

*Every employee benefits from having clear expectations of their duties. A job description also supports organizational design, job classification, recruitment, employee performance, learning and development, and succession planning.*

*The Common Job Description (CJD) is used to describe work where several positions have common core responsibilities and reporting relationships, as well as comparable knowledge needed to perform the work.*

**FOR PUBLIC SERVICE COMMISSION USE:**

CJD LIBRARY #:

WORKING TITLE: BARRISTER AND SOLICITOR

PAY GRADE:

EFFECTIVE DATE:

CLASSIFICATION: CIVIL CROWN COUNSEL 2 (CCC2)

JOB CODE:

**ORGANIZATIONAL CONTEXT**

*Briefly describes the purpose for the business operation and how this job fits within the organizational structure (i.e. reporting relationship).*

Legal Services Division (LSD) is the civil legal advisor to the Government of Alberta (GoA). LSD lawyers practice in many areas of civil law.

LSD represents Alberta at all levels of provincial and federal courts, including the Supreme Court of Canada, and before a wide variety of administrative tribunals. LSD also provides written and oral legal advice to various ministries of the GoA, advises on the legal implications of policy choices for legislative development and drafts bills, regulations, Orders in Council, and Ministerial Orders.

LSD lawyers have public law duties exercised on behalf of the Attorney General and Minister of Justice (Minister). These duties exist both in the context of civil Crown litigation and in a duty to ensure that public affairs are administered in accordance with the law. Barristers and Solicitors are bound by professional and ethical obligations overseen by the Law Society of Alberta. The obligations include the duty of confidentiality. All legal advice is bound by common law principles of solicitor-client privilege.

Barristers and Solicitors owe professional duties to the Law Society of Alberta, public law duties on behalf of the Attorney General, and employment obligations as public servants. The public law duties include:

- Support the Minister’s role as the official legal advisor to Cabinet;
- Advise the Crown and heads of the several departments on all matters of law;
- Provide legal advice with respect to government bills and proposed regulations for inconsistencies with the *Constitution Act, 1867, Canadian Charter of Rights and Freedoms* and the *Alberta Bill of Rights*;
- Continue, through the office of the Minister of Justice, the public law duties associated with the historic, constitutional office of the Attorney General;
- Regulate and conduct all litigation for or against the Crown or any department, consistent with the historic, constitutional office of the Attorney General as “guardian of the public interest” before the courts and tribunals; and
- Draft all government bills, regulations, and statutory instruments.

These obligations arise through a number of sources, including legislation. The relevant Act in Alberta is the *Government Organization Act*, in particular section 1, and sections 2 and 4 of Schedule 9 to the *Government Organization Act*.

Some teams are structured to primarily provide legal services to a specific department, while other teams are structured to provide specialized services across GoA. Each team will have a different composition of Civil Crown Counsel (CCC1 to CCC5).

***Instructions for use:*** *This position is fully functional for routine files/cases and works under limited guidance and instructions from more senior lawyers for more complex files/cases. Typically, this position reports either to an Assistant Director (CCC4) or to a Director (CCC5) depending on the branch. For Legislative Counsel: Reports to the Assistant Chief Legislative Counsel or the Chief Legislative Counsel.*

\*For the purposes of the CJD, the term “senior lawyers” is used to refer to lawyers who are more senior in respect of experience in the job while the term “senior counsel” is used to refer to the level of the Civil Crown Counsel 4 (CCC4) position.

## JOB PURPOSE

*Briefly describes why the job exists and its scope (i.e. who is directly impacted by the outcomes of the job).*

The Civil Crown Counsel – Barrister and Solicitor role provides legal and related strategic advice such as **legislative drafting services, solicitor services, or litigation services** to the GoA to meet the government's mandates. Legal advice has a significant impact on client ministries' program development, direction, and operations. As part of an assigned team, the work requires teamwork and collaboration with and across Legal Services teams. The Civil Crown Counsel profile is exclusive to Justice.

The Civil Crown Counsel ensures that the GoA is provided appropriate legal and related strategic advice and appropriate legal representation in all matters. The work is done with a thorough understanding of relevant legislation (Acts and Regulations – provincial, federal, and international), court and tribunal rules and processes, common law, policies, and procedures.

The **Civil Crown Counsel 2 (CCC2)** performs the Civil Crown Counsel functions and produces the required results. The functions and results achieved will differ depending upon the specific legal team involved. Each team may have different emphases on certain results due to client needs or due to the subject matter expertise of the team.

The CCC2 position represents the **intermediate level** position for Civil Crown Counsel within the GoA and is part of a growth series for Civil Crown Counsel from entry to experienced/full-working level (CCC1 to CCC3). The position **moves beyond the entry level to apply additional knowledge and experience. This position will require limited guidance on routine files. For more complex files, this position will usually require guidance from more senior lawyers.**

## RESPONSIBILITIES

*Describes the key responsibilities that make up the majority of the job and the corresponding duties.*

The CCC2 position will perform in the following functional areas. Depending on the assigned team, some functional areas and accountabilities may not be applicable.

### Services provided by all Civil Crown Counsel

- A1. Prepare and provide legal opinions/advice in verbal or written form for the client ministry, **sometimes under the guidance of senior lawyers.**
- Identify and research relevant legal issues
  - Ascertain all relevant facts from the client, including interviewing the client and reviewing all necessary documentary material
  - Research, review, and synthesize relevant case law, legislation, and policies
  - Draft thorough and clear legal advice for the senior lawyers or the client – identifying risk and providing conclusions or options to mitigate risk
- A2. Provide legal and related strategic services for the Minister of Justice and other senior members of government, such as Cabinet and Executive Council on **routine actions and under the guidance of senior lawyers on more complex matters.**
- Research and prepare briefing notes
  - Prepare correspondence
  - Prepare legal opinions
- A3. Advance Team and Division Business Goals and Priorities.
- Collaborate with others to improve business practices and process
  - Support the Assistant Director, Director, and Leadership Team
  - Keep current on professional practices and developments in the law; participate in Divisional practice groups and pursue continuing legal education

### Legislative drafting services

- B. Draft legislation (bills, regulations, and Orders in Council).
- Assist client ministries with legislative aspects of policy development and the structural framework for legislation
  - Ensure that bills, regulations, and Orders in Council are drafted in accordance with drafting standards and worded consistently with other Alberta legislation
  - Advise client ministries on potential legislative problem areas and transitional and enforcement issues
  - Respond to client ministries' inquiries regarding the drafting and enactment of legislation
  - Requires **regular** oversight, guidance, input, and review from senior lawyers. **Some files are deliverable within shorter timeframes**

### Solicitor services

- C1. Review and comment on proposed or existing legislation to ensure the legislation meets the ongoing legal and policy requirements for the government. **Intermediate level** work includes **low to medium complexity** projects and **assisting senior lawyers with more complex legislative projects**.
- Provide legal and related strategic advice on proposed changes to acts and regulations
  - Identify legislation that requires amendment
  - Identify legal issues and propose solutions
  - Work with legislative counsel in the Legislative Counsel Office within LSD and/or with Legal and Legislation Initiatives within Resolution and Court Administration Services
- C2. Draft and review of legal documents such as contracts, grants and other agreements, as well as statutory instruments. **Intermediate level** work involves applying acquired experience to draft and review **low to medium complexity documents, and assisting senior lawyers with more complex drafting and review**.
- Draft, negotiate, and review contracts and other agreements
  - Advise on competitive processes
  - Work with business units and subject matter experts to articulate required content
  - Provide advice and recommendations to ministries about how to proceed
  - Draft documents in alignment with GoA requirements, identifying and resolving issues and conflicts
  - Review documents prepared by other colleagues and provide constructive comments

### Litigation services

- D. Independently conduct court and tribunal proceedings on matters with **low to medium risk and complexity, or appear as co-counsel to a senior lawyer on more complex matters**.
- Conduct relevant research and assess risk
  - Plan and draft relevant court and tribunal documents
  - Prepare for and appear before courts or tribunals
  - Deliver oral and written arguments
  - Report to and advise the client throughout the proceedings
  - Provide strategic litigation advice

## **APPLICATION OF KNOWLEDGE**

*Briefly describes the required education and the level of knowledge essential to perform the job/above responsibilities (not intended to be an exhaustive listing).*

- Bachelor of Laws or Juris Doctor provides a solid foundation in a wide variety of substantive law areas, as well as legal process and civil procedure, and develops legal research and writing skills.
- Legal research requires legal training and experience, and incorporates a specific set of analytical and practical skills. At this level, this position **will conduct legal research for own use or for more senior lawyers to review and further analyze**.
- The position is meant to be an **intermediate** level position that **builds on previously acquired knowledge and continues to develop** on-the-job experience (usually 4 – 10 years of experience) in more **substantive** detailed knowledge in many various areas of law, including aboriginal, administrative and public law, access and privacy, bankruptcy, constitutional, corporate and commercial, employment, labour, education, energy, environmental, health, real estate, finance, pensions, surrogate, tax, tort, trade, family, immigration, intellectual property, and wills and estates (depending on the case/file).
- Thorough understanding of relevant legislation (Acts and Regulations – provincial, federal, and international), court rules and processes, common law, policies and procedures to provide accurate legal advice, and appropriately assess risks.
- **With acquired on-the-job experience, this position is expected to have a working understanding of a client ministry's processes and related legislation and regulations.**
- Membership in good standing with the Law Society of Alberta (or eligibility for membership with the Law Society of Alberta)—including compliance with its continuing legal education obligations—is required for all practicing lawyers in Alberta, including those in government.
- Effective writing, verbal, listening, negotiating, and advocacy skills, and the ability to clearly and effectively communicate with clients.

## PROBLEM SOLVING/DECISION MAKING

Briefly describes the types of problems or challenges the job routinely faces or solves and the types of assistance available (e.g. process guides, standard operating procedures, policy documents, availability of experts/specialists, on site supervision, etc.)

CCC2 lawyers are expected to competently manage **intermediate-level** legal matters with **low to medium risk and complexity**. Civil Crown Counsels are internally assessed on the extent to which the lawyer's advice is solution-focused, clear, concise, and practical.

Complexity of legal advice is a spectrum. Some of the factors in assessing complexity include:

- whether the applicable law is clearly decided or subject to interpretative challenges
- whether there is significant legal, reputational, financial, or political risk
- whether the outcome could set a legal precedent
- highly sensitive issues or facts, and whether the facts are in dispute
- the need for significant input into developing legislation and policy
- timeframe for completion and the degree to which timeframes continue to change
- the need for innovative or cross-ministry approaches
- the existence of cross-ministry issues/implications
- challenging clients, stakeholders, or opposing counsel
- litigation involving multiple parties, implicating multiple GoA ministries, or involving significant contingent liability
- litigation involving complicated or voluminous document production and record validation issues
- the number and sophistication of parties to a contract and the level of documentation required
- matters involving Deputy Ministers or Ministers
- issues that are a priority for the GoA
- matters engaging the role of the Attorney General to ensure that public affairs are administered in accordance with the Rule of Law

## KEY CONTACTS

Briefly describes the frequency and purpose of regular contact the job makes internally and externally.

Supervisory responsibility:  Yes  No

### Internal

\*Frequency: Daily, Frequent, Occasional, Rare, Not applicable

| Clients   | Frequency*   | Nature/Purpose of Contact  |
|---|--|--|
| ADM/ Deputy Minister/ Minister<br>(Justice or client ministry)                          | Rare (all)   | Contribute to briefing on cross-ministry initiatives, or client ministry initiatives, or legal proceedings                       |
| Client ministry (program-area contacts, Directors, Executive Directors)                 | Frequent (all)   | Provide direction, updates, recommendations and legal advice.  |
| LSD Executive Director, Director / Corporate Services                                   | Rare (all)   | Provide direction, updates, recommendations and legal advice as well as share information and collaborate on common initiatives. |
| Cabinet Coordination Office / Policy Coordination Office / Legislative Review Committee | Occasional (for Legislative Counsel)<br>Occasional (for Solicitors)<br>Not applicable (for Litigators) | Respond to inquiries regarding the drafting and enactment of legislation.  |
| Divisional staff – various levels   | Frequent (all)   | Collaborate and share information as well as contribute to process/practice improvements and common initiatives.                 |

### External

| Contacts  | Frequency*  | Nature/Purpose of Contact   |
|---|---|---|
| Courts (at first instance: PCA, CQB, FCC) tribunals, opposing counsel and their clients | Not applicable (Legislative Counsel)<br>Not applicable (Solicitors)<br>Frequent (for CCC2 Litigators) | Prepare for and appear (as junior or intermediate counsel) at various levels of court and before tribunals as part of the legal representation of the GoA in legal matters. |

|   |   |  |
|---|---|--|
| Appellant Courts (CQB, CA, FCA, SCC)  | Not applicable (for Legislative Counsel)<br>Not applicable (for Solicitors)<br>Occasional (for CCC2 Litigators) | Prepare for and appear as counsel at routine or low risk appellant-level proceeding, or as part of legal representatives of the GoA on more complex matters. |
| External counsel, parliamentary counsel, regulatory agencies, other governments | Occasional (Legislative Counsel)<br>Occasional (Solicitors)<br>Rare (Litigators)                                | Liaise, instruct, or collaborate with external counsel, agencies, or other government  |

## **POSITION-SPECIFIC INFORMATION (Optional)**

*Briefly elaborate on the business area and/or identify responsibilities or projects specific to the position (e.g., health versus environmental policy area; a specific major initiative the position is leading; the name of the program the position is delivering).*

*Briefly describe work that meets the exclusion criteria if a request to exclude the position from the bargaining unit is being contemplated.*

### **Legislative Counsel**

*Legislative Counsel supports government in achieving its legislative objectives by drafting bills, regulations, and Orders in Council. Legislative Counsel provides legal advice respecting legislative proposals and projects in the course of the development of legislative proposals. They provide advice on and assist with advancing draft legislation through the government decision-making process.*

*Legislative Counsel advises the Legislative Review Committee (a Cabinet committee) on proposed government public bills before the Bills are introduced in the Legislative Assembly.*

*Reports to the Assistant Chief Legislative Counsel or the Chief Legislative Counsel and requires **regular** oversight, guidance, input, and review from a senior counsel. **Some files are deliverable within shorter timeframes.***

- *Draft bills, regulations, and Orders in Council to ensure consistency with Legislative Counsel Office drafting standards and conventions, rules of statutory interpretation, and other Alberta legislation*
- *Impartial legal analysis of the current legislation and drafting instructions for the new legislation*
- *Meet with and assist client ministries with legislative requirements of policy development and the structural framework for legislation*
- *Consult with other counsel in the Legislative Counsel Office and within the Legal Services Division to ensure compliance with government and legal requirements (e.g., FOIP, constitutional law, etc.)*
- *Legal research on options and cross-jurisdictional review of legislative schemes*
- *Provide oral and written legal advice to clients or other counsel on options, risks, legal challenges, compliance, etc.*
- *Provide advice on guiding a file through the legislative process and expectations of Executive Council and Cabinet*
- *Advise client ministries and other legal teams on potential legislative problem areas and transitional and enforcement issues*
- *Respond to client ministries' routine inquiries regarding the drafting and enactment of legislation*

### **Solicitors**

*Solicitors support the government in achieving its priorities by providing a broad range of solicitor services. Solicitors provide legal and related strategic advice to departments officials, Deputy Ministers, and Ministers on all aspects of policy and legislative development, legal obligations, service delivery, and day-to-day operations. At **intermediate level**, for **routine matters**, this is done **independently**. For more **complex matters**, this is done **in consultation with more senior lawyers, as needed**.*

***Intermediate-level** work includes **low to medium complexity** projects and assisting senior lawyers with more complex legislative projects.*

*Solicitors are generally responsible for:*

1. *Consulting with clients to understand their business/policy interests and identify legal issues*
2. *Drafting legal documents, including:*
  - *agreements and templates*
  - *legal analysis for Cabinet Memoranda, briefing notes, policy committee presentations*
3. *Meeting and negotiating with counterparties, stakeholders, and their legal counsel*
4. *Consulting with other lawyers with expertise to ensure compliance with government requirements as needed (e.g., FOIP, trade, Indigenous issues, indemnities, public finance matters, real estate, IP, existing or threatened litigation)*
5. *Doing legal research on relevant novel or developing legal issues*
6. *Providing written and oral legal advice to clients or other lawyers on legal risks, options, mitigation strategies, disputes, compliance, statutory, and regulatory amendments*
7. *Providing related strategic and business advice to client, including impacts to existing legislation, priorities, and policies*

### **Litigators**

*Litigators are legal counsel who appear before courts or tribunals. At an **intermediate level**, they appear independently on **low to medium** complex matters and will gradually take on more complex matters, under the guidance of senior lawyers, as needed.*

*This position will represent the Crown as lead counsel before court and tribunal proceedings on matters with low to medium risk and complexity, or appear as co-counsel to a senior lawyer on more complex matters.*

*Responsibilities include:*

- *Conducting court or tribunal proceedings as lead or co-counsel depending on risk and complexity of the matter*
- *Appearing before all levels of court or tribunals*
- *Drafting court and other documents such as pleadings, applications, affidavits, orders, and written briefs of argument*
- *Collecting evidence from clients or other witnesses*
- *Reviewing and assessing client records for production using litigation document management software if appropriate; determining relevance, materiality, and privilege*
- *Preparing witnesses for questioning and trial*
- *Preparing risk assessments and related mitigation and resolution options*
- *Developing legal strategies, advising clients, and acting on instructions*
- *Attending meetings with internal or external contacts, including clients, opposing counsel, and others*
- *Negotiating and pursuing alternative dispute resolution either within or outside of the formal court or tribunal process*

**Positions are excluded under the *Public Service Employee Relations Act (Division 3, 13(1))*.**