

Regulators and Access to Justice

A British Columbia Perspective

Regulation in British Columbia

- In BC, the Law Society of British Columbia is the regulator of lawyers.
- Recently, the provincial government passed legislation to create a single legal regulator of lawyers, notaries, licenced paralegals, and potentially other legal service providers.
- The legislation is under challenge, but not because of the single legal regulator concept.

Access Challenges

- For many legal issues it can be hard to find a lawyer who practices in that area.
- Common legal issues, such as residential-tenancy disputes are important, but difficult to justify the expense of a lawyer.
- As a result, people do nothing with their legal problem, or self-represent.
- Alternative legal service providers are meant to fill this gap.

Alternative Legal Service Providers

- Prior to the new legislation, the LSBC had been working to expand access to non-lawyer legal service providers.
- The Law Society Innovation Sandbox has been in operation since 2021.
- The LSBC also requested statutory amendments to create groups categories of legal service providers other than lawyers.

- New types of legal service providers, may reduce education and other costs for providers, allowing lower fees to be charged.
- But, will it?
- Provision of most legal services is market driven. Many providers will gravitate to the most profitable opportunities
- Do cost savings get passed along, or do service providers charge what the market will pay?
- Does a modest reduction in costs make a real difference to access?

- Experience with licenced paralegals in Canada has been mixed.
- More service providers is helpful, but the extent to which they truly address access to justice needs is unproven.

[CFCJ-FCJC | Research Update: Paralegals, the Cost of Justice and Access to Justice: A Case Study of Residential Tenancy Disputes in Ottawa - CFCJ-FCJC](#)

“[P]aralegals, who purportedly offer more affordable and accessible legal services than lawyers, are continuing to make a significant contribution to the resolution of residential tenancy disputes... but only for landlords and, largely, for corporate landlords.”

Innovation Sandbox

- Innovation sandbox allows for consideration of unmet legal needs in determining approvals.
- The LSBC has approved 64 applications by non-licensed professionals to provide legal services.
- The criteria for approval are whether the proposed services:
 - are likely to be delivered in a competent and ethical manner;
 - are likely to benefit the public, by enhancing the availability of legal services or the effectiveness or efficiency of the delivery of legal services, particularly with respect to the unmet need for legal advice and assistance; and
 - present any significant risks that are not adequately addressed in the proposal.

Innovation Sandbox

- Areas of approved legal services include:
 - Human rights
 - Labour relations
 - Residential tenancy
 - Family
 - Intellectual property
 - Motor vehicle
 - Criminal
 - Corporate
 - “Legal coaching”

Truth and Reconciliation

- Everything we do at the LSBC now is viewed through the lens of the calls to action made by the Truth and Reconciliation Commission of Canada.
- The LSBC has acknowledged and sought to address its own access to justice issues as experienced by Indigenous people engaged with its regulatory processes.

Role of Regulators

- Ensuring people can access legal services is crucial, and must be a focus of regulators.
- Regulators can encourage and facilitate greater access to justice, including by removing barriers to innovation.
- Ultimately, the issue is the effect of markets for services.
- So, the only true *solutions* are greater funding for non-market services and/or interference in markets.
- Over-intervention in markets could have significant unintended consequences.
- Regulators can support greater funding by continuing to emphasize and educate society about the importance of the rule of law and access to justice.
- Regulators can also identify the interrelation between other societal goals and contribution that access to justice can make (promoting equality and equity, assisting those experiencing homelessness, reducing poverty).