

Legal Aid Ontario

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# Complaints policy



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# Complaints policy

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**For more information**

For more information please contact the Legal Aid Ontario Complaints Department by:

- Phone: (416) 204-7104
- Toll-free: 1-866-874-9786
- Fax: (416) 204-4718
- Email: [complaints@lao.on.ca](mailto:complaints@lao.on.ca)

# Complaints policy

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## **1. Introduction**

Legal Aid Ontario created its complaints policy to reassure individuals that they have a right to make a complaint and to outline the policies for the procedures involved.

The purpose of the Legal Aid Ontario complaints policy is to ensure that Legal Aid Ontario deals with complaints fairly and quickly, whether the complainant (the person who makes the complaint) lodges the complaint verbally or in writing, and whether or not the complainant is a legal aid applicant.

### **1.1 What is a complaint?**

A complaint is an expression of dissatisfaction with a service provided by or with the policies of Legal Aid Ontario.

### **1.2 Who can file or make a complaint?**

Any person, including an individual who prefers to remain anonymous, can make a complaint, orally or in writing. This includes:

- current clients
- former clients
- lawyers
- Ontario Office of the Ombudsman (the LAO's Complaints Department is the liaison for LAO and this office)
- anyone affected by services from a community legal clinic, a Student Legal Aid Services Society or any other the services Legal Aid Ontario provides

Any individual who has been refused a service can also make a complaint. Legal aid certificate applicants who wish to complain about a matter where the Legal Aid Services Act says they have the right to appeal (such as the refusal of legal aid assistance or contribution agreements) must, however, first complete the appeals process.

Legal Aid Ontario will consider all complaints. Legal Aid Ontario does not, however, have the authority to handle certain complaints alone. It does not, for instance, have the authority to

handle Human Rights issues and some employment concerns alone. Complainants will be advised if their concerns do not fall under Legal Aid Ontario's jurisdiction.

### **1.3 The importance of complaints to Legal Aid Ontario**

Legal Aid Ontario considers complaints as opportunities to:

- evaluate how we are doing
- identify weak points in our policies and procedures so we can correct them
- allow our staff to see our organization through the eyes of the people who use or are affected by our services.

## **2. Responsibilities**

### **2.1 Responsibilities of Legal Aid Ontario**

Legal Aid Ontario will:

- take a professional and conscientious approach to managing a client's file
- manage files on a timely basis
- provide quality legal services and
- ensure that staff follow the procedures established for representing clients

### **2.2 Responsibilities of the Legal Aid Ontario Complaints Department**

Legal Aid Ontario has a centralized complaints system. The Complaints Department receives all complaints, records them, acknowledges them and either resolves them or refers them to the appropriate parties for resolution. If you have a complaint, your first place of contact is Legal Aid Ontario's Complaints Department. It will:

- handle your complaint professionally, efficiently and fairly
- keep you informed of our progress
- give you reasons for our decisions

- treat you with respect
- acknowledge all complaints within the timeframes specified by this policy
- determine whether your complaint is within its jurisdiction (in accordance with this policy) or refer complainants to another office/department for resolution

## 2.3 Responsibilities of complainants

When you make a complaint to Legal Aid Ontario, please:

- provide us with a clear idea of the problem you have experienced and the solution you want
- give us all the relevant information you have (or know about) up front
- tell us new facts as they arise
- let us know if you no longer want our help
- cooperate with us
- treat us with respect

## 3. The complaint process

In general, there are three stages to the complaint process at Legal Aid Ontario.

### 3.1 Stage I: Attempt to resolve the complaint at the local level

Complainants who contact the Complaints Department should, in general, be referred to their local district office, provincial department, community legal clinic or **Student Legal Aid Society**. These offices are responsible for trying to resolve the complaint so it does not go to Stage II.

Clinic client complainants must complete Stage I – file their complaints with the clinic and follow that clinic’s complaint policy – before proceeding to Stage II of Legal Aid Ontario’s complaint process.

Legal Aid Ontario will send the complainant an acknowledgement letter no more than five days after it receives the complaint.

If the matter has not been resolved within 30 days, Legal Aid Ontario will send the complainant a status letter.

### Community legal clinics

All community legal clinics must try to resolve complaints from clients and the public and must therefore have a Stage I complaints policy. As indicated above, clinic complainants must first file their complaints with the clinic and follow that clinic's complaint policy before starting LAO's complaint process.

In general, community clinic complaint policies should set out:

- the right to complain
- who can complain
- what clients and the public can complain about
- the complaints process and
- the right to appeal a clinic's board of directors' decision to Legal Aid Ontario.

Once the complaint has been investigated, the clinic board will send the complainant a letter that includes the outcome of the investigation and any resolution. . This letter should also advise the complainant that he or she has the right to request a review of the Complaints Department decision.

### Student Legal Aid Services Societies

As indicated above and like community legal clinics, every Student Legal Aid Services Society must try to resolve complaints first and must therefore have a Stage I complaints policy.

Once the complaint has been investigated, the dean of the law school where the Student Legal Aid Services Society is located will send a letter that includes the outcome of the investigation and any resolution to the person who lodged the complaint. This letter should also advise the recipient of the right to request a review of the decision by the Complaints Department.

## **3.2 Stage II: Ask Legal Aid Ontario's Complaints Department to help you resolve the complaint**

Clinic client complainants have the right to ask the Complaints Department in Legal Aid Ontario's provincial office for a review of the resolution when:

- they are unhappy with the resolution the district office or provincial department has provided or
- they are unhappy with the clinic board's or Student Legal Aid Services Society dean's final decision.

They must provide the Complaints Department with a copy of the clinic board's or dean's written resolution. Complainants who are clients of the clinic or Student Legal Aid Services Society should also provide a signed "release of information" consent form. Legal Aid Ontario will send the signed release form to the clinic or Student Legal Aid Services Society and ask the clinic's board of directors or the dean to respond.

Legal Aid Ontario's Complaints Department will send complainants a letter no more than five days after it receives the complaint. If the matter has not been resolved within 30 days, Legal Aid Ontario will send a letter with an update.

The Complaints Department reviews how the district area director, provincial office manager, clinic or **Student Legal Aid Society** handled the complaint, and collects additional information from you and the local office, if necessary.

The Complaints Department confirms whether the issues in the original complaint have been addressed and that whether the complainant has been provided with a written response. If a complainant lodged the complaint with a clinic or Student Legal Aid Services Society, the Complaints Department should also confirm that the clinic's complaint policy has been followed.

If more details are required, the Complaints Department will send out a request for additional information. If necessary, it will ask for a response within 15 days. If it does not receive a response within that timeframe, it will send out a second request and ask for a response within seven days. If no response is received at the end of the second deadline, the vice president in charge will be notified.

#### Possible outcomes to a Stage II complaint:

Legal Aid Ontario could determine that:

- the district office, provincial department, clinic or Student Legal Aid Services Society has properly addressed the issue(s) leading to the complaint, and nothing more needs to be done.
- the complaint does not fall within Legal Aid Ontario's jurisdiction; it will therefore refer you to another office or authority
- the district office, provincial department, clinic or Student Legal Aid Services Society did not properly address the issue(s) leading to the complaint; it will therefore require certain action(s) to be taken to resolve the situation

Once Legal Aid Ontario's Complaints Department has completed the review, it will provide the complainant with a written decision and also tell him/her that he/she has the right to have Legal Aid Ontario's General Counsel's Office review the decision of the Complaints Department.

#### Note

The Complaints Department will refer a matter directly to the responsible vice president when:

- the matter is about a district area director or provincial office manager
- the matter relates to governance concerns about a clinic. Governance concerns include:
  - serious financial mismanagement
  - misconduct or professional negligence by lawyers employed by the clinic
  - significant personnel problems
  - the usurping of board functions by staff or others
  - misrepresentation

### 3.3 Stage III: Contact the General Counsel's Office

If the complainant is unhappy with the Stage II resolution, he or she can request that the General Counsel's Office review the complaint.

The General Counsel's Office reviews Stage I and Stage II resolutions and collects additional information, if necessary.

The General Counsel's Office will send the complainant an acknowledgement letter no more than five days after it receives the complaint. If the matter has not been resolved within 30 days, the office will send the complainant a letter that provides an update. The office will send a status update letter every 30 days until the matter is resolved.

The Complainant will receive a written resolution once the General Counsel's Office completes the review.

The decision of the General Counsel's Office is final. There is no appeal or further review.

## **4. Types of complaints**

### **4.1 Complaints about eligibility for Legal Aid**

The people who most commonly initiate this type of complaint include opposing parties in an ongoing civil litigation or family law matter, members of the public, and lawyers retained by a client who wants to apply for Legal Aid support or lawyers for the opposing party.

#### **Who at Legal Aid Ontario is responsible**

Individuals who call our Complaints Department should expect to start with Stage I – they should be directed to the district area office where they are said to reside. Callers who request to speak to the head office should be transferred to our Complaints Department, which in turn will refer the individual to the individual's local district office.

#### **What happens**

The Complaints Department sends information relevant to an individual's eligibility for legal aid to the local district area office. It will do so even if the individual complained about is not in receipt of legal aid assistance, as this information could prove useful if someone makes an application in future.

If the person in question is receiving legal aid, Legal Aid Ontario will usually reassess him or her. The district area office will request the assistance of the Investigations Department if it requires any additional information regarding the client's financial situation, such as corporate searches or credit checks. For confidentiality reasons, Legal Aid Ontario cannot report the results of the investigation to the person making the complaint.

### **4.2 Complaints about lawyer billing**

These calls can come from the lawyer's client, someone contributing on behalf of the client, a subsequent lawyer acting on behalf of the client or a judgment debtor. In most cases, Legal Aid Ontario has signed the client to a contribution agreement (or lien).

#### **Who at Legal Aid Ontario is responsible**

The Complaints Department should facilitate a review by the Lawyer Services and Payments Department, which manages the rest of the review process.

#### **What happens**

The Complaints Department will first ensure that the client is in receipt of the lawyer's detailed accounts for the certificate(s) in dispute.

The client is then instructed to review the accounts and provide:

- his or her objection(s) in writing and
- his/her waiver to release, to the Complaints Department, his or her written objections to the lawyer in question

Once the Complaints Department receives these documents, it sends them to the lawyer and requests a response. The Complaints Department then forwards the lawyer's response along with all the other documents to the Lawyer Services and Payments Department for review. A staff lawyer in the Lawyer Services and Payments Department will then review the account(s) and provide the client with the outcome in writing. This decision is final and not subject to appeal.

### **4.3 Complaints about lawyer services**

These calls can come from the client, the opposing party, a third party or member of the public, or another lawyer.

#### **Who at Legal Aid Ontario is responsible**

In general, the Complaints Department will treat these as a Stage 1 complaint and therefore refer them to the local district area office.

It will, however, refer a complaint regarding the ethics or conduct of a lawyer or paralegal to the Law Society of Upper Canada, which sets and enforces educational, ethical and professional conduct standards for lawyers and paralegals in Ontario.

#### **What happens**

The district area office will address the complaint in accordance with Legal Aid Ontario's complaints policy.

### **4.4 Contribution agreement/liens**

The issue can be a concern regarding payment, a dispute over the balance owing, a request for a discharge of a lien or payout figure or a dispute regarding the presence of a lien.

These calls can come from the client, a contributor on behalf of a client, a joint owner in property, an opposing party or a judgment debtor.

#### **Who at Legal Aid Ontario is responsible**

The Complaints Department, in collaboration with the district area office if necessary, should refer these calls to the Client Account Services Department. If the matter cannot be resolved there, it will go back to the Complaints Department for review.

## What happens

- *Concerns regarding payment*  
The Client Account Services Department, in collaboration with the district area office, will confirm the payments received by the client, as well as the outstanding balance remaining on the contribution agreement.
- *Dispute over the balance owing on a contribution agreement*  
The Client Accounts Services Department will provide the client with a breakdown of the outstanding balance. If the client is unhappy with the breakdown, the Client Accounts Services Department will refer the matter back to the Complaints Department for review.
- *Discharge of lien requests and/or payout figure*  
Once the Client Accounts Services Department receives a written request, it will provide the client and/or his counsel with a payout figure.
- *Dispute regarding the presence of a lien*  
The Client Accounts Services Department will address the concerns that the complainant presents. If the complainant is not satisfied, the matter goes back to the Complaints Department for review.

## 4.5 Complaints about Legal Aid Ontario policy

These complaints usually arise after the person has exhausted all the avenues of recourse available to him or her.

Anyone can share concerns about Legal Aid Ontario's policies, including clients, lawyers, members of the public, social groups, etc.

These complaints can include coverage policies Legal Aid Ontario has implemented, the Tariff and Billing Manual maintained by the Lawyer Services and Payments Department, the services regulations for duty counsel, Legal Aid Ontario office hours, etc.

### Who at Legal Aid Ontario is responsible

The Complaints Department manages these calls.

## What happens

The Complaints Department should review the complainant's concerns and report them to the management of Legal Aid Ontario. The Complaints Department does not, however, have the authority to amend the policies of Legal Aid Ontario to accommodate the concerns of a complainant.

## 4.6 Complaints about clinics or Student Legal Aid Societies

Clinic clients, their agents or members of the public usually make these complaints.

### Who at Legal Aid Ontario is responsible

Even if the complainant requests that the Complaints Department review the complaint, it will be handled as a Stage I complaint. The Complaints Department will review the complaint only after the complainant has presented the complaint to the clinic's board of directors or the dean of the Student Legal Aid Society law school, and obtained the board's or dean's written decision regarding that complaint.

### What happens

If the complainant is not satisfied with the outcome of the review by the board of directors or dean, he or she can request a review by the Complaints Department. Once the Complaints Department has completed its review of the complaint, a written decision is provided to the complainant.

## 4.7 Complaints about French language service

These issues originate with clients, agents, lawyers or other members of the public who are concerned with the French language services provided by the various offices of Legal Aid Ontario.

### Who at Legal Aid Ontario is responsible

The Complaints Department will refer these complaints to the coordinator of Legal Aid Ontario's French Language Services Department.

### What happens

The coordinator of Legal Aid Ontario's French Language Services Department will respond to the complaints directly, with the goal of resolving the issue within 10 business days. If the issue has not been resolved within that time, the coordinator will forward the complaint to Ontario's French Language Services Commissioner's Office. This office is an agency of the provincial government, responsible for investigating compliance with the French Language Services Act, at its own initiative or in response to complaints. This office will communicate the result of its investigation to you.

## 4.8 Complaints about money paid in addition to Legal Aid Ontario contribution

This is a matter where the client or contributor on behalf of the client pays money to the lawyer in addition to receiving support from an acknowledged legal aid certificate.

The caller is usually the client or third party on behalf of the client.

**Who at Legal Aid Ontario is responsible**

As this constitutes a breach of Section 95 of the Legal Aid Services Act, 1998, the Complaints Department will refer these calls to the Investigations Department.

**What happens**

The Investigations Department will require documentation from the complainant to attest to the payment of the funds, such as a receipt or copy of a deposited cheque. It will review this information to determine whether the Act has been breached. It will then take the necessary steps to address the matter.

**4.9 Inquiries about eligibility for legal aid assistance or application status**

These are questions about whether one is eligible for assistance or application status.

**Who at Legal Aid Ontario is responsible**

These are inquiries rather than complaints. Individuals should direct questions about legal aid assistance and application status to Legal Aid Ontario's call centre or their local district office.

**4.10 Inquiries by lawyers regarding the status or payment of accounts**

These are inquiries rather than complaints.

**Who at Legal Aid Ontario is responsible**

Lawyers should direct their inquiries to the Lawyer Service Centre.

## 5. Release of information

Upon request, the following information will be disclosed to the complainant:

- written communications about the complaint between the Complaints Department and the complainant
- written communications about the complaint between the Complaints Department and the subject of the complaint
- written responses to the complaint provided to the Complaints Department from the subject of the complaint
- written responses to the complaint provided to the Complaints Department from the supervisor or manager of the subject of the complaint

There are two significant exceptions to the above. Legal Aid Ontario does not provide:

- information about legal aid applicants or their applications if a complaint is made.
- Information protected by the *Freedom of Information and Protection of Privacy Act*.