

# CLINIC MODERNIZATION

New framework for the delivery of legal aid services by community legal clinics

## Phase 1 Consultation Paper

AUGUST 2020



LEGAL AID ONTARIO  
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# Executive summary

With the passing of the new *Legal Aid Services Act, 2020*, LAO is working to ensure that we are ready for the new legislation coming into force. This is an important part of LAO's Modernization Project, which includes clinic modernization and aims to update and modernize LAO's services and systems to improve and enhance clients' experience.

To be ready for the new *Legal Aid Services Act, 2020*, LAO is moving forward with a new framework for the delivery of legal aid services by community legal clinics (general service clinics, specialty clinics and ethno-linguistic clinics). The new framework will replace the existing clinic framework and documents, which are outdated and anchored in the current legislation which will eventually be replaced. Changes to the current legislation (*LASA 1998*) cancel existing clinic agreements and contracts on April 1, 2021 and new agreements will need to be in place by that date.

Community legal clinics have a long history and foundational role in delivering important legal aid services that have a significant impact on the lives of low-income Ontarians and disadvantaged communities. The new framework will mean that with the coming into force of new governing legislation, there will be continuity in the delivery of vital legal aid services by community legal clinics, while laying the foundation for continuous improvement, innovation, and enhancement.

LAO must adhere to a number of legislative requirements and government directives. The new framework for the delivery of legal aid services by community legal clinics will be based on LAO's accountability under the new *Legal Aid Services Act, 2020*, the principles and requirements of the *Transfer Payment Accountability Directive*, and the recommendations of the Auditor General of Ontario, including responsibility for monitoring and overseeing the provision of services, and a focus on results.

The goal of the new framework is to ensure that within the parameters of the legislation and applicable directives, client needs are effectively assessed, and the legal aid services required to meet those needs are effectively determined and measured, with a focus on results. LAO also recognizes that legal aid services delivered by clinics have both individual client and systemic dimensions, and the new framework will be developed with this in mind.

The framework will be comprised of LAO board rules and policies; a new process to determine services to be provided based on client needs (to replace the existing funding application); a new agreement, including reporting on results, to replace the existing MOU and funding agreement and associated appendices; and at a later stage, a new approach to allocating funding to communities.

LAO and clinics are committed to promoting access to justice and responding to the needs of low-income individuals and disadvantaged communities in Ontario. Putting clients at

the centre is a strategic priority for LAO that is shared by clinics, which work to improve outcomes for clients and communities across Ontario. LAO looks forward to hearing from clinics on how to move forward with a new framework for the delivery of legal aid services by community legal clinics.

Phase 1 consultations seek clinic feedback on the new framework overview and principles, with a focus on the following areas:

- Determining community needs
- Service and outcomes focus
- Demonstrating that service provider eligibility requirements are met
- Service coordination and supports

In phase 2 consultations will focus on draft board rules and policies, a draft new agreement, and a draft new process for determining services to be delivered with funding (to replace the existing funding application).

Student legal services organizations (SLASS) and Indigenous legal services organizations are also an important part of the legal aid system. LAO will be engaging in a separate consultation process about delivery of legal aid services by these entities under *LASA 2020*.

# Community legal clinics

Clinics are independent organizations with community-based boards of directors and include general service clinics, specialty clinics and ethno-linguistic clinics. Clinics have a rich history of providing community-based legal services to low-income individuals and disadvantaged communities for several decades; many clinics have celebrated 40 years of providing services to their communities.

Clinics are embedded in their communities and have strong connections to other community organizations. They provide a range of services, including legal representation and advice, community development and organizing, law reform and public legal education. Over the years, clinics have had a significant impact advancing the interests of low-income individuals and disadvantaged communities.

LAO recognizes that the services clinics deliver are an important part of legal aid in Ontario, providing critical legal services to protect clients' most basic needs including housing and income security. Clinics will continue to be an important part of providing legal aid services going forward under the *Legal Aid Services Act, 2020*.

The new *Legal Aid Services Act, 2020* recognizes clinics as independent organizations with community based boards of directors. The legislation defines community legal clinics as being “structured as an independent corporation without share capital whose members of its board of directors are members of the community or communities it serves or are persons who have a substantial association with or interest in the community or communities it serves”.<sup>1</sup>

Further, the *Legal Aid Services Act, 2020* recognizes that poverty law services should be based on the needs of communities. The *Legal Aid Services Act, 2020* recognizes the foundational role of clinics in delivering poverty law services and determining community needs. For LAO to make determinations on the provision of legal services in communities across Ontario in the area of poverty law, it will need to have regard for the foundational role of clinics; determinations by clinics of the legal need of communities they serve in that area of law; and any other information on the legal needs of communities in that area of law.<sup>2</sup>

Under the *Legal Aid Services Act, 2020*, clinics will continue to do the important work of delivering community-responsive legal aid services, within a modern, updated framework.

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1 S. 5(1)

2 S. 5(5)

# LAO's core accountabilities, responsibilities & requirements

LAO must comply with the accountabilities, responsibilities and requirements established by its governing legislation, government directives, as well as reviews by the Auditor General of Ontario. This section outlines LAO's core accountabilities, responsibilities and requirements which must be part of LAO's framework for the delivery of legal aid services by clinics going forward.

## *Legal Aid Services Act, 2020*

Under the *Legal Aid Services Act, 2020*, the objects of LAO are:<sup>3</sup>

- To establish and administer a flexible and sustainable system for providing legal aid services
- To establish policies and priorities for the provision of legal aid services based on its financial resources
- To facilitate co-ordination among the different legal aid services that are provided and the manners in which they are provided, including through different service providers
- To monitor and supervise the provision of legal aid services in Ontario
- To advise the Minister on all aspects of legal aid services in Ontario, including any features of the justice system that affect or may affect the demand for or quality of legal aid services.

LAO shall carry out the above objects in accordance with the following principles:<sup>4</sup>

- That legal aid services should
  - Promote access to justice
  - Be efficient, effective and high-quality
  - Be provided in a client-focused, innovative, transparent and accountable manner
  - Be responsive to the needs of low-income individuals and disadvantaged communities in Ontario
  - Promote early resolution, where appropriate
  - Be co-ordinated with other aspects of the justice system and with community services

<sup>3</sup> S. 17(1).

<sup>4</sup> S. 17(2).

- That continual efforts should be made to maintain and improve the effectiveness and quality of legal aid services while ensuring value for money

LAO is accountable for the delivery of legal aid services in Ontario and determines the manner of providing legal aid services.

LAO may provide legal aid services through employed staff and through service providers. Service providers include lawyers, law firms, community legal organizations including community legal clinics, Indigenous legal services organizations, student legal services organizations or other persons or entities.<sup>5</sup> In determining the manner of providing legal aid services, LAO shall not consider the financial impact of the determination on a service provider.<sup>6</sup>

In determining how to provide legal aid services, LAO shall, to the extent practicable, ensure a mix of service providers, as well as a mix of service providers and persons employed to provide legal aid services, that are appropriate for maintaining a flexible and sustainable legal aid system.<sup>7</sup>

In determining how to provide legal aid services in the area of poverty law, LAO shall have regard to:<sup>8</sup>

- The foundational role of community legal clinics in providing services in that area of law
- Determinations by community legal clinics of the legal needs of the communities they serve in that area of law, and
- Any other information on the legal needs of communities served by community legal clinics in that area of law that is provided or made available to LAO

LAO's Board may make rules respecting the provision of legal aid services including the selection and authorization of service providers to deliver services, and the payment of service providers.<sup>9</sup>

In making a determination about the types of services to provide, the areas of law in which to provide them and whether to provide services by staff or non-staff services providers, including community legal clinics, LAO shall consider:

- The needs, as determined by LAO, of individuals and communities in Ontario for legal aid services, including Indigenous individuals and communities and Francophone individuals and communities;

- The cost of providing various legal aid services;

- 5 S. 5(2).
- 6 S. 5(6).
- 7 S. 5(3)
- 8 S. 5(5).
- 9 S. 46.

- The Corporation's financial resources; and
- Any other matter that may be prescribed.<sup>10</sup>

Amendments to the *Legal Aid Services Act, 1998* passed at the same time as the *Legal Aid Services Act, 2020* will cancel all existing Memorandum of Understanding between LAO and clinics on April 1, 2021. This includes every LAO-clinic MOU, funding agreement, the LAO-Clinic Dispute Resolution Policy and the LAO-Clinic Consultation Policy.

## *Transfer Payment Accountability Directive*

In 2017, a new [\*Transfer Payment Accountability Directive\*](#) (TPAD) was introduced by the Ontario Treasury Board Secretariat which sets out principles and requirements that Ontario ministries and funding agencies (hereinafter "funders") such as LAO must adhere to in their oversight of and contractual relationships with funding recipients. Funding LAO provides to community legal clinics is a transfer payment within the scope of TPAD.

Consistent with the *Legal Aid Services Act, 2020*, TPAD establishes that LAO, as a funder, is accountable for the activities it funds by transfer payment. This includes assessing potential recipients, determining the appropriate amount of funding for transfer payment activities, and ensuring appropriate, risk-based oversight of transfer payment activities. For clinics, this means shifting the focus from providing funding to clinics to funding services which are clearly defined. Oversight focusses on impact, outcomes and performance.

TPAD establishes the following principles:

- A. Accountability** – Ministries and agencies are accountable for protecting the public interest. Ministries and agencies hold recipients responsible for delivering the activities for which the funds were received.
- B. Value for money** – Ministries and agencies are efficient and effective in using public resources for transfer payments.
- C. Risk-based approach** – Transfer payment oversight is in proportion to any risks associated with the activity and the recipient.
- D. Fairness, integrity and transparency** – The decision to provide transfer payments and the oversight of transfer payment activities is fair, impartial and transparent and conforms to applicable legislation and corporate policy direction.
- E. Focus on outcomes** – Transfer payment activities are clearly defined and contribute to the achievement of public policy objectives.
- F. Common processes** – Ministries and agencies use common processes, tools and templates as appropriate to create administrative efficiencies and support consistency in

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<sup>10</sup> S. 6.



the oversight of transfer payments.

**G. Information sharing** – Relevant and appropriate information and data are collected, managed and shared across the Ontario government.

**H. Communication** – There is respectful, open and ongoing communication between ministries/agencies and transfer payment recipients.

TPAD requirements focus on three areas: recipient assessment, agreements and oversight.

- **Recipient Assessment**

TPAD requires that funders assess potential funding recipients. Assessments are based on recipients' ability to achieve results.<sup>11</sup> Funders must demonstrate:

- That potential recipients are entities that are legally capable of contracting;
- That potential recipients meet established eligibility criteria; and
- The rationale for funding decisions

Before any funds are provided, funders must make potential recipients aware of the requirements and expectations for the transfer payment, including:

- Desired outputs and/or outcomes
- Eligibility criteria for the receipt of funds and continued provision of funds, including required documentation for proof of eligibility
- General terms and conditions the recipient must meet

In assessing potential recipients, funders must at minimum assess:

- Recipient capacity – governance structures, control structures, recent changes to governance or control structures
- Recipient history – previous/current funding received; known past performance on transfer payment activities (e.g. were the outputs/outcomes achieved)
- Public perception – how the potential recipient is viewed by the public and media.

The results of recipient risk assessments will inform a proportional approach to transfer payment oversight.

- **Agreements**

Agreements are required for the management and oversight of transfer payment activities. Funders must have agreements in place before a transfer payment is provided. Agreements must include:

<sup>11</sup> TPAD s. 6 [table].

- Outputs and/or outcomes of the transfer payment activities
- Terms and conditions of funding
- Performance measures
- Reporting requirements to assess progress in delivering activities and achieving results
- **Oversight.**

Funders must monitor transfer payment recipients to ensure they are meeting the obligations, responsibilities and terms and conditions associated with the activities set out in the agreement. Progressive, proportionate corrective action may be required to respond to and remedy non-compliance.

In moving forward under the new *Legal Aid Services Act, 2020* LAO's new framework for the delivery of legal aid services by community legal clinics must reflect and incorporate the principles and requirements in TPAD.

## Auditor General of Ontario Findings & Recommendations

The Auditor General of Ontario's mandate includes performing value-for-money audits of government and broader public sector activities. As required by the *Auditor General Act*, the Office of the Auditor General of Ontario reports on its audits in an Annual Report to Ontario's Legislative Assembly.

The Auditor General of Ontario made several recommendations in the December 2018 Value for Money Audit of Legal Aid Ontario that related to LAO's funding and oversight of clinics. Recommendations included:

- To better address local needs and priorities equitably, LAO together with clinics should collect complete, accurate and current demographic data on which to base decisions about allocating funding to clinics
- To help keep funding to clinics used for the intended services and to achieve the intended outcome, LAO should work with clinics to finalize clinic performance measures that are used to evaluate the effectiveness of clinics and monitor actual outcomes and address areas of concern in a timely manner
- To help clinics achieve their legislative mandate and intended objectives cost-effectively, the Ministry of the Attorney General should work with LAO to conduct a comprehensive review of the service delivery model and identify areas for improvement

LAO must report to the Office of the Auditor General of Ontario on its progress in implementing the recommendations set out in the value-for-money audit. The Auditor

General of Ontario tracks and publishes the progress of recommendation implementation over multiple years with the goal of ensuring full implementation and, if not satisfied with the progress, can determine appropriate additional follow up work until recommendations are implemented.

## **Additional accountabilities, responsibilities and requirements**

In addition to the above, LAO also has legislative and regulatory obligations that apply to it as a government agency, funder and service provider including but not limited to the *Accessibility for Ontarians with Disabilities Act*, and the *French Language Services Act*, Ontario Regulation 284/11, which requires LAO to ensure that all services provided by a third party to the public on its behalf are provided of equal quality in French in all designated areas of Ontario. All existing obligations must be reflected in the new framework and there has to be sufficient flexibility to incorporate future additional legislative and regulatory obligations that may apply to LAO.

# New framework overview

With the passing of the *Legal Aid Services Act, 2020*, LAO must ensure a clear framework for the delivery of legal aid services by community legal clinics is in place to provide continuity of services to clients and communities and lay a foundation for continuous improvement and innovation in the future.

The goal of the new framework is to update and modernize LAO's funding and oversight of community legal clinics, in line with LAO's accountabilities under the new *Legal Aid Services Act, 2020*, the *Transfer Payment Accountability Directive* and recommendations of the Auditor General of Ontario.

The framework is anchored in LAO's accountability under the *Legal Aid Services Act, 2020* for delivering client-centered legal aid services across Ontario. When LAO delivers services through community legal clinics, it does not transfer its accountability to clinics but instead must have effective structures and systems in place to ensure clinics are delivering community-responsive services for which funding is provided.

A new framework for the delivery of legal aid services by community legal clinics, anchored in LAO's accountability for the delivery of legal aid services in Ontario, will establish:

- Requirements for clinics to be eligible to receive funding to deliver legal aid services as service providers
- Clear and measureable client services to be provided and outcomes to be achieved by clinics that are responsive to community needs
- Collection of consistent, accurate and verifiable data and information from clinics
- Clear terms and conditions governing funding
- Client- and results-focussed, risk-based monitoring and oversight of funded services
- Clear and consistent standards to ensure high quality services to clients
- Improved coordination across clinics
- Equitable, transparent, locally-responsive funding for communities

# Transfer payment cycle

LAO's accountabilities under *LASA 2020* and TPAD are complementary. A new framework for the delivery of legal aid services by community legal clinics will be built on an appropriate transfer payment accountability cycle that includes LAO's accountabilities under *LASA 2020*.



1. **Recipient Assessment:** LAO must conduct risk-based assessments to ensure eligibility requirements to deliver services and receive funding are met by clinics.
2. **Determining services to be provided (desired outputs and outcomes):** Clinics conduct determinations of community needs and identify services (which may include legal representation and advice, community development and organizing, law reform and public legal education) and outcomes to meet community needs. Clinics request funding for these services. LAO will have regard to clinics' foundational role in providing services; clinics' determination of community needs, and the services and outcomes clinics identify to meet community needs; as well as other information on the legal needs of communities. LAO has accountability for ensuring that the legal aid services it funds are responsive to community needs, and that funded services fall within the mandate of

*LASA 2020.*

- 3. Agreement:** Once services to be delivered have been determined, an agreement setting out the services, outcomes and performance measures will be entered. The agreement will set out terms and conditions of funding.
- 4. Reporting & Monitoring:** Services and outcomes will be monitored to ensure obligations, responsibilities and terms and conditions set out in the agreement are met. Progressive, proportionate corrective action may be required to respond to and remedy non-compliance.

# Elements of a new framework

The new framework will be comprised of the following.

## 1. Board rules and policies

- Establish requirements, preconditions and standards for LAO to select, determine eligibility of and fund clinics
- Includes governance, control and financial management structure requirements

*LASA 2020: LAO's board to establish rules for the selection, authorization and payment of service providers.*

*TPAD requirement: Funders must ensure funding recipients meet, on a continuing basis, established eligibility criteria.*

## 2. A new process to determine services to be delivered with available funding

- Replaces the existing clinic funding application which focusses on requesting funding
- Clinics demonstrate thorough assessments of community needs and propose services to be delivered with funding to meet community needs
- Establishes measureable activity and service expectations against which progress can be monitored by clinic boards and LAO
- Identifies services to be delivered with funding and the outcomes that will be achieved
- Will ultimately provide consistent, verifiable data and information that can, at a later stage, inform funding decisions

*TPAD requirement: Recipient assessment is based on ability to achieve results; funders must have a rationale for funding decisions; before funds are provided, funders must make potential recipients aware of the requirements and expectations for transfer payment activity, including outputs and/or outcomes.*

*Auditor General of Ontario: Collect complete, accurate and current demographic data on which to base decisions about allocating funding to clinics.*

### 3. A new agreement

- Sets out terms and conditions of funding, once a clinic has been determined to be eligible and a funding decision has been made
- Funding will be focussed on services, instead of staff and operational costs
- Sets out services, outcomes and performance measures to be provided with funding
- Clear reporting requirements provide information needed by clinic boards and LAO to monitor progress

*TPAD requirement: Agreements are required for the management and oversight of transfer payment activities. Agreements must include outputs/outcomes, terms and conditions of funding, performance measures, and reporting requirements to assess progress in delivering transfer payment activities and achieving results.*

*Auditor General of Ontario: Finalize performance measures (reporting requirements) that are used to evaluate the effectiveness of clinics and monitor actual outcomes.*

### 4. A new process for allocating funding

While not within the scope of the current consultation as it will take place at a later stage of work after *LASA 2020* comes into force, developing an equitable, transparent, locally-responsive approach to allocating funding to communities is also part of a new framework for the delivery of legal aid services by community legal clinics. Before a new funding approach can be developed, better and more consistent data and information about services provided by clinics and outcomes achieved needs to be collected and understood. Through changes to the funding application and reporting requirements, LAO will begin to collect more relevant and consistent information and data from clinics with a view to understanding how that information may inform funding decisions in the future.

*Auditor General of Ontario: Collect complete, accurate and current demographic data on which to base decisions about allocating funding to clinics.*



# Direction for change

The direction of change for the new framework includes:

From <sup>12</sup>	Towards
Clinics assess community needs and determine what legal aid services they will provide with LAO funding.	LAO is accountable for providing legal aid services across Ontario. In determining how to provide legal aid services in the area of poverty law, LAO shall have regard to the foundational role of clinics and clinic determinations of community needs in that area of law.
Annual process for clinic to request funding and set out priorities.	Clinic engages in a strategic and business planning process, setting out services to be provided with funding. Services will be linked to a demonstrated assessment of community need. <i>See consultation questions on determining community needs and on services and outcomes focus.</i>
Information collected in funding applications focusses on staffing and other operational inputs and matters.	Only relevant and necessary information will be collected by LAO. Emphasis will be on the collection of information to allow LAO, MAG and the public to transparently assess how community needs will be met, to demonstrate value for money, and, at a later stage, to inform funding decisions. <i>See consultation question on public transparency.</i>
Funding based on historic or prior year's funding.	Equitable, transparent, locally-responsive funding process (to be developed and implemented at a later stage).
Funding clinics and clinic staff.	Funding client services and outcomes. <i>See consultation questions on service and outcomes focus.</i>

<sup>12</sup> "From" may describe either the current state or the perception of the current state.

From <sup>12</sup>	Towards
Funded services to be delivered and outcomes to be achieved with funding are not clearly identified or measureable.	Services to be delivered and outcomes to be achieved with funding are clearly identified, measureable. <i>See consultation questions on service and outcomes focus.</i>
No clinic system-wide performance measures.	Meaningful performance measures provide valuable information to clinic boards and LAO about client services and outcomes.
In the absence of measurable services to be delivered and outcomes to be achieved with funding, LAO's oversight focusses on compliance and other inputs.	LAO's risk-based oversight places greater focus on clients, services and outcomes. <i>See consultation questions on service and outcomes focus.</i>
Public reporting on services and outcomes varies by clinic.	All clinics publish annual reports with consistent, relevant, accurate information in a publicly accessible, transparent format. <i>See consultation question on public transparency.</i>

# Stages & sequencing

The work on the new framework will be divided into two stages, with the immediate priorities being those elements that have timelines established by the amendments to the existing legislation (April 1, 2021) and need to be in place for the *Legal Aid Services Act, 2020* coming into force.

**Stage 1:** The focus will be on the following elements of the framework:

- LAO Board Rules and policies
- LAO-clinic agreement
- A new process to determine services to be provided (to replace the funding application)

Adaptation and refinement of the elements above will continue after the new legislation comes into force.

**Stage 2:** A second stage of work (not part of the current consultation) will take place in the future after *LASA 2020* comes into force and will include developing a new approach to allocating funding to communities.

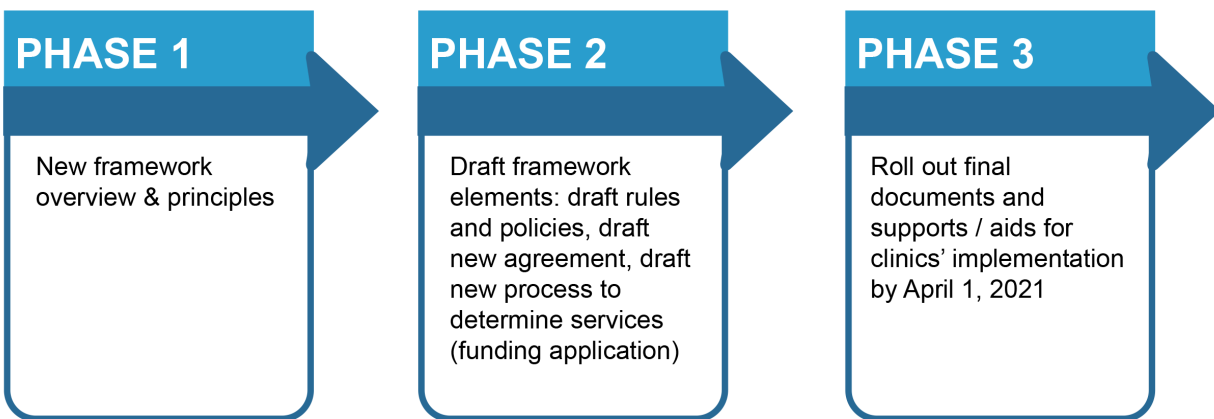
The work at Stage 1 will ensure that when the new legislation comes into force, LAO is able to provide continuity in the delivery of legal aid services by entity service providers, including clinics, while laying the foundation for continuous improvement, enhancement and change. Stage 2 work will proceed at a later time as LAO collects better and more consistent, verifiable and relevant data and information from the work at Stage 1.

# Consultation & engagement process

LAO's focus is on Stage 1 work of the new framework. LAO will consult and engage with clinics guided by the following:

- Needing to abide by the legislative timelines set out in amendments to the existing legislation and the *Legal Aid Services Act, 2020*, including the cancellation of the LAO-clinic MOU and associated appendices on April 1, 2021
- Building on LAO's many past consultations with clinics and tabling concrete idea and directions
- Being clear on the scope of consultations
- Transparently setting out LAO's direction
- Using multiple channels for consultation and engagement
- Recognizing that moving to a new framework is a significant change for clinics, that engaging over multiple phases is ideal, and that appropriate supports will need to be made available to clinics

LAO will consult and engage in phases for Stage 1 of the new framework:



This paper forms the basis for Phase 1 consultation and engagement.

At Phase 2, LAO will table drafts of the Stage 1 elements of the new framework for feedback: draft board rules and policies, a draft new agreement, and a draft new process to determine services to be delivered with funding (to replace the existing funding application).

The focus of Phase 3 is engagement rather than consultation. In this phase, LAO will roll out final versions of the Stage 1 elements of the new framework and support clinics in implementing them for April 1, 2021.

## Work to date

Entering a new agreement to replace the existing and outdated LAO-clinic contractual documents Memorandum of Understanding, Funding Agreement, Dispute Resolution Policy and Consultation Policy has been a priority for LAO for several years.

Commencing in the fall of 2016 and continuing over 2017, LAO and the Association of Community Legal Clinics of Ontario (ACLCO) engaged in a number of meetings about LAO and clinic priorities for a new agreement, including performance measures, consultation, dispute resolution, envelope and multi-year funding.

In addition to past work on replacing the existing MOU and funding agreement, significant work on developing and implementing clinic performance measures has been completed. Performance measures for funding are required by the *Transfer Payment Accountability Directive* and are a critical part of an effective accountability framework. In February 2020, LAO began a pilot of performance measures reports with several clinics to ensure accuracy and reliability of the reports.

LAO has also worked with clinics to improve the collection of client demographic information so LAO, clinic boards and ultimately the public can better understand clinic client services. In 2019 LAO began collecting forward sortation area (FSA - the first three digits of postal codes) and age. In March 2020, LAO rolled out training to support clinic staff collecting race-based information from clients and will begin collecting race-based data from clinics in the future.

# Past consultations and what we've heard

LAO has engaged in extensive, robust consultations, discussions and exchange of information with clinics over the past years on a broad range of topics, including:

- Meetings with the ACLCO every quarter
- Biannual meetings with LAO's Clinic Board Advisory Committee
- August 2019 consultations with clinics and the ACLCO about modernization
- May 2019 consultations with clinics about 2019/20 clinic savings
- Regular clinic-LAO working group reviewing enhancements to CIMS
- Quarterly clinic Information Technology Advisory Committee (ITAC) meetings
- Annual meetings with clinics to review funding applications
- 2017 meetings with the ACLCO about clinic financial eligibility expansion
- 2016-17 meetings with a clinic subcommittee to review the central supports provided by LAO to clinics
- 2017 meetings with the ACLCO re clinic and LAO priorities for replacing the existing MOU and funding agreement documents
- Several meetings with a clinic subcommittee on clinics' community development work
- 2013 series of consultations on performance measures reports
- Individual clinic meetings throughout a regular year

The table below outlines some of the feedback we've heard from clinics about the LAO-clinic relationship and the delivery of legal aid services by clinics. The second column relates the feedback to the direction of the new framework set out in this paper and is meant to be a springboard for discussion.

What we've heard	New framework
Clinic independence is critical.	<i>LASA 2020</i> recognizes this by defining a clinic as "an independent corporation without share capital".

What we've heard	New framework
<p>Community-based boards are crucial. Local boards provide subject matter expertise in areas of clinic focus, facilitate local partnerships and ensure accountability to the community.</p>	<p><i>LASA 2020</i> recognizes this by defining a clinic as “an independent corporation without share capital whose members of its board of directors are members of the community or communities it serves”. LAO will also work with clinics to ensure that their community-based boards reflect the diversity of their communities, including representation from members of racialized and Indigenous communities.</p>
<p>Clinics need to be recognized as the foundation for the provision of clinic law services.</p>	<p><i>LASA 2020</i> establishes that LAO is accountable for the manner of providing legal aid services to maintain a flexible and sustainable legal aid system. <i>LASA 2020</i> recognizes the foundational role of clinics by establishing that in determining how to provide legal aid services in the area of poverty law, LAO shall have regard to “the foundational role of community legal clinics in providing services in that area of law”.</p>
<p>Clinics must continue to determine the needs of their communities.</p>	<p><i>LASA 2020</i> recognizes this by establishing that in determining how to provide legal aid services in the area of poverty law, LAO shall have regard to “determinations by community legal clinics of the legal needs of the communities they serve in that area of law”. These determinations will inform LAO’s overall accountability for establishing and administering a flexible and sustainable province-wide legal aid system. See <i>consultation questions on determining community needs</i>.</p>

What we've heard	New framework
Clinics must continue to determine what services should be delivered to meet community needs.	<i>LASA 2020</i> recognizes that determining the legal needs of the communities they serve is an important role of clinics. Clinics request funding to provide services to meet community legal needs. Services to be delivered with the funding are clear. LAO makes funding decisions based on local need in the context of a province-wide legal system. <i>See consultation questions on service and outcomes focus.</i>
Clinics need more autonomy from and less micro-management by LAO.	The new framework puts LAO's oversight focus on services and outcomes over operational matters. LAO will continue to focus on establishing standards and expectations that create consistency and coordination across the province, for example, in how service information is entered into CIMS. <i>See consultation questions on service and outcomes focus; and service coordination and supports.</i>
A recognition of the "broad array of services" provided by clinics, including community development and systemic responses must be maintained. Systemic advocacy and test case work are cost effective and client-focused.	Clinics will continue to provide a broad array of services to meet the needs of their communities within LAO's mandate under <i>LASA 2020</i> . The services to be provided with LAO's funding will be clearly established so that progress can be tracked by clinic boards and LAO. <i>See consultation questions on service and outcomes focus.</i>
LAO currently provides multiple central supports to clinics. While how these supports are delivered may change, the funding for such supports should not. Supports could be provided elsewhere centrally or regionally or by individual clinics with a transfer of resources.	Where LAO provides supports, LAO will ensure that the service levels clinics can expect are clear. Where supports currently delivered by LAO are more appropriate elsewhere, that transition should be made carefully. <i>See consultation questions on service coordination and supports.</i>



What we've heard	New framework
<p>There should be no decrease to the clinic funding envelope. No changes should be made that reflect an expectation that clinics absorb more funding pressures – this is equivalent to a funding reduction.</p>	<p>Funding has always been contingent on LAO's financial resources. Going forward, funding will be based on services to be delivered.</p> <p>Clinics will determine how to balance competing priorities/pressures and articulate to LAO where and how doing so may have an impact on service levels.</p>
<p>No individual clinic should experience a decrease in funding.</p>	<p>It is imperative that LAO, as steward of legal aid services across Ontario, have processes to fairly and transparently re-allocate funds to respond to changes in the legal needs of low-income communities. <i>A new process for allocating funding is part of Stage 2 work and not within the scope of this current consultation.</i></p>
<p>Stable, presumptive funding is important for clinics. The need for clinic law services across Ontario has only increased. Stable, presumptive funding allows clinics to be a cornerstone of social and legal services in communities across Ontario.</p>	<p>TPAD requires funders to assess recipients on their ability to achieve results. Funding must be linked to specific expectations. <i>See consultation questions on demonstrating that service provider eligibility requirements are met; and service and outcomes focus.</i></p> <p>Stability is important. LAO will work with clinics to adapt to the new framework. Also see next row.</p>
<p>Clinics would benefit from multi-year funding, which allows for longer term planning to meet community needs.</p>	<p>Longer term planning is important. LAO annually provides a three year business plan to the Minister. A similar, risk-based option could exist for clinics.</p>

What we've heard	New framework
<p>Recognizing the systemic nature of clinics is important. Being part of a coordinated system allows clinics to have a larger impact. A move to less central support and more downloading to individual clinics could easily lead to a less coherent and coordinated clinic system unless efforts are made to recognize this principle.</p>	<p>Currently, accountability for clinic coordination is not clear and coordination is ad hoc and based on goodwill. Establishing accountability for clinic coordination in different areas will ensure robust coordination and help identify how and where gaps should be addressed. <i>See consultation questions on service coordination and supports.</i></p>
<p>Maintaining a dispute resolution policy is important.</p>	<p>TPAD requires that a process to deal with non-compliance be progressive in nature, in proportion to risks presented and support funding recipients (in this case clinics) in delivering on desired outputs and/or outcomes, and meeting the terms and conditions established. <i>This will be part of Phase 2 consultation.</i></p>
<p>Maintaining a consultation policy is critical.</p>	<p>LAO will continue to consult and engage with clinics and the ACLCO. In addition, <i>LASA 2020</i> requires LAO to develop a public consultation policy that is subject to approval by the Minister.</p>
<p>Maintaining the right of clinics to seek reconsideration of funding decisions is important.</p>	<p>In allocating funding, LAO must balance needs and be responsive to changes in poverty across the province, within its available resources. LAO will comply with its obligations under <i>LASA 2020</i> with respect to its funding decisions.</p> <p><i>Reviews of funding decisions will be part of Phase 2 consultation.</i></p>
<p>Completing the annual funding application is cumbersome and repetitive.</p>	<p>The funding application focus will shift from inputs to identifying services and outcomes that are linked to community needs.</p>

What we've heard	New framework
Compensation funding for clinics must be increased.	<p>Any provisions for cost increase are subject to LAO's available financial resources.</p> <p>Under a new framework, LAO's oversight will focus on services and outcomes. Clinic boards must determine how to balance competing priorities and pressures and articulate to LAO where doing so will have an impact on service levels. See <i>consultation questions on service and outcomes focus</i>.</p>
Avoid centralization of intake. Instead, "multiple, community-based points of entry", and flexibility in service delivery are needed.	Over the longer term, LAO aims to provide more points of entry and flexibility for clients, including universal (not centralized) intake.
Clinics are already holistic in their approach and skilled at providing seamless, integrated and responsive service delivery in their communities. Clinics should be able to make warm referrals to LAO's CLSC. LAO's CLSC must keep info about clinic referrals up to date	More seamless intake and more points of entry are priorities for LAO.
Any changes to the way clinic funding is allocated must use more than the Low Income Measure. The depth and breadth of poverty, as well as other factors, must be considered.	This is work for Stage 2.

# Conclusion

Questions for consultation have been developed and different methods to provide feedback are available. LAO looks forward to hearing from clinics on moving forward with a new framework for the delivery of legal aid services by community legal clinics.

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