

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE ATTORNEY GENERAL FOR THE PROVINCE OF BRITISH COLUMBIA  
(the "Attorney General")**

**AND**

**THE LEGAL SERVICES SOCIETY (the "Society")**

**WHEREAS:**

- A. The Attorney General is responsible for all matters connected with the administration of justice in British Columbia, including the provision of legal aid, where those matters are not within the jurisdiction of the Government of Canada.
- B. The Society is established by the *Legal Services Society Act*, S.B.C. 2002 Ch. 30 (the "*Act*") for the purpose of developing and maintaining an effective and efficient system of legal aid to Low Income Individuals in British Columbia.
- C. One of the goals contained in the Ministry's 2002/03 – 2004/05 Service Plan is that justice services be administered fairly, equitably, and efficiently to all British Columbians, while protecting individual rights and judicial independence.
- D. The Society's objects, under section 9 of the *Act*, are
  - (a) subject to section 10(3), to assist Low Income Individuals to resolve their legal problems and facilitate access to justice for Low Income Individuals;
  - (b) subject to section 10(3), to establish and administer an effective and efficient system for providing legal aid to Low Income Individuals in British Columbia; and
  - (c) to provide advice to the Attorney General respecting legal aid.
- E. In fulfilling its statutory objects, the Society must comply with the limits on expenditures set out in section 17 of the *Act* and its obligation under section 11(4) of the *Act* to ensure that the amount of legal aid provided in relation to a legal problem does not exceed the extent of legal and other services that a reasonable person of modest means would employ to resolve the problem.
- F. The Society is not an agent of the Government or the Law Society of British Columbia, and operates at arm's length from the Government, under the direction of an independent Board of Directors within a framework requiring accountability for the funding it receives from the Government.
- G. Section 10 of the *Act* provides the Society with the power and capacity to determine the kinds of legal aid it will provide, the types of legal matters and

- classes of persons for which it will provide legal aid, the methods by which it will provide legal aid, and levels and extent to which legal aid will be provided.
- H. The Society and the Attorney General share a concern that Exceptional Matters within the Society's mandate can materially affect the Society's ability to fulfill its statutory object of administering an effective and efficient legal aid system within the limit on expenditures set out in section 17 of the Act;
  - I. Recognizing that the Attorney General may from time to time be constitutionally required to provide legal aid in cases that do not fall within the Society's mandate and that the Attorney General may wish to make use of the Society's expertise in the provision of representation and the management of costs in such cases, the Society may be agreeable to administering some such cases on behalf of the Government on a fee-for-service basis in accordance with section 10(1)(e) of the *Act*.
  - J. Section 21 of the *Act* requires the Attorney General and the Society to negotiate in an attempt to arrive at a memorandum of understanding (the "Memorandum") regarding funding for legal aid and service priorities in relation to that funding.
  - K. The Memorandum is the foundation of the Society's budget and planning process and serves the Society's objectives of sound fiscal management and prudent administration of an efficient and effective legal aid system during the Term of the Memorandum.
  - L. The Memorandum is a record of the arrangements and understandings concluded in good faith between the Attorney General and the Society and does not confer any rights or benefits on third parties.

THEREFORE the parties agree as follows:

## **DEFINITIONS**

- 1.01 In the Memorandum, unless the context otherwise requires, the following definitions will apply:
- (a) all terms used or defined in the Act and used in this Memorandum will have the meanings ascribed to them in the *Act*;
  - (b) "Eligible Individual" means a Low Income Individual whom the Society determines to be qualified to receive legal aid according to criteria the Society establishes pursuant to section 10(1)(d) of the *Act*;
  - (c) "Exceptional Matter" means a legal proceeding, within the Society's mandate, falling into any one or more of the following types of legal matters:
    - (i) a legal matter in which a court determines, or the Society reasonably determines, that a Low Income Individual who does not otherwise qualify to become an Eligible Individual requires

representation by a lawyer to meet the requirements of sections 7 or 11 of the *Charter*;

- (ii) a legal matter involving an Eligible Individual in which the Society reasonably determines that the complexity of the legal matter and the necessity for the services of senior legal counsel require the payment of fees in excess of the standard fees established by the Society in its policies, including the Guide to Legal Aid Tariffs;
  - (iii) a legal matter involving an Eligible Individual in which a court has directed, or Government has agreed to, payment in excess of the standard fees and disbursements established by the Society in its policies, including the Guide to Legal Aid Tariffs;
  - (iv) a legal matter involving an Eligible Individual in which the aggregate of fees or the aggregate of disbursements, or both, have exceeded \$50,000;
  - (v) a legal matter in which several Eligible Individuals are involved in a significant number of similar or related legal proceedings and the resulting increase in demand for legal aid is likely to materially and adversely affect the Society's ability to fulfill its statutory objects (by way of example, the marine arrivals of 1999);
- (d) "Executive Director" means the person appointed under section 6 of the *Act*;
- (e) "Funded Service" means any one of the following legal aid matters for which the Society will provide legal aid, and the related administrative infrastructure, using Memorandum Funding:
- (i) the criminal law matters described in Schedule B,
  - (ii) the family law matters described in Schedule C,
  - (iii) the child protection matters described in Schedule D,
  - (iv) the immigration matters described in Schedule E,
  - (v) the constitutionally required matters described in Schedule F,
  - (vi) the public legal education and information services described in Schedule G,
  - (vii) the Exceptional Matters described in Schedule H, and
  - (viii) the Service and Strategic Objective Initiatives;
- (f) "Government" means the Government of the Province of British Columbia;

- (g) "Low Income Individual" means a low income individual referred to in section 9 of the Act;
- (h) "Memorandum Funding" means the total amount of funding that the Government approves for Funded Services and the related administrative infrastructure in a fiscal year, as contained in a budget approved by the Attorney General pursuant to section 18 of the Act, and for greater certainty excludes any separate or additional funding referred to in Article 5;
- (i) "Ministry" means the Ministry of Attorney General;
- (j) "Service and Strategic Objective Initiatives" means the initiatives by that name referred to in Schedule J;
- (k) "Shortfall" means an actual or projected shortage of funds arising where the actual costs incurred or projected to be incurred by the Society to provide a Funded Service in any fiscal year are greater than the amount of Memorandum Funding allocated in Schedule J to that Funded Service for that fiscal year plus the amount of any deferred revenue to be applied to the costs in respect of Exceptional Matters in accordance with paragraph 4.01(c);
- (l) "Standing Committee" means the Standing Committee established under Article 7;
- (m) "Surplus" means the actual or projected amount of Memorandum Funding remaining when the actual costs incurred or projected to be incurred by the Society to provide a Funded Service in any fiscal year are less than the amount allocated in Schedule J to that Funded Service for that fiscal year;
- (n) "Term" means the term defined in Article 2.

## **TERM**

- 2.01 The Memorandum is effective on the date it is signed by the duly authorized representatives of the Attorney General and the Society and remains in effect until March 31, 2005.
- 2.02 The parties
  - (a) may amend the terms of the Memorandum in such circumstances as they deem appropriate; and
  - (b) will amend the terms of the Memorandum from time to time
    - (i) in response to legislative changes or judicial decisions that materially affect the responsibility of either party respecting legal aid;

- (ii) to make the terms and conditions of the Memorandum consistent with the budget the Attorney General approves pursuant to section 18 of the *Act*;
- (iii) in response to changes in the appropriation received by the Attorney General; or
- (iv) to make the terms and conditions of the Memorandum consistent with the Federal/Provincial agreement on legal aid funding.

2.03 Any amendments to the Memorandum will be dated, signed by both parties and attached to the Memorandum at which time they will become part of the Memorandum.

2.04 The parties will begin the negotiations referred to in section 21(1)(b) of the *Act* not less than nine months prior to the expiry of the Memorandum.

### **ROLES AND RESPONSIBILITIES**

3.01 The Attorney General will

- (a) subject to approval of the Society's budget each fiscal year pursuant to section 18 of the *Act*, provide the Society with Memorandum Funding for the provision of Funded Services and fulfillment of its statutory objects in the amounts identified in Schedule A in each of the 3 fiscal years specified in that Schedule;
- (b) ensure that the requirements necessary to the discharge of the Society's objects are understood and reflected, as appropriate, in the Ministry's planning and resource allocation process, and that the Ministry's administrative and support areas are responsive, where appropriate, to the Society's needs and administrative independence;
- (c) consult with the Society on matters relating to legal aid, including changes in applicable law and policy that affect the Society's administration of the legal aid system;
- (d) acknowledge the Society as a key partner in the justice system and consider the advice of the Society regarding legal aid matters;
- (e) work with the Society to coordinate efforts to achieve objectives shared by the Ministry and the Society, including, but not limited to, the shared objectives specifically identified in Schedule I;
- (f) cooperate with the Society, pursuant to section 21(2)(f) of the *Act*, in the annual review of the Society's budget and the measures taken, and to be taken, by the Society to implement the terms of the Memorandum;
- (g) endeavor to respond to a request from the Society, pursuant to section 17(3) of the *Act*, for approval of a deficit within 60 days of receiving the request;

- (h) as required by the Act, present the Society's annual operations report and audited financial statements to the legislature;
- (i) for the purposes of making the recommendations or appointments required by section 4(5) of the *Act*, work with the Law Society to ensure timely appointment of directors that they consider will provide the board as a whole with knowledge, skills and experience in the following areas:
  - (i) business, management and financial matters of public and private sector organizations;
  - (ii) law and operation of courts, tribunals, and alternate dispute resolution processes;
  - (iii) the provision of legal aid;
  - (iv) the cultural and geographic diversity of British Columbia; and
  - (v) the social and economic circumstances associated with the special legal needs of Low Income Individuals.

3.02 The Society will:

- (a) subject to Memorandum Funding being provided, act reasonably and diligently to deliver the Funded Services throughout the Term within the funding limits specified in Schedule A;
- (b) subject to the priorities and Surplus rules contained in Article 4
  - (i) apply the Memorandum Funding only for and towards the provision of Funded Services and the establishment and maintenance of an administrative infrastructure necessary for the provision of the Funded Services and the performance of its statutory objects, and
  - (ii) allocate the Memorandum Funding provided in each fiscal year in the manner set out in Schedule J;
- (c) provide the administrative infrastructure necessary to
  - (i) deliver the Funded Services,
  - (ii) maintain an effective and efficient system for providing legal aid to Low Income Individuals in British Columbia, and
  - (iii) generally fulfill its statutory objects;
- (d) advise the Attorney General in a timely manner of any matters relating to the Society's objects that significantly affect the Attorney General's responsibility for legal aid and access to justice;

- (e) establish and monitor appropriate conduct, planning or performance objectives for the Society, its members, employees, and the service providers with whom it contracts;
- (f) report to the Attorney General in accordance with requirements of the *Act* and other applicable legislation and respond to specific requests for information from the Attorney General pursuant to section 19 of the *Act*;
- (g) cooperate with the Attorney General, pursuant to section 21(2)(f) of the *Act*, in the annual review of the Society's budget and the measures taken, and to be taken, by the Society to implement the terms of the Memorandum;
- (h) work with the Attorney General and Ministry officials to coordinate efforts to achieve objectives shared by the Ministry and the Society including, but not limited to, the shared objectives specifically identified in Schedule I;
- (i) cooperate and coordinate with other justice system partners and participate in justice reform initiatives in furtherance of its objects;
- (j) explore opportunities, as appropriate, to recover financial obligations to the Society and obtain funds from any source for the pursuit of its objects;
- (k) ensure that information about the knowledge, skills and experience of the board required under section 4(5) of the *Act* is available to the Attorney General and the Law Society to assist them in meeting their appointment responsibilities;
- (l) provide information to the Attorney General that will assist with the effective administration of justice in British Columbia.

3.03 The Attorney General and the Society acknowledge that Schedule J identifies the allocation of Memorandum Funding amongst the Funded Services in fiscal years 02/03 and 03/04 and the expected allocation of Memorandum Funding amongst the Funded Services in fiscal year 04/05.

#### **PRIORITIES, SURPLUSES AND SHORTFALLS**

4.01 During the Term, the Society will deal with Surpluses and Shortfalls within a fiscal year for any of the Funded Services in the following manner:

- (a) if a Surplus pertains to the criminal law matters described in Schedule B, the Society will apply the Surplus in the following order of priority
  - (i) firstly, if the Society has a Shortfall relating to Exceptional Matters, the Society will reallocate and apply the Surplus to that Shortfall for that fiscal year,
  - (ii) secondly, the Society will reallocate and apply the Surplus, or its remainder, as the case may be, to any Shortfall relating to any

other of the Funded Services described in Schedules C to G or the Service and Strategic Objective Initiatives for that fiscal year, and

- (iii) thirdly, the Society will apply the Surplus, or its remainder, as the case may be, in any manner it considers appropriate in order to fulfill its statutory objects;
- (b) if the Surplus pertains to any one of the Funded Services described in Schedules C to G or to the Service and Strategic Objective Initiatives, the Society will apply the Surplus as follows:
  - (i) firstly, the Society will reallocate and apply the Surplus to any Shortfall relating to any other of the Funded Services described in Schedules C to G or the Service and Strategic Objective Initiatives for that fiscal year, and
  - (ii) secondly, the Society will apply the Surplus, or its remainder, as the case may be, in any manner it considers appropriate in order to fulfill its statutory objects;
- (c) if the Surplus pertains to Exceptional Matters, the Society will carry forward the Surplus as deferred revenue to be applied to the costs of legal aid in respect of Exceptional Matters in future fiscal years.

4.02 If, during the Term, the Society determines that for a future fiscal year

- (a) it will be able to provide a Funded Service for less than the Memorandum Funding allocated in Schedule J to that Funded Service, and
- (b) that Surplus will not be required to meet a Shortfall relating to the cost of providing any other Funded Services during that fiscal year according to the priorities specified in subparagraphs 4.01(a)(i) and (ii) and 4.01(b)(i).

then the Society will refer the issue of the use of that projected Surplus to the Standing Committee to be addressed in the context of the budget review process.

4.03 The Standing Committee, in determining the appropriate use and allocation of the Surplus referred to in paragraph 4.02, will consider the Attorney General's core services priorities and the Society's independence and expertise in addressing the needs of Low Income Individuals.

4.04 If the Society cannot provide the Funded Services for the amounts specified and allocated in Schedule J, the Standing Committee will, as soon as these circumstances become apparent, meet and negotiate options, including deficit authorization, additional funding, cost deferral, or modification of the Funded Services required to be provided under this Memorandum.

## **SOCIETY REVENUES OUTSIDE THE MEMORANDUM**

- 5.01 Nothing in this Memorandum precludes the Society from receiving separate or additional funding from the Government for the purpose of providing specific services, provided that it does so in accordance with the Act.
- 5.02 The Society may utilize funds it obtains from sources other than Government in any manner it deems appropriate to fulfill its objects.

## **ASSISTANCE WITH CASES OUTSIDE THE SOCIETY'S MANDATE**

- 6.01 Where the Attorney General is constitutionally required to provide legal aid to an individual who is not a Low Income Individual or is otherwise outside the Society's mandate:
- (a) the Attorney General and the Society will work cooperatively to avoid disruption of legal proceedings and promote the effective and efficient administration of justice;
  - (b) the Society may charge, and the Attorney General may pay, a reasonable, separate and additional fee, in return for which the Society will provide its expertise and administrative assistance to the Attorney General.

## **STANDING COMMITTEE**

- 7.01 The Attorney General and the Society acknowledge the mutual benefit derived from joint consultation and its value in maintaining and improving the delivery of legal aid, and the administration of the justice system, in a fair, effective and efficient manner.
- 7.02 The Attorney General and the Society will establish for the Term of the Memorandum a Standing Committee composed of the Assistant Deputy Minister responsible for the Society, or such other official as the Attorney General may designate, and the Executive Director of the Society.
- 7.03 The Standing Committee will be responsible for
- (a) anticipating and addressing operational, administrative, policy, program or financial issues arising from the delivery of legal aid under the *Act* and from the implementation of the Memorandum;
  - (b) identifying, and communicating about, financial pressures and potential budget shortfalls at the earliest possible opportunity;
  - (c) developing plans for the memorandum of understanding that is to apply for the three-year period following the expiry of the Memorandum;

- (d) promoting cooperation and coordination between the Ministry and the Society, and with other justice system partners, with respect to the delivery of legal aid and the development of justice reform initiatives; and
  - (e) amending the Schedules if and as required to reflect the annual budget approved by the Attorney General pursuant to section 18 of the *Act*.
- 7.04 To fulfill the purposes set out in paragraph 7.03, the Standing Committee:
- a) will prepare and submit to the Attorney General and the Society's Board of Directors, by September 30<sup>th</sup> of the fiscal year in which the Memorandum expires, detailed recommendations regarding the content of the subsequent memorandum of understanding;
  - b) may establish sub-committees as and when it deems appropriate; and
  - c) will make and retain minutes recording the discussion had and decisions made at its meetings.

### **BUDGET REVIEW PROCESS**

- 8.01 Pursuant to s. 21(2)(f) of the *Act*, the following process will govern the review of the budget required by s.18 of the *Act*.
- 8.02 The Society and the Attorney General recognize the importance of, and commit to, ongoing communication throughout the year regarding issues that are, or may be, significant to the parties or their common interests in legal aid or the justice system.
- 8.03 In order to ensure that the Attorney General is sufficiently informed of the Society's issues prior to central agency discussions about Ministry pressures and that the Society is informed of issues that will or may have a material impact on the Society, by August 5<sup>th</sup> of each year:
- (a) the Society will inform the Attorney General of all ongoing or foreseeable pressures that it expects will have a material impact on the budget in the subsequent fiscal year; and
  - (b) the Ministry will inform the Society of pressures it expects will have a material impact on the Society in the subsequent fiscal year.
- 8.04 In submitting its budget pursuant to s.18 of the *Act*, the Society will provide a sufficient level of detail to meet the informational requirements of Schedule J, and:
- (a) the Society will advise in writing if any of the underlying assumptions have changed since the previous year;
  - (b) within 7 days of the Society providing a budget pursuant to s. 18 of the *Act*, the Standing Committee will meet in order to review the budget, and identify and discuss any issues of significant concern;

- (c) during the review and any necessary revisions of the budget, the Attorney General and the Society will communicate and meet as required in order to resolve outstanding issues as quickly as possible.

**DISPUTE RESOLUTION**

9.01 The parties agree that in the event of any dispute arising in respect of the interpretation or operation of this Memorandum and the obligations of the parties under it, they commit, time permitting, to following the procedure set out below:

- (a) the parties will advise each other promptly in writing of a dispute arising from or in relation to this Memorandum, providing full particulars of the nature of the dispute, any underlying interests engaged by the dispute and one or more proposed solutions of the party delivering notice of the dispute, and both parties will attempt in good faith to negotiate their differences directly for a period of no less than 20 working days after delivery of such written notice;
- (b) if after 20 working days the dispute remains unresolved, the parties agree to select a mediator to work with them to resolve the dispute within 10 working days. If the parties are unable to agree on a mediator, one will be appointed by the British Columbia Mediator Roster Society, acting in consultation with the parties;
- (c) the mediator will meet with the parties within 20 working days of being appointed;
- (d) the period of mediation of the dispute will not exceed 30 working days; and
- (e) the costs of mediation including fees and expenses will be borne equally by the parties.

**AGREEMENT** made this 5<sup>th</sup> day of March, 2003.

**SIGNED ON BEHALF OF THE  
ATTORNEY GENERAL BY:**

P. Gerry Power

**SIGNED ON BEHALF OF THE  
LEGAL SERVICES SOCIETY BY:**

J. M. [Signature]

**SCHEDULE A - FUNDING**

1. Subject to approval of the Society's budget each fiscal year pursuant to section 18 of the Act, the Attorney General will provide the Society with Memorandum Funding for the provision of Funded Services in the following amounts:
  - (a) for fiscal year 2002/2003, \$71.435 million;
  - (b) for fiscal year 2003/2004, \$63.622 million; and
  - (c) for fiscal year 2004/2005, \$ 55.030 million.
  
2. The Attorney General will
  - (a) provide the funding to the Society in equal monthly installments; and
  - (b) deliver the first and last payment for each fiscal year no more than five business days after the beginning of that fiscal year.

## SCHEDULE B - SERVICES IN CRIMINAL LAW

1. The Society will provide the following services in respect of criminal law matters that are not Exceptional Matters:
  - (a) representation by a lawyer, for Eligible Individuals in adult criminal cases, where counsel is required under sections 7 or 11 of the *Charter*;
  - (b) representation by a lawyer, for Eligible Individuals, or persons for whom a court appoints counsel, in proceedings where counsel is required under the *Young Offenders Act/Youth Criminal Justice Act*;
  - (c) representation by a lawyer, for Eligible Individuals, or persons for whom a court or tribunal appoints counsel, in proceedings where counsel is required under Part XX.1 of the *Criminal Code* (Mental Disorder);<sup>1</sup>
  - (d) representation by a lawyer for Eligible Individuals in appeals and applications for judicial review as the Society deems appropriate;
  - (e) duty counsel for persons in custody;
  - (f) duty counsel for persons not in custody;
  - (g) legal services, as appropriate, to assist persons in the arraignment court process in Provincial Court;
  - (h) 24-hour telephone advice (Brydges line) for persons detained by police.
  
2. The Society will fund the services described in paragraph 1 to a maximum cost to the Society as follows<sup>2</sup>:
  - (a) for fiscal year 2002/2003, \$ 25.428 million;
  - (b) for fiscal year 2003/2004, \$ 23.861 million; and
  - (c) for fiscal year 2004/2005, \$ 23.801 million.
  
3. Paragraph 1 does not include representation by a lawyer where counsel is appointed under provisions of the *Criminal Code* other than those in Part XX.1, for example, sections 486 (2.3) (appointment of counsel in cases involving minors as witnesses), 684 (appointment of appeal counsel by Court of Appeal) and 694.1 (appointment of appeal counsel by Supreme Court of Canada). Coverage of and payment for these matters will be addressed through a separate agreement.

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<sup>1</sup> Note that this service is also partially funded under Schedule F (Other Constitutionally Required Services).

<sup>2</sup> Note that the global figure includes \$1.144 million for criminal transcripts. This figure represents 80 percent of the budgeted amount for transcripts (\$1.430 million), which is an estimate of the proportion of transcripts expenditures that relate to criminal matters.

**SCHEDULE C - SERVICES IN FAMILY LAW**

1. The Society will provide representation by a lawyer to Eligible Individuals in respect of the following family law matters that are not Exceptional Matters only on the basis of an emergency referral and where the applicant:
  - (a) is a victim of domestic violence and likely needs a physical restraining order;
  - (b) has a child or children who are at risk and a supervised access order is needed;
  - (c) is in need of a change to the current custody or access order to ensure the safety of the applicant and/or the child or children;
  - (d) requires a non-removal order to prevent the applicant's child or children from being permanently removed from the province;
  - (e) seeks to appeal a decision in relation to the matters described in (a) to (d) and the Society deems it appropriate to fund the appeal.
  
2. The Society will provide the services described in paragraph 1 to a maximum cost to the Society as follows:
  - (a) for fiscal year 2002/2003, \$ 4.920 million;
  - (b) for fiscal year 2003/2004, \$ 5.040 million; and
  - (c) for fiscal year 2004/2005, \$ 5.040 million.
  
3. The Society will provide services in family law cases in which a referral was issued on or before May 21, 2002, to a maximum cost to the Society as follows:
  - (a) for fiscal year 2002/2003, \$7.712 million;
  - (b) for fiscal year 2003/2004, \$1.700 million; and
  - (c) for fiscal year 2004/2005, \$0.380 million.

**SCHEDULE D - SERVICES IN CHILD PROTECTION LAW**

1. The Society will provide representation by a lawyer to Eligible Individuals in respect of the following child protection matters that are not Exceptional Matters:
  - (a) proceedings under the *Child, Family and Community Services Act* where counsel is required under s.7 of the *Charter*; and
  - (b) appeals in relation to the matters referred to in subparagraph (a), as the Society deems appropriate.
2. The Society will provide the services described in paragraph 1 to a maximum cost to the Society as follows<sup>3</sup>:
  - (a) for fiscal year 2002/2003, \$4.547 million;
  - (b) for fiscal year 2003/2004, \$4.026 million; and
  - (c) for fiscal year 2004/2005, \$4.026 million.
3. The Society will pursue, in conjunction with other interested parties, methods of reducing costs related to representation services described in paragraph 1, by encouraging alternative dispute resolution.

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<sup>3</sup> Note that these figures include \$0.286 million for annual transcript expenditures. This figure represents 20 percent of the budgeted amount for transcripts (\$1.430 million), which is an estimate of the proportion of transcript expenditures that are likely to relate to child protection matters.

**SCHEDULE E - SERVICES IN IMMIGRATION LAW**

1. The Society will provide representation by a lawyer to Eligible Individuals in respect of the following immigration matters that are not Exceptional Matters:
  - (a) proceedings relating to a refugee claim, including preparation of the documents supporting the claim; and
  - (b) appeals in circumstances where a person has been denied the opportunity to make a refugee claim.
2. The Society will provide the services described in paragraph 1 to a maximum cost to the Society as follows:
  - (a) for fiscal year 2002/2003, \$ 4.884 million;
  - (b) for fiscal year 2003/2004, \$ 4.924 million; and
  - (c) for fiscal year 2004/2005, \$ 0.00 million.
3. The Attorney General has indicated that Memorandum Funding for immigration matters will be phased out during the Term of this Memorandum. Upon the request of the Attorney General the Society will give notice that immigration coverage will diminish or cease altogether on a timeline that limits expenditures to an amount determined by the Attorney General in consultation with the Society, or the Government of Canada will provide separate funding outside the Memorandum, as the case may be.

**SCHEDULE F – OTHER CONSTITUTIONALLY REQUIRED SERVICES**

1. The Society will provide representation by a lawyer to Eligible Individuals in the following matters that are not Exceptional Matters where counsel is required under section 7 of the *Charter*:
  - (a) proceedings under the *Mental Health Act* in which an individual is detained;
  - (b) disciplinary proceedings within a prison; and
  - (c) appeals and applications for judicial review in relation to the matters described in subparagraphs (a) and (b) as the Society deems appropriate.
  
2. The Society will provide the services described in paragraph 1 to a maximum cost to the Society as follows:
  - (a) for fiscal year 2002/2003, \$0.750 million;
  - (b) for fiscal year 2003/2004, \$1.069 million; and
  - (c) for fiscal year 2004/2005, \$1.069 million.

**SCHEDULE G - PUBLIC LEGAL EDUCATION AND INFORMATION**

1. The Society will provide public legal education and information services to a maximum cost to the Society as follows:
  - (a) for fiscal year 2002/2003, \$2.0 million;
  - (b) for fiscal year 2003/2004, \$1.993 million; and
  - (c) for fiscal year 2004/2005, \$2.0 million.

**SCHEDULE H – EXCEPTIONAL MATTERS**

1. The Society will provide representation by a lawyer in respect of Exceptional Matters, excluding those prosecuted by the Government of Canada, to a maximum cost to the Society as follows<sup>4</sup>:
  - (a) for fiscal year 2002/2003, \$1.90 million, plus any deferred revenue available for Exceptional Matters;
  - (b) for fiscal year 2003/2004, \$2.70 million, plus any deferred revenue available for Exceptional Matters;<sup>5</sup>
  - (c) for fiscal year 2004/2005, \$2.70 million, plus any deferred revenue available for Exceptional Matters.

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<sup>4</sup> The amounts set out in this Schedule, as in other Schedules specifying Funded Services, do not include related administrative infrastructure costs appearing in Schedule J under the line item “Staff Provision of Services and Support”. However, the amounts set out in this Schedule do include operating costs that are specific and directly related to Exceptional Matters, for example, salary and benefits for an Exceptional Matters Assistant position and honoraria for the private bar lawyers on the advisory panel.

<sup>5</sup> The increase of \$800,000 in funding allocated in 2003/2004 and 2004/2005 reflects the additional funding required to pay enhanced fees of \$125 per hour to senior counsel in large and complex cases. The Society will establish an advisory panel of private bar lawyers to determine, in accordance with criteria the Society specifies, whether or not (a) a case requires senior counsel; and (b) a lawyer has the necessary qualifications to meet the needs of a particular case and is entitled to the senior counsel rate of \$125.

**SCHEDULE I – SHARED OBJECTIVES**

1. The Attorney General and the Society acknowledge the mutual benefit derived from working cooperatively together on a number of shared objectives and, to that end, will work collaboratively to do the following:
  - (a) attempt to avoid disruption of legal proceedings and promote the effective and efficient administration of justice by working together on funding issues relating to legal matters falling outside of the Society's mandate;
  - (b) to establish protocols for the early identification and costing of legal matters falling outside of the Society's mandate;
  - (c) to develop a workable definition of "Low Income Individuals", as used in the Act;
  - (d) to promote early dispute resolution in child protection cases and family law cases, and to better define the role of the Society in that process;
  - (e) to develop protocols for liaison between the Society and the Government in relation to each area of law for which the Society provides legal aid; and
  - (f) to seek greater administrative and financial efficiency by better coordinating services among the Attorney General, the Society, and other justice system service providers.
2. The Society and the Attorney General will work cooperatively together to integrate their respective public legal education and information services with those of other service providers in the community with a view to meeting the education and information needs of Low Income Individuals and enhancing the Society's prospects for obtaining public legal education and information service funding from other sources.

**SCHEDULE J - SUMMARY OF ALLOCATION OF MEMORANDUM FUNDING**  
(in \$ millions)

	Budget 2002/03	Budget 2003/04	Budget 2004/05
<b>Memorandum Funding Available</b>			
Schedule A - Funding	\$71.435	\$63.622	\$55.030
Approved Deficit	3.875		
<b>Total Memorandum Funding</b>	<b>75.310</b>	<b>63.622</b>	<b>55.030</b>
<b>Allocation of Memorandum Funding</b>			
Schedule B - Services in Criminal Law	25.428	23.861	23.801
Schedule C - Services in Family Law - Domestic Violence	4.920	5.040	5.040
Schedule C - Services in Family Law - Family Tariff	7.712	1.700	0.380
Schedule D - Services in Child Protection Law	4.547	4.026	4.026
Schedule E - Services in Immigration Law	4.884	4.924	0.000
Schedule F - Other Constitutionally Required Services	0.750	1.069	1.069
Schedule G - Public Legal Education and Information	2.000	1.993	2.000
Schedule H - Services in Exceptional Matters	1.900	2.700	2.700
Staff Provision of Client Services and Support (Note 1)	21.469	13.792	15.031
Service and Strategic Objective Initiatives	0.000	0.000	0.983
Transition Costs	1.700	0.000	0.000
Retirement of Deficit (Note2)	0.000	4.517	0.000
<b>Total Allocation of Memorandum Funding</b>	<b>\$75.310</b>	<b>\$63.622</b>	<b>\$55.030</b>

**Note 1:** The figures for **Staff Provision of Client Services and Support** are derived as follows:

Budget required for Staff Provision of Client Services and Support relevant to MOU	\$24.922	\$15.264	\$15.031
Shortfall provided by other funding sources	-3.453	-1.472	0.000
Staff Provision of Client Services and Support Funded Under MOU	\$21.469	\$13.792	\$15.031

Provincial Government funding is not adequate to provide all MOU services in the 2002/03 and 2003/04 Fiscal years. Therefore, the cost of Staff Provision of Client Services and Support is decreased in the Schedule above by the amount contributed by other funders to MOU services ( \$3.453m in 2002/03 and \$1.472m in 2003/04).

**Note 2:** Any funding not required to retire an accumulated deficit will be allocated to Service and Strategic Objective Initiatives