

**IN THE MATTER OF A COLLECTIVE AGREEMENT WAGE  
ARBITRATION PROCEEDING**

**BETWEEN**

**ALBERTA UNION OF PROVINCIAL EMPLOYEES**

**AND**

**LEGAL AID SOCIETY**

Hearing date and location: May 25 & 26, 2020 via Webex

Arbitrator: Deborah M. Howes

Appearances:

For the AUPE

William Rigutto, Counsel

Merryn Edwards

Hitomi Suzuta

David Malka

Peter Dubourt

Jan Davidson

Michele Lucas

For the Legal Aid Society

William Armstrong, Q.C., Counsel

Lyle Toop

Aileen Lovely

Melody Schram

Arland Deslisle

## Introduction

- [1] This arbitration arises from Letter of Understanding #1 Classification Arbitration, agreed between the parties during collective bargaining, to have a sole arbitrator determine the wage rates for three new classifications and one altered classification.
- [2] The parties agreed I was properly appointed and have the authority to decide the wage rates for the following classifications.
  - (a) NEW CLASSIFICATIONS:
    - (i) Contact Centre Intake Officer (CCIO)
    - (ii) Courthouse Intake & Assessment Officer (CIAO)
    - (iii) Assessment Officer (AO)
  - (b) ALTERED CLASSIFICATION:
    - (i) Certificate and Tariff Officer (CTO).
- [3] In October 2019 when the Legal Aid Society of Alberta (LAA or the Employer) created or altered these classifications, it also deleted the following classifications:
  - (i) Appointing and Payment Officer
  - (ii) Legal Services Officer (LSO) and Discretionary Coverage Officer
  - (iii) Legal Assistant (Grandfathered).
- [4] At the outset of the hearing, the parties agreed to the wage rates for the Courthouse Intake & Assessment Officer, Assessment Officer and Certificate and Tariff Officer.
- [5] Therefore, I need only decide the wage rates for the Contact Centre Intake Officer.
- [6] I first set out the agreed wage rates and then the positions of the parties on the Contact Centre Intake Officer wage rates. Next I summarize some of the organizational and workflow changes at LAA and then discuss the details of the Contact Centre Intake Officer classification and its wage rate.

## Agreed Wage Rates

- [7] The parties agreed to the following wage rates for three classifications.

- Courthouse Intake & Assessment Officer

The primary focus of this role is to obtain information and financial data from clients in person in order to determine eligibility for LAA services based on LAA’s Rules, Policies, procedures and How-To-Guides. Applications involving criminal, family, civil and immigration law will be completed in person at the courthouse. This position also provides assistance and support to Duty Counsel at court as required, including making recommendations on service eligibility for docket court matters.

[8] The parties agreed the wage rates for the Courthouse Intake & Assessment Officer would be the same wage rates as for the deleted classification of Legal Services Officer which means the wage rates for the CIAO classification are:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Courthouse Intake & Assessment Officer (CIAO)	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,323	\$5,602	\$5,879	\$6,233

- Assessment Officer

The primary focus of this role is to assess family service eligibility for individuals that contact LAA seeking assistance with a legal matter. The AO is responsible for gathering information from clients, analyzing their legal issue(s), organizing the information and providing a file summary and recommendation to an Assessment Lawyer who will make the appropriate decision regarding service eligibility.

[9] The parties agreed the wage rates for the Assessment Officer would be the same wage rates as for the deleted classification of Legal Services Officer and the same as the rates for the CIAO. The agreed new rates for the AO classification are:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Assessment Officer (AO)	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,323	\$5,602	\$5,879	\$6,233

- Certificate and Tariff Officer

The primary focus of the role is to respond to lawyers, judges and support staff inquiries regarding the appointment of counsel or payment of invoices. The CTO is also responsible for reviewing and auditing lawyer invoices and for appointing Duty Counsel across Alberta.

The Union initially took the position that the CTO was a repackaged Legal Assistant and therefore, the CTO wage rate should be identical to the Legal Assistant classification. However, at the hearing the parties agreed the wage rates for the Certificate and Tariff Officer would be the same as the wage rates for the Contact Centre Intake Officer. As a result, I did not hear evidence or argument about the altered CTO position.

## Positions of the Parties on the Contact Centre Intake Officer

[10] Each party provided a written brief and comparators, as well as oral arguments.

[11] The Employer describes the Contact Centre Intake Officer as an intake position focussed on assessing financial and service eligibility only. In many cases, the CCIO is only determining financial eligibility and is referring the matter of service eligibility to the assessment team. It argues the duties and responsibilities, level of autonomy and decision making, required knowledge, skills and base qualifications of the CCIO are significantly less than the old Legal Services Officer. The nature of the work has changed as the Employer has shifted from an office-based delivery model to a call centre model. It seeks internal equity and alignment with other bargaining unit positions which means the CCIO should have lower rates the CCIO step 4 being equivalent to step 1 of the former LSO. It also says the proposed rates are comparable to other relevant public sector contact centre positions in Alberta and legal aid intake roles in other parts of Canada. The Employer proposes the wages rates for the CCIO as:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Contact Centre Intake Officer (CCIO)	\$3,374	\$3,549	\$3,736	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,348

[12] The Union describes the CCIO position has a rebranded, repackaged Legal Services Officer that now includes additional duties of the former Appointing and Payment Officer. It argues the CCIO wage rates should be identical to the former LSO classification and the new Courthouse Intake & Assessment Officer. The Union proposes the wage rates for the CCIO as:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Contact Centre Intake Officer (CCIO)	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,323	\$5,602	\$5,879	\$6,233

[13] The Union relies on four cases to support its argument.

- *Vancouver Coastal Health Authority and BCGEU, Re:* 2006 Carswell BC 3946, [2006] B.C.C.A.A. No. 61, 84 C.L.A.S. 338, Arbitrator John Kinzie dealing with classification grievances.
- *GO Transit/Metrolinx v. A.T.U., Local 1587* 2011 CarswellOnt 9391, 108 C.L.A.S. 14, Arbitrator Kevin Burkett, dealing with a job evaluation grievance.
- *AUPE and Alberta, Re:* 2020 CarswellAlta 176, [2020] A.W.L.D. 997, [2020] A.W.L.D. 998, [2020] A.W.L.D. 999, 142 C.L.A.S. 282, Arbitrator Phyllis Smith, dealing with the wage reopener in the three year collective agreement and the market adjustment for the Correctional Officer 3 classification.
- *Alberta Health Services and AUPE(GSS), Re:* 2020 CarswellAlta 178, [2020] A.W.L.D. 823, 142 C.L.A.S. 246, Arbitrator Phyllis Smith, dealing with the wage reopener in the three year collective agreement.

## **The Changes to the Operations and Nature of the Work of the Legal Aid Society**

[14] LAA was incorporated in 1973 as a not-for-profit independent society under the Provincial Societies Act. LAA administers the Legal Aid plan in Alberta under a tri-partite Governance Agreement between Alberta Justice & Solicitor General, the Law Society of Alberta, and the Legal Aid Society of Alberta. This governance structure is unique in Canada amongst provincial Legal Aid plans – many others operate under a statute or as part of government services. In addition to the Governance Agreement, the Employer’s day to day operations are governed by Rules that are approved by the Minister of Justice & Solicitor General.

[15] Prior to 2009, LAA operated 11 Regional Offices focused on completing and processing client applications and issuing certificates to financially eligible clients. Services were provided in person at the Regional Office and a number of circuit points (courthouses, institutions) in surrounding communities. LAA also provided free, province wide telephone services through LawLine to Albertans including legal information and referral from non-lawyers (Legal Resource Officers) and legal advice and brief services from lawyers.

[16] Between 2009 and 2019, LAA underwent five changes that affected its service delivery and the LSO classification.

[17] In 2009, the Minister of Justice ordered a comprehensive review of LAA that resulted in a complete shift in how LAA provided intake and assessment services for clients seeking

assistance. The report included a number of recommendations, the majority of which LAA implemented in the following two years. Some of the key changes included:

- establishing legal service centres to:
  - undertake needs assessments,
  - provide legal information and referrals,
  - provide legal advice/brief services, and
  - connect clients.
  
- continuing to leverage technology to provide more efficient and effective services to provide clients with options for accessing LAA services, including more contact points and alternatives for clients to apply for LAA coverage (i.e. by phone, online).

[18] Under this new holistic model, the organization introduced a new client relationship management system to assist with the provision of these services. This model meant that the LSO was responsible for a comprehensive assessment of the legal needs of an individual seeking assistance, as well as an assessment of any other factors that may be impacting their legal issue at the time. The LSO was to provide the client with a comprehensive service plan that would outline the services they were being provided by LAA as well as any other referrals that may be of assistance. Any Albertan was eligible to contact LAA for an assessment and provision of legal information and referrals.

[19] LAA converted its 11 regional offices into Legal Service Centres. LawLine was discontinued and merged with the centres; staff lawyers were appointed in both Edmonton and Calgary. By April 2011 all the regional offices were operating as legal service centres providing services on the phone and in-person. This changed the number of clients contacting LAA by phone, rather than in person. At the end of the first year of operation of the new service centre model, 38% of clients were choosing to contact LAA by phone. By late 2012, more than 80% of clients were using the telephone to seek services.

[20] In 2013-2014 LAA next undertook another review of its service model and equipment. By February 2014, LAA had:

- appointed a full time manager for its “contact centre” or “call centre” as the phone became the primary way to do its business;
- started holding LSOs and other employees accountable for their time spent providing client services;
- changed to a province wide focus rather than a regionalized approach;

- Improved telephone queues ensuring sufficient availability for the growing demand;
- updated the scripts, rules and policies that guided the operations of the organization; and
- introduced a new service delivery procedures manual for all intake personnel.

[21] By May 2014, in-person assists were becoming less frequent, especially in the regional offices, while over 90% of clients were choosing to contact LAA for service by phone. LSOs continued spending extended amounts of time with the client to walk them through the services LAA provided as well as what the client might expect next, including outside referrals.

[22] In July 2014 LAA made further large scale changes including:

- discontinuing to send LSOs to 33 court locations, only maintaining a presence at court houses and institutions in Edmonton and Calgary;
- closing seven of its eleven offices;
- significantly reducing the size of the Calgary legal service centre;
- creating a centralized Contact Centre in Edmonton;
- establishing one incoming phone queue with an IVR (Interactive Voice Response) system for clients to select the service required; and
- standardizing training for all new LSO's to ensure they had what they needed to be successful when interacting with clients.

[23] In the fall of 2015, the government directed LAA to discontinue providing legal information, service plans and other referral services, and to direct that funding towards legal representation for adults and youth. This resulted in another fundamental shift – discontinuing the probing discussions with clients to determine the other agency referrals that an LSO might suggest, and a renewed focus on only determining service and financial eligibility for LAA services. Instead of personal referrals, staff were directed to refer clients to the LAA website for links to other agencies.

[24] For the LSO position, LAA changed expectations for the role to align with working in a contact centre environment where the majority of client interaction is over the phone, and the primary objective with each call is to determine if a client is both service eligible and financially eligible for legal representation. The qualifications for the LSO classification changed also. LSO applicants would be expected to have prior experience in conducting assessments or providing service in a contact centre type environment.

Applicants no longer needed a degree or diploma in law or social work or social sciences; a degree or diploma in criminal justice or legal assistance was now preferred.

- [25] On October 31, 2017, LAA closed the final two regional in-person offices. The current Governance Agreement took effect on April 1, 2019. This Agreement drove five significant changes that impacted the manner in which clients are assessed for both financial and service eligibility, as well as the appointment of counsel, including:
- i. streamlining choice of counsel and travel compensation for roster lawyers, significantly reducing the complexity and time required to appoint counsel;
  - ii. simplifying the financial eligibility criteria and process, reducing the complexity and time required to perform the financial assessment;
  - iii. shifting the responsibility of service assessment for non-priority family matters to lawyers or legally trained professionals within the assessment team, thereby reducing the complexity and time required from the intake staff to assess family law clients;
  - iv. adding a requirement for a duty counsel referral (lawyer assessment) to determine likelihood of jail for all level 1 criminal matters that has reduced the complexity and time required at for intake staff to assess criminal law clients; and
  - v. focussing on providing single call resolution to its clients on straightforward matters, meaning the client deals with whomever answers the phone and the staff do not follow the client, resulting in a more generalized job function at intake.
- [26] In October 2019 LAA eliminated the LSO classification when it created the new and altered classifications that are the subject of this arbitration. Today, LAA provides intake and assessment services by phone except for the in-person services at the Edmonton Courthouse and Calgary Courthouse.

## **Contact Centre Intake Officer**

- [27] In this section, I describe the Contact Centre Intake Officer classification, compare the classification to the new Courthouse Intake & Assessment Officer and the former Legal Service Officer classification, and consider the comparables presented by the Employer and the Union.
- [28] The evidence includes the written job description for the CCIO and the CIAO, three written job descriptions for the LSO (2013, 2015 and 2018), the testimony of two former LSOs, Jan Davidson (current CIAO) and Peter Dubourt (current CCIO), the Legal Aid Intake Officer How-to-Guide revised May 15, 2020, the Legal Aid Legal Services Officer How-to-Guide revised October 4, 2019 and the Legal Aid Contact Centre



Delivery Procedures revised April 23, 2020. A list of all exhibits is attached as Appendix A.

## Contact Centre Intake Officer Classification

[29] The written job description for the CCIO describes a telephone contact centre role which focuses on determining the financial and service eligibility of individuals who contact the Legal Aid Society. All work is done on the phone. The summary and key responsibilities in the position are listed as:

### I. Position Summary:

Based on pre-defined criteria, this position obtains information and financial data from the client to determine eligibility. Applications involving criminal, family, civil and immigration law will be completed over the phone within our Contact Centre.

### Key Responsibilities:

- Professionally and efficiently answer the client calls seeking service from LAA.
- The Contact Centre Officer will be assigned to one or more of the client queues including but not limited to: General, Remand, Youth, Live Answer, Payments, etc.
- Responsible to enter client information and financial data accurately into CRM.
- Where necessary, the Contact Centre Intake Officer may task the matter(s) pending additional information from the client or awaiting internal activities in order to complete the assessment.
- For criminal matter, the Contact Centre Intake Officer will access JOIN to validate client legal issue and court date (where applicable) and enter accurately into CRM.
- Based on the legal issue, the Contact Centre Intake Officer will refer client to Duty Counsel, Assessment Team or will forward offer to appropriate lawyer based on a defined appointing process. For specific family matters, the Contact Centre Intake Officer will refer clients to RCAS or Legal Aid website for assistance.
- When clients are found ineligible for services not offered by LAA, they will be directed to the LAA website.

- The Contact Centre Intake Officer may be assigned on a rotational basis to review and resend rejected offers.
- The Contact Centre Intake Officer are to create a standard monthly payment plan upon initial contact for new and existing clients as applicable based on established guidelines. Contact Centre Intake Officer may be assigned on a rotational basis to contact clients to negotiate payment arrangements.
- The Contact Centre Intake Officer may be required to take a payment from a client.
- The Contact Centre Intake Officer may be required to participate in special projects, focus groups, or act as a subject matter expert for client services process or change initiatives.
- Performs other duties as assigned.

[30] No specific education is required but experience interacting with clients to conduct assessments and / or provide service is essential and prior Contact Centre experience is necessary. The position requires knowledge of Criminal/Family/Civil/Immigration Law procedures and terminology, and of Legal Aid Rules, Board and Administrative Policy, and Federal and Provincial Statutes, Municipal bylaws, etc.

[31] The skills required focus on listening, call flow management, ability to handle high call volumes while completing data entry simultaneously. The complete list of skills is shown as:

- Active listening, excellent communication skills and an ability to build rapport and convey empathy.
- Demonstrated ability to utilize effective and efficient call flow techniques to skillfully govern the client through the application process.
- Ability to manage diverse and high volume calls while completing data entry simultaneously.
- High levels of accuracy and attention to detail.
- Ability to remain calm and be effective during challenging situation.
- Ability to adapt in a changing workplace.
- Ability to work in a team environment demonstrating flexibility and assertiveness.
- Ability to interpret and apply Legal Aid Rules, Board & Administrative Policies, Processes and Procedures with sound judgment.

- Strong sense of responsibility and ability to exercise good judgment.
- Must be motivated to learn and develop.
- Good use of conflict resolution skills, communication skills, problem solving skills.
- Ability to perform effectively under tight deadlines
- **Technical Skills:**
- Understanding of databases and various computer applications:
  - o Ability to organize and transcribe real-time client interactions to a variety of computer applications (CRM tools) is required.
  - o Proficient in MS Word, MS Excel and Outlook.
  - o Great Plains and Moneris
- Meets security clearances for the Department of Justice databases (e.g. JOIN).

[32] This job description outlines guidelines for the role, being the LAA Rules & Administrative Policies and Service Delivery Procedures & How To Guide. The impact of errors can be dissatisfied clients, damage to reputation of LAA, dissatisfied roster lawyers, and loss of collectable revenue for Legal Aid Alberta.

[33] For the interactions, the CCIOs must work with staff to determine financial and service eligibility while dealing with challenges around staff expectations, different opinions and priorities. The role also works with clients to complete an application to determine financial and service eligibility, set up/negotiate payment plans as required, appoint on matters and advise of lawyer information while managing client expectations around limited resources. The CCIO is expected to maintain a calm and knowledgeable demeanor in a demanding environment and manage stress due to high volume of calls, daily management of high conflict clients and time sensitive legal issues.

[34] The CCIO operates the following equipment:

- computers - MS Word, MS Excel, Outlook.
- Great Plains and Moneris
- Operation of JOIN, and CRM software.
- CISCO - telephone/agent software system.
- Computer skills, including MS Word, MS Excel, Outlook and
- Printer/fax/scanner/photocopier.

[35] The Employer has an Intake Officer How-to-Guide revised May 15, 2020 for staff working as intake officers, which includes both CCIOs and CIAOs. There was a previous Legal

Services Officer How-To-Guide dated October 4, 2019 which covered most of the same topics but was not as simplified and did not include screen shots as examples.

[36] The current 286 page How-to-Guide covers all aspects of the Intake Officer's role, provides scripts for calls, questions to ask, guidance on each topic, material facts by legal subject matter framed as questions to ask, direction where the intake officer has no discretion, directions for when opinions are required from others, screen shots and examples of cases. Some examples from the How-to-Guide are:

- "If it is determined the caller is seeking advice or information or is calling about a legal issue LAA doesn't assist with, they should be directed the LAA website to obtain information about other agencies that may be able to assist them. It is important that we do not provide the caller with a referral to a specific agency but rather let them self-serve with the information available on the LAA website."
- "Where a member of the Legal community is contacting in regard to a client matter, certificate and/or invoicing issue they should be transferred to the CTO queue. There is a dedicated hotline for courthouse inquiries to reach CTOs. Duty counsel of the day will be able to phone in on this line to obtain limited information about a client's matter."
- "Calls on the Zero Queue should never be directly transferred to the Assessment Team queue. Transfer to the appropriate phone queue (i.e. General, Appointing, etc.) and the staff member reviewing the file will determine if a call should be transferred to the Assessment Queue based on the notes on the matter."
- "During an assessment, a client may advise they have sent an email with a required document to LSCIntake. If the document has not yet been uploaded by the Admin team, the Intake Officer is able to locate, name and upload the document to expedite the process."
- "Calculating Equity in Assets CRM 2015 will calculate the client's Total Equity Value based on the following fields in each Asset Item on the Financial Assessment:..."
- "DETERMINE TYPE OF REQUEST

*What is the legal issue I can help you with today?*

***If... Then...***

Duty Counsel Referral Refer to Duty Counsel

Third Party Request Refer to Third Party Requests

Service Ineligible

1. If necessary, create a new or update existing matter
2. Create applicable Service Decision

3. Refer client to LAA website
4. Close the call

#### Service Eligible

1. Create a new or update existing matter
  2. Create applicable Service Decision
  3. Proceed to Financial Eligibility”
- “CCIO/CIAO APPOINTING VS. CTO APPOINTING RESPONSIBILITES There are certain types of certificates that must be left for CTOs to appoint on. Please use the following table as a reference when determining if the matter is something you should go ahead and appoint on, or if it should be left at Offer Request for a CTO to appoint on.”

[37] Based on the written job description, the CCIO is a call centre intake officer role that operates within strict guidelines and has limited discretion. The role does not require a degree or diploma but does require experience interacting with clients to conduct assessments and / or provide service and prior Contact Centre experience.

### **Courthouse Intake & Assessment Officer Classification**

[38] The written job description for the CIAO is not the same as that for the CCIO, although some duties overlap. The CAIO sees clients in person at the courthouse and has additional responsibilities to assist the Duty Counsel. The qualifications require a degree or diploma in criminal justice or corrections and at least two years experience in a legal field.

[39] The summary and key responsibilities of the CIAO are:

#### **I. Position Summary:**

Based on pre-defined criteria, this position obtains information and financial data from the client to determine eligibility. Applications involving criminal, family, civil and immigration law will be completed in person at the courthouse. The Courthouse Intake & Assessment Officer will assist Duty Counsel as required.

#### **Key Responsibilities:**

- Professionally and efficiently interact with client who is seeking service from LAA.
- Docket Support for Duty Counsel - review daily docket matters to provide service eligibility legal issue detail (current legal issue, history, complex client assessment based on pre-defined guidelines. Ie. FASO, se

If-identified mental health challenges). The Courthouse Intake & Assessment Officer will review and make decision (based on requirements) to Duty Counsel for service.

- Based on the legal issue, the Courthouse Intake & Assessment Officer will refer client to Duty Counsel, Assessment Team or will forward offer to appropriate lawyer based on a defined appointing process. For specific family matters, the Courthouse Intake & Assessment Officer will refer clients to RCAS or LAA website for assistance.
- When clients are found ineligible for services, they will be directed to the LAA website.
- Where necessary, the Courthouse Intake & Assessment Officer may task the matter(s) pending additional information from the client or awaiting internal activities in order to complete the application.
- For criminal matters, the Courthouse Intake & assessment Officer will access JOIN to validate client legal issue and court date (where applicable) and enter accurately into CRM.
- The Courthouse Intake & Assessment Officer is required to create a standard monthly payment plan upon initial contact for new and existing clients as applicable based on established guidelines.
- Daily upload and attachment in CRM of client documents as required.
- Performs other duties as assigned.

[40] The CIAO job description states a preference for a post-secondary degree/diploma in criminal justice/corrections and requirement for a minimum of 2 years experience in a legal field. Another requirement is a demonstrated ability to gather information from all relevant sources to make a comprehensive detailed recommendation cognizant of how the decision will impact the client and the organization. In addition to the skills of the CCIO, the CIAO must be able to complete a comprehensive review of a variety of data points to provide a quality recommendation to Duty Counsel regarding service eligibility, to work without close supervision, and take initiative. Based on the job description, it appears the CIAO is a higher level classification than the CCIO.

[41] Next I turn to a review of the LSO written job description.

### **Former Legal Service Officer Classification**

[42] From 2009 the LSO met with clients in person to determine service and financial eligibility, create service plans, provide legal information, provide legal advice and brief services, and make referrals to outside agencies. By 2012 LSO were doing 80% of their work on the phones and were rotating to other locations for in-person services.

[43] The parties provided three job descriptions for the LSO dated December 2013, November 2015 and October 2018. The salary rate for the LSO did not change between December 2013 and October 21, 2019 when the LSO classification was eliminated. The written LSO job description changed twice since December 2013. A summary of the changes to the LSO over time is set out below.

### *2013*

- [44] In December 2013, LSOs met potential LAA clients in their regional offices or at one of more than 33 different courthouse and institutional locations, and dealt with clients in person, over the phone or through on-line services. The LSOs managed the client's matters from the assessment of the client's legal needs through to the delivery of services. In addition to assessing the client's needs for legal services based on substantive and financial criteria, the LSOs also assessed other factors that affected the client's legal issue or ability to resolve their legal issue. They could identify issues and options for resolution. Working with staff lawyers they determined the best service delivery options for the client's legal needs.
- [45] They referred clients to other agencies for assistance, which required them to have information about and connections with referral agencies. LSOs provided clients with legal information, brief services and process information, including Duty Counsel, roster lawyers, or external agencies or resources. They provided brief legal services to eligible clients under the supervision of staff lawyers. They could represent some clients before administrative tribunals. They could and did develop relationships with clients and oversaw a client's file past the point of initial contact. LSOs gathered and documented information from JOIN/Court Case Management System. They participated in community outreach to provide information about LAA services and legal matters. They also trained and did peer file reviews of other team members.
- [46] The qualifications of the LSO classification in 2013 required a degree or diploma in law, social work or social sciences degree with experience in interviewing and client services. LSOs required the skills to manage high-conflict circumstances by applying principles of confidentiality and discretion, to maintain excellent public relations, to apply critical thinking skills to complex situations, to organize their own work, to coordinate projects and to set priorities. LSOs required the ability to consider many aspects factoring into a single legal issue and determine the best service delivery options. A valid drivers license and access to a vehicle were considered assets for the required travel. They needed to meet security clearances for the facilities they visited and to use the Department of Justice databases (e.g. JOIN).
- [47] LSOs were expected to display independent decision making in prioritizing the own workload and effectively managing clients' files. This decision making component

extended to making decision on appropriate service delivery options and referrals for the clients. They could make expenditures on a file as a result of the client needs assessment.

[48] As for their interactions, LSOs were expected to collaborate with staff on the management of client files and referrals. They worked with the clients to complete the assessment of the client’s legal issues within four categories of law. They collaborated with lawyers about client files or responded to lawyers’ inquiries and requests. They also coordinated with service agencies for available services and referrals for clients.

[49] For this level of responsibility and qualifications the LSO’s wage rates were set and through collective bargaining eventually became:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Former Legal Services Officer (LSO)	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,323	\$5,602	\$5,879	\$6,233

[50] Retrospectively, this was the most complex period for the LSO classification.

*2015*

[51] In November 2015 a significant change occurred to the LAA service delivery model and as a result to the LSO job description. LAA moved primarily to a contact centre delivery model where the majority of the contact with individuals seeking legal aid assistance occurred on the phone. The LSO position changed to only assessing service eligibility and financial eligibility for individuals seeking LAA assistance. Rather than conducting assessments in person, most were now done over the phone. LAA had only four offices at this time.

[52] The LSO was no longer providing any comprehensive assessment of the legal issues, assessing client needs including issues and options for resolution, providing quasi-legal services to the client, making referrals to other agencies or representing the client at administrative tribunal hearings. LSOs no longer referred ineligible clients to outside agencies; instead they referred ineligible clients to the LAA website or 211 for other assistance. In some cases, they could refer a client matter to a staff lawyer for a legal opinion. LSOs no longer needed to be aware of community service agencies or maintain relations with such agencies.



[53] The qualifications decreased to a degree or diploma in criminal justice, legal assistance or other relevant education. The law, social work or social sciences education disappeared. Prior contact centre experience was added and was now considered an asset. Active listening, excellent communications skills and an ability to build rapport and convey empathy became important skills. Travel became occasional but the drivers license and access to a vehicle was still an asset. LSOs still needed to meet security clearances.

[54] LSOs continued to make independent decisions on financial and service eligibility for clients, however, additional financial responsibilities were removed. As for interactions with others, LSOs collaborated with staff on financial and service eligibility decisions, with clients to determine eligibility only, and with lawyers on the client files. The requirement to collaborate with external service agencies was removed.

[55] The changes to the 2015 LSO job description deleted the following items from the 2013 job description:

- the requirement to assess and provide services to clients who have criminal, family, civil and/or immigration issues.
- the responsibility to assess other factors affecting the client's legal issue or ability to resolve their issue and make appropriate referrals to other agencies to better move the client towards resolving their legal issue.
- the performance of specific functions under the supervision of a lawyer.
- the key responsibilities of:
  - assessing clients' legal needs, including identifying issues and options for resolution.
  - working with staff lawyers to determine the best service delivery options for the client's legal needs.
  - providing clients with legal information, brief services, and information regarding available processes for resolution.
  - ensuring information about referral agencies is accurate and up to date and maintaining resources to be provided to clients.
  - providing comprehensive assessment and support, managing client files, and promoting coordination between internal business units and outside agencies.
  - providing brief legal services to eligible clients under the supervision of staff lawyers, including but not limited to assistance in preparing and organizing

documents, assistance and preparing basis of claim forms, securing adjournments or extensions of time to respond.

- representing clients before administrative tribunals where it is deemed appropriate and not prohibited under the *legal professional act*.
- performing a liaison function with other agencies in the community that provide assistance on criminal, family, civil and/or immigration matters.
- gathering and documenting information from join/court case management system.
- participating in community outreach to provide information on legal aid services and legal matters.
- enhancing skills and knowledge of individual team members by assisting with training and peer file review.
- providing services to persons who have accessed LAA through the web, including live chat support, where available.
- providing assistance with other office or cast requirements, as required.

2018

[56] The functions deleted in 2015 were never brought back. In October 2018 the LSO job description changed minimally although the office environment continue to move closer to that of a contact centre or call centre. LSOs were given a new responsibility for processing payments and creating payment plans for clients. The LSO qualifications changed to add a minimum of two years experience in a related field. This LSO classification and job description then as to be the one used for comparison to the CCIO or the CIAO.

[57] The Union asserts the new classifications (either CCIO or CIAO) are not really as described on paper so I turn next to the testimony of two employees who are doing the roles. Both say their current role is the same as the old LSO role.

### **Evidence from a CAIO and a CCIO**

[58] Ms. Jan Davidson-Carey began work with LAA in February 2009 and was appointed as a CIAO in October 2019. She holds degrees in criminal justice and education. She has seen all the changes at LAA. She worked as a Legal Aide Officer, an LSO and for a time as the Calgary manager. She agreed the LSO position had evolved from 2013 but felt the LSO had been intake/gatekeeper of the client which role is now completed by the CCIO or the CIAO.

- [59] As a CIAO she see clients in person at the courthouse, although since mid-March 2020 she does her job on the phone due to the pandemic. She is one of three staff who rotate among three functions, intake counter, interviewer and assistance to Duty Counsel.
- [60] For the financial eligibility, she asks the questions and inputs the data into the computer, which generates an answer on eligibility or not based on the data input. As an LSO she had to do the calculations based on pre-set guidelines. If the client was not financially eligible, but was close, she could refer the file to a staff lawyer for review and decision.
- [61] LSOs had ownership of a file and saw a client more than once if required, but the LSO ownership of the file changed when the phone queues began. Under the current system, the client would now see or speak to more than one CCIO or CIAO because the intake officer no longer has ownership of a client's file.
- [62] The LAA How-To-Guides and Service Delivery Models provide information the intake officer is to tell the client, what to ask, scripts, legal charts and determination guidelines. As an LSO she had some discretion but now there is no discretion in the intake role. The How-to-Guides for LSOs (old) or for Intake Officers (new) contain material fact questions by legal topic, which the CIAO asks but for which the CIAO no longer captures the answers.
- [63] The requirement to assist the Duty Counsel is a new function assigned to the CIAO and the CIAO is provided information on the function. If a CCIO was temporarily assigned to cover a CIAO vacancy, the CCIO would not assist the Duty Counsel. The acting CCIO would not have access to some of the information the CIAO uses to assist the Duty Counsel. A CCIO would receive acting pay under the collective agreement for temporary work as a CIAO.
- [64] As an LSO she saw clients with appointments or walk-ins. She had time to look at the file and prepare for an interview, which she found useful. She also had more time, if required, to interview the client. When the clients began using the phone more, the phones and the database changed. LSOs stopped using physical files. They had less or no time to prepare for client interviews and less time to conduct the interview.
- [65] In 2020 LSOs began doing referrals to external agencies which duty continued until 2015. Her previous work in social services assisted her with these external referrals. When this function was discontinued, she was still able to continue to provide modified referrals to clients in her CIAO role, although the How-to-Guide and the job description directed her to refer clients to the LAA website.

- [66] Peter Dubourt has been a CCIO since mid March 2020. Previously he occupied a temporary position as a CIAO from October 2019 to March 2020. He had also worked as an LSO between 2011 and October 2019. He holds a degree in history, a masters degree in divinity and has experience in developmental disabilities.
- [67] According to Mr. Dubourt, the CCIO role is fundamentally the same as the LSO – the intake of clients. The CCIO does their work on the phone dealing with an array of subject matter telephone queues. The CCIOs rotate through the queues regularly. The CCIO goes through financial information, legal issue discussion, demographics and payment plans with the client. They ask questions and determine financial eligibility. They ask questions about the legal matters to determine if the client meets the service eligibility requirements. His past experience as an LSO enables him to question and speak to the client in more depth, as he did before. He also manages emails, the client, the inquiries from roster lawyers, referrals to duty counsel, financial documents and any legal documents which are sorted by legal issue. The administrative team also sorts legal documents and can assist the CCIO with this.
- [68] When dealing with a call from the queue the CCIO works through three stages of information. First, the client is asked questions to confirm identity. CCIOs need to be careful to only deal with the client or someone with permission from the client. Then there is a general screening on the topic of law, which is very quick. Once the CCIO knows the general area of law, they may need to question further for the service assessment. In his view, although the How-To-Guides contain scripts, questions and material facts by topic, the CCIO needs the ability to interview on a wide variety of topics because of the variety of client needs. If the legal subject matter is not eligible for LAA service, the client is told so.
- [69] If the client meets the service eligibility, the CCIO then begins the financial assessment. There are questions for returning clients and different questions for new clients. The CCIO needs to gather accurate information to make the decision on financial eligibility using the LAA guidelines. When he was an LSO he had some discretion around eligibility but as a CCIO he no longer has discretion and could only refer a matter to the Assessment Team if he is unsure. While asking questions, the CCIO is entering the information into the computer. If the CCIO makes an entry error or the total caused by the entries exceeds the eligible financial limits, the computer will reject the application. He considered this aspect to be identical to work he had done as a CIAO or an LSO.
- [70] If the client is eligible, the CCIO working quickly gathers more details on the legal problem and works through any notes made by other CCIOs, CIAOs and staff lawyers to discern next steps, such as assignment of the roster lawyer or referral to other LAA

personnel. The CCIO gathers any documents required for the legal topic, a duty he also did as LSO and CIAO.

- [71] The CCIO tells the client if they are eligible or not. Today, if the client is not eligible for LAA service, the How-To-Guides and the job description require CCIOs to refer ineligible clients to the LAA website rather than give personal referrals to other agencies. The 2019 How-To-Guide for LSOs required LSOs to do the same. The CCIO does not do the same in depth referral or service plan Mr. Dubourt used to do as an LSO between 2011 and fall 2015. However, with his prior experience as an LSO Mr. Dubourt is able to and still does use his knowledge of other agencies to brainstorm options with the client. In his view, the CCIO should give the client the best information on the first call so the client does not call back repeatedly to get the information they feel they need, including referrals to outside agencies.
- [72] A CCIO is scored on their calls as against the LAA standards and average call time, although Mr. Dubourt said it had been a while since they had seen scores. There was no evidence of any scoring for CIAOs.
- [73] CCIOs have scripted questions to use, but Mr. Dubourt said the reality did not reflect the scripts. The How-to-Guide reflects the collective knowledge of the organization for the role. However, Mr. Dubourt said the scripts in the Guide applied only in general situations because clients vary.
- [74] Mr. Dubourt also worked temporarily as a CIAO for three or four months. He was given additional training in how to process a Moneris payment and an explanation and email about assisting the Duty Counsel, but knew the rest of the duties from his experience as an LSO. Only experienced CCIOs could be seconded to work as CIAOs to cover absences.
- [75] Mr. Dubourt concurred with most of Ms. Davidson-Carey's description of the role of the LSO and CIAO. In Mr. Dubourt's view, he was still doing the LSO job although only on the phone. He acknowledged that how he did the job now was different but the client and the eligibility assessment were the same.
- [76] Both witnesses are long term employees who are committed to the clients they serve. Both worked between 2010 and 2015, during what I characterize as the peak of the LSO classification. They continue to focus on some of these aspects of their work which no longer exist in the job description. For example, as former LSOs, they still provide some referrals, similar to what they did before fall 2015. They also use their experience to aide them with the financial and service questions rather than relying on the How-to-Guides as much as a less experienced person would. However, I do not find their

personal experiences, personal practices or volunteer actions to be a relevant factor in setting the wage rates for the classification. The fact that individual occupants of a classification by their own choice can and do more than required in the job description does not mean that all occupants of the classification will be able to do so. The classification and related job description is the objective measure of the classification.

[77] I find the witnesses largely confirm the information shown on the written job descriptions. From their evidence I see where the How-to-Guides would assist a CCIO, whether new or experienced to navigate both the financial assessment and the legal service assessment. The evidence overall does not support a finding that the job responsibilities require skills or qualifications other than that shown on the job description.

### **Comparison of the CCIO Classification to the CIAO and LSO Classifications**

[78] None of the new or altered classifications duplicate the 2018 LSO entirely. The former LSO responsibilities were split up and disbursed among at least three classifications. The portions of the responsibilities of the former LSO that dealt with assessing and determining financial and service eligibility through the call centre were included in the new CCIO role to be performed with more specific guidance, scripts and questions with shortened timelines. The portions of the responsibilities of the former LSO that dealt with assessing family service eligibility on an out-bound call basis, analyzing their legal issues and providing summaries and recommendations for the lawyers was included in the new Assessment Officer role. The portions of the responsibilities of the former LSO that dealt with in-person client contact was included in the new CIAO role.

[79] I find the CCIO classification is not the same as or equivalent to the former LSO classification. The CCIO classification has only a portion of the responsibilities of the former LSO, specifically the assessment for financial and service eligibility, and less of the discretion or creativity required by the LSO. The CCIO is not required to ask probing questions to determine accuracy in legal issues, particularly in family matters or to make substantive decisions in family matters, both of which are now done by the Assessment team. They do not make substantive decisions on summary/hybrid criminal matters; referrals to duty counsel are required instead.

[80] Unlike the 2010-2015 LSO classification, CCIOs are not required to make referrals to clients or to assist the client to identify other options if they are not eligible for LAA service. As a result they do not need awareness of or knowledge about referral agencies or how they relate to the client's case. CCIOs have no responsibility for file ownership but only deal with a matter to the extent possible on the initial contact; any

follow up is handled by the next available CCIO. All the work is done on the phone with no in-person service.

- [81] Prior call centre experience is required for CCIOs but was only an asset for LSOs. CCIOs no longer need a degree or diploma in criminal justice or legal assistant. CCIOs do not need to meet security requirements at hospitals, institutions or the courthouse because they do not leave the contact centre. They no longer need a driver's license or access to a vehicle which the former LSO did.
- [82] The 2010 – 2015 LSO classification held responsibilities and qualifications that justified the wage rates assigned. Those rates were not altered in 2015 or 2018 when the classification changed. However, today these differences mean that the CCIO classification should not have the same wage rate as the 2018 LSO classification.
- [83] I also find the CCIO classification is not comparable to the CIAO classification. The environment and interactions are different for the CIAO. The CIAO does their work in person at the courthouse, interacting with clients, lawyers, sheriffs, court clerks and others. The CCIO does not have some of the additional responsibilities present in the CIAO classification or the independence. The CIAO assists Duty Counsel by providing current information regarding the status of clients that are appearing in court that day. They provide docket support for Duty Counsel, including reviewing the daily docket matters to provide legal issue details regarding service eligibility (including current legal issue, history, complex client assessment based on pre-defined guidelines. They answer a broad range of Duty Counsel inquiries at courthouses. There are no supervisors at the courthouse and the client contact is not monitored like in the contact centre.
- [84] The comparability of these two classifications involves a comparison of all the aspects of the classifications and is not based on just one factor. While it is a fact that both classifications deal with the same or similar clients and both classifications assess and determine financial and service eligibility within set guidelines, the CIAO has additional responsibilities, more discretion and independence in decision making. The additional responsibilities and the different work environment require the CIAO to have higher education qualifications and more experience than the CCIO. The CIAO requires higher educational requirements, a minimum of two years legal experience and no experience in a call centre. In contrast, the CCIO classification requires no minimum education but call centre experience is essential.
- [85] The CIAO classification is closest in responsibilities, independence and qualifications to the former LSO classification and has the same wage rates as the 2018 LSO. This means that internal equity principles (which I discuss more later) would suggest that the CIAO classification be paid a higher wage rate than the CCIO.

## Wage Rates

[86] The parties imposed the following conditions on the wage rates to be set by the arbitrator:

- The maximum wage at the top of the salary range for the new classifications shall not exceed the current Step 8 for LSO, which was \$5,879.00 as shown below:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Former Legal Services Officer (LSO)	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,323	\$5,602	\$5,879	\$6,233

- The maximum wage at the top of the salary range for the altered classification shall not exceed the current Step 8 for former CTO, which was \$5,656.00 as shown below.

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Former CTO	\$3,782	\$4,050	\$4,319	\$4,586	\$4,853	\$5,120	\$5,388	\$5,656	\$5,996

- By their agreement, the wage rates for the CCIO and the CTO should be the same.

These are measures of or conditions which reflect internal equity. Therefore, I infer the maximum wage rate for the CCIO cannot exceed \$5,656.00. This means the wage rate cannot be as suggested by the Union because the maximum would exceed step 8 of the former CTO.

[87] From the cases relied on by the Union I draw three factors that affect the setting of wage rates:

- Internal equity,
- marketplace comparables, and
- recruitment challenges.

[88] *Vancouver Coastal Health Authority and BCGEU, Re:* demonstrates the importance of internal equity in the classification system. At page 10 the Arbitrator said:

In establishing the salary structure for a new position or a position where the duties have been significantly changed, an arbitrator must, in my view, be cognizant of the internal equities within the classification system and wage



schedule of the collective agreement under which he is operating. See *Health Labour Relations Association of British Columbia*, Award dated March 5, 1990 (Kinzie). His placement of that new or significantly changed position on the wage schedule must reflect the underlying principles that the parties have built into their classification system and their wage schedule. In doing so, the arbitrator is acting objectively and replicating what the parties themselves would have done in all of the circumstances of the case. ...

The Provincial Agreement contains two classifications that, in my view, have a counselling focus to them. They are Social Worker in the main body of classification definitions and Vocational Counsellor in the Industry-Wide Miscellaneous Rates section of the agreement. With respect to working level positions in both classifications, the parties to the Provincial Agreement have distinguished between those who possess a Bachelor's Degree and those who possess a Master's Degree. Those with a Bachelor's Degree are paid at Grid Level 8 while those with a Master's Degree are paid at Grid Level 11.

In my view, that principle should apply to drug and alcohol counselling positions as well. I am satisfied that that result would replicate what the parties would have done in all the circumstances of the case if they were acting objectively.

[89] In *GO Transit/Metrolinx v. A.T.U., Local 1587* Arbitrator Burkett identified marketplace comparisons and recruitment challenges as two additional factors to consider. At page 15 he said:

It is important to be clear, however, that under the Letter of Agreement #9, I have not been appointed to implement the Hay job evaluation but rather to address the AI wage adjustment issue having regard to “job evaluation ranking, marketplace comparisons and recruitment challenges.” The Employer is correct when it asserts that these factors are mutually exclusive. This is not therefore, to reiterate, an exercise designed to implement the results of the Hay job evaluation in a manner that produces (either immediately or as a first step) internal equity as between the A1 and A2 wage schedules based on the Hay job evaluation. Rather, it is an exercise that requires that I strike a reasonable balance in assessing the A1 rates, taking the three specified factors into account.

Having said this, I accept, as argued by the Union, that the purpose of job evaluation is to rank jobs so that jobs of roughly equal ranking secure roughly

equal pay. I further accept, as argued by the Union, that a uniform measure of comparison, i.e. the hourly rate, must be used where the classifications that are being compared do not work the same number of hours. However, I do not accept that internal equity is necessarily achieved by moving to the higher rates while these higher rates continue to receive economic increases. A movement to internal equity does not exclude downward adjustment, red-circling or some combination being applied to the higher A2 rates, especially if the higher A2 rates are above their marketplace comparables.

[90] In *AUPE and Alberta, Re: Arbitrator Phyllis Smith*, at page 18, said the following about the market adjustment for the Correctional Officer 3 classification.

The Union's basic premise is that since the CPO 3 classification was assigned the points in the Hay's system as the Sheriff, Security and Transport 4 classification, the CPO 3 classification should attract the same pay as both are involved in the justice system and both deal with similar issues and have similar responsibilities.

However, the Board accepts that the classification system is not a pay system. The pay assigned to a particular classification is a product of more than a job description and a points calculation. It is also the product of a market analysis. The Union did provide some comparable information but it was insufficiently detailed for the Board to conclude that a market adjustment is justified. The Crown did provide information which supported its conclusion that the current CPO 3 pay grade is representative of the market.

[91] The Union also relied on the Hay Method Job Evaluation criteria to argue the similarity of the levels of skill, effort, responsibility and working conditions for the CCIO, CIAO, AO and former LSO. The case law relied on by the Union showed how some arbitrators use this criteria where the parties agreed to use it or the Employer had adopted it. I did not rely on the Hay Method Job Evaluation because there is no evidence that the Employer adopted or agreed to use the Hay Method.

### **Internal Equity**

[92] In this collective agreement, classifications with higher educational requirements are paid at a higher rates. If the CCIO wage rates were as proposed by the Union it would have a negative impact on the internal equity as a classification with lower responsibilities, less complexity and independence, and lower qualifications would be paid the same as the classifications with higher responsibilities, more independence

and complexity and higher qualifications. This factor does not support increasing the wage rate for the CCIO.

[93] For this reason and the reasons expressed earlier on the comparison between the CCIO and the CIAO or former LSO classifications, I find the wage rates proposed by the Employer do maintain internal equity whereas the wages rates proposed by the Union would not.

**Marketplace Comparables Presented by the Employer and the Union**

[94] The Employer presented five comparables, two within the province and three outside but only three are comparable to the CCIO.

Role	Organization	Comparable to
Information Officer (AS5)	Alberta Health Care (Service Alberta) with the Government of Alberta	CCIO
Information Officer (AS6)	Registries (Service Alberta) with the Government of Alberta	LSO/AO
Administrative Officer I	Legal Aid Manitoba	LSO/CIAO
Intake Legal Assistant	Legal Services Society (Legal Aid BC)	CCIO
Payment Services Officer	Service Canada	CCIO

[95] The Information Officer AS5, Intake Legal Assistant and Payment Services Officer start at a higher salary than proposed for the CCIO but have lower maximum rates. They do similar work in a similar environment and share similar qualifications. They are solid comparators which show the wage rate proposed by the Employer is within range.

[96] Should I alter the start rate of the CCIO? If I were to alter the start rate for the CCIO it would mean the start rate for the CCIO would meet or exceed the start rate for the CIAO and the Assessment Officer, which would negatively impact the internal equity. In addition, the Employer asked that I not alter the number of grid steps or the amount of increase between the steps. If I were to alter the start rate and keep the same number of steps and the dollar or percentage increase between steps, the maximum rate for the CCIO could match or exceed that of the CIAO and Assessment Officer. This would also negatively impact the internal equity. As a result I will not alter the start rate of the CCIO.

[97] The Union cautioned that any comparable from outside the province should not be considered without taking into account the Alberta Wage Premium, which it estimated to be 15% above the national average for 2018. In this regard, it relied on *Re AUPE and Alberta* and *Re Alberta Health Services and AUPE(GSS)*. The only Employer comparables

outside Alberta were the Intake Legal Assistant and the Payment Services Officer. If I apply an 18% Alberta Wage Premium to those rates they would be \$4390 to \$5013 and \$5068 to \$5668 respectively. If I used these comparables to create the start rate for the CCIIO, that start rate for would be much higher than the start rate for the CIAO and the Assessment Officer, again negatively impacting internal equity.

[98] For marketplace comparators, the Union provided three groups: LAA Job Descriptions, Federal Government Benchmarks by National Occupation Classifications (NOC) and other Alberta Employer Job Descriptions. The specifics within each group are:

- LAA Job Descriptions
  - Administrative Support 2
  - Administrative Officer 1
  - Former CTO
  - Current CTO
  - Former APO
  - Former LSO
  - Assessment Officer
  - Discretionary Coverage Officer
  - Justice Navigator
  - Indigenous Courthouse Navigator and Assessment Officer
- NOC
  - Call Centre Agent/ Contact Centre Agent/Customer Service Agent (NOC 6552)
  - Social and Community Service Workers (NOC 4212)
  - Legal Officer (NOC 4112)
  - Tariff Clerk (NOC 1431)
- Other Alberta Employers (21 job descriptions)
  - 301 Dump Junk
  - Hand and Stone Massage Customer Service Agent
  - AHS Switchboard Operator
  - Alberta Environment and Parks Licensing and Revenue Services Support
  - City of Edmonton Dispatch Clear Public service Representative I
  - Edmonton Police Service CPIC Information Operator I
  - OHS Contact Centre Advisor
  - Employment & Social Development Canada Call Centre Agent/Payment Services Officer
  - City of Edmonton Emergency Communications Officer
  - City of Edmonton 911 Operator
  - Alberta Community and Social Services Alberta Supports Coordinator

- Children and Youth Services Assessor HSW 5
- Government of Alberta Contact Centre Advisor
- Indigenous Services Canada Non-Insured Health Benefit Analyst
- Provincial Operations Provincial Operations Coordinator
- AHS Telecom Operator/Dispatcher
- RCMP Telecommunications Operator
- City of Edmonton Emergency Communications Specialist
- Alberta Community and Social Services Employment Standards Contact Centre Advisor
- CSIS External Communication Centre Operator.

[99] On the LAA comparables, I do not generally consider a deleted classification to be a current comparable. I do not consider red-circled employees to be in comparable classifications for setting wage rates because their salaries, which exceed the new rates for the classification, are red-circled by operation of the collective agreement or other agreement of the parties, and are not actual wage rates for the classification. In some cases, the Union did not provide the wage rates so no comparison is possible. Turning to some specifics, the proposed wage rates for the CCIO are higher than the wage rates for the Administrative Support 2 and Administrative Officer 1 although the education requirements for the two classifications are higher than the CCIO. This does not justify a higher CCIO wage rate. I have already dealt with the former LSO and CIAO comparables which I do not find to be similar and have justifiably higher wage rates. The amended CTO comparison is settled by the agreement of the parties that the wages rates for the amended CTO classification will be the same as the CCIO. Finally, the Assessment Officer has higher educational requirements than the CCIO and more responsibilities. It has a higher wage rate than the Employer proposed for the CCIO, similar to the CIAO which will create internal equity.

[100] On the NOC benchmark comparables, the Call Centre Agent is a relevant comparable but the wage rates are also in the same range as for the CCIO. The Social and Community Services Workers and Legal Officer benchmarks are not comparable as they require completion of a college or university program or degree and other professional requirements and have more responsibilities than the CCIO. The Tariff Clerk also requires potential bonding and licensing which are not present for the CCIO even though the salary range is comparable to the Employer proposed wage rate for the CCIO.

[101] On the Other Employer comparables, I did not consider classifications where the education and work experience was unavailable as it is not possible to do even general comparisons without that information. Some of the classifications, such as the CIPIC

Information Operator, require completion of grade 12 but also require more experience in named areas so I considered them sufficiently different. If the position required a post-secondary degree or diploma or additional educational certificate, I considered it to be a higher level position than the CCIO.

[102] This leaves four positions to examine further. The Switchboard Operator, Call Centre Agent, 911 Operator and Non-Insured Health Benefit Analyst are all in call centre environments, similar to the CCIO. The 911 Operator starts \$100 per month higher but has a lower maximum rate than proposed for the CCIO. The start rates for the Switchboard Operator (\$3910), Call Centre Agent (\$3964) and Non-Insured Health Benefit Analyst (\$4347) are substantially higher than proposed from the CCIO but the maximum rates are lower. As all four comparators have higher start rates but lower maximum rates than the Employer proposed wage rate for the CCIO, they support a finding that the Employer proposed wage rate is within an acceptable range. For the same reasons expressed earlier I will not alter the start rate of the CCIO to match any of the comparables.

### **Recruitment Challenges**

[103] The Union argued there was a high turnover in the CCIO classification which was a factor to support a higher wage rate. The classification involves high stress and dealing with unique clients. The Employer said a higher turnover of employees is common in a call centre environment.

[104] When the Employer eliminated the LSO classification and created or amended the CCIO and CIAO, some LSO's applied for the new CIAO, AO and CCIO positions. The parties negotiated a severance option and some LSOs took the severance. Between April 2019 and April 2020, four CCIOs took the voluntary separation, nine resigned and three were released during probation. Neither party identified the actual number of CCIOs but Mr. Dubourt estimated there were 30 – 40 such employees in the bargaining unit. I do not consider the voluntary severances to be normal turnover as they result from the agreement of the parties to offer a severance package. The probationary terminations are not uncommon or high in number. While 25% – 33% turnover by resignation in one year may appear a high number, there was other evidence to place this turnover in context, including the reorganization of the workplace and the creation of the new classifications. As a result, this factor alone does not persuade me to alter the wage rate for a new classification.

## Conclusion

[105] In summary and for the reasons set out above, I find and set the wage rates for the Contact Centre Intake Officer as:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Contact Centre Intake Officer (CCIO)	\$3,374	\$3,549	\$3,736	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,348

[106] By agreement of the parties that the wage rates for the Courthouse Intake & Assessment Officer would be the same wage rates as for the former classification of Legal Services Officer, I find and set the wage rates for the Courthouse Intake & Assessment Officer as:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Courthouse Intake & Assessment Officer (CIAO)	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,323	\$5,602	\$5,879	\$6,233

[107] By agreement of the parties that the wages rates for the Assessment Officer would be the same as the wage rates for the former classification of Legal Services Officer, I find and set the wage rates for the Assessment Officer as:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Assessment Officer (AO)	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,323	\$5,602	\$5,879	\$6,233

[108] By agreement of the parties that the maximum wage for the for the Certificate and Tariff Officer shall not exceed step 8 for the former CTO and also that the wage rates for the altered CTO shall be the same as the wage rates for the Contact Centre Intake Officer, I find and set the wage rates for the altered Certificate and Tariff Officer as:

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	LSI
Certificate and Tariff Officer	\$3,374	\$3,549	\$3,736	\$3,933	\$4,211	\$4,488	\$4,766	\$5,045	\$5,348

Signed at Sherwood Park, Alberta on July 3, 2020.



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Deborah M. Howes, Arbitrator



**Appendix A**  
**Legal Aid Society**  
**and**  
**Alberta Union of Provincial Employees**  
**ARB#11195**  
**LIST OF EXHIBITS FOR HEARING ON THE MERITS**  
**HEARING DATES: May 25 & 26, 2020**

<b>EXHIBIT #</b>	<b>DESCRIPTION</b>	<b>PARTY</b>	<b>CROSS REFERENCED BY THE PARTIES</b>
J1	Collective Agreement 2019-04-01 to 2020-12-31	Joint	
E1	Letter of Understanding #1	Employer	Appendix A
E2	Governance Agreement Respecting Legal Aid	Employer	Appendix B
E3	Legal Aid Alberta Rules 2019	Employer	Appendix C
E4	Legal Aid Executive Summary with Recommendations	Employer	Appendix D
E5	Legal Aid Contact Centre Job Descriptions	Employer	Appendix E
E6	Comparative Pay Rate Analysis and Comparator Job Descriptions	Employer	Appendix F
E7	LSO Job Description Dec 2013	Employer	Word Document LSO Document Description Dec 2013
E8	LSO Job Description Nov 2015	Employer	Word Document LSO Document Description Nov 2015
E9	CLIENT SERVICES - LEFT ORG APRIL 1-2019 -APRIL 30 2020	Employer	Excel Spreadsheet
U1	Letter of Understanding #1	Union	Exhibit 1
U2a	Job Description Contact Centre Intake Office - Initial Management Proposal - May 6, 2019	Union	Exhibit 2a
U2b	Job Description Courthouse Intake & Assessment Officer - July, 2019	Union	Exhibit 2b
U3	Legal Aid Intake Officer How-To Guide 2020 - Revised May 15, 2020	Union	Exhibit 3
U4	Legal Aid Legal Services Officer How-To Guide - Revised Oct 4, 2019	Union	Exhibit 4

<b>EXHIBIT #</b>	<b>DESCRIPTION</b>	<b>PARTY</b>	<b>CROSS REFERENCED BY THE PARTIES</b>
U5	Legal Aid Contact Centre Service Delivery Procedures - Revised Apr 23, 2020	Union	Exhibit 5
U6	Hay Measurement	Union	Exhibit 6
U7	Letter - Change of Employment Status - Reclassification	Union	Exhibit 7
U8	Salary Comparison Grid May 2019	Union	Exhibit 8
U9	Call Centre Agent - Customer Service in Alberta	Union	Exhibit 9
U10	Call Centre Agent - 310-Dump Junk Removal	Union	Exhibit 10
U11	Customer Service Assistant - Hand and Stone Massage	Union	Exhibit 11
U12	Switchboard Operator - Edmonton, Cross Cancer Institute	Union	Exhibit 12
U13	Legal Aid Intake Officer How-To Guide 2020 - Revised May 15, 2020	Union	Exhibit 13 (dup of Exhibit 3)
U14	Legal Aid Contact Centre Service Delivery Procedures - Revised Apr 23, 2020	Union	Exhibit 14 (dup of Exhibit 5)
U15	Licensing and Revenue Services Support Alberta Environment and Parks	Union	Exhibit 15
U16	Dispatch Clerk - City of Edmonton	Union	Exhibit 16
U17	Telecom Operator - Alberta Health Services	Union	Exhibit 17
U18	CPIC Information Operator 1 - City of Edmonton	Union	Exhibit 18
U19	Occupational Health and Safety Contact Centre - Govt of AB	Union	Exhibit 19
U20	Service Canada Call Centre Agent - Employment Canada	Union	Exhibit 20
U21	Emergency Communications Officer - City of Edmonton	Union	Exhibit 21
U22	911 Operator - City of Edmonton	Union	Exhibit 22

<b>EXHIBIT #</b>	<b>DESCRIPTION</b>	<b>PARTY</b>	<b>CROSS REFERENCED BY THE PARTIES</b>
U23	AB Supports Coordinator - Alberta Community and Social Services	Union	Exhibit 23
U24	Assessor Children and Youth Serv - Alberta Children's Services	Union	Exhibit 24
U25	Employment Standards Contact Centre Advisor - Alberta Community and Social Services	Union	Exhibit 25
U26	Non-Insured Health Benefits Analyst - Indigenous Services Canada	Union	Exhibit 26
U27	Provincial Operations Coordinator - Govt of AB	Union	Exhibit 27
U28	Telecom Operator/Dispatcher - Alberta Health Services	Union	Exhibit 28
U29	Telecommunications Operator - RCMP	Union	Exhibit 29
U30	Emergency Communications Specialist - City of Edmonton	Union	Exhibit 30
U31	Employment Standards Contact Centre Advisor - Alberta Community and Social Services	Union	Exhibit 31
U32	External Communication Centre Operatpr - CSIS	Union	Exhibit 32