



POLICY MANUAL

November 1980

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PART I

THE SOCIETY

1. EXECUTIVE MEMBERS' CONFLICT OF INTEREST GUIDELINES

1. In these guidelines:

“Firm” includes the following groups of members of the Law Society of the Northwest Territories:

- a. all lawyers and students-at-law employed by the Government of the Northwest Territories;
- b. all lawyers and students-at-law employed by the Federal Government in the Northwest Territories;
- c. any two or more lawyers or students-at-law who share expenses or resources on a recurring basis, whether or not they share clients or profits.

“Officer” means a member of the Executive and the Executive Director.

“Relative” means:

- a. the spouse of an officer; or
- b. the parent, sibling, or child of an officer or of the spouse of the officer.

2. (1) An officer present at a meeting of the Executive where the Executive is considering:

- a. the application for admission as a member or student-at-law of any person who is a relative of the officer or who proposes to work at the officer’s firm;
- b. any matter involving the discipline of a member of the officer’s firm or of a relative of the officer;
- c. a contract or proposed contract or any other matter in which, to the knowledge of the officer, a relative of the officer, or a member of the officer’s firm has a direct or indirect pecuniary interest;
- d. any contract or proposed contract in excess of \$5,000.00 in which, to the knowledge of the officer, a current client of the officer’s firm has a direct or indirect pecuniary interest; or
- e. any matter involving the appointment of the officer or a relative of the officer to any special Committee (which shall not include the Admissions Committee, Social Committee, Rules Committee, or similar continuing committees of the Law Society) or to any position or other activity where the appointee will act as a representative of the Law Society; or
- f. any matter involving the granting of an award or commendation to the officer, a relative of an officer, or a member of the officer’s firm; or
- g. any matter involving the discipline of a member of the Law Society where the complainant is the Officer, a member of the Officer’s firm, or a relative of the officer,

shall, as soon as is practicable after the commencement of the meeting, disclose his or her interest and shall not take part in the consideration of the contract, proposed contract, appointment or other matter, or attempt in any way (whether before, during or after the meeting) to influence the voting on any such question.

(2) Where the interest of an officer has not been disclosed at a meeting as required by section (1) because of the absence of the officer from the meeting or because the interest is acquired after the meeting (and after the contract or matter has come to the officer’s knowledge) the officer shall disclose the interest and otherwise comply with subsection (1) at the next meeting of the Executive that the officer attends.

(3) An officer may declare a conflict of interest based on friendship or other grounds.

(4) Every declaration of a conflict of interest shall be recorded in the minutes of the meeting at which the declaration is made.

(5) The failure of a person to comply with subsection (1) or (2) does not of itself invalidate a contract, any proceedings relating to any proposed contract or other matter mentioned in subsection (1).

3. The declaration of a conflict of interest by one or more officers shall not affect the quorum at any meeting of the Executive.
4. An officer shall not be required to disclose the nature and extent of any conflict declared by him or her where to do so would, in the opinion of the officer, breach client confidentiality.
5. Nothing in these guidelines shall prevent an officer from:
 - a. taking part in the consideration of or voting on any question in respect of reimbursement for or payment of expenses actually incurred by the officer or the officer's firm in the performance of his or her duties on behalf of the Law Society; or
 - b. taking part in the consideration of or voting on the application for admission of a person who proposes to work for a firm at which a relative of the officer is a partner or employee, provided that the admission of the applicant has been recommended by the Admissions Committee; or
 - c. taking part in the consideration of or from voting on the approval of accounts of the Law Society where such expenses have already been incurred by the Law Society or the contracts in question have previously been approved by the Executive; or
 - d. taking part in the consideration of or voting on any matter which would otherwise be a conflict provided the conflict has been declared and the other officers present at the meeting unanimously agree to permit the officer to participate.

[Executive Meeting - June 16, 1991]

[Amended - October 1, 1999]

[Reviewed and Confirmed by the Executive - 23 March 2001]

2. INSPECTION OF LAW SOCIETY RECORDS

The Minutes of Executive Meetings, the Record and the Roll will be made available for viewing by any member of the Law Society in the Deputy Secretary's office at any time mutually agreed upon by the Deputy Secretary and the member.

Requests to view any other documents or files are to be made in writing to the Executive.

[Executive meeting - November 26, 1980]

[Reviewed and Confirmed by the Executive - 23 March 2001]

3. PARTICIPATION OF PRESIDENT

Questions arising during Executive Meetings shall be decided by a majority of voices at the meeting including that of the President.

In the event that a tie occurs the President shall have a second vote. In exercising this vote, the President shall vote in accordance with the following principle:

- a. The President shall consider whether further debate on the issue is possible. If so, the President shall cast his/her vote in favour of moving the matter to the next level of debate or having the issue revisited at a subsequent Executive meeting, if possible, with a view of attempting to achieve a clear expression of the will of the Society.

- b. If no further debate is possible at the Executive level and a decision must be made at that level, the President shall cast his/her vote in favour of the status quo being maintained given the lack of a clear expression of the will of the Society.

[Executive Meeting - January 9, 1998]

[Reviewed and Confirmed by the Executive - 23 March 2001]

4. REQUEST FOR QUOTES

The Executive recognizes the need to obtain furniture and equipment at the most competitive prices, taking into consideration the expressed needs of the Law Society and the ability of the supplier to provide the quality of goods. The Executive shall expend its resources by requesting quotes in accordance with the following:

Guidelines:

1. A list of vendors to supply the required goods will be compiled.
2. Specifications will be forwarded to the identified vendors. Quotes from at least three (3) sources shall be obtained if possible.
3. All request for quotes for goods within approved budgets will be awarded by the Executive Director.
4. Request for quotes for goods deemed to cost in excess of approved budgets will be awarded by the Executive.

Procedures and Regulations:

1. Request for quotes shall be circulated to vendor list.
2. All request for quotes shall be prepared by the Executive Director complete with detailed specifications.
3. All request for quotes shall be under the name of the Executive Director.
4. Emergency cases may be dealt with by the Executive Director subject to necessary funds being available in the Executive approved budget.
5. Where goods are required, quotes shall be requested well in advance of need or expiry date of existing contracts.
6. All quotes shall be summarized and attached to the successful vendor's invoice as backup documentation.
7. The Conflict of Interest Guidelines adopted by the Executive [June 16, 1991] with respect to an officer present at a meeting of the Executive will also apply to officers of the Executive in any matter relating to a Request for Quotes.

[Executive Meeting - October 1, 1999]

[Reviewed and Confirmed by the Executive - May 25, 2001]

5. REQUEST FOR PROPOSALS

The Executive recognizes the need to obtain services at the most competitive prices taking into consideration the expressed needs of the Law Society and the ability of the supplier to provide the quality of service. To ensure fair and equitable opportunity for the suppliers while at the same time protecting the Law Society's interest, the Executive shall expend its resources by requesting proposals in accordance with the following:

Guidelines:

1. A list of vendors to supply the required service will be compiled.
2. Specifications will be forwarded to the identified vendors. Proposals from at least three (3) sources shall be obtained if possible.
3. All request for proposals for services within approved budgets will be awarded by the Executive Director except where the lowest bid is not acceptable. The Executive shall decide such awards.
4. Request for proposals for services deemed to cost in excess of approved budgets will be awarded by the Executive.

Procedures and Regulations:

1. Request for proposals shall be circulated to vendor list with a closing date being not less than two (2) weeks after the post date.
2. All request for proposals shall be prepared by the Executive Director complete with supporting documents which can be used as information for vendors. Request for proposal information shall be presented in as fair a manner as possible to the vendors.
3. All request for proposal calls, awards and notices to unsuccessful vendors shall be under the name of the Executive Director.
4. All request for proposals shall be sealed and clearly marked to conform with proposal instructions.
5. The Executive reserves the right to accept or reject any or all request for proposals.
6. Vendors who are using sub-trades for their proposal must indicate the names of the firms in their proposal.
7. Emergency cases may be dealt with by the Executive Director subject to necessary funds being available in the Executive approved budget.
8. Where services are required, these shall be requested well in advance of need or expiry date of existing contracts.
9. Request for proposal opening, in accordance with this policy, shall be under the direct supervision of the Executive Director.
10. The Conflict of Interest Guidelines adopted by the Executive [June 16, 1991] with respect to an officer present at a meeting of the Executive will apply to all officers of the Executive in any matter relating to a Request for Proposals.

[Executive Meeting - October 1, 1999]

[Reviewed and Confirmed by the Executive - May 25, 2001]

6. PUBLICATION OF EXECUTIVE MEETING AGENDAS AND MINUTES

The draft agenda of Executive Committee meetings, redacted for confidential matters, shall be published to the LSNT website no later than 48 hours prior to the next meeting of the Executive.

Minutes of Executive Committee meetings, redacted for confidential matters, will be published on the LSNT website. Following approval of the minutes at an Executive Committee meeting the Executive Director and the Secretary will review the minutes and identify redactions. Following approval of the redactions by the Executive Committee, the minutes will be posted on the LSNT website.

[Executive Meeting – May 24, 2017]

7. CHILDCARE SUBSIDY FOR ANNUAL GENERAL MEETING

A childcare subsidy of up to \$40.00 will be available to any member who incurs childcare costs to attend the LSNT Annual General Meeting.

[Executive Meeting – May 24, 2017]

8. REQUESTS FOR FUNDING FROM EXTERNAL ORGANIZATIONS

OVERVIEW

The Northwest Territories Law Society's mandate and objectives are:

MANDATE

To ensure the public is well served by a legal profession that is independent, responsible and responsive.

OBJECTIVES

To secure the integrity of the legal profession, the Law Society, among other duties:

- ensures new lawyers are qualified to practice in the Northwest Territories through a thorough admissions screening;
- provides educational programming and requires professional development standards;
- conducts reviews of a lawyer's practice, when necessary, and monitors remedial programs;
- regulates and audits lawyers' trust fund accounting procedures;
- provides advice to lawyers on ethical and legal issues;
- takes custody of a lawyer's practice when a lawyer is unable to continue practicing and has not made arrangements for clients;
- investigates and disciplines lawyers who have violated the Rules of the Society; and
- takes action against those who illegally offer legal services or misrepresent themselves as lawyers.

The Law Society is not a funding agency, and has an obligation to responsibly manage the funds which it has received from its members.

Recognizing that, the Law Society has a Discretionary Reserve which is available to fund projects, both those initiated by the Law Society and those coming from external parties, that fall within the Law Society's mandate and objectives or are initiatives and projects that support, directly or indirectly, the mandate and objectives of the Law Society.

The Law Society has, as part of its Strategic Financial Plan, provided examples of projects which may qualify for access to funds from the Discretionary Reserve fund. These examples are illustrative, and are not meant to be an exhaustive list:

- the provision of public legal education services
- continuing legal education for members
- access to justice projects
- projects designed to respond to the Truth and Reconciliation Commission's "Calls to Action"

PROCESS

Ideally, funding requests would be received by the Law Society at least ninety days prior to the date that the funds would be required.

Law Society funding will not be considered for for-profit organizations.

Decisions on financial support will be made at the discretion of the Law Society, and will be guided by the mandate and objective of the Law Society. Above all, any decision will be subject to Law Society budget implications, and with the recognition that the Law Society is not a funding agency. There is no appeal from a decision of the Law Society.

All requests for funding must demonstrate how the project is connected to the Law Society's mandate and objectives. Applicants may be contacted by the Law Society and asked to provide additional information.

APPLICATION

The information which the Law Society would typically require as part of a funding request includes:

GENERAL INFORMATION

- name of organization
- name of contact person and position within organization
- contact information (address, telephone number and e-mail)

DETAILS OF REQUEST

- amount of request, including detailed budget
- detailed description of project, including how project aligns with the mandate of the Law Society and fulfills its objectives
- detail how the funds requested from the Law Society will be used
- details on the positive impact this project will have on members of the Law Society and/or members of the general public
- experience of organization in executing the project
- qualifications of key individuals involved in project
- details on how project will be implemented
- details on how project will be evaluated

OTHER SOURCES OF FUNDING

- other confirmed funding sources for this project
- other funding sources approached but not yet confirmed
- other sources of revenue for this project
- what percentage of total project are you requesting the Law Society fund
- detail how funds received will be administered

ACKNOWLEDGEMENT OF LAW SOCIETY CONTRIBUTION

- How will Law Society support be recognized

REPORTING AT CONCLUSION OF PROJECT

Each successful recipient will be required to provide a report to the Law Society, within ninety days of the conclusion of the project. That report must contain a list of revenues and expenses.

[Executive Meeting – August 1, 2018]

PART II

MEMBERSHIP & ENROLLMENT

1. APPEARANCE IN LABOUR ARBITRATIONS

The policy of the Law Society of the Northwest Territories as regards to lawyers appearing as counsel in labour arbitrations in the Northwest Territories is that, provided the arbitration falls under the Canada Labour Code, the lawyer will not be required to take out a restricted membership or become a member of the Law Society.

[Executive Meeting - June 10, 1992]

[Reviewed and Confirmed by the Executive - May 25, 2001]

2. APPEARANCES BEFORE FEDERAL TRIBUNALS

The interim policy adopted by the Executive of the Law Society of the Northwest Territories on March 15, 1989 is that non-members appearing before federal tribunals in the Northwest Territories do not require a restricted appearance membership be the policy of the Law Society.

[Executive Meeting - May 12, 1992]

3. ASSIGNMENT AND TEMPORARY ASSIGNMENT OF ARTICLES

A student-at-law who wishes to permanently or temporarily assign his/her articles to a new principal shall, in writing, notify the Deputy Secretary and the Chairperson of the Admissions Committee not less than seven (7) days before the date the assignment is intended to take effect.

If the Chairperson of the Admissions Committee is concerned with any aspect of the proposed assignment, the Chairperson shall notify the Deputy Secretary, who shall notify the student-at-law that there may be an impediment to the assignment.

Where the student-at-law has not been notified that there may be an impediment to the proposed assignment, the student-at-law may commence articles with the new principal before the assignment is formally approved under Sub-Rule 43(1) provided that an assignment in Form 2.7 or Form 2.8, as applicable, has been delivered to the Deputy Secretary in accordance with Sub-Rule 43(2).

Notwithstanding anything in this policy, an assignment, albeit permanent or temporary, must in due course be formally approved in accordance with Sub-Rule 43(1).

The student-at-law is responsible for effecting an assignment of articles in respect of a jurisdiction outside the Territories.

[Executive Meeting - May 30, 1990]

[Amended July 21, 2003]

4. COMMENCEMENT OF ARTICLES

If all documents and fees required for admission as a student-at-law are received at the Law Society Office within one month following the date that the Articles of Clerkship (Form 2.6) are signed, the Executive may approve as the effective commencement date for the Articles the date they are actually signed. If the documents and fees are not received within the month, Articles may be approved as commencing only as of the date that the documents and fees are actually received. In the case of extenuating circumstances, the Executive may use discretion with respect to the commencement date.

It is the responsibility of the principal of each student-at-law to ensure that the appropriate forms and documents are obtained from the Law Society Office, and principals and students are urged to submit documents as early as possible.

[Executive Meeting - June 27, 1988]

[Amended - Executive Meeting - July 21, 2003]

5. CONFIDENTIALITY OF APPLICATIONS

Information provided by individuals applying for membership in the Law Society of the Northwest Territories is confidential and will be released to members of the Society or the public at large only with the written consent of the individual. However, the fact that an individual has applied either for full membership or for a restricted appearance membership, and, in the case of a restricted membership, the matter on which the applicant wishes to appear, will not be confidential, and such information will be provided to any person requesting such information.

[Executive Meeting - September 6, 1990]

6. EXAMINATIONS FOR DISCOVERY EX JURIS

Regardless of the jurisdiction in which the examinations for discovery are held for civil matters commenced in the Courts of the Northwest Territories, the lawyers conducting the examinations must either be full members of the Law Society of the Northwest Territories or have been granted a restricted appearance membership for the matter in question. It is not the situs of the examination but, rather, the fact that the action is an action for the Courts of the Northwest Territories which determines who is entitled to conduct the examination.

When a solicitor in another jurisdiction is employed to conduct ex-Juris examinations in that jurisdiction, members must ensure that the solicitor is a member of the Law Society of the Northwest Territories and entitled to conduct examinations in the matter in question.

[Executive Meeting - August 12, 1991]

[Confirmed July 21, 2003]

7. GUIDELINES FOR MARKING EXAMINATIONS / EXAMINATION FAILURE

The Admissions Committee Chair will appoint three (3) members (the markers) to mark the Examination for Admission. Exams will be marked individually by markers and the results submitted to the Chair.

The passing grade for an applicant writing the examination for the first time is 65%. An applicant failing the examination on the first attempt will be entitled to write a second examination upon written request to the Law Society.

The passing grade for applicants writing a second examination is 75%. An applicant who fails for a second time may be permitted to write a third examination with the permission of the Executive, according to the merits and on such terms and conditions as the Executive may determine. There is to be a thirty (30) day waiting period from the date of writing the second examination before any applicant may write the examination for a third time.

Should the markers not agree on whether the applicant has passed or failed, the markers will meet with the Chair of the Admissions Committee to discuss the rationale for their marking and reach consensus on whether the applicant has passed or failed the examination.

When an applicant fails an examination, the markers shall meet and prepare a marked examination reflecting their consensus as to the proper mark for each question. Upon request in writing, a failing applicant will be entitled to review this marked copy in the Law Society's offices at a time set by the Deputy Secretary-Treasurer but is not entitled to reproduce the examination or any portion thereof in any manner whatsoever. Such a review should occur as soon as is practicable.

[Executive Meeting - November 3, 1989]

[Amended – Executive Meeting 3 November 2015]

8. GUIDELINES FOR PROCESSING APPLICATIONS FOR ADMISSION

The Admissions Committee shall examine applications and provide a recommendation to the Executive within a reasonable period of time.

Accordingly, the Admissions Committee shall:

1. Examine an application for admission as a member and provide a recommendation to the Executive within ten (10) working days.
2. Examine an application for admission as a student-at-law and provide a recommendation to the Executive within five (5) working days.
3. Examine an application for a restricted appearance certificate and provide a recommendation to the Executive within five (5) working days.

[Executive Meeting - August 21, 1997]

[Confirmed - Executive Meeting - May 21, 2004]

9. LETTERS OF CHARACTER

In accordance with Rules 40, 48, 49, and 51 of the Rules of the Law Society of the Northwest Territories, an applicant for admission is required to submit to the Secretary two letters of good character, provided by persons who must state that they are members in good standing of a provincial or territorial law society or a comparable body of which the applicant is a member; or, from judges of a provincial, territorial or superior court of the jurisdiction of the law society or body of which the applicant is a member. The letters shall not be from one of the Applicant's current partners, associates, co-workers, supervisors, family members or someone who resides in the same dwelling as the applicant.

In accordance with Rules 41, 52 and 53 of the Rules of the Law Society of the Northwest Territories, an applicant for admission as a student-at-law, Canadian Legal Advisor or a law student is required to submit to the Secretary two letters of good character from reputable persons. The letters shall not be from one of the applicant's current partners, associates, co-workers, supervisors, family members or someone who resides in the same dwelling as the applicant.

In all cases where letters of character are required, the following guidelines outline the minimum standard of additional information that shall be contained in those letters:

1. The capacity in which the referee knows the applicant.
2. How long the referee has known the applicant.
3. Why the referee is of the view that the applicant is of good character.
4. An e-mail address where the referee can be contacted.

[Amended- Executive Meeting June 19, 2019]

[Amended- Executive Meeting May 23, 2018]

[Executive Meeting - January 9, 1998]

[Confirmed - Executive Meeting - May 21, 2004]

[Amended - Executive Meeting 31 July 2008]

[Amended - Executive Meeting 30 March 2009]

[Amended - Executive Meeting 7 May 2009]

[Amended – Executive Meeting 3 November 2015]

10. RESTRICTED APPEARANCE CERTIFICATES - CAUSE FOR EXTENSIONS

The Law Society of the Northwest Territories recognizes that some circumstances may arise that would warrant an extension to a restricted appearance certificate.

A member who has been granted a restricted appearance certificate may apply for an extension and shall furnish to the Secretary a written request detailing the circumstances under which the extension is being sought not later than seven (7) days prior to the expiry date of the original certificate. The Law Society will not guarantee that a member's application will be considered where the member has not complied with these terms.

Only two (2) extensions, totaling no more than ninety (90) days, shall be granted. In the event that the matter cannot be concluded within the ninety (90) days, the member will be required to renew the original certificate in accordance with Rule 49(5).

An extension may be granted where the member has completed all substantive aspects related to the original certificate, but is not able to conclude the matter due to one of the following circumstances:

- a. where the member is awaiting a court decision;
- b. where the member or opposing counsel has not yet prepared or filed the final documents;
or
- c. any other circumstance that the Executive may deem reasonable.

[Executive Meeting - October 30, 1997]

[Confirmed - Executive Meeting - May 21, 2004]

11. SUBMISSION OF TRANSCRIPTS

In accordance with Rule 40 of the Rules of the Law Society of the Northwest Territories, an applicant for admission as a student-at-law is required to provide proof from the proper authority of graduation from a law school approved by the Executive. Only certified or notarial copies of transcripts will be accepted.

[Executive Meeting - January 9, 1998]

[Confirmed - Executive Meeting - May 21, 2004]

12. RELEASE OF INFORMATION

Requests relating to information regarding Students-At-Law and those holding Restricted Appearance Certificates shall be treated in the same fashion as information requests relating to Members.

Upon request, verbal information as to a member's present status, place of employment, business address and business telephone may be provided by Law Society staff.

Certificates of Standing and Certificates of Insurance will be provided at the request of a member on their behalf.

None of the information contained within a member's file shall be disclosed without the written consent of the member, unless:

that information also appears on the Law Society website; or

That information may be provided under the Collection and Disclosure of Information History or Policy Regarding Reporting matters to Law Enforcement policies.

The Law Society does not maintain information on a member or firm's quality or reputation. The Law Society staff will not offer opinions on a member or a firm.

[Executive Meeting – February 22, 2021]

13. INFORMATION RELEASED ON A CERTIFICATE OF STANDING

The Law Society of the Northwest Territories releases information on a member, in the form of a Certificate of Standing, only on receipt of a request from the member and/or a release in a form satisfactory to the Society such as that used when soliciting information for Judicial and Queen's Counsel appointments.

Information regarding:

- Member's information including roll number, address and date of call;
- current practicing status;
- pertinent changes of status and administrative suspensions;
- discipline history including findings and open complaints;
- monies outstanding;
- insurance status; and
- insolvencies and monetary judgments reported under Rule 98.1

as well as other relevant information which, in the opinion of the Executive Director, should be disclosed, will be noted. Guidelines set out in the National Mobility Agreement and recommended by the Federation of Law Societies of Canada may be implemented.

The member will receive a copy of a Certificate of Standing that is delivered to another Law Society.

[Executive Meeting - September 16, 1998]

[Amended - Executive Meeting - December 5, 2006; March 4, 2010]

14. INVIGILATION OF ADMISSION EXAMINATIONS

An examination for admission to the Law Society of the Northwest Territories may be invigilated by one of the following:

- a. a member in good standing of the Applicant's resident Bar with whom the Applicant is not professionally associated;

- b. any office of a Canadian Law Society; or
- c. a Territorial or Supreme Court Justice.

In the event that none of the above are available, authorization for the examination to be invigilated by a Justice of the Peace may be provided at the discretion of the Deputy Secretary of the Law Society of the Northwest Territories.

[Executive Meeting - August 12, 1998]

15. NATIONAL ARTICLES

In accordance with Subsection 16(2) of the Legal Profession Act, the Executive, where it considers that special circumstances so warrant with respect to any person, may waive or vary the requirements set out in subparagraph 18(1)(c)(i). Subparagraph 18(1)(c)(i) states that a person who has inter alia, subject to subsection (2), completed 12 months of continuous service in the Territories under articles as a student-at-law by the Executive to a barrister and solicitor, and has taken a bar admission course and passed a bar admission examination, is qualified for admission to the Society.

Where the Admissions Committee has recommended and the Executive has approved an applicant for admission as a student-at-law who has served a period of articles in another Canadian jurisdiction, the applicant's term of service under the articles may be adjusted in accordance with the following terms and conditions:

1. An applicant from another Canadian jurisdiction who:
 - a. is admitted as a student-at-law under Rule 40,
 - b. satisfies the Admissions Committee that he or she:
 - i. has successfully completed the requirements for a Bachelor of Laws degree from a common law faculty of law in a Canadian university approved by the Executive, and
 - ii. has articulated in another Canadian jurisdiction to a principal who had been at that time in actual practice in that jurisdiction for not less than 5 years, and
 - c. where the articles served in the Territories are recognized as articles served in that jurisdiction, and
 - d. where the student-at-law provides proof of qualification for membership in that jurisdiction upon completion of those articles

will receive one month's credit toward the 12 month articling requirement set in subsection 18(2) of the Legal Profession Act for each month served as a student-at-law in that jurisdiction.

2. An applicant from another Canadian jurisdiction who:
 - a. is admitted as a student-at-law under Rule 40,
 - b. satisfies the Admissions Committee that he or she:
 - i. has successfully completed the requirements for a Bachelor of Laws degree from a common law faculty of law in a Canadian university approved by the Executive, and
 - ii. articulated in another Canadian jurisdiction to a principal who had been at that time in actual practice in that jurisdiction for not less than 5 years, and
 - c. where the articles served in the Territories are not recognized as articles served in that jurisdiction

will receive one month's credit toward the 12 month articling requirement set in subsection 18(2) of the Legal Profession Act for each month served as a student-at-law in that jurisdiction to a maximum of 6 months.

3. An applicant from another Canadian jurisdiction who:
 - a. is admitted as a student-at-law under Rule 40,
 - b. satisfies the Admissions Committee that he or she:
 - i. has successfully completed the requirements for a Bachelor of Laws degree from a common law faculty of law in a Canadian university approved by the Executive, and
 - ii. served as an articulated law clerk to a Justice of the Supreme or Federal Court in Canada, and
 - c. where the articles served in the Territories are recognized as articles served in that jurisdiction, and
 - d. where the student-at-law provides proof of qualification for membership in that jurisdiction upon completion of those articles

will receive credit towards the 12 month articling requirement set in subsection 18(2) of the Legal Profession Act equivalent to the credit granted to the student-at-law in that jurisdiction.

4. An applicant from another Canadian jurisdiction who:
 - a. is admitted as a student-at-law under Rule 40,
 - b. satisfies the Admissions Committee that he or she:
 - i. has successfully completed the requirements for a Bachelor of Laws degree from a common law faculty of law in a Canadian university approved by the Executive, and
 - ii. served as an articulated law clerk to a Justice of the Supreme or Federal Court in Canada, and
 - c. where the articles served in the Territories are not recognized as articles served in that jurisdiction,

will receive credit towards the 12 month articling requirement set in subsection 18(2) of the Legal Profession Act for each month served as a student-at-law in that jurisdiction to a maximum of 4 months.

[Executive August 16, 1999]

[Amended - Executive October 1, 1999]

16. APPEARANCE IN THE FEDERAL COURT OF CANADA

Section 11 of the Federal Court Act provides that every person who is a barrister or advocate in a province may practice as a barrister or advocate in Federal Court. Therefore, barristers or advocates appearing in Federal Court on behalf of a client from the Northwest Territories or a matter pertaining to the Northwest Territories, is not required to be a member in this jurisdiction, or obtain a Restricted Appearance Certificate to act on the matter.

[Executive 19 January 2001]

17. APPLICATION FOR ADMISSION PROCESS

PREAMBLE

The Law Society of the Northwest Territories is a self-governing society deriving its authority from the Legal Profession Act, R.S.N.W.T. 1988, c. L-2. Its principal duty is to serve and protect the public interest. The Admissions Committee is guided by this paramount duty in considering applications for membership.

POLICY

Part One: Assure That Formal Requirements for Admission as Active Member, Inactive Member or as Student-at-law are Met

1. Each application for membership to the Law Society of the Northwest Territories shall be reviewed initially by no fewer than three members of the Admissions Committee (Review Panel) for compliance with s. 18 of the Legal Profession Act and Rules 40 and 41 of the Rules of the Law Society of the Northwest Territories.
2. The Review Panel will confirm to the Chair of the Admissions Committee within 10 days of receiving an application for membership whether or not the application meets the requirements of s. 18 of the Legal Profession Act and Rule 40 or 41 of the Rules of the Law Society of the Northwest Territories.
3. Where any member of the review panel notes that any of the required materials as set out in Rule 40 or 41 of the Rules of the Law Society of the Northwest Territories are missing or incomplete in the application for membership, the member will raise this concern with the Chair of the Admissions Committee. The Chair of the Admissions Committee or the Executive Director of the Law Society will notify the Applicant within fifteen (15) days of any deficiency noted in the application and request that the Applicant provide a response within thirty days (30) days of receiving such notice.

Part Two: Decisions Respecting Character of Applicant

4. Where the application fulfills all the formal requirements to be admitted for membership as set out above, and if in the opinion of the Review Panel the application does not put into question the issues of character of the Applicant, the Committee may recommend to the Executive that the application be approved.
5. In determining whether or not the application discloses issues touching upon the character of the Applicant, the Admissions Committee is to be guided by the principles set out in the preamble to this policy. For greater certainty, matters touching upon the character of the Applicant may include, but are not limited to, the following:
 - a. information in the application that discloses discipline complaints, whether resolved or unresolved, from another jurisdiction or non-payment of insurance levies or membership dues from another jurisdiction;
 - b. the Applicant is an undischarged bankrupt;
 - c. the Applicant has had claims paid out of a liability insurance fund on his or her behalf or there are outstanding claims against the assurance fund involving the Applicant;
 - d. the Applicant has a criminal record.
6. Where the application reveals questions touching upon issues of character of the Applicant, the Review Panel, or any member of it, shall bring such concerns to the attention of the Chair of the Admissions Committee, who may:
 - a. request further information or clarification from the Applicant or any other person in respect of the application; or
 - b. convene a meeting of the Committee to review the concerns raised to decide if application should be approved or denied.
7. If, upon due consideration of the materials filed by or in respect of the Applicant, the Committee is still of the view that the Applicant is not of good character, the Committee may recommend to the

Executive that the application be denied. The Committee shall provide the Executive with a report outlining the grounds on which the recommendation to deny membership is made.

8. In the event that the Admissions Committee recommends that an Applicant not be admitted as a member as per 7 above, that recommendation shall be transmitted to the Applicant by the Executive and the Applicant given thirty (30) days to provide the Executive with information in support of the Applicant's application. Following a review of that material, the Executive will render a decision and advise the Applicant accordingly, or the Executive may, at its sole discretion, hold a hearing in the matter.

[Executive Meeting June 29, 2001]

[Amended Executive Meeting – 3 November 2015]

9. Applicants for membership who are suspended members of another Canadian Law Society shall not be considered for membership, until their suspension in the other Law Society has been removed, and the applicant is entitled to practice law by the other Law Society.”

[Executive Meeting November 19, 2019]

18. SPECIAL EXAMINATION ACCOMMODATIONS

The Law Society of the Northwest Territories is committed to ensuring that membership applicants with disabilities or other special circumstances receive accommodation that provides assistance, but maintains the integrity of the examination process.

Requests for special accommodation with respect to the Statute and Rules Examination are to be made in writing to the attention of the Law Society's Executive Director at the time the application for membership is submitted, and must include the following information:

- Specific accommodation requested:
Details of the accommodation and if any special requirements needed, including extra time, are to be provided. ¹
- Verifiable information in support of the request:
Documentation evidencing a diagnosis of the disability from an appropriate professional.
- Verifiable information of past accommodations:
Details of an accommodation by educational institutions that the applicant has received in the past and documentation evidencing this accommodation.

[Adopted by the Executive - November 25, 2005] [Reviewed and amended by the Executive – May 06, 2014]

19. EVALUATION OF OTHER LAW DEGREES

The Law Society of the Northwest Territories recognizes that lawyers trained outside of Canada, or those holding civil law degrees from Canadian Universities, may wish to apply for full membership in this jurisdiction.

Therefore, prior to the consideration of their application:

- a. lawyers trained outside of Canada must apply to the National Committee on Accreditation (NCA)² for an evaluation of their legal credentials and experience; and

¹ Where the request involves a time extension, the three (3) hour limit will be extended to include 50% more time (4.5 hours).

² <https://flsc.ca/national-committee-on-accreditation-nca/about-the-nca/>

- b. applicants who graduate with only a Canadian Civil Law Degree will be evaluated by the NCA according to their particular educational background and relevant professional experience.

Upon receipt of a completed report from the NCA which confirms that:

- a. the Applicant's academic training experience and qualifications are equivalent to those of a person who has graduated from a recognized Canadian Common Law LL.B. program;
- b. no further legal training is required; and
- c. provided that the Applicant is able to satisfy the other requirements for membership

they will be deemed eligible to make application for full membership in the Law Society of the Northwest Territories.

20. PERMANENT MOBILITY READING REQUIREMENT & DECLARATION

The Law Society of the Northwest Territories recognizes that the Territorial Mobility Agreement [TMA] forms part of the National Mobility Agreement, thereby enabling Members of other signatory jurisdictions who are eligible to be admitted as permanent members of the Law Society of the Northwest Territories without writing the Statutes and Rules examination.

Therefore, the Executive of the Law Society of the Northwest Territories, on the recommendation of the Admissions Committee, hereby implements the attached "reading requirement" for those applicants applying for membership under the TMA. The "Required Reading for Permanent Mobility" list and accompanying Statutory Declaration forms part of the Membership Application Package. It will be updated as required on the advice of the Admission Committee.

[Adopted June 28, 2006]

21. MEMBERSHIP FOR PRO BONO WORK

Lawyers who are not members of the Law Society of the NWT and who wish to engage in pro bono work on behalf of a client in the NWT are required to obtain a Restricted Appearance Certificate (RAC).

The Executive may allow for a reduced or waived fee for the RAC.

[Adopted December 26, 2016]

22. RE-APPLICATION OF RESTRICTED APPEARANCE CERTIFICATE (RAC) FEES

Where a lawyer approved for a RAC applies and is approved for full membership within 90 days of the approval of the RAC, the RAC fee and the assurance levy will be applied to the active membership fee and assurance levy.

[Adopted February 15, 2017]

23. PROOF OF IDENTITY

All new applicants for membership in the Law Society of the Northwest Territories must provide a notarized copy of valid Government issued photo identification, and, if necessary, proof that they can legally work in Canada to the Law Society with their application. Current members who have not provided notarized copies of valid Government issued photo identification, and, if necessary, proof that they can legally work in Canada, must provide them at time of renewal.

24. PROOF OF INSURANCE

All new applicants for membership in the Law Society of the Northwest Territories who have liability insurance in another jurisdiction must provide proof that they have liability insurance with their application.

PART III DISCIPLINE

1. COLLECTION AND DISCLOSURE OF DISCIPLINE HISTORY

A. DISCIPLINE INVESTIGATIONS

GUIDING PRINCIPLES:

The Legal Profession Act (“Act”) and the Rules of the Law Society of the Northwest Territories (“Rules”) prevail in the application of this policy. In addition, this policy reflects the following principles:

In the discipline of its members, the Law Society of the Northwest Territories (“Society”) must act in the public interest.

Public confidence in the Society’s responsibility as regulator of the legal profession requires responsiveness to complaints and accountability through the discipline process. This is assured through a timely and transparent disciplinary process that complies with the National Standards of Discipline as approved from time to time by members of the Federation of Law Societies. A copy of those Standards forms part of this Policy. (Appendix I)

The Society protects the public interest and ensures transparency within its disciplinary process by, among other things,

- giving public notice of a member’s upcoming disciplinary hearing;
- conducting disciplinary hearings that are open to the public, unless sufficient reason exists to close all or part of the hearing;
- notifying the public of the outcomes of all disciplinary hearings; and
- providing additional notice where a member is suspended or struck from the membership roll.

Decisions to protect the confidentiality of materials related to discipline process can be made when deemed appropriate. Some of the anticipated reasons to protect the confidentiality of information are outlined in this policy.

This Policy applies to the disclosure of material outside of the disclosure required by the disciplinary process under the Act. 67

DEFINITIONS:

“complainant” means the person who lodges a complaint against a member or student-at-law.

“discipline history” means a summary created by the Deputy Secretary of all complaints against a member or student-at-law that have not been dismissed by the Chairperson of the Disciplinary Committee (“Chair”) under section 24(2) of the Act. The summary will include a brief description of the nature of the complaint, the identifying complaint number, the date of the complaint and the outcome of each complaint.

“investigator” means the chair of the Discipline Committee or designate who conducts an investigation under section 24(2) of the Act.

“inquirer” means a Sole Inquirer or a Committee of Inquiry

“member” means a person, other than an honorary member, who is enrolled in the Society.

“respondent” means a member whose conduct is subject to investigation or other process under Part III - Discipline of the Act.

MATERIALS RELATED TO THE DISCIPLINE PROCESS

The Act and Rules identify the following documents that are or can be generated in the discipline process:

1. Written complaint – Rule 73
2. Response to complaint by Chairperson – Rule 73(3)
3. Members’ response – Rule 73(5)
4. “Materials” a member provides in response to a complaint – section 24.1 – a member; and section 24.2 – a student-at-law
5. Investigation report - section 24.2 – a member; and section 24.5 – a student-at-law
6. Written report by Chair upon “disposing of a matter” – Rule 75
7. Notice of hearing – Law Society Policy, Part III, section 3
8. Notice of withdrawal or discontinuance and reasons before a hearing – section 24.7
9. Report by Sole Inquirer re: decision to discontinue (where Sole Inquirer believes the matter is more serious and should be addressed by a Committee of Inquiry) – section 24.8
10. Notice by the Chair to the Executive, the respondent, the complainant and any other person the Chair determines to have a legitimate interest in the matter, of (a) the discontinuance of an inquiry before a Sole Inquirer and the reasons for the discontinuance; and (b) the establishment of a Committee of Inquiry. – section 24.8(5)
11. Written application to have hearing in camera – Rule 77(3)
12. Report of Sole Inquirer or Committee of Inquiry after hearing – section 32
13. Notice of sanction – section 32.2
14. Notice of suspension or being struck from the record - Rules 84(2), 85
15. Secretary’s “notice” / summary of report - Rule 79
16. Hearing Exhibits

RELEASE OF INFORMATION

1. A member may have access to their discipline history at any time upon request.
2. An investigator or counsel for the Society may access a respondent’s discipline history upon request. When this occurs, the respondent will be advised and also given a copy of the discipline history.
3. A respondent, or their counsel will receive the material identified as items 7, 8, 12, 13, 14, 15 of the “Materials Related to the Discipline Process” above.
4. The materials identified as items 9-11 and 16 of the “Materials Related to the Discipline Process” above may be requested by application to the Chair. These materials will not be provided if doing so would result in:
 - A breach of solicitor/client privilege

- Conflict with a statutory protection of privacy
- The disclosure of the complainant's identify without consent
- A lack of fairness to both the complainant and the respondent
- Creating an unreasonable safety risk to any person
- Undermining the integrity of the Society's investigation
- Disclosure that is more prejudicial than probative

Materials that may be provided under this paragraph may be redacted prior to their being provided.

5. Items 7, 12, 13, 14 and 15 of the "Materials Related to the Discipline Process" above are posted on the Society website, and as required by the Act.
6. All inquiries about the status of a complaint shall be referred to the Chair or their designate for reply.
7. When an inquiry about the status of a complaint is made by a complainant, respondent, their counsel or any other person the Chair has reasonable grounds to believe has a legitimate interest in the complaint, that person shall be given information about the complaint's status either verbally or in writing.
8. Anyone other than those identified in paragraph 8 who inquire about the status of a complaint shall only be given information that is available to the public on the Society's website or on the member's Record.
9. The Chair may decide to release information to the public that is additional to the information described in paragraph 8 of this Policy if the Chair determines that release is in the public interest.

DISCLOSURE FOLLOWING A HEARING

10. Before the report of an inquirer is made public, the Chair or their designate shall ensure that the report does not contain any information which would not be released under paragraph 4.
11. Any Exhibits received at an inquiry that are to be kept confidential must be identified in the report of the inquirer.
12. All Exhibits received in an inquiry shall be retained until two years following the later of:
 - a. all applicable limitation periods have expired; or
 - b. all appeals have been exhausted.
13. The Exhibits will be marked to show which have been identified as confidential. All Exhibits not identified as confidential are available for viewing at the Society office. Copies of these Exhibits may be made upon payment of the Society's costs of copying the Exhibits.

DISCLOSURE OF DISCIPLINE HEARING TRANSCRIPTS

14. Any person may request a transcript of an inquiry.
15. Before a transcript of an inquiry is prepared, the person requesting the transcript shall pay a deposit of \$50.00 plus the estimated cost of transcription.
16. When the transcripts are prepared, the Chair or their designate shall determine what portions of the transcript must be redacted in accordance with this policy.

DISCLOSURE BY LAW SOCIETY TO OTHER LAW SOCIETIES

17. The Law Society may, either upon request or at its own initiative, disclose to any other law society information about a Member that the Law Society considers appropriate in the p
18. Notwithstanding paragraph 17, information will not be shared if to do so would contravene solicitor-client privilege.

B. OTHER INQUIRIES

1. Where an individual, other than an investigator referred to above, requests disclosure of a member's discipline history, it shall only be provided in so far as there was a finding of conduct deserving of discipline made against the member.

[Executive Meeting – August 1, 2018]

2. HONORARIA

A. PURPOSE

1. To assist a Sole Inquirer or Committee of Inquiry in assessing costs of an inquiry where costs are awarded.
2. To recognize that, notwithstanding the volunteer nature of the Law Society, sitting as a Sole Inquirer or a member of a Committee of Inquiry may take significant block time away from a member's practice which should, in some circumstances, be recognized in a remunerative fashion.
3. To recognize that the role of a Sole Inquirer or a member of a Committee of Inquiry who writes the decision for the inquiry, generally speaking, is a more time-consuming role than that of a regular member of the inquiry.
4. To recognize that a Sole Inquirer or a member of a Committee of Inquiry who is required to travel to attend an inquiry, generally speaking, may incur a greater financial loss in order to participate in the process than does a Sole Inquirer or a member of a Committee of Inquiry who resides in the same community where an inquiry is being held.

B. PRINCIPLES

1. Awarding of honoraria is solely within the discretion of the Executive, and a factor to consider is the recommendation of the Chair of the Discipline Committee.
2. A Sole Inquirer or members of a Committee of Inquiry who participate in an inquiry of one day or longer may be compensated on a per diem basis according to the guidelines established below. A

Sole Inquirer or members of a Committee of Inquiry who participate in an inquiry for less than one day may be compensated on a pro-rata basis.

3. A Sole Inquirer or members of a Committee of Inquiry who travel to attend an inquiry may be compensated on a lesser per diem basis for actual travel time if the reason for their travel is for the sole purpose of attending an inquiry.
4. The policy is only a guideline, and the Chair of the Discipline Committee may recommend that the amounts be increased or decreased in accordance with the difficulty and complexity of the issues facing an inquiry, the total amount of time, including evening time, spent on an actual inquiry, and the nature of the work that may be required to research and draft a Decision of Inquiry.

C. GUIDELINES

1. Chair or member of the Committee of Inquiry who has responsibility for writing the Decision of Inquiry - \$500.00 per day of actual inquiry time.
2. Sole Inquirer - \$500.00 per day of actual inquiry time.
3. Member of Committee of Inquiry - \$350.00 per day of actual inquiry time.
4. Sole Inquirer or member of a Committee of Inquiry who travels to attend inquiry - \$250.00 per day for every full day of travel time.
5. Amounts may be pro-rated in accordance with actual inquiry time.

[Executive Meeting - October 11, 1994]

[Amended - January 9, 1997]

3. NOTICE OF DISCIPLINE HEARINGS

1. Where a hearing date has been set, legal counsel for the Law Society shall immediately notify the Executive Director (Deputy Secretary-Treasurer).
2. A notice of hearing shall be prepared to include the following:
 - a. statute section that authorizes hearing;
 - b. name of the member;
 - c. time, day, date and place where hearing will be conducted;
 - d. issuing date; and
 - e. signature of Executive Director (Deputy Secretary-Treasurer).
3. Once prepared, a copy of the notice shall be forwarded to the Member, Legal Counsel for the Law Society, the Chairperson of the Discipline Committee and, the Sole Inquirer or Committee of Inquiry.
4. The Notice is to be posted in the Offices of the Law Society, on the Law Society web site in an appropriate manner consistent with that used by other jurisdictions, and in the Courthouse in Yellowknife.
5. Notices relevant to the adjournment, postponed or re-scheduling of a hearing are to be circulated and posted in the same manner.

[Executive Meeting - January 9, 1998]

[Amended - March 31, 2000]

[Amended - December 22, 2004]

4. DISCIPLINE RESERVE FUND

The Executive Committee recognizes that large operating surpluses have been realized by the Law Society of the Northwest Territories in previous years due to the high degree of uncertainty involved when budgeting for discipline related cost recoveries and expenses.

In accordance with Generally Accepted Accounting Principles, the Law Society has established a fund called the Discipline Reserve Fund in an amount that may be established by the Executive Committee from time to time for the recovery of penalties, fines, custodianship costs and any other amount assessed or imposed under the Act or Rules on a member in connection with a discipline proceeding and reimbursement of expenses incurred by the Law Society in carrying out a discipline proceeding.

On January 1 of each subsequent year, or shortly thereafter, funds from the General Fund will be transferred to the Discipline Reserve Fund to maintain the amount that may be established by the Executive Committee from time to time.

[Executive Meeting - November 30, 1998]

5. GUIDELINES FOR THE ASSESSMENT OF COSTS AGAINST A MEMBER OR STUDENT-AT-LAW

Costs in relation to discipline may be ordered against a member or student-at-law whose conduct is found to be deserving of discipline, but those costs shall in no case exceed the cost incurred by the Society in the conduct of the proceedings and shall in all cases be subject to review by the Sole Inquirer or the Committee of Inquiry appointed to hear the matter.

Where a Sole Inquirer or a Committee of Inquiry finds that a member or student-at law has engaged in conduct deserving of discipline, the Sole Inquirer or the Committee of Inquiry shall then hear submissions on behalf of the Society and the member or student-at with respect the matter of costs to be assessed against the member or student-at-law, pursuant to the Legal Profession Act.

In consideration of the above, costs incurred by the Society shall include, but not be limited to, the following:

- All reasonable costs and expenses incurred by the Society either by way of disbursements or fees in connection with the investigation or prosecution of the matter at any time from the date of receipt of the complaint by the Chair of Discipline, or from the date a matter respecting the conduct of a member or student-at-law comes to the attention of the Discipline Committee, up to and including the completion of all matters related to the investigation or prosecution including any matters relating to any appeal taken pursuant to the Act or Rules;
- Court Reporter or Examiner fees and transcript fees;
- Any reasonable mailing, advertising, or other expenses in connection with either the hearing or the penalty or discipline imposed; and
- All reasonable expenses incurred by any member conducting a preliminary investigation, an Audit Professional, Counsel for the Law Society, the Society, any witness in the proceedings, the Sole Inquirer, or by any member of the Committee of Inquiry.

At the request of the Chair of Discipline or Counsel for the Law Society, the Deputy Secretary-Treasurer shall prepare a statement of costs and provide the signed and dated copy to the Chair of Discipline, Counsel for the Law Society, the Member or Student-At-Law, and, if appropriate, the Member or Student-At-Law's Counsel.

An Order for Costs may be made on the basis of the statement of costs prepared by the Deputy Secretary-Treasurer, or may be otherwise referable to that statement, and in a case where the Committee orders payment of the costs of the proceedings, the amount shall be based on the actual costs and expenses referred to above.

If a question arises as to the accuracy of a signed statement of costs, the Sole Inquirer or the Committee of Inquiry appointed to hear the matter shall, on application made within fifteen (15) days after the date on which the statement was sent to the member or student-at-law or their Counsel, review the statement and, on completing the review, may amend or replace the statement and, if necessary, amend or replace the order for costs to reflect the change in the statement.

Pursuant to s. 32.1 of the Legal Profession Act, where a member or student-at-law fails to pay a fine or costs imposed by a Sole Inquirer or Committee of Inquiry under this Part, the member or student-at-law is, without notice, suspended until the fine or costs are paid.

[Adopted by the Executive 25 November 2005] [Reviewed and amended by the Executive 06 May 2014]

6. POLICY REGARDING REPORTING MATTERS TO LAW ENFORCEMENT

There is nothing in the *Legal Profession Act* or the Rules setting out the responsibilities of the Law Society to report possible criminal activity by its members to law enforcement. The obligations of the Law Society to do so derives from the Law Society's obligation to regulate the legal profession so as to maintain and uphold the public interest. This obligation must be balanced against the Law Society's obligation to protect the confidentiality of solicitor-client information.

Policy

1. In this Policy, the term "criminal activity" is to be interpreted broadly. It shall include offences other than *Criminal Code* offences, whether under federal or territorial regulation, which are subject to criminal sanctions, such as fines or imprisonment. "Criminal activity" is not limited to a member's practice related conduct.
2. Where the Executive Director or the Chair of Discipline has reason to believe that a member has been involved in criminal activity, the Executive Director shall immediately advise the Executive.
 - (a)
3. Upon being advised under paragraph 2, the Executive shall determine, as soon as possible, whether a report is to be made to law enforcement authorities. The Executive shall consider all relevant factors, including:
 - (b)
 - a. Whether the public interest requires that the matter be reported;
 - b. The seriousness of the allegations;
 - c. When the events occurred;
 - d. Any risk to the public;
 - e. The stage of any disciplinary proceedings and whether a report to law enforcement authorities will impede those proceedings;
 - f. Whether there is someone else who has reported or who is intending to report the matter and, whether the matter is more appropriately reported on by another;
 - g. Whether information in the Law Society's possession is confidential or subject to solicitor-client privilege and, if so, how that confidentiality or privilege can be appropriately addressed;
 - h. Whether the Law Society has paid compensation to any person as a result of the alleged wrongdoing and if the recipients of that compensation have authorized release of the information to law enforcement authorities.
4. If, following a consideration of all of these factors, the Executive determines that a report should be made to law enforcement authorities, then a written report will be submitted, as soon as possible, to law enforcement authorities by the Executive Director. This report must contain sufficient information to outline the basis of the Executive's determination that this matter should be reported.

5. Unless the Executive determines otherwise, the member will be notified at the time the report is made to law enforcement authorities. The member will be notified only that a referral to law enforcement authorities has been made, but will not be provided with any additional information.

The Law Society will take all appropriate measures to protect client confidentiality and solicitor-client privilege. The Law Society will not release any information in its possession unless it has been authorized or given permission to do so by a client to whom the information relates, without receiving a search warrant or other appropriate court mandated process.

[Executive Meeting – August 1, 2018]

7. POLICY ON DEALING WITH UNREASONABLE COMPLAINANT CONDUCT

1. Introduction

The Law Society is committed to dealing with all complaints equitably, and in a timely manner, in accordance with the provisions in the Legal Profession Act and the Rules or Regulations thereto.

A complainant's contact with Law Society staff nor those responsible for investigating or prosecuting their complaint is normally not limited.

However, in some cases, unreasonable complainant conduct can either impede the investigation of their complaint or have significant resource issues for the Law Society. This can happen either while their complaint is being investigated, or once the Law Society has finished dealing with the complaint.

Law Society staff, nor anyone responsible for investigating or prosecuting complaints, are not expected to tolerate unreasonable complainant conduct.

The Law Society will take action to protect its staff and anyone responsible for investigating or prosecuting complaints from unreasonable complainant conduct.

Purpose

This policy sets out what the Law Society will do in cases of unreasonable complainant conduct.

The policy is for the information of both complainants and for Law Society staff, and anyone responsible for investigating or prosecuting complaints.

Imposing Restrictions in Cases Of Unreasonable Complainant Conduct.

In the first instance, the Law Society will contact the complainant either by phone, in writing or by email to explain why the unreasonable complainant conduct is causing concern and ask them to correct this complainant conduct. The Law Society will explain the actions that may be taken if the unreasonable complainant conduct does not change.

If the unreasonable complainant conduct continues, the Law Society will issue a letter or email to the complainant advising them that the way in which they will be allowed to contact the Law Society in future will be restricted. The complainant will be informed in writing of what procedures have been put in place and for what period.

Any restriction that is imposed on the complainant's contact with the Law Society staff, or anyone responsible

for investigating or prosecuting complaints will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place.

The Law Society will enclose a copy of this policy in the letter to the complainant.

Where unreasonable complainant conduct continues, the Law Society may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

Where the unreasonable complainant conduct is so extreme or it threatens the immediate safety and welfare of Law Society staff, or anyone responsible for investigating or prosecuting complaints, the Law Society will consider other options, for example reporting the matter to the police. In such cases, the Law Society may not give the complainant prior warning of that action.

New Complaints from Complainants Who Have Engaged In Unreasonable Complainant Conduct

New complaints from complainants who have engaged in unreasonable complainant conduct will be treated on their merits.

Record Keeping

Adequate records will be retained by the Law Society of the details of each case where this Policy has been applied and the action that has been taken. Those records will include:

The name and address of each complaint which has been treated as abusive, vexatious or persistent;
When the restriction comes into force and ends;
What the restrictions are; and
When the complainant was advised of the restrictions.

Executive Committee Meeting 2019-04-10

8. POLICY ON DISASTER RECOVERY AND SUCCESSION PLANNING

Lawyers owe a professional obligation to clients to plan for interruptions in the lawyer's practice, whether due to unexpected emergencies, an unplanned disability or incapacity, or a planned retirement. Proper planning also provides further protection from the risk of an insurance claim while a lawyer may be unable to practice.

Succession planning also minimizes the unfortunate financial consequences for a lawyer or the lawyer's estate should the Law Society be required to appoint a custodian for the lawyer's practice.

Effective January 1, 2020, all lawyers in private practice are required to have a disaster recovery plan and a succession plan. A lawyer's plan may provide for both disaster recovery and succession.

A lawyer shall provide copies of his or her disaster recovery plan and succession plan to the Law Society, or to an auditor appointed under section 47 of the Act, upon request. A lawyer shall provide the lawyer's Procedures Manual for review by the Law Society, or by an auditor appointed under section 47 of the Act, upon request.

Disaster recovery plan

A disaster recovery plan must include plans to recover from:

- Natural disasters (flood, fire, power loss)
- Technology-related disasters (telephone or computer failure, hard drive crash, hacking of system)
- "Antisocial" activities (theft, vandalism, violent intruder)
- Personal problems for lawyer and staff (unexpected absence or termination, long term disability, suspension).

The disaster recovery plan must address:

- Ongoing client matters – open files
- Client wills and wills indices
- Client titles, deeds and other important records
- Client notification
- Confidentiality of client information
- Access to computers, email, accounting and other electronic records
- Staff payroll and other issues
- Trust funds
- Trust and other bank accounts
- Protection of client property
- Maintenance of closed client files
- Any other arrangements necessary to either carry on the lawyer's unique practice

Succession Plan

A succession plan must include plans in the event of either temporary or permanent inability of the lawyer to practice.

The succession plan must address:

- Ongoing client matters – open files
- Client wills and wills indices
- Client titles, deeds and other important records
- Client notification
- Confidentiality of client information
- Access to computers, email, accounting and other electronic records
- Staff issues
- Trust funds
- Trust and other bank accounts
- Protection of client property
- Maintenance of closed client files
- Any other arrangements necessary to either carry on or wind up the lawyer's unique practice

Procedures Manual

As part of a disaster recovery and succession plan, lawyers shall maintain Procedures Manual. The procedures Manual shall contain all information necessary to maintain the operation of the lawyer's practice.

The Procedures Manual must include:

- The lawyer's succession plan;
- The lawyer's disaster recovery plan;
- Details of bank account information, bank locations, any anything else needed to access the lawyer's bank accounts;
- Insurance information for all insurance policies for the lawyer's practice;
- Computer and other passwords and anything else needed to access the lawyer's computer(s), the lawyer's email and the lawyer's calendar;
- Location of, and anything needed to access the lawyer's client files;
- Location of, and anything else needed to access the lawyer's limitation and diarization system;
- Anything needed to access the lawyer's account information;
- Contact information for the lawyer's personnel;

- Contact information for the lawyer’s accounting staff;
- Details of the lawyer’s space arrangements (details of lease, name of landlord, and anything else needed to access the lawyer’s office)
- Details of the location of the lawyer’s post box, a key to the lawyer’s post box, and anything else needed to access the lawyer’s mail;
- Location of, and anything else needed to access client property;
- Location of, and anything else needed to access all closed client files;
- Details of all personnel employment arrangements.

[Executive Committee Meeting 2019-04-10]

9. APPOINTING DISCIPLINE CHAIR AND VICE-CHAIRS

1. Section 23 of the *Legal Profession Act* requires that the Executive of the Law Society designate Chair and one or more Vice-Chairs of the Discipline Committee. This policy specifies how that process will occur.
2. The *Legal Profession Act* requires that the Chair of the Discipline Committee shall be appointed from one of the current Vice-Chairs of the Disciplinary Committee.
 - (c)
 3. When the Chair of the Disciplinary Committee becomes vacant:
 - (d)
 - a. The current Vice-Chairs of the Discipline Committee will be offered the opportunity to apply for the position of Chair. Vice-Chairs who wish to apply will be required to complete the information required in the Committee Appointment Policy. The Executive then shall, in accordance with section 23 of the *Legal Profession Act*, appoint a Chair from those Vice-Chairs who applied for the Chair position. The outgoing chair of the discipline Committee may provide suggestions to the Executive.
 - (e)
 - b. Should none of the current Vice-Chairs apply for the position of Chair, the current members of the Disciplinary Committee will be offered the opportunity to apply for the position of Chair. Members who wish to apply will be required to complete the information required in the Committee Appointment Policy. The Executive then shall, In accordance with section 23 of the *Legal Profession Act*, appoint a chair from those members who applied for the Chair position.
 4. The *Legal Profession Act* requires that a Vice Chair of the Disciplinary Committee shall be appointed from the current membership of the Disciplinary Committee.
 5. When there is a vacancy for one or more Vice-Chairs of the Disciplinary Committee, the current members of the Disciplinary Committee will be offered the opportunity to apply for the position of Chair. Members who wish to apply will be required to complete the information required in the Committee Appointment Policy. The Executive then, in consultation with the Chair shall, in accordance with section 23 of the *Legal Profession Act*, appoint one or more Vice-Chairs from those members who applied for the vice-Chair position or positions.
 - (f)
 6. The Executive, in appointing Vice-Chairs, may consider the practicing status of those who have applied (eg. private practice, practicing with a government) in order to avoid or minimize the possibility of a matter arises which creates a conflict for the Chair and all of the Vice-chairs. The Executive may also consider the areas of

expertise and knowledge of the Chair and those who applied, to ensure that the Chair and Vice-Chairs have a broad range of skills and experiences.

[Executive Committee Meeting 2020-05-23]

PART IV

ASSURANCE FUND

1. ASSURANCE FUND PER CLAIM AND AGGREGATE LIMIT

Section 34 of the Legal Profession Act provides that the Law Society may maintain a fund called the Assurance Fund.

The following guidelines are adopted for use of the Law Society and are not binding on and should not be used to fetter in any way the discretion granted under Part IV of the Legal Profession Act.

The principal purpose for the Assurance Fund is to reimburse those in need of assistance.

The Assurance Fund is and should be based upon the principle that the Law Society is making an ex gratia payment. It is not the intention that the Assurance Fund be an open-ended fund from which applicants should be completely indemnified. The Law Society should not regard itself as being barred from completely reimbursing a person suffering loss, but this is an option only in the discretion of the Law Society.

All payments from the fund are discretionary

1. The Executive will deal with claims as they are presented, unless, in its opinion, undue prejudice would occur. All related claims may be dealt with as a group
2. All claims on the Assurance Fund must meet the prerequisites of Rule 88:
 - i. the matter must have arose subsequent to January 1, 1978;
 - ii. a member must misappropriate or wrongly convert money or other property;
 - iii. the money or other property must be entrusted to or received by a member in the member's capacity as a barrister and solicitor;
 - iv. the money or other property must be entrusted to or received by a member in the course of the member's practice as a barrister and solicitor in the Northwest Territories;
 - v. the money or other property has not been returned or accounted for to the claimant; and
 - vi. notice of the claim must be given to the Law Society within one year after the day notice of the misappropriation or wrongful conversion came to the attention of the claimant. The Executive may extend this period if it considers that special circumstances warrant an extension.
3. A person entitled may submit a claim to the Society for compensation from the Assurance Fund in respect of:
 - i. the money misappropriated or converted, or
 - ii. in the case of property, the value of the property misappropriated or converted.
4. In accordance with Rule 89, a claimant shall apply in writing to the Executive for reimbursement from the Assurance Fund, stating the full particulars of the loss alleged to have been sustained by the claimant, including:
 - i. the name and address of the member whose misappropriation or wrongful conversion is alleged to have led to the loss;

- ii. the amount of the loss;
 - iii. the business or transaction out of which it is alleged that the loss arose; and
 - iv. the date on which the alleged loss first came to the knowledge of the claimant.
5. Any refusal or failure by the claimant or other parties to respond to questions or to produce documents shall be a factor to be considered by the Executive in the exercise of its discretion.

The Law Society may require the completion of all civil remedies against the member, including all possible recovery for negligence.

Former members, partners, or associates in the member's firm should be absolutely barred from recovery from the Assurance Fund.

Except in the most unusual circumstances, the Law Society should not recommend payment of claims to a spouse or the children of a member.

6. The Executive may appoint a committee to inquire into the matter for the purpose of:
- i. determining the facts on which the claimant relies;
 - ii. determining whether the application comes within subsection 34(1) of the Legal Profession Act;
 - iii. determining whether the claimant is in need of assistance; and
 - iv. recommending to the Executive whether a payment should or should not be made to the claimant.
7. At the conclusion of the inquiry, the committee shall report its findings and recommendation to the Executive.
8. The amount of the loss in respect of which compensation may be made is the difference between the amount received by the member and the actual amount returned or otherwise properly accounted for, including reasonable fees and expenses.
9. Only the money, or in the case of property other than money, the value of the property, can be returned. The statute provides no claim for interest, damages, expenses, loss of profits, loss of income, and none of these should be entertained under an Assurance Fund claim.
10. If a claim is to be denied because it does not meet the prerequisites outlined in Rule 88, the Executive should specify in written reasons the special areas in which the claim failed.
11. In the event that the Executive finds that all prerequisites of the claim have been met, it is not necessary that reasons for such a finding be specified.
12. To protect the integrity of the Assurance Fund and to ensure that it is not depleted in any one year by a large claim or claims, a formula has been adopted as follows:
- i. The maximum amount of claims paid by the Assurance Fund in a fiscal year is limited to \$300,000.
 - ii. Up to \$50,000 can be paid on each approved claim after the appeal period passes (if there is no appeal).
 - iii. Claims in excess of \$50,000 receive \$50,000 upon approval (if there is no appeal) but must wait until the end of the fiscal year for the remainder of their claim. If the total of approved claims in the fiscal year is under \$300,000, then the total amounts owing to claimants over the initial \$50,000 will be paid.
 - iii. If the total of all approved claims in the fiscal year in excess of \$50,000 exceeds \$300,000, then the remainder of the \$300,000 will be divided among the claimants on a pro-rated basis.

Where, in respect to a matter giving rise to a reimbursement claim:

Criminal charges have been preferred against the member involved;

The matter is under investigation or an inquiry is pending under part III of the Legal Profession Act; or

There are civil proceedings pending;

A decision on a claim may be delayed until there has been a final disposition by the Court or under part III of the legal Profession Act that the member had misappropriated or converted to their own use the money or property of a claimant.

A claim may be dismissed where a claimant did not pursue their civil claim or other remedies against the member involved.¹³ In accordance with Rule 87, an annual assessment determined by the Executive may be levied on active members for the purpose of maintaining and augmenting the Assurance Fund.

14. After assessing the liquidity needs and projected cash flow required to accommodate the above formula, the Executive Director shall designate a component of the fund for short-term and long-term investments in accordance with the Law Society's Investment Guidelines.

7. [Executive Meeting - February 27, 1998]

8. [Executive Meeting – May 24, 2017]

9. [Executive Meeting – February 22, 2021]

2. **ASSURANCE FUND - GUIDELINES FOR THE COMMITTEE APPOINTED TO INQUIRE INTO AN ASSURANCE FUND CLAIM**

1. A recording shall be made of a Committee Hearing. A transcript of any recording will be produced upon request, and at the expense of the person so requesting.

2. The claimant, the member who the claim is made against and the Law Society shall have standing at the Hearing. Each may be represented by Counsel. Other parties may, upon application, be granted full or limited standing, as appropriate in the circumstances, by the Committee.

3. All parties granted standing, full or limited, shall be entitled to be represented by Counsel at their own expense.

4. The Hearing Committee shall be governed by Section 25 of the Legal Profession Act.

5. To expedite claims, either an Agreed Statement of Facts and Quantum or an Agreed Statement of Facts only, neither of which is binding unless accepted by the Committee, may be presented at a hearing. The Committee shall be at liberty to accept or reject such Agreed Statements as evidence, and in doing so shall consider not only the parties to the agreement, but the parties affected by it.

6. Where requested by the Committee or offered by agreement of Counsel, written submissions by all Counsel with respect to a particular point of law or a unique aspect of claim may be filed and placed before the Committee prior to the Hearing. In addition, Agreed Statements of Facts or Agreed Statement of Facts and Quantum may be placed before the Committee prior to a hearing.

7. The Committee shall have the right to adjourn proceedings sine die or to a day certain from time to time, as it deems appropriate.

8. The Chair of the Committee shall ensure that the report prepared for consideration by the Executive is complete with the findings of the Committee, their recommendation, and the reasoning behind the decision.

9. The record of the Hearing shall include:

- a. the Application of the Claimant;
- b. a recording of the Hearing;
- c. copies of any affidavit or commission evidence presented at the Hearing;
- d. the audit/investigation report;

- e. all exhibits accepted into evidence at the Hearing; and
- f. the Committee's full report.

PART V

ACCOUNTS

1. **FILING OF CERTIFICATES OF MEMBER AND ACCOUNTANT PURSUANT TO SECTION 48 OF THE LEGAL PROFESSION ACT**

1. The Executive Director shall not later than June 1 of each year, remind all members of their obligation to file, as required by Section 48, a Certificate of Member and Accountant, or Statutory Declaration stating that the member does not maintain a trust account, on or before September 1st of that year.
2. The Executive Director shall, prior to September 1 of each year, issue reminders to members who have not filed their Certificates or Statutory Declarations.
3. Those members who fail to file their Certificates or Statutory Declarations by September 1st shall stand automatically suspended pursuant to section 49.1 of the Act and the Deputy Secretary-Treasurer shall immediately notify the members and the Clerks of the Territorial and Supreme Courts of the Northwest Territories of the suspensions.

[Executive Meeting – February 20, 2019]

2. **SPOT AUDIT REVIEW PROGRAM**

1. By January 31st of each calendar year, the Chair of Discipline with the assistance of the Executive Director shall initiate the steps required to select those members or firms of members for the Spot Audit Review Program to ensure that members are complying with the Society's accounting requirements and handling trust funds appropriately.
2. The Spot Audit Review Program may include both random and targeted audits of firms or members of firms.

a. RANDOM

The Executive Director (Deputy Secretary-Treasurer), in the presence of at least two (2) witnesses, neither of whom may be a member or the relative or employee of a member or a firm of members that may be subject to the audit, will randomly select ten (10) members or firms of members.

b. TARGETED

Targeted audits are directed at those who have never been randomly selected or who have demonstrated past problems with their trust account and are considered of higher risk.

The Chair of Discipline will review the selected members or firms of members and, if necessary, add those for whom a targeted audit may be indicated.

[Executive Meeting – February 20, 2019]

3. This policy does not apply to a spot audit which may from time to time be ordered and conducted for cause under Section 47 of the Legal Profession Act.
4. The Spot Audit Review Program shall be conducted by a chartered accountant or certified general accountant with the assistance of at least one other person with forensic experience over the course

of the year using a format recommended by the Chair of Discipline, and approved by the Executive of the Law Society.

5. The same two (2) auditors, unless unforeseen circumstances dictate otherwise, shall conduct all of the audits in any given year in order to ensure consistency and fairness.
6. At the conclusion of each review, a complete report is to be provided to the Chair of the Discipline Committee.

COMMENTARY

1. The Law Society recognizes that its role is to govern in the public interest and, as such, it is authorized to conduct audits of members from time to time. The Law Society further recognizes that the Commissioner of the Northwest Territories is empowered to direct an audit of the books of accounts of a member and notes that the Commissioner has never done so, presumably because this role is being fulfilled by the Society. [S.47 - Legal Profession Act]

These audits will also serve an educational purpose as they provide an opportunity for the auditor to offer advice or answer questions relating to trust matters.

2. The Law Society recognizes that the completion of all spot audits in any given year may not be practicable, however the auditors shall do or attempt to do the spot audits on those members or firms of members who have been randomly selected.

[Adopted by the Members at the AGM on December 3, 2005]

PART VI

GENERAL

1. ADVERTISING & DISTRIBUTION

The Law Society of the Northwest Territories supports advertising in the “Arctic Obiter” newsletter. The Executive Director will determine whether advertisements are eligible for publication using the following guidelines:

1. Restrictions:
 - a. Advertisements must not conflict with Policy Directive No. 2 of the Law Society of the Northwest Territories.
 - b. The Law Society will not accept advertisements from agencies or companies who are in direct competition or conflict with Law Society programs or sponsors.
 - c. Advertisements may not consume more than 25% of the newsletter.
 - d. The Law Society will not endorse the advertiser, product, or service in any manner.

2. Rates:

Display Ad Rates:

Full Page	\$ 400
Half Page	200
Quarter Page	100
Eighth Page	50

Classified Ad Rates:

Lawyers advertising for non-profit purposes, per line as printed	\$ 15
Lawyers advertising for profitable purposes, per line as printed	20
Commercial, any company or association except lawyers, per line as printed	25

Inserts (where copies are not provided):

Lawyers advertising for non-profit purposes, per package distribution	\$ 255
Lawyers advertising for profitable purposes, per package distribution	340
Commercial, any company or association except lawyers, per package distribution	425

Inserts (where copies are provided):

Lawyers advertising for non-profit purposes, per package distribution	\$ 205
Lawyers advertising for profitable purposes, per package distribution	270
Commercial, any company or association except lawyers, per package distribution	340

Facsimile Distribution:

Distribution where long distance charges are not incurred, per page distribution	\$ 0.50
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Distribution where long distance charges are incurred, per page distribution 1.00

3. Exceptions:

The Executive Director has the discretion to:

- a. waive the above rates in appropriate circumstances; and
- b. determine whether material is appropriate for distribution.

With the exception of distribution via facsimile, special mail outs will not be considered.

[Executive Meeting - March 13, 1997]

[Amended October 30, 1997]

2. AUTHORIZED TRAVEL

A person (“authorized traveler”), authorized by the Law Society to travel on Law Society business, will be reimbursed for expenses as follows:

A. TRANSPORTATION

Air Travel: Whenever possible the authorized traveler shall travel excursion fare or on a “seat sale”. Where purchase of a full fare ticket cannot be avoided the authorized traveler will be reimbursed for the cost of a full fare economy class ticket.

Private Transportation: Where the use of an authorized traveler’s vehicle is authorized by the Law Society, expenses may be claimed at prevailing Federal Government rates.

Taxi: Receipts must be retained and submitted with the travel claim. Authorized travelers must indicate the starting point and destination of each taxi trip.

Rental Vehicle: Authorized travelers may not recover the costs of a rental vehicle to the Law Society unless the President approves the rental before the authorized traveler departs from the Northwest Territories. Authorized travelers renting vehicles must ensure that the rental agreement provides for insurance coverage for damage to the vehicle and all other liability.

B. ACCOMMODATION

Hotels: Whenever possible authorized travelers shall use hotels which provide Corporate, Government, C.B.A. or other special rates. Authorized travelers must use hotels that afford reasonable accommodation at a reasonable price.

Authorized travelers must submit receipts for accommodation charges with the travel claim. Movies, laundry, liquor and other extraordinary services must not be charged to the Law Society. Room service charges for food may be claimed up to the maximum of the expenses referred to in Part C.

Private Accommodation: Authorized travelers staying in private accommodations may claim an allowance at prevailing Federal Government rates.

C. MEALS AND INCIDENTAL EXPENSES

Expenses may be claimed for the cost of meals consumed and for incidental expenses such as gratuities for miscellaneous service personnel. Meals will be reimbursed for actual amounts expended, up to the maximum of the prevailing Federal Government rates.

If means are provided at no charge in the course of transportation, or in relation to a function or conference attended by the authorized traveller, they cannot be claimed for by the authorized traveler. It is recognized that a number of flights no longer provide meals or, a meal can be purchased for a fee. In those cases, the authorized traveller is eligible to claim the cost of their own meal.

Private Accommodations: if meals are provided while staying in private accommodations, they cannot be claimed for by the authorized traveler. If meals are not provided at the private accommodation, reimbursement for food/meals may be claimed up to the maximum of expenses referred to above.

In all cases, receipts must be submitted for reimbursement.

D. TELEPHONE CHARGES:

All telephone charges must relate to Law Society business.

E. ADVANCE PAYMENT OF ELIGIBLE EXPENSES:

Requests for advance payment of eligible expenses will be considered on a case by case basis.

F. AUTHORIZATION:

Authorization for travel must be obtained as follows:

- a. prior authorization for the President to travel on Law Society business must be obtained from the Executive Committee;
- b. prior authorization for other Executive Committee members and the Executive Director to travel on Law Society business must be obtained from the President; and
- c. prior authorization for all other travel on Law Society business must be obtained from the Executive Director.

KILOMETRE RATES & TRAVEL ALLOWANCES

Current Federal Government Travel and Kilometre Rates are as per the most recent release of Appendix B and C of the Treasury Board of Canada Secretariat Travel Directive, which are available from the Executive Director of the Law Society.

[Executive Meeting - March 28, 1990]

[Amended - May 30, 1996; January 9, 1998; May 21, 2004; June 19, 2008]

[Confirmed – Executive Meeting – January 21, 2010]

4. EMPLOYEE BENEFITS

A. APPLICATION

The following benefits accrue to each employee of the Law Society of the Northwest Territories unless modified by written agreement.

B. EXECUTIVE SUMMARY

Each employee is entitled to the following benefits as detailed in this policy:

- a. Designated paid holidays
- b. Vacation leave
- c. Special Leave
- d. Sick Leave
- e. Maternity/Parental/Adoption Leave
- f. Northern Allowance
- g. Vacation Travel Allowance
- h. Health Benefits
- i. Salary Adjustments

C. INTERPRETATION AND DEFINITIONS

For the purpose of this Policy:

- a) "Allowance" means compensation payable in addition to regular remuneration.
- b) "Dependent" means a person residing with the employee who is the spouse, child, step-child, adopted child, foster child who is under nineteen (19) years of age and dependent on the employee for support.
- c) "Fiscal Year" means the period of time from January 1 to December 31 of the same year.
- d) "Leave of Absence" means absence from work with the employer's permission.
- e) "Probationary Period" means a three month period immediately following the hiring of a new employee.

D. DESIGNATED PAID HOLIDAYS

The following days are designated paid holidays:

- a) New Year's Day;
- b) Good Friday;
- c) Easter Monday;
- d) Victoria Day
- e) National Indigenous People's Day
- f) Canada Day;
- g) The first Monday in August;
- h) Labour Day;
- i) Thanksgiving;
- j) Remembrance Day;
- k) Christmas Day;
- l) Boxing Day;
- m) Five days of Mandatory Leave With Pay per fiscal year, taken between December 19th and January 5th on days set by the Employer; and
- n) Any additional days when proclaimed by an Act of Parliament as a National Holiday or by an Act of the Legislative Assembly of the Northwest Territories as a Territorial Holiday.

When a designated paid holiday coincides with a day of rest, the designated paid holiday shall be moved to the first working day following the day of rest.

Where a designated paid holiday falls within a period of leave with pay, the designated paid holiday shall not count as a day of leave.

E. VACATION LEAVE

Credits

Vacation leave shall be earned according to the following schedule. For each month that an employee earns pay, the employee shall receive:

0-5 years	1 1/4 days' vacation leave
5-10 years	1 2/3 days' vacation leave
10-17 years	2 1/12 days' vacation leave
17 years plus	2 1/2 days' vacation leave

In granting Vacation Leave with pay, every reasonable effort shall be made:

- a) to schedule vacation leave in the fiscal year in which it is earned;
- b) not to recall an employee to duty after he/she has proceeded on vacation leave;
- c) to grant vacation leave during the fiscal year in which it is earned at a time specified by the employee; and
- d) to comply with any request made by the employee before December 31 that he/she be permitted to carry forward into a subsequent fiscal year, any vacation leave earned in the current fiscal year.

A request for vacation leave submitted by the employee will receive consideration as soon as possible after the request has been received. Where there is a proposed change, reduction or denial of the vacation leave requested by the employee, reasons shall be provided, in writing, for such change, reduction or denial of vacation leave.

Where in respect of any period of vacation leave, the employee is granted:

- a) special leave, when there is a death in his/her immediate family as defined in this Policy; or
- b) special leave with pay because of illness in the immediate family as defined in this Policy; or
- c) sick leave on production of a medical certificate;

the period of vacation leave so displaced shall either be added to the vacation period if requested and approved, or reinstated for use at a later date.

Carry-Over Provisions

The employee is not permitted to carry over more vacation leave credits than can be earned in one fiscal year. Vacation leave credits exceeding a one year entitlement will be liquidated in cash in the month of December.

Recall from Vacation Leave

When during any period of Vacation Leave, the employee is recalled to duty, he/she shall be reimbursed for reasonable expenses that he/she incurs:

- a) in proceeding to his/her place of duty;
- b) in respect of any non-refundable deposits or prearrangement associated with his/her vacation;
- c) in returning to the place from which he/she was recalled if he/she immediately resumes vacation upon completing the assignment for which he/she was recalled;

after submitting such accounts as are normally required by the Law Society.

The employee shall not be considered as being on vacation leave during any period in respect of which he/she is entitled to be reimbursed for reasonable expenses incurred by him/her.

Leave When Employment Terminates

If the employment is terminated by either party, or the employee dies,

- a) The employee will be paid an amount equal to the product obtained by multiplying the number of days of earned but unused vacation leave by the daily rate of pay applicable immediately prior to the termination of his/her employment. In the case of the employee's death his/her estate shall, be paid the amount outlined previously.

[Executive Meeting – April 20, 2016]

F. SPECIAL LEAVE

Credits

The employee will earn one-half day of Special Leave credits for each calendar month that pay is received (6 days per year). A maximum credit of 15 special leave days may be accumulated. As credits are used, they continue to be earned up to the maximum.

If sufficient credits are available, Special Leave to the employee will be granted in the following circumstances:

- a) five (5) consecutive working days after notification of a death in the immediate family;
- b) three (3) days to attend the funeral of a mother-in-law, father-in-law, brother-in-law or sister-in-law.

If sufficient credits are available, Special Leave to the employee will be granted in the following circumstances:

- a) if circumstances not directly attributable to the employee, including illness in immediate family, prevent reporting for duty;
- b) serious household or domestic emergencies;
- c) under specific circumstances, to extend bereavement leave; and
- d) any leave of an emergency nature if the request is reasonable under the circumstances.

Advance of Credits

Up to a maximum of five (5) days Special Leave shall be granted if the employee does not have enough credits. Advanced leave will be deducted from future Special Leave credits.

Earned but unused special leave credits are not paid out on termination of employment or death of the employee.

[Executive Meeting – January 19, 2016]

[Executive Meeting – April 20, 2016]

G. SICK LEAVE

Credits

The employee will earn one (1) day of Sick Leave credits for each calendar month that pay is received (12 days per year).

If sufficient credits are available, Sick Leave with pay to the employee may be granted for illness or injury on a normal working day.

If circumstances warrant, an advance of up to 15 days Sick Leave credits will be granted. The advanced credits will be charged against future credits as earned.

Sick Leave credits not used shall accumulate to the credit of the employee to a maximum of 25 days.

Any Sick Leave taken but not earned will be recovered from money payable to the employee.

An employee may be required to provide a medical certificate from a qualified medical practitioner where the employer determines that it would be reasonable to do so.

If the employee is absent from duty due to illness or injury for more than one-half day, but less than one day, will have only one-half day charged as Sick Leave. There will be no charge against Sick Leave credits, if the absence is less than one-half day.

If the employee has insufficient or no credits to cover the Sick Leave with pay while waiting for a decision from the Workers' Safety and Compensation Commission of the Northwest Territories on an application for injury-on-duty leave, 25 days will be granted, where circumstances warrant.

If Sick Leave with pay is granted and injury-on-duty leave is later approved for the same period, the Sick Leave credits will be reinstated.

The employee is entitled to all previously accrued Sick Leave if unable to ever return to duty.

Earned but unused sick leave credits are not paid out on termination of employment or death of the employee.

H. HEALTH BENEFITS

The Law Society of the Northwest Territories has a comprehensive health benefit program through the Northern Employee Benefits Services. Coverage can include extended medical and dental coverage, along with short and long term disability and life insurance. Details are provided to employees on hire.

I. MATERNITY/PARENTAL/ADOPTION LEAVE

The Law Society of the Northwest Territories shall provide to its employees the same maternity, parental and adoption leave as that provided by the Government of the Northwest Territories as set out in the GNWT Excluded Employees Handbook.

J. GENERAL PROVISIONS

The following categories of leave will be granted in accordance with this policy provided the employee notifies the employer at once that the leave is required:

- a) sick leave;
- b) bereavement leave;
- c) illness in the immediate family; and
- d) serious household or domestic emergencies.

The employee will obtain prior approval from the employer before going on any leave other than those listed above.

Except where termination of employment results from death, disability or lay-off, any unearned leave taken with pay may be recovered by the employer at termination.

K. COMPENSATORY BENEFITS

The Law Society of the Northwest Territories has the following compensatory benefits in place for its employees:

- a) Northern Allowance: An annual Northern Allowance payable bi-monthly in an amount equivalent to that paid by the GNWT to its employees.
- b) Vacation Travel Allowance: Following completion of the probationary period, employees are eligible for an annual Vacation Travel Allowance in an amount approved with the adoption of the annual budget, to be paid out in accordance with CRA guidelines

L. SALARY ADJUSTMENTS

Employee salaries will be reviewed by the Finance Committee as part of the annual budget process. The Finance Committee will make a recommendation to the Executive Committee on salary adjustments as part of its recommendation on the annual budget.

Any salary adjustments will be effective January 1 of a year, unless the Executive chooses another date.

The Executive Director, at their discretion, may choose to award performance bonuses to employees. Any performance bonuses are completely discretionary. Any performance bonuses must be approved by the Executive.

[Executive Meeting – January 19, 2016]

[Executive Meeting – April 20, 2016]

[Executive Meeting – January 15, 2021]

[Executive Meeting – November 25, 2013]

5. GRADUATED INSURANCE ASSESSMENTS

The Law Society of the Northwest Territories will apply to each insured member with a paid claims record, an additional amount by way of increase in deductible based on that member's paid claims record, and calculated as follows:

- 1st paid claim in 5 years – none
- 2nd paid claim in 5 years – 50%
- 3rd paid claim in 5 years – 100%
- 4th paid claim in 5 years – 200%
- 5th and each successive claim within past 5 years – 300%

[Executive Meeting - June 13, 1995]

[Executive Meeting – January 21, 2010]

[Executive Meeting – February 22, 2018]

6. INVESTMENT GUIDELINES

A. FUND STRUCTURE

The Law Society of the Northwest Territories maintains two (2)) investment accounts for the following purposes:

1. Assurance Fund

The Law Society maintains an account called the Assurance Fund for the reimbursement of persons sustaining pecuniary loss by reason of the misappropriation or wrongful conversion by a member of money or other property entrusted to or received by the member in his or her capacity as a barrister and solicitor. The Finance Committee recommends and the Executive approves, the amount of money to be held in this fund. [Legal Profession Act s.34 (1)]. The Assurance Fund shall be kept separate and apart from any other funds of the Law Society [Legal Profession Act s.34 (4)(a)].

2. Reserve Funds

The Law Society has monies invested in a single account for the four purposes below. The Finance Committee recommends and the Executive approves the amount to be kept in each fund.

a. Professional Liability Claims Fund

The Law Society maintains a fund called the Professional Liability Claims Fund to ensure adequate reserves for liability related expenses, in particular, to ensure the LSNT is able to pay deductibles for liability insurance claims.

b. Discipline Reserve Fund

The LSNT maintains a Discipline Reserve Fund to be used where the costs related to a discipline matter cannot be covered by the annual revenues received.

c. Accumulated Operating Surplus

The LSNT maintains an Accumulated Operating Surplus to allow funding for unanticipated declines in revenue or increases in expenses.

d. Discretionary Reserve – Operational Projects

The LSNT (or Law Society see comment) maintains this fund for special projects or initiatives, approved by the Executive, that are not covered by the annual revenues received.

B. OBJECTIVES

The primary investment objectives of each fund are safety of principal and provision of secure and assured maximum income.

Funds will be invested in both short and long-term instruments in accordance with these guidelines.

C. INVESTMENT MANAGEMENT SERVICES

The Law Society will retain the services of an independent professional Investment Manager to select investments for the fund in accordance with the objectives and guidelines established herein. The Executive Director will retain the investment manager on behalf of the Law Society of the Northwest Territories with the approval of the Finance Committee.

The Finance Committee will meet with fund managers annually to review the current portfolio.

D. INVESTMENT GUIDELINES

1. Designating liquidity requirements:

The Executive Director, in consultation with the Finance Committee shall designate a component of each fund for long-term investment after reviewing the liquidity needs and projected cash flow of each fund, and after consultation with other existing policies and guidelines.

2. Criteria:

The Executive Director shall invest both short-term and long-term components in securities meeting the following minimum qualitative and quantitative criteria below:

- a. All securities must be in Canadian dollars
- b. The duration of securities held will be +/- 30% of benchmark.
- c. Investments may be made in the asset classes defined within this policy by directly holding individual securities or by acquiring units in pooled funds, mutual funds, exchange traded funds (ETF's) or other types of commingled fund vehicles
- d. The average maturity will generally not exceed five (5) years, but the Executive has the discretion to vary the maximum term, on the recommendation of the Finance Committee and based on the Committee's consultation with the portfolio manager.
- (g)
- e. The table below outlines the criteria investment fund managers will follow.

Ratings Provider	Minimum Rating
DBRS	R1 Low
S&P / Moody's	A Low

Maximum exposure by Issuer Group:

Issuer	% of Asset Class
Federal/Provincial	100%
Bankers Acceptance	50%

Commercial Paper	50%
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Maximum Exposure by Individual Issue:

Issuer	% of Asset Class
Federal/Provincial	100%
Bankers Acceptance	50%
Commercial Paper	10%

Fixed Income

Maximum Exposure by Issuer Group:

Issuer	% of Portfolio
Federal/Provincial*	100%
Municipals/GICs	30%
Corporate/Preferred	30%

*Minimum of 40% in the long term

Maximum Exposure by rating*

Credit Quality**	% of Portfolio
Bonds: BBB+ (Bonds Only) & lower	15%
Bonds: BBB & Lower Preferred shares: P3High & lower Convertibles: BBB+ to unrated	10% / 15%***
Bonds: BB+ & lower Preferred shares: P4High & lower	5%
Bonds: below B- Preferred shares: below P4Low	0%

*S&P rating for bonds and DBRS for preferred shares

**90 days to exit positions which are outside of the PIM IMG as a result of a downgrade

***15% of portfolio when fixed income pooled products are used

Maximum Exposure by individual issue:

Rating		% of Portfolio
Federal/Provincial		100%
Municipals		15%
Bond: A- and higher Preferred Shares: P2 Low & Higher	GIC's	15%
	Corporate/ Preferred	10%
Bonds: BBB+ to BBB- Preferred Shares: P3H to P3L Convertibles: BBB+ to BBB-		5%
Bonds: BB+ to B- Preferred Shares: P4H to P4L		2%
Convertibles: BB+ and lower		2%

GIC Dollar Limits:

Issuer	% of Asset Class
Schedule I: with rating Schedule II: AA or above	No Limit
All others	\$100,000

[Executive Meeting - March 13, 1997]

[Executive Committee Meeting – April 19, 2017]

[Executive Committee Meeting – October 30, 2017]

7. REIMBURSEMENT OF INSURANCE LEVIES

The policy of the Executive respecting reimbursement of insurance levies paid by members of the Law Society is as follows:

1. The Society will not reimburse members for any portion of insurance premiums paid by them unless the Society receives a rebate, in whole or in part, from the Society's insurer.
2. In cases where the insurer gives to the Society a general rebate in respect of insurance premiums paid on behalf of all members of the Society, the Executive will review the level of reserve in the Liability Reserve Fund to ensure it is funded in accordance with the reserve policy and if the rebate is not needed for the Liability Reserve Fund, the Executive may return a portion of the rebate to members. If a rebate is approved, the rebate, less identified administrative costs for the management of the insurance program will be pro-rated among all members of the Society who pay insurance premiums and credited towards the premium installments payable by such members in the next fiscal year.

[Executive Meeting - November 8, 1989]

[Executive Meeting – July 19, 2012]

[Executive Meeting – September 27, 2017]

8. AMORTIZATION OF ASSETS

Assets purchased by the Law Society of the Northwest Territories are recorded at cost. Amortization will be calculated by the declining balance method at the following annual rates:

- Furniture and Equipment 20%
- Computer Equipment 30%
- Computer Software 100%

[Executive Meeting - September 16, 1998]

9. FIXED ASSETS - FURNITURE & EQUIPMENT

In accordance with Generally Accepted Accounting Principles, furniture and equipment purchased by the Law Society of the Northwest Territories with a value greater than \$1000.00 will be recorded as a fixed asset. Furniture and equipment purchased by the Law Society of the Northwest Territories with a value less than \$1000.00 will be recorded as an expense.

[Executive Meeting - November 30, 1998]

11. LAW SOCIETY BOARDROOM / TRAINING ROOM USAGE

The Executive are agreed that the Law Society boardroom and training room, when not in use for Law Society business, or business related to the Canadian Bar Association, can be made available to any member during regular business hours for:

- examinations for discovery;
- collaborative law sessions;
- aided dispute resolution sessions and mediations;
- meetings with clients; and
- other events of a similar nature.

The boardroom and training room can also be made available to similar organizations at the discretion of the Executive Director.

RESERVATIONS & LEVIES

Use of the boardroom and training room and available amenities is subject to the following levies:

Members (half-day)	\$50.00 (\$70 w/conference phone)
Members (full-day)	100.00 (\$120 w/conference phone)
Non-members (half-day)	100.00 (\$120 w/conference phone)
Non-members (full-day)	200.00 (\$220 w/conference phone)

Levies may be reduced or waived, at the discretion of the Executive Director, for such causes as charitable organizations or events.

TERMS & CONDITIONS

Members are able to reserve the boardroom or training room for a half day or full day on a first come, first serve basis. Non-members, including, but not limited to, similar organizations, are able to book the boardroom or training room at the discretion of the Executive Director, provided the facility is available for use.

Members accept full responsibility for the boardroom or training room and surrounding area, and any resulting damage or disruption, while in use. Clients and/or guests of the member must be accompanied by the member at all times.

Cancellations made within 48 hours of the reserved time are subject to a cancellation fee, as follows:

Members (half-day)	\$ 10.00
Members (full-day)	20.00
Non-members (half-day)	30.00
Non-members (full-day)	60.00

Members who do not attend at their confirmed reservation times, for any reason, remain subject to the prescribed usage levies. Failure to remit fees, continued cancellations or non-attendance, or misuse of the facility will result in the denial of future use by that member.

Members wishing to utilize this facility may contact the Law Society to confirm its availability and secure a booking.

[Executive Meeting – January 22, 2020]

12. CORPORATE CREDIT CARD USE

Responsibility

1. Employees may be issued a corporate credit card based on their role at the discretion of the Executive Director.
2. Only employees authorized and who have signed the Credit Card User Agreement may be issued and use a corporate credit card.
3. Credit Cards may only be used to purchase goods or services for the official business of the Law Society of the Northwest Territories (LSNT). Purchases on an employee's credit card, not for LSNT business, will be the responsibility of the employee to pay and the employee may be subject to appropriate disciplinary action.
4. Purchases using the corporate credit card should be pre-approved whenever possible. Receipts for purchases shall be submitted to the Executive Director within three days of the purchase being made.

5. Authorized employees are responsible for the protection and custody of their corporate credit card and shall immediately notify the Executive Director if the card is lost or stolen.
6. Employees issued credit cards shall return the credit card immediately upon termination of their employment with the LSNT.
7. Any reward points earned on a corporate credit card shall accrue to the benefit of the LSNT and not personally to the benefit of the employee.

Accounting Controls

1. A current list of all credit cards, authorized users, and credit limits shall be kept on file by the Executive Director.
2. The Executive Director shall establish the credit limit for employees. The LSNT Executive shall establish the credit limit for the Executive Director.
3. The employee will complete a credit card transaction record monthly for any purchases made with the corporate credit card. The transaction record shall be submitted to the Executive Director at least 10 days prior to the credit card payment due date along with original receipts.
4. Corporate credit cards may not be used for the following expenses:
 - a. Meals or incidentals while on duty travel
 - b. Personal expenses
 - c. Alcoholic beverages except with the prior approval of the President or the Treasurer
5. Any employee of the LSNT who violates the provisions of this policy shall be subject to appropriate disciplinary action.

[Executive Meeting – September 27, 2017]

13. FINANCIAL APPROVALS- LSNT PAYABLES

1. The Executive Director may do electronic approvals on all regular items that are part of the approved budget
2. When the ED has expenses the expense summary will be sent to the Executive for signature by two authorized members.
3. At the end of each month the ED and the Treasurer will review the approved payables and the Treasurer will sign off. This record is kept for the Auditor
4. Any expenses outside of the approved budget will be reviewed by the Treasurer prior to approval.

[Executive Meeting – January 2018]

14. **APPOINTMENTS TO EXTERNAL COMMITTEES**

The Law Society makes appointments, or recommends appointments to a variety of external Committees. The process for making appointments or recommendations to these Committees is:

1. The Law Society will advertise the availability of positions in the Bulletin. The Bulletin advertisement will set a closing date for applications.
2. Where there are requirements for Committee members (for example, a requirement that a Committee member be part of the criminal defence bar) the application will specify that.
3. Members who are interested must complete the [Applications for Committees form](#), and return it to the Law Society on or before the closing date of applications.
4. The Law Society Executive Committee will review all applications and make final determinations.
5. As part of its decision making process, the Executive may request in person meetings with applicants, and may request additional information from applicants.

[Executive Meeting – January 22, 2020]

15. **POLICY ON VIDEOCONFERENCE AND TELECONFERENCE ATTENDANCE AND PARTICIPATION AT EXECUTIVE MEETINGS**

1. It is recognized that the preferred method for attending an Executive meeting is in person. It is also recognized that there will be circumstances when members of the Executive, or the Deputy Secretary-Treasurer will not be able to participate in Executive meetings in person, or where it is more expedient to conduct an Executive meeting other than in person. This policy specifies how an Executive member or Deputy Secretary-Treasurer (the “Remote Participant”) may remotely participate in an Executive meeting.
2. Remote Participants may remotely participate in Executive meetings by teleconference, videoconference, or other means, when such facilities are available, provided that the identity of the Remote Participant has been established, to the satisfaction of the President or other Executive member who is chairing the Executive meeting.
3. Remote Participants who participate in Executive meetings by teleconference, videoconference or other means are entitled to vote at the Executive meeting, provided that the identity of the Remote Participant has been established, to the satisfaction of the President or other Executive member who is chairing the Executive meeting.
4. Where Remote Participants remotely participate in an Executive meeting, their remote participation shall be noted in the minutes of the meeting.

[Executive Meeting May 23, 2020]

16. **POLICY ON VIDEOCONFERENCE AND TELECONFERENCE ATTENDANCE AND PARTICIPATION AT LAW SOCIETY MEETINGS**

1. It is recognized that the preferred method for attending a meeting of the Law Society is in person. It is also recognized that there will be circumstances when members of the Law Society may not be able to

participate in Law Society meetings in person. This policy specifies how a member (the “Remote Participant”) may remotely participate in a Law Society meeting.

2. Remote Participants may remotely participate in Law Society meetings by teleconference, videoconference, or other means, when such facilities are available, provided that the identity of the Remote Participant has been established, to the satisfaction of the President.
3. Remote Participants who participate in Executive meetings by teleconference, videoconference or other means are entitled to vote at the Executive meeting, provided that the identity of the Remote Participant has been established, to the satisfaction of the President.
4. Where Remote Participants remotely participate in a Law Society meeting, their remote participation shall be noted in the minutes of the meeting.

[Executive Meeting May 23, 2020]