

Introduction

(Information about the *Guide to Legal Aid Tariffs* and the Legal Services Society)



Legal
Services
Society

British Columbia
www.lss.bc.ca

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1. About the *Guide to Legal Aid Tariffs*

This *Guide to Legal Aid Tariffs* includes all the information that lawyers from the private bar need to do legal aid work under contract to the Legal Services Society (LSS or the society).

Guide contents (November 2006)

The following is a list of the sections in this guide and what they contain.

- | | |
|---|--|
| General Terms and Conditions | <ul style="list-style-type: none">• Explains the general contractual arrangements between LSS and lawyers who take legal aid cases. |
| Criminal Tariff | <ul style="list-style-type: none">• Includes the tariff for criminal law matters, a Criminal Tariff Quick Reference, a Guide to Billing, two blank billing forms, and one Appendix (Authorization for Additional Charges). |
| Family Tariff | <ul style="list-style-type: none">• Includes the tariff for family law matters under the Family Relations Act and the Divorce Act, a Guide to Billing, and two blank billing forms. This tariff covers Emergency Services, Dispute Resolution Services, and Extended Services. |
| CFCSA Tariff | <ul style="list-style-type: none">• Includes the tariff for matters under the Child, Family and Community Service Act, a Guide to Billing, and a blank billing form. |
| Immigration Tariff | <ul style="list-style-type: none">• Includes the tariff for immigration law matters, a Guide to Billing, and a blank billing form. |
| Appeals and Judicial Reviews Tariff | <ul style="list-style-type: none">• Includes the tariff for judicial reviews and appeals in BC Supreme Court, the BC Court of Appeal, the Federal Court, and the Supreme Court of Canada, as well as a Guide to Billing and the blank Criminal Appeal Billing Form. |
| Duty Counsel Tariff (includes Circuit Counsel) | <ul style="list-style-type: none">• Includes instructions for duty counsel and circuit counsel referrals, two Guides to Billing, four blank billing forms, and five Appendices (three Record of Duty Counsel Worksheets, one Record of Circuit Counsel Worksheet, and the Detained Client Information Sheet for Immigration Duty Counsel). |
| Disbursements for All Tariffs | <ul style="list-style-type: none">• Includes the tariff for disbursements for work under all the tariffs, a Guide to Billing, a blank billing form, and six Appendices (Request for Authorization of Disbursements, Request for Authorization of Transcripts, Transcript Order Form, Criminal Transcript Order Form, Civil Transcript Order Form, and Transcript Service Providers). |

The pages of each section are numbered separately. The effective date (or last revision date) of each tariff item appears in its heading and in the table of contents. Each section also contains a revision history chart on the back of its title page.

Using the guide (November 2006)

Please familiarize yourself with the **General Terms and Conditions** before you accept a referral from LSS. Most of the time, you will only need to refer to one of the tariff sections, with its billing guide, and the **Disbursements for All Tariffs** section. The *Guide to Legal Aid Tariffs* is posted in the Lawyers section of the LSS website at www.lss.bc.ca.

Notices to Counsel

All changes to the *Guide to Legal Aid Tariffs* are announced in Notices to Counsel, which are faxed to the bar and posted on the LSS website.

Legal Aid Fax (LAF)

LSS news and tips about legal aid tariffs are faxed to counsel, usually once per month. Copies of the LAF and archived issues are posted on the LSS website.

Getting a copy of the Guide to Legal Aid Tariffs

This guide may be printed directly from the LSS website. The website version is the official version of the *Guide to Legal Aid Tariffs* and is updated as Notices to Counsel are issued. (Notices to Counsel are also at www.lss.bc.ca under Lawyers→Notices to Counsel.)

2. Processing Accounts (November 2006)

The LSS electronic billing service, E-billing, is available to lawyers who represent legal aid clients. To register for an account, go to www.lss.bc.ca and click Lawyers→Lawyer e-services→Register now. You will also find E-billing help on this page.

To submit accounts manually, counsel may download a copy of the necessary billing forms from the LSS website. Go to the website at www.lss.bc.ca and click Lawyers→Guide to Legal Aid Tariffs→Master copy of billing forms for printing. LSS staff are available to answer inquiries about billing for services, completing the billing forms, and E-billing. Contact them at:

Tariff Helpdesk
Phone: 604-601-6155
Fax: 604-681-5796
E-mail: helpdesk.tariff@lss.bc.ca

If you are seeking an interpretation of a specific tariff item, have comments regarding changes to the tariff, or suggestions for further changes to make the tariff easier to use, please contact:

Manager, Tariff Services
Legal Advice and Representation Division
Legal Services Society
400 – 510 Burrard Street
Vancouver, BC V6C 3A8

If Tariff staff contact you with a question, you must confirm your response in writing. Written responses to questions are required by the society's auditors and speed up the processing of accounts.

Call the Tariff Helpdesk for the status of accounts.

Audit and Investigation (January 2006)

The Audit and Investigation Department monitors billings to ensure that private bar lawyers acting for legal aid clients bill LSS appropriately for their services and disbursements. The Audit and Investigation Department is also responsible for ensuring that the quality of service private bar lawyers provide to our clients is comparable to that provided to clients who pay privately.

3. About the Legal Services Society

(July 2009)

LSS is an independent, non-profit organization that administers legal aid in BC and provides legal information for all British Columbians. Although the name has changed several times, a society to administer legal aid has existed in BC since 1970.

Its objectives, as outlined in Section 9 (1) of the Legal Services Society Act, S.B.C. 2002, are to assist low-income individuals to resolve their legal problems, administer an effective and efficient system for providing legal aid to low-income individuals in BC, and provide advice to the Attorney General respecting legal aid.

Subject to its budgetary limitations, LSS may provide legal information to British Columbians and legal representation to eligible individuals facing specific legal problems. Legal information is available through the LSS Publishing Services and Community Services departments, the LSS website (www.lss.bc.ca), and LawLINE at 604-408-2172 (in the Lower Mainland) or 1-866-577-2525 (outside the Lower Mainland).

Intake services include interviewing applicants, assessing eligibility for legal aid, and referring clients to appropriate services, including private bar or staff lawyers, or community groups.

LSS structure (November 2006)

LSS provides a range of legal services through its seven regional centres. Staff at regional centres:

- take applications for legal aid and refer eligible clients to lawyers;
- act as a liaison between LSS and advocacy groups, the courts, and lawyers;
- direct clients to legal information available in print, on the Internet, and through LawLINE (a toll-free telephone advice service) and community agencies;
- provide access to the LSS website, LawLINK (a website with links to legal information and resources), the Family Law in British Columbia website, and other legal resources on the Internet; and
- co-ordinate regional duty counsel services.

LSS regional centres and satellite offices are in the following locations:

- Kamloops
- Kelowna
- Port Coquitlam (satellite)
- Prince George
- Prince Rupert (satellite)
- Surrey
- Terrace
- Vancouver
- Victoria

The LSS administrative office is located at the Vancouver Regional Centre. The satellite offices in Port Coquitlam and Prince Rupert offer intake services.

LSS also provides services through private bar lawyers known as “local agents.” Local agents take applications for legal aid and refer eligible clients to lawyers. They also act as a liaison between LSS and the community, and direct clients to legal information available in print, on the Internet, and through LawLINE and community agencies. Local agents for LSS are located in:

- 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
- Vanderhoof
- Vernon
- Williams Lake

The society’s services may also be accessed through the LSS Call Centre at 604-408-2172 (in the Lower Mainland) or 1-866-577-2525 (outside the Lower Mainland). For additional contact information for the above locations, see the LSS website (www.lss.bc.ca).

Funding and financial limitations (January 2006)

The provincial government provides LSS with most of its funds and, under federal-provincial cost-sharing agreements, the federal government reimburses the provincial government for part of the cost of criminal and civil legal aid. LSS submits financial reports to the provincial legislature.

Additional funding sources include grants from the Law Foundation and Notary Foundation, recoveries from clients, and sales of publications and services.

The society’s ability to provide services and information according to its statutory objects is limited by section 17, which requires LSS to balance its budget:

- (1) In this section “**revenue**” means, for a fiscal year of the society, the revenue of the society from all sources for that year, including, without limiting this, all grants made or to be made to the society for that year by the government or any other person or agency.
- (2) The aggregate of the expenditures made by the society in a fiscal year and the liabilities incurred by the society that might reasonably come due in the fiscal year must not exceed the total of the society’s
 - (a) revenue for that fiscal year, and
 - (b) accumulated surplus from previous fiscal years.

- (3) Despite subsection (2), the society may make an expenditure or incur a liability that would have the effect of placing the society in contravention of that subsection if the expenditure or liability is first approved by the Attorney General and the Minister of Finance.

Legal aid coverage and eligibility guidelines (October 2009)

To receive legal aid, applicants must qualify under LSS financial eligibility and coverage guidelines. Eligibility refers to a person's financial ability to retain a lawyer privately. Coverage refers to the range of legal problems for which LSS makes services available, or the range of legal services available for a specific legal problem.

In general, applicants are eligible for legal aid if they:

- are financially eligible, and
- have a legal problem covered by LSS guidelines.

Financial eligibility (October 2009)

Anyone whose net household income and assets fall below the limits set by LSS is financially eligible for legal aid. The financial eligibility guidelines are posted on the LSS website. Intake workers assess an applicant's financial status to determine his or her net household income and equity in assets. Some income, such as the Child Tax Benefit, is excluded from total net income, and some expenses, such as daycare costs, are deducted.

An applicant who owns assets but whose income falls below the guideline amounts may still qualify for legal aid. There are five asset categories: family home, real property (except the family home), vehicles, business assets, and personal property. Each category sets different limits, but applicants may still qualify for legal aid even if they have some personal property (e.g., household furnishings), a small amount of liquid assets (e.g., cash, bank accounts), and equity of \$15,000 or less in vehicles.

LSS bases its coverage and eligibility decisions on information the applicant provides. Before receiving a referral, clients agree to:

- report any changes in their financial circumstances to LSS;
- instruct their lawyers to provide LSS with information about their financial circumstances and their cases, including any future changes; and
- instruct their lawyers (if they receive financial settlements) to hold money in trust in order to reimburse LSS for money already paid to referral lawyers.

Clients also agree that if they change these instructions, their lawyers must notify LSS and their legal aid may be terminated.

Coverage — Criminal cases (April 2009)

Adults

Legal aid will cover a criminal case if the applicant is financially eligible and charged with a Category II, III, or IV offence for which he or she, if convicted:

- will likely be sentenced to jail or house arrest,
- OR
- will lose his or her job (for example, a taxi driver whose licence is suspended),

OR

- faces extradition or immigration proceedings that could lead to removal from Canada.

For Category I offences, LSS will cover adult criminal cases for clients who are unable to represent themselves because of a serious mental or physical disability. LSS maintains an internal review process to determine whether to issue a referral.

Applicants may also get legal aid if they are financially eligible and they:

- have a mental or emotional disability that makes them unable to (a) understand the nature or possible consequences of the proceeding, or (b) communicate effectively with counsel or the court;

OR

- are Aboriginal and facing charges that may affect their ability to follow a traditional livelihood of hunting and/or fishing.

Young persons

Young persons, as defined by the federal Youth Criminal Justice Act, generally receive legal aid for all federal offences, including Category I offences. Permanent or temporary wards of the Ministry of Children and Family Development are not eligible for legal aid. The ministry will provide lawyers for these youths.

Victims of crime

Victims of, or witnesses to, a crime may apply for legal representation if an application is made to see their personal records, such as counselling records. The Attorney General authorizes LSS to provide a lawyer to represent a victim/witness at a hearing where a judge decides if the defence can access these records. The victim/witness does not have to be financially eligible to qualify for this kind of representation.

Coverage — Family cases (July 2009)

LSS issues two types of family law referrals: Emergency Services and Extended Services.

Emergency Services referrals

Legal representation may be provided to financially eligible clients who need urgent legal help in situations such as the following:

- They need an initial, or a change to the current, custody or access order where there is a risk of harm or violence to the client or their child or children.
- They have custody of a child or children who have been unlawfully held by the access parent/party.
- They have been permanently or repeatedly denied access to a child or children.
- They need a physical restraining order or other legal assistance to protect themselves or their child or children from harm or violence.
- They require a child support or spousal support order (or variation) that would have a significant impact on their basic ability to feed clothe and house themselves or their children, *and* they have a mental or physical disability or a significant injustice can only be avoided by representation.

- They need a non-removal order to prevent the other parent from permanently moving their child or children out of the province. The threat must be real and imminent, and involve a permanent change of residence.

LSS does not provide legal representation for clients regarding a division of assets or an order to restrain the disposition of assets.

Extended Services referrals

LSS may issue an Extended Family Services referral if nothing further can reasonably be done under an Emergency Services referral, the case meets established criteria, and funding remains available in the LSS budget. 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 within the limits of the tariff budget.

In deciding whether an Extended Family Services referral should be granted, key considerations will be whether:

- a reasonable person of modest means would expend funds to pursue the case;
- the client has made good faith efforts to negotiate a settlement where appropriate;
- the resolution will have a significant impact on the client's ability to maintain their or their children's safety or the client's basic ability to feed, clothe, and house themselves or their children;
- existing interim orders (that are not *ex parte*) do not provide sufficient stability for the client's situation so that it is necessary, rather than merely desirable, to obtain a final order;
- there is a reasonable likelihood of success;
- the underlying issues that entitled the client to the Emergency Services referral remain unresolved;
- hours available under the Emergency Services tariff have been (a) reasonably used to address the issues that entitled the client to Emergency Services, and (b) as fully used as is reasonable for the case; and
- there is budget available to fund the case.

Coverage — Child apprehension (CFCSA) cases (June 2004)

Legal aid will cover a financially eligible applicant who is involved in an action under the Child, Family and Community Service Act (CFCSA) initiated by removal proceedings or the threat of removal, or who requires representation to deal with the custody and access of a child in the care of the Ministry of Children and Family Development. Clients are covered until the child has been returned to the family or a permanent (continuing custody) order is made in favour of the Director.

Independent legal advice for children (June 2004)

The Child, Family and Community Service Act entitles children over 12 to independent legal advice if they are the subjects of consent orders, or they are wards of the Ministry of Children and Family Development and are consenting to the adoption of their own children. The Ministry of Children and Family Development funds this service. Social workers arrange appointments with lawyers.

Coverage — Immigration cases (April 2009)

LSS currently provides limited referrals for financially eligible applicants who wish to claim refugee status or who face immigration proceedings that may result in deportation from Canada.

Immigration services for proceedings before the Refugee Protection Division of the Immigration and Refugee Board (IRB) are separated into referrals covering Personal Information Form (PIF) preparation and referrals covering hearings. LSS applies merit screening for PIF preparation referrals for applicants from selected countries where the historic rate of success before the IRB is low. LSS applies merit screening for all hearing referrals. In assessing applications, LSS determines whether the claim has a reasonable chance of success and considers our available budget.

Applicants for hearing referrals should apply for coverage upon the earlier of:

- 10 months after the filing of the PIF, or
- upon receipt of a Notice to Appear and Confirmation of Readiness.

LSS will not consider applications prior to these points in the process without exceptional circumstances that demonstrate vulnerability for the client.

LSS is able to provide a limited number of referrals for Pre-Removal Risk Assessments, Humanitarian and Compassionate submissions, Admissibility Hearings, Judicial Reviews, and other Immigration proceedings. All applications are assessed by the Appeals department for merit and risk to the client if he or she is removed from Canada.

Coverage — Appeals and judicial reviews (November 2006)

Judicial appeals include appeals of lower court decisions to the BC Supreme Court, the BC Court of Appeal, the Federal Court of Appeal, and the Supreme Court of Canada, and applications to judicially review decisions made by administrative boards or tribunals.

Financially eligible applicants are covered for legal aid where their case meets regular LSS coverage criteria for the relevant area of law and:

- they are respondents in appeals (in criminal cases the normal practice is to automatically cover financially eligible persons in Crown appeals of acquittals or sentence), or
- their appeal or judicial review has a reasonable chance of success.

Coverage — Duty counsel referrals (June 2004)

No test of financial eligibility is required for clients to qualify for criminal and immigration duty counsel services. Legal aid will cover all applicants in custody as well as persons making initial appearances in Provincial Court.

Family duty counsel provide services to all financially eligible applicants needing assistance with court procedures.

For more detailed information about duty counsel coverage, see the **Duty Counsel Tariff**.

Other funded services (November 2006)

Prisoners' services

The society contracts with the West Coast Prison Justice Society (WCPJS) to provide legal representation and advice for prisoners as required under the Charter of Rights and Freedoms. These services largely relate to detention and suspension hearings before the National Parole Board and

prison discipline and involuntary transfer cases. WCPJS also provides summary advice to prisoners in federal and provincial institutions.

Brydges line

LSS contracts out the Brydges Line, a province-wide toll-free telephone service that provides prompt access to legal advice for people who are arrested and detained, or who are under active investigation by the police or other law enforcement agencies but are not yet charged and need emergency advice.

Advice counsel project (for in-custody criminal clients)

LSS contracts out a province-wide toll-free telephone service to provide persons detained in police lockups in BC with advice and advocacy regarding bail terms after regular court hours.

Mental health law services

The society also contracts with the Community Legal Assistance Society (CLAS) to provide legal services to people detained under the Mental Health Act and represent people detained under the Criminal Code at mental health institutions in the Lower Mainland. Individuals detained outside the Lower Mainland are represented by private bar lawyers under the terms of the **Criminal Tariff**.

Client confidentiality (June 2004)

All information an applicant or client gives to LSS is subject to solicitor-client privilege. LSS cannot disclose information to any third party without the applicant's or client's explicit approval. Solicitor-client privilege is protected under section 14 of the *Freedom of Information and Protection of Privacy Act* and section 23 of the *Legal Services Society Act*, which states that:

- (1) Information disclosed by a client or an applicant for legal aid to a director, employee or agent of the society or funded agency is privileged and must be kept confidential in the same manner and to the same extent as if it had been disclosed to a solicitor under a solicitor and client relationship.
- (2) If a civil or criminal proceeding is or may be brought against a person respecting the person's eligibility for legal aid, subsection (1) does not apply to information respecting eligibility.

Clients agree at the beginning of a legal aid referral to instruct their lawyers to provide LSS with information about their cases and financial circumstances.

Mentoring opportunities (July 2008)

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. For more information, go to the LSS website and click Lawyers→Practice resources→Mentoring projects.

Providing legal information to the people of BC (June 2004)

LSS works in partnership with other information and referral agencies to increase public access to accurate and up-to-date legal information. LSS provides reference services, training, publications, and websites to public libraries, community or social service agencies, and information and referral services. LSS also helps local community groups (who help people access the law) to develop appropriate material on understanding and using the law.

Contact list (October 2009)

The following are some of the most frequently used telephone/fax numbers and e-mail addresses at LSS.

If you want to:	Phone	Fax	E-mail
Ask questions about the <i>Guide to Legal Aid Tariffs</i> , Notices to Counsel, or the <i>Legal Aid Fax</i> (LAF) and the processing of legal aid lawyer accounts	604-601-6155	604-681-5796	helpdesk.tariff@lss.bc.ca
Ask questions about judicial appeals including disbursement and transcript authorizations and extra fees 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 requests	604-601-6145	604-681-7963	helpdesk.case-mgt@lss.bc.ca
Get information about reviews of refusals of legal aid	604-601-6008	604-682-0767	n/a
Get information about intake (client eligibility and coverage)	604-601-6243	604-681-2719	helpdesk.intake@lss.bc.ca
Get information about criminal duty counsel	604-601-6066	604-601-6195	dutycounsel@lss.bc.ca
Get information about family duty counsel	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

If you want to:	Phone	Fax	E-mail
Update vendor/billing number contact information	604-601-6111	604-682-7967	lssvendorinfo@lss.bc.ca
Ask questions or make comments on tariff policy issues	604-601-6033	604-601-6195	lawyersresources@lss.bc.ca
Get information about Ministry of Children and Family Development independent legal advice for children	604-601-6009	604-601-6195	helpdesk.family@lss.bc.ca
Get information about settlements/judgments	604-601-6016	604-682-0979	helpdesk.sj@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 apply for legal aid (Call Centre) or seek legal information and advice by phone (LawLINE)	Local calls: 604-408-2172 Toll free: 1-866-577-2525		

