

Business Continuity and Succession Plan Guide and Checklist

January 1, 2023

Table of Contents

Introduction & Purpose	3
Business Continuity	3
Succession Planning.....	3
Guide and Checklist.....	3
Planning Considerations	4
Pitfalls of Failing to Plan.....	4
Custodianships	5
Business Continuity Considerations	5
Succession Planning Considerations	5
Ethical Considerations in Planning.....	6
Information to Include in Plan.....	6
Related Documents	7
Successor Lawyer.....	8
Responsibilities of a Successor Lawyer	9
Bank Account Access for Successor Lawyer	10
Trust Accounting Rules and Successor Lawyers.....	10
Finances	11
Notice to Clients of Absence	11
Paper Reduction	11
Your Plan – Checklist	13
Introductory Information	13
Out of Office Procedures for Emergencies, Disasters and Loss of Access to Office.....	13
Out of Office Procedures for Planned Absences: Short- and Long-Term.....	14
Out of Office Procedures for Unplanned Absence: Short-, Long-Term and Permanent.....	14
Files: Open and Closed.....	15
Finances	16
Key Documents.....	17
Other Considerations	17
Office Procedure Manual	19
Additional Planning Resources	20
Law Society of Alberta Contact Information	21

This Guide and Checklist outlines various steps for lawyers to take and is not intended to replace your professional judgment. Nor will any arrangements you make supersede the Legal Profession Act, The Rules of the Law Society of Alberta, Code of Conduct, or the Law Society of Alberta's ability to step in to protect the public interest should the need arise. Links included in this Guide and Checklist are current as of the date of publication.

Introduction & Purpose

The Law Society of Alberta believes in the importance of having a Business Continuity and Succession Plan (plan) to ensure your legal practice is prepared for any eventuality. Having a plan in place for both the expected and the unexpected will ensure that your practice runs smoothly no matter what you encounter.

This guide is designed to provide background information about business continuity and succession planning. Additionally, it identifies items to consider in developing your plan and provides resources where you can find additional information and templates so you can develop a customized plan for your unique circumstances.

Business Continuity

Business continuity planning refers to planning for the unexpected. This includes emergencies such as fire, flood, illness or other disaster. A business continuity plan allows you to think through, in advance, how to respond to an unexpected interruption in your business operations. Business continuity planning is also frequently referred to as contingency planning or emergency planning. However, it is more than this. A business continuity plan can also cover planned absences (e.g., vacations or leaves) to ensure your business runs as expected during your absence.

Succession Planning

Succession planning refers to planning for a change to the operation of your business. This includes a change in management or ownership, a long-term illness or retirement. A succession plan allows you to think through, in advance, how to transition your business operations through the change, whether anticipated or unexpected.

Succession planning is also an important consideration for those who apply for a judicial appointment. A plan will need to be in place at the time of your application. If needed, it will be activated on extremely short notice and must be designed for such an event.

Guide and Checklist

This guide and checklist may be used to develop your plan. The use of this guide and checklist is not required to develop your plan but provides areas to consider in your planning process. This guide and checklist do not cover all eventualities or practice scenarios. Consider the specific needs of your firm and your practice when developing your plan.

This section begins with initial considerations for you to contemplate as you start the planning process. It is followed by more specific details for the various items you should consider including in your plan.

In addition to this guide and checklist (and the accompanying documents), there are additional resources you can consult in developing your plan, listed at the end of this document.

No matter what resources you use or what other plans you may have in place, your plan needs to be:

- easy to access;
- easy to implement;
- known to your successor lawyer and any staff or family members who may be impacted; and
- adaptable to a variety of situations.

Always keep in mind that your plan must make sense to you and be drafted for someone else to understand and implement.

Planning Considerations

While a disruption or change to your practice may be short-term (e.g., a power failure), it may also be long-term or become permanent. It may arise unexpectedly or may be the result of a deliberate decision. Your ability to respond, adapt and meet your and your clients' needs, in the face of a disruption or change, will be impacted by any consideration you have given to the possibility of an event occurring, as well as any planning you have done to develop a potential response. Without a plan in place, it could take time to find a lawyer willing to take over your practice, in the short- or long-term, which could have a detrimental impact on clients and their matters.

There may be different needs for an individual lawyer than for a law firm, depending on factors such as the size and location of the firm. Customized plans should be developed for both individual lawyers and the law firms where they work. For law firms, plans will vary in detail and in length depending on the size and nature of the practice. For individual lawyers, plans will vary depending on the seniority and scope of work of the lawyer.

For lawyers in a partnership, consider including provisions in your partnership agreement relating to contingency planning. This can include what happens with files and bank account(s) if one partner is absent from the practice. You could also consider addressing what will happen with any debts of the practice in the event of one partner being absent from practice.

Pitfalls of Failing to Plan

There are many pitfalls for failing to plan, if your practice is being wound up or sold, such as:

- lack of financial support of your family;
- inability to pay your staff;

- inability to pay your suppliers;
- loss of your practice's reputation and goodwill; and
- no input about who steps into your practice.

Custodianships

If you do not have a formal plan authorizing another lawyer to step into your shoes, and you are suddenly unable to practice, the Law Society's Custodianship department can work with you or your estate to find a suitable lawyer to take over your practice. In certain circumstances, the Law Society can appoint a custodian over your practice, pursuant to section 95 of the *Legal Profession Act*. The Law Society will appoint a custodian in an emergency situation, or as a last resort if there is no lawyer that can take over your practice.

Typically, a custodianship involves the wind up of a legal practice and rarely involves the ongoing management of a law practice. A custodian will step into the shoes of the lawyer under custodianship. The custodian will reconcile, disburse, and close trust accounts and will send active files to new counsel. The custodian can, but is not required to, deal with any creditors of the practice or make any business decisions, including office leases or staff.

Custodianships are extremely costly. Since they are paid for by your practice or your Estate, this can further reduce its value and create additional debt for you or your estate. In 2021, the average cost of a custodianship was \$64,558 and took just over three years to complete.

Business Continuity Considerations

Business continuity needs to consider events such as:

- planned absences (vacation, leave, retirement);
- unexpected absences (short- or long-term illness, injury, disability or incapacity, family emergency); and
- loss of access to your office or data (fire, flood, break-in, vandalism, cyber-attack, computer failure).

Succession Planning Considerations

Succession planning needs to consider outcomes such as:

- retirement, long- or short-term disability or incapacity and death;
- practice wind up, practice transfer and practice continuing with the existing firm; and
- dissolution of a law firm.

For retirement planning see our [Retirement Guide](#).

Ethical Considerations in Planning

The [Code of Conduct](#) contains provisions designed to protect client confidentiality and limit other lawyers' ability to solicit clients who are already represented. In your planning, please consider the following sections of the Code and the [Rules of the Law Society of Alberta](#):

- You must hold in strict confidence all information concerning their affairs and may not divulge it without the client's permission (Code, Rule 3.3-1).
- You owe a duty of confidentiality to every client. You must hold in strict confidence all information concerning their affairs and may not divulge it without the client's permission (Code, Rule 3.3-1).
- You need to make arrangements to safeguard your clients' money and property (Code, Rule 3.5-1).
- You must recognize limitations in your ability to handle legal matters and take steps to ensure your clients are appropriately served (Code, Rule 3.1-1(h)). Clients are entitled to assume that you have the capacity to deal adequately with all matters undertaken on their behalf (Code, Rule 3.1-2).
- You must withdraw if you are no longer competent to handle a matter. When that occurs, you must minimize expense and prejudice to the client and do all things to facilitate an orderly transfer of the file to other counsel (Code, Rules 3.7-5 and 3.7-6).
- A Responsible Lawyer for a trust account must be an active member of the Law Society (Rules of the Law Society of Alberta, Rule 119.9). If the lawyer is not able to discharge their duties, they need to advise the Law Society and ensure that a replacement has applied to take over (Rule 119.62). To provide backup, a lawyer can be designated as a secondary Responsible Lawyer (Rule 119.11).

When a lawyer is incapacitated with no plans to deal with that contingency, the void may place the Responsible Lawyer and their firm in breach of the rules.

Information to Include in Plan

Your plan should contemplate and include information and adequate arrangements to deal with client files and the operation of your practice. At a minimum, consider the following:

- where and how to access open and closed client files;
- client wills, powers of attorney and other related documents;
- minute books for client matters;
- trust accounts, trust money and trust property;
- how to identify outstanding undertakings or trust conditions on client matters;
- other important records (e.g., office lease documents, copy of any firm agreements such as partnership agreements);

- other valuable firm property;
- passwords and the means to access computers, cellphones, email, social media accounts, voicemail, banking, accounting and other electronic records;
- list of third-party applications used and the contact information of those technology vendors to obtain access to the data on the cloud or server(s);
- list of authorized signatories on the trust and general account(s);
- banking arrangements;
- other accounts related to your practice; and
- arrangements necessary to carry on or wind up your practice including billing and accounts receivable.

To ensure the smooth operation or transition of your legal practice, you will want to include much more detail, specific to your practice, beyond what is included in this list. However, this list provides the basic information to consider as you start the planning process.

As part of your planning, ensure that you inform your spouse or partner, family members and estate representatives that arrangements have been made for your practice. Provide them with sufficient detail so that they know who the successor lawyer is and how to reach them. They do not need to know all of the details of your plan but enough to know, generally, what to expect should your plan be implemented. Your law firm staff should also be aware that a plan has been made for the office. They should be provided with enough information that they can anticipate what will be required to keep the law firm operating or know how it may wind up or transfer.

Related Documents

Documents that you should consider preparing in conjunction with your plan, and that will be reviewed regularly and updated as needed, are:

- enduring power of attorney for your law practice related to the management and disposition of the practice; ([see template](#))
- power of attorney for your law practice for planned absences (as needed);
- clauses in your will specific to your law practice that permit your executor or personal representative to take necessary steps to protect client interests and wind up the practice; ([see template](#))
- clauses in your partnership agreement specific to capacity, death, etc.;
- clauses in your professional corporation documents or shareholder's agreement specific to capacity, death, etc.;
- a resolution to your professional corporation regarding signing authority; ([see template](#))
- signed agreement with your successor lawyer;
- procedure manual for your office;
- file retention and destruction policy;
- up-to-date master list of open client files with client contact information;
- executed retainer agreements that include consent for successor lawyer to deal with client files; ([see template](#))
- list of all pending limitation periods and deadlines for all files;

- master list of closed client files, location of the files, information on how to access the files, date of destruction for the files, etc.;
- master list of contact information for lawyers, staff, contractors, suppliers, etc.; ([see template](#))
- list of designated individuals who have a list of passwords for all systems in your office (e.g., voicemail, email, computers/laptops, banking, alarm systems, cellphone, online accounts, social media accounts, off site back-ups, etc.), and keys (e.g., to the office, desks, filing cabinets, safety deposit boxes, safes etc.);
- up-to-date list of accounts payable for each month;
- list of insurance policies and providers, to be reviewed regularly and at least annually to ensure it continues to meet your needs (e.g., disability, life, property, contents with specific coverage for computer and other high value equipment, commercial general liability, business interruption, crimes coverage, etc.);
- off-site data back-ups of computers/laptops/cellphone messages (best practice is to save daily and test regularly); and
- law firm inventory, including information on what is owned and what is leased or rented ([see template](#)).

Successor Lawyer

A successor lawyer is a lawyer who has an active practice status with the Law Society of Alberta and who agrees to administer your practice in the event that you are unable to attend to your practice, whether planned or unexpected, short-term or long-term. It is important to work with your colleagues to find a successor lawyer to step in and run your practice if you are unable to do so. While office staff, accountants and bookkeepers can provide support, only a lawyer can replace you in administering your practice. The *Legal Profession Act* states that only a lawyer can practice law (section 106) and only an active member of the Law Society can be designated as the Responsible Lawyer for a trust account (The Rules of the Law Society of Alberta, Rule 119.9). A written agreement should be in place that sets out the expectations of both you and your successor lawyer and the events which trigger when the successor lawyer will step in to assist with your legal practice.

Your successor lawyer will have the power to withdraw funds, write cheques and close your accounts. How they handle your clients will have a major impact on whether your clients stay or go elsewhere. Choose this person carefully and build in safeguards such as requiring second signatures on cheques or having your accountant provide more oversight than usual over your practice.

The agreement needs to consider the events which trigger when the successor lawyer will step in so that it is clear in an unexpected absence that the successor lawyer will assume control of the practice and in what way. This is particularly the case when the succession portion of the plan is triggered by an event other than death. Consideration should also be given to your possible return to practice. Additionally, ensure that all appropriate conflict checks are discussed before the successor lawyer agrees to be named as the successor lawyer. Consider selecting a successor lawyer who will likely have minimal exposure to conflicts with your clients, if possible. The successor lawyer will need to conduct conflict checks when they step into the practice. If

there are conflicts of interest between your clients and the successor lawyer, consider how those will be managed.

When considering your successor lawyer also consider how you will pay them. You will be asking them to assume significant responsibility and they should be compensated accordingly. Remember, they do not have to do this and may not be willing to work very long if there is no money to pay them for their efforts.

Responsibilities of a Successor Lawyer

When appointing a successor lawyer, or agreeing to be a successor lawyer, it is important to understand the key responsibilities that a successor lawyer will take on immediately upon stepping into your legal practice. Initial steps include:

- locating all open files and client materials related to open files;
- conducting a conflict search of open files;
- notifying clients, courts and lawyers on the other side of files;
- triaging open files to determine which need immediate attention;
- ensuring all trust accounts are balanced and accessible;
- locating trust property and assessing if it can or should be returned to the client;
- locating any original documents and returning them to the client when possible;
- transferring client files as required; and
- billing files in accordance with successor lawyer agreement.

When the successor lawyer agreement is activated due to death, the successor lawyer should be prepared to discuss the value of the practice as an asset of the estate. There may be a conflict between the legal responsibilities of the successor lawyer to clients and the legitimate interest of the estate in the practice as an asset. The successor lawyer should discuss this with your family and estate representatives early in the process. You should also have this conversation with your family and estate representatives while preparing your plan so that they are not surprised by anything in the conversation with your successor lawyer.

It is highly recommended that a successor lawyer be aware of your plan so that they are familiar with your practice. This includes having familiarity with your office procedures, the location of files and other documents, your accounting records and other key elements of your legal practice. This will help with a smooth transition for your clients, your legal practice and the successor lawyer. It is recommended that you introduce your successor lawyer to key staff in advance and make sure they know how to reach each other.

The Law Society of Alberta has developed a number of checklists and templates to help with your successor lawyer planning. These include:

- Successor Lawyer templates for both [practices with](#) and [without](#) Professional Corporations;

- [Successor Lawyer Checklist](#) and a [Successor Lawyer Timeline – The First Month](#) that you may want to consult if you are acting as a successor lawyer or to better understand what is expected of a successor lawyer as you draft your agreement;
- [Notification of Successor Lawyer to Law Society of Alberta and ALIA](#) template;
- [Consent to Release Information to Law Society of Alberta and ALIA](#) template;
- [Release & Consent for Use & Disclosure of Protected Health Information](#) template (to your successor lawyer);
- [Sample Spousal/Domestic Partner Consent](#) template that can be executed alongside the successor lawyer agreement;
- [Sample Letter from Planning Lawyers Advising Clients that They are Closing Down Practice](#); and
- [Sample Letter from Successor Lawyer Advising Clients that Lawyer Unable to Practice](#)

Bank Account Access for Successor Lawyer

It is highly recommended that you meet with your bank(s) to determine the requirements for your successor lawyer to access your law firm's bank accounts. You want to ensure that your successor lawyer can access your trust and general accounts should you be unable to do so. Different banks may have different requirements so ensure that you speak with each of your banks regarding what is required to provide access. A power of attorney, successor agreement or your Business Continuity and Succession Plan may not be sufficient for the bank to grant your successor lawyer access to your accounts. Some banks have their own forms that must be completed. Make sure you are clear on the requirements of your bank(s) for each of your accounts and safety deposit boxes.

Ensure that your conversation covers not only your trust and general accounts but what will be required with regards to any other bank accounts, lines of credit and other loans if you are unexpectedly absent due to illness, disability, incapacity or death.

Keep enough money in your practice's general account to enable your successor lawyer to pay staff, rent and other overhead while your affairs are straightened out. Particularly if you are behind on your billings, it may take some time to generate and collect sufficient receivables to sustain the practice otherwise.

You can designate alternate signing authority on your trust account to your successor lawyer. This will enable the successor lawyer to take over in an emergency. However, if there is no plan in place with respect to your firm's bank accounts, there may be a delay in obtaining access which could be detrimental to your clients. To set up an alternate signing authority for succession planning purposes, you will need to work with the Law Society's Trust Safety Department and comply with all Trust Accounting Rules.

Trust Accounting Rules and Successor Lawyers

In addition to meeting the requirements of your bank, you must also comply with the Law Society's Trust Accounting Rules, found in Part 5 of The Rules of the Law Society of Alberta. When drafting your plan, and any agreement with your successor lawyer, ensure they comply with the Rules as

they relate to your trust and general accounts. You may contact the Trust Safety Department to ensure that your successor lawyer meets the requirements to be approved as a Responsible Lawyer and will be able to step into your practice, if necessary.

Finances

In addition to ensuring access to bank accounts for your successor lawyer, you should also ensure that there are sufficient funds in place to cover office overhead and expenses for a period of time. This can be done in a variety of ways through emergency savings, business interruption insurance, life insurance, an operating line of credit, or other options. Keep in mind that it takes time to access insurance proceeds so having emergency savings on hand for the short-term is something to consider. You should also discuss and cover compensation arrangements for your successor lawyer in your successor lawyer agreement.

Notice to Clients of Absence

You should always advise your clients of planned absences from your practice, including the dates of your absence.

For unplanned absences, you should inform your clients of who your successor lawyer will be and obtain their consent to continue with your successor lawyer during your absence. This notice and consent can be included in your retainer agreement. The retainer agreement can include information about the arrangement made with your successor lawyer to manage or wind up your legal practice during planned and unexpected absences, disability, incapacity or death.

If an unexpected absence occurs, clients must be informed as soon as possible of the absence. This can be done by office staff or the successor lawyer. If known, clients should be told the anticipated duration of the absence.

When notified of the absence, the client should confirm their consent to working with the successor lawyer or, if they do not consent, they may choose a new lawyer. If the client chooses a new lawyer, then the successor lawyer must arrange for the transfer of the file and any trust money and trust property to the new lawyer.

Be aware that in a planned or unplanned absence, you can provide your successor lawyer with information about your current files, including the client's last instructions, but you cannot give instructions to the successor lawyer. The successor lawyer will have to assess what client matters have some urgency to them and get immediate instructions if necessary. If the client cannot be located immediately, the successor lawyer may be able to rely on implied authority to protect the client's rights.

Paper Reduction

As part of your planning process, and the ongoing operation of your legal practice, you should consider reducing the amount of paper you maintain and store. There are several ways to reduce the amount paper in your office through the use of a file retention and destruction policy, as well

as through digitization. Moving to a digital system will assist your successor lawyer with an easier transition.

See the Law Society's [Law Practice Essentials](#)' file management and file retention and document management modules for more information.

Your Plan – Checklist

The following outlines **information to include**, as appropriate, in your plan. As noted previously, each law firm and each lawyer within a law firm should have a plan. Each plan will be specific to each lawyer and each law firm; however, the following will help you get started with basic plan development.

Review and update your plan whenever circumstances change that may impact the plan. At a minimum, you should review your plan annually to ensure it continues to meet your needs. Check in with your successor lawyer during each annual review to provide updates and discuss any changes about which your successor lawyer should be made aware.

When making and reviewing your plan, do not assume you will be available or have capacity when the time comes to guide your family and others through these difficult decisions.

If you are part of a larger firm, and not responsible for the continuity of the firm itself, adjust the following accordingly. Your colleagues should know where to find your plan so they may locate client lists and passwords, access client files and your calendar (e.g., diary dates, etc.), as necessary to maintain your practice in your absence.

Introductory Information

- Lawyer Name
- Law Firm Name
- Date Plan Developed
- Date Plan Reviewed and Revised (this should be done annually)
- Successor Lawyer Information
 - Successor Lawyer Name
 - Successor Lawyer Contact Information
 - Date Successor Lawyer Agreement Executed
 - Successor Lawyer Agreement (attached or information on where it is located)

Out of Office Procedures for Emergencies, Disasters and Loss of Access to Office

- Enable secure remote connection for office systems (e.g., data storage, email, voicemail, accounting, etc.) and test regularly
- Notify clients of circumstances
- Ensure staff know how to reach you
- Set up email and voicemail out of office notifications, as necessary
- Have incoming emails and voicemails monitored
- Amend website and social media accounts, as necessary
- Establish secure off-site data back-ups and test regularly
- Establish secure off-site file storage for closed files



- Establish secure off-site storage, as necessary, for copies of key documents (wills, insurance policies, law firm's corporate documents, select client documents, etc.)
- Digitize and securely store and back up key documents when possible
- Maintain list of all client property, consider secure off-site storage for some or all items and return as quickly as possible when you no longer need to retain the property
- Maintain sufficient insurance coverage for law firm office (e.g., commercial general liability, fire, flood, business interruption, etc.)
- Maintain list of up-to-date law firm office inventory

Out of Office Procedures for Planned Absences: Short- and Long-Term

- Discuss your planned absence with the successor lawyer, including their responsibilities and availability
- Notify clients, in advance, whenever possible ([see template](#))
- Establish secure remote connection, if necessary
- Set up email and voicemail out-of-office notifications
- Ensure staff know how to reach you or your successor lawyer
- Have incoming emails and voicemails monitored
- Ensure successor lawyer is aware of issues that may arise
- Prepare transfer memos on each file for the successor lawyer for long-term absences
- Notify lawyers on the other side of files of your absence, its duration and of the contact information for your successor lawyer
- Obtain the consent of clients for successor lawyer to assist them and keep a record on the file
- Consider change to membership status with the Law Society for long-term absence

Out of Office Procedures for Unplanned Absence: Short-, Long-Term and Permanent

- Arrange and execute successor lawyer agreement
- Ensure it is clear to the successor lawyer and staff what role the successor lawyer will play in various unplanned absence scenarios and when they will step in (e.g., manage files for a time, wind up practice, sell practice, etc.)
- Ensure staff know how to contact successor lawyer
- Provide instructions regarding notifications to clients of absence and coverage by successor lawyer including the option to continue with the successor lawyer or retain a new lawyer ([see template](#))
- Have an emergency folder which is easily accessible to the successor lawyer and key staff, containing:
 - emergency contact information for all lawyers and staff
 - contact information for successor lawyer
 - checklist of all people to advise of absence, including the Law Society, if necessary
 - [secure list of passwords](#) for all systems in your office or name of person(s) who know the passwords (e.g., voicemail, email, computers/laptops, banking, alarm systems, cellphone, online accounts, social media accounts, off site backups, etc.)



- name of the person who has keys or information on where to find keys to the office, desks, filing cabinets, safety deposit boxes, safes, etc.
- Business Continuity and Succession Plan
- Office Procedure Manual
- Provide instructions for staff or your successor lawyer to contact the Trust Safety department at the Law Society to inform them of your absence
- Amend out-of-office email and voicemail messages, as necessary
- Amend or cancel website and social media accounts, as necessary
- Have incoming emails and voicemails monitored
- Discuss the transfer or wind up of your legal practice with your successor lawyer in case the absence becomes permanent
- Make periodic memos to file or file status checklists so your successor lawyer will know the status of your files if you lack capacity to tell them
- Provide instructions to cancel maintenance contracts, leases, rentals, etc. as necessary for transfer or wind up
- Provide instructions, as necessary, for notifications of office closure
- Provide instructions on where to find or how to access employment contracts
- Provide instructions to notify Law Society if the Professional Corporation should be terminated
- Provide instructions to notify Law Society of death of lawyer

Files: Open and Closed

- Provide instructions on how to find, or generate, a list of all open files, their current status, client contact information and retainer agreement (with consent for successor lawyer to assist client)
- Provide instructions on how to find, or access, a list of court dates, deadlines, limitation periods and all other key file dates
- Provide instructions on where to find, or how to access, an up-to-date list of undertakings
- Include documentation on each open file sufficient to allow the successor lawyer to assume conduct of the file without delay and expense to clients
- Note the names of all parties on the outside of client files to prevent disclosure of confidential information in the event the successor lawyer has a conflict of interest
- Include documentation to identify open Legal Aid files
- Provide information where to find, and how to access, off-site data backup
- Provide instructions on where to find, or how to generate, up-to-date time and billing records
- Provide instructions regarding transferring or closing open files, if necessary
- Provide instructions regarding:
 - collecting accounts receivable
 - billing for work in progress
 - ensure successor lawyer agreement outlines billing, for example:
 - for business continuity, will files be billed at your rate or the successor lawyer's rate, if different?



- for business continuity, how will the successor lawyer be compensated for coverage during your absence?
- for succession, it is common that an agreement be made that the successor lawyer will immediately bill open files in order to distinguish cut-off of fees belonging to the estate from those which will be earned by the successor lawyer
- for succession, ensure there is a provision for the splitting of fees between the estate and the successor lawyer on open contingency files
- provide instructions for successor lawyer on liaising with estate representative on billing where it may be unclear, if necessary
- Provide instructions on where to find, or how to generate, a list of closed files, their location and destruction date
- Provide instructions regarding proper storage of closed files and destruction as per destruction dates
- Provide Retention and Destruction Policy (ensure you are up to date in following the policy and that you close and destroy closed files regularly in accordance with the policy)
- Provide instructions to contact the Law Society for assistance with file storage requirements, if necessary

Finances

- Provide instructions for staff or your successor lawyer to contact the Trust Safety department to inform them of the absence
- Set up signing authority for cheques for planned absences (see Part 5 of the Rules of the Law Society of Alberta - Trust Accounting Rules)
- Confirm with the Law Society that the successor lawyer will be able to have Responsible Lawyer status for long-term absences
- Determine and comply with the approved depository requirements for the successor lawyer to access bank accounts (attach documentation)
- Provide instructions of where to find or how to access accounting records and ensure all monthly reconciliations are completed
- Provide instructions for any transfer or wind up of practice and comply with Trust Accounting Rules (see Rules 119.62 and 119.63)
- Prepare a list of all bank account information (e.g., trust and general, account numbers, location, signatories, etc.)
- Prepare a list of all investments made on behalf of clients (e.g., list of separate interest-bearing accounts, account numbers, location, signatories, etc.)
- Prepare a list of any financial arrangements of the practice
- Track, and work to eliminate, client trust money balances older than two years (see Rule 119.43 regarding unattributed or undisbursable trust money)
- Prepare a list of all client property and return as quickly as possible when you no longer need to retain the property
- Securely record all accounting and financial information, access codes and passwords and identify the location of the records in your planning instructions



- General account and creditor information:
 - provide list of all automatic payments and payment dates
 - provide list of all other payments and due dates
 - for succession, provide instructions to liaise with estate representative on payment of creditors
 - for succession, provide instructions to liaise with estate representative to remit remaining funds in the general account to the estate
 - for succession, provide instructions to involve accountant for the estate in tax filings for the corporation.
 - provide instructions to pay or close accounts payable accounts, as necessary (i.e., provide detailed information about each account, payment dates, anticipated amounts, etc.)
- Provide information about GST collection and remittance (e.g., account number, frequency, by who, by when, etc.)
- Provide information about corporate tax filings (e.g., account number, installment payments, by who, by when, etc.)
- Provide payroll instructions (e.g., frequency, amounts, by who, by when, etc.)
- Provide payroll remittance instructions (e.g., frequency, amounts, by who, by when, etc.)

Key Documents

- Maintain a list of all original wills and other original client documents (consider returning original documents to clients rather than retaining them)
- Maintain a list of all minute books and corporate seals (consider returning minute books and seals to clients rather than retaining them and notify the client of the need to update the location of the minute books and corporate seal with the Corporate Registry).
- Prepare a list, including location, of important personal and law firm documents (will, power of attorney, contracts, leases, insurance policies, etc.)

Other Considerations

- For law firms of greater than two lawyers:
 - prepare a list of who within the law firm will cover short-term absences for a lawyer
 - prepare a list of who within the law firm will cover long-term absences for a lawyer
 - prepare a list of who within the law firm will take over or wind up a colleague's practice for a permanent absence
 - prepare a contingency plan for the absence of key law firm roles, such as a managing partner, office administrator, accountant, etc.
 - determine who, if anyone, will assume contracts, leases, rentals, etc. if they are in a lawyer's name rather than the law firm's name or if they will be terminated
- Discuss all financial issues for the succession portion of the plan, such as what happens to the law firm's assets, how do law firm liabilities get covered, what is your mutual understanding of the successor lawyer's entitlements, desired arrangements to support your family, etc.

- Consider financial arrangements to cover your office overhead and other expenses during an absence, such as an unused line of credit and/or life and disability insurance
- Consider critical illness or disability insurance or other income replacement to cover an absence
- Seek legal and accounting advice to identify or advise on issues about which you may require assistance

Office Procedure Manual

The Law Society recommends that you develop an office procedure manual. This will assist anyone stepping in during an absence, as well as provide daily guidance to staff. It also ensures consistency in your office practices and clarifies expectations.

The Law Society of Alberta has prepared a list of the [Top 10 Things to Include In Your Law Office Manual](#), and a sample [Outline of a Law Office Manual](#).

While there may be some overlap between your plan and your office procedure manual, ensure that the recommended items are captured in either or both documents and reviewed regularly, with updates made as necessary.

The following checklist is adapted from the Law Society of British Columbia and includes some additions from the Nova Scotia Barristers Society:

- Client intake process: identification and verification of the client, the source of funds and the review and execution of retainer agreements (e.g., time and materials, flat fee, contingency billing arrangement, etc.)
- How to check for a conflict of interest
- How to use the calendar system
- How to generate a list of active client files, including client names, addresses, and phone numbers
- Where client ledgers are kept
- Billing practices
- How to find accounts receivable
- How the open/active files are organized
- How the closed files are organized and assigned numbers
- Where the closed files are kept and how to access them
- The office policy on keeping original documents of clients
- Where original client documents are kept
- Where the safety deposit box is located and how to access it
- The bank name, address, account signers, and account numbers for all law office bank accounts
- The location of all law office bank account records (trust and general)
- Where to find, or who knows about, the computer passwords
- How to access your voice mail (or answering machine) and the access code numbers
- Where the post office or other mail service box is located and how to access it
- Accounts payable – when, who, how etc.
- GST – frequency, who does it, how
- Payroll – who/how done, frequency
- Payroll remittances – who/how it is done

Additional Planning Resources

Other law societies have templates and guides to help you with your planning.

The Law Society of British Columbia, in particular, has many tools and sample documents you may wish to reference on its succession planning webpage such as [Succession Planning & Practice Coverage](#).

The Nova Scotia Barristers Society has developed a Succession Planning Guide you can consult. They have also developed a [Sample Simple Succession Plan template for sole practitioners](#) without real estate or wills files and no trust accounts and a [Sample Succession Plan template for more complex sole or small firm practices](#). Should you wish to use these draft templates to assist you in drafting your plan, keep in mind that these samples are specific to succession planning and will need to be enhanced to include business continuity planning.

If you want to use guidelines and templates from other law societies to assist you in drafting your plan, keep in mind that they are specific to the requirements and legislation in those provinces and may need to be adapted for use in Alberta.

Law Society of Alberta Contact Information

Various departments of the Law Society of Alberta are available to help you plan for the future. Feel free to contact them at any time.

General inquiries or comments:

Tel: 1.800.661.9003 (toll free) or 403.229.4700

Membership Department:

Email: [Membership Department](#)

Tel: 403.229.4781

Practice Advisors:

Email: [Practice Advisors Department](#)

Tel: 1.866.440.4640 (toll free) or 587.390.8462

Practice Management Department:

Email: [Practice Management Department](#)

Tel: 403.229.4750 or 587.393.2167

Trust Safety Department:

Email: [Trust Safety Department](#)

Tel: 403.228.5632

ALIA:

Email: [ALIA](#)

Tel: 1.800.661.1694 (toll free) or 403.229.4716