

Delivering Legal Services through A Charity or Not-For-Profit Corporation Registering with the Law Society of Manitoba

1. Introduction

About this Guide

This guide has been developed to assist registered charities and not-for-profit corporations (“charities and NFPCs”) in understanding how they can register with the Law Society to use volunteer lawyers or to employ or contract with lawyers to deliver their professional legal services through their organizations directly to clients of their organizations.

This guide applies to the following charities and NFPCs which may register with the Law Society:

- Registered charities under the Income Tax Act (Canada)
- Not-for-profit corporations incorporated under the laws of Manitoba, or a not-for-profit corporation permitted under the laws of Manitoba to operate in the Province.

This guide introduces the basic principles for delivering lawyer services through charities and the NFPCs, and describes the professional standards lawyers must adhere to when serving clients through a charity or NFPC.

2. Why Offer Lawyer Services to Clients

Client Wellbeing

Clients of charities and NFPCs often have multiple, interconnected issues including legal issues. Addressing legal issues as early and proactively as possible can help prevent cascading problems.

Like many Manitobans, clients of charities and NFPCs may not seek legal assistance for a legal problem for a variety of reasons. They may not perceive that their issues may be legal in nature or that they have associated legal problems. They may think that obtaining legal advice would be too expensive, or that they are not eligible for services through Legal Aid Manitoba. Clients of charities and NFPCs may face additional barriers to accessing lawyer services, such as mobility, geographical, cultural or linguistic factors.

Many charities and NFPCs already play vital roles helping clients navigate their legal issues. For example, many charities and NFPCs provide clients with legal information, and refer clients to Legal Aid Manitoba and to lawyers for legal advice and/or representation where necessary.

To make lawyer services more accessible, the Law Society has approved a registration system enabling lawyers to provide their professional services through charities and NFPCs. The goal is to provide new inclusive entry points for those requiring lawyer services who otherwise might not have access to them.

Benefits of Delivery of Lawyer Services through Charities and NFPCs

There are many potential benefits to the delivery of lawyer services through charities and NFPCs, including the following:

For clients:

- ✓ Quicker and more direct access to free (pro bono) lawyer services
- ✓ Professional services delivered by trained, licensed, insured lawyers
- ✓ Earlier identification and potential resolution of legal issues
- ✓ Reduced client stress and enhanced client outcomes and empowerment

For charities and NFPCs:

- ✓ Enhanced organizational capacity to identify and address client legal issues
- ✓ Enhanced client service by having a lawyer potentially on-site to address legal issues
- ✓ Enhanced ability to provide holistic services to clients

3. How It Works

Charity and NFPC Registration with the Law Society

Charities and NFPCs seeking to use volunteer lawyers or to employ lawyers or retain them as independent contractors to deliver legal services directly to their clients must register with the Law Society.

- ✓ Registration is simple and easy.
- ✓ In order to register, the organization will need to complete and submit the required Registration Form.
- ✓ By registering, the organization does not become regulated by the Law Society; however, it is required to comply with the terms of registration set out in the Registration Form.
- ✓ The Law Society will regulate the lawyer providing services through the charity or NFPC.

Under this initiative, lawyers may provide legal services on a pro bono basis to clients of organizations that have been approved by the Law Society as “civil society organizations.”

Neither lawyers providing services nor civil society organizations facilitating those services may give or receive any financial or other reward for the referral of clients or client matters.

Registered charities and NFPCs will be required to file a short report with the Law Society on an annual basis.

If the Law Society requirements are not met, charities and NFPCs may be de-registered, which will be made public.

Providing Pro Bono Lawyer Services to Clients of Charities and NFPCs

The lawyers providing legal services through the charity or NFPC will provide their services directly to clients of the organization. Some details relating to the provision of legal services are set out below.

Free (Pro Bono) Lawyer Services

Lawyer services are to be provided by a lawyer at no cost to the client. (i.e. pro bono)

Disbursements

Clients may be asked to contribute towards the payment of disbursements incurred in the provision of legal services by lawyers. Disbursements are expenses paid to third parties related to representing the client. They may include, for example, court filing fees, photocopying costs, court reporting services and the cost of hiring an expert.

Where there is an intention to seek repayment for disbursements incurred in providing lawyer services to a client, there should be a clear policy in place and the disbursement costs should be communicated to the client at the outset of the lawyer/client relationship.

Legal Aid Services

Lawyer services provided through charities and NFPCs should generally complement existing Legal Aid services.

Lawyers Working in Charities and NFPCs

Lawyers providing services through a charity or NFPC are regulated by the Law Society of Manitoba and must have practising status.

Since the lawyer is providing services to clients of the charity or NFPC, the lawyer must:

- ✓ Have full control over the delivery of the services
- ✓ Protect confidentiality and privilege
- ✓ Maintain all professional obligations, such as independence, competence, integrity, candour, avoidance of conflicts of interest and service to the public good through professional client relationships and fulfilling responsibilities to the administration of justice

It is the responsibility of the lawyer to make sure that these and all other professional obligations are maintained.

Delivering Lawyer Services with Other Services

At times, clients of a charity or NFPC may receive social, health or other services which are complemented by the provision of lawyer services. When lawyer services are delivered together with other services, the lawyer must take particular care to protect client confidentiality and privilege. The lawyer must also make sure that the client understands what information may be shared with other service providers, and that the client consents to the disclosure of such information.

4. Items for Charities and NFPCs to Consider

In determining whether to seek to deliver lawyer services through their organizations to clients of their organizations, charities and NFPCs may wish to consider:

1. **Mandate:** Does the charity/NFPC's charitable or social objects/mandate permit the provision of professional services such as lawyer services directly to clients?

2. **Client protection:** What safeguards may be required to protect client confidentiality and privileged materials, and what information-sharing protocols exist or may need to be developed?
3. **Services to provide:** What types of lawyer services would most benefit clients?
4. **Funding:** What sources of funding might be available to fund such an initiative? The Law Society regulates lawyers, but is not a funding agency. Charities and NFPCs interested in providing services through lawyers need to consider how to fund such initiatives and are encouraged to broadly consider potential sources of funding, unless the lawyers are providing their legal services as volunteers.

About the Law Society of Manitoba

The Law Society regulates Manitoba lawyers in the public interest and strives to demonstrate leadership in the advancement, promotion and facilitation of increased access to justice for all Manitobans.

We ensure that lawyers are practising and insured and set standards of learning, competence and professional conduct in order to help people address legal issues.

Questions

If you have a question contact Alissa Schacter, Director | Policy and Strategic Initiatives at aschacter@lawsociety.mb.ca or call 204-926-2029.