

Law Society Requirements for Referral Fees

What Clients Need to Know

What is a referral fee?

A referral fee is a sum of money or other reward paid directly or indirectly for the referral of your file, with your knowledge and consent, in accordance with a referral agreement. The lawyer or paralegal receiving the referral pays the referral fee. The lawyer or paralegal making the referral is paid the referral fee.

Does it increase the legal fees I pay?

It should not. The lawyer or paralegal receiving the referral fee is not permitted to increase the amount of the legal fees charged to you because a referral fee is paid. The referral fee must be fair and reasonable.

What is a referral agreement?

The Law Society has prepared a referral agreement which covers the requirements set out in the Rules of Professional Conduct/Paralegal Rules of Conduct and which can be found at www.lsuc.on.ca. The agreement must be signed, as soon as practicable and before a referral fee can be paid or accepted, by you, the lawyer or paralegal making the referral, and the lawyer or paralegal receiving the referral.

By signing a referral agreement, you confirm that you have sufficient information to accept the referral and you consent to the payment of the referral fee on the terms agreed.

What are the Law Society requirements for a referral agreement?

To ensure transparency and to protect the public, the Law Society requires that the referral agreement show that you have been advised of the following:

- A referral is being recommended and the reasons why
- The nature of any relationship between the lawyer or paralegal making the referral and the lawyer or paralegal receiving the referral
- The names of at least two alternate lawyers or paralegals or why your options for a referral are limited
- You are under no obligation to accept the referral
- You are free to retain another lawyer or paralegal or your choice
- You are free to later terminate the retainer if you no longer wish to work with the lawyer or paralegal receiving the referral
- The referral fee arrangement does not create any obligation on your part

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- How much the referral fee is or how it will be calculated
- When the referral fee will be paid by the lawyer or paralegal receiving the referral

Why would a lawyer or paralegal recommend a referral of my file?

Referrals are made for many reasons. However, for a referral fee to apply, the lawyer or paralegal receiving the referral must have the expertise and ability to handle your matter.

When would a lawyer or paralegal not be allowed to accept a referral fee?

A lawyer or paralegal is not allowed to accept a referral fee if he or she has a conflict of interest and is not permitted to act on the matter, or was suspended and was not permitted to act on the matter.

What if I do not want to retain the recommended lawyer or paralegal?

A lawyer or paralegal can *recommend* a referral, but only you can decide to retain a lawyer or a paralegal. You are under no obligation to accept a referral.

Must there be a referral fee for me to get legal representation?

No. You are entitled to retain who you want to retain whether or not you are referred to someone or whether or not a referral fee is paid.

Can I obtain a referral without there being a payment of a referral fee?

Yes. You can access the Law Society Referral Service (LSRS) by visiting www.findlegalhelp.ca. If you are in crisis, you can call the LSRS directly at 1-855-947-5255 Monday to Friday, between 9 am – 5pm. Many lawyers and paralegals are prepared to make referrals without requiring a referral fee.

How is a referral fee calculated?

The referral agreement will either set out the amount of the referral fee or, in the case of matters accepted on contingency, the basis on which the referral fee will be calculated.

Where a matter is proceeding on a contingency fee basis, referral fees are calculated as a percentage of the fees payable in accordance with the contingency fee agreement or as approved by a court.

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There is a maximum referral fee that is permitted. The maximum payable is made up of 15% of the fee paid for the first \$50,000.00 of legal fees, plus 5% of any additional fees recovered, up to a maximum of \$25,000.00.

Example: If \$100,000 in legal fees were paid, the maximum permitted referral fee is

15% of the first 50,000.00	=	7,500.00
5% of the balance	=	<u>2,500.00</u>
Maximum Referral Fee	=	10,000.00

What is the most a lawyer or paralegal can receive as a referral fee?

A referral fee cannot exceed \$25,000.00.

When will the referral fee be paid?

A referral fee can only be paid after the lawyer or paralegal doing the client work has received payment for their fees.

What if I decide later that I do not want to work with the lawyer or paralegal who accepted the referral?

The referral fee arrangement does not affect your decision to continue with your lawyer or paralegal or to terminate your retainer with them.

However, you should be aware that some retainer agreements, in particular contingency fee agreements, have clauses that come into effect on termination. You may owe your lawyer or paralegal money for services rendered and expenses incurred. These can be significant sums of money. If the lawyer or paralegal receives payment of his or her fee, then he or she may have an obligation to pay the referral fee in accordance with the referral agreement.

How will I know the referral fee will be paid?

The referral fee will be noted on your statement of account. You will be asked to acknowledge the referral fee at that time.