

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 (January 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, a Guide to Billing, and two blank billing forms |
| 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 |
| Human Rights Tariff | <ul style="list-style-type: none">• LSS has not issued any human rights referrals since April 2002 and has removed the Human Rights Tariff from the <i>Guide to Legal Aid Tariffs</i> effective January 2006. |
| Appeals 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 Detailed Client Information Sheet for Immigration Duty Counsel) |

- Disbursements**
- 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)**
 - Explains the disbursement items and amounts covered, and lists which items require prior authorization
- Notices**
- A section where you can file Notices to Counsel from LSS

The pages of each section are numbered separately. As of June 2004, 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 (January 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 section. The *Guide to Legal Aid Tariffs* is posted on 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.

This guide may be printed directly from the LSS website. CD-ROMs of the guide are available upon request. Printed copies can be ordered for a fee. For a CD or printed copies, please contact:

Legal Services Society
400 – 510 Burrard Street
Vancouver, BC V6C 3A8

Telephone: (604) 601-6000
Fax: (604) 601-6293
E-mail: helpdesk.postmaster@lss.bc.ca
Website: www.lss.bc.ca

As of June 2004, updated information is posted on the LSS website only. The website version is the official version of the *Guide to Legal Aid Tariffs* (go to www.lss.bc.ca and click “For lawyers,” then “Guide to Legal Aid Tariffs”).

[Notices to Counsel](#) are also at www.lss.bc.ca (click “For lawyers,” then “Notices to Counsel”).

2. Processing Accounts (January 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, click on “For lawyers,” “Lawyer e-services login,” then click the “Register now” button at the top of the screen. 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 www.lss.bc.ca, click the “For lawyers” button, then “Online resources,” “Forms,” and then “Billing and authorization forms.”

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 write to the managing lawyer of Tariff Services at the following address:

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 recorded information about cheque runs and 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 provided to our clients by private bar lawyers is comparable to that provided by lawyers to clients who pay privately.

3. About the Legal Services Society (February 2005)

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 qualifying individuals facing specific legal problems. Legal information is available through 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.

Legal aid coverage and eligibility guidelines (February 2005)

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.

Anyone whose net household income and assets fall below the limits set by LSS is financially eligible for legal aid. 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 \$5,000 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.

LSS will reassess a client's eligibility for legal aid if his or her financial situation changes. If a client receives property or a sum of money (for example, settlement funds at the end of a case), LSS will reassess the client's eligibility for legal aid, decide if he or she should pay some or all of the legal expenses for his or her case, and if so, determine —

- the amount he or she must pay, and
- whether to convert the legal aid referral to a private retainer.

LSS has created a discretionary basic exemption of \$10,000, and may not require repayment if the client receives an amount that is less than \$10,000. If the amount received is more than \$10,000, LSS will convert the referral to a private retainer, and require a contribution towards legal fees of up to 50 percent of the amount over \$10,000. Depending on the amount received, LSS may make a conversion to private retainer either retroactive to the beginning of the case or effective from the date of notice to the client. LSS may convert a referral to a private retainer whether a referral lawyer requests it or not.

According to the **General Terms and Conditions**, if a client receives settlement funds, the referral lawyer must notify LSS immediately, and hold the funds in trust until LSS requests repayment or authorizes release of all or part of the funds to the client. See the “Client coverage and eligibility” and “Private billing” sections of the **General Terms and Conditions** for more information about eligibility and conversions to private retainer. Referral lawyers should contact LSS to request conversions to private retainer.

Private billing (June 2004)

When applying for legal aid, each client signs an agreement stating that if he or she stops being eligible for legal aid, LSS may terminate the referral and allow the lawyer to bill the client privately. Please note that the terms of your contract (the tariff contract) with LSS stipulate that you cannot bill a client directly for any work done under the LSS retainer without the society's prior written approval. You must obtain prior authorization from LSS to bill privately.

LSS can deal more quickly with your request to bill privately if you tell us your client's financial situation. The client, however, has the right to appeal the decision to convert to private retainer to the executive director of LSS.

Coverage — Criminal cases (February 2005)

Legal aid will cover a criminal case if the applicant is financially eligible and charged with an 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 an immigration proceeding that could lead to deportation from Canada.

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

- 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 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. 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 (June 2004)

Legal aid will cover a family case for a financially eligible applicant if —

- he or she needs a restraining order or a change to a current custody or access order because the applicant or his or her children are at risk of violence;
- he or she needs a supervised access order because his or her children are at risk; or
- one parent is threatening to remove the child from the province permanently.

A financially eligible applicant *may* also be covered if one of the following circumstances applies:

- The applicant cannot represent him or herself due to a serious condition or disability, and the family matter must be resolved to avoid further harm.
- There are references in the applicant's court documents to past sexual, physical, or emotional abuse, and the offending parent or partner is back in the community.
- The parent with access has kidnapped the child and there is an existing custody order or separation agreement.
- The applicant is a respondent in a maintenance enforcement committal proceeding and will be sent to jail as a result of his or her failure to pay maintenance.
- There has been a complete denial of access for three months or more in breach of a court order or separation agreement.
- Other unusual or extenuating circumstances have arisen.

AND

- The applicant's case has been approved by the manager, Applications and Eligibility, or delegate.

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

Legal aid will cover a financially eligible applicant involved in an action taken under the Child, Family and Community Service Act (CFCSA) and 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. Appointments with lawyers are arranged by social workers.

Coverage — Immigration cases (June 2004)

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

Coverage — Appeals and judicial reviews (June 2004)

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 —

- if they are respondents in appeals (normal practice is for LSS to automatically cover financially eligible defendants in Crown appeals of acquittals in cases LSS would normally cover), or
- where appeals of court or tribunal decisions are likely to succeed and the matter falls under regular LSS coverage criteria (see above).

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.

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**.

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, S.B.C. 2002, 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.

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.

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.

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 and community agencies; provide access to the LSS website, LawLINK, the Family Law in British Columbia website, and other legal resources on the Internet; and co-ordinate regional duty counsel services. Regional centres are situated 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.

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
- 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).

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.

Other funded services

LSS contracts out the Brydges line, a province-wide 24-hour 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.

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**.

Contact list (January 2006)

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 (LAF)</i> 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.disbursements@lss.bc.ca
Get information about the Strategic Case Assessment Program (SCAP)	(604) 601-6145	(604) 681-7963	helpdesk.criminal@lss.bc.ca

Get information about extra fee requests for criminal cases	(604) 601-6145	(604) 681-7963	helpdesk.criminal@lss.bc.ca
Get information about extra fee requests for family cases	(604) 601-6145	(604) 681-7963	helpdesk.family@lss.bc.ca
Get information about immigration coverage, process, and extra fees	(604) 601-6145	(604) 681-7963	lawyersresources@lss.bc.ca
Get information about clients who want to appeal refusals of legal aid	(604) 601-6008	(604) 682-0767	helpdesk.intake@lss.bc.ca
Get information about intake (client eligibility and coverage)	(604) 601-6242	(604) 682-0787	helpdesk.intake@lss.bc.ca
Get information about criminal duty counsel	(604) 601-6007	(604) 681-7963	helpdesk.criminal@lss.bc.ca
Get information about family duty counsel	(604) 601-6066	(604) 682-0787	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) 682-0979	helpdesk.family@lss.bc.ca
Ask questions or make comments on tariff policy issues	(604) 601-6007	(604) 681-7963	lawyersresources@lss.bc.ca
Order printed copies of the <i>Guide to Legal Aid Tariffs</i> from LSS administration	(604) 601-6042	(604) 682 7967	helpdesk.postmaster@lss.bc.ca
Get information about Ministry of Children and Family Development independent legal advice for children	(604) 601-6009	(604) 682-0979	helpdesk.family@lss.bc.ca
Get information about a 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
Get information about third party complaints	(604) 601-6008	(604) 682-0767	thirdpartycomplaints@lss.bc.ca
Get information about the Brydges legal advice line	(604) 601-6007	(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		