

LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA

POLICY MANUAL

SECTION	General
POLICY	6530 – Special Provincial Constable Legal Assistance (Indemnification)

Objective

To establish the criteria and approval process for providing employees who hold Special Provincial Constable appointments with legal representation and payment for costs related to a legal proceeding that arises in the course of carrying out their constabulary functions as part of their employment duties (i.e., exercising their appointments).

Application

This policy applies to employees of the Legislative Assembly appointed under section 39 of the *Constitution Act* (R.S.B.C. 1996, c. 66) who are concurrently appointed a Special Provincial Constable.

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;

“**constabulary functions**” means the duties, responsibilities, and functions carried out by a Special Provincial Constable as part of their employment duties to maintain law and order on the Legislative Precinct;

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

“**expenses**” means expenses incurred 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 retained legal 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 including an investigation conducted by the Independent Investigations Office of British Columbia;

“**pre-established rates**” means the pre-established hourly rates for external legal counsel set out in Appendix A;

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“SPC” means a current or former employee of the Legislative Assembly who is or was concurrently appointed a Special Provincial Constable under section 9 of the *Police Act* (R.S.B.C. 1996, c. 367) as a requirement of their employment with the Legislative Assembly.

1. General

- .01 Requests made under this policy will be treated as confidential.
- .02 It is an underpinning of this policy that a SPC carries out their constabulary functions in accordance with all of the following:
 - a) the terms of the SPC’s appointment pursuant to section 9 of the *Police Act* and as established by Memorandum of Understanding between the Legislative Assembly and the Government of British Columbia (Ministry of Public Safety and Solicitor General);
 - b) the terms of applicable interagency agreements or protocols;
 - c) policies and procedures, including regarding the use of force, directives, and Standing Orders of the Legislative Assembly, as applicable; and
 - d) lawful direction and orders given to the SPC by the Sergeant-at-Arms or their designate.
- .03 The LCPC is responsible for maintaining, in consultation with the Sergeant-at-Arms, a roster of legal counsel who are specialists in criminal, police, and police liability law, and who may be retained to represent a SPC under this policy on an as and when needed basis.
- .04 Nothing in this policy prevents a SPC from obtaining their own legal representation. However, the SPC does so at their own risk, cost, and expense and is not eligible for assistance, reimbursement, or indemnification under this policy in such event.
- .05 For certainty, legal assistance (indemnification) in respect of the following is governed by *Policy 6525 – Employee Legal Assistance (Indemnification)*:
 - a) a legal proceeding in which a SPC is called as a witness; or
 - b) a legal proceeding in which a SPC is not implicated as a result of the SPC carrying out their constabulary functions.
- .06 If this policy applies to a legal proceeding in respect of a SPC, *Policy 6525 – Employee Legal Assistance (Indemnification)* may not also apply to the same legal proceeding in respect of the same SPC.

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2. Eligibility

- .01 A SPC may be eligible for legal assistance in respect of legal fees and expenses as a witness or party to a legal proceeding, or where there are reasonable grounds to believe that a legal proceeding may be commenced as follows:

Legal Proceeding (each a separate legal proceeding)	Status
Administrative proceeding	Eligible
Investigative process	Eligible
Civil action – trial	Eligible
Civil action – appeal	May be eligible
Criminal prosecution – trial	Eligible
Criminal prosecution – appeal	May be eligible

- .02 In addition to all terms, conditions, limitations, exceptions, and exclusions set out in this policy, a SPC is not eligible to obtain legal assistance or be indemnified with respect to:

- a) a legal proceeding commenced by or on behalf of a SPC; or
- b) an employment dispute between the SPC and the Legislative Assembly.

- .03 A SPC's involvement in the legal proceeding must arise from acts or omissions done in the lawful and reasonable performance or attempted performance of their approved constabulary functions and must not constitute:

- a) wilful neglect, gross negligence, gross dereliction of duty, deliberate abuse of power;
- b) wilful violation of statute; or
- c) circumstances where the SPC intended to advance their personal interests contrary to or not in alignment with the duties, expectations, and responsibilities as an employee of the Legislative Assembly.

- .04 A SPC is ineligible for indemnification under this policy if any of the following apply, all of which are terms and conditions of an indemnification payment:

- a) the SPC's act or omission is contrary to section 2.03;
- b) a judgment or decision is given against the SPC in a legal proceeding;

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- c) a decision is made against the SPC by the Legislative Assembly with the benefit of information that may become available to it.

If any of the above circumstances apply, the SPC must return to the Legislative Assembly all amounts paid under this policy, unless the Clerk of the Legislative Assembly, or the Speaker in respect of the Sergeant-at-Arms, determines indemnification is appropriate in whole or in part.

- .05 A SPC may be provided legal assistance in respect of legal fees or expenses in relation to a legal proceeding that is an internal investigation, review, or dispute resolution process of the Legislative Assembly

- a) if it is determined that it is appropriate at the outset of such an internal investigation, review, or dispute resolution process; and
- b) upon application by a SPC.

3. Notification and Making a Request for Legal Representation

- .01 A SPC must promptly notify their supervisor in writing upon becoming aware
 - a) of a potential claim;
 - b) that a legal proceeding has been or is likely to be commenced against the SPC arising from the scope of the SPC's duties; or
 - c) that the SPC has been or will be called as a witness in a legal proceeding arising from the scope of the SPC's duties.

The supervisor must then notify, through their chain of command, the Sergeant-at-Arms. The Sergeant-at-Arms must notify the Clerk of the Legislative Assembly. A former SPC must notify the Sergeant-at-Arms.

- .02 The Clerk of the Legislative Assembly in respect of the Sergeant-at-Arms, or the Sergeant-at-Arms in respect of all other SPCs, must make a request for legal representation in writing to the LCPC at the earliest opportunity, describing the circumstances and demonstrating that the eligibility criteria are met. The initial application shall be for the amount of \$5,000 (at the applicable pre-established rates) to enable the SPC to obtain legal counsel in respect of a legal proceeding. If approved, subsequent requests in relation to the same legal proceeding may be made by the SPC in writing to the LCPC.

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- .03 A request must be made in accordance with this section and before a SPC incurs any legal fees or expenses. By exception, a request in respect of legal fees or expenses already incurred in respect of an investigation conducted by the Independent Investigations Office of British Columbia may be approved for up to 2 hours of legal consultation if special circumstances justify the delay in a request to the LCPC being made.

4. Consideration of a Request

- .01 Upon receipt of a request under section 3, the LCPC must consider the request against the eligibility criteria in section 2 and request any additional information that is necessary to consider the request.
- .02 If the LCPC determines that the request meets the eligibility criteria, the LCPC must retain, in consultation with the SPC, a legal counsel from the roster referred to in section 1.03 to represent the SPC.
- .03 Where 2 or more SPCs are subject to a legal proceeding arising out of substantially the same circumstances, the LCPC may limit legal assistance in respect of the SPCs to the reasonable legal costs of 1 legal counsel to represent the interest of both/all of them, including representation at any appeal (if approved), unless the legal counsel is of the view that it would be improper to represent both/all of them. If 1 legal counsel is to be retained and the SPCs are unable to agree on which legal counsel, the matter shall be conclusively settled by the LCPC.

5. Approval Authorization Limits

- .01 The LCPC is authorized to consider and approve a request for legal assistance in respect of legal fees and expenses up to a total maximum amount of \$25,000 in whole or in part in approved increments as the LCPC determines.
- .02 For all other requests, the LCPC must prepare a submission for the consideration and final decision of:
- a) the Clerk of the Legislative Assembly, in respect of a request concerning a SPC (except the Sergeant-at-Arms); or
 - b) the Speaker in respect of a request concerning the Sergeant-at-Arms.
- .03 The LCPC must inform the SPC of a decision under this section in writing.

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6. Conduct of Legal Proceeding and Conflict

- .01 The SPC must cooperate fully in the legal proceeding, including providing complete and accurate information, and aiding in securing witnesses, evidence, and other information when requested.
- .02 The SPC has authority to instruct retained legal counsel in the conduct of the legal proceeding, except the authority to settle a legal proceeding. If the SPC wishes to settle a legal proceeding, legal counsel must first consult with the LCPC before taking any action.
- .03 In the event a retained legal counsel determines that a conflict exists between the client SPC's defence and the interests of the Legislative Assembly, the retained legal counsel must inform the LCPC. Following this, the LCPC must determine in consultation with the Clerk of the Legislative Assembly if the SPC ought to be represented by a new legal counsel selected by the SPC at their sole discretion. The new legal counsel must not be a lawyer listed in the roster referred to in section 1.03.
- .04 In the event of a conflict, the SPC remains eligible for legal assistance (indemnification) under this policy.
- .05 In the event the LCPC has been informed pursuant to section 6.03 and following discussion with retained legal counsel, the LCPC must do the following:
 - a) inform the SPC of the decision in writing;
 - b) liaise the SPC with potential new legal counsel, if applicable; and
 - c) inform the SPC in writing of the terms and conditions of the continued legal assistance (indemnification) under this policy, if applicable.

7. Costs of a Legal Proceeding

- .01 A retained legal counsel must consult the LCPC prior to negotiating a settlement in a legal proceeding. A settlement agreed to by the Legislative Assembly is to be borne by the Legislative Assembly.
- .02 If a civil action is not settled, or if the Legislative Assembly approves legal assistance (indemnification) to a SPC in respect of legal fees or expenses for an appeal of a civil action, and a judgment is made against the SPC, the Legislative Assembly will bear the costs of the legal proceeding unless there is a finding that the SPC's acts or omissions:

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- a) constitute wilful neglect, gross negligence, gross dereliction of duty, or deliberate abuse of power;
- b) constitute a wilful violation of a statute or lawful order;
- c) constitute a wilful violation of policy, standard operating procedure, lawful directive, or Standing Order of the Legislative Assembly; or
- d) were intended to advance the SPC's personal interests contrary to or not in alignment with the duties, expectations and responsibilities as an employee of the Legislative Assembly.

8. Payment Requirements

- .01 The SPC 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 a SPC are necessary and reasonable.
- .03 Travel expenses will be reimbursed in accordance with the rates set out in *Policy 3015 – Employee Travel*.
- .04 Payment will only be issued by the Legislative Assembly when the payment request is approved by the LCPC. Payments may be made by reimbursement to the SPC or directly to the retained legal counsel or vendor.

9. Substitution – Authority

- .01 In the absence of the LCPC, a reference to “LCPC” shall be read as a reference to “Senior Legal Counsel”.

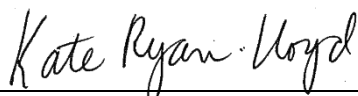
Contact

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.

References

Policy 3015 – Employee Travel
Policy 6525 – Employee Legal Assistance (Indemnification)



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

April 24, 2025

Date

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POLICY HISTORY	
Version 1	April 24, 2025

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APPENDIX A PRE-ESTABLISHED HOURLY RATES

The following hourly rate caps apply for the remuneration of legal counsel under *Policy 6530 – Special Provincial Constable Legal Assistance (Indemnification)*. These caps increase annually at the rate of the annual Consumer Price Index as determined by B.C. Stats.

Years at Bar	Hourly Rate
Articling Student / Paralegal	\$162
First two years of call	\$191
3rd and 4th year of call	\$216
5th and 6th year of call	\$243
7th and 8th year of call	\$271
9th and 10th year of call	\$297
11th and 12th year of call	\$324
13th and 14th year of call	\$352
15th and 16th year of call	\$380
17th and 18th year of call	\$404
19th and 20th year of call	\$507
21st year of call and more	\$606

Hourly rates last adjusted on April 1, 2025.