



# SELF-ASSESSMENT WORKBOOK

## Overview of the self-assessment exercise

The self-assessment exercise is a central feature of the Law Society of BC's proactive approach to regulating law firms.

The primary goal of the self-assessment exercise is to encourage firms to examine their practice management systems and to evaluate the extent to which firm policies and processes address core areas of professional, ethical firm practice. Additionally, the self-assessment process will provide the Law Society with information about where firms may require additional practice resources and support.

As such, the self-assessment is an educational exercise and a learning opportunity for both firms and the Law Society.<sup>1</sup>

### a. Professional Infrastructure Elements and Objectives

The cornerstones of the self-assessment exercise are the eight **Professional Infrastructure Elements**, which represent key aspects of professional, ethical firm practice. The Elements are sufficiently high-level to be adapted to different practice contexts, yet concrete enough to establish clear, basic standards for firm conduct.

Each Element is paired with an **Objective**, which reflects the outcomes that firms should strive to achieve in addressing each Professional Infrastructure Element.

The self-assessment exercise asks firms to evaluate their current performance in relation to the Professional Infrastructure Elements and their Objectives, as set out below.

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<sup>1</sup> Australian studies demonstrate a reduction in complaints against firms when firms self-assess how robust their practice management systems are across key areas of firm practice. The majority of firms that participated in the self-assessment exercise also reported that it was a learning exercise that helped them improve client service.

## Professional Infrastructure Elements and Objectives

### Element 1: DEVELOPING COMPETENT PRACTICES AND EFFECTIVE MANAGEMENT

**Objective:** Ensure the delivery of quality and timely legal services by persons with appropriate skills and competence.

### Element 2: SUSTAINING EFFECTIVE AND RESPECTFUL CLIENT RELATIONS

**Objective:** Provide clear, timely and courteous communications with clients in the delivery of legal services so that clients understand the status of their matter through the duration of the retainer and are in a position to make informed choices.

### Element 3: PROTECTING CONFIDENTIALITY

**Objective:** Ensure client information, documents and communications are kept confidential and free from access, use, disclosure or disposal unless the client consents or it is required or permitted by law and that solicitor-client privilege is appropriately safeguarded.

### Element 4: AVOIDING AND ADDRESSING CONFLICTS OF INTEREST

**Objective:** Ensure conflicts of interest are avoided from the outset, and where not avoided, they are resolved in a timely fashion.

### Element 5: MAINTAINING APPROPRIATE FILE AND RECORDS MANAGEMENT SYSTEMS

**Objective:** Provide appropriate file and records management systems to ensure that issues and tasks on file are handled in an appropriate and timely manner and that client information and documents are safeguarded.

### Element 6: CHARGING APPROPRIATE FEES AND DISBURSEMENTS

**Objective:** Ensure clients are charged fees and disbursements that are transparent and reasonable and are disclosed in a timely fashion.

### Element 7: ENSURING RESPONSIBLE FINANCIAL MANAGEMENT

**Objective:** Establish mechanisms to minimize the risk of fraud and procedures that ensure compliance with Law Society accounting rules.

### Element 8: EQUITY, DIVERSITY AND INCLUSION

**Objective:** Observe the laws protecting human rights, and the principles of equity, diversity and inclusion in the workplace and in all aspects of the provision of legal services.

## **b. Indicators and Considerations**

The Law Society believes that law firms should have appropriate policies and processes in place to ensure legal services are provided in accordance with the Professional Infrastructure Elements and their Objectives.

To assist firms in assessing the strength of their policies and processes, the self-assessment includes a broad set of **Indicators** and a more detailed list of **Considerations** that provide guidance on the types of policies, procedures, processes, methods, steps and systems that a prudent law firm might employ to satisfy each Professional Infrastructure Element and its associated Objective.

The Indicators and Considerations encourage firms to undertake a detailed review of their practice management systems and think about the areas where the firm is doing well and where more robust policies and processes may be necessary.

The Indicators and Considerations should be viewed as guidance only; it is not necessary for firms to adopt or implement all of the suggested approaches. However, there is an expectation that at a minimum, firms will have policies and processes in place that ensure that their lawyers are supported in complying with their professional obligations under the *Legal Profession Act*, the Law Society Rules and the *Code of Professional Conduct for British Columbia*.

## **c. Resources**

The self-assessment also contains a set of **Resources**, which are largely drawn from the existing body of Law Society practice management materials, the Rules and the *BC Code*. As part of the pilot project, participants are asked to indicate to the Law Society where they would benefit from additional practice resources and support.

## Format: Self-Assessment Report and Workbook

The self-assessment exercise has been developed in two formats: an online Report that must be submitted to the Law Society, and an optional Workbook for firm-use only.

Whether used separately or together, both the Report and Workbook help firms identify gaps in policies and processes and provide guidance and resources that will assist firms in reviewing and improving their practice management systems.

### 1. Self-Assessment Report (mandatory)

The online Self-Assessment Report is the mandatory portion of the self-assessment exercise. The Report **must** be submitted to the Law Society within **three months** of the electronic link of the Report being sent to pilot participants.

Firms selected for the pilot project will be sent an electronic link to the Self-Assessment Report and the associated instructions.

The Report provides firms with flexibility as to how deeply they engage with the assessment exercise. Users have the choice of skipping over a portion of the guidance material or alternatively, to delve into the assessment in considerable detail.

### 2. The Workbook (optional)

The Self-Assessment Workbook is an additional, optional resource that is intended to supplement the Self-Assessment Report. The Workbook is **not submitted** to the Law Society.

The Workbook contains all the information contained in the Report in a single document that can be downloaded, saved and printed. The Workbook also includes areas where firms can make detailed comments about their strengths and weaknesses in relation to each Professional Infrastructure Element. In many ways, the Workbook functions as the “working copy” of the firm’s self-assessment.

## How to use the Workbook

The Workbook can enhance the clarity and utility of self-assessment exercise in a variety of ways:

- Those responsible for the firm's Self-Assessment Report may wish to review the Workbook to get a full sense of the nature and scope of the assessment exercise in advance of completing the mandatory Self-Assessment Report and submitting it to the Law Society.
- Firms may circulate the Workbook to lawyers and staff who are not responsible for completing the Self-Assessment Report itself, but who nevertheless have feedback about the firm's practice management systems.
- Firms may use the Workbook as a learning tool to educate lawyers and staff about firm best practices (e.g. reviewing the Workbook at lunch-and-learns, meetings).
- Firms may use the Workbook to document their strengths as well as highlighting those areas that need further attention. This information will provide firms with a baseline from which to measure progress in improving their practice management systems over time.
- Firms can build on the Workbook's guidance and resources to create their own set of practice management materials.

Firms are encouraged to save the Workbook and use it as a record, guide and reference, not only during the pilot project, but as part of ongoing efforts to assess and improve the firm's practice management systems.

## Terminology

The following terms are used throughout the Workbook and are defined as follows:

**“Lawyer”** means a member of the Law Society and articling students employed by the firm.

**“Staff”** includes any non-lawyer employee at the firm who assists in or provides legal services to clients.

**“Policies”** refers to documentation of the approach the firm employs to address a particular practice issue or area. Policies may include guidelines, protocols or procedures. Policies should be in writing, where possible.

**“Processes”** include a wide scope of unwritten practices, systems, methods, steps, principles and other measures formulated or adopted by the firm that are intended to influence and determine the decisions and actions of the firm.

# SELF-ASSESSMENT WORKBOOK

Name of Firm:

Date:

## Element 1 - DEVELOPING COMPETENT PRACTICES AND EFFECTIVE MANAGEMENT

**Objective:** Ensure the delivery of quality and timely legal services by persons with appropriate skills and competence.

*Note: The Indicators and Considerations listed below are not prescriptive and the guidance provided therein should be approached as suggestions rather than mandates*

### Indicator 1: Do lawyers and staff have sufficient training, experience and knowledge to perform their duties?

#### Considerations

- Adequate due diligence is conducted on candidates before a final hiring decision is made (e.g. as permissible, checking for conflicts, review of disciplinary records and reference and credentials checks)
- Lawyers and staff participate in ongoing training, including in the following areas, as appropriate:
  - client identification and verification
  - identification of conflicts
  - use of trust accounts and receipt of cash
  - confidentiality and privacy
  - technology use and security
  - ethics
  - file management processes
  - billing practices
  - appropriate communications with clients and others
- Additional training is provided when major procedural and organizational changes occur
- Initial and ongoing mentorship is provided to new and junior lawyers and staff by more experienced lawyers and staff

- ❑ Firm policy and procedures manuals are comprehensive, accessible and reviewed by lawyers and staff
- ❑ Lawyers have professional development plans that are relevant to their area of practice
- ❑ Processes are in place for identifying performance objectives and evaluating progress towards those objectives
- ❑ Appropriate resources are in place to ensure that lawyers develop knowledge of applicable substantive and procedural law (e.g. electronic updates, lunch and learns, regular meetings)
- ❑ Processes are in place to ensure that lawyers and staff stay current on the appropriate technology

## RESOURCES:

- Law Society of BC, [Practice Checklists Manual](#)
- Law Society of BC, [Model conflicts of interest checklist](#)
- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- Law Society of BC, [The Trust Accounting Handbook](#)
- Law Society of BC, [Sample general retainer agreement](#)
- Law Society of BC, [Sample joint retainer agreement – acting for two or more clients](#)
- Law Society of BC, *Bencher's Bulletin* Fall 2017, [Limited scope retainer FAQs](#)
- Lawyers Insurance Fund, [Managing the risk of a limited scope retainer](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- Lawyers Insurance Fund, [Delegation: The buck stops here!](#)
- Lawyers Insurance Fund, [Five key causes of claims: Legal issue failures](#)
- Lawyers Insurance Fund, [Risk management resources](#)
- BC Human Rights Tribunal, [Human Rights and Duties in Employment](#)
- *BC Code* [[section 2.1](#): Canons of legal ethics; [section 3.1](#): Competence; [section 3.2](#): Quality of service; [section 3.3](#): Confidentiality; [section 3.4](#): Conflicts; [section 3.5](#): Preservation of clients' property; [section 3.6](#): Fees and disbursements; [Chapter 4](#) – Marketing of Legal Services; [section 6.1](#): Supervision; [section 6.2](#) : Students]
- Law Society Rules [[Part 3 - Division 7](#): Trust Accounts and Other Client Property; [Part 8](#): Lawyers' Fees; [Rule 10-3](#): Records; [Rule 10-4](#): Security of records]
- *Legal Profession Act* [[Part 8](#): Lawyers' Fees]

## Indicator 2: Are concerns about competence dealt with in an efficient, constructive and ethically appropriate fashion?

### Considerations

- Policies or processes are in place to review complaints made to the firm and to the Law Society (e.g. establishing a complaint line or email for the firm)
- Steps are taken to ensure all communications with the Law Society pertaining to lawyer or firm competence are professional and prompt
- Internal processes are available to clients for resolving disputes or complaints with their lawyer or the firm and clients are informed about these processes
- Opportunities are provided for lawyer and staff performance reviews
- Processes are in place to encourage and monitor lawyer and staff wellbeing, including promotion of the Lawyers Assistance Program and other mental health support relevant to the legal profession

### RESOURCES:

- Law Society of BC, *Benchers' Bulletin* Spring 2013, [How to Recognize and Cope with Stress](#)
- Law Society [Practice Advisors](#) and [Equity Ombudsperson](#)
- Canadian Bar Association, Mood Disorders Society of Canada and Bell Lets Talk, [Mental Health and Wellness in the Legal Profession](#)
- [Lawyers Assistance Program](#)
- [Lifeworks Canada](#)
- *BC Code* [[section 2.1](#): Canons of legal ethics; [section 3.1](#): Competence; [section 7.1](#): Responsibility to the Society and the profession generally]
- Law Society Rules [[Part 3 - Division 1](#): Complaints]

## Indicator 3: Are the delivery, review and follow up of legal services provided in a manner that avoids delay?

### Considerations

- Retainers are only taken if the firm feels, at the time the retainer is taken, that it has the necessary skills and resources to carry out the client's instructions in a reasonable period of time



- Processes are in place to ensure lawyers and staff are informed about priorities and deadlines
- Policies are in place to ensure lawyers and staff comply with applicable deadlines and limitation periods
- Reviews are conducted with lawyers and staff to evaluate the appropriateness of their workload and issues are addressed
- Processes are in place to ensure the effective use of bring forward systems and calendars to keep track of key dates (e.g. limitation periods, court appearances, filing deadlines, closing dates)
- Systems are in place to ensure there is adequate coverage for lawyers and staff during their absence for vacation or leave and that permanent vacancies are filled in a reasonable period of time
- Systems are in place to ensure that open files are reviewed on a scheduled basis and next steps are diarized
- Processes are in place to ensure that files of departing lawyers are promptly re-assigned if the client decides to stay with the firm
- Calendars are easily accessible, including the provision of remote calendar access
- Checklists are used, where appropriate
- Policies or processes are in place to track undertakings and to ensure undertakings are fulfilled in a timely fashion

## RESOURCES:

- Lawyers Insurance Fund, [Missed Limitations and Deadlines: Beat the clock \(see especially tips 1 to 22\)](#)
- Lawyers Insurance Fund, [Limitations and deadlines](#)
- Lawyers Insurance Fund, [Five key causes of claims - Oversights](#)
- Law Society of BC, [Practice Checklist Manual](#)
- *BC Code* [[section 3.1](#): Competence; [section 3.2](#): Quality of service; [section 3.6](#): Fees and disbursements]
- Law Society Rules [[Part 8](#): Lawyers' Fees]
- *Legal Profession Act* [[Part 8](#): Lawyers' Fees]

## Indicator 4: Are lawyers and staff adequately supervised and managed in their delivery of legal services?

### Considerations

- Specific education and training opportunities are provided on the supervision and management of lawyers and staff
- Policies are in place that ensure lawyers understand what work may be delegated to staff and what may not
- Processes are in place to ensure the appropriate delegation of the authority for developing policies, practices and systems that address the Professional Infrastructure Elements
- Processes are in place to ensure lawyers and staff know the contact information of their supervisor
- Consideration is given to experience and qualifications when assigning work
- Supervisors ensure that lawyers and staff receive clear and complete instructions regarding work assigned and the end product required
- Employee meetings are regularly scheduled for lawyers and staff
- Processes are in place to ensure lawyers and staff receive timely and confidential feedback on work product (e.g. formal performance reviews and informal meetings)
- Processes are in place to encourage the use of mentors in training lawyers and staff for leadership positions
- Professional development plans are reviewed by senior colleagues and considered in the context of performance reviews

### RESOURCES:

- Lawyers Insurance Fund, [Delegation: The buck stops here!](#)
- Lawyers Insurance Fund, Aging [Risk: Delegating work or transferring files](#)
- *BC Code* [[rule 3.4-23](#) (Lawyer due diligence for non-lawyer staff); [section 6.1](#): Supervision; [section 6.2](#): Students]
- Law Society Rules [[Part 2 - Division 1](#): Practice of Law (Supervision of limited number of paralegals)]

## Indicator 5: Has consideration been given to putting in place plans for the departure of lawyers from the firm?

### Considerations

- A succession plan is in place for each member of the firm, such that there is a lawyer or lawyers at the firm that can take over the practice of another lawyer in the event of an inability to practice due to illness, death or other unforeseen occurrence, or alternatively, arrangements have been made and documentation is in place to enable a lawyer outside the firm to carry out these duties
- The lawyer or lawyers identified in the succession plan have access to sufficient documentation to enable them to carry out their duties
- The lawyer or lawyers identified in the succession plan are sufficiently familiar with the areas of law covered by the practice to carry out their duties
- The lawyer or lawyers named in the succession plan have been consulted in the past year and have confirmed that they are still willing and able to carry out their duties, if required to do so
- Lawyers and staff know who to contact and the steps to take in order to address the interests of clients in the event of an unforeseen accident, illness or death
- The firm carries adequate insurance for the practice, including excess professional liability coverage and key person insurance

### RESOURCES:

- Law Society of BC, [Succession planning: Tools, documents and resources](#)
- Law Society of BC, [Precedent letters: Lawyer leaving law firm](#)
- Law Society of BC, *Benchers' Bulletin* Summer 2017, [Ethical Considerations when a lawyer leaves a firm](#)
- Law Society of BC, [Winding Up a Practice: A Checklist](#)
- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- Lawyers Insurance Fund, [Cover Pages: A guide to insurance for private practitioners](#)
- Lawyers Insurance Fund, [Excess insurance: Protection for claims that exceed \\$1 million](#)
- Lawyers Insurance Fund, [Insurance coverage for lawyers no longer in private practice](#)
- *BC Code* [[section 3.7: Withdrawal from representation](#)]
- Law Society Rules [[Part 3 - Division 5: Insurance](#)]

## Rating

### Element 1 - DEVELOPING COMPETENT PRACTICES AND EFFECTIVE MANAGEMENT

**Objective:** Ensure the delivery of quality and timely legal services by persons with appropriate skills and competence.

<b>RATING ELEMENT 1</b>	Policies and processes have not been developed.  1 <input type="checkbox"/>	Policies and processes are under development but not all are functional.  2 <input type="checkbox"/>	Policies and processes are in place and are functional.  3 <input type="checkbox"/>	Policies and processes are fully functional and regularly assessed and updated.  4 <input type="checkbox"/>
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**What does your firm do well?**

**How could your firm improve?**

## Element 2 – SUSTAINING EFFECTIVE AND RESPECTFUL CLIENT RELATIONS

**Objective:** Provide clear, timely and courteous communications with clients in the delivery of legal services so that clients understand the status of their matter through the duration of the retainer and are in a position to make informed choices.

*Note: The Indicators and Considerations listed below are not prescriptive and the guidance provided therein should be approached as suggestions rather than mandates*

**Indicator 1:** Are policies and processes in place in relation to communications with clients?

### Considerations

- Communication policies or processes are established with respect to:
  - informing and updating clients about their matter
  - appropriate forms and frequency of communication with clients (email/phone/text)
  - compliance with privacy and anti-spam legislation
  - confidentiality
  - any changes in payment instructions
  - timing of reports and final accounts
- Processes are in place to monitor and reinforce adherence to communication policies
- Communication policies and processes are reviewed and updated and are accessible to lawyers and staff
- Lawyers and staff receive specific and ongoing education and training relating to client communications and relations

### RESOURCES:

- Law Society of BC, Online Learning Centre, [Communication Toolkit](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- Lawyers Insurance Fund, [The ‘bad cheque’ scam](#)
- Lawyers Insurance Fund, [Other social engineering scams, including the ‘phony change in payment instructions’](#)
- Lawyers Insurance Fund, Missed Limitations and Deadlines: [Beat the clock \(see especially tips 62 to 72\)](#)

- Lawyers Insurance Fund, [Email: Preventing a mailstrom](#)
- Lawyers Insurance Fund, Five key causes of claims - [Communication failures and 'no trail'](#)
- *BC Code* [[section 3.1](#): Competence; [section 3.2](#): Quality of service; [section 3.3](#): Confidentiality; [section 3.5](#): Preservation of clients' property; [section 3.6](#): Fees and disbursements; [section 6.1](#): Supervision; [section 6.2](#): Students]

## Indicator 2: Does each client understand the retainer agreement?

### Considerations

- When appropriate, policies are in place for the use of written retainer agreements and non-engagement letters
- The ambit of the retainer is described to the client, including:
  - a list of services covered by the retainer
  - communication policies
  - billing policies, including anticipated fees and disbursements
  - anticipated time frames
  - the termination of legal services
- Processes are in place to ensure that if the scope of services change, the retainer is amended accordingly
- Processes are in place to ensure that appropriate clients are accepted based on factors such as the firm's areas of expertise, the ability to provide timely communication and the client's file and history, and engagements are terminated if necessary
- Processes are in place to ensure that when acting under a limited scope retainer, the retainer explicitly indicates what services will and won't be provided

### RESOURCES:

- Law Society of BC, [Retainer Agreement](#)
- Law Society of BC, [Joint Retainer- acting for two or more clients](#)
- Law Society of BC, [Model Non-Engagement Letters](#)
- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- Law Society of BC, *Bencher's Bulletin* Spring 2015, [Practice Watch: Acting for a client with dementia](#)

- Law Society of BC, *Benchers' Bulletin* Fall 2017, [Limited scope retainer FAQs](#)
- Lawyers Insurance Fund, [Managing the risks of a limited scope retainer](#)
- Lawyers Insurance Fund, Missed Limitations and Deadlines: [Beat the clock \(see especially tips 48 to 55\)](#)
- Lawyers Insurance Fund, Five key causes of claims - [Retainer and non-retainer failures](#)
- *BC Code* [[rule 1.1-1](#) (definition of “limited scope retainer”); [section 3.2](#): Quality of service and [rule 3.2-1.1](#) (limited scope retainers); [section 3.6](#): Fees and disbursements]
- Law Society Rules [[Part 3 - Division 7](#): Trust Accounts and Other Client Property; [Part 8](#): Lawyers' Fees]

### Indicator 3: Are communications with clients conducted in a professional manner?

#### Considerations

- Communications with clients are conducted in a timely and efficient manner
- Communications with clients are conducted in a courteous and respectful manner
- Communications with clients are conducted in a manner that protects privacy and confidentiality
- Policies or processes are in place to ensure the recording of communications with clients, as appropriate (e.g. archiving emails, creating notes of client meetings and phone calls)
- Policies or processes are in place to ensure that client instructions are confirmed in writing, where appropriate
- Clients are advised of the methods by which they may communicate with lawyers and staff and the appropriate frequency of communications
- Policies are in place to ensure client information is verified and kept up-to-date
- Processes are in place to solicit and receive client feedback
- Key information about the firm is accurate and publically available

#### RESOURCES:

- Law Society of BC, [Discipline Advisory 'Lack of civility can lead to discipline'](#)

- Law Society of BC, [Practice Checklists Manual: Client Identification and Verification Procedure](#)
- Law Society of BC, Online Learning Centre, [Communication Toolkit](#)
- Lawyers Insurance Fund, Missed Limitations and Deadlines: [Beat the clock \(see especially tips 62 to 72\)](#)
- Lawyers Insurance Fund, Five key causes of claims – [Communication failures](#)
- *BC Code* [[section 3.1](#): Competence; [section 3.2](#): Quality of service; [section 3.3](#): Confidentiality]; [Chapter 4](#): Marketing of Legal Services]
- Law Society Rules [[Rule 1](#): (definition of “advertising”), [Rule 3-34](#): Advertising; [Rule 9-7](#): Public disclosure of corporate status]

#### Indicator 4: Are clients regularly informed about the progress of their matter?

##### Considerations

- Policies or processes are in place that ensure clients are regularly informed about:
  - the status of their matter
  - material changes in the scope of the retainer
  - costs and timelines
  - deadlines, limitations, hearing dates and other important dates
  - potential and projected outcomes
- Processes are in place to ensure clients are copied on key correspondence and receive key communications and documents in a timely manner
- Clients are provided with an opportunity to make timely appointments with their lawyer at the times and, if necessary, locations convenient to the client
- Practices encourage informing clients of possible options for pursuing a matter once a lawyer ceases to act for the client

##### RESOURCES:

- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- Law Society of BC, [Reporting Letter to Client – Closing a File](#)
- Lawyers Insurance Fund, Missed Limitations and Deadlines: [Beat the clock \(see especially tips 62 to 72\)](#)
- Lawyers Insurance Fund, Five key causes of claims – [Communication failures](#)
- Lawyers Insurance Fund, [Aging: Risk: Aging clients](#)



- *BC Code* [[section 3.1](#): Competence; [section 3.2](#): Quality of service (Clients with diminished capacity); [section 3.6](#): Fees and disbursements; [section 3.7](#): Withdrawal from representation]

## Rating

### Element 2 – SUSTAINING EFFECTIVE AND RESPECTFUL CLIENT RELATIONS

**Objective:** Provide clear, timely and courteous communications with clients in the delivery of legal services so that clients understand the status of their matter through the duration of the retainer and are in a position to make informed choices.

<b>RATING ELEMENT 2</b>	Policies and processes have not been developed.  1 <input type="checkbox"/>	Policies and processes are under development but not all are functional.  2 <input type="checkbox"/>	Policies and processes are in place and are functional.  3 <input type="checkbox"/>	Policies and processes are fully functional and regularly assessed and updated.  4 <input type="checkbox"/>
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**What does your firm do well?**

**How could your firm improve?**

## Element 3 – PROTECTING CONFIDENTIALITY

**Objective:** Ensure client information, documents and communications are kept confidential and free from access, use, disclosure or disposal unless the client consents or it is required or permitted by law and that solicitor-client privilege is appropriately safeguarded.

*Note: The Indicators and Considerations listed below are not prescriptive and the guidance provided therein should be approached as suggestions rather than mandates*

### Indicator 1: Are confidentiality and privacy policies and processes in place?

#### Considerations

- A confidentiality policy or agreement is in place and is signed by all lawyers and staff
- Confidentiality requirements are established for any third parties (e.g. contractors, computer service providers, interns, cleaners) who may access the firm's physical space or technology
- A privacy policy is in place and is communicated to lawyers and staff

#### RESOURCES:

- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- Law Society of BC, [Model Privacy Policy](#)
- Law Society of BC, Discipline Advisory – [Maintaining privilege and confidentiality when ending the solicitor-client relationship](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- Public Safety Canada, [Create stronger cyber safety policies](#)
- Office of the Information & Privacy Commissioner for BC, [Securing Personal Information: A Self-Assessment Tool for Organizations](#)
- Public Safety Canada, [Educate your employees on cyber safety](#)
- Public Safety Canada, [Run a more cybersafe business](#)
- Public Safety Canada, [Cyber safe guide for small and medium businesses](#)

- *BC Code* [[section 3.3: Confidentiality](#); [section 6.1: Supervision](#); [section 6.2: Students](#)]
- *Legal Profession Act* [[section 87 \(Certain matters privileged\)](#); [section 88 \(Non-disclosure of privileged and confidential information\)](#)]

## Indicator 2: Is training provided pertaining to preserving the duties of confidentiality, solicitor-client privilege, privacy and the consequences of privacy breaches?

### Considerations

- Lawyers and staff are provided with up-to-date technology training relating to issues of confidentiality and privacy pertaining to electronic data, including training on the importance of password protection and awareness of the risks associated with, suspicious emails, links and attachments
- Lawyers and staff receive education and training regarding the principles of confidentiality and solicitor-client privilege, including:
  - in relation to electronic communications (email, texting, e-documents)
  - when a common interest or joint retainer extends the solicitor-client privilege to third parties
- Solicitor-client privilege is clearly explained to clients by lawyers
- Processes are in place for dealing with situations where exceptions to duties of confidentiality and solicitor-client privilege may apply
- Lawyers and staff are provided with training on the requirements of privacy legislation
- Processes are in place to deal with privacy breaches, including processes for reporting breaches to the client, the Law Society and any other appropriate authorities

### RESOURCES:

- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- Law Society of BC, [What to do if your laptop or briefcase is stolen](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- Lawyers Insurance Fund, [The ‘bad cheque’ scam](#)
- Lawyers Insurance Fund, [Other social engineering scams, including the ‘phony change in payment instructions’](#)

- Office of the Privacy Commissioner for BC, [Privacy Breaches: Tools and Resources](#)
- Public Safety Canada, [How to recover from a cyber incident](#)
- Public Safety Canada, [Cyber safe guide for small and medium businesses](#)
- *BC Code* [[section 3.3](#): Confidentiality; [rule 3.4-23](#) (Lawyer due diligence for non-lawyer staff); [section 6.1](#): Supervision; [section 6.2](#): Students; [rule 7.2-10](#): (Inadvertent communications); [section 7.8](#): Errors and omissions]
- Law Society Rules [[Rule 3-96.1](#): Electronic submission of documents; [Rule 3-64.1\(2\)](#): Electronic transfer from trust; [Rule 10-3](#): Records; [Rule 10-4](#): Security of records]

### Indicator 3: Is physical data protected by appropriate security measures?

#### Considerations

- Office security systems are in place to protect confidential information, including processes to ensure:
  - third parties cannot overhear confidential conversations that lawyers and staff have within and outside the physical office
  - client files and other confidential material are not left in publically accessible areas
  - client confidentiality is guarded when visitors enter private areas (e.g. lawyer or staff offices)
  - copiers, fax machines and mail services are located such that confidential information cannot be seen by persons not employed by or associated with the firm
- Processes are in place that ensure reasonable security measures are taken when removing physical records or technological devices from the office
- Processes are in place to ensure that closed files and other documents stored off-site are kept secure and confidential

#### RESOURCES:

- Law Society of BC, [Cloud computing checklist](#)
- Law Society of BC, [Law Office Search Warrants](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- Office of the Information Privacy Commissioner for BC, [Securing Personal Information: A Self-Assessment Tool for Organizations](#)
- Office of the Information Privacy Commissioner for BC, [Privacy Breaches: Tools and Resources](#)

- *BC Code* [[section 3.3: Confidentiality](#); [rule 3.4-23](#) (Lawyer due diligence for non-lawyer staff); [section 3.5: Preservation of clients' property](#); [section 6.1: Supervision](#); [section 6.2: Students](#); [section 7.8: Errors and omissions](#)]
- Law Society Rules [[Rule 10-3: Records](#); [Rule 10-4: Security of records](#)]

#### Indicator 4: Is electronic data protected by appropriate security measures?

##### Considerations

- Data security measures (e.g. encryption software and passwords) are in place to protect confidential information on all computers, laptops, tablets, smartphones, thumb drives and other technological devices
- Systems are in place to protect electronic data from being compromised by viruses, including ransomware
- Processes are in place to safeguard against the security risks arising from downloading to phones, flash drives and other portable devices
- Processes are in place to protect confidentiality when using cloud-based technologies, including email
- Processes are in place to protect confidentiality when using social media
- Electronic data is regularly backed up and stored at a secure off-site location
- Processes are in place to ensure that third parties with access to computers for maintenance and technical support protect the confidentiality of client information
- Processes are in place to safeguard electronic data and maintain solicitor-client privilege as pertaining to electronic files when crossing borders (e.g. United States)

##### RESOURCES:

- Law Society of BC, *Benchers' Bulletin* Spring 2017, [Think twice before taking your laptop or smart phone across borders](#)
- Law Society of BC, *Benchers' Bulletin* Spring 2018, [Crossing the border into or out of the United States](#)
- Law Society of BC, E-Brief, [Minister of Public Safety responds to Law Society's concerns on searches of lawyer's electronic devices at the border](#)
- Law Society of BC, [Cloud computing checklist](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- Lawyers Insurance Fund, [The 'bad cheque' scam](#)
- Lawyers Insurance Fund, [Other social engineering scams, including the 'phony change in payment instructions'](#)
- Public Safety Canada, [Create stronger cyber safety policies](#)

- Public Safety Canada, [Educate your employees on cyber safety](#)
- Public Safety Canada, [Run a more cybersafe business](#)
- Public Safety Canada, [Cyber safe guide for small and medium businesses](#)
- Public Safety Canada, [How to recover from a cyber incident](#)
- Office of the Information Privacy Commissioner for BC, [Securing Personal Information: A Self-Assessment Tool for Organizations](#)
- *BC Code* [[section 3.3](#): Confidentiality; [section 3.5](#): Preservation of clients' property]
- Law Society Rules [[Rule 10-3](#): Records; [Rule 10-4](#): Security of records]

### Indicator 5: Are specially tailored procedures employed to protect confidentiality and privacy in the context of space-sharing arrangements?

#### Considerations

- Processes are in place to clearly distinguish the other entities or professionals with whom space is shared to prevent confusion by clients (e.g. signage, letterhead)
- Processes are in place to ensure trust accounts and banking arrangements are not shared
- Where staff are shared (e.g. paralegals), adequate steps have been taken to protect client confidentiality
- Where office equipment is shared, adequate steps have been taken to protect client confidentiality
- The firm has disclosed the nature of the space-sharing arrangement and any foreseeable limits of their ability to maintain confidentiality to their clients

#### RESOURCES:

- Law Society of BC, [Lawyers Sharing Space](#)
- Law Society of BC, [Practice Advisors](#)
- *BC Code* [[section 3.3](#): Confidentiality; [section 3.4](#): Conflicts (Lawyer due diligence for non-lawyer staff, Space-sharing arrangements); [Chapter 4](#) – Marketing of Legal Services]
- Law Society Rules [[Part 3 - Division 7](#): Trust Accounts and Other Client Property]

## Rating

### Element 3 – PROTECTING CONFIDENTIALITY

**Objective:** Ensure client information, documents and communications are kept confidential and free from access, use, disclosure or disposal unless the client consents or it is required or permitted by law and that solicitor-client privilege is appropriately safeguarded.

<b>RATING ELEMENT 3</b>	Policies and processes have not been developed.  1 <input type="checkbox"/>	Policies and processes are under development but not all are functional.  2 <input type="checkbox"/>	Policies and processes are in place and are functional.  3 <input type="checkbox"/>	Policies and processes are fully functional and regularly assessed and updated.  4 <input type="checkbox"/>
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**What does your firm do well?**

**How could your firm improve?**



## Element 4 – AVOIDING AND ADDRESSING CONFLICTS OF INTEREST

**Objective:** Ensure conflicts of interest are avoided from the outset, and where not avoided, they are resolved in a timely fashion.

*Note: The Indicators and Considerations listed below are not prescriptive and the guidance provided therein should be approached as suggestions rather than mandates*

### Indicator 1: Is a conflicts policy in place?

#### Considerations

- A conflicts policy is in place
- The conflicts policy is communicated to lawyers and staff and is reviewed and updated
- Processes are in place to monitor and reinforce that lawyers and staff adhere to the conflicts policy
- Lawyers and staff participate in opportunities for education and training with respect to identifying potential conflicts, the avoidance of conflicts, the potential consequences of a conflict and how to deal with situations where conflicts arise

#### RESOURCES:

- Law Society of BC, [Model conflicts of interest checklist](#)
- Law Society of BC, [Independent legal advice checklist](#)
- Law Society of BC, [Independent legal advice checklist annotated with risk management tips](#)
- Law Society of BC, [Joint retainer – acting for two or more clients](#)
- Law Society of BC, [Model non-engagement letters](#)
- Law Society of BC, [Reporting letter to client – Closing a File](#)
- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- Law Society of BC, [Lawyers sharing space](#)
- *BC Code* [[rule 2.1-3](#): To the client; [section 3.4](#): Conflicts; [section 6.1](#): Supervision; [section 6.2](#): Students]

## Indicator 2: Are processes in place to identify and address potential and actual conflicts of interest?

### Considerations

- A master list or database of current and former clients is maintained
- Processes are in place to check for and evaluate conflicts at each of the following junctures:
  - prior to engaging in any substantive discussions with a potential new client
  - prior to accepting a new retainer
  - when a new party becomes involved in a matter
  - before hiring a new lawyer or staff at the firm
  - before receiving a confidential disclosure
  - before acting for multiple parties and there is a possibility that their interests could diverge
  - when a lawyer is considering accepting a directorship position or engaging in a business venture with a client
  - when a lawyer's interpersonal relationship creates possible conflicts
- Processes are in place requiring a lawyer to bring any potential conflicts to the attention of a senior lawyer or committee at the firm, where appropriate, for consideration and recommendation
- Lawyers and staff understand the steps to take when a potential or actual conflict is identified
- After full disclosure has been made, written consent is obtained from a client if representation is agreed to after a permissible conflict has been identified

### RESOURCES:

- Law Society of BC, [Model conflicts of interest checklist](#)
- Law Society of BC, [Independent legal advice checklist](#)
- Law Society of BC, [Independent legal advice checklist annotated with risk management tips](#)
- Law Society of BC, [Joint retainer – acting for two or more clients](#)
- Law Society of BC, [Model non-engagement letters](#)
- Law Society of BC, [Reporting letter to client – Closing a File](#)
- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- Law Society of BC, [Lawyers sharing space](#)

- Law Society of BC, *Benchers' Bulletin* Summer 2017, [Ethical considerations when a lawyer leaves a firm](#)
- Lawyers Insurance Fund, [About to act for family and friends?](#)
- Lawyers Insurance Fund, [Witnessing a signature? Stop. Read this first](#)
- *BC Code* [[rule 2.1-3](#): To the client; [section 3.4](#): Conflicts; [section 6.1](#): Supervision; [section 6.2](#): Students]

## Rating

### Element 4 – AVOIDING AND ADDRESSING CONFLICTS OF INTEREST

**Objective:** Ensure conflicts of interest are avoided from the outset, and where not avoided, they are resolved in a timely fashion

<b>RATING ELEMENT 4</b>	Policies and processes have not been developed.  1 <input type="checkbox"/>	Policies and processes are under development but not all are functional.  2 <input type="checkbox"/>	Policies and processes are in place and are functional.  3 <input type="checkbox"/>	Policies and processes are fully functional and regularly assessed and updated.  4 <input type="checkbox"/>
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**What does your firm do well?**

**How could your firm improve?**

## Element 5 – MAINTAINING APPROPRIATE FILE AND RECORDS MANAGEMENT SYSTEMS

**Objective:** Provide appropriate file and records management systems to ensure that issues and tasks on file are handled in an appropriate and timely manner and that client information and documents are safeguarded.

*Note: The Indicators and Considerations listed below are not prescriptive and the guidance provided therein should be approached as suggestions rather than mandates*

### Indicator 1: Is there an information management policy in place?

#### Considerations

- An information management policy is in place which includes:
  - file opening and closing procedures
  - procedures for checking in and out physical and electronic files
  - procedures for transferring active and closed files
  - procedures for tracking files
  - record retention requirements
  - document destruction requirements
  - disaster recovery contingencies
- The information management policy is communicated to lawyers and staff and is reviewed and updated
- Processes are in place to monitor and reinforce adherence to the information management policy
- Lawyers and staff are provided ongoing training on the firm's file and record management systems
- Processes are in place to ensure that written policies addressing the Professional Infrastructure Elements are adequately maintained and stored and can be retrieved by lawyers and staff

#### RESOURCES:

- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- Law Society of BC, *Benchers' Bulletin* Winter 2017, [Closing a client file: What documents to keep and for how long](#)

- Law Society of BC, [Closed Files – Retention and Disposition](#)
- Law Society of BC, [Ownership of Documents in a Client’s File](#)
- Law Society of BC, [Reporting letter to client – Closing a File](#)
- Law Society of BC, [Model non-engagement letters](#)
- Law Society of BC, [Cloud computing checklist](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- *BC Code* [[section 3.5](#): Preservation of clients’ property; [section 6.1](#): Supervision; [section 6.2](#): Students]
- Law Society Rules [[Part 2 - Division 1](#): Practice of Law (Supervision of limited number of paralegals); [Part 3 - Division 7](#): Trust Accounts and Other Client Property; [Part 3 - Division 11](#): Client Identification and Verification; [Rule 10-3](#): Records; [Rule 10-4](#): Security of records]

**Indicator 2: Does the storage and handling of client information minimize the likelihood of its loss or unauthorized access, use, disclosure or destruction?**

**Considerations**

- Data security measures addressing how electronic records are maintained, secured, stored and retrieved are in place
- Processes are in place to ensure electronic documents are regularly backed up
- Paper documents are stored in a fashion that ensures they are adequately preserved and protected
- Processes are in place to track the physical location of a file and its associated documents at all times
- Processes are in place to ensure client identification and verification requirements are fulfilled
- Processes are in place to ensure records are kept regarding implied and express consent provided by clients
- Processes are in place to ensure client property is appropriately identified and recorded upon receipt
- Processes are in place to obtain and document the receipt or delivery of original documents to a third person or client
- File closing processes are in place, including informing clients when their file has been closed
- Processes are in place to ensure that providers of cloud based systems maintain the required level of service and that relevant data protection legislation is complied with

- Processes are in place to ensure the return of original documents to clients at the end of a retainer
- Consideration has been given to appropriate disaster recovery plans, including offsite back up
- Clients are advised when their files are anticipated to be destroyed after closing their matter or alternate arrangements for dealing with the files are made

## RESOURCES:

- Law Society of BC, [Practice Checklists Manual: Client identification and verification procedure checklist](#)
- Law Society of BC, [Client identification and verification FAQs](#)
- Law Society of BC, Discipline Advisory, [Client ID and Verification](#)
- Law Society of BC, *Benchers' Bulletin* Winter 2017, [Closing a client file: What documents to keep and for how long](#)
- Law Society of BC, [Closed Files – Retention and Disposition](#)
- Law Society of BC, [Ownership of Documents in a Client's File](#)
- Law Society of BC, [Reporting letter to client – Closing a File](#)
- Law Society of BC, [Model non-engagement letters](#)
- Law Society of BC, [Cloud computing checklist](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- Lawyers Insurance Fund, [The 'bad cheque' scam](#)
- Lawyers Insurance Fund, [Other social engineering scams, including the 'phony change in payment instructions'](#)
- Courthouse Libraries of BC, [The Law Society of BC's client identification and verification rules](#)
- Office of the Information & Privacy Commissioner for BC, [Securing Personal Information: A Self-Assessment Tool for Organizers](#)
- Public Safety Canada, [Create stronger cyber safety policies](#)
- Public Safety Canada, [Educate your employees on cyber safety](#)
- Public Safety Canada, [How to recover from a cyber incident](#)
- Public Safety Canada, [Run a more cybersafe business](#)
- Public Safety Canada, [Cyber safe guide for small and medium businesses](#)
- *BC Code* [[section 3.5: Preservation of clients' property](#)]
- Law Society Rules [[Part 3 - Division 7: Trust Accounts and Other Client Property](#); [Part 3 - Division 11: Client Identification and Verification](#); [Rule 10-3: Records](#); [Rule 10-4: Security of records](#)]

## Rating

### Element 5 – MAINTAINING APPROPRIATE FILE AND RECORDS MANAGEMENT SYSTEMS

**Objective:** Provide appropriate file and records management systems to ensure that issues and tasks on file are handled in an appropriate and timely manner and that client information and documents are safeguarded

<b>RATING ELEMENT 5</b>	Policies and processes have not been developed.  1 <input type="checkbox"/>	Policies and processes are under development but not all are functional.  2 <input type="checkbox"/>	Policies and processes are in place and are functional.  3 <input type="checkbox"/>	Policies and processes are fully functional and regularly assessed and updated.  4 <input type="checkbox"/>
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**What does your firm do well?**

**How could your firm improve?**



## Element 6 – CHARGING APPROPRIATE FEES AND DISBURSEMENTS

**Objective:** Ensure clients are charged fees and disbursements that are transparent and reasonable and are disclosed in a timely fashion.

*Note: The Indicators and Considerations listed below are not prescriptive and the guidance provided therein should be approached as suggestions rather than mandates*

### Indicator 1: Is a policy pertaining to appropriate billing practices in place?

#### Considerations

- A policy regarding billing procedures is in place
- The billing policy is communicated to lawyers and staff and is reviewed and updated
- Educational measures are in place to ensure that lawyers and staff are aware of firm policies regarding billing practices and have a clear understanding of what constitutes unethical billing practices
- Processes are in place that ensure accurate, timely and complete time records are kept

#### RESOURCES:

- Law Society of BC, [The Trust Accounting Handbook](#)
- Law Society of BC, *Benchers' Bulletin* Winter 2012, [Practice Watch – Fees, Disbursements and Interest](#)
- Law Society of BC, [Practice Resource: Solicitors' Liens and Charging Orders – Your Fees and Your Clients](#)
- Law Society of BC, Discipline Advisory, [Proper recording and billing of disbursements required by rules](#)
- Law Society of BC, Discipline Advisory, [Bills and retainers are frequent source of complaints](#)
- *BC Code* [[section 3.6](#): Fees and disbursements; [section 6.1](#): Supervision; [section 6.2](#): Students]

- Law Society Rules [[Part 2 - Division 1](#): Practice of Law (Supervision of limited number of paralegals); [Part 3 - Division 7](#): Trust Accounts and Other Client Property; [Part 8](#): Lawyers' Fees]
- *Legal Profession Act* [[Part 8](#): Lawyers' Fees]

## Indicator 2: Do retainer agreements contain sufficient information about fees and billing?

### Considerations

- With respect to billing and fees, all retainers specify:
  - the billing process
  - the timing on payment of accounts, the interest to be paid on unpaid bills and the consequences of non-payment
  - who will work on the file and at what rate
  - the amount of the retainer and how it will be replenished
  - limitations on the scope of service
  - the right to have the account reviewed by a taxing authority
  - the possibility of a solicitor's lien on the file
- If a retainer is being funded by a third party, the retainer specifies the nature of the third parties relationship to the firm/lawyer

### RESOURCES:

- Law Society of BC, [Retainer Agreement](#)
- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- *BC Code* [[section 3.2](#): Quality of service; [section 3.6](#): Fees and disbursements; [section 3.7](#): Withdrawal from representation]
- Law Society Rules [[Part 3 - Division 7](#): Trust Accounts and Other Client Property; [Part 8](#): Lawyers' Fees]
- *Legal Profession Act* [[Part 8](#): Lawyers' Fees]

### Indicator 3: Are fees fair and reasonable?

#### Considerations

- Processes are in place to ensure the billing practices are clearly explained to clients at the beginning of the retainer
- All billing arrangements are confirmed in writing and any further substantive discussions with clients about fees are also documented in writing
- Where practicable, an estimate of anticipated fees and disbursements is provided to clients
- Processes are in place that ensure clients are regularly updated and provided appropriate notice of any change in fee or disbursement charges as the matter progresses
- Disbursements and other charges are regularly posted to client files
- Processes are in place to encourage the review of bills to ensure they reflect fees that are commensurate with the value of work provided
- Processes are in place to ensure clients are billed on a timely basis
- Where practicable, firm managers periodically conduct random audits of bills
- Processes are in place to address client's non-payment of fees and client complaints in relation to fees

#### RESOURCES:

- Law Society of BC, [Disputes involving fees and the Law Society Fee Mediation Program](#)
- *BC Code* [[section 3.2](#): Quality of service; [section 3.6](#): Fees and disbursements]
- Law Society Rules [[Part 3 - Division 7](#): Trust Accounts and Other Client Property; [Part 8](#): Lawyers' Fees]
- *Legal Profession Act* [[Part 8](#): Lawyers' Fees]

## Rating

### Element 6 – CHARGING APPROPRIATE FEES AND DISBURSEMENTS

**Objective:** Ensure clients are charged fees and disbursements that are transparent and reasonable and are disclosed in a timely fashion

<b>RATING ELEMENT 6</b>	Policies and processes have not been developed.  1 <input type="checkbox"/>	Policies and processes are under development but not all are functional.  2 <input type="checkbox"/>	Policies and processes are in place and are functional.  3 <input type="checkbox"/>	Policies and processes are fully functional and regularly assessed and updated.  4 <input type="checkbox"/>
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**What does your firm do well?**

**How could your firm improve?**

## Element 7 – ENSURING RESPONSIBLE FINANCIAL MANAGEMENT

**Objective:** Establish mechanisms to minimize the risk of fraud and procedures that ensure compliance with Law Society accounting rules.

*Note: The Indicators and Considerations listed below are not prescriptive, and the guidance provided therein should be approached as suggestions rather than mandates*

### Indicator 1: Are policies and processes in place that ensure that client funds received in, and withdrawn from trust accounts are properly handled?

#### Considerations

- An appropriate accounting system is used to track trust funds
- Policies are in place to ensure all accounting records are accurate and up to date
- Appropriate internal controls are in place with respect to financial transactions, including electronic transfer of funds and in relation to any change in payment instructions
- Adequate internal controls are in place to minimize risk of fraud committed by lawyers or staff in the firm
- Lawyers and staff are provided with education and training in relation to the rules pertaining to trust accounts
- Lawyers and staff take steps to identify and prevent fraudulent activities, including staying informed of the Law Society's fraud alerts
- Lawyers and staff are encouraged to pursue training opportunities to assist in spotting possible fraudulent trust account activity
- Processes are in place to ensure trust funds are not withdrawn from trust, including to pay an account, except in compliance with the Law Society Rules

#### RESOURCES:

- Law Society of BC, [The Trust Accounting Handbook](#)
- Law Society of BC, [Sample Checklist of Internal Controls](#)
- Law Society of BC, [Garnishment of Lawyers' Trust Accounts](#)
- Law Society of BC, [Trust Accounting Checklist](#)
- Law Society of BC, Discipline Advisory, [Know your obligations before accepting cash](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- Lawyers Insurance Fund, [The 'bad cheque' scam](#)

- Lawyers Insurance Fund, [Other social engineering scams, including the ‘phony change in payment instructions’](#)
- *BC Code* [[section 3.5](#): Preservation of clients’ property; [section 6.1](#): Supervision; [section 6.2](#): Students]
- Law Society Rules [[Part 2 - Division 1](#): Practice of Law (Supervision of limited number of paralegals); [Part 3 – Division 6](#): Financial Responsibility; [Part 3 - Division 7](#): Trust Accounts and Other Client Property; [Part 3 – Division 8](#): Unclaimed Trust Money; [Part 8](#): Lawyers’ Fees]

## Indicator 2: Does the firm have appropriate and adequate commercial insurance?

### Considerations

- Lawyers are aware of the risks the firm faces and whether or not those risks are insured under the Law Society’s compulsory policy or through commercial policies purchased by the firm
- Adequate commercial insurance coverage is in place, as appropriate, to respond to risks that are not covered under the Law Society’s compulsory policy, including
  - excess insurance
  - crime or fidelity insurance (for employee theft)
  - social engineering insurance (for scams that trick lawyers into willingly paying out trust funds through the intentional misrepresentation of some material fact)
  - funds transfer fraud insurance
  - cyber insurance
- Processes are in place to assess, on a regular basis, both the risks the firm faces and the adequacy of commercial insurance
- Lawyers are aware of the reporting obligations under the compulsory policy and any commercial insurance policies

### RESOURCES:

- Lawyers Insurance Fund, [Cover Pages: A guide to insurance for private practitioners](#)
- Lawyers Insurance Fund, [My Insurance Policy: Questions and Answers](#) - includes what’s covered and what’s not, reporting obligations
- Lawyers Insurance Fund, [Excess insurance: Protection for claims that exceed \\$1 million](#)

- Lawyers Insurance Fund, [Other commercial insurance: Protection for claims that our policy does not cover](#)
- Lawyers Insurance Fund, [List of excess and other commercial insurance brokers](#)
- Lawyers Insurance Fund, [Insurance coverage for lawyers no longer in private practice](#)
- Lawyers Insurance Fund, [Employee fraud, cybercrimes and more](#)
- Lawyers Insurance Fund, [The ‘bad cheque’ scam](#)
- Lawyers Insurance Fund, [Other social engineering scams, including the ‘phony change in payment instructions’](#)
- *BC Code* [[section 7.1](#): Responsibility to the Society and the profession generally (Meeting financial obligations)]
- Law Society Rules [[Part 3 - Division 5](#): Insurance; [Part 3 - Division 6](#): Financial Responsibility; [Part 3 - Division 7](#): Trust Accounts and Other Client Property]

### Indicator 3: Are policies and processes in place to ensure the firm operates in a financially responsible fashion?

#### Considerations

- Policies are in place to ensure that minimum standards of financial responsibility are met, including satisfying monetary judgments, avoiding insolvency, producing appropriate books, records and accounts, completing trust reports and payment of the trust administration fee
- Processes are in place to ensure taxation authorities and creditors of the firm are paid in a timely manner including the payment of GST, PST, payroll and payroll remittances

#### RESOURCES:

- Law Society of BC, [Practice Advisors – Frequently Asked Questions](#)
- *BC Code* [[section 7.1](#): Responsibility to the Society and the profession generally (Meeting financial obligations)]
- Law Society Rules [[Part 3 - Division 6](#): Financial Responsibility; [Part 3 - Division 7](#): Trust Accounts and Other Client Property]

## Rating

### Element 7 – ENSURING RESPONSIBLE FINANCIAL MANAGEMENT

**Objective:** Establish mechanisms to minimize the risk of fraud and procedures that ensure compliance with Law Society accounting rules

<b>RATING ELEMENT 7</b>	Policies and processes have not been developed.  1 <input type="checkbox"/>	Policies and processes are under development but not all are functional.  2 <input type="checkbox"/>	Policies and processes are in place and are functional.  3 <input type="checkbox"/>	Policies and processes are fully functional and regularly assessed and updated.  4 <input type="checkbox"/>
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**What does your firm do well?**

**How could your firm improve?**



## Element 8 – EQUITY, DIVERSITY AND INCLUSION

**Objective:** Observe the laws protecting human rights, and the principles of equity, diversity and inclusion in the workplace and in all aspects of the provision of legal services.

*Note: The Indicators and Considerations listed below are not prescriptive, and the guidance provided therein should be approached as suggestions rather than mandates*

### Indicator 1: Are policies and processes in place that foster the creation of a fair and safe working environment for all lawyers and staff?

#### Considerations

- Policies or processes are in place that comply with legal obligations protecting human rights and encourage diversity, inclusion, substantive equality and accommodation in the recruitment, retention and advancement of lawyers and staff
- Hiring policies and processes are free of bias and unlawful discrimination, including interview questions
- Policies are reviewed, updated and communicated to lawyers and staff
- Lawyers and staff participate in education and training on issues relating to unlawful discrimination, harassment and bullying, including legal obligations under the *Human Rights Code* and the *Workers Compensation Act*
- Maternity and parental leave policies are in place for lawyers and staff
- Flexible work schedules are an option for lawyers and staff who have child-care or other caregiver responsibilities
- Accommodation policies are in place for lawyers and staff with disabilities
- Internal complaints mechanisms are in place to address concerns and allegations of unlawful discrimination and harassment in the workplace

#### RESOURCES:

- Law Society of BC, [Promoting a respectful workplace: A guide for developing effective policies](#)
- Law Society of BC, [Model Policy: Flexible Work Arrangements](#)
- BC Human Rights Tribunal, [Human Rights and Duties in Employment](#)
- *BC Code* [[section 6.3: Harassment and Discrimination](#)]

**Indicator 2: Are policies and processes in place that encourage lawyers to develop and maintain the necessary knowledge and skills to provide legal services in a manner consistent with principles of equity, diversity, inclusion and non-discrimination?**

**Considerations**

- All clients, court and registry staff and colleagues are treated in a manner consistent with applicable human rights laws and the principles of equity, diversity and inclusion
- Language used in communicating with clients is appropriate to the individual receiving the communication and reflects freedom from unlawful discrimination
- Processes are in place to address language barriers, cultural differences and issues of mental capacity
- Lawyers and staff have adequate knowledge and skills to ensure that clients with disabilities and other equality seeking groups receive competent legal services
- Lawyers and staff participate in skills-based training with respect to the Truth and Reconciliation Commission Call to Action #27:
  - “to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal – Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”
- Legal requirements relating to accessibility have been considered and where accessibility may be an issue, lawyers meet with clients in other appropriate settings

**RESOURCES:**

- Law Society of BC, [Equity Ombudsperson](#)
- Law Society of BC, *Benchers' Bulletin* Winter 2016, [Working in a Diverse Society: The Need for Cultural Competency](#)
- Law Society of BC, [Practice Advisors - Frequently Asked Questions](#)
- Law Society of BC, Practice Checklists Manual, [Human Rights Complaint Procedure](#)
- Law Society of BC, [Equity and Diversity Centre](#)
- Law Society of BC, [The Business Case for Retaining and Advancing Women Lawyers in Private Practice](#)

- BC Human Rights Tribunal, [Human Rights Duties in Employment](#)
- BC Human Rights Tribunal, [Human Rights in Services, Facilities, Accommodations](#)
- Canadian Human Rights Tribunal, [Accommodation Works!](#)
- Truth and Reconciliation Commission of Canada: [Calls to Action](#)
- *BC Code* [[section 2.1](#): Canons of legal ethics; [section 3.1](#): Competence; [section 3.2](#): Quality of service (Clients with diminished capacity); [section 6.1](#): Supervision; [section 6.2](#): Students; [section 6.3](#): Harassment and discrimination; [section 7.2](#): Responsibility to lawyers and others]

## Rating

### Element 8 – EQUITY, DIVERSITY AND INCLUSION

**Objective:** Observe the laws protecting human rights, and the principles of equity, diversity and inclusion in the workplace and in all aspects of the provision of legal services.

<b>RATING ELEMENT 8</b>	Policies and processes have not been developed.  1 <input type="checkbox"/>	Policies and processes are under development but not all are functional.  2 <input type="checkbox"/>	Policies and processes are in place and are functional.  3 <input type="checkbox"/>	Policies and processes are fully functional and regularly assessed and updated.  4 <input type="checkbox"/>
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**What does your firm do well?**

**How could your firm improve?**