

Bencher reform and the impact on regional representation

By Rob Lamberti, AdvocateDaily.com Contributor

The Law Society of Ontario's (LSO) call to reduce the number of its benchers could adversely affect regional representation while adding to already-heavy committee workloads, says Jaye Hooper, chair of [The Federation of Ontario Law Associations](#) (FOLA).

"While we understand there are good reasons to make changes, we have concerns about geographic representation," she tells AdvocateDaily.com.

Hooper says a reduced number of benchers would also increase their LSO-related committee work because there would be fewer people to share assignments.

There are currently 90 benchers, including 40 elected licensed lawyers — 20 representing Toronto and 20 for the rest of the province — plus five elected paralegals. The rest include eight laypeople appointed as benchers by the Lieutenant Governor-In-Council, a treasurer, the attorney general and ex-officio benchers.

"The current number of 90 benchers is unwieldy," Hooper says.

The election for the next Convocation is now underway.

The task force launched in 2016 by the LSO was to reform the governance of the overseeing body, issuing a call for [comment](#), which provided a number of possible scenarios to replace the current model, but they all involve fewer elected benchers.

"The goal of this governance review is 'to ensure that the Law Society's governance structure enables effective oversight for the Law Society as it fulfils its mandate and meets its accountabilities as a public interest regulator,'" the task force stated.

One model involves 24 elected lawyers and another with 16, half representing Toronto and the other half covering the rest of the province.

"Proposals that reduce the number of elected benchers could cause geographic difficulties in representation," Hooper says. "One proposal decreases the number from the 40 lawyers they have now to 16, with eight inside Toronto and eight outside Toronto. That's eight for the rest of the province, a big geographic area to represent," Hooper says.

"To say there would only be one or two northern benchers, people don't understand how vast the north is," she says.

Change to the benchers' structure appears inevitable, but Hooper says it should not come at the expense of regional representation.

In a position paper to the task force this month, FOLA stated, "we are a self-governing profession which, through bencher elections, elects from its own membership, a government (Convocation) to govern Ontario's lawyers and paralegals. It is through this elected Convocation that the Law Society regulates, licenses and disciplines Ontario's more than 50,000 lawyers and over 8,000 licensed paralegals pursuant to the *Law Society Act* and the Law Society's rules, regulations, bylaws and guidelines.

"The privilege of self-governance, through elected representation of members of the Law Society must be cherished and jealously guarded and not ceded in the name of efficiency."

Hooper says FOLA's position suggests a number of reforms, such as shortened terms for benchers, "but we also considered whether the 40 elected benchers should be reduced."

That would increase the committee workloads for the reduced number of benchers, she says.

"This would further reduce those willing to take on the role particularly potential benchers from smaller firms and sole practitioners in the north," Hooper says.

"Before we change, we need to consider where the evidence is to show that reducing the number of benchers will make the Law Society more effective," she says.

A number of FOLA members argue such a move would in effect weaken the LSO's governance abilities.

"Those opposing a reduction of elected bencher membership suggested that there is no evidence to support the conclusion that this decrease would enhance governance; in fact, the opposite was suggested — that reducing the number of elected benchers would adversely affect the ability of the legal profession, through the LSO, to properly self-regulate," the position paper stated.

Hooper says robust regional representation — including an increase in diversity — is required no matter what changes are adopted by the LSO.

"But as you shrink the number of elected benchers, it becomes harder to ensure that diversity," she says. "Any change must be well thought out and meet the needs for the future of the profession. Not change for its own sake."

"We're concerned about the representation of the non-Toronto area, a very large province, the diversity among benchers, and also whether there is any evidence for the need to change," Hooper says.