

Law Society of Upper Canada

Referral Fee Checklist*



Referring Lawyer/Paralegal:

Lawyer/Paralegal receiving the referral:

Client:

Prior to making the Referral

Can I make or accept a referral?

Yes, if

The person making the referral and the person receiving the referral are lawyers or paralegals as defined by the lawyers' [Rules of Professional Conduct](#) ("lawyer's Rules") and [Paralegal Rules of Conduct](#) ("Paralegal Rules").

The lawyer or paralegal receiving the referral has the expertise and ability to handle the matter.

The Referral was not made because the referring lawyer or paralegal had a conflict of interest.

The Referral was not made because the referring lawyer or paralegal's license was suspended when the referral was made and the referring lawyer or paralegal was not permitted to act in the matter.

At least two lawyers or paralegals have been recommended to the client.

If not, disclosure has been made of the reason(s) that it has not been reasonably possible to do so.

Responsible Lawyer/Paralegal:

Date:

Does the amount that I will be charging as a referral fee comply with the lawyers' Rules or Paralegal Rules?

Yes, if

The amount of the referral fee does not exceed 15% of the legal fees paid for the first \$50,000 of fees for the matter and 5% of any additional fees for the matter to a maximum referral fee of \$25,000.

The referral fee is fair and reasonable and does not increase the total amount of the fee payable by the client.

No referral fee will be paid or payable unless and until the lawyer or paralegal receiving the referral is paid his or her fee for legal services for the matter.

Responsible Lawyer/Paralegal:

Date:

* Prior to using this Checklist, lawyers and paralegals should review the [Instructions for Referral Fee Checklist](#). These Instructions outline the circumstances in which this Checklist applies and the way in which it is intended to be used. The Instructions also direct lawyers and paralegals to the applicable rules and by-laws and to other related resources. Lawyers and paralegals should refer to these requirements and supports to determine the full extent of their professional obligations with respect to referral fees.

At the time of the Referral

Have I made the required disclosures to the client?

Yes, if the following have been explained to the client:

The client has no obligation to accept the referral.

The client is free to retain a lawyer or paralegal other than the lawyer or paralegal receiving the referral.

The reason(s) that the specific lawyer or paralegal receiving the referral was recommended to the client.

The relationship between the referring lawyer or paralegal and lawyer or paralegal receiving the referral, if any.

The circumstances in which the fee is payable.

The amount of the referral fee, including the basis on which the amount of the referral fee is calculated.

Yes, if I

Gave the client or ensured that the client has been provided with the Law Society's Requirements for Referral Fees.

Confirmed that the client had a reasonable opportunity to review and consider the Law Society's Requirements for Referral Fees.

Responsible Lawyer/Paralegal:

Date:

At the time of the Referral or as soon as practicable after the Referral

Have I administered the Referral Agreement in accordance with the lawyers' Rules or Paralegal Rules?

Yes, if I

Completed the Law Society of Upper Canada's Referral Fee Agreement.

Reviewed the Referral Agreement with the client, discussing the particulars added for each of the disclosure requirements.

Provided the client with a reasonable opportunity to review and consider the Referral Agreement.

Signed the Referral Agreement and had the client and the other lawyer or paralegal sign.

Considered requesting that the client initial the Law Society's Requirements for Referral Fees to confirm that the client has received and reviewed it.

Ensured that each party to the Referral Agreement has a fully signed copy of the Referral Agreement, including the Law Society's Requirements for Referral Fees, for their records.

Responsible Lawyer/Paralegal:

Date:

When the Referral Fee is paid or becomes payable (Lawyer or paralegal receiving the referral only)

Have I complied with the billing requirement regarding the referral fee?

Yes, if I

Noted the referral fee on the account sent to the client.

Obtained the client's acknowledgment of the referral fee.

If not, confirmed in writing to the client that the client has been asked to provide an acknowledgment but has declined to do so.

Responsible Lawyer/Paralegal:

Date:

Following the Referral and for the retention period set in *By-Law 9*

Have I complied with the record keeping obligations with respect to the referral fee?

Yes if, in addition to the records required under section 18 of *By-Law 9*, I have created and maintained a record showing

The referral fees received or paid

The date on which the referral fee is received or paid

The method by which the referral is received or paid

The amount of the referral fee

The lawyer or paralegal from whom each referral fee is received or to whom it is paid

The client in connection to whom each referral fee is received or paid

I have also retained

A fully signed copy of the Referral Agreement.

All other documents related to the referral fee transaction.

Responsible Lawyer/Paralegal:

Date:

Notes: