

March 14, 2022

Convocation

Law Society of Ontario

Osgoode Hall, 130 Queen Street West
Toronto, ON
M5H 2N6

via email: PolicyConsultation@LSO.ca

To Whom it May Concern,

Re: Policy Consultation Regarding Mandatory Minimum Compensation for Experiential Training for Lawyer Licensing Candidates

I am writing to you on behalf of the Toronto Lawyers Association (“TLA”). The TLA represents the interests of more than 3,200 members who practice law in all disciplines across the Greater Toronto Area. Our membership, and our Board of Directors, represents the full diversity of our profession in Ontario.

In December 2018, Convocation approved “enhancements” to the experiential training component of the lawyer licensing process, which when implemented would require mandatory minimum compensation for articling students and Law Placement Program (“LPP”) participants. A subsequent report to Convocation in November 2021 recommended that the Law Society adopt a best practices approach to compensation, which encourages rather than requires that all experiential training placements be paid a mandatory minimum compensation. The Law Society of Ontario (“LSO”) has now solicited input from the public on the issue of mandatory minimum compensation for training placements.

It is the TLA’s view that the LSO should adopt a best practices model for mandatory minimum compensation as recently recommended to Convocation, subject to a limited exception where a principal’s practice does not generate sufficient funds to pay minimum compensation.

The TLA is sensitive to concerns that low and unpaid training placements are burdensome for recent law school graduates, many of whom have graduated with substantial debt loads. The TLA also recognizes that the absence of mandatory minimum compensation standards may enable exploitative working conditions. There is a clear risk, in the absence of mandatory minimum compensation requirements, that only those graduates from sufficiently privileged backgrounds will be able to endure the financial hardship of training placements in less remunerative areas of law, such as criminal and family law. This situation is far from ideal.

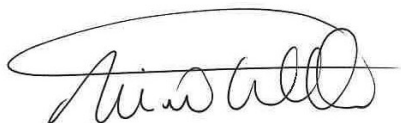
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At the same time, the TLA is concerned that imposing on employers a mandatory minimum compensation requirement will reduce the number of training placement opportunities available to recent graduates in less remunerative areas of law.¹ In particular, the TLA is troubled by the prospect of criminal and family law employers, many of whom are retained by clients on Legal Aid certificates, eliminating training placement opportunities because those placements have been rendered economically infeasible by mandatory minimum compensation requirements. The TLA is concerned that this will have an adverse effect of reducing the entry of recent law graduates into areas of practice that have historically served low-income and marginalized populations.

As long as the supply of law school graduates outstrips the demand for articling students and LPP participants, low and unpaid training placements – and the risk of exploitative working conditions – will remain a problem in the legal profession. The TLA is of the view that adopting measures that are likely to reduce training opportunities in areas of law that serve low-income and marginalized populations is unwise. The TLA agrees with the authors of the November 2021 report to Convocation that these problems are better addressed through best practice guidelines that effectively communicate to the profession the importance of fair compensation, but which permit firms operating in less remunerative areas of law the flexibility to offer training placements in these important areas of law.

Thank you for considering these comments. Our Advocacy Committee would be pleased to discuss these comments at your convenience, should you find additional consultation beneficial.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Michael White', with a large, sweeping loop at the end.

Michael White
President
Toronto Lawyers Association

¹ The November 2021 Report to Convocation estimates that 10-15% of placements are paid below statutory minimum wage or unpaid (p.30).