

Stakeholder Feedback

Session date, time & location:	Tuesday, May 30, 2017: 2:30 - 4 p.m. Legal Aid Ontario - Essex Lambton & Kent District Office
Number of participants:	13 in total: <ul style="list-style-type: none">• 2 lawyers• 3 community legal clinic representatives• 1 law student• 7 community agency representative

“What LAO Heard”

Refugee & Immigration Trends

- Community legal clinic representatives highlighted that the Windsor community experienced a rise in people crossing the US border into Canada in very dangerous ways.

Legal Aid Ontario’s Refugee & Immigration Budget

- Attendees broadly agreed that advocacy efforts by community legal clinics, community agency representatives and lawyers with local MPs and MPPS for increased refugee and immigration funding is necessary. It was highlighted that Windsor is a very active community that supports refugees and immigrants.
- 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.
- One community agency representative indicated the current funding arrangement is unacceptable to manage refugee and immigration service demand for vulnerable clients. It was suggested the federal government should take greater

responsibility for funding this federal program to avoid service suspensions and devastating impacts to vulnerable clients.

- One community agency representative indicated concern that 89% of legacy cases are in Ontario and this would have a large impact on LAO's budget.
- LAO is reviewing how to address the demand for legal aid services related to the processing of legacy claims, including how LAO may cover PIF amendments required.
- One lawyer suggested LAO ought to allocate more money from its overall budget to meet the demand for refugee and immigration services. LAO indicated that it is currently running a deficit due to demand in all program areas 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.
- Lawyers expressed frustration with inefficiencies at the IRB. Adjournments are often required because there is no Board member or interpreter available which can often double the cost of a certificate. There is no provision made for cases that have had to travel long distances to the IRB, such as Windsor. LAO has been working closely with the IRB to help improve the process.

Service Suspension Prioritization

- One community legal clinic representative indicated that the service suspensions on offer are untenable and that client risk assessment is critical to this process.
- One lawyer indicated effective BOC preparation is critical. While all services should be viewed as important it was also indicated that the changes of success diminishes for clients with successive remedies engaged; RAD, for instance, has a better success rate than judicial reviews. Given the difficult decisions required it was suggested that RAD and JR services should be lower on the list of priorities.
- One community legal clinic representative indicated that all services were viewed as critical, especially when specific client circumstances are taken into account. Each client has a different path to a potentially successful outcome. For example, not all clients have the opportunity to apply for a RAD. They may, however, have the chance to apply for a Pre-Removal Risk Assessment, which would be their only opportunity to have a risk assessment completed.

- One community legal clinic representative indicated that it would be helpful for LAO to provide additional information on how refugee and immigration services were prioritized. LAO indicated it used a client risk based approach in consultation with refugee staff services. This consultation will continue to build on this process to incorporate broader input on risk and clients.
- One community legal clinic representative indicated that sexual orientation and gender should be included in LAO's vulnerability assessments.
- LAO should anticipate an increase in clients applying for services through community legal clinics. One community legal clinic representative indicated that community legal clinics are already at capacity with limited refugee and immigration law service capacity.
- One community agency representative suggested LAO should not focus on country of origin as part of the financial or legal merit assessment for the application.

General Immigration Suspension

- One lawyer did not agree that PRRAs should be suspended as they are an important remedy for some clients.

Service Suspension Option 2

- One lawyer felt that that RPD services should be a key priority because of the significant risks posed to clients without access to these services.

Service Suspension Option 3

- One community agency representative indicated the importance of BOC preparation and suggested that if LAO followed option 3, it would lead to an increase in the number of appeals as claimants would not have representation at the IRB. This would not be an effective cost saving measure for LAO.
- One lawyer was concerned about the approach LAO would take to determine how certificates would be issued for RPD hearings. The lawyer indicated that clients not covered by a certificate would be forced to self-represent or pay for private counsel at a hearing.

Financial Eligibility Assessment

- Lawyers agreed that LAO's financial eligibility criteria should be followed to ensure fair administration of services to vulnerable clients.
- One lawyer suggested that, in order to improve financial eligibility screening, LAO should request a copy of the form required at the Canadian border that captures a client's 10 year work history. If a claimant has indicated a history of employment this may help improve the financial eligibility decision making process. This would be especially relevant for Windsor as many claims are made at the border.
- One community agency representative indicated LAO could request any work permit documentation to support improved financial eligibility screening.
- One lawyer indicated that many clients will often present a work history and may have used the funds accrued to pay for a smuggler to arrive in Canada. This often means the client has limited to no access to funds despite a work history meaning they would be unable to contribute to legal fees.
- One community agency representative indicated that many clients are required to support family members in their country of origin and that a work history is not always a strong indicator of an ability to pay.
- One lawyer highlighted that LAO should exercise discretion when financially assessing clients. Often assets are not accessible for investigation purposes and can also be inaccessible to the client for a variety of legitimate reasons.
- Attendees indicated that the time pressure to prepare for BOC cases within 15 days creates a challenge to effectively and efficiently financially screen clients. It was suggested that for every applicant who was required to apply for an extension for an RPD claim, there is another opportunity for LAO to reassess the client on financial grounds. This would be beneficial as the 15 day timeframe for the BOC may have meant in depth screening was not possible.
- One lawyer indicated that LAO should include criteria to assess whether a client has access to family supports in Canada to improve financial eligibility screening.
- One community agency representative suggested LAO should begin planning of legacy case processing at the IRB by starting the financial screening process early. This will support clients to identify whether they have counsel available and understand the potential payment requirements. LAO has cancelled many

legacy certificates which are over four years old; a financial re-assessment would be required for these legacy cases going forward.

- One lawyer suggested LAO should explore contribution agreements.
- One community agency representative suggested LAO should provide information to community service providers so that they can help clients understand the financial eligibility assessment process and documents required.

Impact on Community Service Providers

- One community agency representative indicated that previously non-profits were able to support the Haitian and Mexican community. However, with legislative changes under the Federal Conservative government in 2012 and limited funding, there is limited capacity to provide effective support. Community agencies have capacity to support integration in a crisis situation but not supplement the provision of high quality legal services required.