting panel appearance/review. Based on the nature of our work, because we do not bill our clients and do not undertake work that requires carriage of funds on clients' behalf, we do not maintain trust accounts.

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In spite of this, each of our lawyers must pay the Special Fund Fee. For an organization that must fundraise for every dollar spent on behalf of client services the expense is material. We do not create the risk that gives rise to the need for the administration fee, yet we bear a proportionate burden of the cost.

While our circumstance may not appear related to the terms of your inquiry, this additional cost directly impacts our ability to provide legal services to our clients, many of which are non-profit charities who could not otherwise afford legal services to address their environmental concerns.

It appears to be generally acknowledged that Trust Administration Fee is the fairest means of addressing this issue because it allows the cost of trust administration to be apportioned in relation to the risk. We support such a fee.

Sincerely,

Devon Page,
Staff Lawyer

Appendix D Survey Results

Distribution

The survey was made available on the Law Society website. Lawyers were notified of the consultation and the opportunity to complete the survey by broadcast email on March 23, 2007 and again on April 16, 2007. In addition, notice of the consultation was included in the March 2007 *Bencher's Bulletin* and highlighted on the first page of the Law Society website during the month of April 2007.

Responses

A total of 78 lawyers provided valid responses to the survey out of a population of 9,800 practising lawyers.

Survey accuracy

The relatively low number of respondents yielded a fairly large confidence interval of $\pm 9.6\%$ 19 times out of 20. The low number of respondents also increased the probability of non-response bias. Non-response bias occurs when a significant number of people in the survey sample fail to respond and have characteristics or views that differ from those who did respond. In the case of opinion surveys, non-response may be a measure of the degree of interest in the topic of the survey. While non-response bias does not invalidate the answers provided by the respondents, it does limit the degree to which the results can be extrapolated to the population of practising lawyers as a whole.