

Lawyer Compliance Policy

Part 1: Definitions

Vice President: is the Vice President, Legal Advice and Representation, or his or her designate.

Duty Counsel Contract: is the authorization for a lawyer to provide duty counsel or circuit counsel services and to bill LSS according to the tariff contract.

LSS: is the Legal Services Society.

Manager: is the Manager, Audit and Investigation, or his or her designate.

Representation Contract: is the LSS authorization for a lawyer to provide legal services to a client in a specified case and to bill LSS for legal fees and disbursements according to the tariff contract.

Tariff Contract: the retainer agreement between LSS and tariff lawyers, as modified from time to time by LSS, including the contents of the LSS *Tariffs* (General Terms and Conditions, applicable Tariffs) and Notices to Counsel and other written instructions that LSS may provide to lawyers directly or through the LSS website.

Vendor Number: a number provided by LSS to the lawyer that enables the lawyer to receive representation contracts from LSS, and is the lawyer's permanent identification in the LSS system.

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Part 2: General Principles

1. Legal aid clients are entitled to the same quality of service as a reasonable person of modest means.
2. Lawyers are responsible for ensuring:
 - a. they meet applicable professional standards; and
 - b. legal aid clients receive an acceptable quality of service.
3. Relations between lawyers and LSS as described in the “General Terms and Conditions” section of the LSS *Tariffs* are contractual in nature. LSS as payor is entitled to determine who will provide legal services to legal aid clients.
4. LSS may address quality concerns by supporting lawyers to improve service quality.
5. LSS may impose conditions on, or temporarily or permanently suspend, a lawyer’s eligibility to receive representation and/or duty counsel contracts from LSS, if a lawyer acts contrary to the best interests of LSS, including but not limited to:
 - a. failing to provide an acceptable quality of service;
 - b. failing to respond to repeated requests from LSS for information;
 - c. billing LSS for services, knowing that the services have not been rendered or the nature or extent of the services rendered have been misrepresented;
 - d. failing to pay a practice debt arising from a legal aid file;
 - e. submitting bills where the total claimed fees and/or disbursements represents a marked or unjustifiable departure from the claims of comparable lawyers providing comparable LSS services;
 - f. creating an administrative burden such that it is no longer in the interests of LSS to retain his or her services, and/or failing to abide by LSS policies or guidelines concerning the provision of LSS referred services, including duty counsel;
 - g. having criminal charges laid against him or her;
 - h. having an outstanding disciplinary matter before the Law Society;
 - i. having restrictions placed on his or her practice by the Law Society;
 - j. being prohibited from practicing law in British Columbia;
 - k. managing his or her practice in a way that puts the clients at significant risk of not receiving quality services; and
 - l. failing to meet applicable professional standards.

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Part 3: Notifications of Concerns and Investigation

1. Where concerns have been identified that a lawyer may have acted contrary to the best interests of LSS as set out in Part 2 (5), the Audit and Investigation Department will notify the lawyer with details of the concern(s) including:
 - a. the substance of the concern(s);
 - b. information or evidence supporting the concern(s) as necessary to enable the lawyer to respond to the concern, having regard to the privacy interests of third parties; and
 - c. an indication of some of the possible outcomes in the event of a negative decision under Part 4.
2. The Audit and Investigation Department may request additional information from the lawyer and set time limits for this purpose.
3. The Audit and Investigation Department will ask for representations from the lawyer and set time limits for this purpose.
4. All information, evidence, and representations will be sent to the Manager for decision.

Part 4: Decision by Manager

1. Once the Manager has reviewed the information and evidence in respect to the concern(s), the lawyer's representations and, if necessary, completed further inquiries, the Manager may:
 - a. take no action;
 - b. resolve the matter with the lawyer; or
 - c. where it is established that the lawyer has acted contrary to the best interests of LSS as outlined in Part 2 (5), the Manager may impose conditions on, or temporarily or permanently suspend, a lawyer's eligibility to receive contracts from LSS.
2. If the Manager imposes conditions on, or temporarily or permanently suspends, the lawyer's eligibility to receive contracts from LSS, the Manager may require that within time limits set by the Manager, the lawyer:
 - a. report on the status of all unfinished work;
 - b. complete work on existing legal aid contracts as authorized by the Manager;
 - c. render accounts for fees and disbursements for services already provided; and
 - d. deliver legal aid files to the Manager, or another lawyer, in accordance with the Manager's directions.
3. The Manager will notify the lawyer in writing of the reasons for his or her decision.
4. A lawyer may request a review of a decision under this Part by the Vice President within 30 days of the Manager's decision (see Part 6).

Part 5: Temporary Suspension

In extraordinary circumstances, the Manager may, at any time and without prior notice to the lawyer, suspend a lawyer's eligibility to receive contracts. During the suspension, the standard investigation process as set out in Parts 3 and 4 will proceed in the normal course.

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Part 6: Vendor Number Deactivation

1. LSS may deactivate a lawyer's vendor number, when:
 - a. under Part 4 (1-c) the Manager has permanently suspended a lawyer from receiving legal aid contracts, or
 - b. a lawyer has been inactive in the LSS system for four or more years, or
 - c. a lawyer notifies LSS that they will no longer be receiving contracts from LSS, have completed work on existing contracts, and rendered accounts for fees and disbursements for services already provided.
2. After being deactivated, a lawyer may apply for reactivation of their vendor number as set out in the *Vendor Number Reactivation* policy.

Part 7: Review by Vice President

1. If under Part 4, the Manager has:
 - a. imposed conditions on a lawyer's eligibility to receive contracts from LSS, or
 - b. temporarily or permanently suspended a lawyer from receiving contracts from LSSThe lawyer may, within 30 days of the Manager's decision, request a review of the decision by the Vice President.
2. The Vice President will ask for representations from the lawyer and set timelines for this purpose.
3. After reviewing applicable evidence and representations, the Vice President may confirm or vary the Manager's decision.
4. The Vice President will notify the lawyer in writing of his or her decision and the reasons for it. The Vice President's decision is final and binding.

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History

Questions to: Manager, Audit & Investigation Department

January 8, 2019 EMC Approved Revisions: added definition of “vendor number”. Added *Part 6: Vendor Number Deactivation*, which sets out when LSS will deactivate a lawyer’s vendor number.

Sep 1, 2018: Updated job titles.

September 1, 2016: Updated terminology.

April 27, 2015: Reformatted and updated terminology.

EMC Approved November 5, 2013 – Lawyer Compliance Policy replaced the Referral Eligibility Policy. Changes include: processes simplified to provide greater clarity; Part 5, Temporary Suspension added; review process streamlined and moved to the Director, LAR.

December 2, 2008 EMC Approved Revisions: addition of a definition of “tariff contract.” Deleted materials related to reviews or removal or modification of conditions. This information has been moved to the Vendor Number: Modification or Removal of Conditions policy. Flowchart updated to reflect revised policy.

October 9, 2007 EMC Approved Revisions: part 2 and part 3 item (g) added ‘fails to pay a practice debt from a legal aid file’.

September, 26, 2006 EMC Approved Policy: this policy replaces the Policy on Restriction of Lawyer Billing Privileges effective from June 14, 2002 to September 25, 2006.