



OVERVIEW OF THE LICENSING HEARING PROCESS

A credentials or licensing hearing will be held if the Credentials Committee has concerns about the character or fitness of an applicant for enrolment or call and admission to practice law. A hearing is also required if the applicant is a former lawyer with a serious discipline history who is applying for reinstatement of their license to practice law in British Columbia.

A person who is the subject of a credentials hearing must submit a deposit as security for costs. In setting the amount to be deposited, the Credentials Committee may take into account the circumstances of the matter including, but not limited to, the applicant's ability to pay and likelihood of success.

Licensing hearings before the LSBC Tribunal generally consist of six steps:

1. Commencement of the Proceeding,
2. Before the hearing begins,
3. Scheduling of the hearing,
4. Hearing,
5. Panel decision and reasons for decision,
6. Review, if any.

Set out below is a brief overview of a licensing hearing process. For your convenience, a table setting out the standard steps and timelines in a licensing proceeding is attached.

1. COMMENCEMENT OF THE PROCEEDING

The Credentials Committee of the Law Society will send a Notice of Referral to Hearing to an applicant advising that a hearing must be held to determine whether their application for enrolment, call and admission or reinstatement should be granted. The Law Society will also send a written notice under Rule 2-91 of the Law Society Rules outlining the Credential Committee's areas of concern and the amount of security for costs set by the Credentials Committee.

The applicant has one year from the date of the Notice of Referral to Hearing to decide whether to proceed with their application and initiate a proceeding before the LSBC Tribunal.

If the applicant wishes to pursue their application for enrolment, call and admission, or reinstatement, they file the Notice of Referral to Hearing with the Tribunal Office and serve the filed Notice on the Law Society.

2. BEFORE THE HEARING

Pre-hearing conferences and Comprehensive Pre-hearing conferences

A pre-hearing conference or comprehensive pre-hearing conference may be scheduled at the request of the applicant, Law Society counsel, or on the LSBC Tribunal's own initiative. It is usually held by a Zoom conference on a Thursday.

The purpose of the conference is to assist with case management, including to:

- confirm payment of the security for costs or discuss the need to apply for a variation of the amount ordered;
- simplify the issues so that the hearing will proceed smoothly;
- discuss the need to clarify any of the areas of concern about the applicant's character or fitness;
- ensure all documents are available and that both parties have disclosed the evidence they intend to introduce at the hearing;
- set a date for the hearing to begin;
- discuss any other matters that may aid the proceedings.

The motions adjudicator conducting the conference may make appropriate orders on preliminary matters.

Adjourning a hearing

Before a hearing begins, the applicant or Law Society counsel can apply in writing to adjourn the hearing. A motions adjudicator appointed by the LSBC Tribunal Chair will decide whether to allow the application. Once the hearing has started, only the chair of the panel may adjourn the hearing.

3. SCHEDULING THE HEARING

A hearing can be scheduled by the parties on consent at any time. If the parties cannot agree to a scheduled hearing date or if the date has not been set within four months of filing the Notice of Referral to Hearing, the date will be set at a prehearing conference.

4. HEARING

Credentials hearings take place virtually or at the LSBC Tribunal's office in Vancouver and are similar to court hearings, with both the Law Society and the applicant usually represented by a lawyer. Hearings are open to the public, subject to limited exceptions primarily to preserve confidentiality between lawyers and clients.

The hearing panel is chaired by a lawyer, and usually includes at least one Bencher who is a lawyer, a non-Bencher who is a lawyer, and a member of the public who is not a lawyer.

Licensing hearing have three possible outcomes. The panel may:

- grant the application for enrollment, call and admission or reinstatement,
- grant the application subject to conditions, or
- reject the application.

Hearing panels issue written reasons for their decisions.

5. PANEL DECISION

The hearing panel will issue a written decision setting out its findings and reasons at the end of the hearing. The decision is sent to the parties. The decisions are posted to the LSBC Tribunal website shortly thereafter. A copy of the decision is also sent to CanLII.

Credentials decisions do not identify the applicant, unless the applicant consents in writing or if the subject matter of the application, including the identity of the applicant, is already known to the public. Former lawyers applying for reinstatement who are persons referred to in sections 15(3)(a) or (b) of the *Legal Profession Act* [lawyers who were suspended, disbarred or who resigned or cease to be a member in the face of discipline] are identified.

6. REVIEW OF DECISION

Both the Credentials Committee and the applicant have the right to apply for a review of a hearing panel's decision. Such reviews are heard by a review board comprising five adjudicators: two Benchers, including the chair, two non-Bencher lawyers and one non-lawyer. The applicant also has the right to appeal the decision to the BC Court of Appeal. The Credentials Committee has a right of appeal only on questions of law.

LICENSING PROCEEDING: TABLE OF STEPS AND TIMELINES

Attached for your convenience is a table setting out the standard steps and timelines in a licensing proceeding.

LICENSING/CREDENTIALS PROCEEDING: STANDARD STEPS AND TIMELINES

Dates	Tribunal	Law Society/Respondent
		Notice of Referral to Hearing issued by Law Society Credentials Committee sent to applicant for enrollment, call and admission or reinstatement
Promptly after Hearing is ordered and Notice of Referral sent		Rule 2-91 notice of the circumstances to be inquired into and amount of security costs sent to applicant
Within one year of the Notice of Referral being issued by the Credentials Committee	Notice of Referral to Hearing filed with Tribunal Office	
Promptly after filing	Notice of Referral to Hearing posted on LSBC Tribunal website	
1-4 months of filing of Notice of Referral		Applicant and Law Society exchange evidentiary disclosure
Within 4 months of filing of Notice of Referral if hearing not scheduled	Prehearing conference held to set date of hearing	
Within 8 months of filing of Notice of Referral if hearing not scheduled or hearing scheduled for more than 5 days	Comprehensive prehearing conference held	
Any time after filing of Notice of Referral		Law Society/applicant bring any preliminary motions
At least 45 days prior to the scheduled hearing date		Law Society/applicant prepare agreed statements of facts or notices to admit and provide it to the other side
At least 30 days prior to the scheduled hearing date		Parties confirm presumptive hearing format (zoom hearing) and inform Tribunal Office of any accommodation needs
At least 30 days prior to the scheduled hearing date	Notice of Hearing delivered	

Usually 1 week prior to the scheduled hearing date	Tribunal office sends email to parties advising names of assigned adjudicators	
Usually within 9 months of filing of Notice of Referral	Hearing commences	
Usually within 90 days of the date of last submission	Hearing decision issued	
Within 30 days of being notified of decision	Notice of review filed (if any)	
Within 60 days of filing the notice of review	Review record prepared and filed	
Between 90-120 days of filing notice of review	Submissions (written Legal Argument) exchanged and filed	
Usually within 4-6 months of review record being filed	Review hearing held	
Usually within 90 days of the date of last submission	Review Decision issued	