

Stakeholder feedback

Session date, time & location:	Monday, June 5: 3 pm – 4.30 pm Legal Aid Ontario - Ottawa District Office
Number of participants:	24 in total: <ul style="list-style-type: none">• 15 lawyers• 3 settlement agency representatives• 6 community clinic representatives

“What LAO heard”

Refugee & Immigration Trends

- One lawyer highlighted the growing importance of PRRAs for persons arriving in Canada from the US subject to the Safe Third Country Agreement.

Legal Aid Ontario’s Refugee & Immigration Budget

- One clinic representative and community agency representative highlighted that advocacy efforts were required to pressure local MPs and MPPs for increased refugee and immigration funding. It was noted that clinics would be making an additional submission prior to the June 16 consultation deadline.
- One lawyer wanted to know if the increasing financial eligibility thresholds have had an impact on the increasing demands for LAO Refugee and Immigration services.

LAO Response: Approx. 92% of Refugee and Immigration clients are financially eligible for legal aid. Therefore, there has been a limited impact from the increasing financial eligibility thresholds. The core issue is the increasing demand for refugee legal aid services.

- One attendee wanted to know the percentage of LAO’s refugee and immigration program budget in comparison to LAO’s overall budget?

LAO Response: At \$20.5M, LAO's Refugee and Immigration program budget is approx. 5% of LAO's total budget.

- 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. The federal government is aware of LAO's service suspension timelines.

- One attendee wanted to know if LAO has been advising the IRB about service suspensions as they are a key stakeholder in this process.

LAO Response: LAO is continuing to work closely with the IRB.

- One attendee highlighted the significant costs associated with travel and courier costs for clients in Ottawa travelling to the IRB in Montreal.
- One attendee wanted to know if LAO is considering reducing representation for clients whether it ought to consider issuing less tariff hours for certificates – say 14 hours rather than 16 for RPD matters.

LAO Response: LAO anticipates increasing demand and requires stable funding indexed to demand to provide high quality legal services to vulnerable clients. Reducing tariff hours on certificates may help in the short term but it is not a long term solution. A small reduction in tariff hours on certificates is unlikely to address LAO's 2017/18 financial crisis.

- One lawyer suggested LAO ought to allocate more money from its overall budget to meet the demand for refugee and immigration services.

LAO Response: LAO indicated that it is currently running a deficit due to demand in all program areas (family, criminal) and that LAO serves many vulnerable clients; there is no available funding in LAO's overall budget to allocate to meet the increasing demand for refugee services.

Service Suspension Prioritization

- One attendee highlighted that these service suspensions will have a serious impact on vulnerable clients. If LAO does not cover hearings it is likely that clients will get deported and be tortured. Not about losing housing. We are talking about long term cuts.
- One clinic representative wanted to know if Judicial Reviews for those not eligible for RAD could be prioritized.

LAO Response: Yes. Providing funding was available.

- One lawyer shared concerns with the inclusion of Detention Reviews in the service suspensions. There is a contradiction for LAO to fund criminal services based on a loss of liberty test but not do the same for refugee and immigration services. LAO should incorporate a loss of liberty test into the prioritization of refugee and immigration service suspensions. There will also be broader system wide benefits as the CBSA will save money when people are released.
- One clinic representative highlighted that if LAO prioritizes refugee claims, it is based on the understanding of client vulnerability. If LAO covers only BOC preparation and not hearing representation, the value of client vulnerability is undermined.
- Attendees highlighted that the IRB are cancelling many hearings due to administrative reasons and the IRB won't be able to keep up with demand. If these clients are not eligible for certificates due to service suspensions at least legacy claim clients will have had the opportunity to get work permits. This will not be the case for new refugee claimants with hearings in 60 days of arrival.

General Immigration Suspension

- One clinic representative wanted to highlight that each case will depend on the client involved and suspending General Immigration services may lead to many clients “falling through the cracks.” For example, a client with mental health issues may drop a refugee claim and end up in detention and then require a stay application.

Service Suspension Option 1

- One attendee wanted LAO to consider this option. This would increase pressure on the federal government to provide adequate funding for high quality legal services.

LAO Response: LAO needs to make the best decision to serve clients and manage money. Brinkmanship not a good strategy for helping vulnerable claimants. LAO must be responsible. Option 1 defers solution, and may just mean cancelling earlier if there is higher demand. Maybe more effective for bargaining but not necessarily best for claimants

Service Suspension Option 2

- One attendee highlighted that due to the volume of RPD services, LAO will eventually be forced to suspend RPD services before end of fiscal, 31st March 2018. It is therefore similar to Option 1.

LAO Response: if LAO's Refugee Law Office focuses solely on RPDs more refugees can be served. This will increase RPD certificates from between 700 to 1,200 RPDs. A staff service response would help, but the anticipated demand for 9,000 RPD 2017/18 certificates still leaves a gap. It is possible that RPD services would be suspended in December 2017.

Alternative Service Suspension Routes

- One attendee suggested that clients may be willing and able to pay part of the legal fees rather than have no access to legal services. The attendee encouraged LAO to consider the operational implications of implementing a loan program for clients. Refugees are vulnerable for a particular time and require initial financial support. They are often able and willing to pay this back at a later date. LAO could also consider appealing to prior recipients for refugee and immigration funding for contributions.

LAO Response: LAO will analyze the potential for implementing contribution agreements more broadly and loans. Historically, LAO contribution agreements have had a high rate of delinquency.

- One attendee highlighted that Option 2 and 3 would show that in future years the federal government does not need to fund other immigration services. Contribution agreements would enable LAO to provide all services. Many refugees are willing to pay for costs, potentially as high as a 40% contribution, especially if they can access a loan from LAO and are granted work permits right away. The implications of these funding cuts are severe. Vulnerable clients will likely be deported to torture if LAO does not cover hearings. This is not comparable to losing housing for example.
- One community agency representative suggested there is an opportunity to provide education and training to clients on how to represent themselves. Very few community agencies provide training for clients to prepare for hearings and H&C applications.

Impact on Staff

- One clinic representative suggested LAO should incorporate flexibility into the service suspension plan. At clinics, exceptions are made for compelling cases.

LAO Response: LAO will explore this approach. There are operational challenges to consider in implementing flexibility. This process may be simplified if LAO staff services and clinics take exceptional cases.

- One clinic representative and lawyer agreed it could make sense for clinics or LAO staff to take on more vulnerable clients, if not covered by a certificate. For example, could ILSO do vulnerable claims if clients are not covered, e.g. IADS and Detention Reviews.

LAO Response: There are approx. 1,200 clients to serve annually based on general immigration suspensions and clinics may not have the capacity to serve additional clients. LAO's staff service model could provide additional capacity.

- One attendee wanted to know if Options 2 and 3 would mean a change of role for ILSO and clinics.

LAO Response: LAO does not determine the role of clinics. LAO will be considering changes to the role of ILSO and the Toronto and Hamilton refugee

law offices. For example, potentially limiting practices to only representing highly vulnerable clients.

- Private bar needs clear instructions regarding clients no longer able to access legal aid services and private retainers. Currently there is a lot of shopping around by clients seeking low cost refugee legal services.
- If LAO bifurcates the BOC and hearing, covering only the former, LAO needs to consider providing some direction with regard to private retainers for hearing.

Community Partner Relations

- One community agency representative highlighted that community agencies are not equipped to deal with the fallout from these service suspensions as they are already under significant demand pressure and many are at capacity.