

Clinic modernization

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

Phase 1: Consultation & Engagement



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Background

With the passing of the *Legal Aid Services Act, 2020 (LASA, 2020)*, Legal Aid Ontario (LAO) must implement a clear framework for the delivery of legal aid services by community legal clinics (general service clinics, specialty, and ethno-linguistic clinics) serving communities throughout Ontario. Once in place, this framework will provide continuity of service and lay the foundation for continuous improvement and innovation.

A new framework for the delivery of legal aid services by clinics is an important part of LAO's Modernization Project, which aims to update LAO's services and systems to improve and enhance clients' experience.

Background (continued)

The new framework for the delivery of legal aid services by community legal clinics will update and modernize LAO's relationship with clinics, in line with LAO's accountabilities under:

- ***LASA, 2020***
- **Transfer Payment Accountability Directive (TPAD)**
- **Recommendations of the Auditor General of Ontario**

The new framework will replace the existing clinic framework and documents, which are outdated and anchored in the current legislation, *LASA 1998*.

Under *LASA, 1998*, existing clinic agreements and contracts are cancelled on April 1, 2021. New agreements need to be in place by April 1, 2021 to provide continuity of services.

Consultation

Stages and sequencing

Work on the new framework will be divided into two stages.

Stage 1 (current consultation): Elements that need to be in place for *LASA, 2020* coming into force (date TBD) and the cancellation of the existing MOU and funding agreement:

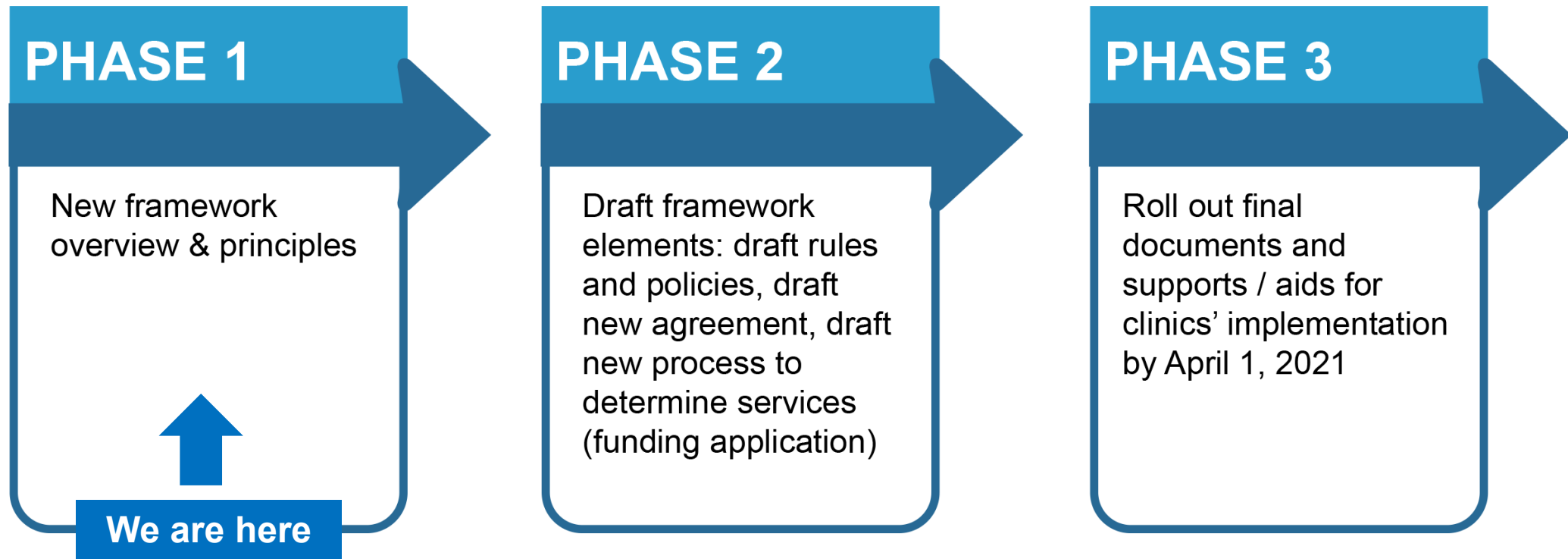
- **LAO board rules and policies**
- **LAO-clinic agreement**
- **A new process to determine services to be delivered with funding (replaces the existing funding application)**

Stage 2: Developing a new approach to allocating funding to communities (not part of the current consultation—post April 2021).

Sequencing: The work at stage 1 will lay the foundation for continuous improvement and ensure that when *LASA, 2020* comes into force, there is continuity in the delivery of legal aid services by clinics. Stage 2 work will proceed as LAO collects more consistent, verifiable and relevant data and information from the work at stage 1.

Stage 1: Consultation and engagement process

Stage 1 will be divided into 3 phases of consultation and engagement



Context

About community legal clinics

Clinics have a rich history of providing community-based legal services to low income individuals and disadvantaged communities across Ontario.

- Independent entities with community-based boards of directors
- Types: general service, specialty, and ethno-linguistic
- Embedded in their communities with strong ties to community organizations
- Range of services: legal representation and advice, community development and organizing, law reform, and public legal education

Clinics and *LASA, 2020*

LASA, 2020 recognizes:

- Clinics as **independent organizations** with community-based boards of directors, s. 5(1)
- Clinics' **foundational role in delivering poverty law services** and determining community need, s. 5(5).

LAO's core accountabilities, responsibilities, and obligations

- 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 *LASA, 2020*
 - Requirements of the *Transfer Payment Accountability Directive*
 - Recommendations of the Auditor General of Ontario's Value for Money Audit of LAO (2018)

LAO & LASA, 2020

- *LASA, 2020* sets out Objects and Principles of LAO (s. 17).
- LAO determines the manner of providing legal aid services (s. 5)
- In determining how to provide legal aid services in the area of poverty law, LAO shall have regard to (s. 5(5)):
 - 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.
 - Any other information on the legal needs of communities served by clinics in that area of law that is provided or made available to LAO.
- When determining the manner or providing legal aid services, LAO shall not consider the financial impact of the determination on a service provider (s. 5(6)).

Transfer Payment Accountability Directive

- The principles and requirements that ministries and funding agencies must adhere to in their oversight of and contractual relationships with recipients of public funds.
- Establishes that ministries and funding agencies are accountable for the activities funded by transfer payment.
- This responsibility includes assessing potential funding recipients, determining the appropriate amount of funding for transfer payment activities, establishing agreements, and ensuring appropriate, risk-based oversight of transfer payment activities.
- Oversight focusses on results.

LAO and the Auditor General of Ontario

In the December 2018 “Value for Money Audit” of LAO, the Auditor General of Ontario made several recommendations that related to LAO’s funding and oversight of clinics, including:

- 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 ensure clinic funding is used for the intended services and to achieve the intended outcomes, LAO should work with clinics to finalize the reporting of 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**

Framework

Overview

The new framework will establish:

- Eligibility requirements for clinics to receive funding
- Clear and measurable community-responsive services to be provided and outcomes to be achieved
- Consistent, accurate and verifiable data/info that clinics will provide LAO
- 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 service to clients
- Improved coordination across clinics
- Equitable, transparent, locally-responsive funding for communities

New framework

High-level elements of the new framework include:

1. LAO board rules and policies for entity service providers, including community legal clinics.
2. New process for determining services to be delivered with funding (to replace the existing funding application).
3. New agreements between LAO and individual clinics.
4. New approach to allocating funding to communities (not part of current consultations).

Framework: 1. Board rules and policies

- Requirements, preconditions and standards used to determine clinic eligibility and selection for funding.

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.

Framework: 2. New process to determine services to be delivered with funding

- Replaces the existing clinic funding application
- Clinics demonstrate thorough assessments of community needs and propose services to be delivered with funding
- Establishes measurable activity and service expectations against which progress can be monitored by clinic boards and LAO
- Defines services to be delivered and outcomes to be achieved
- Provides consistent, verifiable data/info to 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: Collect complete, accurate and current demographic data on which to base decisions about allocating funding to clinics.

Framework: 3. New agreement

- Sets out terms and conditions of funding
- 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: Finalize performance measures (reporting requirements) that are used to evaluate the effectiveness of clinics and monitor actual outcomes.

Framework: 4. New process for allocating funding

- While not within the scope of the current consultation, developing an equitable, transparent, locally-responsive approach to allocating funding to communities is an integral part of establishing 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/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 be able to collect this data/information from clinics and use it to inform future funding decisions. This will be part of future consultations, after *LASA 2020* comes into force.

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