

Law Society of Alberta

# Client Communication Toolkit: Client Service

April 26, 2018



## **Disclaimer**

This handbook outlines techniques and strategies to improve your practice but the recommended practices will not fit every situation.

The material presented does not establish a standard of care for lawyers, nor does it provide a complete analysis of the relevant topics. This information is not legal advice and should not be construed as such.

Nothing in this document supersedes the *Legal Profession Act*, Rules of the Law Society of Alberta, Code of Conduct or the Law Society's ability to step in to protect the public interest should the need arise.

This handbook is adapted with permission from the *Price and Transparency Toolkit*, © Law Society of England and Wales. The support and assistance of the Law Society of England and Wales is gratefully acknowledged.

## Introduction

The legal market is as wide as it is deep.

Clients have a myriad of different needs and preferences, so there is no single right way to offer or provide legal services. And with rapid technological changes, what it means to ‘practice law’ is changing before our very eyes.

By highlighting common pitfalls, best practices and recent developments, our goal is to help you meet your clients’ expectations and achieve a more successful, satisfying practice for yourself.

Not every aspect of client relations is dealt with in the *Client Communication Toolkit*. In all cases, you should conduct your own research and take your specific circumstances into consideration when planning for future contingencies.

## Communication: The Key to Client Service

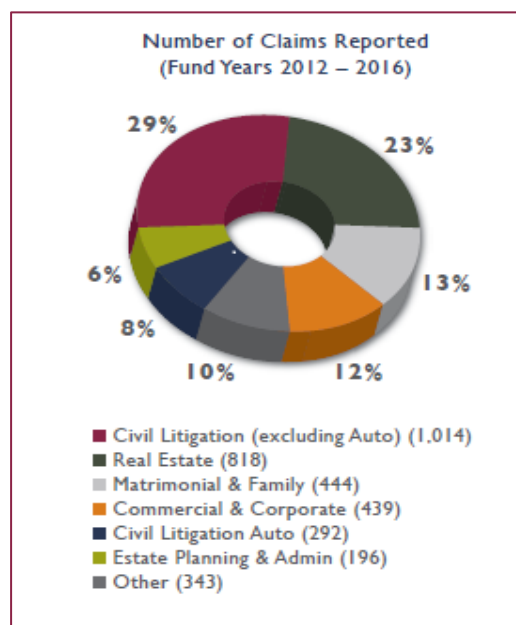
Communication issues are the greatest single cause of insurance claims against lawyers in Alberta.

In 2016, 36% of claims arose from a failure to follow client instructions. This continues a trend over the last few years and shows no signs of abating.<sup>1</sup>

Moreover, claims consistently cut across practice areas, so the same principles of communication will improve your client relations regardless of the nature of your practice, your seniority, or the type of file you are working on.

Make sure the information you give your clients is presented in a clear and straightforward manner. Complicated forms and overly legalistic language can create barriers to understanding and diminish your clients’ impression of your skills and reputation.

Not all clients are familiar with legal process and legal terminology. Avoid euphemisms and technical jargon wherever possible. Outline what clients can expect and when they can expect it.



Be alert to communication challenges that clients face, such as hearing difficulties, disability, learning difficulties, language barriers or other cross-cultural issues, and look for ways to overcome those challenges.

Consider your client’s background when deciding how to present information. For example, if you have a good command of other languages, you may provide information in a language other than English. This is helpful if you have a large client base for whom English is a second language.

<sup>1</sup> ALIA Annual Report 2016

## Before Engagement

### Client screening

Not all clients are right for you. Neither are you the right lawyer for all clients.

Before you agree to act on a new matter, consider whether you have the skills and resources to handle it competently and be effective. Sometimes the best decision is to say 'no' to a new file.

#### Law Society Programs & Services

If you are unsure about whether a conflict exists, our [Practice Advisors](#)<sup>2</sup> are available as a free and confidential service to help you with legal, ethical and practice concerns.

Another Law Society service to consider is [AdvisorLink](#)<sup>3</sup> which provides lawyers and articling students with the contact information of experienced lawyers who have agreed to answer one-off inquiries in a wide range of practice areas for less experienced members of the Bar.

The Office of the Practice Advisor hosts the [SoloNet](#)<sup>4</sup> online community for sole and small firm practitioners.

[Mentor Connect](#)<sup>5</sup> is also available to introduce you to a mentor who can help you manage client relations and become the kind of lawyer you want to be.

If you choose not to act, you cannot reveal any information, including the fact that you were approached, to anyone who might later act against the would-be client. Members of your firm can still accept other clients and act contrary to their interests, provided that:

- You do not disclose any confidential information to firm members representing clients adverse to the rejected client.

- No firm members with access to the confidential information are involved in any retainer related to the matter you declined.

The adequacy of the measures you need to take to prevent disclosure depends on the case. They may include destroying, sealing or returning notes and correspondence to the prospective client and deleting or password-protecting computer files containing their information.

#### Resources

[Simply Speaking](#)<sup>6</sup>

[Conflict of Interest Video](#)<sup>7</sup>

[Small Firm Practice Course](#)<sup>8</sup>

### Conflicts of interest<sup>9</sup>

A client's interests may be prejudiced any time your advice, judgment or action on their behalf are subject to potential conflicts of interest.

You must not act where there is a conflict or a substantial risk that your loyalty or client representation will be materially and adversely affected by your own interest or duties to another client, former client, or anyone else.

A "substantial risk" is one that is significant and, while not certain or probable, is more than a mere possibility.

When meeting prospective clients, limit the amount of information you receive until you complete a conflict check. Never get into the details of the proposed retainer until you confirm that it is in fact all right for you to proceed.

<sup>2</sup> <https://www.lawsociety.ab.ca/lawyers-and-students/practice-advisors/>

<sup>3</sup> <https://www.lawsociety.ab.ca/resource-centre/programs/advisor-network/>

<sup>4</sup> <https://www.lawsociety.ab.ca/resource-centre/programs/solonet/>

<sup>5</sup> <https://www.lawsociety.ab.ca/resource-centre/programs/mentor-connect/>

<sup>6</sup> <https://www.lawsociety.ab.ca/resource-centre/key-resources/communication-analytical-and-research-skills/simply-speaking/>

<sup>7</sup> <https://www.lawsociety.ab.ca/resource-centre/key-resources/webinars/conflicts-essentials/>

<sup>8</sup> <https://learningcentre.lawsociety.ab.ca/course/view.php?id=2>

<sup>9</sup> Code of Conduct, Conflicts, Rule 3.4

## When are you retained?

The obligation to sort out whether and when a solicitor-client relationship has been formed rests with you, not your clients.

You are responsible for appreciating the significance of information that might be characterized as confidential or is related to a current or pending dispute.

You are expected to have knowledge of privilege, confidentiality, retainers, conflicts and your ethical obligations under the Code of Conduct.

The onus is on you, not your clients, to clarify the scope of the relationship that you establish with every client you meet.<sup>10</sup>

## The initial meeting

Many clients will request an initial contact to explore their legal options.

This is a good opportunity to start building a relationship with prospective clients by understanding what they need and hope to achieve by hiring a lawyer. They may be looking for an apology. Maybe something has caused them to lose face and they wish to restore their honour. Maybe they want to recover money. Often it is about money, but not always.

Effective communication during the initial interview significantly reduces the chances of later disputes.

Most initial interviews should cover six areas:

1. **The client's objectives** – Understanding exactly what your client wants will let you tailor your efforts to full effectiveness.
2. **Your role** – You may be the first lawyer this client has ever engaged and the first time the client is involved in the legal system. Help clients understand your role, the services you provide and your ethical obligations to treat the courts and other lawyers honestly and with civility. Explain their responsibilities as well.
3. **Initial advice** – Discuss the range of possible outcomes and whether they justify the risk and expense. Highlight that your initial assessment may change as you develop more information concerning

their case. Many clients underestimate the risk that they will experience a negative event or unforeseen development during your retainer.

Explain that legal matters do not always unfold in a straight line. This will reassure them that you have not made a mistake when something unexpected arises.

### What to Discuss

Clients hate when their lawyer surprises them with costs or outcomes they have not discussed. Make a point of explaining:

- Who will work on their file?
- How will you charge for your work?
- If your billing rate is subject to adjustment over time.
- Expected disbursements and timeframes for when these expenses will arise.
- Potential of having to pay someone else's costs.
- The risk of a less-than-optimal outcome.
- Timeframes to complete the work.

4. **General timeframes** – Give your client an idea of how long their case may take. A major source of inquiries to the Law Society are concerns about delay or clients being left in the dark about steps that have or have not been taken.
5. **How will you communicate with each other?** – Discuss whether it is best to communicate with each other by phone, email, video conference or in-person. Let clients know who they should contact if you are unavailable.
6. **Money** – To make an informed decision about whether to retain you, your client needs to understand what it will cost.

Above all, potential clients want to avoid surprises, particularly financial ones. Tell them in advance what you will do, what you will charge to do it and let them know when it is done.

<sup>10</sup> *Law Society of Alberta v. Wilson*, 2016 ABLS 51 at

para. 101

The Code of Conduct says you can provide a service if you honestly feel competent to handle it or are able to become competent without undue delay, risk or expense to the client. The lawyer who proceeds on any other basis is not being honest with the client.<sup>11</sup>

Even if you have represented someone in the past, you need to assess whether you have the skills to represent the client in a new matter before agreeing to act.

You are free to decide whether to accept instructions in any matter, provided that in making that decision you do not discriminate unlawfully.<sup>13</sup>

## Resources

*[Working With a Lawyer](#)*<sup>12</sup>

## Who Is Your Client?<sup>14</sup>

### Client identification & verification

With every new client, you must obtain and record certain basic information to confirm their identity.

For individuals, this includes a name, address, business address, telephone number and occupation. For organizations, it includes the nature of the business, incorporation number, place of incorporation, and particulars of individuals authorized to instruct you.

If the matter involves receiving, paying or transferring funds, you must go one step further and take reasonable steps to verify their identity using reliable, independent source documents or information.

For individuals, this includes government issued identification such as a driver's

licence, birth certificate, provincial health insurance card, passport or similar record.

For corporations, obtain a certificate of corporate status or annual filings confirming the organization's name, address and directors.

For other organizations such as a trust or partnership, obtain the trust or partnership agreement, articles of association, or similar record that confirms its existence.

Once you have verified an individual's identity, you need not do it again on another matter if you recognize the person.

For companies and other organizations, you must complete your client verification within 60 days of receiving instructions involving the handling of funds.

Copies of all information and documents you use to verify client identities must be retained for at least six years following completion of the retainer.

### Receiving instructions from third parties

Occasionally, your client's parent, spouse, friend or business partner may relay instructions about how a case should be handled.

Your client may be unavailable and therefore unable to provide instructions directly, or you may be retained at the suggestion of another.

Any time this happens, you need to ensure that the instructions you receive accurately reflect your actual client's wishes.

In some situations, it may be appropriate to insist on meeting alone with your client to confirm that the client has given instructions freely and voluntarily.<sup>15</sup>

<sup>11</sup> Code of Conduct, Competence, Rule 3.1-2

<sup>12</sup> <https://www.lawsociety.ab.ca/resource-centre/public-resources/working-with-a-lawyer/>

<sup>13</sup> Code of Conduct, Making Legal Services Available, Rule 4.1-1; Harassment and Discrimination, Rule 6.3; *Alberta Human Rights Act*, R.S.A. 2000, Chapter A-25.5, s.4(a)

<sup>14</sup> Law Society of Alberta Rules, Rules 118.2 – 118.10

<sup>15</sup> Code of Conduct, Client Instructions, Rules 3.2-4 and 3.2-6

## Joint retainers<sup>16</sup>

The Code of Conduct allows you to represent two or more parties in the same transaction, but you need to be particularly alert to conflicts of interest, at the outset and throughout the duration of your retainer.

If you act for multiple clients in the same matter:

- Obtain their consent after disclosing the advantages and disadvantages of a joint retainer to each of them.
- Ensure the joint retainer is in the best interests of each client.
- Advise each of them that no information any of them provide can be treated as confidential, so far as the others are concerned.
- Advise them that, if a conflict develops that cannot be resolved, you may not be able to continue to act for any of them and you may have to withdraw altogether. You will usually not be able to choose one client and terminate your relationship with the others.

When acting for two or more clients in the same matter, you must divide fees and disbursements equitably between them, unless the clients agree otherwise.<sup>17</sup> To prevent this from turning into a problem, explain in your retainer agreement exactly how you plan to allocate fees between them.

## Institutional clients

When you act for a corporation or institutional client, it is the organization, not the individual you deal with, that has retained you. It is to the organization that you owe your duties.<sup>18</sup>

Be sure to determine which officers, directors or employees are authorized to give you instructions.

## What are You Hired to Do?

### 'Unbundled' & limited scope retainers<sup>19</sup>

Limited legal services, also called unbundled legal services or limited scope retainers, allow people to hire a lawyer for one or two tasks rather than an entire case.

The lawyer might do research, draft an affidavit, help prepare for an application or advise the client about whether and when to settle. The client handles the rest of the case.

Before undertaking a limited scope retainer, discuss the scope of the service to be provided with your client and get written acknowledgement of the risks and limitations of the retainer. Identify the tasks that you and the client will each be responsible to complete.

Advise your client about any legal issues falling outside the scope of the retainer and explain the consequences of limiting its scope so the client can decide whether to restrict or expand the retainer.

Be careful to avoid acting in a way that suggests you are providing full services to the client.

To make a limited scope retainer work, identify what jobs are being reserved for the client and give them options. Specific ways they can help include:

- Gathering and organizing facts and information.
- Helping with legal research.
- Participating actively in the file.

<sup>16</sup> Code of Conduct, Joint Retainers, Rule 3.4-5

<sup>17</sup> Code of Conduct, Joint Retainer, Rule 3.6-4

<sup>18</sup> Code of Conduct, When the Client is an Organization, Rule 3.2-9.

<sup>19</sup> Code of Conduct, Limited Scope Retainers, Rule 3.2-2



## What to Tell Clients Upon and During Engagement

### Confirm client expectations

The engagement stage gives you the opportunity to satisfy yourself that the client understands the options you explained.

All information on fees should be clear and in a form that is appropriate to the client’s needs and circumstances.

You should discuss how the client will pay you and, if applicable, the possibility of being publicly funded. You should explain your fees

Quality Legal Service
<ul style="list-style-type: none"> <li>• Keep your clients informed.</li> <li>• Answer reasonable requests for information within a reasonable time.</li> <li>• Keep appointments or provide a timely explanation or apology when you are unable to do so.</li> <li>• Honour your promises.</li> <li>• Ensure that work is done in a timely manner so its value to clients is maintained.</li> <li>• Make a prompt and complete report when the work is done.</li> </ul>

and if, or when, they are likely to change.

Discuss with the client whether the potential outcome of the case is likely to justify the risk involved.

Clients appreciate periodic updates in relation to the work you perform for them.

They will also appreciate being told when a bill is on its way and having the opportunity to discuss what they are being charged for.

Many lawyers adopt a practice of issuing monthly bills to all clients as a way of avoiding major fluctuations in their cash flow and keeping clients apprised of the ongoing cost of the matter. Clients often prefer regularly-scheduled invoices rather than

aggregate bills delivered only once or twice a year for the same reasons.

### Retainer letters

Retainer letters are a recommended practice in Alberta.

A retainer letter is a good opportunity to focus clients on the scope of your engagement and how you do business.

Resources
<p><i><a href="#">Interactive Retainer Letter Guide</a></i><sup>20</sup></p>

Clients find it useful to have the key information written down, so they know what service they will receive and can refer to it at a later date. Many will not read fine print, so the first page of a retainer letter may be a summary sheet that highlights the main parts of the agreement in a clear and straightforward manner.

This technique is often used in the insurance industry to focus the client’s attention on key elements of the relationship.

A summary sheet could include:

- Why the client has decided to engage you.
- The course of action the client has instructed you to take.
- What work you will (and won’t) be performing.
- An estimate of how long the work will take.
- The likely costs of the work based on the information within the letter.

Retainer agreements may not:

- Relieve you from liability for negligence.
- Stipulate that your consent is needed to abandon or settle any proceedings.

<sup>20</sup> [https://dvvbat5id7ib.cloudfront.net/wp-content/uploads/2017/01/31171650/InteractiveRetainerLetter\\_Rebranded.pdf](https://dvvbat5id7ib.cloudfront.net/wp-content/uploads/2017/01/31171650/InteractiveRetainerLetter_Rebranded.pdf)



### Financial retainers

Clients should be told at the outset if you need a financial retainer to begin work and exactly what will happen when that retainer is depleted. Consider having clients commit to automatically replenishing or making an additional contribution to their retainer on a regular schedule or with each account you issue.

If you are prepared to extend credit without a retainer, clients should understand that this is not something to be taken for granted or abused, or you will not be able to continue to serve as their lawyer.

### Stop. Assess. Re-Assess.

New information, new documents and fresh insight can lead to a material change in your clients' chances of success and your ability to get paid. Your clients' cases may evolve along with their finances and risk threshold.

Never stop considering whether your strategy on a file remains correct.

If a course correction is needed, speak with your client and refresh your instructions in writing.

#### Prioritize Your Workflow

Clients understand that matters must be prioritized. Doing so shows that you are in control of your practice, not that you do not care.

### Non-engagement letters

While a lot of attention is paid to retainer letters, *non*-engagement letters are a valuable tool to avoid confusion and prevent others from mistakenly believing you are taking steps to protect their interests.

If you decide not to represent someone, confirm it in writing.

If you turn down a new client without receiving any confidential information from

them, a non-engagement letter also can protect you from future allegations of a conflict of interest.

Once you send such a letter, be careful to avoid taking steps or sending any signals suggesting you have decided to act after all.

#### Resources

*Model Non-Engagement Letter*<sup>21</sup>

*Detecting Identity Fraud*<sup>22</sup>

*20 Red Flags of Bad Cheque Fraud You Should Recognize*<sup>23</sup>

<sup>21</sup> [https://dvbat5idxh7ib.cloudfront.net/wp-content/uploads/2017/01/31171816/ModelNon-EngagementLetter\\_Rebranded.pdf](https://dvbat5idxh7ib.cloudfront.net/wp-content/uploads/2017/01/31171816/ModelNon-EngagementLetter_Rebranded.pdf)

<sup>22</sup> <https://www.lawsociety.ab.ca/resource-centre/key-resources/client-relationship-management/detecting-identity-fraud/>

<sup>23</sup> <https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/20-red-flags-of-bad-cheque-fraud-you-should-recognize/>

## Client Fraud

Ask questions any time you suspect you might be helping a client in fraudulent, criminal or illegal conduct. This applies before and after you start working for them.

Your due diligence in these situations should include verifying the legal or beneficial owners of property and business entities, verifying who controls those entities, and clarifying the nature and purpose of a complex or unusual transaction where the purpose is not clear. Make a record of the results of your inquiries.<sup>24</sup>

### Scams, fakes and phishing

ALIA has received multiple reports of fraud schemes targeting law firms. Scams have included fake settlement instructions, fake cheques and credit card payments, false 'Dropbox' emails, 'phishing', phony directions to pay and a host of others.

In one recent case, a person contacted the firm claiming to be in custody and needing legal counsel. The caller asked for an estimate of the cost and said a family member would pay the retainer. Someone else contacted the firm and paid the retainer by credit card. The money was deposited into trust.

The next day, the original caller told the firm its services were no longer needed because the charges had been dropped. The firm refunded the retainer with a trust cheque before their bank confirmed that the original credit card transaction was fraudulent.

### Resources

[ALIA Alerts](#)<sup>25</sup>

[Avoidaclaim.com](#) (Lawpro)<sup>26</sup>

[Fraud Fact Sheet](#) (Lawpro)<sup>27</sup>

[PracticePro Fraud page](#) (Lawpro)<sup>28</sup>

[Law Society of British Columbia Fraud Alerts](#)<sup>29</sup>

[Protect Yourself From Credit Card Fraud \(FCAC Financial Consumer Agency of Canada\)](#)<sup>30</sup>

[Protect Yourself From Debit Card Fraud \(FCAC\)](#)<sup>31</sup>

[Protect Yourself From E-Mail and Telephone Fraud: Phishing and Vishing](#) (FCAC)<sup>32</sup>

[Protect Yourself From Identity Fraud \(FCAC\)](#)<sup>33</sup>

[Protect Yourself From Real Estate Fraud \(FCAC\)](#)<sup>34</sup>

[Mortgage Fraud](#) (CMHC)<sup>35</sup>

[How to Protect Yourself from Mortgage Fraud](#) (CMHC)<sup>36</sup>

<sup>24</sup> Code of Conduct, Fraud by Client, Rule 3.2-13

<sup>25</sup> <https://www.lawsociety.ab.ca/lawyers-and-students/fraud-and-loss-prevention/alialerts/>

<sup>26</sup> <http://avoidaclaim.com/>

<sup>27</sup> <http://www.practicepro.ca/practice/pdf/FraudInfoSheet.pdf>

<sup>28</sup> <http://www.practicepro.ca/fraud>

<sup>29</sup> <https://www.lawsociety.bc.ca/support-and-resources-for-lawyers/lawyers-insurance-fund/fraud-prevention/fraud-alerts/>

<sup>30</sup> <http://www.fcac-acfc.gc.ca/Eng/forConsumers/topics/fraud/Pages/FraudFraude.aspx>

<sup>31</sup> <http://www.fcac-acfc.gc.ca/Eng/forConsumers/topics/fraud/Pages/DebitCardFraudepa.aspx>

<sup>32</sup> <http://www.fcac-acfc.gc.ca/Eng/forConsumers/topics/fraud/Pages/EmailandFraudepa.aspx>

<sup>33</sup> <http://www.fcac-acfc.gc.ca/Eng/forConsumers/topics/fraud/Pages/IdentityFraudedi.aspx>

<sup>34</sup> <http://www.fcac-acfc.gc.ca/Eng/forConsumers/topics/fraud/Pages/RealEstateFraudeim.aspx>

<sup>35</sup> [http://www.cmhc-schl.gc.ca/en/hoficlincl/moloin/moloin\\_005.cfm](http://www.cmhc-schl.gc.ca/en/hoficlincl/moloin/moloin_005.cfm)

<sup>36</sup> [http://www.cmhc-schl.gc.ca/en/co/buho/plmayomo/plmayomo\\_004.cfm](http://www.cmhc-schl.gc.ca/en/co/buho/plmayomo/plmayomo_004.cfm)

To avoid being trapped in this fashion, always confirm with your bank that incoming funds have cleared before you issue a cheque causing a trust shortage.

Best practices recommended by ALIA include:

- Check the validity of all credit and debit cards.
- Never refund money from trust until the initial deposit has cleared.
- Always issue refunds using the original form of payment.

In addition to the information provided by ALIA, other law societies produce their own fraud alert information, and make them publicly accessible online.

You can use these resources and others to investigate any suspicious communication you may receive.

## Money laundering

In 2000, the Canadian government passed the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

Under that *Act*, regulated parties are required to report suspicious transactions, which includes transactions involving \$10,000 or more in cash.

Reporting persons are prohibited from advising their clients about making the report. Reports are made to FINTRAC, the Financial Transactions and Reports Analysis Centre of Canada, a federal agency established to receive and analyze financial intelligence and disclose it to the police.

The *Act* and regulations have been amended to remove lawyers from the scope of the legislation, but Canadian law societies have enacted Model Rules, including “no cash” rules, restricting lawyers from receiving cash in amounts over \$7,500, and client identity and verification rules to prevent money laundering.<sup>37</sup>

<sup>37</sup> Law Society of Alberta Rules, Rules 118 and 119.38

<sup>38</sup> Code of Conduct, Chapter 3, Relationships to Clients, Rule 3.1-1(k)

## Technology & the Internet

### Competitive advantages

Whether it is legal research, email, document storage, client portals or electronic filing, clients expect you to stay current and use whatever technology is reasonably available to advance their cases.

Lawyers who do not use technology place themselves at a competitive disadvantage against more innovative, service-conscious lawyers.

### Ethical considerations

Consider the ethical implications of using, and not using, computer technology.

While the Code of Conduct does not require lawyers to be masters of technology, it does expect them to “[adapt] to changing professional requirements, standards, techniques and practices”<sup>38</sup> and “[maintain] office staff, facilities and equipment adequate to the lawyer’s practice.”<sup>39</sup>

Encrypting email, automatically backing up data and taking reasonable measures to avoid data breaches are examples of technological innovations that the legal profession ignores at its peril.

It is also important to understand the broad reach of foreign data protection regulations like the E.U.’s *General Data Protection Regulation*.<sup>40</sup> The GDPR, in force as of May 25, 2018, has profound implications for any business operating in Europe because it applies to any organization, even those based outside the E.U., that collects or processes personal data of E.U. residents. Every Canadian lawyer whose clients have a presence on the internet - virtually every business - should familiarize themselves with the GDPR to advise their clients appropriately.

### Practicing in the cloud

If you use a smart phone, share documents on services like Dropbox, or email clients

<sup>39</sup> Code of Conduct, Quality of Service, Rule 3.2-1, Commentary 5(i)

<sup>40</sup> General Data Protection Regulation, Regulation (EU) 2016/679

using Apple Mail, Gmail, or Outlook, you are already on the cloud and almost certainly storing client data outside of Canada.

There is nothing in the Code of Conduct or Law Society Rules prohibiting lawyers from doing so or outlawing the use of foreign data servers in their practices.

Of course, not all service providers are equally reputable or reliable, so you must exercise due diligence before agreeing to store or share your data abroad. As with any business dealings, consider the reputation, location and accessibility of whoever you are dealing with before putting valuable information or documents into their custody.

Under the *Personal Information Protection Act*, you must tell your clients and get their consent if you store their data outside of Canada.<sup>41</sup>

### Targeted ransomware attacks

Ransomware is a particularly vicious type of software that threatens to publish your data or perpetually block access to it unless you pay a ransom, usually in bitcoin.

The data on your computer is locked, typically by encryption, and payment is demanded before the data is decrypted and access returned to you.

The motive for ransomware is nearly always monetary and, unlike other types of attacks, you are usually notified that an exploit has occurred and are given instructions for how to recover from the attack.

### Email fraud

Because the legal profession has access to significant amounts of trust funds and commercially valuable information belonging to clients, lawyers and law firms are prime targets for hackers.

It is critical to train everyone in your firm to recognize suspicious communications and know what to do when they see one.

### Resources

[Computer/Network Security Checklist](#)<sup>42</sup>

[Cloud Computing Due Diligence Guidelines \(L.S.B.C.\)](#)<sup>43</sup>

[Cloud Computing Checklist \(L.S.B.C.\)](#)<sup>44</sup>

<sup>41</sup> *Personal Information Protection Act*, S.A. 2003, ch. P-6.5, ss. 6, 13.1

<sup>42</sup> [https://dvbat5idhx7ib.cloudfront.net/wp-content/uploads/2017/06/21224619/TAB2\\_4\\_Computer-Network-Security-Checklist.pdf](https://dvbat5idhx7ib.cloudfront.net/wp-content/uploads/2017/06/21224619/TAB2_4_Computer-Network-Security-Checklist.pdf)

<sup>43</sup> <https://www.lawsociety.bc.ca/Website/media/Shared/docs/practice/resources/guidelines-cloud.pdf>

<sup>44</sup> <https://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwj4v73O-5nZAhUQQ60KHRbiAqYQFggnMAA&url=https%3A%2F%2Fwww.lawsociety.bc.ca%2FWebsite%2Fmedia%2FShared%2Fdocs%2Fpractice%2Fresources%2Fchecklist-cloud.pdf&usg=AOvVaw1b2JiwwWCbGR62x81kdO4F>

## After Engagement<sup>45</sup>

Clients always have the right to terminate the lawyer-client relationship, regardless of any agreement to the contrary.

Lawyers can similarly terminate the relationship, but only for good cause and on reasonable notice to the client.

For example, you may withdraw if there has been a serious loss of confidence between you and your client or if your client persistently refuses or fails to provide instructions.

If, after reasonable notice, a client fails to provide a retainer or pay your account, you can withdraw unless doing so would cause serious prejudice to the client.

You must withdraw if a client persists in instructing you to act contrary to professional ethics or you conclude that you are not competent to continue handling a matter.

If the question of a solicitor's lien for unpaid fees and disbursements arises, it is important to consider how its enforcement may affect your client's position. Generally speaking, lawyers should not enforce a lien if it would materially prejudice the client's position in any uncompleted matter.

Whether you stop work because the matter is completed or because your role as counsel was interrupted, confirm the termination of your retainer in writing. As with non-engagement scenarios at the start of the lawyer/client relationship, both you and your client should be clear about when your duty to protect their interests comes to a close.

### What to do when a file closes

Any time your representation ends, remember to:

- Return any client property or documents.
- Take steps to preserve client files and continue to maintain confidentiality.

- Issue your final account.
- Schedule the eventual destruction of the file material.

### Resources

*Untying the Knot: Withdrawing from a Client*<sup>46</sup>

*To File or Not to File*<sup>47</sup>

*File Retention and Document Management*<sup>48</sup>

### Ask for client feedback

In many industries, companies regularly seek customer feedback to make sure they understand how their customers - and potential customers - perceive value.

For the legal profession, asking for feedback from clients can be a helpful way to improve the services offered and better address client needs.

There are a variety of ways you can collect such information:

- Ask new clients why they chose you and existing clients what you could do better.
- Carry out client satisfaction surveys. Keep the questions brief and specific.
- Contact clients who have stopped using you and find out why. Assign a skilled person to this task, otherwise clients tend to give easy answers, such as "you are too expensive", which may hide the real reason they decide to leave your firm.
- Keep a record of client feedback to help you identify problem areas.
- Track client communication on social media sites.

<sup>45</sup> Code of Conduct, Quality of Service, Rule 3.2; Withdrawal from Representation, Rule 3.7

<sup>46</sup> <https://www.lawsociety.ab.ca/resource-centre/key-resources/client-relationship-management/untying-the-knot/>

<sup>47</sup> <https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/to-file-or-not-to-file/>

<sup>48</sup> [https://dvbat5idhx7ib.cloudfront.net/wp-content/uploads/2017/06/14230254/TAB2\\_3\\_File-Retention-and-Document-Management2.pdf](https://dvbat5idhx7ib.cloudfront.net/wp-content/uploads/2017/06/14230254/TAB2_3_File-Retention-and-Document-Management2.pdf)



- Use analytical software to discover which of your web pages are most popular.

You are likely to gain more and better feedback if it is quick and convenient for the client to provide their view.

### Learn from Feedback

- Negative reviews can be a valuable indicator of things you need to improve.
- Responding to them quickly and effectively can help you gain a competitive advantage.
- Make sure you build a balanced picture by noting the positive feedback you receive as well.

## Lawyer ratings & reviews

It is becoming more common for clients to place feedback online.

Some firms have decided that the best way to deal with this is to develop a social media strategy. This enables them to respond to reviews in a consistent way.

If it is within your power to respond to online comments, plan your response carefully. What you say and how you say it can have a profound impact on your professional reputation.

Just as you would when dealing with standard complaints, you should listen, ask if you can establish the facts off-line in one-to-one communication, and then agree what to do about the problems raised.

If a former client publicly criticizes how you managed their case, it may be best to sympathize with how they feel and offer to resolve the matter off-line. For example, you could respond to the comment with “I am sorry that you feel this way. At Law Firm LLP we pride ourselves in doing the best for our clients. We would like to discuss the specifics of your case and the service we provided, so our Managing Partner, Jane Smith, will be contacting you.”

If the comment has been left anonymously or you are unsure about who is making the criticism, you can respond as above, but ask the commenter to contact you.

It is not appropriate for you to engage in a public discussion about the merits of the review. You have an ongoing duty of confidentiality to your client and posting comments or opinions about a former client or matter will likely breach your obligations to your client. You should also consider more broadly how you and your firm’s image may be affected by any comment you make and the potential impact this may have on your professional standing.

The offer to take matters off-line, and follow-up action, should be consistent with your firm’s internal complaints policy and your obligations about communicating with clients under the Code of Conduct.

If a comment is from a ‘troll’<sup>49</sup> or someone who is aggressive or abusive, you may wish to consider if there is any value in responding at all.

## Criticism websites

There are numerous websites that seek to document the alleged failings of lawyers and other legal professionals. Some are focused on individual firms but many target lawyers and the legal profession generally.

If someone leaves negative feedback about you on such a website, consider carefully whether there is anything to gain by engaging with them in such a forum.

<sup>49</sup> Someone who posts inflammatory, extraneous, or off-topic messages in an online community.



## More Information

Various departments of the Law Society are available to help you with the challenges and opportunities described here. Feel free to contact them at any time.

### Law Society of Alberta

Suite 500, 919 11<sup>th</sup> Avenue SW  
Calgary, Alberta T2R 1P3  
1.800.661.9003 (toll free) or 403.229.4700  
Office hours: Mon – Fri 8 a.m. – 4:30 p.m.

### Practice Management

Email: [Practice Management Department](#)  
403.229.4750 or 587.393.2167

### Early Intervention

Email: [Early Intervention Department](#)  
403.229.4745

### Practice Advisors Office

1.866.440.4640 (toll free) or 587.390.8462

### Trust Safety

Email: [Trust Safety Department](#)  
403.228.5632

### Membership

Email: [Membership Department](#)  
403.229.4781

### Indigenous Initiative Liaison

Email: [Indigenous Initiative Liaison](#)

### Alberta Lawyers Insurance Association (ALIA)

Email: [ALIA](#)  
1.800.661.1694 (toll free) or 403.229.4716