

GUIDE FOR WITNESSES



LSBC
Tribunal

Your testimony is crucial for our regulatory system. We thank you for your cooperation and appreciate the sacrifice of your time that being a witness requires.

We hope that the following information provides some background about our processes and what you can expect as a witness.

What is the LSBC Tribunal?

- ❖ The LSBC Tribunal is an independent adjudicative body within the Law Society of British Columbia. It makes decisions based on testimony and documentary evidence in a manner similar to the courts and other administrative tribunals. The LSBC Tribunal hears regulatory cases about lawyers or people applying to practice law in British Columbia.

What kind of cases does the LSBC Tribunal Hear?

- ❖ Most cases are disciplinary cases relating to the conduct of lawyers.
- ❖ For example, a disciplinary hearing could determine whether the lawyer has mismanaged client funds, has failed to provide the quality of service expected of lawyers or has broken ethical or regulatory rules that govern their conduct.
- ❖ The LSBC Tribunal also decides cases involving individuals applying to become lawyers or applying for reinstatement of their license to practise law where there may be questions about that person's good character or fitness to practice.

Who are members of the LSBC Tribunal?

- ❖ LSBC Tribunal members or “adjudicators” make up the panels that hear and decide Tribunal cases. A panel is usually made up of three adjudicators: a bencher (an elected or appointed to the board of directors of the Law Society who is usually also a lawyer), a lawyer who is not a bencher and a public representative. One of the adjudicators will be assigned to lead the panel as chair.

What is a summons?

- ❖ A summons is a document that requires your presence at a hearing on a specified date and time to give evidence.
- ❖ A witness before the LSBC Tribunal may be summonsed by either the Law Society or the lawyer or applicant.
- ❖ Each summons will include information about the hearing, including the name of the parties, the name of the person who summonsed you, as well as any things that you’ll need to bring when you testify before the LSBC Tribunal.
- ❖ You do not need to have been summonsed to appear as a witness before the LSBC Tribunal; either of the parties can instead request your testimony in a less formal manner.

Do I get paid?

- ❖ If you have been summonsed you are entitled to be paid your reasonable travel, meal and accommodation expenses incurred in connection with your attendance. These expenses are paid or reimbursed by the party who summonsed you.
- ❖ You should contact the person who summonsed you if you have questions about whether an expense will be covered.

What accommodations are available?

- ❖ The LSBC Tribunal will accommodate your needs as required under the BC Human Rights Code. If you are requesting accommodation, please get in touch with the Tribunal Office as soon as possible at TribunalRegistry@lsbc.org.
- ❖ Under some circumstances, witnesses may testify by video conferencing or be examined by a person outside the presence of the lawyer whose conduct is at issue. In these cases the witness would still be visible to those in the hearing room. If you need special accommodation, contact the person who sent you the summons.

Will people know that I testified?

- ❖ Hearings are open to the public so, unless the LSBC Tribunal makes an order to the contrary, anyone can attend and watch you testify.
- ❖ Clients, complainants and lay people testifying before the LSBC Tribunal are however not generally referred to by name in published LSBC Tribunal decisions.
- ❖ Names of expert witnesses, Law Society staff and lawyers who testify are generally published.
- ❖ If you have concerns about testifying in public or being named in a LSBC Tribunal decision, contact the person who summonsed you. In some cases, an order can be obtained from the LSBC Tribunal that will protect your identity.

Will I testify in-person or by video-conference?

- ❖ LSBC Tribunal hearings are all scheduled as virtual hearings. In the normal course, you will be able to testify from any private location where you can access a computer or other electronic device with a camera and microphone.
- ❖ For information about testifying using the zoom platform, see our [Zoom Guide for Hearing Participants](#).
- ❖ A party may apply to conduct the hearing as an in-person hearing at the LSBC Tribunal offices. If their application is successful or the opposing party agrees, the hearing will take place in one of the LSBC Tribunal's hearing rooms.
- ❖ You may still be able to testify virtually if the parties have no objections or if the hearing panel permits. You should speak to the person who has summonsed you to discuss whether you will be testifying virtually or whether you will be required to attend in-person.

What happens at a virtual hearing?

- ❖ You will be provided with information on how to join a scheduled hearing using the zoom platform.
- ❖ Once you sign in, you will normally be placed in a virtual waiting room until you are let into the main virtual hearing room to testify.
- ❖ When you enter the virtual hearing room you will see the three panel members, Law Society counsel, the respondent (and their counsel) and the court reporter. Cameras for other people who may be watching the hearing are turned off.
- ❖ You will be asked by the hearing Chair for your name and whether you wish to swear or affirm that you will tell the truth.
- ❖ After being sworn in by the Chair, the party who summonsed you to testify will ask you questions related to the case. The other party will then have the opportunity to cross-examine you. The panel may also ask you a few questions.
- ❖ Once you have finished testifying, you will be excused by the Chair and you may leave the virtual hearing room. If you like, you can ask to remain in the hearing room (with your camera and microphone turned off) to watch the rest of the hearing.
- ❖ For information about testifying using the zoom platform, see our [Zoom Guide for Hearing Participants](#).

What happens at an in-person hearing?

- ❖ Once you arrive at the Tribunal Office, you will be approached by Tribunal staff or the person who summonsed you and told where to wait until you are called into the hearing room to testify.
- ❖ When you enter the hearing room, you will see sitting at tables: the three panel members, Law Society counsel, the respondent (and their counsel) and the court reporter. Any members of the public in attendance will be sitting at the back of the room.
- ❖ You will be directed to sit at a table where the panel and parties can all see you. The court reporter or interpreter will be sitting beside or across from you.
- ❖ You will be asked by the hearing Chair for your name and whether you wish to swear or affirm that you will tell the truth.
- ❖ After being sworn in by the Chair, the party who summonsed you to testify will ask you questions related to the case. The other party will then have the opportunity to cross-examine you. The panel may also ask you a few questions.
- ❖ Once you have finished testifying, you will be excused by the Chair and you may leave the hearing room. If you like, you can sit at the back of the room to watch the rest of the hearing.

What do the hearing rooms look like?



Here are some witness tips which may help you prepare for the hearing:

1. TELL THE TRUTH

- ❖ Most important of all, TELL THE TRUTH. Honesty, simplicity and sincerity go a long way with the hearing panel.
- ❖ When testifying, do not try to "argue" your point, dodge questions to avoid problem areas, or place any type of "spin" on your version of the facts. Witnesses who do this leave themselves vulnerable to cross examination. By contrast, witnesses who "tell it like it is" will be well-received by panels even if the "whole truth" contains some facts which might help or hurt either side or not reflect well on the witness' themselves.

2. REFRESH YOUR MEMORY

- ❖ Before you testify, try to picture the scene, the objects there and exactly what happened. This will assist you in recalling the facts more accurately when asked a question. If your answer is only an estimate, make sure you say it is only an estimate.
- ❖ Review your relevant documents, earlier writings, statements and testimony very carefully so that you are ready to testify.

3. DO NOT LOSE YOUR TEMPER

- ❖ A witness who is angry may exaggerate or appear to be less than objective. Keep your temper. Always be courteous, even if the lawyer questioning you appears discourteous. Avoid sarcasm.

4. SPEAK IN YOUR OWN WORDS

- ❖ Don't try to memorize what you are going to say. Doing so will make your testimony sound "pat" and unconvincing. Instead, be yourself, and prior to the hearing to go over in your own mind the matter about which you will be questioned.
- ❖ Explain your answer if necessary. Give the answer in your own words, and if a question can't be truthfully answered with a "yes" or "no", it's okay to explain your answer.

5. LISTEN CAREFULLY TO THE QUESTION – AND ANSWER ONLY THE QUESTION ASKED

- ❖ Many witnesses are so anxious to cooperate and to provide quick answers that they don't wait until the entire question is asked. As a result, they often answer a different question than the lawyer intended and disrupt the flow and effectiveness of the questioning. Wait until the lawyer asks the entire question before starting your answer. Answer **ONLY** the questions asked of you.
- ❖ If you don't understand the question, have it repeated, then give a thoughtful, considered answer. If you don't know the answer or don't remember, say so!

6. BE POSITIVE ABOUT WHAT YOU KNOW BUT NOT SO POSITIVE THAT YOU EXAGGERATE OR SET YOURSELF UP FOR ERROR

- ❖ Give positive, definite answers when at all possible. If you do know, then say so. If you are asked about details which you do not remember, say so. Don't make up an answer.
- ❖ Be careful in your answers to avoid using absolutes such as "always," "never," "all," and "every", unless you are absolutely sure it is the right answer. It may be that after more thought or another question, you will remember something important.

7. CORRECT YOUR MISTAKES

- ❖ If your answer was not correctly stated, correct it immediately. If your answer was not clear, clarify it immediately.
- ❖ It is better to correct a mistake yourself than to have the lawyer discover an error in your testimony. If you realize you have answered incorrectly, say, "May I correct something I said earlier?"
- ❖ Sometimes witnesses give inconsistent testimony – something they said before doesn't agree with something they said later. If this happens to you, don't get flustered. Just explain honestly why you were mistaken. The panel, like the rest of us, understands that people make honest mistakes.

8. SPEAK CLEARLY AND RESPOND ORALLY TO THE QUESTIONS

- ❖ Present your testimony clearly, slowly, and loud enough so that the panel member farthest away can easily hear and understand everything you say. Avoid distracting mannerisms such as chewing gum while testifying. Although you are responding to the questions of a lawyer, remember that the questions are really for the panel's benefit.
- ❖ Do not nod your head for a "yes" or "no" answer. Speak aloud so that the court reporter can hear and record your answer.

9. OBJECTIONS BY COUNSEL

- ❖ Stop speaking instantly when the panel interrupts you, or when a lawyer objects to a question. Wait for the panel to tell you to continue before answering any further.

10. TALKING TO OTHERS ABOUT CASE BEFORE THE HEARING

- ❖ It is perfectly proper for you to have talked with counsel and Law Society investigators, colleagues or family members before you testify, and you should, of course, respond truthfully to this question. If asked, say very frankly that you have talked with whomever you have talked with – the counsel, Law Society investigator, other witnesses, relatives and anyone else whom you have spoken with. The important thing is that you tell the truth as clearly as possible.

11. DO NOT DISCUSS YOUR TESTIMONY UNTIL THE HEARING IS OVER

- ❖ After you have testified at a hearing, you should not tell other witnesses what was said during the testimony until after the case is completely over. Do not ask other witnesses about their testimony and do not volunteer information about your own testimony.

12. APPEARANCE IS IMPORTANT

- ❖ A neat appearance and nice, culturally appropriate attire at the hearing are important.
- ❖ Your demeanor in the hearing room is also important. Be serious, avoid laughing, and avoid saying anything about the case until you are actually on the witness stand.

13. BE ON TIME

- ❖ Be on time! Being prompt shows responsibility and the importance that you place on the issues at hand. If you are unavoidably late, apologize.
- ❖ If you will be unavoidably late for the hearing, call the Hearing Administrator, at 604-443-5753 or send an email at TribunalRegistry@lsbc.org
- ❖ The LSBC Tribunal hearing rooms are located on the 9th Floor of the Law Society's building at 845 Cambie Street, Vancouver, V6B 4Z9 (on Cambie Street between Robson and Smithe).
- ❖ To get the hearing room, go the 8th Floor reception and ask for the LSBC Tribunal. A hearing clerk will meet you and bring you upstairs to the hearing room.