Program Requirements and Scope of Service For LFBC-Designated Community Law Advocacy Programs

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Advocates are a unique type of legal professional who work alongside, but are separate from and complementary to, regulated professions like lawyers and notaries.[1] They use a variety of skills to improve access to justice and often have backgrounds in law, social work, or community services as often bring cultural knowledge and lived experience to their role.

Advocates offer a wide range of legal services, including providing legal information and advice, drafting forms, supporting clients through legal processes, and helping clients understand their legal issues, obligations, and rights. They may also offer practical support, such as helping clients gather and organize information and taking notes during appointments or hearings. Advocates often have specialized knowledge and skills to support specific populations, such as expertise in screening for family violence and safety planning, working with newcomers who need language or cultural interpretation, or safely supporting 2SLGBTQI+ clients.

Legal advocates typically provide services that could be considered legal practice. The *Legal Profession Act* (and the future revised *Legal Professions Act* that we anticipate will come into force in 2026) prohibits anyone from engaging in these activities for payment from a client without a license from a regulatory body. However, because advocates are not paid directly by clients and instead work as employees or agencies and provide their services for free, they are exempt from this prohibition.

Under Law Society rules, supervising lawyers can only supervise legal advocates who are "funded and designated" by LFBC. LFBC considers advocates to be "designated" when they have accepted an advocacy position that is funded by LFBC **and** they have completed, or are in the process of completing, one of LFBC's foundational training courses or LFBC has waived the training requirement based on the advocate's training and experience. LFBC may withdraw its designation where advocates do not complete the foundational training within a reasonable period after being hired.

This document outlines the program requirements and scope of practice for LFBC-designated community law advocates. If there is any ambiguity or uncertainty about the

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[1] In many places and in many languages, the term "advocate" is synonymous with "lawyer." In BC, however, the title "advocate" has come to have a special meaning due to its use in the non-profit legal community, including as a result of different funding initiatives by LFBC over the years. Within BC's non-profit network "advocate" usually refers to a legal support person who helps clients with legal problems but is not a licensed lawyer. To avoid confusion, advocates must always clearly communicate that they are not lawyers to clients and other legal professionals.

We also recognize that there are many individuals who support clients in the community who may have the job title of advocate but who are not associated with LFBC. This scope of services refers specifically to advocates who are funded and designated by LFBC.

terms in this document, advocates or their agencies should contact their LFBC grant manager for assistance.

Program Requirements

All LFBC grants are provided subject to the specific terms and conditions outlined in granting letters.

Supervising Lawyer

All LFBC-funded advocacy programs must have a supervising lawyer who regularly reviews all new, ongoing, and closing files to ensure advocates are providing competent legal services. The frequency of meetings may vary based on the supervising lawyer's assessment of the advocate's experience. However, even advocates who have a legal background or many years of experience must meet with their supervising lawyer at least once a month to review the status of all open files. If possible, we recommend advocates have additional regular meetings throughout the month to discuss specific questions or issues as they arise.

Supervising lawyers can supervise legal advocates because of express permission in the Law Society of BC's *Code of Professional Conduct.* The *Code* generally prohibits lawyers from allowing non-lawyers to perform legal activities, but there is an exception (Rule 6.1-3.1(a)) for community advocates funded and designated by the Law Foundation. (Note: we anticipate that the new legal regulator to be created by the revised *Legal Professions Act* will continue to allow lawyers to supervise advocates under the revised Code or rules. We expect that regulator to begin operating in 2026).

Supervising lawyers can oversee advocates through a variety of arrangements. They might work at the same agency as the advocate and share a conflict and practice management system, typically at legal clinics. They could be full-time staff lawyers at a different agency, whose duties include supervising one or more advocates, usually through one of LFBC's centralized legal supervision programs (such as Community Law Advocate Supervision Program at CLAS BC). Alternatively, they might be lawyers in private practice who are contracted by the agency to provide supervision.

The supervising lawyer's role is to supervise the advocate's file work and caseload, including ensuring that advocates provide professional and competent services to clients. It is there both expected and essential that advocates and host agencies provide their supervising lawyer with full access to the advocate's client files, and the agency should ensure that clients are aware of and consent to this arrangement.

When the supervising lawyer needs access to a client file, this can be done securely through Clio using the Co-Counsel function. (Clio is practice management software available free of charge to all LFBC-designated advocacy programs.) If the agency is not using Clio, the supervising lawyer and advocate should discuss how the advocate can

share client materials with the supervising lawyer. If client documents are shared electronically, steps should be taken to ensure that data is secure.

LFBC may also meet with a supervising lawyer from time to time to discuss any aspect of the advocacy program as part of its regular grant monitoring.

Training

All LFBC-funded advocates must successfully complete a foundational training course prescribed by LFBC within a year of being hired and are generally expected to attend LFBC's annual Provincial Training Conference.

The Community Advocate Support Lawyers at CLAS BC offer regular (approximately monthly) training sessions to help advocates stay current with legal issues impacting their clients. In some cases, supervising lawyers may identify supplementary training needed by the advocate. While these training sessions are not mandatory, we recommend that they be accommodated wherever possible to support advocates in delivering high quality services.

Many other community organizations and leaders have also created resources and training sessions to support advocates and ensure they can meet the needs of clients from diverse backgrounds. Advocates seeking funding for additional training should contact their grant manager.

The advocacy community is a small but important network. All advocates play a role in maintaining this network to ensure effective referrals, stay updated on important information, and support each other in this challenging work. Advocates are strongly encouraged to participate in online forums and networking events.

Conflicts Policy

All agencies with an advocate must develop a conflict policy that is acceptable to the advocate's supervising lawyer and LFBC.

Community law advocates can only represent one opposing party in a dispute, in order to avoid conflicts of interest. This requires agencies to maintain a robust and up-to-date system for checking conflicts. Clients who are "conflicted out" should be referred to another advocacy program or legal resource. The advocate must speak to their supervising lawyer before agreeing to assist more than one individual in a matter (for example in residential tenancy matters where there is more than one tenant or roommate).

Confidentiality Practices and Policies

All agencies with an advocate must develop confidentiality practices and policies for working with clients and maintaining client files that are in line with the requirements of the Law Society of BC and statutory requirements including under the *Protection of Personal Information Act,* and are acceptable to the advocate's supervising lawyer and LFBC.

Legal advocacy programs have a duty to keep client information confidential. The expectations that clients have when accessing legal programs are different from those of clients who are seeking access to non-legal programs because of the societal and public expectations associated with accessing legal services. Clients have the right to expect that their information will not be shared without their express consent; this includes an expectation that files will not be shared with staff outside of the advocacy or legal clinic program at multi-service agencies. For this reason, while having a client sign a general waiver upon first contact with an agency may be appropriate for non-legal programs at that agency, it is not sufficient for legal programs at that agency and does not serve to waive the client's expectations around confidentiality. Client information and documents should not be shared with or accessible to non-legal programs at the agency unless the client has provided their express written consent. This means it is not permissible to discuss individual client's cases at general agency meetings.

To ensure that client confidentiality can be maintained, advocates will generally need a private office with a closing door, their own phone with a direct line, and a separate, dedicated printer/scanner/fax to ensure that information provided to them by clients or about client files cannot be accessed by other individuals or departments in the agency. Advocates should not share an office space with non-legal department staff.

As a general rule, to maintain confidentiality and privacy only the legal advocate and their supervising lawyer should have access to client files, including information/files stored in Clio, as well as email and other correspondence with clients. This information may also be access in the event of a program evaluation or file review initiated by the LFBC. If the agency has questions about the quality of the advocacy work, they should discuss this with the supervising lawyer, who is best equipped to address any issues.

(Note: Advocates working in legal clinics with lawyers as part of a legal team can share confidential information with other legal clinic team members, but they still require access to confidential spaces where they can meet with or speak with clients in private.)

Means Testing

LFBC does not place any financial eligibility restrictions on community law advocacy programs, but advocates may be limited by the general eligibility requirements of their agency.

Note that family law advocates can provide up to two hours of free legal assistance, regardless of a client's income. After the initial two hours, family law advocates apply a means test to client files. If an advocacy program has both community law and family law advocacy programs, this means that different advocates in the same organization may be applying different eligibility tests; not all clients who are eligible for community advocate services will also receive family law services.

Program Review

In unusual situations, such as when an advocate leaves an agency unexpectedly or when a supervising lawyer raises concerns, LFBC may require an external lawyer to review the advocacy program's files. This is to ensure the quality of service and that client obligations are being met. Agencies with advocacy programs must cooperate with these program reviews if requested and should ensure they obtain appropriate consents for such a review to take place. It is the responsibility of the agency to ensure that appropriate measures are in place to meet any professional or statutory obligations related to privacy and confidentiality of information that may be relevant to a program review.

Services Provided Free of Charge

Advocacy programs must not charge fees for their services. Doing so could put them in breach of the *Legal Profession Act* (and the revised *Legal Professions Act* once it comes into force).

Scope of Service

Community law advocates provide a range of services, including legal information and advice, referrals, document drafting, and representing or supporting clients at tribunals. The level of service, specific activities, and reasonable file loads should be determined in consultation with the advocate's supervising lawyer.

While advocates are encouraged to take a generous approach when assisting clients, their ability to help will depend on several factors. These include their time and capacity, experience and competence, access to supervision, and the internal supports available within their organization. Advocates are expected to build their skills over time and are not required to cover every area of practice immediately (or ever). Advocates should not help clients in areas of practice where they have not received training and/or if they do not feel they can provide competent service. Advocates may in some cases assist with overlapping legal issues if their supervising lawyer has the expertise to oversee them, and the advocate has or can obtain the necessary training.

Additionally, LFBC recognizes that, when it comes to legal services, demand usually exceeds capacity. As a result, LFBC understands that despite their best efforts, advocates will not be able to meet the needs of every person who contacts them. Advocates should determine an appropriate file load with their supervising lawyer based on their experience and activities; they may need to triage files and refer clients to other resources to order to maintain a reasonable workload.

<u>General Practice Areas</u>

Advocates provide services in a wide variety of areas and may also assist clients with overlapping or related legal issues where their supervising lawyer can competently supervise them, and they have or can obtain the necessary training.

Community law advocates are generally permitted to provide a full range of services in the following practice areas:

- Income Security
    - Income assistance
    - Welfare including Persons with Disability (PWD) & Persons with Persistent Multiple Barriers (PPMB) designations
    - Canada Pension Plan (CPP) Disability Benefit
    - Old Age Security, Guaranteed Income Supplement (GIS) & CPP
    - Employment Insurance (EI)

    - Canada Child Benefit (CCB) and related benefits
    - Canada Emergency Response Benefit (CERB) claw-back and related programs
- Tenancy issues (tenants only)
    - Residential Tenancy Act (RTA) and Manufactured Home Park Tenancy Agreement (MHPTA)
    - Non-RTA issues including co-ops, shared accommodation, and residential room rentals
- Aboriginal law issues
    - Indian status applications
    - Name change
    - First Nation or Band membership applications
    - On-reserve housing
    - Health benefits
    - Income security
- Employment standards
- Drafting human rights complaints
- Debt and consumer law
- Small claims under $5k in Civil Resolution Tribunal (CRT)
- Enforcement of Residential Tenancy Branch monetary orders
- Intimate Images Protection Act (CRT level)

<u>Restricted Practice Areas</u>

Information/Referral Only

Community law advocates may provide information and referrals only (including applying for Legal Aid BC coverage where applicable) in the following practice areas:

- Family law

- Child protection law
- Immigration law
- Human rights complaints (full representation)
- Wills and estates matters

Out of Scope

Practice areas where community legal advocates **may not provide service,** except for directing clients to self-help resources and lawyer referrals, where these exist:

- Criminal law
- Insurance Corporation of BC (ICBC)/motor vehicle matters
- Personal injury (including malpractice)
- Strata disputes
- Income tax preparation
- Workers Compensation Board (WCB) claims
- Employment law including wrongful dismissal
- Foreclosure and bankruptcies

<u>Appointment as Commissioner of Affidavits</u>

Advocates may request to be appointed as a commissioner of affidavits where the following conditions are met:

- The advocate's supervising lawyer and agency are in agreement on the appointment and on the documents which the advocate can commission.
- The advocate must not commission affidavits or statutory declarations in areas outside of their scope of services (for example documents relating to wills and estates or conveyancing) or on any matter that relates to real property or in relation to any matters with a value in excess of $30,000).
- There is a process for including individuals who have documents sworn or affirmed into the advocacy program's conflict system as clients of the program.

- There is a procedural checklist for commissioning documents, which must be completed by the advocate and kept in the client file, including after the file is closed.

- No fee is charged for commissioning documents.

Other Activities

Due to limited access to justice in BC and restrictions on legal aid funding, advocacy programs and legal clinics face more demand for services than they can meet. Organizations have different strategies to manage the volume of requests and operate within their capacity.

LFBC trusts advocacy programs to manage their resources effectively and does not require advocacy programs to meet specific targets, but it is expected that advocates will spend at least 75% of their time providing direct legal services to clients, including intake if the agency does not have dedicated intake staff. Other activities may include:

- Engaging in activities that benefit clients, such as organizing a pro bono legal clinic.

- Providing or assisting with workshops or developing legal resources or handouts (but this is not a core or required activity of advocacy programs).

- Participating in systemic advocacy to address issues affecting multiple clients. Systemic advocacy should involve addressing a specific concern and recommendation for change with a relevant department or decisionmaker.

- Connecting with other legal service providers locally, regionally, and provincially to collaborate on client needs.

- Joining committees or working groups, if agreed upon with the advocate's agency and manageable alongside their advocacy work.

- Acting as an organizational liaison to the justice system, including courts, duty counsel, family justice counsellors, police/Crown, and lawyers, if agreed upon with the advocate's agency.