

Practice Review Committee Guideline

April 25, 2024

Table of Contents

Introduction and Purpose	3
Authority	3
Review Process	4
Recommendations and Undertakings	5
PRC Meetings	6
Pre-Meeting	6
Meeting	6
Decision	7
Reporting Obligations	8
Section 53(4)	8
Section 58.....	8
Rule 118	8

Practice Review Committee Guideline

Introduction and Purpose

1. The Practice Review Committee (PRC) is a legislated Law Society of Alberta (Law Society) committee that receives direction from the Conduct Committee and referrals from the Executive Director which engage its regulatory role.
2. The primary objective of a direction or referral is to assess a lawyer's practice with a goal to remediate recurring or continuing problems that may exist.
3. The Practice Review Committee Guideline (Guideline) explains the role and process of the PRC once it has been engaged through the direction or referral process.
4. References to the PRC in this Guideline may include a panel and the PRC or panel's delegates, including a subcommittee.
5. A subcommittee, as described in section 58(2) of the *Legal Profession Act* (Act) and Rule 89(4) of the *Rules of the Law Society of Alberta* (Rules), may consist of one or more persons, whether they are members of the Practice Review Committee or of the Society or not, and which may include staff members or agents of the Society.
6. As delegations to a subcommittee are most frequently made to persons in the Practice Management Department (Practice Management), references to Practice Management include a subcommittee whether or not the subcommittee is composed of Practice Management Counsel, Practice Management Department staff or other persons, including agents of the Society.
7. A lawyer may be represented by counsel at any proceedings before the PRC, the panel or Practice Management taken under Part 3 Division 1 of the Act (section 64) and references to a lawyer in this Guideline include an applicant, under Rule 118, and the lawyer's counsel, if applicable.
8. Nothing in this Guideline supersedes or replaces any provision of the Act or the Rules.

Authority

9. The PRC's primary duties under the Act and the Rules are to:
 - a. receive referrals made by the Executive Director under section 53(4) of the Act,

- b. receive direction from the Conduct Committee and conduct general reviews and assessments and report to the Conduct Committee under section 58(1) and (5) of the Act, and
 - c. receive referrals made by the Executive Director under Rule 118.
- 10. The PRC sits in panels of a minimum of three members, at least one of whom is a Benchers, to fulfill their regulatory duties and to decide upon what action to take in response to a direction or referral (Rule 89(1) and (2)).
- 11. When a direction or referral is given to the PRC, the PRC may delegate the carrying out of any aspect of the subsequent review, assessment or investigation, other than rendering a decision, to Practice Management (section 58(2), Rule 89(4)).

Review Process

- 12. The review process refers to any action taken by the PRC, the panel or Practice Management following a direction or referral under the Act or Rules.
- 13. When a lawyer is directed or referred to the PRC, the lawyer will be notified that a direction or referral has been made (Rule 89.1(1)).
- 14. The PRC, the panel or Practice Management will then undertake any review, assessment or investigation it considers necessary to complete the review process.
- 15. The PRC, the panel or Practice Management may require the lawyer to answer any inquiries or produce any records or other property requested by it, to assist in any review, assessment or investigation (section 58(3), Rule 89.1(1) and (2)).
- 16. To conduct the review process, the PRC, the panel or Practice Management may
 - a. define the scope of the review,
 - b. review any information contained in the direction or referral,
 - c. review the lawyer's reinstatement application and practice plan, if applicable,
 - d. identify areas of concern with the lawyer's practice or proposed practice plan,
 - e. obtain and review any additional information the Law Society has regarding the identified areas of concern related to the lawyer and their practice or practice plan,

- f. review the lawyer's files, systems and infrastructure,
 - g. conduct an in-depth interview with the lawyer, exploring:
 - i. the causes of any concerns identified,
 - ii. potential solutions to remedy any concerns identified,
 - iii. the lawyer's level of insight into their practice and any areas of concern, and
 - iv. the lawyer's motivations for any actions taken,
 - h. review the lawyer's accounting books and records,
 - i. interview the lawyer's support staff or associates,
 - j. consult with and seek administrative support from Law Society staff, and
 - k. take any other actions the PRC, the panel or Practice Management determine are appropriate and needed to complete the review process.
17. When the PRC or a panel has delegated any aspect of the review process to Practice Management, Practice Management will submit a written report containing its findings and recommendations to the PRC or the panel upon completion of the review process (section 58(2), Rule 89.1(3)).
18. Any report created by the PRC, the panel or Practice Management, upon completion of the review process, will be provided to the lawyer for their information and they may prepare a response to the report for the PRC or the panel if they wish to do so.
19. When a referral is made by the Conduct Committee in conjunction with the direction of citations, the PRC will endeavour to complete the review process prior to the hearing of any related citations so that its recommendations, if any, are available to the Hearing Committee to consider as part of its deliberations on any sanction.

Recommendations and Undertakings

20. The PRC, the panel or Practice Management may obtain undertakings and make recommendations (Rule 89(3)).
21. The goal of any recommendations or undertakings will be to achieve sustainable improvements in the lawyer's conduct and practice.

22. All recommendations and undertakings will be specific and include deadlines, when appropriate.
23. The PRC, the panel or Practice Management, as part of any recommendations or undertakings, may require the lawyer to provide written reports advising of their progress.
24. The PRC, the panel or Practice Management may conduct a follow up review, assessment and investigation as part of its monitoring role.

PRC Meetings

Pre-Meeting

25. Upon completion of the review process, the PRC will hold a meeting.
26. The Law Society's Tribunal Office will set up the meeting, including establishing the date, time, composition of any panel, providing relevant documents, and notifying the meeting participants.
27. The lawyer may attend the meeting but their attendance is optional and the meeting will proceed with or without their attendance.
28. If the lawyer attends the meeting,
 - a. they must provide a written statement of their position at least one week in advance of the meeting, and
 - b. the meeting will be recorded and transcribed.

Meeting

29. Following receipt of the report created upon completion of the review process, including a list of any recommendations made or undertakings requested or obtained, and receipt of any other materials, including materials from a directing Conduct Committee or referral from the Executive Director, the PRC or the panel may elect to make decisions:
 - a. based solely on the written materials and reports reviewed,
 - b. following a meeting with the lawyer present, or
 - c. following a meeting without the lawyer present.
30. When the PRC or the panel makes a decision that is not based solely on the written materials and reports reviewed, the following process will be followed:



- a. Practice Management will present their submissions, including information about the review process, any recommendations made and any undertakings requested, and
 - b. the lawyer, if in attendance, will then present their submissions, if any.
31. For a referral under section 53(4) or a direction under section 58(1), Practice Management may recommend one or more of the following to the PRC or the panel:
 - a. the lawyer's release from one or more undertakings that were previously obtained,
 - b. the maintenance of one or more undertakings previously obtained, including for a definite or indefinite duration that may continue beyond the end of the PRC process, along with any directions as to how the lawyer may be relieved of the undertakings in the future,
 - c. the lawyer's release from the review process, including the requirement to engage with Practice Management,
 - d. that Practice Management have the authority to release the lawyer from outstanding undertakings and the review process after a certain time has passed or upon meeting certain requirements, or
 - e. any other actions Practice Management identifies as appropriate.
32. When an application for reinstatement is referred to the PRC under Rule 118, Practice Management may recommend that the PRC or the panel:
 - a. approve the lawyer's reinstatement,
 - b. object to the lawyer's reinstatement, or
 - c. approve the lawyer's reinstatement subject to any conditions or requirements imposed by the PRC under Rule 118(3), (4) or (5).
33. The PRC or the panel, at a meeting, may accept evidence in any way it considers proper and may administer oaths, if necessary, in accordance with section 68 of the Act.

Decision

34. In making a decision, the PRC or the panel will consider the recommendations of Practice Management and the submissions of the lawyer, if any.
35. When the PRC or the panel has come to a decision, reasons for its decision will be set out in writing.

36. For a referral under Rule 118, the PRC or the panel may order the lawyer to pay the costs of the reinstatement proceedings, in whole or in part, in accordance with Rule 118(2.1).

Reporting Obligations

Section 53(4)

37. When a referral to the PRC is made by the Executive Director under section 53(4) of the Act, the PRC will provide a report and a copy of any written decision to the lawyer and the Executive Director, or their delegate.

Section 58

38. When a direction is given to the PRC by the Conduct Committee under section 58(1) of the Act, the PRC will submit a report to the Conduct Committee containing its written decision, including the results of the review and assessment carried out and any recommendations made under subsection 58(4) (section 58(5)).
39. The PRC will provide this report and its written decision to the lawyer.

Rule 118

40. When a referral to the PRC is made by the Executive Director under Rule 118, the PRC will provide a copy of any written decision to the lawyer and the Executive Director, or their delegate.