

Stakeholder feedback

Session date, time & location:	Wednesday, May 31 from 3:30 pm - 5 pm Legal Aid Ontario - London District Office
Number of participants:	7 in total: <ul style="list-style-type: none">• 6 lawyers• 1 community agency representative

“What LAO heard”

Refugee & Immigration Trends

- LAO should continue to anticipate an increase in demand for services from clients entering from the US.

Legal Aid Ontario’s Refugee & Immigration Budget

- 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. Attendees broadly agreed that the options LAO is putting forward are far from ideal and will have a significant impact on vulnerable clients.
- Attendees wanted LAO to 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.
- Attendees stressed that this is a federal program and that the federal government should be taking more responsibility.

- One lawyer wanted to know if LAO had information available on the allocation of federal funding for each province for Refugee and Immigration services.

LAO Response: This is a national issue for the federal government and LAO is continuing to work closely with both the Department of Justice and the Ministry of the Attorney General to try and resolve this crisis. British Columbia, Quebec and other provinces across the country are facing similar issues. LAO will work on providing the data.

- One lawyer asked if LAO has the capacity to reallocate money later in the fiscal year if further analysis indicated surplus funds may be available internally from ‘slippage’ to address the financial crisis.

LAO Response: LAO is under significant financial pressure in all areas of legal aid coverage – criminal, family, refugee and immigration. Service changes have been made in other areas of law already. Internally, LAO has frozen salaries for staff, as well as implemented a vacancy savings program.

- One lawyer wanted to know if LAO has looked at other sources of funding.

LAO Response: LAO is willing to explore additional funding sources. However, the Refugee and Immigration program is a federal program with federal responsibilities. In order to ensure long term sustainable funding, LAO is asking for federal funding for refugee and immigration services indexed to demand.

- One attendee wanted to know the reason for the inadequate federal funding.

LAO Response: Despite the increasing demand for refugee and immigration services, the federal government’s financial contribution for these services has remained static for over a decade. In 2016/17 the federal and provincial governments responded to LAO’s urgent request for in-year funding to meet growing demand through an infusion of \$6.72 million. The five year refugee funding plan announced in the March 2017 federal budget increases funding from \$7.4M to about \$9M for two years and then returns to \$7.4M the levels of the previous decade. The increase in funding does not reflect the costs associated with increased demand. LAO’s projected costs of the Refugee and Immigration program are estimated to be \$33.5M. LAO requires a greater increase in funding to meet demand.

- One lawyer wanted to know if the federal government is being kept informed of LAO's refugee and immigration service suspension process.

LAO Response: LAO is continuing to work closely with Department of Justice and the Ministry of the Attorney General to find a resolution to the crisis. LAO remains disappointed by the inadequate funding allocated to the program from the March 2017 federal budget.

- Lawyers expressed frustration with inefficiencies at the IRB. Adjournments are often required because there is no Board member or interpreter available which increases the cost of a RPD certificate. There is no provision made in circumstances where counsel may have had to travel long distances to the IRB.

LAO Response: LAO has been working closely with the IRB to help improve the process.

Service Suspension Prioritization

- Attendees broadly agreed that RPD services were a priority.
- One lawyer indicated that in the London area, at least 50% of the files are border claims meaning the RAD option is not available to many clients.
- One lawyer indicated that it would be helpful for LAO to provide additional information on how refugee and immigration services were prioritized.

LAO Response: LAO used client risk criteria to determine prioritization. Those fleeing persecution and who are at significant risk of harm if returned should have access to legal representation. More analysis can be done between RAD and Judicial Court Federal reviews to ensure an appeal is available to all those whose claim fails at the first instance. The detention reviews and liberty test are also important considerations. LAO will continue to develop the prioritization framework.

- Lawyers indicated that in the London region, detention reviews are not a common issue and that this is dependent upon regional practice. Clients are often detained and held in locations outside of London.
- One lawyer highlighted concerns regarding H&C, PRRA and deferral submissions. There are various issues with which a claim can be denied by the

various levels of courts. The submissions are absolutely critical. If the case does go to a JR you need to be able to show where the officer erred. Without an effective submission or no submission, it becomes very challenging to show or prove the officer erred.

- Another lawyer agreed that keeping all three aspects of submissions are critical. Officers need to be guided and it can undermine client success if there are issues with the quality of submissions.

Service Suspension Option 1

- One lawyer wanted LAO to consider this option. This is a high risk approach with vulnerable clients likely to be severely impacted. The lawyer believed that option 1 would increase pressure on the federal government to provide adequate funding for high quality legal services. LAO's options, especially Option 2, suggest there are efficiencies within the system that can be found that will create an incentive to decrease future funding for refugee and immigration services.

Service Suspension Option 2

- Broad agreement that this is the preferable option, given the difficult decisions that have to be made.
- One lawyer felt that RPD services should be a key priority because of the significant risks posed to clients without access to these services.

Alternative Service Suspension Routes

- One lawyer suggested all stakeholders providing refugee and immigration services, LAO, the IRB and the private bar should take some responsibility for finding efficiencies within the system. There was a suggestion that LAO could reduce disbursements in the area of translation. The private bar could take more responsibility for translating only critical documents, rather than translating all associated documents. LAO could issue a fixed amount of funding for the client and lawyer to determine the best approach regarding disbursements.

- One lawyer suggested LAO should consider exploring how it could recover reasonable costs from the IRB in situations where inefficiencies at the IRB resulted in increased legal aid costs.

Financial Eligibility Assessment

- Lawyers highlighted that more rigorous merit assessments are required. Some cases that are authorized do not have sufficient legal merit. Examples included clients who have crossed the US border with status in the US.
- Attendees indicated that the time pressure to prepare for BOC cases within 15 days creates a challenge to effectively and efficiently financially screen clients. There is an opportunity to work with the IRB to reduce scheduling challenges and the associated costs by promoting changes to the processing timelines of RPD claims.