LAW SOCIETY OF SASKATCHEWAN

BENCHER CONFLICT OF INTEREST POLICY

The Bencher Conflict of Interest Policy is intended to assist Benchers and other members to discharge their duties with integrity while acting for the Law Society of Saskatchewan.

In this Policy, “Act” means *The Legal Profession Act, 1990, S.S. C. L-10.1.*

A. CONFLICT OF INTEREST GUIDELINES

1. Each Bencher is Responsible to:

   (a) Be independent and impartial;
   (b) Act with honesty and integrity;
   (c) Carry out all the duties of a Bencher in a manner consistent with the public interest;
   (d) Exercise vigilance for and declare any apparent or real personal conflict of interest - which includes self-interest, outside pressure, expectation of reward, or fear of criticism - in accordance with the *Professional Code of Conduct* and this Policy;
   (e) Act at all times in the public interest rather than in the interests of particular constituencies or members; and
   (f) Perform Bencher duties and transact the affairs of the Law Society in such a manner that promotes public confidence and trust in the integrity, objectivity and impartiality of the Benchers.

2. Definition of Conflict of Interest

   (a) A conflict of interest refers to personal, occupational or financial considerations that may affect, or appear to affect, a Bencher’s objectivity, judgment or ability to act in the best interests of the Law Society.
   (b) The personal interests of immediate family members or close personal or business associates of a Bencher are considered to also be the personal interests of the Bencher.
   (c) A perceived or apparent conflict of interest may exist when a reasonable, well informed person has a reasonable belief that a Bencher has a conflict of interest, even if there is no real conflict.
   (d) Full disclosure, in itself, does not remove a conflict of interest.

3. No Pecuniary Benefit

   (a) No Bencher shall directly or indirectly offer or accept cash payments, gifts, gratuities, privileges or other personal rewards, intended to influence the activities or affairs of the Law Society.
(b) Benchers may give or receive modest gifts or hospitality as a matter of general and accepted business practice.
(c) Notwithstanding anything herein, Benchers may receive reimbursement for reasonable expenses incurred by them in the performance of their duties or payment of honorariums as permitted in the Rules.
(d) The pecuniary interests of immediate family members or close personal or business associates of a Bencher are considered to also be the pecuniary interests of the Bencher.

4. **Transactions that may Benefit a Bencher or a Bencher's Associates**

   (a) It is in the Law Society's interest to obtain competent and cost-effective legal services from practitioners whose skills, training and experience are appropriate to the task. The Law Society may retain the services of a Bencher or Bencher's firm, with the approval of the Executive Committee.
   (b) A Bencher should not participate in any way in a decision to retain the services of the Bencher's firm.
   (c) The Law Society does not pay a preferential rate for legal services to a Bencher's law firm.
   (d) Any business entity in which a Bencher has a substantial financial interest should not transact business with the Law Society other than for legal service.
   (e) A Bencher shall not have any involvement in the hiring, supervision, evaluation, promotion, remuneration or firing of a family member, business associate, or friend.

5. **Accepting Appointment to Boards or Committees of Other Organizations**

A Bencher should not join a board of directors or a committee of an organization whose objectives may be in conflict with those of the Law Society, including but not restricted to an organization whose purpose is to promote the interests of lawyers. It is important that the Benchers be, and be seen to be, independent of any organization described above.

6. **Appearing as Counsel**

   (a) A Bencher should not appear personally on behalf of a member in any proceeding that relates to the work of the Law Society or one of its committees.
   (b) A Bencher should not appear before the courts on behalf of a member or the Law Society in a discipline, admissions or Special Fund matter.
   (c) Members of a Bencher’s firm may represent members or the Law Society, but the Bencher concerned should not participate in any decision relating to that representation.

7. ** Appearing as a Witness**

   (a) A Bencher should not voluntarily testify as a character witness in a Law Society proceeding unless, due to the particular facts of the situation, the Bencher’s refusal to do so would unfairly prejudice the case for the member.
A Bencher who gives evidence in court on a matter of legal ethics should make clear to all parties and to the court that the Bencher speaks to his or her own understanding of matters in issue and is not a spokesperson for the Law Society.

B. BENCHER DUTIES

1. Policy Decisions

A Bencher should not participate in a policy decision of the Benchers or of a committee of the Law Society when the Bencher has a conflict of interest in accordance with section A of this Policy, including but not restricted to the following:

(a) The Bencher or the Bencher’s firm represents a client whose interests will be significantly affected by the decision;
(b) The Bencher or the Bencher’s firm has obtained, through a solicitor-client relationship or an employment relationship, confidential or privileged information that may influence the person’s decision on the matter; or
(c) The Bencher’s employer has a significant interest in the decision that is distinct from the legal profession as a whole.

2. Participation in Hearing Panels, Investigation Committees and Bencher Decisions

(a) Care should be exercised to avoid situations in which there may be an appearance of a conflict of interest or bias in relation to discipline, admissions or Special Fund proceedings. A Bencher should not participate in an investigation or hearing process of the Benchers or of a committee of the Law Society when the Bencher has a conflict of interest in accordance with section A of this Policy. A Bencher who is in doubt about a situation should discuss the matter with the President or the chair of the relevant committee.
(b) Before agreeing to serve on an investigation committee or a hearing committee or on any other Law Society proceeding, Benchers should consider whether they or any member of their firm is associated in the practice of law or has a personal, business or professional relationship with the respondent, applicant or claimant, or counsel for any party which would constitute a conflict of interest in accordance with the principles in section A of this Policy.
(c) A Bencher should not participate in a decision of a hearing committee or of the Benchers if a member of the Bencher’s firm gives evidence in the proceeding.

3. Previous Involvement in a Discipline Matter

A Bencher should not sit on the panel that hears a formal complaint or participate as a Bencher on a review of any decision on the formal complaint if the Bencher participated in a decision to

(a) Authorize the formal complaint,
(b) Suspend the respondent pending hearing of the formal complaint,
(c) Impose restrictions on the practice of the respondent, or
(d) Order a medical examination of the respondent.

C. COMPLAINTS INVOLVING BENCHERS

1. Adversarial Relationship

At each stage of the complaints process under this part, the Executive Committee should consider whether the complaint places the Bencher in an adversarial relationship with the Law Society and if so, the President or other relevant authority may revoke any appointments to Law Society committees or ask the Bencher to take a leave of absence from serving as a Bencher pending completion of the investigation, hearing, disposition of penalty or sentence, as the case may be.

2. Complaint

Where the Law Society receives a complaint against a Bencher:

(a) The complaint shall be referred to the Executive Committee who will make a recommendation as to whether the Bencher should be appointed to investigation committees and hearing committees pending completion of the investigation; and
(b) The Bencher is encouraged to consult with the Executive Committee to seek guidance on whether the Bencher should voluntarily resign from all Hearing Committees and Conduct Investigation Committees pending completion of the investigation.

3. Professional Standards Committee or Ethics Committee Review

When a complaint about a Bencher or a Bencher’s firm is referred to the Professional Standards Committee or the Ethics Committee, the President should appoint a special committee of non-Bencher members to make a determination in accordance with the powers conferred by the Act on the Professional Standards Committee or the Ethics Committee, as the case may be.

4. Investigation

When a complaint about a Bencher is referred to the Conduct Investigation Committee, the Chair of the Discipline Committee should appoint a non-Bencher member of the Conduct Investigation Committee to investigate the complaint.

5. Formal Complaint

(a) Where a formal complaint has been issued against a Bencher, the Bencher should voluntarily resign from all Hearing Committees and Conduct Investigation Committees and abstain from the adjudication of complaints by any other Law Society Committee pending completion of the hearing or disposition of penalty. The Bencher should refrain from attending any
Bencher or Law Society committee meetings, and from taking part in any
Bencher or Law Society committee work or policy decisions.
(b) The Executive Committee or other applicable Committee Chairs shall review
the complaint and shall revoke any appointments to Law Society Committees
and recommend that the Benchers revoke any appointments to external
committees.
(c) The Executive Committee and the applicable Committee Chairs may allow
the Bencher to continue some or all Bencher duties, if to do otherwise would
cause a greater injustice to the member whose conduct is being adjudicated
by a Bencher who is the subject of a formal complaint.

6. Finding of Conduct Unbecoming

(a) Where a finding of conduct unbecoming is made against a Bencher, the
Executive Committee or other applicable Committee Chairs, shall review the
complaint and, having reviewed the matter with the Benchers, may:
(i) revoke any appointments to Law Society committees and recommend
that the Benchers revoke any appointments to external committees;
(ii) refrain from appointing the Bencher to a Conduct Investigation
Committee or Hearing Committee;
and the Executive Committee may:
(iii) ask the Bencher to resign or take a leave of absence from serving as a
Bencher for any period of time the Executive Committee deems
appropriate.

D. DETERMINING WHETHER A CONFLICT OF INTEREST EXISTS

(a) Benchers should disclose a potential, real or perceived conflict of interest as
soon as the issue arises and before the Law Society or its committees deal
with the matter at issue.
(b) In situations involving a conflict of interest, a Bencher
(i) is encouraged to consult informally with the Executive Committee to
seek guidance, and
(ii) may seek a ruling on the matter by the Benchers.
(c) When a ruling is sought, the Benchers may require any Bencher concerned in
the matter to
(i) leave the meeting,
(ii) remain in the meeting to inform the Benchers, but not otherwise
participate in the debate or decision, or
(iii) abstain from voting.
(d) Other Benchers who are aware of a real, potential or perceived conflict of
interest on the part of a fellow Bencher should raise the issue for clarification,
first with the Bencher in question and, if still unresolved, with the Executive
Committee.