

Change of lawyer



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A legally aided client who has retained a roster member or staff lawyer under the terms of a certificate may apply in the form and manner prescribed by LAO for permission to change their lawyer.

An application to change lawyers may be granted by LAO, having regard to the following factors:

- When the certificate was issued, how much work has been done or is in progress and how much work has been billed to LAO so far;
- The stage the proceedings have reached;
- The complexity of the matter;
- The likely overall cost to complete the certificate services;
- Whether the lawyer is seeking to withdraw or has withdrawn from the case for ethical reasons, including a conflict of interest or lack of necessary skills and experience;
- Whether there has been an irremediable breakdown of the lawyer-client relationship;
- The likelihood of remediating a breakdown in the lawyer-client relationship and whether that remediation would be in the best interest of the client;
- The reasonableness of the client's position with respect to their case;
- The reasonableness of the client's position with respect to their request for a change of lawyer;
- The reason for requesting to change lawyers, and, if related to the lawyer's conduct, the nature of the allegation, and the likelihood that the allegation is accurate;
- The number of requests to change lawyers the client has made in the current case or previous cases;
- Previous complaints about the lawyer, the frequency of the complaints, and the nature of the conduct complained of;
- Previous roster management, investigations, or other administrative action taken in

relation to the lawyer;

- The client's individual circumstances, including any vulnerabilities specific to the client; and
- Whether the lawyer supports the change and undertakes not to bill for further services or to limit their bill.

The reasonableness of a request for a change of lawyer is to be measured against the standard of whether, under the circumstances, a reasonable client of modest means would change lawyers.

LAO shall approve a request for a change of lawyer in any of the following circumstances:

- The lawyer has closed or is imminently closing their practice;
- The lawyer is on or planning to imminently commence, a leave of absence from the practice of law, including medical or parental leave;

LAO may refuse an application for a change of lawyer in relation to an expired certificate. In these circumstances, the client is required to make a new application for legal aid services.

If LAO approves an application for a change of lawyer, LAO shall

- a. cancel the certificate to which the application relates, and issue a new certificate to the client, and
- b. deliver notice of the cancellation to the individual and the lawyer.

If LAO refuses an application for a change of lawyer, LAO shall deliver notice of the refusal with reasons to the individual and the lawyer.

Complaints by a legal aid client against their legal aid lawyer that are contained within an application for change of lawyer must be resolved in accordance with LAO's complaints policy. Approval or refusal of an application for a change of lawyer does not, in of itself, constitute a resolution of the complaint included in the application.