

Practice Management Delegation Protocol

May 12, 2024

Table of Contents

Purpose	3
Delegation	4
Process - Sections 53(4) and 58(1) Directions and Referrals	5
Process – Rule 118 Referrals	7

Practice Management Delegation Protocol

Purpose

1. The Practice Review Committee (PRC) receives:
 - a. referrals made by the Executive Director under section 53(4) of the *Legal Profession Act* (Act),
 - b. direction from the Conduct Committee and conducts general reviews and assessments and reports to the Conduct Committee under section 58(1) and (5) of the Act, and
 - c. referrals made by the Executive Director under Rule 118 of the *Rules of the Law Society of Alberta* (Rules).
2. The PRC follows the *Practice Review Committee Guideline* upon receipt of a referral or direction.
3. The guideline should be consulted by lawyers along with the Practice Management Delegation Protocol (Protocol).
4. Upon receipt of a referral or direction, the PRC delegates the carrying out of all aspects of the subsequent review, assessment or investigation (review process), other than rendering a decision, to a subcommittee consisting of one or more persons (section 58(2), Rule 89(4)).
5. The Practice Management Department (Practice Management) of the Law Society of Alberta (Law Society), including its individual staff members and agents of the Law Society, is frequently named as that subcommittee.
6. This Protocol explains the role and process of Practice Management when named as a subcommittee with aspects of the review process delegated to it.
7. References to the PRC include a panel of the PRC convened under Rule 89(1).
8. References to a lawyer in this guideline include the lawyer's counsel, if applicable.
9. Nothing in this Protocol supersedes or replaces any provision of the Act or the Rules.

Delegation

10. Following a delegation to Practice Management by the PRC, Practice Management will complete the review process.
11. This includes:
 - a. conducting a review;
 - b. conducting an assessment;
 - c. conducting an investigation;
 - d. obtaining undertakings; and
 - e. making recommendations,

as listed in Rule 89(3), as well as:

 - f. identifying areas of concern with the lawyer's practice;
 - g. obtaining and reviewing any information held by the Law Society related to the lawyer and their practice;
 - h. reviewing the lawyer's client list, files, systems and infrastructure;
 - i. reviewing the lawyer's accounting books and records, including current trust account listing, billings and fees journal for the last three years, current accounts receivable records, most recent three months of trust and general bank statements, and income and operating statements for the last three years;
 - j. conducting an in-depth interview with the lawyer;
 - k. requiring the lawyer to answer any inquiries;
 - l. interviewing the lawyer's support staff or associates;
 - m. requiring the lawyer to produce any other records or property that may assist in the review process; and
 - n. taking any other actions necessary to complete the review process.
12. As a requirement of the delegation, when the PRC delegates the carrying out of any aspect of the review process to Practice Management, Practice Management will submit a written report containing its findings and recommendations to the PRC upon completion of the review process (section 58(2), Rule 89.1(3)).

Process - Sections 53(4) and 58(1) Directions and Referrals

13. Upon receipt of a delegation following a direction or referral to the PRC pursuant to section 53(4) or 58(1), Practice Management will send a letter to the lawyer informing them of the direction or referral and outlining the review process and its purpose.
14. Upon receipt of the letter, the lawyer is required to:
 - a. complete a Practice Snapshot document, which asks the lawyer to describe key aspects of their practice and the management systems used to run it, including information about open and closed files and bookkeeping and accounting;
 - b. complete a Practice Management Self-Assessment Form, which asks the lawyer to rate various aspects of their practice management; and
 - c. provide a copy of their most recent Continuing Professional Development Plan.
15. A Practice Assessment Team will be established to conduct the review process and will generally consist of a Practice Management Counsel and an external assessor acting as an agent of the Law Society.
16. The Practice Assessment Team will review any information contained in the direction or referral to the PRC and may also review any information or materials about the lawyer contained in Law Society records or requested from and provided by the lawyer.
17. The Practice Assessment Team will arrange for a full day in-person meeting at the lawyer's office to assess the lawyer's practice and any information or concerns raised in the complaint received by the Law Society that resulted in the direction or referral to the PRC.
18. In limited circumstances and at the discretion of the Practice Assessment Team, a virtual meeting may be possible, if warranted.
19. The following information may be requested prior to the meeting:
 - a. client list,
 - b. current trust account list,
 - c. current accounts receivable list,
 - d. billings and fees journals for the last three years,

- e. income and operating statements for the last three years,
 - f. general and trust account bank statements for the most recent three months, and
 - g. other relevant information the Practice Assessment Team deems necessary.
20. During the meeting, the Practice Assessment Team will review a selection of the lawyer's files and may request to see the lawyer's practice management tools, including bookkeeping and accounting tools and financial records.
 21. Additional meetings with the Practice Assessment Team may be required.
 22. As part of the review process, the Practice Assessment Team will take into account the risk and seriousness of the complaint received by the Law Society, as well as the level of cooperation of the lawyer with Practice Management.
 23. Following their review, the Practice Assessment Team will provide the lawyer with a reporting letter outlining their assessment of the lawyer's practice, including feedback on strengths and areas for improvement.
 24. The reporting letter includes recommendations for action to take to improve the lawyer's practice and may include a request for undertakings from the lawyer to take specific steps and provide periodic status reports.
 25. Practice Management staff may help facilitate meeting booking, technology requirements, and steps to take to achieve recommended outcomes or implement the lawyer's undertakings.
 26. Follow-up with the lawyer will be conducted by the Practice Assessment Team or Practice Management Counsel to assess actions taken by the lawyer in response to recommendations, as well as progress made on undertakings and ongoing cooperation with Practice Management.
 27. This follow-up with the lawyer may consist of a series of progress reports or check-in meetings during the review process and a follow-up practice assessment near the end of the engagement.
 28. The follow-up practice assessment may include an additional review of a selection of the lawyer's files, as well as a review of any other relevant information or materials necessary to complete the review process.
 29. Following completion of the review process, the Tribunal Office will be notified.
 30. Once notified, the Tribunal Office will set up a PRC Meeting and the process outlined in the *Practice Review Committee Guideline* will be followed.

Process – Rule 118 Referrals

31. Upon receipt of a delegation following a referral to the PRC pursuant to Rule 118, regarding an application for reinstatement,
 - a. Practice Management Counsel will be assigned; and
 - b. Practice Management will send a letter to the lawyer informing them of the referral and outlining Practice Management Counsel's role and the process that will be followed.
32. Practice Management Counsel:
 - a. will review the lawyer's reinstatement application and any information contained in the referral to the PRC;
 - b. may arrange an in-person meeting, telephone or video conference with the lawyer to review the lawyer's practice plans and any records relevant to the reinstatement application;
 - c. may review any information about the lawyer contained in Law Society records and may request additional information, records, plans or clarification from the lawyer;
 - d. will assess the risk of the reinstatement and the lawyer's proposed practice plan, considering the Law Society's duty to protect the public interest; and
 - e. will assess the level of cooperation of the lawyer with the Law Society and Practice Management.
33. Additional in-person meetings, telephone or video conferences between Practice Management Counsel and the lawyer may be required, following an initial meeting.
34. Following the review process, Practice Management Counsel will submit a Reinstatement Report containing their findings and recommendations to the PRC.
35. The Reinstatement Report may contain an assessment of the lawyer's suitability for reinstatement, recommendations for practice management once reinstated, and any proposed pre- or post- reinstatement conditions or restrictions on the lawyer's practice.
36. Upon receipt of the report, the process outlined in the *Practice Review Committee Guideline* will be followed.
37. During a PRC Meeting, Practice Management Counsel may be called as a witness for the Law Society, to provide evidence related to their report and

recommendations regarding the lawyer's reinstatement application, and may be cross examined by the lawyer.

38. Following a decision made by the PRC, if reinstated, the lawyer may be required to continue to work with Practice Management as part of any pre- or post-reinstatement conditions.