

Lawyer Orientation Manual



Information and
resources for
lawyers who take
legal aid cases



Legal
Services
Society

British Columbia
www.lss.bc.ca

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The *Lawyer Orientation Manual* is also available in PDF at www.lss.bc.ca.
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Introduction

Welcome to the Legal Services Society (LSS). We are very pleased that you have decided to make legal aid work part of your practice. You are helping to ensure that all BC citizens have access to justice.

LSS has been providing legal services to people with low incomes in BC for over 25 years. Our services include legal representation, legal advice, and legal information.

We are here to help you work effectively with your legal aid client. This manual is designed to introduce you to the Legal Services Society, its services, and the resources available to help you in your law practice. It also contains useful tips to make billing easier. For additional help, visit our website at www.lss.bc.ca. And, of course, our staff are always available to answer your questions.

This manual is available in PDF on our website and will be updated periodically. You will be notified about updates in the monthly LSS newsletter, the Legal Aid Fax. In any instance of discrepancy between this manual, the LSS *Guide to Legal Aid Tariffs* (online version), and other LSS policies, the latter two take precedence.

We want your experience working with us to be positive, and encourage you to give us your feedback. E-mail us at lawyersresources@lss.bc.ca.

About the Legal Services Society

The Legal Services Society (LSS or the society) was established in 1979 by the *Legal Services Society Act* (the act) to provide legal aid services in British Columbia. LSS is an independent non-profit organization funded by the government and accountable to the public.

Under the act, LSS and the Ministry of Attorney General negotiate a Memorandum of Understanding (MOU) every three years. The MOU guides the society's budget and planning process and determines the range of services LSS can provide with provincial funding. Copies of the MOU and the act are on the LSS website at www.lss.bc.ca.

LSS provides legal aid, which includes legal representation, advice, and information.

For a detailed history of LSS and its tariff system since 1979, see Chapter 3 of *Managing for Results: LSS Tariff Renewal — Report* (PDF), the final report of the 2004/2005 tariff review. For information about the various tariff renewal measures that LSS implemented in response to the tariff review, see the *Overview of LSS Tariff Review and Renewal 2004 – 2007* (PDF). The reports are available on the LSS website.

Mandate

Under the LSS Act (amended May 2007), the society has a mandate to:

- help people solve their legal problems and facilitate access to justice,
- establish and administer an effective and efficient system for providing legal aid to people in BC, and
- provide advice to the Attorney General about legal aid and access to justice for people in BC.

LSS is guided by the following principles:

- to give priority to identifying and assessing the legal needs of people with low incomes in BC;
- to consider the perspectives of justice system service providers and the general public;
- to coordinate legal aid with other aspects of the justice system and community services; and
- to be flexible and innovative in the manner in which it carries out its mandate.

Funding

LSS is funded primarily by the provincial government. Core government funding was \$67 million in 2007/08. The federal government reimburses the province for some legal aid costs through a cost-sharing agreement. LSS also receives funding from the Law Foundation of BC and the Notary Foundation.

Governance

The act establishes the society's structure and governance. A nine-member board of directors leads LSS. The Lieutenant-Governor in Council appoints five directors on the recommendation of the Attorney General. The Law Society of BC appoints four members after consultation with the BC branch of the Canadian Bar Association. You can find a list of the current board members on the LSS website.

Organizational structure

The LSS Vancouver Regional Centre provides direct client services as well as management and administrative support to the other LSS offices. It is organized into the Executive Office and four divisions, the main functions of which are as follows:

Executive Office (EO): Responsible for supporting the LSS Board of Directors, board committees, and the Executive Management Committee to provide overall direction and policy planning for the society, and for corporate communications.

Public Legal Information and Applications (PLIA): Responsible for publishing and community services, legal aid applications and eligibility, and electronic access and operational support.

Legal Advice and Representation (LAR): Responsible for criminal law and large case management, family law and other civil law services, the Case Management System — CMS (a computer intake and referral program), and lawyer e-services (secure online applications for lawyers including e-billing and payments).

Strategic Planning, Policy, and Human Resources (SPPHR): Responsible for developing policy, strategic planning, organizational development, and human resources.

Finance and Corporate Services (FCS): Responsible for finance and administration, information technology, and audits and investigations.

For a list of staff contacts, see Appendix 2.

Service delivery structure

LSS provides legal aid services through:

- staff at seven regional centres (Kamloops, Kelowna, Prince George, Surrey, Victoria, Terrace, and Vancouver);
- satellite offices (Port Coquitlam, Prince Rupert);
- local agents in 22 communities (Abbotsford, Campbell River, Chilliwack, Courtenay, Cranbrook, Dawson Creek, Duncan, Fort St. James, Fort St. John, Hazelton, Nanaimo, Nelson, North Vancouver, Penticton, Port Alberni, Quesnel, Richmond, Salmon Arm, Smithers, Vanderhoof, Vernon, and Williams Lake);
- the justice centre in Nanaimo,
- over 900 private bar lawyers;
- the province-wide toll-free LSS Call Centre for people who are unable to apply for legal aid in person: 604-408-2172 (Lower Mainland) or 1-866-577-2525 (outside the Lower Mainland);
- province-wide toll-free advice lines for people in custody: Brydges Line: 1-866-458-5500 (Lower Mainland) or 1-866-458-3300 (outside Lower Mainland), and Advice Counsel line: 1-888-595-5677 (toll free throughout BC);

- family, criminal, and immigration duty counsel,
- LawLINE, a province-wide toll-free legal advice (and sometimes information) line with the same phone numbers as the call centre above;
- legal information outreach workers (LIOWs);
- legal information websites: Family Law in British Columbia (www.familylaw.lss.bc.ca), LawLINK (www.lawlink.bc.ca), and the LSS website (www.lss.bc.ca);
- publications (available in print and on the LSS website); and
- non-profit community agencies.

You can find a list of the offices, addresses, and telephone numbers of regional centres and local agents on the LSS website.

Regional centres

Staff at regional centres:

- take legal aid applications and refer eligible clients to lawyers (intake);
- provide intake services at local courthouses;
- take legal aid referrals (staff lawyers);
- liaise between LSS and community agencies, courts, and the private bar;
- co-ordinate regional duty counsel;
- direct clients to legal information (online, print, video, and audio materials), and/or advice services (community agencies, LawLINE, and family duty counsel); and
- help clients access online information and self-help resources using the LawLINK website and public access computers.

Local agents

Local agents are private bar lawyers funded by LSS who:

- take legal aid applications and refer eligible clients to lawyers (intake);
- take legal aid referrals (up to an equitable portion of those issued by their office);
- co-ordinate local duty counsel;
- liaise between LSS, the community, and the private bar; and
- direct clients to legal information and/or advice services.

Government agents

Government agents do not handle legal aid applications, but they do provide support for LSS services. Staff at these offices provide clients with:

- copies of LSS legal information publications,
- access to the LawLINK website,
- limited free printing services, and
- a fax drop-off and pick-up point.

There are 59 government agent offices in BC. They are listed in the blue pages of the telephone book under Government of BC listings and online at www.governmentagents.gov.bc.ca.

Chapter 2

LSS Services

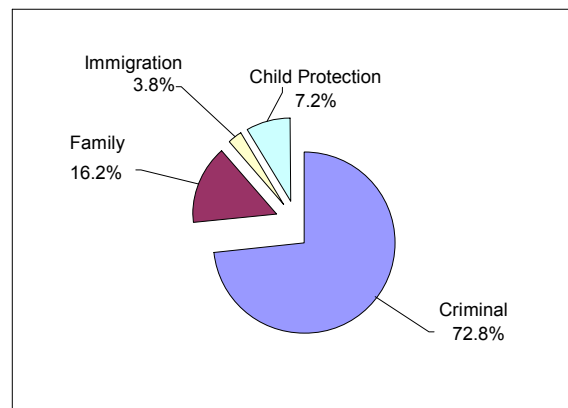
LSS has taken an innovative approach to making a wide range of legal aid services available to people with low incomes in BC. Our services include:

- legal representation for financially eligible people facing serious family law problems, criminal charges, and some immigration, mental health, and prison law problems;
- legal advice; and
- legal information.

Legal representation

LSS provides legal representation to financially eligible people with criminal, family, immigration, prison, and mental health law problems. The details of coverage and services in these areas are set out in subsequent chapters.

Of the clients who formally applied for legal representation in 2007/2008, 73.7 percent (31,414 clients) were referred to a lawyer. Referrals are issued to lawyers in private practice (97%) and to staff lawyers (3%). Legal representation referrals by case type in 2007/2008 are set out in the chart below.



Legal advice

General legal advice is provided to financially eligible people through:

- LawLINE, a province-wide toll-free telephone service staffed by LSS lawyers and paralegals who provide callers with advice about the law, referrals to other information or services that can help callers resolve their legal problems, and, in some cases, information about legal issues. LawLINE staff provided legal advice services to 8,001 callers in 2007/2008.
- Duty counsel contracted by LSS to provide criminal law services in Provincial Courts. Criminal duty counsel gave advice 81,216 times in 2007/2008.
- Duty counsel contracted by LSS to provide family law services in most Provincial Courts and some Supreme Courts, and family advice lawyers, available in various locations such as the offices of family justice counsellors. Family duty counsel and family advice lawyers gave advice 22,371 times in 2007/2008.
- Immigration duty counsel for people in detention in Vancouver at the Pacific Region Enforcement Centre of the Canada Border Services Agency. Immigration duty counsel gave advice 832 times in 2007/2008.
- Brydges Line, a toll-free emergency telephone service providing lawyers for people who have been arrested or are being detained and investigated by a law enforcement agency. Brydges Line staff received 28,360 calls in 2007/2008.
- Advice Counsel Line, a toll-free emergency telephone service providing advice to people in custody at police lock-ups awaiting bail hearings.

Legal information

LSS provides legal information through:

- Legal information outreach workers (LIOWs) who refer clients to appropriate resources and help them find information, understand court forms, and use LSS websites. They also give talks and workshops at social service, Aboriginal, women's, immigrant-serving, and other community agencies in locations served by regional centres. LIOWs handled 5,788 client questions in 2007/2008.

- LawLINE (see the previous section, “Legal advice”). LawLINE staff provided legal information services to 7,625 callers in 2007/2008.
- Publications about the law, some of which are translated into different languages. These are distributed through LSS regional centres and local agent offices, public libraries, government agent offices, and some community organizations. LSS distributed 130,055 copies of publications in 2007/2008. Most LSS publications are also available online (for a list of all LSS publications, go to the LSS website).
- Family Law in British Columbia website and other websites (for more about the society’s websites, see “Chapter 12: Resources”).

Everyone is entitled to receive legal information services, regardless of income.

Chapter 3

Client Intake Process

Intake staff determine whether applicants meet LSS financial and coverage guidelines and then refer eligible clients to lawyers. If applicants are not eligible for legal representation, intake staff may provide general legal information and referrals to other LSS services or other agencies.

Legal aid offices

People can apply for legal aid in person at one of seven LSS regional centres, two satellite offices, and 22 local agent offices, or by telephoning the LSS Call Centre at 604-408-2172 (in the Lower Mainland) or 1-866-577-2525 (toll free, outside the Lower Mainland). The justice centre in Nanaimo also provides legal aid intake services.

The toll-free call centre ensures access to legal services for people who live in rural communities where there is no legal aid office or who have a disability that prevents them from travelling to an office. In 2007/2008, the call centre handled approximately 18 percent of all applications for legal representation. Waiting times for callers are comparable to those for applicants who apply in person.

The call centre provides recorded information about legal aid services in six languages: Cantonese, English, French, Mandarin, Punjabi, and Spanish. The call centre may provide interpretation services when appropriate.

Choice of counsel

LSS refers clients to the lawyer of their choice, provided the lawyer is available, willing to take the file, and practises in the community where the case will be heard (i.e., within 80 kilometres of the court location). The lawyer must have an active LSS vendor number without any relevant restrictions.

Exceptions to the general policy

Clients may choose a lawyer from outside the community if the lawyer is willing to take the file, has an active LSS vendor number, and:

- the client faces a minimum of life imprisonment, or
- the client faces dangerous offender proceedings, or
- the trial is to be conducted in French (and there is no French-speaking local counsel), or
- no local counsel is available.

In the circumstances above, a lawyer is entitled to travel fees and expenses. In other cases, LSS may appoint non-local counsel if the lawyer is prepared to waive travel fees.

In exceptional circumstances, if a client resides a considerable distance from court, and is unable to travel to meet with local counsel, LSS may appoint counsel in the community where the client resides.

No choice of counsel

If a client does not know an appropriate lawyer, LSS will assign the case to an available lawyer on the LSS vendor list. LSS will consider the client's unique needs and the demands and complexity of the case.

If a client makes a request for a specific type of lawyer (e.g., an Aboriginal lawyer, a female lawyer, or a lawyer from a particular ethnic background), LSS staff will try to accommodate the request by providing the client with a list of suitable names.

Change of counsel

A client is entitled to one change of counsel within the first 90 days of a referral unless the client is using a change of counsel to delay the case. After 90 days (or for any second or subsequent requests), LSS will confirm that:

- the client continues to be financially eligible for assistance,
- covered issues remain unresolved and appointing another lawyer will help get them resolved, and

- the client has a *valid* reason for requesting a change and the request is *reasonable*.

A *valid* reason for a change of counsel exists when the client has legitimate concerns about the quality of the service being provided by counsel, or the client/lawyer relationship has completely broken down and cannot be repaired. A request is *reasonable* when the client's instructions and expectations are reasonable and realistic given the circumstances of the case.

Lawyer-initiated change of counsel

A lawyer must inform LSS if he or she would like to withdraw from a case and the withdrawal meets the requirements set out in the Law Society of BC's *Professional Conduct Handbook* and the *Canons of Legal Ethics*. LSS will appoint a new lawyer if the client is still eligible and the case is coverable, there is a valid reason for the change, and the request is reasonable.

Client confidentiality

Section 23 of the *Legal Services Society Act* covers the issue of privilege.

All information disclosed by a client or applicant for legal services to an employee or agent of the society or funded agency is privileged and must be kept confidential as in a client/lawyer relationship.

All clients who are receiving legal representation services sign a contract that allows their lawyers to give information to LSS about their financial situation or their legal case.

Freedom of Information

LSS is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. LSS collects and uses personal information solely to operate its business and provide legal aid in British Columbia. In making decisions about releasing records, LSS protects the confidentiality of personal information, and provides as much information as possible and as quickly as possible.

Lawyers' accounts for fees and disbursements on behalf of their legal aid clients are considered part of the client's personal file (as well as part of the

lawyer's file). Copies of these accounts are routinely provided to clients if they request them.

Reciprocals

Under the Interprovincial/Territorial Reciprocity Agreement, LSS has reciprocal agreements with the other Canadian provinces and territories to provide legal representation services to people with legal issues outside of their resident province or territory. LSS provides coverage outside of BC for family and immigration matters. Although the agreement does not cover criminal matters, these issues may be covered in other ways. (For example, the person may be able to waive in charges, or may have an issue covered by LSS financial and coverage eligibility guidelines.) For family, immigration, or criminal law matters, contact the LSS reciprocals coordinator at 604-585-6595 (ext. 317).

An applicant who resides in BC who has a family legal issue in another province/territory is covered if he or she:

- is financially eligible in BC, and
- has a family law problem covered by the LSS family coverage guidelines, and by the legal aid plan in the other province/territory.

An applicant residing in another province/territory who has a family legal issue in BC is covered if he or she:

- is financially eligible for legal representation in the province/territory where he or she resides, and
- has a family law problem covered by the legal aid plan in the province/territory where he or she resides and by the LSS family coverage guidelines.

Chapter 4

Financial Eligibility

Applicants must show they are financially eligible to receive legal representation or advice from LSS. The financial eligibility guidelines differ for these two services. Everyone is entitled to receive legal information. Applicants do not have to permanently reside in BC or hold Canadian citizenship to qualify for legal information, advice, or representation services.

In very limited types of circumstances, financial eligibility rules do not apply, such as for clients in custody, court-ordered counsel, disclosure applications, material witnesses, mental health representation, and youths charged under the *Youth Criminal Justice Act*.

Financial eligibility for legal representation

Financial eligibility for legal representation is based on household size, income, and assets. An applicant's net monthly household income (after tax and other specified deductions) and assets must fall below certain limits, based on household size. The financial guidelines, which are updated every April 1st, are posted on the LSS website.

The onus is on the applicant to satisfy LSS requirements and to verify income and deductions. If the client's financial situation improves, LSS must be advised of the change and may reassess eligibility. See "Changes in clients' financial situation" on page 20.

Household size

If a person is considered part of the household, his or her income is included in the calculation of net income, except for children's income.

The household includes the applicant and any of the following people who live with the applicant:

- the applicant's spouse;
- the applicant's common-law partner, defined as a person of the same or opposite sex who is living with the applicant and although not legally married to the applicant has cohabited continuously with him or her for a period of two years or more, or any person who has lived with the applicant for less than two years and has a biological or adopted child with the applicant;
- dependent children of the applicant, spouse, or common-law partner (i.e., unmarried children under the age of 19 who live at least 40 percent of the time in the applicant's household); or
- dependent children of the applicant, spouse, or common-law partner who are temporarily absent because they have been apprehended by the Ministry of Children and Family Development or temporarily live with another parent or grandparent.

Income related to foster children, disabled adults in home care, parents or other relatives, and household members who are temporarily absent may be excluded from the calculation if advantageous for the applicant.

The household does not include:

- children of the applicant or spouse who are 19 or over, unless they are enrolled in a full-time education program, or unable to be self-supporting because of illness or disability,
- roommates or boarders, or
- any person who cohabits with the applicant for a period of less than two years and does not have a child with the applicant.

Income

LSS considers income to include any of the following:

- net employment income (see below)
- self-employed business income
- income assistance benefits
- spousal or child support payments
- student loans
- money from boarders (including children who pay rent) or rental property

- Canada Pension Plan and Old Age Security benefits
- disability pensions or benefits

■ Seasonal income

If an applicant works in seasonal employment or was laid off but is likely to be called back to work, LSS averages his or her monthly income over the last 12 months and includes EI payments, other income assistance benefits, and former employment income in the calculation.

■ Deductions from income

When calculating net monthly income from employment, LSS allows standard deductions such as income tax, CPP, and EI deductions. Voluntary deductions made at source are not included.

■ What is not considered income

LSS does not include income from certain sources as part of net monthly income, including child tax benefits, BC family bonus, and GST credits. Applicants can also deduct certain expenses from their net monthly income, such as child or spousal maintenance payments and daycare expenses.

Assets

Applicants whose income is below the guidelines may own some assets and still be eligible for legal representation through LSS. However, if their share of equity in disposable assets is above the asset guidelines, they are not eligible for legal representation, regardless of their net monthly income. Applicants on BC income assistance are not subject to the asset test.

There are six asset categories: family home, real property (other than the family home), vehicle(s), business assets, personal property, and RRSPs. Each category sets different limits but applicants may still qualify for legal aid even if they have some equity in certain assets, and some personal property.

Financial eligibility for legal advice

There is a separate financial eligibility test for LSS legal advice services, including family duty counsel, family advice lawyers, and LawLINE advice services.

To be eligible for legal advice services, a client's net income (after tax and other deductions) must fall within certain limits. The financial guidelines, which are updated every April 1st, are posted on the LSS website.

Clients who are not financially eligible for legal advice services according to the guidelines can still receive limited advice services from family duty counsel or a family advice lawyer.

Coverage and eligibility reviews

Applicants who are refused legal representation for any reason have the right to apply for a review of that decision. LSS will consider requests received up to 90 days after the decision. However, requests for reviews must be submitted as soon as possible. Applicants who want a review must complete a Legal Aid Representation Services — Refused form. They must set out the reasons why they think the decision was wrong, and fax the form and any supporting documentation to the Eligibility Complaints Coordinator at 604-682-0767.

Changes in clients' financial situation

Clients receiving legal representation may be reassessed at certain times to determine if they are still financially eligible.

If you become aware that a client's financial circumstances have improved, you must notify the LSS referring office and/or direct the client to contact LSS for a financial reassessment.

Reassessments normally occur:

- if LSS believes that a client's financial circumstances may have improved during the course of a referral;
- if an applicant/client or counsel notify LSS of an improvement in financial circumstances;

- if the referring office becomes aware of assets, income, or family relationships that the client did not disclose during intake;
- to verify financial information provided in the original application;
- if an applicant/client receives assets or money, such as a windfall;
- if a client receives funds from a judgment or settlement during or after the conclusion of their case;
- when a client is released from custody (clients are advised to contact LSS upon release);
- when a client's EI benefits end;
- when a new case is opened (if more than 90 days have passed since the last financial assessment);
- when a change of lawyer is processed;
- at a significant juncture in a case (e.g., between a preliminary hearing and a trial), or when applying for Extended Services;
- as a result of a complaint about the client's financial eligibility; or
- on a random basis for auditing purposes.

Termination of services

If any client is found to be no longer financially eligible, his or her referral is terminated. Clients may need to repay LSS or may be billed by their lawyer privately (see page 22).

The client's reassessed eligibility applies to all ongoing legal aid cases. For example, if the client has an open family case and an open criminal case, and is found ineligible upon reassessment, both cases will be terminated.

LSS also terminates legal representation when:

- a client does not respond to requests for updated information; or
- a client no longer has a coverable problem or unreasonably fails to accept legal advice.

If a client is found financially ineligible but his or her circumstances later change, he or she may reapply. As well, a client has the right to have any decision regarding termination reviewed.

Judgments and settlements

If a client receives property or a sum of money (for example, settlement funds at the end of a case), LSS will decide if he or she should pay some or all of the legal expenses for his or her case, and if so, will determine:

- the amount the client should pay, and
- whether to allow you to bill the client privately for some legal fees.

Upon receipt of any settlement funds, you must notify LSS of the funds, and hold the funds in trust until LSS requests repayment or authorizes release of all or part of the funds to the client. Part 3 of the *Legal Services Society Act* authorizes LSS to register a lien against a client's land and/or personal property to recover funds owed to the society.

For the most recent policy concerning judgments and settlements, see the "Introduction" and the "General Terms and Conditions" sections in the online *Guide to Legal Aid Tariffs*. Direct any questions regarding repayments to the Supervisor, Tariff Accounts at 604-601-6157.

Conversion to private retainer

LSS may issue a conversion to private retainer if the client becomes financially ineligible for legal aid. This possibility is part of the legal aid contract that each client signs. LSS may determine the terms and conditions of any conversion to private retainer.

We recommend that you have a retainer letter with the client that addresses the possibility of conversion to private retainer and sets out the rate that you will privately bill if the matter is converted.

If a referral lawyer cannot negotiate a private retainer with a client, and withdrawing from the case would amount to a breach of the Law Society of BC's *Professional Conduct Handbook* (Chapter 10), LSS may permit a person who is otherwise not financially eligible for legal representation to continue to receive legal aid until the end of the case or until it is permissible for counsel to withdraw.

You must not bill a client privately on any matter related to the case specified in a referral without prior written authorization from LSS.

For more information about converting to private retainer, please refer to the “Introduction” and the “General Terms and Conditions” sections of the *Guide to Legal Aid Tariffs* on the LSS website.

Complaints about client eligibility

LSS investigates every complaint that it receives regarding anyone who is receiving legal representation who may be ineligible for the service. Where reports of abuse of legal aid are confirmed, coverage is terminated, and, where possible, funds that have been paid out on the case are recovered. Complaints should be directed by mail or e-mail to the Audit and Investigation Department (thirdpartycomplaints@lss.bc.ca).

Chapter 5

Working with LSS

Working with LSS includes obtaining an LSS vendor number, using the *Guide to Legal Aid Tariffs* (the tariff guide), and billing your accounts.

Obtaining an LSS vendor number

Before you can accept a legal aid referral, you must apply to LSS to get a vendor number, which will be your permanent ID in the LSS computer system. To apply, complete the Private Bar Vendor Number Application and Change Form, which can be found in the “Lawyers” section of the LSS website, under “Forms and questionnaires.”

After receiving your application, LSS will send you a tariff guide and a letter with your vendor number. An LSS staff member will contact you by telephone to welcome you and answer any questions you may have. You will be added to the LSS vendor list, and will begin to receive the Legal Aid Fax and Notices to Counsel.

Getting legal aid referrals

Once you have a vendor number, you will be eligible to receive legal aid referrals. LSS will send you a referral when a client, who has been approved for legal aid, requests that you be appointed as his or her counsel. Sometimes, LSS may send you referrals for cases where a client has not requested a specific lawyer.

You will receive a referral form by fax that sets out some of the details about the client and the case. In general, a referral authorizes you to provide and bill LSS for services according to the tariff contract (see below). The referral may also contain specific instructions about the services you are authorized to provide, the disbursements you can claim, or any restrictions that apply.

After receiving the initial referral, you may need to request authorization from LSS for additional services or disbursements. If your request is granted, LSS will issue an authorization setting out the details of your authorization.

LSS has the right to refuse payment for services or expenses it did not authorize. Therefore, before providing services or incurring any expenses in a legal aid case, ensure that you have a referral for the case and understand what is billable and what LSS has authorized. LSS also has the right to cancel a referral at any time if a client no longer meets LSS guidelines for coverage or financial eligibility.

Tariff contract and tariff guide

When you accept a legal aid case, you agree to provide services based on the tariff contract. The tariff contract is your retainer agreement with LSS, and is based on the tariff guide and any other written instructions LSS gives you for a case. The latest version of the tariff guide is posted on the LSS website. Changes to the tariff guide are announced in Notices to Counsel that are faxed to everyone who receives legal aid referrals and are also posted on the LSS website. LSS generally updates the guide twice a year to incorporate changes announced in the Notices to Counsel.

General Terms and Conditions

The “General Terms and Conditions” section of the tariff guide sets out the basic framework of the tariff contract, and describes your responsibilities in areas such as:

- responding to LSS inquiries
- reporting to LSS about changes in a client’s financial eligibility
- receiving settlement funds
- seeking authorization for services
- billing, including private billing
- requesting extra fees and additional preparation
- keeping records
- recovering costs
- changes of counsel

Tariffs

There is a separate tariff for each area of law covered by legal aid: Criminal, Family, CFCSA, and Immigration. There are also tariffs for Appeals and Judicial Reviews, and Duty Counsel (including Circuit Counsel). Each section specifies the rules and amounts payable for the various services that LSS funds.

Disbursements

The “Disbursements for All Tariffs” section in the tariff guide describes the types of expenses you may incur when providing legal services to LSS clients, and the limits on those expenses. For some categories of disbursements, you may incur the expense and claim reimbursement from LSS without prior authorization, while others require that you request authorization in advance.

Tariff compensation

LSS has a number of different methods for compensating lawyers.

■ Hourly rates

For most of the tariffs, LSS pays lawyers at an hourly rate, and each tariff specifies the maximum hours you can bill for different services. In some cases, the referral form you receive from LSS may indicate the maximum hours authorized for different services.

The Family, CFCSA, Immigration, Appeals and Judicial Reviews, and Duty Counsel tariffs are hourly tariffs. These tariffs generally distinguish between general preparation, preparation for specific proceedings, and attendance (the time spent in a court or tribunal).

The current LSS hourly rates are set out in the LSS Tariff Rates Quick Reference in the “General Terms and Conditions” section of the tariff guide.

■ Tiered rates

LSS uses a three-tiered system of compensation based on your call date, the start date of the referral, and the type of service. LSS will automatically add a tiered rate increase when processing your account. The tiered rate categories are as follows:

Tier	Years of call	Rate
1	Less than 4 years	Published tariff rate
2	4 or more years and less than 10 years	Tier 1 rate plus 5 percent
3	10 or more years	Tier 1 rate plus 10 percent

For more information on tiered rates, see “Current tiered rates” (PDF) in the “Lawyers” section of the LSS website.

■ Block fees

Block fees are flat legal fees LSS pays for a particular service. The block fee is intended to cover all the work you do in relation to that service, including preparation and attendance. The Criminal Tariff is mainly a block fee tariff. Criminal cases that are scheduled for more than five trial days fall under the Strategic Case Assessment Program (SCAP) and are billed using hourly rates. See the SCAP information under “Case management information” in the “Lawyers” section of the LSS website.

■ Extra legal fees and additional preparation

LSS sets tariff items to reflect the usual time requirements for a legal service in an average case. LSS may, at its discretion, pay further legal fees after considering factors such as:

- actual time expended
- legal complexity
- nature of services rendered
- importance of the matter to a reasonable client of modest means
- length of the proceeding
- amount of court time and/or LSS funding saved by the efforts of counsel
- skill and efficiency of counsel
- unbillable time (service)

- results achieved, and
- available tariff budget

Extra fees may be requested at the conclusion of the case and require counsel to submit a final bill. Additional preparation may be requested before the conclusion of the case if it is recognized, at the outset or during the course of the referral, that substantially more hours than permitted under the applicable tariff will be required to complete the case. To request additional preparation, counsel must submit an up-to-date account.

For extra fees and additional preparation requests, submit your request in writing to the Case Management Section at 604-681-7963 and include timesheets, documents, and additional information to facilitate the request. For appeals or judicial review cases, submit the request to the Appeals Section.

Retainer agreements

Although the tariff contract sets the retainer agreement between you and LSS, we recommend that you use retainer agreements with your LSS clients. The Law Society of BC website (www.lawsociety.bc.ca) contains precedents that may be adapted for legal aid purposes.

Billing your LSS accounts

Most lawyers now bill LSS through electronic billing (“e-billing”) — see “Chapter 12: Resources.” However, if you prefer to submit your account on paper, each tariff section of the tariff guide also contains guides to billing and standard billing forms. Billing and authorization forms are also available in the “Lawyers” section of the LSS website under “Forms and questionnaires.” Questionnaires to assist in applying for SCAP, and opinion letters for applying for appeals and Extended Services are also available online.

Record keeping

You must maintain timekeeping and accounting records for each referral and retain such records for at least two years from date of payment. On timesheets, record an itemized list of the services performed with a description of each service including the date and the time spent on it. LSS may refuse to pay an account (or require repayment) if you are not able to provide adequate

documentation confirming fees and disbursements. See the “General Terms and Conditions” section of the tariff guide for a sample timesheet.

Billing inquiries and deductions

LSS reviews lawyers’ bills to ensure that they are in accordance with the tariff guide. LSS may send you a billing inquiry if there is a question about your account. You must respond to billing inquiries within 30 days. If LSS determines that your account contains items that should not have been billed, LSS will reduce your account accordingly.

Billing tips

See Chapter 13 for useful tips about the billing process. The “Lawyer e-services” section of the LSS website contains a list of Frequently Asked Questions about billing as well. If these do not answer your questions, please contact the Tariff Helpdesk at:

Phone: 604-601-6155

Fax: 604-681-5796

E-mail: helpdesk.tariff@lss.bc.ca

Lawyer e-services

LSS offers e-billing, an expert search, and online information services to referral lawyers. See Chapter 12 for a complete list of online resources.

Audits and complaints

The LSS Audit and Investigation Department ensures that private bar lawyers acting for legal aid clients bill LSS appropriately for their services and disbursements. It also monitors the quality of service provided to LSS clients.

Audits

The LSS audit program helps ensure the society is accountable for the public funds it receives, and manages its financial resources soundly. The Audit and Investigation department performs audits of cases showing unusual billing patterns and other accounts such as those of top billing lawyers. Following an audit, a determination may be made that the lawyer is required to reimburse LSS

for funds paid that were not in accordance with the tariff contract. Information obtained through LSS' audit program and feedback from lawyers is also used to improve the tariff and other LSS policies and procedures.

Complaints about lawyers

If LSS receives a complaint about a lawyer, the Audit and Investigation Department will contact the lawyer to get a response. If LSS determines that the complaint has merit, what happens next depends on the seriousness of the complaint. The society may put restrictions on the type or number of cases the lawyer can take or suspend or revoke the lawyer's vendor number under its "Referral Eligibility Policy" (PDF). This policy is available in the "Lawyers" section of the LSS website. LSS may also refer the matter to the Law Society.

Complaints about a referral lawyer should be directed to the Audit and Investigation Department by mail or faxed to 604-682-0979.

Quality control

The Audit and Investigation Department designs, implements, and manages LSS quality control initiatives related to lawyers' compliance with the tariff and the quality of service provided to LSS clients.

Getting on the duty counsel roster

LSS contracts with lawyers to provide duty counsel services for criminal, family (including child protection), and immigration matters. Duty counsel can speak for clients in court on simple matters, give advice about legal issues and court procedures, help with documents, and may negotiate issues. They work at Provincial and Supreme courthouses or at the Pacific Region Enforcement Centre of the Canada Border Services Agency in Vancouver.

Criminal duty counsel

Criminal duty counsel, including those in youth court, are assigned by local agents for their own communities and by each LSS regional centre for its catchment area. In locations where courts are usually busy, duty counsel are regularly assigned. In smaller communities, duty counsel are appointed only as needed.

To be added to the criminal duty counsel roster for your community, contact the nearest LSS regional centre or the local agent in your community. LSS is responsible for approving the lawyers for the rosters in each location. Generally LSS assigns those who practice in the community where the court is located and who have demonstrated experience in the practice of criminal law.

Criminal duty counsel services are described in more detail in Chapter 6.

Family duty counsel

Family duty counsel (FDC) are lawyers who give legal advice about family law issues and court procedures. They can speak for clients in court on simple matters, prepare for and attend case conferences, help with documents, and help negotiate issues. LSS provides FDC on remand days in Provincial Court and on some chambers days in Supreme Court.

Family advice lawyers are FDC who are available in various locations such as family justice counsellors' offices or in courthouses when court is not sitting.

To be eligible for family duty counsel work, you must have:

- experience practising family law for a minimum of two years and a minimum of two years experience in the court location for which you have applied;
- a sufficient level of expertise in cases under both the *Family Relations Act* and the *Child, Family and Community Service Act* (your history of accepting these cases from LSS will be reviewed to determine your experience); and
- a satisfactory history with the LSS Audit and Investigation Department.

Other considerations include:

- the need for diversity within the roster (e.g., fluency in a second language),
- family or civil mediation training,
- collaborative law training,
- experience with the *Family Maintenance Enforcement Act*,
- the location of your practice,

- other family duty counsel experience, and
- feedback from stakeholders contacted by LSS.

To ask to be added to the family duty counsel roster, call or write:

Coordinator of Family Initiatives
Legal Services Society
400 – 510 Burrard Street
Vancouver, BC V6C 3A8
Phone: 604-601-6009
Fax: 604-601-6195
E-mail: helpdesk.family@lss.bc.ca

Family duty counsel services are described in more detail in Chapter 7.

Immigration duty counsel

Immigration duty counsel is provided Monday to Friday for people in detention at the Pacific Region Enforcement Centre of the Canada Border Services Agency in Vancouver.

To be added to the immigration duty counsel roster, contact the duty counsel coordinator at the Vancouver Regional Centre at 604-601-6066.

Immigration duty counsel services are described in more detail in Chapter 9.

Circuit counsel

LSS provides circuit counsel to attend remote circuit court locations in BC. LSS uses a competitive bidding process to establish term contracts with specific lawyers to provide legal representation and other services in regions served by circuit courts. LSS notifies the tariff bar when it is seeking lawyers to act as circuit counsel.

Quality assistance

LSS has established a Quality Assistance Program to help ensure that LSS clients receive quality legal services that are comparable to those that private clients receive. The program focuses on quality enhancement, the goal of which

is to provide lawyers with the resources and learning opportunities they need to deliver high quality services.

For more information on LSS quality assistance initiatives, see “Chapter 12: Resources” and “Practice resources” in the “Lawyers” section of the LSS website.

Client expectations

As part of its Quality Assistance Program, LSS created *What You Should Expect from Your Legal Aid Lawyer*, a plain language fact sheet that outlines the standard of service LSS clients can expect to receive from their lawyers. The fact sheet is available on the LSS website in English, as well as in Chinese, Farsi, French, Punjabi, Spanish, and Vietnamese.

Getting help with cases

Chapter 12 lists a variety of resources in to help you provide quality service to LSS clients.

To get help from an LSS staff member, see the contact list in Appendix 2.

Working with other counsel

You can bill LSS for the legal services of a counsel agent without prior authorization if the services were provided in BC, the services are billable according to the tariff guide, and the agent did not assume conduct of the case. Full details can be found in the “General Terms and Conditions” section of the tariff guide.

You can bill LSS for legal services provided by an articulated student without prior authorization. Full details can be found in the “General Terms and Conditions” section of the tariff guide.

LSS may authorize the appointment of junior or co-counsel if you fax a written request to Case Management at 604-681-7963. Full details, including billing rates, can be found in the “General Terms and Conditions” section of the tariff guide.

Chapter 6

Criminal Law Services

LSS provides legal representation and advice for criminal law matters in Provincial Courts and some Supreme Courts throughout BC. Legal advice is provided through duty counsel services for in- and out-of-custody accused, circuit counsel, and several telephone services. Providing they meet LSS financial and coverage criteria, legal representation is available for:

- adults charged with criminal offences, and
- youths charged under provincial statutes.

Legal representation (regardless of financial eligibility) is also available for:

- youths charged under federal statutes such as the *Youth Criminal Justice Act (YCJA)*,
- victims of sexual offences served with applications to disclose personal records, and
- some witnesses to crime.

Most criminal law services are paid at block fee rates. However, each tariff item has four different rates based on the seriousness of the offence. Also, the most complex criminal cases may qualify for enhanced fees, and long trials may be taken off the block fee tariff and paid at the LSS hourly rate. LSS criminal law information services are described in “Resources for clients” in Chapter 12.

Legal representation

LSS provides legal representation for the following legal problems.

For adults

Legal representation is available to applicants who are charged with a criminal offence, meet LSS financial eligibility criteria and, if convicted, are likely to:

- go to jail or get a conditional sentence that would severely limit their liberty (e.g., a curfew amounting to house arrest); or
- lose their livelihood; or
- face a risk of removal from Canada.

Representation is also provided where approved applicants:

- do not face imprisonment if convicted but have a mental or physical disability that prevents them from defending themselves, or
- are Aboriginal and their ability to follow a traditional livelihood of hunting and fishing could be affected if they are convicted of an offence (including charges under the federal *Fisheries Act* and the provincial *Wildlife Act* and *Firearms Act*).

For youth

Youths charged under the *YCJA* are eligible for legal representation regardless of their financial situation. If a person is over 18 but is facing a *YCJA* criminal offence, LSS will provide legal aid coverage until the *YCJA* case is completed. Youths charged under provincial statutes, including the *Motor Vehicle Act*, must meet LSS financial and coverage criteria for legal representation.

Permanent or temporary wards of the Ministry of Children and Family Development get representation through that ministry, not through LSS. This applies to youths who are in care pursuant to a court order. Youths under short-term voluntary care agreements are eligible for legal aid, since the ministry is not responsible for providing counsel.

For victims of crime

Victims of sexual offences are eligible for legal aid in situations where the defence lawyer seeks disclosure of personal records (such as counselling or medical records). Applicants in these cases do not have to be financially eligible to qualify for representation. LSS pays counsel with funding from the Victim Services and Crime Prevention Division of the Ministry of Public Safety and Solicitor General. Depending on the circumstances of the case, the ministry may agree to provide funding for:

- witnesses or victim service agencies served with disclosure applications, or

- victims of other (non-sexual) offences served with applications to produce records that are not disclosure applications.

For more information, see www.pssg.gov.bc.ca.

For witnesses

The Legal Services Society does not provide representation for witnesses unless the testimony of the witness would create a risk of that person being charged with a coverable criminal offence. Approval for coverage requires prior authorization. Call the Manager, Criminal Law at 604-601-6007.

Other types of proceedings

LSS covers other types of matters such as:

- Extradition hearings.
- Annual review hearings and Review Board hearings for people found unfit or not criminally responsible due to mental disorder under the *Criminal Code*. When hearings are in the Lower Mainland, representation is provided by the Community Legal Assistance Society (CLAS) wherever possible;
- Coroner's inquests. This requires prior approval by the Manager, Criminal Law. Cases will only be approved if the testimony of the client puts the client at risk in relation to a coverable criminal offence.
- Limited representation where the court has made an order under section 486.3 for counsel to cross-examine vulnerable witnesses.

Legal advice

LSS provides legal advice through in- and out-of-custody duty counsel, circuit counsel, the Brydges Line, the Advice Counsel Line, and LawLINE.

Duty counsel

Duty counsel give advice to all accused, regardless of their financial situation.

Criminal duty counsel, including those in youth court, are assigned by local agents for their own communities and by each regional centre for its catchment area. In locations where courts are usually busy, duty counsel are assigned regularly. In some smaller communities, duty counsel are appointed only as needed.

In-custody duty counsel

In-custody duty counsel help adults and youth in custody in provincial criminal courts. In particular, they:

- interview the accused in the lock-up before the start of court;
- explain the nature of the charges and the court procedures;
- explain how to apply for legal aid; and
- appear in court and handle show cause hearings, remands, variations of bail, bail on new charges, adjournments, and guilty pleas for any in-custody accused who wants his or her case concluded that day.

In youth court, duty counsel will provide advice at detention reviews under the *YCJA*. If the case is complicated, duty counsel should advise the client to apply for a standard criminal referral. If LSS issues a referral, duty counsel may provide legal representation as well.

Out-of-custody duty counsel

Out-of-custody duty counsel provide summary advice and assistance in both adult and youth court to accused people making initial appearances in Provincial Court under the Criminal Case Flow Management Rules. If time permits, duty counsel may assist clients with simple bail variations, negotiations, or guilty pleas.

Circuit counsel

LSS retains circuit counsel if the location and operation of a circuit court make it impractical or impossible to refer eligible clients to local counsel. Circuit counsel provide criminal duty counsel services or legal representation for qualified individuals.

If a client needs representation for hearings or there are significant disbursements, you must ensure that LSS assesses the client to see whether he or

she qualifies for legal aid. If the client is financially eligible and the matter falls under LSS coverage guidelines, the client may receive a legal aid referral.

Brydges Line

LSS contracts with private bar lawyers to operate the Brydges Line, a province-wide toll-free telephone service available 24 hours a day, 7 days a week. People can call to speak to a lawyer if they are:

- arrested, or
- detained and under active investigation by the police or another law enforcement agency for a criminal offence but are not yet charged, and need emergency legal services.

For a person arrested for murder, manslaughter, or attempted murder, the on-duty Brydges lawyer contacts a local senior member of the bar able to provide an in-depth consultation. The Brydges Line telephone numbers are as follows:

1-866-458-5500 (toll free, Lower Mainland)

1-866-458-3300 (toll free, outside the Lower Mainland)

Advice Counsel Line

LSS contracts with private bar lawyers to provide advice counsel services to people who are in custody at police lock-ups awaiting bail hearings. This service enables people to get legal advice over the telephone from 6 p.m. – 10:00 p.m., Monday to Friday, and from 8:00 a.m. – 10:00 p.m. on weekends and statutory holidays. LSS does not authorize advice counsel to conduct teleconference bail hearings. The advice counsel service telephone number is 1-888-595-5677 (toll free throughout BC).

LawLINE

LawLINE is the LSS telephone service that provides legal advice and, in some cases, information about legal issues, including criminal law matters. People can contact LawLINE by dialing the following numbers for the LSS Call Centre:

604-408-2172 (Lower Mainland)

1-866-577-2525 (toll free, outside the Lower Mainland)

The tariff

Most criminal law services are paid according to block fees that are based largely on court appearances, and are meant to include preparation time and all services that are not billable separately. For example, LSS does not pay separately for case preparation and research, meetings with clients, some court appearances such as attendances for adjournments, time spent on the telephone and writing correspondence, or time spent interviewing witnesses. All of these services are included in the block fee.

LSS categorizes offences based on seriousness, and the legal fees for services vary according to the category of offence:

Category I: Includes the least serious offences, such as breach of probation, motor vehicle offences (e.g., driving while suspended), or failure to appear in court.

Category II: Includes most summary or hybrid offences, such as simple assault, *Criminal Code* driving offences (e.g., dangerous driving), or theft under \$5,000.

Category III: Includes most indictable offences, such as more serious assaults, breaking and entering, dangerous or impaired driving causing death or bodily harm, criminal negligence, or conspiracy.

Category IV: Includes the most serious offences, such as murder, kidnapping, sexual assault with a weapon or causing bodily harm, or dangerous offender applications.

For more information, see the “Criminal Tariff” section in the tariff guide.

LSS sets tariff items to reflect the usual time requirements for a legal service in an average case. LSS may, at its discretion, pay further legal fees after considering factors such as:

- actual time expended
- legal complexity
- nature of services rendered
- importance of the matter to a reasonable client of modest means
- length of the proceeding
- amount of court time and/or LSS funding saved by the efforts of counsel

- skill and efficiency of counsel
- unbillable time (service)
- results achieved, and
- available tariff budget

Extra fees may be requested at the conclusion of the case and require counsel to submit a final bill. Additional preparation may be requested before the conclusion of the case if it is recognized, at the outset or during the course of the referral, that substantially more hours than permitted under the applicable tariff will be required to complete the case. To request additional preparation, counsel must submit an up-to-date account.

For extra fees and additional preparation requests, submit your request in writing to the Case Management Section at 604-681-7963 and include timesheets, documents, and additional information to facilitate the request. For appeals or judicial review cases, submit the request to the Appeals Section.

Duty counsel

Duty counsel and advice counsel are paid an hourly rate up to the maximum number of hours specified in the referral. If additional hours are required, counsel must submit a request for extra legal fees when they submit their accounts. For more information, see the “Duty Counsel Tariff” section of the tariff guide.

Circuit counsel

LSS generally has a standing contract with a lawyer for each location. Circuit counsel are responsible for handling all eligible cases on a circuit for a fixed half-day or weekly fee. The tariff rate includes all preparation on dates between circuits. For more information, see the “Duty Counsel Tariff” section of the tariff guide.

Strategic Case Assessment Program

The Strategic Case Assessment Program (SCAP), implemented in 2001 as part of the LSS Quality Assurance Initiative, is designed to help LSS better predict costs in long trials, efficiently allocate legal aid funding, and provide appropriate resources to represent clients in serious criminal cases. The block fee tariff does

not apply to SCAP cases; SCAP cases are paid on an hourly tariff for preparation and court attendance with the exception of travel fees.

SCAP applies to all criminal cases where hearings are scheduled for more than ten half days (i.e., five trial days). In all such cases, you must submit a completed SCAP questionnaire (including a draft budget) to LSS in advance of the preliminary inquiry or trial as soon as it becomes apparent that the hearing will exceed ten half days. Category IV cases scheduled to exceed ten half days will automatically proceed within SCAP. For Category I, II, or III cases scheduled to exceed that limit, LSS will review your completed questionnaire and make a determination, at its discretion, whether the case should proceed under SCAP or remain on the block fee tariff.

For cases proceeding within SCAP, LSS will set an appropriate budget based on your written SCAP questionnaire and possibly on discussions with an LSS case review lawyer. At a SCAP budget meeting, you will discuss time requirements for the case and funding for anticipated disbursements. A SCAP budget authorizes hours for general preparation, daily preparation on court days, and actual court attendance. LSS may revise the original SCAP budget if trial events disclose unanticipated changes in the duration or complexity of your case.

To initiate the SCAP process, complete a SCAP Case Management Questionnaire, found in the “Lawyers” section of the LSS website (look under “Case management information”). Fill it out online and print a copy, or print it and fill it out by hand. The completed online form cannot be saved or sent by e-mail. If you need more room than is provided on the form, please attach additional sheets. Fax the form to Case Management at 604-681-7963.

For help with billing SCAP cases, please review the SCAP billing tips and the completed sample form on the SCAP page of the “Lawyers” section on the LSS website (look under “Case management information”).

Enhanced fee cases

Cases may qualify for enhanced fees (\$125 per hour for senior counsel) if they are more complex than most Category IV cases. A rotating panel of three senior private bar lawyers reviews enhanced fee requests. In assessing the complexity of the case, the panel considers a range of factors, including:

- the experience of Crown counsel and whether more than one Crown counsel is assigned to the case,
- whether the case is proceeding by direct indictment,

- the length of the police investigation and whether the police investigation was highly resourced,
- the amount and complexity of Crown disclosure,
- the anticipated number of substantive witnesses, and
- whether there are co-accused and whether the co-accused have antagonistic defences.

To be eligible for enhanced fees, you must have a minimum of 12 years experience in criminal law practice (with at least 50 percent of your practice in criminal law) and you must have acted as lead counsel on a substantial number of complex Category IV trials. For more information on enhanced fees, go to the “Lawyers” section of the LSS website and look under “Case management information.”

Rowbotham applications

Anyone charged with a serious criminal offence who has been denied a referral to a lawyer can apply to a judge to appoint a lawyer for them in accordance with the decision in *R. v. Rowbotham et al* (1988) 25 O.A.C. 321.

If the application is successful, LSS will appoint counsel and make payments according to the tariff contract. In some cases, LSS may approve coverage without requiring the applicant to go to court for an order. This is normally done when a client is only slightly above the financial eligibility criteria and the matter is complex.

Appeals

The “Appeals and Judicial Reviews” section of the tariff guide contains detailed information about criminal appeals and judicial reviews. The LSS Appeals Section at the Vancouver Regional Centre reviews all appeal requests for merit and LSS funds only those appeals that fall under the society’s criminal law coverage criteria and have a reasonable chance of success. In particular, the Appeals Section reviews applications for legal aid funding for:

- appeals of conviction or sentence,
- respondents to Crown appeals of conviction or sentence,
- challenges to the legality of imprisonment,

- superior court reviews of committals for trial following preliminary inquiries,
- testing of the validity of extradition proceedings,
- appeals of convictions and sentences for youth,
- orders raising a youth to adult court, and
- bail reviews to Supreme Court.

Applicants who are financially eligible *may* receive legal representation for an appeal if they are responding to an appeal initiated by another party. For example, LSS normally covers a financially eligible individual in a Crown appeal from an acquittal where the case is one the society would normally cover.

If you want a legal aid referral for a criminal appeal, have your client reapply for legal aid and either contact the Appeals Section or submit a Criminal Appeal Opinion Letter Questionnaire about the case. The questionnaire is in the “Lawyers” section of the LSS website (look under “Opinion letter questionnaires” in the “Forms and questionnaires” section). Direct any questions about appeals to the Appeals Section at 604-601-6085.

Fees

Approved criminal appeals are paid at the LSS hourly rate up to a specified maximum number of hours.

Transcripts

Apply to the Appeals Coordinator at 604-601-6085 for approval of appeal transcripts. The court generally orders and covers the cost of transcripts for sentence appeals. The “Disbursements for All Tariffs” section of the tariff guide contains instructions on how to order transcripts.

Testimonials

Peter Golden is a sole practitioner in Victoria, primarily in the areas of immigration, refugee, and family law. His interest in legal aid developed while he was a student at McGill, directing a legal information clinic staffed by 70 students. Peter began accepting legal aid referrals right after his call to the BC bar in 1992, and continues to make legal aid a part of his practice.

Through legal aid, Peter has helped many refugee claimants, often in life or death situations. “It’s a very stressful time for them, and when you get a positive decision, you can just see this weight lifting from the shoulders of your clients. It really is gratifying and a privilege to have a close-up view of the courage that many of these people display.”

Peter also practises child protection law and has had a couple of wonderful experiences where long, contentious cases ended happily with the children being reunited with their parents. Then, he saw the same parents, in turn, become resources for other parents whose children had been removed. For Peter, it reaffirms the importance of legal aid and of “working with individuals who are often in crisis and can really benefit from the legal services you provide and the legal skills that you have. (You are) playing a very good role in empowering people.”



Peter Golden
Immigration, refugee, family law, Victoria

“It really is gratifying and a privilege to have a close-up view of the courage that many of these people display.”



Jeffrey Peterson began taking legal aid referrals out of a sense of personal and professional responsibility to help people. A partner in Bishop & Co. in Kelowna, Jeff received his LLB from the University of British Columbia, and shortly after being called to the bar in 1988, began accepting legal aid referrals. “But as well, what motivated me when I was starting out was that I was looking for work, and one of the quickest ways to get started was to take legal aid files. It immediately gave me an opportunity to be arguing cases on my feet and learning by watching other lawyers in action.” Being exposed to the different areas of law through legal aid helped Jeff decide how to specialize, and from early on he began to practise family law exclusively.

Jeff enjoys the variety of legal aid files. “It’s always like a brand new novel you are opening the cover to — you never know what’s going to be inside!” But he also enjoys seeing how his work helps his clients gain skills for themselves.

Jeff keeps a box filled with heartfelt cards and letters from his legal aid clients. He notes that these clients often come back years later as private clients. “So, it’s an investment in your education; it’s an investment in your practice. If you can commit to the time, it will pay you back, in terms of acquiring skills, which are transferable into the private areas of your practice and in the satisfaction of doing a good job.”

“It’s an investment in your education; it’s an investment in your practice.”

Annabelle Oliver Dunbar speaks with feeling when describing her long-term commitment to her legal aid clients. “Acting for an LSS client provides me with the opportunity to assist with what can be really overwhelming legal issues for any litigant.”

Annabelle has been practising family law in Prince George since 1982, and as a sole practitioner since 2002. She was introduced to legal aid through befriending a staff lawyer at LSS. “I began taking legal aid referrals in 1983. I was just learning and it was a good experience to take on clientele.” Her practice remains a mix of private and legal aid clients.

Annabelle’s commitment to legal aid is connected to her faith. “I believe we should use whatever we’ve been given, whether talents, gifts, or acquired skills, to make a contribution to society. I feel I can make that contribution by acting for these people because they often have nothing or very little in the way of resources, and very little hope, and it’s a rewarding experience to know that you are making a positive difference in their lives. It is, for me, a bigger purpose.”

To those considering working with LSS, Annabelle says to get involved so that you can acquaint yourself with the wide spectrum of clientele who live in BC, the kinds of legal problems they face, and how to use legal remedies to bring about significant changes for them.



Annabelle Oliver Dunbar
Family law, Prince George

“It’s a rewarding experience to know that you are making a positive difference in (clients’) lives.”



Not long after he was called to the BC bar in 1971, Art Demeulemeester decided that criminal law was what he liked to do. He began legal aid work immediately and has accepted thousands of criminal cases from LSS over his 36-year career as a sole practitioner.

For Art, the personal benefit of being a referral lawyer in criminal law is the highly challenging and social nature of the work, with most of the time being spent in the courtroom. But Art equally recognizes the important benefits of legal aid for his clients as well. “Since the Charter, criminal law is fairly complex and it is hard for a person to represent themselves. People really do need legal help.”

One experience that stands out for him was the case of a young man who Art felt was wrongly convicted of a driving offence involving a fatality. LSS agreed to fund an appeal and the appeal was successful. “Because of legal aid, I was able to take it further, and rectify things, and I found that very satisfying. I only had that opportunity because of legal aid, and I’m grateful for that.”

Overall, Art has had a very positive experience of working with LSS. “LSS has been very supportive and willing to listen.” It’s mutual — Art is known by LSS intake staff for his thoughtful and kind attention to his legal aid clients.

**“LSS has been very supportive
and willing to listen.”**

Chapter 7

Family Law Services

LSS family law services include legal representation and legal advice. Legal representation is governed by the Family Tariff which is divided into three parts: Emergency Services, Dispute Resolution Services, and Extended Services. Legal advice is provided through family duty counsel and family advice lawyers (governed by the Duty Counsel Tariff), as well as through LawLINE.

In the Family Tariff, the Emergency Services section provides for representation, up to and including court applications, in limited circumstances primarily relating to safety issues and removal of children from the province (see below for more details). The Dispute Resolution Services (DRS) section provides for pre-litigation representation in limited circumstances not covered by Emergency Services referrals and is designed to promote early resolution. LSS may issue an Extended Services referral if nothing further can reasonably be done under an Emergency Services or DRS referral and further services are required.

Legal matters that fall under the *Child, Family and Community Services Act* are discussed in more detail in Chapter 8.

For information about LSS family law information services, see “Resources for clients” in Chapter 12.

Objective of family legal aid services

In the BC family justice system, there is increasing emphasis on consensual dispute resolution (CDR), coupled with effective trial representation for cases that require litigation to resolve. LSS has adopted the following policy statement as its fundamental objective for family legal aid services:

To help eligible people resolve their family law legal problems by:

- focusing on the needs of children and families,
- encouraging the use of non-adversarial settlement processes, and

- supporting court processes to resolve disputes when non-adversarial approaches are not appropriate or effective.

This reflects the LSS goal of providing legal aid services that are proportionate to client needs, and will guide the society in its delivery of family legal aid services and its participation in family justice system reform.

LSS recognizes mediation and collaborative law approaches as effective tools in achieving early CDR in family law cases. Mediation involves the use of a trained, independent facilitator to assist the parties in reaching agreements that accommodate their interests, with the cost of the mediator typically shared by both sides. Collaborative law takes a variety of forms, but fundamentally involves a commitment to an interest-based resolution of a dispute without litigation. Some cases feature signed collaborative law agreements stipulating that the lawyers involved will withdraw if negotiations fail and the case proceeds to litigation. Other approaches are less formal, and may simply entail structured settlement negotiations involving the parties and their lawyers (“four-way” meetings).

Emergency Services

Legal representation for Emergency Services is provided to financially eligible clients who need urgent legal help in situations such as the following:

- They are victims of domestic violence or at risk of violence and likely need a restraining order or other legal assistance to protect their safety.
- They have a child or children at risk of violence and need a supervised access order or restraining order to protect them.
- They need to change a current custody or access order to ensure their own and/or their children’s safety.
- They need a non-removal order to prevent the other parent from permanently moving their children out of the province. The threat must be real and imminent, and involve a permanent change of residence.
- They have been unlawfully denied access to their child or children, or the other party has expressed an intention to deny access or has permanently or repeatedly denied access.

Generally, only one referral may be issued for Emergency Services. There must be a change in the client's circumstances before the client is eligible for another Emergency Services referral.

Emergency Services include, but are not limited to:

- general preparation with the client and other witnesses,
- negotiation with the opposing party,
- preparation and attendance at mediation and collaborative law meetings,
- preparation of court applications, and
- attendance at court applications.

See the *Guide to Legal Aid Tariffs* for more information about Emergency Services.

If an applicant is covered under the LSS guidelines, you may provide services to obtain the usual relief under the *Family Relations Act* or the *Divorce Act*, as long as it can be done within the hours provided by LSS. However, LSS will not provide coverage or extend coverage to obtain a divorce only. If more hours are required for anything else, see "Extended Services" on page 53.

Eligibility

Applicants must be financially eligible and have a covered issue. Additionally, if children are involved, applicants must be the parents (including same-sex partners) or be parties to the proceedings who are:

- members of the children's immediate or extended family,
- relatives or individuals who have lived with the children in a parental or custodial relationship, or
- members of the community who have a cultural or traditional responsibility towards the children.

Children under the age of 19 can also apply for legal aid. However, if the applicant is a temporary or permanent ward of the Ministry of Children and Family Development, it is up to the ministry to provide counsel.

A client who is receiving Dispute Resolution Services (see page 52) can apply for an Emergency Services referral if new issues arise.

Dispute Resolution Services

LSS offers Dispute Resolution Services (DRS) referrals to give legal assistance to clients who do not qualify for Emergency Services but who still have significant custody, access, and financial security issues and the resolution of the dispute might make a significant difference to the family. LSS considers whether the client faces a barrier to resolving those issues using self-help resources. The intent is to limit services to non-litigation and consensual dispute resolution (CDR), so other than attendance at a case conference, the DRS referral does not cover a lawyer's attendance at court. If the case is not resolved despite the use of CDR and the client's good faith efforts to settle, you may seek an Extended Services referral.

If an applicant is covered under the LSS guidelines, you may provide services to obtain the usual relief under the *Family Relations Act* or the *Divorce Act*, as long as it can be done within the hours provided by LSS. However, LSS will not provide coverage or extend coverage to obtain a divorce only. If more hours are required for anything else, see "Extended Services" on page 53.

The following are among the services covered in a DRS referral:

- advising clients about options and case strategy
- helping clients prepare pleadings
- reviewing affidavits and correspondence
- negotiating settlements with opposing parties or helping clients negotiate
- helping clients draft separation agreements or consent orders
- referring clients to other appropriate resources
- preparing and attending mediation or collaborative law meetings
- providing legal research and analysis
- coaching clients to represent themselves in court
- attending judicial case conferences with clients

If new issues arise, a client can be re-assessed for an Emergency Services referral.

See the *Guide to Legal Aid Tariffs* for more information about Dispute Resolution Services.

Eligibility

To qualify for a DRS referral, the applicant must:

- be financially eligible for legal representation under the LSS guidelines, but have an issue that is not covered by an Emergency Services referral;
- face a barrier to resolving the legal issues on his or her own using self-help resources (which may include a language or literacy problem, a complicated legal issue, a significant power imbalance with the opposing party, a lack of computer skills or access to a computer, or a mental health issue); and
- be likely to suffer a significant injustice if coverage is not provided (e.g., loss of custody or access; permanent damage to the parent/child relationship; or loss of a significant family asset).

Extended Services

The Extended Services program provides you with additional time to resolve a case or take a case to trial, beyond what is provided in an Emergency Services or DRS referral.

LSS takes a discretionary approach to litigation authorization under Extended Services. The society uses case management to allocate available funding in stages, rather than authorizing a single block of hours. The goal is to provide a level of funding proportionate to the client's needs and the issues in the case. To encourage settlement negotiations even where a case has been set down for trial, an Extended Services referral will generally include authorization for mediation or collaborative processes. However, if services related to consensual dispute resolution (CDR) were billed on a previous referral in the same case, you must obtain prior authorization before attempting CDR again.

If you want authorization for an Extended Services referral, submit an opinion letter by fax to Case Management at 604-681-7963. The procedure is set out in the "Family Tariff (Extended Services)" section of the tariff guide. You must use the hours provided under Emergency Services or DRS (and bill the initial referral) before applying for Extended Services. If you disagree with a Case Management decision, you may fax a written request for a review to the Manager, Civil Law at 604-601-6195.

Eligibility

Clients must still be financially eligible under the LSS guidelines. The test LSS applies is whether the client has made good faith efforts to negotiate a settlement and whether resolving the issues will result in a significant benefit to the client.

Judgments and settlements

Family law referrals may involve applications to recover family assets. In cases where a client receives a judgment or settlement, LSS may require the client to repay the fees and expenses to LSS (see “Chapter 4: Financial Eligibility”).

Legal advice

LSS provides the following family legal advice services: family duty counsel, family advice lawyers, circuit counsel, and LawLINE.

Family duty counsel

Family duty counsel (FDC) are lawyers scheduled in certain Provincial and Supreme Courts who give legal advice to financially eligible clients with family law problems involving the *Family Relations Act (FRA)*, the *Family Maintenance Enforcement Act*, the *Child, Family and Community Services Act*, the *Divorce Act*, and the *Interjurisdictional Support Orders Act*. FDC may:

- give legal advice about custody, access, guardianship, and child and spousal support; property (limited); tentative settlement agreements; and court procedures;
- speak for clients in court on simple matters such as adjournments, consent and emergency restraining orders, and uncontested custody, access, and support hearings;
- help clients draft documents, review documents to be filed in court, and negotiate and settle issues; and
- prepare for and attend judicial case conferences or family case conferences.

Priority is given to clients who have matters in court that day and who meet the LSS income test for legal advice services. Financially eligible clients may

receive up to three hours of legal advice. Once these clients have been helped, FDC may assist others who need legal advice about family issues (usually 20 to 45 minutes of service, depending on availability).

In Provincial Court, FDC services are provided on scheduled list days. Family list days for first-time court appearances are usually one to two days a week in larger communities and once a month in smaller communities. In certain Supreme Court locations, FDC services are provided as scheduled.

The Vancouver FDC program is co-housed with family justice counsellors in the Provincial and Supreme Court complex to enhance both services. Client files are maintained and counsel can help clients prepare for their case over several meetings.

For details about FDC court locations, see the LSS website.

Family advice lawyers

Family advice lawyers are family duty counsel who provide advice in various locations, unrelated to days that courts are sitting. For example, they serve clients of the Ministry of Attorney General's family justice counsellors in Kamloops, Kelowna, Prince George, Surrey, Vancouver, and Victoria.

Family advice lawyers also provide services to the public on a drop-in basis at some courthouses but not on remand or chambers days. They are also available (after assessment) at the justice centre in Nanaimo.

Financially eligible clients who are referred to you by a family justice counsellor or child support officer may receive up to three hours of advice on issues concerning custody, access, guardianship, and child support, property (limited), tentative settlement agreements, and court procedures.

You can help clients:

- prepare for court appearances,
- follow up on the proceedings, and
- settle separation or divorce matters during mediation proceedings.

Clients who are not financially eligible can still receive an initial 45-minute appointment (with a referral from a family justice counsellor).

Circuit counsel

LSS provides circuit counsel on some Provincial Court circuit sittings around BC. Circuit counsel can act as FDC on the circuit, and may also provide representation and other services in certain circumstances where approved by LSS.

LawLINE

LawLINE is the LSS telephone service that provides legal advice and, in some cases, information about legal issues, including family matters. People can contact LawLINE by dialing the following numbers for the LSS Call Centre:

604-408-2172 (Lower Mainland)

1-866-577-2525 (toll free, outside the Lower Mainland)

The tariff

The Family Tariff includes items for Emergency Services, Dispute Resolution Services, and Extended Services. See the “Family Tariff” section in the tariff guide. The tariff for duty and advice counsel family services can be found in the “Duty Counsel Tariff” section of the guide.

LSS sets tariff items to reflect the usual time requirements for a legal service in an average case. LSS may, at its discretion, pay further legal fees after considering factors such as:

- actual time expended
- legal complexity
- nature of services rendered
- importance of the matter to a reasonable client of modest means
- length of the proceeding
- amount of court time and/or LSS funding saved by the efforts of counsel
- skill and efficiency of counsel
- unbillable time (service)
- results achieved, and
- available tariff budget

Extra fees may be requested at the conclusion of the case and require counsel to submit a final bill. Additional preparation may be requested before the conclusion of the case if it is recognized, at the outset or during the course of the referral, that substantially more hours than permitted under the applicable tariff will be required to complete the case. To request additional preparation, counsel must submit an up-to-date account.

For extra fees and additional preparation requests, submit your request in writing to the Case Management Section at 604-681-7963 and include timesheets, documents, and additional information to facilitate the request. For appeals or judicial review cases, submit the request to the Appeals Section.

Appeals

Family appeals are limited to child apprehension cases and other matters related to custody and access where there is a risk of physical or severe emotional/psychological harm to the children or applicant or where there is a risk the children will be removed from the jurisdiction.

You must apply to the LSS Appeals Section, which will approve funding for an appeal only if there is a reasonable chance of success. You can call the Appeals Section at 604-601-6083 or submit a Family Appeal Opinion Letter Questionnaire about the case.

The “Appeals and Judicial Reviews” section of the tariff guide sets out the tariff items and maximum hours for family appeals.

Child Protection Law Services

LSS provides legal representation and advice services to financially eligible clients who have a legal problem that falls under the *Child, Family and Community Service Act (CFCSA)* and LSS coverage guidelines.

For information about LSS child protection law information services, see “Resources for clients” in Chapter 12.

Legal representation

LSS provides a referral when:

- an applicant’s children have been removed or are at risk of being removed,
- legal representation is required to deal with custody and access issues related to a child in the care of the Ministry of Children and Family Development (MCFD),
- the applicant wants an access order or wants to vary a temporary supervision or access order, and
- the applicant and the MCFD have reached a proposed plan of care for the child and the client requires legal advice about the voluntary agreement.

LSS may provide a referral when:

- a parent or other eligible adult wants to apply for return of a child in continuing care, or
- a parent opposes the permanent transfer of a child who is in the continuing care of MCFD to a person other than the child’s parents, and the parental relationship with the child is at risk.

Applicants must be parents (including same-sex partners) or parties to proceedings who are:

- members of the children's immediate family,
- relatives or individuals who have lived with the children in a parental or custodial relationship, or
- members of the community who have a cultural or traditional responsibility towards the children.

Couples who live together receive a single referral. Separate referrals are issued only if there is a conflict that prevents them both from being represented by the same lawyer.

The LSS tariff states that the case is ongoing until the children are returned to the family or become wards of MCFD under a Continuing Custody Order, the Director withdraws all applications, or until the custody and access issues related to a child in care are resolved and you have submitted your final bill. If, during the life of the referral:

- the child gets reapprehended after return, or
- a second child is apprehended from that client,

contact the referring office so that we can update our records, which will allow you to bill all tariff items anew.

If the parent of the children named in a *CFCSA* matter is a ward of the MCFD under a continuing care agreement, the MCFD will arrange for appointment of counsel through the Ministry of Attorney General.

For more information on when a *CFCSA* referral ends, see page 3 of the *CFCSA* Tariff section of the tariff guide.

Legal advice

LSS provides legal advice services in child protection matters through duty counsel services, independent advice for children over 12 years of age, and LawLINE.

Duty counsel

Family duty counsel lawyers give legal advice to clients with family and child protection problems. See “Chapter 7: Family Law Services.”

Legal advice (and representation) for children

Under an agreement with the MCFD, LSS has created a province-wide roster of lawyers who can provide independent legal advice to children over 12 when:

- their consent is required for a court-ordered plan of care,
- they are wards of MCFD and are consenting to an adoption, or
- they are wards of MCFD and they are consenting to the permanent transfer of their custody to a party who is not a parent.

Additionally, under this agreement, the lawyers can provide advice to the third parties who are considering accepting permanent custody of children.

The *CFCSA* requires independent representation for children who are made a “party to the proceedings” under the *CFCSA*. The applicant should contact the child’s social worker, who arranges for appointment of counsel through the Ministry of Attorney General. The ministry pays for these legal services.

For more information, contact the Manager, Civil Law at 604-601-6009.

LawLINE

LawLINE is the LSS telephone service that provides legal advice and, in some cases, information about legal issues, including *CFCSA* matters. People can contact the LawLINE by dialing the following numbers for the LSS Call Centre:

604-408-2172 (Lower Mainland)

1-866-577-2525 (toll free, outside the Lower Mainland)

The tariff

The *CFCSA* Tariff is billable per hour at the legal aid tariff rate up to specified maximums for preparation time, and actual time for attendance in court (for all appearances other than attendance at a commencement hearing).

A *CFCSA* referral authorizes you to represent your client, subject to the terms and conditions of the tariff contract, until the child has been returned to the family or a permanent (continuing custody) order is made in favour of the Director of Children and Family Development.

You will need a new referral if the child has been returned and is subsequently reapprehended (unless this occurs within 90 days of your referral). Your client will have to reapply for legal aid so a new referral can be issued to you.

LSS sets tariff items to reflect the usual time requirements for a legal service in an average case. LSS may, at its discretion, pay further legal fees after considering factors such as:

- actual time expended
- legal complexity
- nature of services rendered
- importance of the matter to a reasonable client of modest means
- length of the proceeding
- amount of court time and/or LSS funding saved by the efforts of counsel
- skill and efficiency of counsel
- unbillable time (service)
- results achieved, and
- available tariff budget

Extra fees may be requested at the conclusion of the case and require counsel to submit a final bill. Additional preparation may be requested before the conclusion of the case if it is recognized, at the outset or during the course of the referral, that substantially more hours than permitted under the applicable tariff will be required to complete the case. To request additional preparation, counsel must submit an up-to-date account.

For extra fees and additional preparation requests, submit your request in writing to the Case Management Section at 604-681-7963 and include timesheets, documents, and additional information to facilitate the request. For appeals or judicial review cases, submit the request to the Appeals Section.

Appeals

To request an appeal, you must apply to the LSS Appeals Section, which will approve funding for an appeal only if there is a reasonable chance of success. You can call the Appeals Section at 604-601-6083 or submit a CFCSA Appeal Opinion Letter Questionnaire about the case.

The “Appeals and Judicial Reviews” section of the tariff guide sets out the tariff items and maximum hours for family appeals, which apply to *CFCSA* matters.

Chapter 9

Immigration Law Services

LSS provides legal representation and advice for financially eligible clients who need help initiating refugee claims or who face an immigration proceeding that could result in their deportation from Canada. To receive a referral for a refugee claim, applicants must have a reasonable chance of being successful in their claim.

Legal advice services for immigration matters include duty counsel services at the Pacific Region Enforcement Centre of the Canada Border Services Agency in Vancouver and legal advice from LawLINE.

For information about LSS immigration law information services, see “Resources for clients” in Chapter 12.

Legal representation

LSS provides legal representation for the following immigration matters.

PIF preparation

Refugee claimants from countries where the acceptance rate is low (screened countries) are required by LSS to complete a refugee claimant questionnaire. LSS reviews this questionnaire to determine whether there is merit to funding the applicant’s case and to issue a referral for Personal Information Form (PIF) preparation. Applicants from non-screened countries receive legal assistance to complete their PIFs without a merit screening.

A referral for PIF preparation authorizes you to bill up to a set amount of general preparation time. You may also bill up to a set amount for interpreter fees. (See the tariff guide for the authorized time.) These referrals are limited to two months from the date of assignment. You are required to submit a copy of the client’s PIF to LSS upon completion of your work on the PIF referral.

Refugee hearings

When LSS receives a copy of the completed and filed PIF, or when a client applies to LSS for legal assistance with a hearing, LSS determines whether there is merit to providing a referral for representation at the hearing.

If there is merit, LSS issues an authorization for a set amount of preparation time and actual attendance time at a hearing. You may also bill up to a set amount for interpreter fees and translation fees. The amounts of preparation time are set in the “Immigration Tariff” section of the tariff guide. The amounts for interpreter fees and translation fees are set in the “Disbursements for All Tariffs” section of the guide.

Pre-removal risk assessments

Clients must re-apply for legal aid if they want legal assistance in submitting a Pre-Removal Risk Assessment (PRRA) application. The LSS Appeals Section at the Vancouver Regional Centre screens all PRRA applications to determine whether there is merit regardless of the client’s country of origin. If LSS issues a referral, you are entitled to bill general preparation time up to the amount authorized on the referral.

Humanitarian and Compassionate (H&C) applications

The LSS Appeals Section at the Vancouver Regional Centre screens all H&C applications for merit regardless of the client’s country of origin. If LSS issues a referral, you are entitled to bill general preparation time up to the amount authorized on the referral.

Other immigration cases

LSS may fund the following types of other immigration cases if there is sufficient merit:

- complex admissibility hearings before the Adjudication Division
- applications to re-open or re-instate proceedings before the Immigration and Refugee Board
- cases involving loss of permanent resident status before the Immigration Appeal Division

These cases are processed by the Appeals Section at the Vancouver Regional Centre.

Legal advice

LSS provides legal advice services for immigration matters through duty counsel and LawLINE.

Duty counsel

LSS provides duty counsel for people in detention in Vancouver at the Pacific Region Enforcement Centre of the Canada Border Services Agency. Duty counsel provide clients who are detained with legal advice about immigration proceedings. They can also represent clients at initial detention hearings (48-hour hearings and 7-day reviews). They can also represent detainees at 30-day reviews if there has been a change in circumstances and there is a reasonable chance they will be released.

There is no financial eligibility test for immigration duty counsel services.

LawLINE

LawLINE is the LSS telephone service that provides legal advice and, in some cases, information about legal issues, including immigration issues. People can contact the LawLINE by dialing the following numbers for the LSS Call Centre:

604-408-2172 (Lower Mainland)

1-866-577-2525 (toll free, outside the Lower Mainland)

The tariff

Here are some important LSS tariff guidelines that affect immigration services:

- The service stop date for the immigration duty counsel services that you will provide is noted on your referral.
- Even if your clients have been referred separately, LSS considers them to be multiple clients if cases are treated by the Immigration and Refugee Board as a family unit or joined matter. You may bill full preparation time for only *one* of these clients. This means that no matter how many clients you represent, if their hearings have been joined, you can claim only up to an additional half block of preparation time. The “Immigration Tariff” section of the tariff

guide gives you further details about how to bill for multiple clients.

- A change of counsel will only be granted in exceptional circumstances and must be authorized by Case Management.

For more information, see the “Immigration Tariff” section of the tariff guide.

Extra legal fees and additional preparation

LSS sets tariff items to reflect the usual time requirements for a legal service in an average case. LSS may, at its discretion, pay further legal fees after considering factors such as:

- actual time expended
- legal complexity
- nature of services rendered
- importance of the matter to a reasonable client of modest means
- length of the proceeding
- amount of court time and/or LSS funding saved by the efforts of counsel
- skill and efficiency of counsel
- unbillable time (service)
- results achieved, and
- available tariff budget

Extra fees may be requested at the conclusion of the case and require counsel to submit a final bill. Additional preparation may be requested before the conclusion of the case if it is recognized, at the outset or during the course of the referral, that substantially more hours than permitted under the applicable tariff will be required to complete the case. To request additional preparation, counsel must submit an up-to-date account.

For extra fees and additional preparation requests, submit your request in writing to the Case Management Section at 604-681-7963 and include timesheets, documents, and additional information to facilitate the request. For appeals or judicial review cases, submit the request to the Appeals Section.

Appeals

Legal representation is provided for judicial review cases where the case has a reasonable chance of success. The LSS Appeals Section screens for merit regardless of the client's country of origin. If LSS determines there is merit, it will issue a referral indicating the number of hours authorized.

You can call the Appeals Section at 604-601-6083 or submit an Immigration Appeal Opinion Letter Questionnaire about the case. For more information, see the "Appeals and Judicial Reviews" section of the tariff guide.

Chapter 10

Prison Law Services

LSS delivers prison law services in all federal and provincial correctional facilities in BC. The prisoner's first point of contact with LSS is through the LSS Call Centre. LSS has local and toll-free phone numbers, with priority access, that prisoners can call from prison. If the client has an issue that deals with the liberty interest of the prisoner, they are referred to the West Coast Prison Justice Society (WCPJS). The WCPJS then determines the level of service to be provided, ranging from legal information to legal representation.

Legal representation

LSS policy is based on the right to counsel under the *Canadian Charter of Rights and Freedoms*. Services may be provided to clients who have serious and complex problems that affect their liberty and they require a lawyer to ensure a fair hearing. LSS may provide representation for clients facing:

- internal disciplinary hearings,
- involuntary transfers to higher security,
- detention hearings at the point of statutory release,
- segregation,
- parole suspension or revocation, or
- unlawful detention as a result of the miscalculation of sentence.

LSS funds the WCPJS, also known as Prisoners Legal Services (PLS), to provide legal information, self-help assistance, and representation in administrative proceedings such as disciplinary hearings, rebuttals to involuntary transfer recommendations, and appeals to the Appeal Division of the National Parole Board.

LSS handles legal aid applications and may issue referrals for any prison law matters that will be heard by a court, including judicial reviews of administrative decisions and any further appeals.

Judicial reviews under section 745.6 ("faint hope" applications)

Judicial reviews under section 745.6 of the *Criminal Code* provide for a review of the parole ineligibility period with respect to certain life sentences after the prisoner has served 15 years. Applications are made to the appropriate chief justice in the province where the conviction took place. The application is a two-stage process. First, there is a "judicial screening" hearing where a judge decides if the application has a reasonable chance of success. If there is, the application is referred for a full hearing before a judge and jury.

The LSS Appeals Section reviews the initial application for legal aid to bring a section 745.6 application. The Appeals Section will only fund coverage if the application has a reasonable chance of success. The Appeals Section issues referrals under the Appeals Tariff only for the "judicial screening" hearing and any appeals of the decision on the judicial screening.

If the applicant is successful and the case proceeds to a full hearing before a judge and jury, LSS will treat the case as a Strategic Case Assessment Program (SCAP) case. You should fax a SCAP Case Management Questionnaire (PDF), available in the "Lawyers" section of the LSS website under "Forms and questionnaires," with a draft budget to Case Management at 604-681-7963.

Inter-provincial reviews

Prisoners are often incarcerated in institutions outside the province or territory where they were convicted. The Association of Legal Aid Plans has a protocol for handling inter-provincial reviews.

Under this protocol, the legal aid plan in the jurisdiction where the hearing will take place (i.e., where the crime and conviction occurred) appoints and pays for lead counsel who manages the case. Lead counsel will call on legal aid plans in other provinces or territories to provide and pay for work that must be done in those jurisdictions.

Chapter 11

Mental Health Law Services

LSS delivers mental health law services in both civil and criminal cases.

***Mental Health Act* review panels**

People who are detained in a mental health facility against their will under the *Mental Health Act* are eligible for legal representation at a Mental Health Review Panel hearing.

The review panel consists of a chair, a doctor appointed by the hospital, and a person appointed by the patient. Patients have the right to counsel at these proceedings because the review panels determine whether they should continue to be detained.

LSS contracts with the Community Legal Assistance Society (CLAS) to provide representation at Mental Health Review Panels in BC where people are detained under the *Mental Health Act*.

***Criminal Code* review boards**

People who are found unfit to stand trial or not criminally responsible by reason of mental disorder have a right to counsel at *Criminal Code* Review Board hearings. The review board makes decisions about whether to detain individuals at forensic psychiatric hospitals or restrict their liberty in the community.

LSS contracts with CLAS to provide representation at Review Board hearings in the Lower Mainland. LSS provides representation at Review Board hearings outside the Lower Mainland through referrals to the private bar. You can find billing information in the “Criminal Tariff” section of the tariff guide.

General criminal law cases

Legal representation may be provided to financially eligible applicants who do not face a risk of imprisonment upon conviction of *Criminal Code* or related federal offences if their mental or emotional disability prevents them from defending themselves because:

- they cannot understand the nature of the proceedings or the possible consequences; or
- they are not able to communicate effectively with counsel or the court.

Chapter 12

Resources

LSS provides a range of online resources to support lawyers with their legal aid work through its website, the relevant sections of which are described in detail below.

The Family Law in British Columbia website (www.familylaw.lss.bc.ca) and LawLINK (www.lawlink.bc.ca) contain useful legal information to help you support your clients. These websites and other resources for clients are also described in this chapter.

LSS website

The LSS website (www.lss.bc.ca) contains the following information for lawyers in the “Lawyers” section:

- Lawyer e-services (such as e-billing)
- Forms and questionnaires
- Guide to Legal Aid Tariffs
- Notices to Counsel
- Legal Aid Fax
- Quality assistance resources (practice and other resources)

Lawyer e-services

Lawyer e-services is a secure section of the LSS website that allows you to electronically bill accounts, search for experts, update your profile, and maintain a payment record. LSS will be adding more e-services in the future.

■ How to register

To register for an e-services account, go to the Lawyer e-services login page on the LSS website and click on the “Register now!” button. Fill out the application form online, print it out, then fax or mail it to LSS. LSS will send you a user ID and password, along with a copy of the *Lawyer E-services User Guide*.

If you have any questions about e-services registration, send an e-mail to helpdesk.tariff@lss.bc.ca or call the Tariff Helpdesk at 604-601-6155.

■ E-billing

E-billing is easy to use and allows you to:

- create and send accounts to LSS for processing,
- review the status of your accounts,
- validate your information to ensure you avoid common billing errors, and
- review a copy (PDF) of accounts submitted.

■ My profile

Enhancements to “My profile” will allow you to update your personal information such as contact and practice details (including preferences for types of cases and court locations).

■ My payments

Once you are registered for e-services, you can also sign up for electronic funds transfer (EFT), which will enable LSS to make direct deposits to your bank account and, through e-services, provide you with electronic cheque remittances. You will be notified by e-mail each time a deposit is made into your account. Under “My payments” you will find a saved record of all the payments made by LSS, allowing you to view and print cheque remittances.

To sign up for EFT, you must complete the Lawyer Direct Deposit Form, available in the “Lawyers” section of the LSS website under “Forms and questionnaires.”

■ Expert search

LSS has created a searchable online database of experts who accept legal aid cases. You can search for experts by area of expertise, area of law, or by region. Use this resource to get the names and contact information of professionals throughout the province who can help you with your legal aid case.

Lawyers who are aware of experts who take legal aid referrals may forward the expert's name to lawyersresources@lss.bc.ca for possible inclusion in the expert database.

Forms and questionnaires

The LSS website contains a variety of online forms and questionnaires.

■ Billing and authorization forms

- billing forms
- authorization forms (including disbursements and transcripts)
- duty counsel forms
- direct deposit form
- change of information form
- vendor application form

■ Opinion letter questionnaires

- CFCSA Appeal Opinion Letter Questionnaire (PDF)
- Criminal Appeal Opinion Letter Questionnaire (PDF)
- Extended Family Services Opinion Letter Questionnaire (PDF)
- Family Appeal Opinion Letter Questionnaire (PDF)
- Immigration Appeal Opinion Letter Questionnaire (PDF)
- SCAP Case Management Questionnaire (PDF)

Guide to Legal Aid Tariffs

An online version of the *Guide to Legal Aid Tariffs* is available on the LSS website. The website also contains individual PDFs of each tariff section.

Notices to Counsel

Changes or updates to the *Guide to Legal Aid Tariffs* are made in the form of Notices to Counsel issued as the need arises. These notices are faxed to all lawyers who accept legal aid referrals, and posted on the LSS website.

Legal Aid Fax

The Legal Aid Fax (LAF) is a one-page newsletter that contains LSS updates and billing tips. The LAF is faxed once a month to all lawyers who accept legal aid referrals, and posted on the LSS website. To receive it electronically, e-mail legalaidfax@lss.bc.ca. Current and back issues of the LAF are available online in PDF format on the LSS website.

Quality assistance resources

The following online resources are available in the “Lawyers” section under “Practice resources” unless stated otherwise.

■ Legal Aid Ontario memoranda

LAO law memoranda help you prepare cases for legal aid clients by providing detailed research on common legal issues. There are research memos in:

- family law
- child protection law
- criminal law
- immigration law
- corrections law
- mental health law
- Aboriginal issues

You can find a complete index of memos in PDF on the LSS website.

You may request up to two memos per legal aid referral. To get a memo, complete a Request for LAO Law Memoranda form (PDF) from the LSS

website and fax it to Case Management at 604-681-7963 or e-mail it to lawyersresources@lss.bc.ca.

■ CLE case digests

The *Case Digest Connection* is a product of the Continuing Legal Education Society of BC (CLEBC). This electronic service provides weekly law summaries (and a searchable archive) in criminal and family law of all available BC Court of Appeal and Supreme Court decisions, selected Provincial Court decisions, and cases from the Supreme Court of Canada that originate in BC. Case summaries are linked to full text decisions.

When you accept (or agree to accept) 12 or more legal aid referrals in a 12-month period, you can receive weekly CLE electronic case digests by e-mail paid for by LSS. To sign up, fax your request to Case Management at 604-681-7963 or e-mail it to lawyersresources@lss.bc.ca. For more information, go to the CLE Case Digest Connection page for a trial subscription.

LSS also has an agreement with CLEBC that enables referral lawyers to access the online versions of the *Family Law Sourcebook* and *Family Practice Manual*, which cover both family and child protection law. When you accept (or agree to accept) 12 or more referrals in a 12-month period, you are eligible to receive the password from LSS. To apply for access to these materials, e-mail LSS at lawyersresources@lss.bc.ca.

■ CLE courses

When you accept (or agree to accept) 12 or more legal aid referrals in a 12-month period, you are entitled to a 25 percent discount on CLEBC courses. For more information and course registration, contact the customer service department at the CLEBC.

■ Criminal Defence Litigation Group Listserv

When you accept (or agree to accept) 12 or more legal aid referrals in a 12-month period, LSS will pay your enrollment fee for the Trial Lawyers Association of BC's Criminal Defence Litigation Group Listserv. To sign up, fax a completed membership agreement (PDF), available the website, to Case Management at 604-681-7963.

■ Mentoring projects

LSS introduced two projects to promote mentoring within the tariff bar. These projects target referral lawyers with less than five years call and aim to foster practical learning. The mentoring assistance pilot project allows lawyers with less than five years experience to obtain advice and feedback on one of their LSS cases from an experienced lawyer. This may involve discussions of strategy, review of pleadings, and feedback on courtroom performance. LSS pays senior lawyers for their time.

The second pilot project provides opportunities for referral lawyers with less than five years call to serve as “apprentice counsel” to experienced lawyers on larger and more complex cases. It is similar in concept to junior counsel, but the purpose is to provide the less experienced lawyer with a learning experience, rather than to offer additional resources for the case. LSS pays apprentice counsel for their time.

■ Community services (Red Book)

The Red Book Online is a quick way to find services for your clients. It is a comprehensive guide to over 4,000 community, social, and government agencies in the Lower Mainland. Each listing provides an overview of the agency, details of its programs and services, and contact information.

You can find a link to The Redbook Online in the “Lawyers” section of the LSS website under “Other resources.”

■ A Guide to the Family Maintenance Enforcement Program: A Handbook for Lawyers

This booklet is a useful guide from the Ministry of Attorney General. You can find an online version in the “Publications” section of the LSS Family Law in BC website at www.familylaw.lss.bc.ca.

■ Practice checklists from the Law Society of BC

You can download professional practice checklists on eight areas of law from the Law Society of BC website. The link to it is in the “Lawyers” section of the LSS website under “Other resources.”

Resources for clients

Directing your clients to other LSS or community services is an effective way to provide them with additional legal information and support, particularly if you are limited to providing legal advice services on a specific legal issue. For example, the Family Law in BC website contains plain language legal information (in several formats, including audio-visual) that can help your clients understand the legal process during the referral (and after the referral if they must continue to take steps by themselves).

LSS provides legal information through its publications, websites, and legal information outreach workers.

LSS publications

LSS produces a variety of publications about the law in plain language. LSS publications are available on LSS websites, at legal aid offices, or by mail. Some of the most-requested titles include *Your Welfare Rights*, *When I'm 64*, *Benefits and Services for Seniors*, *For Your Protection: Peace Bonds and Restraining Orders*, and *Parents' Rights, Kids' Rights*. Many publications are also available in Arabic, Chinese, Farsi, French, Japanese, Korean, Punjabi, Russian, Spanish, Tagalog, or Vietnamese.

To order publications or get a catalogue, you can visit the LSS website, call 604-601-6075, or fax 604-682-0965.

LSS website

The LSS website (www.lss.bc.ca) is designed to provide the public with information about the legal resources and services that are available to them. Using the website, you can direct your clients to:

- publications that explain the law and the court process,
- information about legal aid in BC, and
- links to other relevant sites.

Family Law in BC website

The Family Law in BC website (www.familylaw.lss.bc.ca) is designed to help people understand and use the law to resolve their family law problems. It is also

a resource for supporting your clients. The site includes plain language fact sheets and publications on family law matters, videos and audio clips about the law and the court process, and self-help guides with all the necessary court forms (including how to do your own divorce; get or vary a custody, access, or support order; and deal with the Ministry of Children and Family Development). It also contains definitions of legal terms, instructions for completing court forms, links to other resources and services that can help, and frequently asked legal questions. You can link to the Family Law website from the “Lawyers” section of the LSS website, or go to www.familylaw.lss.bc.ca.

LawLINK

The LawLINK website (www.lawlink.bc.ca) connects people to reliable information to help them resolve their legal problems. The website is accessible from any computer. Free LawLINK computers have also been set up in some legal aid offices and some courthouses across BC. In addition to family, criminal, and immigration matters, LawLINK provides information about civil law topics such as consumer protection and debt, residential tenancies, and wills and estates.

LawLINE

LawLINE is the LSS telephone service that provides legal advice and, in some cases, information about legal issues. This is a service for people with low incomes who do not qualify for a lawyer to represent them, or whose issue is not covered by the tariff. Lawyers and paralegals answer legal questions and direct callers to other information or services.

People can contact LawLINE by dialing the following numbers for the LSS Call Centre:

604-408-2172 (Lower Mainland)

1-866-577-2525 (toll free, outside the Lower Mainland)

The LawLINE greeting message is available in Cantonese, French, Mandarin, Punjabi, and Spanish, as well as in English. The call centre may provide interpretation services when appropriate.

Legal information outreach workers

Legal information outreach workers (LIOWs) are staff members at LSS regional centres who:

- help people use LawLINK to find legal information and self-help resources on the Internet;
- give people printed legal information;
- help people understand court forms; and
- refer people to other LSS services such as LawLINE, family duty counsel, family advice lawyers, and other community services.

BC Supreme Court Self-Help Information Centre

Clients who are representing themselves in some legal matters will find it useful to go in person to the BC Supreme Court Self-Help Information Centre in Vancouver, or visit its website (www.supremecourtselfhelp.bc.ca). LSS is one of the key partners in the self-help centre. The centre can help clients:

- learn about the court system and court procedures,
- get legal information,
- locate and fill out the relevant court forms,
- find out about free legal advice services, and
- find alternatives to litigating in court.

Nanaimo Family Justice Services Centre

The Nanaimo Family Justice Services Centre provides legal information, assessment, mediation, legal aid intake, legal advice services, and referrals. LSS is a partner in the centre with the Ministry of Attorney General. The centre aims to help clients solve family law problems by preparing them to participate effectively in negotiation, mediation, or, if necessary, the court process. The website (www.nanaimo.familyjustice.bc.ca) provides information about the services available, as well as useful links to legal information. The centre is currently being expanded to include civil law services.

Other community resources

PovNet

LSS supports PovNet (www.povnet.org), a searchable website for people with low incomes, and advocates and community groups involved in anti-poverty work. PovNet provides useful links and information regarding poverty law resources.

Electronic Law Library

The Electronic Law Library (www.bcpl.gov.bc.ca/ell) offers online resources on a wide range of law topics.

Chapter 13

Billing Tips

LSS tariff staff field numerous questions. We have compiled a list of useful tips to help you through the billing process and to help you get paid faster.

General tips

- Accounts may be e-billed through LSS lawyer e-services or completed online on our website to be printed for mailing.
- Please refer to the *Guide to Legal Aid Tariffs*, Notices to Counsel, and Legal Aid Fax before completing accounts.
- Contact our Tariff Helpdesk at 604-601-6155 for billing questions or e-mail us at helpdesk.tariff@lss.bc.ca; a tariff accounts examiner will respond within one business day.

Billing forms

- Bill services in chronological order by date, with oldest first.
- Indicate actual hours but bill only to the maximum fee allowed on the hourly tariffs.
- The current hourly Tier 1 rate is \$83.90 for hourly tariffs; bill block fees as listed in the current tariff guide on our website. Experience adjustments will be applied at the time of payment, if applicable.
- If you are submitting more than one account for the same client with the same case and referral number, please total each one separately.
- LSS is exempt from PST on fees.
- GST is paid on all fees and disbursements and is applied by LSS at the time of payment.
- An administration fee is billable for each referral.

- The date of last service provided to the client is required on all accounts. If the account is an interim billing, list the most current date of last service to the client provided on that referral.
- If an account is two or more pages long (that is, a series of accounts), indicate on each page the applicable result for the services claimed on it and indicate the final result on the last page only.
- LSS will consider requests for extra legal fees or additional preparation; send requests by fax to Case Management at 604-681-7963 and ensure your accounts are up to date.

■ Before you submit your paper account

- Please ensure that:
 - the case number and referral number are correct
 - your services are authorized by the referral
 - you have completed the account in ink
 - the account is legible
 - the tariff code recorded for each fee claimed is correct
 - the account is an original (no faxes or photocopies will be accepted)
 - you have signed the original
 - you have not included a copy of the referral
 - you have not included a photocopy of the account
- Send your account to: Tariff Accounts Section,
400 – 510 Burrard Street, Vancouver, BC V6C 3A8

■ After you submit your account

- Please inquire about payment only when the account is over 30 days old; only re-bill an account upon our request.
- If the Tariff Accounts Section sends you a billing report, write your reply directly on the billing report and fax it back to us; a reply is not required if the billing report is not requesting information.
- Failure to respond to a billing report within 30 days may result in the deduction of applicable fees and/or disbursements.

- If you notice a billing error, please fax a copy of the account with the appropriate changes to 604-681-5796.
- Please remember that any changes to phone/address/fax/bank information should be faxed to the Finance Department at 604-682-7967.
- Your account may be audited within two years of the date of payment. Keep timesheets (detailing the service date and description of service) to support time claimed. See the “General Term and Conditions” section of the tariff guide for a sample timesheet form.

E-services tips

Registration

- Register for e-billing on the LSS website in the “Lawyers” section.
- Both lawyers and lawyers’ assistants need to register: assistants may complete accounts but only lawyers may “submit” accounts for processing/payment.
- It may take up to three business days to process your registration.
- The *Lawyer's E-services User Guide* will be mailed out upon registration and is also available online; please read it before e-billing for the first time.
- Your user ID and password are in lowercase.
- Change your temporary password when first signing onto e-services, and do not share your password.

E-billing

- You must wait one business day after a new referral is issued before you can e-bill for services on that referral.
- Be careful to select the description of services correctly.
- SCAP, Enhanced Fee, and *YCJA* accounts require the hourly rate tick box to be checked in part one of the Criminal account form to display the applicable tariff items.
- The drop-down list in “Disbursements” contains only e-billable items; complete a paper account for items not found in the drop-down list.

- Validate your screen every few minutes to prevent the system from automatically terminating your session, and validate each screen before continuing onto the next screen.
- When you submit an e-billing account, LSS receives it the next business day.
- Check payment details by selecting “My payments” and clicking on the cheque date.
- You may print the PDF file found under the “History” tab for your own paper record.
- If you make an error on your account and the Tariff Accounts Section is unaware of it, do not re-bill: make a manual correction on a copy of the accounts summary and fax it to the Tariff Accounts Section at 604-681-5796, or e-mail helpdesk.tariff@lss.bc.ca.
- Use e-bill notes to include additional information about your account.
- Do not use e-bill notes for queries; instead, e-mail helpdesk.tariff@lss.bc.ca, phone 604-601-6155, or fax us at 604-681-5796.

Criminal

General

- Contact the referring office to add new charges to an existing referral.
- Supreme Court bail reviews, including 90-day reviews, require prior authorization by the Appeals Section.
- LSS will consider requests for extra legal fees or additional preparation; send requests by fax to Case Management at 604-681-7963 and ensure your accounts are up to date.
- The experience adjustments do not apply to Category I and II offences, or criminal enhanced fee cases.
- When there are co-accused, one full fee and one half-fee are billable regardless of the number of clients. Fees for attendance may only be billed on the case that has full fees. There is no half-rate for co-accused attendance.

Billing form

- Ensure that the charges correlate to those included on your referral.
- Each billing form has space for two information/indictment numbers (for e-billing, click “Add Info” in part one); an additional account is required to record subsequent informations.
- Record the court location where the matter was heard, not where the charges originated.

■ When more information is needed

- Provide a paper or e-bill note to indicate:
 - the facility of an in-custody visit
 - the nature of the pre-hearing application
 - the nature of the application under the YCJA
 - the reason why a third (or subsequent) bail hearing is required for an information/indictment number
 - the jurisdiction from which the charges are being waived in
 - if the guilty plea was in drug court
 - the name of the accommodation for overnight stays

Family

General

- The family account allows recording details for three applications/motions only; additional accounts are required for subsequent applications/motions.
- You may request an Extended Services referral if nothing further can reasonably be done under an Emergency or DRS referral and further services are required. Please note that all Extended Services items require prior authorization.

Billing form

- Do not bill Emergency or Dispute Resolution Services on the same billing form as Extended Services.

CFCSA

General

- A *CFCSA* case continues until the child is returned to the family, a Continuing Custody Order is made, or the Director withdraws all applications.
- Even if you receive separate referrals for separate apprehensions, LSS considers them multiple clients if they are set down for a joint hearing. One full fee and one half-fee are billable regardless of the number of children involved. Fees for attendance may only be billed on the case that has full fees. There is no half-rate for multiple client attendance.
- Application for leave to cancel a Continuing Custody Order requires prior approval from the referring office.

■ Reapprehension

- Reapprehensions from Supervision Orders are included in an initial Apprehension referral.
- When there is a reapprehension from a Supervision Order, general preparation, and preparation for hearing stages may be billed again up to their maximum limits.

Billing form

- List up to three children's names per row for each stage.
- Ensure that the child's name you are listing appears on the referral; if second child is apprehended, please contact the referring office to add that child's name to the referral.
- Only the last page of the account should indicate the current or final result and hearing stage when submitting a series of accounts at one billing.

■ When more information is needed

- Provide a paper or e-bill note to indicate:
 - the date the children were subsequently apprehended while under a Supervision Order

- the name of an expert witness and field of expertise
- the number of the extension hearing billed (e.g., 3rd extension hearing)

Immigration

Billing form

- When you bill for general preparation, indicate the filing date of the PIF for the service date.
- Ensure the correct referral number is indicated for the PIF or hearing.
- When there are multiple clients, one full fee and one half-fee are billable regardless of the number of clients. Fees for attendance may only be billed on the case that has full fees. There is no half-rate for multiple client attendance.

Appeals

General

- Authorization from the Appeals Section of the Vancouver Regional Centre is required for all Appeals Tariff items.
- Contact the Appeals Section if the preauthorized hours are inadequate.
- Non-refugee hearings require authorization from the Appeals Section.

Duty counsel and circuit counsel

Billing form

- Bill only one service date per page (including travel claims).
- Use the court location numbers listed under the Duty Counsel tariffs because they differ from the other tariffs.

- If there were no clients, indicate “0” as your “number of clients.”
- Bill travel fees separately per service date when travel is required before or after the Duty Counsel service.

Disbursements for all tariffs

General

- Bill within the authorization given by the Disbursements Coordinator.
- Prior authorization is required:
 - to bill disbursements not listed in the tariff; complete a Request for Authorization of Disbursements form.
 - to bill in excess of the preauthorized limits in the tariff.

Billing form

- Indicate the authorization ID to the approved disbursement item and not the authorization request number.
- “Units” are the number of pages, kilometres, or hours.
- Provide copies of receipts where requested in the tariff guide.
- LSS pays contracted transcription companies directly.

Appendix 1

Glossary

Additional preparation: The legal fees in excess of the tariff allowance that referral lawyers may request at the outset or during the course of a referral.

Applicant: A person who applies to LSS for legal services.

Association of Legal Aid Plans: An association of legal aid providers from across Canada.

BC Supreme Court Self-Help Information Centre: An in-person and online information and referral resource for unrepresented litigants in civil and family matters in the Supreme Court of BC (www.supremecourtselfhelp.bc.ca).

Billing forms: The LSS forms provided to referral lawyers for billing LSS for legal fees and disbursements.

Brydges Line: Telephone legal advice for people arrested or detained or under active investigation by the police, but not yet charged with an offence.

Call Centre: A toll-free telephone service for clients making legal aid applications.

Case: One or more related legal problems arising for a client.

Case cost caps: The limit on total legal costs LSS will pay for a case, calculated by combining the aggregate legal fees paid to or billable for all referral lawyers who have acted in that case, or the aggregate disbursements paid or billable, not including applicable taxes.

Case Digest Connection: The Continuing Legal Education Society of BC's weekly electronic case summaries in family law and criminal law.

Case management system (CMS): LSS computer system that supports intake, referral, and tariff processing.

Case type: The categories of legal problems for which LSS has created separate tariffs (e.g., criminal, family, and immigration).

Circuit counsel: Lawyers who contract with LSS to provide legal representation and other services where the location and operation of a circuit court make it impractical to refer clients to local counsel.

Client: An applicant LSS considers eligible to receive legal services after determining he or she meets LSS coverage and eligibility criteria.

Conversion to private retainer: The decision by LSS to terminate a referral and authorize a referral lawyer to bill a client privately for legal fees and disbursements.

Counsel agent: A lawyer who performs legal services on a referral lawyer's behalf.

Coverage: The range of legal problems for which LSS makes legal services available, or the range of legal services LSS may fund, as determined by LSS.

Date of assignment: The date a client applies to LSS for legal services as specified on the referral form.

Disbursements: Expenses referral lawyers incur on behalf of clients while providing legal services.

Dispute Resolution Services referrals: Legal representation provided by LSS to family law clients who do not qualify for an Emergency Services referral, but meet LSS coverage policies. Designed to promote early resolution.

Duty counsel: Lawyers that LSS assigns to court and other locations to provide limited assistance to people with low incomes who do not have legal representation.

E-billing: The secure LSS website application that allows referral lawyers to bill LSS electronically for legal fees and disbursements.

Electronic Law Library (www.bcpl.gov.bc.ca/ell): Online resources on a wide range of law topics.

Eligibility: Refers to whether an applicant is financially qualified for legal aid services in accordance with the eligibility guidelines.

Emergency Services referrals: Legal representation provided by LSS to family law clients who meet the coverage guidelines for a referral under the Emergency Services tariff.

Enhanced fees: The legal fees LSS pays to senior counsel in enhanced fee cases.

Exceptional matter: Legal proceedings defined in the Memorandum of Understanding between LSS and the Attorney General to which special coverage and funding rules apply.

Expert database: LSS searchable database to help referral lawyers find experts.

Extended Services referrals: Legal representation provided by LSS to family law clients who would be at risk if their cases were not resolved (formerly referred to as Approved Services).

Extra legal fees: Legal fees in excess of tariff rates that referral lawyers request from LSS at the conclusion of a case.

Family advice lawyers: Family duty counsel who provide limited family law assistance to clients referred to them by the Family Justice Service division, or on a drop-in basis outside of court sitting times.

Family list days: Days on which first-time court appearances take place for *Family Relations Act* and *Child, Family and Community Service Act* matters, such as child support and child protection. Family list days are usually held one or two days each week in larger centres and once a month in smaller communities.

Final account: The completed billing form(s) a referral lawyer submits to LSS, when he or she ceases acting in a case, as a full and final statement of all legal fees and disbursements he or she is entitled to recover from LSS.

Financial reassessment: Clients may be reassessed from time to time to confirm their financial eligibility for services.

Government agents: Agents do not process legal aid applications, but support LSS services by providing access to legal information and fax services.

Half day: A court sitting either before or after the lunch adjournment.

Hourly rate: The hourly rate set by LSS to be billed in 10ths of hours.

Interim accounts: Accounts referral lawyers submit to LSS before the final account.

Intermediaries: Judges, police, lawyers, court workers, local agents, staff at women's shelters, community advocates, and others in the justice system who interact with legal aid clients.

Inter-provincial reciprocal agreements: See Reciprocals.

Last service date: The date a referral lawyer last performed a legal service billable according to the tariff contract.

LawLINE: LSS telephone service providing legal advice and sometimes information, as well as referrals to other legal information or advice services.

LawLINK: LSS website providing legal information and self-help resources to the public.

Legal aid: Legal information, advice, and representation services provided under the *Legal Services Society Act*.

Legal Aid Fax (LAF): A monthly newsletter published by LSS that contains tariff updates and billing tips.

Legal fees: The fees referral lawyers bill LSS for legal services provided to clients.

Legal information outreach workers (LIOWs): LSS staff who refer clients to appropriate resources and help clients access legal information, understand court forms, and use LSS websites.

Legal services: Services ordinarily provided by a lawyer that are billable according to the tariff contract and provided to clients by referral lawyers pursuant to a referral.

Local agents: Private bar lawyers who provide intake services in communities not served by a regional centre.

LSS: The Legal Services Society.

Memorandum of Understanding: An agreement between LSS and the Ministry of Attorney General that outlines the range of services the society will provide for a three-year period.

Notice to Counsel: Notices LSS issues periodically to inform lawyers about changes to the tariff contract.

PovNet (www.povnet.org): A searchable website on poverty law issues, with information on and links to poverty law resources, and online discussion groups for advocates.

Reciprocals: Agreements made between provinces regarding funding of legal services for residents in one province facing civil proceedings in another province.

Red Book: A guide to over 4,000 community, social, and government agencies in the Lower Mainland.

Referral: LSS authorization for a lawyer to provide legal services to a client and to bill LSS for legal fees and disbursements for the case according to the tariff contract.

Referral form(s): The form(s) issued by LSS to referral lawyers confirming LSS authorization to provide legal services to a client in a specified case according to the tariff contract.

Referral lawyer: A lawyer who accepts a referral.

Referring office: The LSS office that issues a referral to the referral lawyer.

Regional centres: LSS offices located throughout BC (Kamloops, Kelowna, Prince George, Surrey, Victoria, Terrace, Vancouver) that process legal aid applications, provide intake services at local courthouses, coordinate duty counsel, and direct clients to legal advice and information resources.

Rowbotham application: An application made by someone who has been denied legal aid, asking the court for a stay of proceedings until he or she has been provided a government-funded lawyer.

Service start date: The date from which LSS authorizes referral lawyers to bill LSS for legal services provided to a client.

Service stop date: The date LSS specifies for automatic termination of a referral.

Society: The Legal Services Society.

Strategic Case Assessment Program (SCAP): The case management program LSS uses to manage the allocation of funds in criminal matters scheduled for more than five days.

Submittal: The LSS term for an account submitted to LSS by a referral lawyer.

Summary advice: Legal information and assistance on where to go or what to do next. Summary advice may involve a review of facts or an analysis of the problem; it may be given quickly or in detail, depending on the problem and the resources available.

Tariff(s): The schedule(s) of legal fees and disbursements payable by LSS for legal services provided or expenses incurred on a client's behalf.

Tariff contract: The retainer agreement between LSS and referral lawyers, as modified from time to time by LSS, which includes the contents of the *Guide to Legal Aid Tariffs* (Introduction, General Terms and Conditions, Tariffs, Guides to Billing), Notices to Counsel, and other written instructions that LSS may provide to referral lawyers directly or through the LSS website.

Appendix 2

Staff Contacts

LSS staff members are available to answer questions about the society or matters relating to legal aid files. The list below indicates who to contact at LSS for answers to frequently asked questions.

If you want to —	Phone	Fax	E-mail
Ask questions about the <i>Guide to Legal Aid Tariffs</i> , Notices to Counsel, the Legal Aid Fax (LAF), or the processing of tariff accounts	604-601-6155	604-681-5796	helpdesk.tariff@lss.bc.ca
Ask questions about all judicial appeals, including disbursement and transcript authorizations, bail reviews, extra legal fees, and additional preparation for appeals	604-601-6085	604-682-0956	helpdesk.appeals@lss.bc.ca
Ask questions about disbursement and transcript authorizations for trials	604-601-6145	604-681-7963	helpdesk.case-mgt@lss.bc.ca
Get information about the Strategic Case Assessment Program (SCAP)	604-601-6145	604-681-7963	helpdesk.case-mgt@lss.bc.ca
Get information about extra fee and additional preparation requests for criminal cases	604-601-6145	604-681-7963	helpdesk.case-mgt@lss.bc.ca

If you want to —	Phone	Fax	E-mail
Get information about extra fee and additional preparation requests for family or <i>CFCSA</i> cases	604-601-6145	604-681-7963	helpdesk.case-mgt@lss.bc.ca
Get information about immigration coverage, process, extra legal fees, and additional preparation	604-601-6145	604-681-7963	helpdesk.case-mgt@lss.bc.ca
Get information about intake (client eligibility and coverage)	604-601-6243	604-681-2719	helpdesk.intake@lss.bc.ca
Get information about reviews of refusals of legal aid	604-601-6008	604-682-0767	(n/a)
Ask about the schedule for duty counsel roster	604-601-6066	604-601-6195	dutycounsel@lss.bc.ca
Get information about criminal duty counsel services	604-601-6007	604-601-6195	helpdesk.criminal@lss.bc.ca
Get information about family duty counsel services	604-601-6009	604-601-6195	helpdesk.family@lss.bc.ca
Get information about lawyer e-services including e-billing	604-601-6155	604-681-5796	helpdesk.tariff@lss.bc.ca
Update vendor/billing number contact information	604-601-6111	604-682-7967	lssvendorinfo@lss.bc.ca
Get information on family law initiatives	604-601-6009	604-601-6195	helpdesk.family@lss.bc.ca
Ask questions or make comments on tariff policy issues	604-601-6033	604-601-6195	lawyersresources@lss.bc.ca

If you want to —	Phone	Fax	E-mail
Get information about Ministry of Children and Family Development's independent legal advice for children	604-601-6009	604-601-6195	helpdesk.family@lss.bc.ca
Get information about conversion to private retainer	604-601-6155	604-681-5796	helpdesk.tariff@lss.bc.ca
Get information about cheque runs	604-601-6111	604-682-7967	helpdesk.finance@lss.bc.ca
Provide information about an LSS client who may not be entitled to receive legal aid	604-601-6008	604-682-0767	thirdpartycomplaints@lss.bc.ca
Get information about the Brydges legal advice line	604-601-6027	604-681-7963	helpdesk.criminal@lss.bc.ca
Get copies of public legal information materials	604-601-6075	604-682-0965	distribution@lss.bc.ca
Give clients the number to seek legal information and advice by phone (LSS Call Centre)	Local calls: 604-408-2172 Toll free: 1-866-577-2525		
Give clients the number to apply for legal aid by telephone (LSS Call Centre)	Local calls: 604-408-2172 Toll free: 1-866-577-2525		



See Inset

KEY

- Regional centres
- ▲ Local agents
- Satellite offices

