

## Other Areas of Practice

# Law Society of Ontario vows to crack down on harassment faced by articling students; CBA says culture shift needed

By **Amanda Jerome**

(January 31, 2018, 9:34 AM EST) -- The Law Society of Ontario (LSO) is redoubling its efforts to educate the profession on workplace conduct after about 20 per cent of articling students who responded to an internal survey said they experienced unwelcome attention. Meanwhile, the Canadian Bar Association (CBA) says behaviour in legal workplaces won't change until a real culture shift occurs.

The LSO survey of articling student experiences, released Jan. 25, was part of a larger review done by the regulator of the licensing process. The survey showed that about one in five respondents faced unwelcome conduct based on their gender, race, disability, sexual orientation or other personal characteristics.

The survey also revealed that just over one in six respondents received unequal treatment due to their personal characteristics. The survey was sent to 5,242 recent and current articling students, of which 1,471 responded.



LSO treasurer Paul Schabas

"We're going to do more to raise awareness about best practices regarding sexual harassment," said law society treasurer Paul Schabas. He said that would include "how to establish safe places for people to report. We're going to highlight further the role of our discrimination and harassment counsel that's been in place for 16 years and has been addressing these issues.

"We're also going to look at our rules of professional conduct again to see what else we can do to strengthen our rules ... clarify our rules if necessary," he added.

Schabas said the survey results confirm the regulator's concerns about discrimination in the profession and that sexual harassment, which is now being well publicized in other sectors such as the entertainment industry, is also an issue at law firms.

"We are trying to show leadership in trying to stop this kind of behaviour," he said.

"One [articling student] is too many. Any behaviour of this kind is intolerable and unacceptable from

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a regulatory standpoint. It's professional misconduct and we will treat it as such. We intend to get out and educate the profession about this just as we're working with the entire profession on trying to eradicate discrimination of all forms," he added.

The CBA has been engaging with the issue of unwelcome conduct, in the form of sexual harassment, since 2015 when it released a resolution on harassment in Canadian workplaces.



Gail Gatchalian, chair of the CBA's National Labour and Employment Law Section

Gail Gatchalian, chair of the CBA's National Labour and Employment Law Section and vice-president of the Nova Scotia branch, said Canada has had its "Harvey Weinstein moment" and it shouldn't be news to legal workplaces that there's a problem.

"This has been going on for a long time, but there's a lot of factors at play that prevent women from reporting it, especially in workplaces that have very substantial imbalances of power and that are male dominated," she said. She added that there's often a fear of retaliation when people consider reporting professional misconduct.

Gatchalian said these factors contribute to a "culture of silence." However, the recent increase in reporting incidents may be because of a recent change in power dynamics.

"Women, who continue to be vulnerable in the workplace, are experiencing a little bit of a shift in that balance of power, but not enough," she said, adding that a substantial shift won't happen until more women feel secure in their jobs.

"We're not going to see a big shift in legal workplaces, and other workplaces, until the culture changes. What we're seeing here is people individually feel like they have a bit more support and power, but I don't think we're seeing any real attention paid to changing the actual culture in the workplaces," she explained.

Gatchalian said one solution is to have a safe and external place for employees to make complaints and have those complaints resolved.

"There are a number of steps that legal workplaces, and workplaces in general, can take to make it easier for people to talk about their experience of sexual harassment and assault and get it dealt with. But I don't think we're really being serious about it. Hopefully that will change," she said.

The first and most basic step a workplace can do, Gatchalian said, is having a policy that addresses sexual and gender based harassment and that sets out a clear complaint resolution procedure. She also advocated for bystander training as frequently people are aware of professional misconduct, but

"This is not just the responsibility of victims of harassment or abuse to come forward. It's the responsibility of the entire organization to speak out. I think we could do a lot more to train the entire workplace to speak out, so the burden doesn't always fall on people who are vulnerable and who have been victims of harassment," she said.

Legal regulators, such as the Law Society of British Columbia and the Law Society of Saskatchewan, have codes of professional conduct and promote a respectful workplace. However, as Gatchalian stressed, if a safe and external dispute resolution space isn't provided, people may not step forward.

"For any lawyers, articling students and others working in legal offices who may be experiencing any workplace discrimination or harassment, we have a direct and confidential phone line in place. As a more proactive measure, in conjunction with the CBA, we have also prepared a model Sexual Harassment Policy for firms to implement," said Barbra Bailey, policy counsel at the Law Society of Saskatchewan.

"In addition, the Law Society of Saskatchewan's continued participation in the Saskatchewan Justicia Project aims to support and address all issues and challenges facing women in private practice and other legal workplaces," she added.

Gatchalian said it's hard to know the extent to which people deal with unwelcome conduct in legal workplaces across Canada, but regardless of numbers there's more that should be done to establish a culture shift.

"We're disappointed with the results, but sadly we're not surprised that they exist. We've been out in front of this issue for many years and we're going to redouble our efforts to do what we can to prevent it altogether," said Schabas about the LSO's stance on the survey results.

The survey, conducted by Research & Evaluation Consulting Inc., explained that the responses received are a source of insight that was not available before.

"Much can be learned from this source, as long as we are cognizant of the limitations of [the] data," the survey summary details, noting that there was a low response rate among the targeted group.