

Know your rights: Migrant Rights and Immigration Laws

How to best work with legal professionals



WHY IS IT IMPORTANT TO KNOW HOW TO WORK WITH LEGAL PROFESSIONALS?

Legal scams targeting refugees and other migrants are very common. However, the conditions for these scams are in part due to discriminatory immigration policy in Canada that prevents many migrants from having fair, safe, and equitable access to permanent status. A legal scam may involve a professional who overcharges you, makes unrealistic promises, or who is not qualified to represent you. Knowing how to identify and protect yourself from scams can help you protect your rights and avoid losing money to fraud and incompetence.

Legal scams might have a severe impact on your immigration applications and might further impact your future chance of pursuing different applications and of staying in Canada.

Even when it is not a scam, best working practices can avoid miscommunication and maximize your chances of getting good legal results.

Different legal professionals (lawyers, paralegals, and immigration consultants) have different training, permissions to practice, and governing organizations. If you have an issue and wish to make a complaint about the services you received (or did not receive), it is important to know some information about the requirements of the professional you were working with.

Note: Many “agents” are not lawyers, paralegals and immigration consultants. It may be a problem if they are representing themselves as such. If you would like to verify if they are professionals, you can search on related licensing websites.



RED FLAGS TO LOOK FOR

- You almost never meet with the legal professional, but instead almost always meet with their staff or people connected to them.
- They do not give the name, license number and contact information of the legal professional you work with.
- They do not give you a retainer agreement (about legal services and fee, payment schedule) – the contract between lawyer and client.
- They cannot or do not explain the different steps involved in your application.
- They promise you successful results (e.g. I guarantee your PR application will be approved) or say that they know insiders within immigration.
- They refuse to give you copies of documents (e.g. letters/notices issued from IRCC, application forms, evidence submitted) or receipts of payments.
- They charge you surprise fees or fees that are higher than what other legal professionals would charge.
- You can't get clarification about your case without paying additional fees.
- They do not listen to your experience, but instead counsel you to completely make up facts or details in your story.

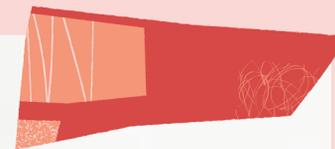


BEST PRACTICES FOR WORKING WITH LEGAL PROFESSIONALS

- Ask if they are a lawyer, paralegal, or immigration consultant and ask for their license number. You can search if they have a valid license by visiting:
 - For lawyers & paralegals: <https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/lawyer-and-paralegal-directory>.
 - For immigration consultants: <https://iccr-crcic.ca/find-a-professional/>
- Make sure you are given a clear retainer agreement and understand its terms before paying any fees. You can always ask to review the retainer with your family, friends or trusted community support before agreeing to any terms.
- Collect receipts and ask for an invoice before paying fees.
- Make copies or take pictures of your documents before you give them over to your legal representative.
- Request updates periodically, you have a right to know what is happening in your case.
- Make sure that you have the number and contact information of your legal representative and their staff.
- Keep a written record of communications with your legal representative, including time, date, form of communication, what was said. This might include email, text and wechat messages.



ORGANIZING YOUR DOCUMENTS BEFORE MEETING A LEGAL PROFESSIONAL



Try to provide your legal representative with as much information as you can. Even if you think it might not be important, provide it and let them make a decision.

Documents to try and prepare in advance include:

- Contact information for you and your closest relatives (e.g. name, address, phone number, date of birth, email address)
- ID documents (e.g. Driver's License, Photo Card)
- Immigration documents (e.g. Passport, PR Card, visas, past applications, past decisions, UCI number, application number)
- Immigration history (a timeline – visits, study, working, applications, appeals)
- Court documents (e.g. court order, bail conditions, charges, next court date)
- Employment and income information (e.g. contract, letter from employer, wage slips, T4)
- Community involvement (e.g. volunteering, church, awards, reference letters)
- Recent bank statements and tax information
- Proof of relationship, if applicable (e.g. relationship history, joint ownership documents, marriage certificate, photos, letters, etc.)
- Proof of experiences of violence, if applicable (e.g. police reports, social workers' reports, medical reports)

Try to make copies or scans of your documents and keep them in a safe place. Use folders and dividers so you can easily find what you might be looking for when you need it.

You can request access to your immigration file documents by filing an Access to Information and Personal Information (ATIP) request with IRCC, but this process can take time.

You may find it helpful to create a new email account just for emails from Immigration, Refugees and Citizenship Canada (IRCC). In that email account, you can also save scans of important documents. Ensure that only you and a trusted friend/family member/partner have the password to access this email account.

REMEDIES IF YOU ARE VICTIMIZED BY A LEGAL PROFESSIONAL

- Only lawyers, paralegals, and immigration consultants can provide legal services directly to the public. If someone offers to help you with your legal issues but that person does not have a license, be cautious about working with them or paying them a fee as they do not have professional training.
- Unfortunately, there might be a situation where a working relationship with a legal professional does not work out. First, see if you can solve the problem with the legal professional directly, or with a senior member of their firm.
- Open and direct communication could solve the issue before you need to seek outside help. Try to use communication with written records, such as emails and texts, if possible.
- You may file your complaint and request the refund of legal fees through the Law Society of Ontario (LSO). Fill out the complaint form as soon as possible and provide all relevant details.





Frequently Asked Questions (FAQ):

Q: How do I check my application status?

A: You can check online on the IRCC website. You will need to know what program you applied for (immigration, student visa, refugee, etc). The website will show your expected timeline. If you create an online account and link your application to it, you can receive quicker updates about your application status in real time.

<https://www.canada.ca/en/immigration-refugees-citizenship/services/application/account.html>

Note: Keep your UCI no. user name and password.

Q: What are the differences between lawyers, paralegals, and immigration consultants?

A: Lawyers and paralegals have similar roles as legal representatives and are both regulated by the Law Society of Ontario.

Lawyers generally need to have more stringent education requirements than paralegals.

Sometimes paralegals work with lawyers, but sometimes they may run their own practices. In immigration, paralegals can represent clients at immigration and refugee hearings and appeals before the IRB. However, if you need to go to a court (often for a judicial review of the IRB's decision), you will need a lawyer.

Immigration consultants are similar to paralegals but are only trained in immigration and refugee law. They cannot represent or give advice outside of immigration and refugee law.

Agents may tell you that they will help with your immigration application, but they are not trained legal professionals themselves. Some may work with legal professionals, while others may do all of the immigration work themselves even without a professional license.

Q: What do I do if my legal representative insists on keeping all documents and says I have to pay to get a copy?

A: Make copies of your entire file and give only a copy of the files to your legal representative. This takes work up front but ensures you do not find yourself in a bad situation later on. Lawyers are obligated to return original files to clients once the legal matter is concluded, but not their private notes. Lawyers cannot charge to give back original documents, but may charge clients copying fees if the client wants a copy of the files for themselves.

Q: What do I do if my legal representative's business shuts down and I don't know what happened to my case?

A: Legal professionals have obligations when closing practice including notifying clients as well as IRCC and any court/tribunal, and either transferring the client's file to another representative with the client's consent or returning all documents and paying back all unearned monies. If you cannot contact your legal representative, contact their regulatory body (LSO or ICCRC). Making copies of your own immigration documents is a way to protect yourself in these situations.

Q: My legal representative says I need to pay to file each immigration form, is this right?

A: There are fees associated with almost every immigration application by IRCC. If the retainer has not stated that the fees are covered in your payment, you should assume that the fees will be charged separately. The key is to make sure the amount of fees are the same as what you are being charged. Refer to the IRCC fee list on their website to double check.

<https://www.cic.gc.ca/english/information/fees/fees.asp>



Q: I cannot afford a legal representative, how can I get legal aid help for my immigration issue?

A: Community legal clinics, e.g Chinese and Southeast Asian Legal Clinic offers some free legal services for low income people. Call them to consult.

You can also call Legal Aid Ontario at 1-800-668-8258 for help. Press '0' and ask for interpretation if needed. Legal aid requires that you meet certain low income requirements. You may need to provide documents about your income and no of your family members

Not all immigration issues are covered by legal aid. Services include: refugee claims, detention reviews, immigration appeals, and some humanitarian and compassionate applications. You may also apply online for legal aid. If you get it, you will get a legal aid certificate number and find an immigration/refugee lawyer to help you.

Q: Some people say paid immigration help is always better than public/free immigration help – is this true?

A: This is generally untrue, whether a lawyer is hired privately or from legal aid does not necessarily determine whether the lawyer will be good or not. Further, public lawyers are generally less likely to over-promise good results than private lawyers because there are not the same incentives to do so.

Q: What should be in my retainer agreement with the legal representative?

A: Your retainer should state: exactly what services are being paid for (and what are not), the fees that you are paying, expenses that are not included in the lawyer fees (like court filing fees, expert witness fees, mailing and copying fees), your obligations to the lawyer, and the lawyer's obligations to you. It is also important to know if your fees will be billed hourly or at a flat rate (e.g. \$3000 to prepare, submit, and monitor a spousal sponsorship application).

Q: How can I get good interpretation/translation help?

A: Asking for translation and interpretation is the first step. You can get a friend or a social worker to help you either interpret or ask for an interpreter. If you have the money you can also pay for your own interpreter. In most hearings you have a right to an interpreter, so insist on it both orally and in writing. If you do not speak English, it may be good to memorize the phrase: “I speak Mandarin/Cantonese/other language, I want an interpreter”, and just keep insisting. Some agents may act as interpreters but may not interpret fully or correctly.

Next steps/resources



Find a legal professional:

(Free legal services of low income people with eligible legal issues)

- Chinese and Southeast Asian Legal Clinic (service in English, Mandarin, Cantonese):

416-971-9674, www.csalc.ca

- Find a legal clinic near your home

<https://www.legalaid.on.ca/legal-clinics/>

- Legal clinic for self-identified women, non-binary, intersex and 2 spirit people who experienced violence

Barbra Schlifer Commemorative Clinic: www.schliferclinic.com

- Call Legal Aid Ontario (you can ask for an interpreter): 1-800-668-8258

If you are eligible (financially and legal issue), you may apply for the Legal Aid Ontario to pay for your legal representation (e.g. for refugee claim and H&C application etc) <https://www.legalaid.on.ca/services/how-do-i-apply-for-legal-aid/>

If you are refugee or detained, you may reach out to Refugee Law Office

<https://www.legalaid.on.ca/services/help-with-immigration-or-refugee-problems/>

Further resources:

Make a complaint with the Law Society of Ontario:

<https://lso.ca/protecting-the-public/complaints/how-to-make-a-complaint>

Connect with community groups that assist Chinese/Asian migrants.

- Chinese Canadian National Council (Toronto Chapter)

www.ccnctoronto.ca

416-596-0833

Wechat: ccnctoronto

- Butterfly (Asian and Migrant Sex Workers Support Network)

www.butterflysw.org

416-906-3098

- Friends of Chinatown Toronto

<https://linktr.ee/FOCT>

- Lesbond: Asian Queer Women Migrant Support Project

lesbondinfo@gmail.com

<https://www.facebook.com/AsianQueerWomenMigrantsInCanada>

- Ontario Hong Kong Youth Action (OHKYA)

<https://ohkya.com>

Partner organizations:

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This document provides general information. Talk to your lawyer if you want legal advice specific to your situation.

