



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# LEGAL FEES POLICY OF THE BOARD OF INTERNAL ECONOMY



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## Effective Date

This policy, approved by the Board of Internal Economy (Board) on March 1, 2018, comes into effect immediately.

# Introduction

## **OFFICE OF THE LAW CLERK AND PARLIAMENTARY COUNSEL**

The Office of the Law Clerk and Parliamentary Counsel (OLCPC) provides in-house legal services to the Speaker, the Board, committees of the House, its Members, the Clerk, and the officials of the House Administration. Under the [Parliament of Canada Act](#) and the Board's By-laws, funds, goods, services and premises provided to Members of Parliament may be used only for carrying out their parliamentary functions.

If a legal issue arises while Members of Parliament are carrying out their parliamentary functions, they are required to first consult with OLCPC pursuant to the Speaker's Communiqué to Members dated October 19, 2016 (see [Appendix A](#)). Depending on the situation, OLCPC may refer Members to outside counsel for representation. In such cases, Members may ask the Board to reimburse their legal fees.

## **EXCLUSIVE AUTHORITY OF THE BOARD**

Reimbursement of legal fees is at the sole discretion of the Board. In coming to a decision, the Board considers the [Eligibility Criteria](#) listed below, as well as the recommendation of the Law Clerk and Parliamentary Counsel.

If the Board grants a Member's request for reimbursement of legal fees, the actual fees claimed are subject to review by the Law Clerk and Parliamentary Counsel, and are reimbursed at rates pre-established by the Board (see [Appendix B](#)). If the Board denies a request for reimbursement of legal fees, Members are required to personally assume the payment of legal fees. Any legal fees paid by Members that are greater than the rates allowed by the Board are the personal responsibility of the Member.

# Purpose

The purpose of this policy is to:

- Update and expand on the criteria for the reimbursement of legal fees by the Board; and
- Provide additional measures to ensure a harassment-free workplace for employees and Members.

# Application

This policy applies to Members of Parliament, including House Officers and Members responsible for Research Offices. It also applies to employees, as defined in this policy, involved in cases of harassment.

# Requirements

## ELIGIBILITY CRITERIA

Legal fees incurred by Members of Parliament are only reimbursed by the Board if:

- a) The Member of Parliament has not initiated the legal proceedings;
- b) The legal fees are incurred for a matter arising in the discharge of the Member's "parliamentary functions" as defined in the [Members By-law](#);
- c) The request for reimbursement is made at the conclusion of the matter once all applicable recourse mechanisms have been exhausted;
- d) The allegations against the Member have not been substantiated at the conclusion of the matter;
- e) The Member has complied with this policy; and
- f) The Board determines that reimbursement is appropriate in the circumstances.

The Board may, at its discretion, grant an exception if it determines that reimbursement of legal fees is appropriate and in the public interest. The decision to grant an exception and the amount reimbursed are reported in the minutes of the Board.

## PROCESS

### i. Making a Request

To make a request that the Board reimburse their legal fees, Members must write a letter to the Speaker of the House of Commons describing the circumstances and demonstrating the basis for the request, including how the matter arose in the exercise of their parliamentary functions.

The Speaker then provides the request to OLCPC, which prepares a submission to the Board for presentation at one of its upcoming meetings. In preparing the Board submission, OLCPC considers the [Eligibility Criteria](#) above, and may request additional information from the Member in order to ensure that the Board has all of the necessary information before coming to a decision. The submission will also include a recommendation to the Board from the Law Clerk and Parliamentary Counsel about whether a request should be granted in the circumstances. The identity of the parties is kept strictly confidential.

The Board has final authority in determining whether to grant a request for reimbursement of legal fees.

### ii. If the Request is Granted

If the Board grants a request for reimbursement of legal fees, the fees are reimbursed at rates pre-established by the Board (see [Appendix B](#)), subject to a review by OLCPC.

Following the Board meeting at which their request is considered, OLCPC informs the Member of the Board's decision. OLCPC then liaises with the Member to ensure that all invoices are provided to OLCPC.

The amounts claimed are reviewed by OLCPC to verify that they align with the rates pre-established by the Board (see [Appendix B](#)), and are reasonable in the circumstances.

Any legal fees paid by the Member that are greater than the rates allowed by the Board are the personal responsibility of the Member. If the payment of legal costs forms part of any order or award to the Member from a court or tribunal, that amount is also deducted from the total amount reimbursed to the Member by the Board.

## Board Rates of Reimbursement

Legal fees are reimbursed at rates pre-established by the Board (see [Appendix B](#)). The Board will review these rates periodically to ensure that they are no greater than those provided by the Department of Justice and the Senate of Canada.

In exceptional circumstances, the Board may exercise its discretion to reimburse legal fees at rates greater than those pre-established by the Board.

## Reporting of Legal Fees

All reimbursed legal fees are included in the amounts published annually in the Public Accounts of Canada. The most recent information is available in the [2017 Public Accounts](#). When payments of more than \$100,000 are made to an individual or organization, the name and location of the payee, and the amount paid to him or her, is published. The purpose of the expense is not disclosed, as the Board does not disclose the amount paid for any given legal matter.

In addition, the Board will publish the aggregate amount of legal fees reimbursed to Members and employees under this policy each quarter, and report the number of requests for reimbursement of legal fees it has received during that time.

## Harassment

In cases involving allegations of harassment against Members of Parliament, the Board offers the following additional support to employees and Members involved:

### **PART A: FINANCIAL SUPPORT**

Employees and Members involved in a case of harassment may write to the Speaker, as Chair of the Board, requesting financial support up to a maximum amount of \$5,000 for the purpose of obtaining independent legal advice at the outset.

The Speaker sends the request to the Law Clerk and Parliamentary Counsel, who reviews the matter and approves the appropriate financial support up to the maximum amount of \$5,000. Either the Member or employee may appeal the Law Clerk's decision to the Board.

Any amount of financial support provided under this Part is deducted from the total amount of legal fees that may be reimbursed to the Member or employee by the Board pursuant to this policy.

## **PART B: REIMBURSEMENT OF LEGAL FEES**

If a complainant's allegations of harassment are found to be substantiated at the end of the matter, or if the matter is resolved, the complainant may write to the Speaker, as Chair of the Board, requesting that the Board reimburse the complainant's legal fees, subject to the relevant [Eligibility Criteria](#), above.

The Speaker sends the request to OLCPC, which prepares a submission to the Board for presentation at one of its upcoming meetings. The identity of the parties is kept strictly confidential. Ultimately, it is up to the Board to determine whether to grant such a request.

If the Board grants a request for reimbursement of legal fees, the fees are reimbursed at rates pre-established by the Board (see [Appendix B](#)), subject to a review of the invoices by OLCPC. Following the Board meeting at which their request is considered, OLCPC informs the complainant of the Board's decision. OLCPC then liaises with the complainant to ensure that all invoices are provided to OLCPC.

The amounts claimed are reviewed by OLCPC to verify that they align with the rates pre-established by the Board (see [Appendix B](#)) and are reasonable in the circumstances. In exceptional circumstances, the Board may exercise its discretion to reimburse legal fees at rates greater than those pre-established by the Board.

Any legal fees paid by the complainant that are greater than the rates allowed by the Board are the personal responsibility of the complainant. Any amount of financial support previously provided to the complainant under Part A above, is deducted from the total amount reimbursed to the complainant by the Board. If the payment of legal costs forms part of any order or award to the complainant from a court or tribunal, that amount is also deducted from the total amount reimbursed to the complainant by the Board.

## Definitions

**Employee:** For the purposes of this policy, an employee is a person employed by a Member of Parliament, including a House Officer or Member responsible for a National Caucus Research Office, as well as an intern (paid or unpaid) or a volunteer who carry out duties for a Member.

**Harassment and Sexual Harassment:** As defined in the [\*House of Commons Policy on Preventing and Addressing Harassment\*](#) and the [\*Code of Conduct for Members of the House of Commons: Sexual Harassment\*](#).

**Parliamentary Functions:** As defined in the [\*Members By-law\*](#).

## Contacts

For further information on this policy, please contact the Office of the Law Clerk and Parliamentary Counsel by telephone at 613-996-6063, or by e-mail at [LC-BL@parl.gc.ca](mailto:LC-BL@parl.gc.ca).

# APPENDIX A

## Speaker's Communiqué to Members dated October 19, 2016



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

BOARD OF INTERNAL ECONOMY  
BUREAU DE RÉGIE INTERNE

### Legal Services provided by the Office of the Law Clerk and Parliamentary Counsel

At its Meeting of May 12, 2016, the Board of Internal Economy reviewed the circumstances under which Members can ask for the reimbursement of legal fees paid to outside counsel in certain legal matters relating to the exercise of their parliamentary functions.

I would first like to remind Members of the long standing policy of the Board of Internal Economy regarding the use of the legal services offered by the Office of the Law Clerk and Parliamentary Counsel (OLCPC).

The Law Clerk and Parliamentary Counsel is the in-house counsel for the House of Commons and its committees, the Board of Internal Economy, Members of Parliament and the House Administration. Counsel in the OLCPC provide legal advice on a broad range of issues including employment law, contracting matters and the application of statutes to the business of the House. Further, they provide expert advice with regard to constitutional law and the law of Parliament, parliamentary privilege, and the legal powers of the House and its committees.

In the event that legal issues arise in the discharge of their parliamentary functions, Members should always consult the OLCPC.



In certain circumstances, Members may be referred to outside counsel. In such cases, they may seek from the Board the reimbursement of the legal fees incurred, but the Board will always expect that the Member first consulted the OLCPC before retaining outside counsel. Each request for reimbursement is reviewed by the Board on a case-by-case basis, and if a request is not granted, Members may be required to personally assume the payment of the legal fees.

Finally, the rates allowed for reimbursement of legal fees of outside counsel are set by the Board. Any legal fees paid by Members that are greater than the rates allowed by the Board become the personal responsibility of the Member.

On behalf of the Board, I ask that all Members make use of the services offered to them by the Office of the Law Clerk and Parliamentary Counsel. Members seeking further information may contact the office at 613-996-6063.

Hon. Geoff Regan, P.C., M.P.

# APPENDIX B

## Remuneration for Outside Counsel as Approved by the Board of Internal Economy on December 9, 2014

Years at Bar	Hourly Rate
Student / paralegal	\$50
First 2 years of Call	\$100
3 <sup>rd</sup> and 4 <sup>th</sup> year of Call	\$120
5 <sup>th</sup> and 6 <sup>th</sup> year of Call	\$140
7 <sup>th</sup> and 8 <sup>th</sup> year of Call	\$160
9 <sup>th</sup> and 10 <sup>th</sup> year of Call	\$180
11 <sup>th</sup> and 12 <sup>th</sup> year of Call	\$200
13 <sup>th</sup> and 14 <sup>th</sup> year of Call	\$220
15 <sup>th</sup> and 16 <sup>th</sup> year of Call	\$240
17 <sup>th</sup> and 18 <sup>th</sup> year of Call	\$260
19 <sup>th</sup> and 20 <sup>th</sup> year of Call	\$280
21 <sup>st</sup> year of Call and more	\$350