

**LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA
POLICY MANUAL**

SECTION	General
POLICY	6525 – Employee Legal Assistance (Indemnification)

Objective To establish the criteria and approval process for providing employees with legal representation and payment for costs related to a legal proceeding that arises in relation to the performance of their employment duties.

Application This policy applies to all employees of the Legislative Assembly appointed under section 39 of the *Constitution Act* (R.S.B.C. 1996, c. 66).

Authority Legislative Assembly operational policies are approved by the Clerk of the Legislative Assembly, as per *Policy 1000 – Legislative Assembly Policy Framework*.

Key Definitions

“**claim**” means all claims, demands, actions, and causes of action;

“**costs of a legal proceeding**” means amounts required to be paid as a result of a judgment or a cost award against an employee or as a result of a monetary settlement of a claim made or brought against an employee;

“**employee**” means a current or former employee;

“**expenses**” means expenses incurred by an employee in relation to participation in a legal proceeding, such as travel expenses;

“**LCPC**” means the Law Clerk and Parliamentary Counsel;

“**legal fees**” means the fees charged by outside counsel and includes any disbursements for filing fees, travel, copying, printing, courier services, expert witnesses, and other incidental charges;

“**legal proceeding**” means a civil, criminal, or administrative proceeding or investigative process;

“**pre-established rates**” means the pre-established hourly rates for outside counsel as set out in Appendix A.

- 1. General**
- .01 All requests made under this policy will be treated as confidential.
 - .02 Legal assistance may be provided to employees by the Legislative Assembly in certain instances without the need to apply under this policy if determined appropriate by the Legislative Assembly Management Committee.

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- .03 The provision of legal representation and payment for costs related to a legal proceeding in the following circumstances is governed by *Policy 6530 – Special Provincial Constable Legal Assistance (Indemnification)*:
- a) the legal proceeding is in respect of an employee who is concurrently appointed a Special Provincial Constable under the *Police Act* (R.S.B.C. 1996, c. 367) as a requirement of their employment with the Legislative Assembly; and
 - b) the legal proceeding relates to a matter that arose in the course of the employee carrying out their constabulary functions as part of their employment duties.
- .04 If this policy applies to a legal proceeding in respect of a Special Provincial Constable, *Policy 6530 – Special Provincial Constable Legal Assistance (Indemnification)* may not also apply to the same legal proceeding in respect of the same special provincial constable.

2. Eligibility

- .01 An employee may be eligible for coverage:
- a) as a party to a legal proceeding, or where there are reasonable grounds to believe that a legal proceeding may be commenced, in the following circumstances:
 - i. the employee’s involvement in the proceeding arises from conduct in the performance of their employment duties,
 - ii. the legal proceeding is not in respect of a dispute with the Legislative Assembly or another employee or officer of the Legislative Assembly, and
 - iii. the employee has complied with this policy;
 - b) in respect of a proceeding in which the employee appears as a witness;
 - c) in respect of an internal investigation, review or dispute resolution process of the Legislative Assembly, despite subparagraph (a)(ii), if it is determined that it is appropriate at the outset of such an internal investigation, review or dispute resolution process, or upon application by an employee.
- .02 Coverage must be appropriate and reasonable and, depending on the type of proceeding or situation, the following additional factors are to be considered in determining eligibility:

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Proceeding/Situation	Eligibility Criteria
All non-prosecution proceedings	Only if the employee’s conduct was not dishonest, malicious, or in bad faith. The employee has provided the Legislative Assembly with an opportunity to defend the case and has not compromised the Assembly’s defence.
Defamation proceeding	Only if the statement made by the employee was not defamatory or published by the employee, made on an occasion of absolute privilege, or was reasonably related to the performance of employment and made without malice.
Appeal (non-prosecution proceeding)	Only if the employee continues to maintain eligibility for coverage and, if the employee is the appellant, the appeal is in the public interest.
Prosecution appeal	If the employee is acquitted, only if the employee continues to maintain eligibility for coverage. If convicted, there is no coverage to appeal the conviction.
Employee is a witness	The evidence or testimony to be provided relates to information acquired in the course of employment, and either (i) the employee is required by law to appear, or (ii) it is in the public interest to provide coverage.

- .03 An employee is ineligible for indemnification for legal fees or expenses incurred or costs of a legal proceeding if either of the following apply, both of which are a term and condition of an indemnification payment:
- a) a judgment or decision is given against an employee in a legal proceeding; or
 - b) a decision is made against the employee by the Legislative Assembly with the benefit of information that may become available to it.

If either of the above circumstances apply, the employee must return to the Legislative Assembly all amounts paid under this policy, unless

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the Clerk of the Legislative Assembly determines indemnification is appropriate in whole or in part.

**3. Making a Request –
Legal Fees or Expenses**

- .01 An application for indemnification in respect of legal fees or expenses must be made by an employee using the *Employee Application for Legal Indemnification* to the LCPC at the earliest opportunity, describing the circumstances and demonstrating that the eligibility criteria are met.
- .02 An employee may make an initial application for an amount up to \$5,000 (at the applicable pre-established rates) to enable the employee to obtain legal counsel in respect of a legal proceeding. An employee may make a subsequent application for an increase if the need arises or to assist in payment of expenses arising in respect of a legal proceeding.
- .03 A request must be made by an employee before incurring legal fees or expenses. (It is highly recommended that an employee not sign a legal retainer before a request has been made and approved.) A request in respect of legal fees or expenses already incurred may be approved if special circumstances justify the delay in an employee making a request.

**4. Making a Request –
Costs of Legal
Proceeding**

- .01 An application for indemnification in respect of costs of a legal proceeding must be made by an employee in writing using the *Employee Application for Legal Indemnification* to the LCPC at the earliest opportunity describing the circumstances and demonstrating that the eligibility criteria set out in this policy are met.

**5. Consideration of
Requests**

- .01 Upon receipt of an application for indemnification from an employee, the LCPC is to consider the request against the eligibility criteria and request any additional information from the employee necessary to consider the request.
- .02 The LCPC is authorized to consider and grant approval of an application for indemnification in respect of legal fees or expenses, in whole or in part, up to a total maximum amount of \$10,000. During a period of dissolution, the maximum amount is increased to \$20,000 when section 8.02 or 8.03 is engaged and it is a matter of urgency. A decision of the LCPC may be appealed to the Clerk of the Legislative Assembly whose decision is final.
- .03 For all other requests, the LCPC must prepare a submission for the consideration of the Clerk of the Legislative Assembly. The submission

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must include a recommendation on whether the request should be granted in the circumstances. In preparing the submission, the identity of the parties is to be kept strictly confidential (this will not be possible where the employee making a request under this policy is the LCPC or the Clerk of the Legislative Assembly and section 8.02 or 8.03 applies).

6. Terms and Conditions

- .04 The Clerk of the Legislative Assembly may grant an application from an employee in whole or in part. All decisions of the Clerk are final.
- .05 The LCPC must inform an employee of the decision in writing and, in cases of approval, liaise with the employee to ensure that all invoices are provided to the LCPC for prompt payment.
- .01 An approved request for indemnification in respect of legal fees are to be paid at the pre-established rates up to the approved amount. The pre-established rates increase each year at the rate of the annual Consumer Price Index as determined by B.C. Stats.
- .02 Any legal fees incurred by an employee that are greater than the pre-established rates or the approved amount, or costs of a legal proceeding greater than the approved amount, are the personal responsibility of the employee.
- .03 Any expenses incurred by an employee must be necessary and reasonable as determined by the LCPC, and, in the case of travel expenses, travel will be reimbursed in accordance with rates set out in *Policy 3015 – Employee Travel*.
- .04 An employee who is ineligible for indemnification under section 2.03 must repay the Legislative Assembly all amounts paid under this policy, unless the Clerk of the Legislative Assembly determines indemnification, in whole or in part, is appropriate in the circumstances.
- .05 An employee who has been indemnified in respect of legal fees or expenses and is then either
 - a) awarded costs or disbursements by a court, tribunal or other judicial body in relation to the legal proceeding; or
 - b) reimbursed in relation to appearing as a witness, as applicable

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must repay the Legislative Assembly an amount equal to those costs, disbursements, or reimbursements.

.06 Payments pursuant to an approved request may be made by reimbursement to an employee or payment to an employee’s outside counsel or vendor. Payments to an employee’s outside counsel may be made at the time of approval or at any stages as agreed upon between an employee and the LCPC.

7. Payment Requirements

.01 The employee seeking payment must submit a detailed invoice and any applicable receipts to the LCPC and provide written confirmation that the services listed have been received and the accounting is accurate.

.02 The LCPC must verify that the amounts are within the approved amounts, legal fees are within the pre-established rates, and any expenses claimed by the employee are necessary and reasonable.

.03 Payment will only be issued by the Legislative Assembly when the payment request is approved by the LCPC.

8. Substitutions – Authority

.01 In the absence of the LCPC or when there is no LCPC, a reference to “LCPC” shall be read as a reference to “Senior Legal Counsel”.

.02 Where the LCPC is the employee making an application under this policy,
a) a reference to “LCPC” shall be read as a reference to “Clerk of the Legislative Assembly”; and
b) a reference to “Clerk of the Legislative Assembly” shall be read as a reference to “Speaker”.

.03 Where the Clerk of the Legislative Assembly is the employee making an application under this policy, a reference to “Clerk of the Legislative Assembly” shall be read as a reference to “Speaker”.

Contact

Questions regarding this policy may be directed to Legal Services at legalservices@leg.bc.ca.

Please directly contact the Law Clerk and Parliamentary Counsel for assistance regarding any specific legal proceeding.

Procedures

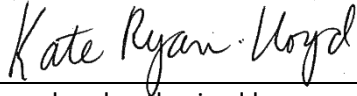
Employee Application for Legal Indemnification

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References

Policy 3015 – Employee Travel
Policy 6530 – Special Provincial Constable Legal Assistance (Indemnification)



Approved and authorized by
Kate Ryan-Lloyd, Clerk of the Legislative Assembly

April 24, 2025

Date

POLICY HISTORY

Version 1	May 25, 2021
Version 2	April 24, 2025

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**APPENDIX A
PRE-ESTABLISHED HOURLY RATES**

The following hourly rate caps apply for the remuneration of outside counsel under *Policy 6525 – Employee Legal Assistance (Indemnification)*. These caps increase annually at the rate of the annual Consumer Price Index as determined by B.C. Stats and are in line with those found in the *Members’ Legal Assistance (Indemnification) Policy*.

Years at Bar	Hourly Rate
Articling Student / Paralegal	\$142
First two years of call	\$166
3rd and 4th year of call	\$190
5th and 6th year of call	\$213
7th and 8th year of call	\$237
9th and 10th year of call	\$261
11th and 12th year of call	\$284
13th and 14th year of call	\$308
15th and 16th year of call	\$331
17th and 18th year of call	\$354
19th and 20th year of call	\$443
21st year of call and more	\$531

Hourly rates last adjusted on April 1, 2025.