

## THE EVOLUTION OF LEGAL INFORMATION AND LIBRARY SERVICES IN ONTARIO

(October 15, 2014)

The efficient, effective and forward-looking delivery of legal information services is a critical component of a modern and competent legal profession. Almost 15 years ago the delivery of library services was critically examined and significant changes undertaken. No system-wide examination has taken place since then. While those improvements moved the delivery of legal information services forward, rapid changes in the legal landscape, the profession and the public's interaction with the legal system since then, as well as increasing recognition that some of the goals of that earlier reform have not been realized, make it essential to consider the issue further at this time.

Although some aspects of the library system and the delivery of legal information and support services have not changed since the last examination, many others and, in particular the landscape in which library services exist, have. The explosion of technology, changes in the legal publishing field and the development of CanLII, access to justice issues, and library funding changes are all relevant to any consideration of libraries in the 21<sup>st</sup> century.

The preliminary fact-gathering, issue identification and analysis and advice that the Library Information and Support Services Working Group (the LISS Working Group) has provided to the Treasurer, and with which the shareholders agree, make clear that now is the time to move forward with the examination of the County Courthouse Library System (the Library System).

The work of the LISS Working Group, first and foremost, concluded and affirmed that there is a significant and important role for courthouse libraries in Ontario both in the provision of legal information and for the development and maintenance of professional competence.

The LISS working group also concluded that there was significant room to improve service, find efficiencies and reform the overall system. It finally concluded that any efficiencies or reform should be based on the following principles, which are essential to any successful systemic change:

1. Relationships built on trust, collaboration, cooperation and accountability among the various stakeholders, who include the county courthouse libraries, law associations, the Great Library, the Law Society and its licensees must be at the heart of the process of implementing changes and efficiencies within the Library System.
2. To ensure a library system that works well, there must be a rational process for decision-making, a meaningful and efficient administrative structure and a system-wide examination looking for efficiencies.
3. There is an urgency to moving forward, particularly in view of funding pressures caused by the rising cost of legal information that is outpacing rates of inflation, and a rapidly changing legal landscape that is having an impact on every aspect of the law, including delivery of legal information services.
4. Legal information services play an essential role in the development, maintenance and enhancement of licensee competence and research literacy, which should be more directly and systemically fostered within the Library System.

5. Positive evolution will be achieved by working with a variety of participants and should include the input of experts in the legal information, library and competence fields. Skills-based participation in visioning and planning will add significant value to the evolution effort.
6. There is also an opportunity to better integrate the use of physical library space and library staff into the administration of justice and goals for increased access to justice.
7. Attention should be paid to enhancing the provision of French-language resources within the Library System.
8. Any discussion about library services must include an examination of potential new sources for funding or money, as well as better use of or redeployment of current funding.
9. There are many successes within the Library System where examples of excellent service to lawyers and the public can be emulated and built upon. Ways should be found to share best-practices and to standardize certain components so that there is a consistent level of service across the province.

The LISS Working Group's fact-gathering process and the preliminary advice on next steps to support the goals for a 21<sup>st</sup> century approach to the Library System have focused on four main areas: governance, physical space, licensee competence and research literacy, and monetary funding and financial efficiencies.

## **GOVERNANCE**

Effective governance of the Library System must include processes that foster trust among the various stakeholders, including the County Courthouse Libraries, the local Law Associations, the Great Library, the Law Society and its licensees. It must balance their often competing interests.

To make the best use of resources and ensure a system that works, there must be systemic efficiencies, rational processes for decision-making, administrative structures that can be justified in operation rather than in theory and certainty for those both working in and using the system. Governance-related discussions must address current administrative structure and operation of LibraryCo, allocation of funding, regional libraries' role in the system and staffing. Building trust among the various players involved in the Library System will need time and a coherent communication and action plan. It will be important to address issues of accountability of all participants within the Library System.

In parallel to an examination of governance and accountability, an examination must be taken into the funding models for libraries. Currently, the funding model is not based on a rational or consistently applied formula. This leads to inefficiency and uncertainty and is itself a barrier to reform. With a "fresh start" on governance and appropriate reassurances regarding the importance of the Library System, trust can be re-built among the stakeholders and opportunities can be pursued to revitalize libraries, provide other benefits to the local bar and contribute to access to justice.

Courthouse Libraries and Great Library staff are invaluable resources within the Library System and provide an important service to the legal profession. Supporting staff professional development and better coordinating the differing roles of regional, area and local libraries would improve their ability to provide assistance to library users.

### **Next Steps**

In the area of governance, the Treasurer and shareholders received the advice provided to,

- continue the dialogue respecting improving governance of the system, rationalizing its cost, updating and confirming financial information, determining what component parts of the current LibraryCo, if any, should be retained and exploring various ways of improving the Library System's integrated components of governance, management and operations;
- engage in a more open dialogue about overall spending on library & legal information services throughout the Library System (with the Great Library);
- consider whether and how regional libraries may play an expanded and enhanced role in improving the delivery of services throughout the Library System, including through better and more creative interaction between the regional libraries and the Great Library;  
and
- consider systemic professional development and more coherent consideration of differing roles for staff across the system.

### **PHYSICAL SPACE**

The local County Courthouse Libraries occupy physical space in courthouses. For many years, law associations have utilized the space for multiple purposes building on library services with complementary services. At the same time, the space has potential to be an important community resource both for the legal community and the public for the delivery of a broad range of legal services, including researching the law and facilitating access to justice. Going forward, by expanding the way the space is viewed the space could become an important or useful part of any strategy to improve access to justice. At the same time, considerations of security, client confidentiality and the need for private-bar lawyers to "have their own space" inside the courthouse must be weighed and balanced. While it is true that the transition from relatively passive, closed spaces to more vibrant and active space will require extensive consultation, flexibility and planning, if this can occur, the potential results will be important not only to the members of the public who are accessing legal services but also to the local communities in which the libraries are located.

### **Next Steps**

In the area of physical space, the Treasurer and shareholders received the advice provided to,

- undertake a business case analysis of the potential for increased use of the libraries to provide community legal education, resources for self-represented litigants and access to legal information without disrupting the access by licensees who provide core funding for the resources.

## **LICENSEE COMPETENCE AND RESEARCH LITERACY**

The Library System is an integral component of the Law Society's mandate to ensure licensee competence. Its services and their delivery should, therefore, be focused on best practices, particularly as it relates to the development of legal research literacy and skills and lawyer and paralegal competence. The current system has not been designed to advance this systemic approach or to provide education and training to encourage lawyers and paralegals to accomplish these competence goals. Proper research is the foundation of competence and best practices and libraries and library staff are an invaluable aid to that objective. Library staff is well positioned to assist with legal research literacy for both lawyers and paralegals and expand and enhance that role. There is room for such education to become part of licensees' continuing professional development (CPD) landscape.

Any consideration of this area must address, among other issues, research literacy and the role of library staff in fostering it, access to French language resources, the uses for both electronic and paper resources, the libraries' role in fostering networking, collegiality and mentoring as part of competence, marketing and orientation sessions for licensees.

French language resources are important to the overall competent delivery of legal services in Ontario. Such resources should include precedents, legislation, case law and reference materials. Whereas some resources are currently available, others are insufficient. Concerted efforts to enhance the availability and delivery of French language materials should be the subject of specific discussion and analysis.

There is room for greater interaction within the Library System of licensees and the bench, other stakeholder groups and associations operating within the courthouses or local communities. Law associations and libraries provide opportunities for licensees to get to know and support one another. This is an important component of the Library System and it is especially important for recent and internationally-trained Law Society members who might otherwise become isolated.

Discussion should also take place about increasing paralegal access to the county law libraries so that paralegals benefit from and contribute to the Library System and enhanced use of the spaces. Increasing paralegal access, which is inconsistent across different libraries in Ontario, will enhance their opportunities for networking, collegiality and mentorship.

Law Society members are not always aware of the resources for which they pay or to which they have access, and therefore may not appreciate the value they receive for their fees. There are ways to address this gap and to enhance the use of services.

### **Next Steps**

In the area of licensee competence and research literacy, the Treasurer and shareholders received the advice provided to,

- consider the means by which the Law Society could increase materials available in both official languages to licensees and the public, at reasonable cost, such as through Jurisource, CanLII and County Courthouse Libraries;
- ensure that any improvements to the Library System focus on the central role libraries should play in enhancing licensee competence and research literacy; and
- consider the investigation of a CPD requirement, whether for new calls or all licensees, addressing legal research competency.

## **Monetary Funding / Financial Efficiencies**

Effective use of resources is essential to the success of the Library System, never more so than in an environment of scarce resources, such as money. Possibilities for new sources of funding and ways of better utilizing and redeploying existing funding should be explored.

CanLII is an extraordinary success story that is good news for the legal information system of which the County Courthouse Libraries are an integral component. The importance of CanLII and its continued potential for spectacular growth and improvement at relatively little cost compared to the current model using private publishers is a vital consideration for the Library System's future. Further, such improvement could leverage the investment made to date by the Law Society and secure CanLII's position as a viable and acceptable alternative to existing commercial services.

In the face of cuts and other challenges to funding, as well as in the interest of rigorous analysis of the usefulness of services and delivery mechanisms it is important to consider redeploying existing funding, including eliminating approaches that do not produce necessary results. Revitalizing library spaces to provide better public access, *pro bono* programs to assist self-represented litigants and seminars to provide both general education to the public about the law and their rights and obligations as well as tools to search the law could all contribute to access to justice. They could also provide possible new funding from a variety of sources, such as the Law Foundation and other granting bodies interested in improving access to justice.

### **Next Steps**

In the area of monetary funding and financial efficiencies, the Treasurer and shareholders received the advice provided to,

- consider establishing a mechanism by which CanLII is bolstered financially to further enable it to develop into a robust, affordable competitor to the private sector publishers; and
- conduct a comprehensive review of alternate sources of funding and opportunities for better use of existing funds within the Library System.

### **CONCLUSION**

The Library System needs to be revitalized in keeping with the contemporary realities of a world in which clients are increasingly taking a more active role in areas of law such as small claims court, family law and less complex cases. Lawyers and paralegals also require constantly updated resources to provide high quality services.

Physical library space is critical to the local law associations who make good use of it. There is also room to enlarge the activities taking place in the libraries. More education to the public and assistance to self-represented litigants can only serve to increase the benefit of having a library in the courthouse and of lawyers and paralegals assisting with information seminars on the law and documentation to explain court processes. Increased access for the public can be achieved while maintaining appropriate after-hours access and reserving portions of the space for lawyers and paralegals.

This Report outlines the significant issues it considers relevant to any continued consideration of

Library System improvements. There is a degree of urgency in addressing efficiencies within the Library System. Next steps must be coordinated and coherent and should embrace a willingness of all stakeholders to be flexible in the interests of a vibrant Library System. Collaboration and partnership can hopefully become part of the overall Library System management by the shareholders, partners and stakeholders. Including the input of experts in legal information, library systems and competence will result in recommendations that will provide a well-defined pathway for the future.

The Treasurer and shareholders received the advice provided to,

- consider extending the mandate and scope of the LISS Working Group to flesh out the most immediately promising areas and develop a plan to prioritize the other areas or, continue such work through other avenues with the benefit of expert participation and advice on the future direction of legal information and library services and best practices.