

Stakeholder Feedback

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| Session date, time & location: | Thursday, May 25: 4 pm - 5:30 pm Legal Aid Ontario - Hamilton-Kitchener District Office |
| Number of participants: | 4 in total: <ul style="list-style-type: none">• 2 lawyers• 2 settlement agency representatives |

“What LAO Heard”

Refugee & Immigration Trends

- Community agencies noted that, while LAO should continue to anticipate an increase in demand for services from clients entering from the US, the situation in Venezuela and El Salvador is volatile and could drive significant demand.

Legal Aid Ontario’s Refugee & Immigration Budget

- Lawyers and community agencies felt that the negotiations with the federal government should provide ongoing funding indexed to demand. The current funding arrangement is unacceptable to manage refugee and immigration service demand for vulnerable clients.
- Lawyers suggested that, rather than focusing on service reductions, LAO should continue to work on finding a coordinated national response with federal and provincial government partners and other stakeholders from across Canada who are struggling to meet increasing demand.
- Advocacy efforts by community agency representatives with local MPs and MPPS for increased refugee and immigration funding are necessary.
- Lawyers and community agency representatives understand that the demand for refugee and immigration services outstrips LAO’s resources and difficult service suspension decisions may need to be made.

Service Suspension Prioritization

- Participants' views on the service suspensions are predicated on the fact the cuts are required based on the funding crisis and that LAO would continue to work closely with the federal government to find a solution to avoid cuts to the program.
- Overall, there were mixed views regarding the prioritization of LAO's services
 - One lawyer felt that LAO's prioritization was appropriate and that RPDs and RADs were a key priority because of the significant risks posed to clients without access to these services. Prioritizing RPDs and RADs would offer initial services to clients rather than providing additional services to clients who have already accessed LAO services. Detention reviews, applications for *habeus corpus* and general immigration services, including H&C submissions, were viewed as important but given difficult decisions required, the ranking was appropriate as clients are less at risk on removal from Canada.
 - One lawyer did not agree that LAO should be reducing any services for refugee and immigration clients. All services were viewed as critical, especially when specific client circumstances are taken into account. An effective appeal process and BOCBOC preparation are critical. Detention reviews address a client's liberty and could be considered similar to a criminal matter. The best interests of children also need to be considered in the context of humanitarian and compassionate applications.

General Immigration Suspension

- One lawyer thought the temporary suspension of general immigration services was an appropriate response given the significant financial pressure LAO is under. Participants acknowledged that general immigration costs represent only a small proportion of refugee and immigration funding.

Service Suspension Option 1

- Lawyers and community agencies agreed that temporarily suspending all refugee and immigration services when LAO funding runs out in August/September 2017 would be disastrous for clients and could precipitate a large influx of clients prior to suspension. No access to services could also create a community of persons without legal status at greater risk due to a lack of access to legal services.
- Lawyers indicated that if LAO pursued Option 1, there is likely to be a short term increase in the number of applications from clients who respond to the change in policy and move forward their arrival in Canada prior to service suspensions.

- Lawyers highlighted that this option does not take into consideration the prioritization of services required to best serve vulnerable clients.
- Lawyers suggested that this option may not be Constitutional and would be subject to a challenge.

Service Suspension Option 2

- Based on the view that LAO's prioritization of services was accurate, one lawyer indicated that this option to temporarily suspend all refugee and immigration services except RPD services would be the most appropriate given the current funding crisis.
- Another lawyer and the community agencies felt that none of the options were appropriate and that, while RPD services are critical, so are other immigration services. For example, a lack of access to immigration services can lead to detention or the deportation of parents when a child is the basis for an H&C application.

Service Suspension Option 3

- One lawyer felt that this option did not align with LAO's approach to the prioritization of services.
- Lawyers agreed that the BOC preparation is critical. Once the BOC is prepared though, preparing clients for testifying is equally important given the life and liberty interests at stake. If the BOC narrative only is prepared without preparation for the hearing, there is a significant risk to the client as the preparation for the hearing often wins the case. Clients aren't familiar with case law and don't know how to answer or listen to questions. Lawyers can identify issues up front in the BOC preparation and support clients who are highly vulnerable with little education and significant trauma. Persons represented by counsel have better hearing outcomes.
- Community agencies and lawyers indicated LAO may save costs on hearing preparation and attendance at hearing but that LAO should anticipate a significantly higher number of RAD and federal court judicial review applications because clients will have a lower success rate at the RPD.

Alternative Service Suspension Routes

- Community agencies highlighted the opportunity for community partners and refugee lawyer offices to collaborate with volunteers to support various aspects of refugee and immigration services and reduce costs. Some provinces use settlement agencies to support BOC preparation. In-land claims were highlighted as an area where community agencies could help due to the longer timelines for preparing and filing the BOC.
- Lawyers acknowledged the key role that community agencies provide in support to clients and the potential role for volunteers. However, there were risks identified in settlement agencies and volunteers providing BOC preparation due to the level of legal training and experience required to prepare a professional and effective BOC application.
- Community agencies highlighted the fact that the sponsorship of Syrian refugees has been an effective funding model and engaging more with private donors should be considered in efforts to pursue other sources of funding.

Financial Eligibility Assessment

- Lawyers agreed that LAO's financial eligibility criteria should be followed to ensure fair administration of services to vulnerable clients.
- Lawyers indicated that enhanced financial assessment by LAO should also take into account the increasing administrative costs that would be incurred
- Lawyers highlighted that more rigorous merit assessments are required prior to authorizing hearing preparation. Some cases that are authorized for hearing do not have sufficient legal merit. Examples included clients who have returned to the country of origin multiple times or clients who have crossed the US border and with status in the US. Community agency representatives highlighted that they also have a role in educating clients on LAO's financial eligibility guidelines to ensure appropriate referrals.

Impact on Private Bar

- There is very limited refugee lawyer capacity in the Hamilton region. Depending on the nature of service suspensions, lawyers will be significantly impacted.

LAO Policies & Procedures

- There are opportunities to improve *Legal Aid Online*. The BOCs and the narratives are attached directly. A suggestion was to add an option for lawyers to add their opinion on the legal merits of the case.