

**Meeting of Legal Aid Ontario
immigration and refugee law
advisory committee on
October 11, 2017**



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1 Committee members

John McCamus (Chair); Deyanira Benavides; Raoul Boulakia; Debbie Douglas; Rana Khan; Jennifer Hyndman; Gerri MacDonald; Gladys MacPherson; Deepa Mattoo; Toni Schweitzer; Andrea Sesum; Peter Showler; Maureen Silcoff; Christa Freiler (Legal Aid Ontario Board Liaison)

2 Welcome and introductions

Chair John McCamus opened the meeting and welcomed those present.

3 Minutes, April 27, 2017

The minutes of the April 27, 2017 meeting were approved.

4 Legal Aid Ontario business planning slide deck and discussion

The Chair presented an overview of the [Legal Aid Ontario updates and business planning discussion slide deck](#), highlighting recent developments and matters for the committee's consideration.

Committee members provided input and advice. The views expressed do not necessarily reflect the views of every member.

- There was interest in the implications of the drop in the number of Ontario Disability Support Appeals for clinic practice. This trend is likely to result in increased capacity for clinics to respond to unmet needs in other areas of law.
- A member commented on the dispute resolution process for Legal Aid Ontario -funded legal clinics. It was suggested that there is a need for Legal Aid Ontario to review the competency requirements for clinic boards, in order to ensure that these boards have adequate expertise, including legal expertise, to manage clinics effectively. It may make sense to look at compensating clinic board members.

5 Immigration and refugee services update and discussion

The update on Immigration and Refugee services initiatives and priorities was provided by Legal Aid Ontario's executive lead, refugee and immigration Services – Greater Toronto Area.

As the committee is now aware, the good news is that Legal Aid Ontario will be receiving additional funding to enable it to continue providing refugee and immigration services to clients until the end of fiscal year 2017-2018. In spring 2017, under intense financial pressure due to increased demand for services, Legal Aid Ontario had faced the possibility that it might have to suspend refugee and immigration services in the fall. Many partners and stakeholders, including the Refugee Lawyers Association, made significant contributions through lobbying and helped Legal Aid Ontario to avoid a service suspension. The Ministry of the Attorney General also supported Legal Aid Ontario's request for additional federal funding.

Although Legal Aid Ontario's financial situation this year has improved, the refugee and immigration services program is still being operated until then end of March using deficit dollars that were committed by the Board in June. The next fiscal year will present a new challenge. Legal Aid Ontario is already in discussions with the federal government about funding for 2018-2019. By the following year, 2019-2020, there are expected to be changes in place coming out of the ongoing Immigration and Refugee Board review process, and these changes may make the refugee determination process more cost-efficient in the future.

Legal Aid Ontario is focusing on implementing initiatives that will make its services more efficient and help to reduce costs. Legal Aid Ontario is conducting enhanced financial eligibility screening for applicants who arrive on a work or student visa, to ensure that they qualify financially for legal aid assistance, since some of these claimants do have access to additional funds. Legal Aid Ontario has also improved its legal merit assessment screening, and continues to collaborate with system partners to identify opportunities for efficiencies and cost reduction.

Looking ahead, Legal Aid Ontario has developed some additional ideas for consideration and consultation. One of these ideas is centralized translation services. This idea emerged from the consultations that Legal Aid Ontario conducted in the spring. Centralizing translation of standard-form documents, such as birth certificates, from high volume countries would reduce Legal Aid Ontario's costs and at the same time support quality, timeliness, and ease of access to services.

Another idea is for centralized preparation of country research materials. This is not a new idea, and was first raised in the 1990s when Toronto's Refugee Law Office was established. Legal Aid Ontario would work with counsel and the Refugee Law Offices to create high quality country research packages and make them available to panel lawyers. These packages could also potentially be made available at the national level. The initiative would focus on specific high volume countries, with the objective of achieving economies of scale. Some lawyers bill Legal Aid Ontario for research for multiple clients who are from the same country and whose claims are based on similar circumstances. An example would be claimants from China whose claim is

based on membership in falun gong. The currency of the packages would be maintained. The packages could also be tailored to address the specific complexities that typically arise in claims from these high volume countries.

A third proposal that Legal Aid Ontario is exploring is expanding the capacity of staff to conduct Refugee Protection Division hearings. This might be accomplished by identifying two or three countries where there is specialist capacity and creating specialized staff teams that would include junior lawyers and paralegals, to deliver services. These specialized services would be offered in addition to existing staff services that focus on hard to serve clients. There would be no interference with a client's choice of counsel and no impact on the availability of private bar certificates for lawyers representing claimants from those countries.

The federal government has initiated a review of the Immigration and Refugee Board. Legal Aid Ontario has met with the Review Secretariat, and has provided input and submissions on cost drivers in the system. Legal Aid Ontario's submissions have been circulated to the committee. The interim report of the review is expected in December, with the final report anticipated in June 2018.

Looking ahead, it is difficult to predict future demand for services. Legal Aid Ontario will be working with the provincial and federal governments, with the goal of achieving a funding model that will support a sustainable program. Legal Aid Ontario will also continue to work with the Immigration and Refugee Board and will continue to develop proposals for making its program more cost-efficient. The federal government can be expected to be looking for longer term cost efficiencies and a reduction in spending from Legal Aid Ontario.

Committee members provided input and advice. The views expressed do not necessarily reflect the views of every member.

- Members made the point that not all student or work visa applicants who indicate on their application that they have access to funds are being truthful. Legal Aid Ontario needs to be aware that some people claim to have access to funds because they think it will help their application to succeed. It is appropriate for Legal Aid Ontario to ask probing questions to ensure that it has accurate information, but the right people need to be asking these questions. Legal Aid Ontario is aware of this issue and does not make these determinations at the call centre level.
- It is very difficult to predict demand. In terms of the arrivals coming across the border from the United States, it will depend on how many decide to come to Ontario. Demand will also be affected by the speed with which the Board conducts hearings. A trend towards an increased number of expedited hearings has been detected by the Canadian Association of Refugee Lawyers. There is also the issue of the legacy claims. Presently, the Board is processing approximately 34 legacy claims per week.

- In terms of future demand for services, it was felt that Legal Aid Ontario may see some claims from Rohingya Muslim refugees although members speculated that it is not likely that many of them will arrive in Canada. There could be an increase in claims from Venezuela. Legal clinics have been observing an increase in the number of agency applications. A member noted that many legacy claim clients no longer qualify for legal aid by the time their hearings take place.
- A centralized translation service could be a good idea, but there would need to be an adequate amount of work involved to make the contract viable and cost-effective. At the same time, Legal Aid Ontario would have to be careful to avoid the risk of delay in providing the translations to counsel, since lawyers need translations to be completed quickly. If this initiative can be managed efficiently, there is no reason why it would not be useful and well-received.
- The proposal for centralized preparation of country research was viewed by the committee as problematic and likely unnecessary. As presented, it was felt to trivialize the importance and legitimacy of counsel's own research. Research that has been prepared by the Refugee Law Office or by other lawyers can be helpful but it can also be outdated and, most importantly, it may not be right for counsel's individual client and may not assist the Immigration and Refugee Board in deciding a client's particular case. Refugee lawyers already share their research on the Refugee Lawyers Association list-serve, and lawyers also have access to the national packages as a starting point, but lawyers cannot just submit generic research to the Board that has not been updated and supplemented. If there are lawyers who are doing this, then that is a separate problem that Legal Aid Ontario needs to deal with in the appropriate manner. Requiring every lawyer to request an authorization each time they want to bill for two or three hours of research for a client from a high volume country would make legal aid work unpalatable for many lawyers and would be unfair, since the issue Legal Aid Ontario actually wants and needs to address is fraud by some individuals. The concern was expressed that Legal Aid Ontario could just be creating another level of bureaucracy to support a service that does not necessarily help the bar or the Board. Without more information, including on where the potential cost savings would come from, it was not possible for the committee to endorse the proposal as presented. It was suggested that a service that could be of use to the bar would involve the ability to submit a specific question for research.
- The proposal for specialized staff teams was also discussed. The concern was raised that Legal Aid Ontario would be creating this service in competition with the private bar, as opposed to addressing an existing service deficiency. It was suggested that the focus would need to be on high volume countries or countries in respect of which Legal Aid Ontario is having difficulty serving clients. It was not clear to the committee in what way the proposed service would cost less than Legal Aid Ontario's existing service

model, and more costing information would be required to express a definite opinion on this proposal.

- Members noted that no real clarity is emerging about how the Immigration and Refugee Board process can be made to cost less. Any real changes and cost savings are at least two years away. Legal Aid Ontario was advised not to rely on future system reform as the key to eliminating its longer-term refugee funding shortfall issue. In the short term there appears to be a focus on looking at how to increase efficiencies without additional resources.
- If more claims can be expedited, this will save money. The Refugee Lawyers Association has stressed the need to increase the number of countries on the expedited hearing list.
- Legal Aid Ontario was urged to work more closely with stakeholders on lobbying efforts for funding. Legal Aid Ontario needs to push the goalpost towards multi-year funding stability, so as not to have to revisit this crisis each year.

6 Action items

1. Legal Aid Ontario will continue to consult and will provide more detailed information on its proposed initiatives, including information on cost and projected cost-efficiencies.

7 Other business

None raised.