



**Neighbourhood
Legal Services**
LONDON AND MIDDLESEX

**Submission for Legal Aid System
Modernization Project Consultation**

**Neighbourhood Legal Services (London & Middlesex) Inc.
September 5, 2019**

Background:

Neighbourhood Legal Services London & Middlesex (NLSLM) is one of Ontario's 72 legal clinics providing poverty law services for low income individuals/families. NLSLM assists residents of London and Middlesex County with legal issues in a number of areas, including: Ontario Works, Ontario Disability Support Program, Canada Pension Plan Disability, Landlord/Tenant issues, and Employment Law. We also engage in law reform and public legal education activities, though the primary focus is on helping individuals and families by ensuring they have legal representation for their greatest and most basic needs.

Due to the nature of our work, we regularly observe the challenges and difficulties that low income individuals/families encounter as they navigate their lives. NLSLM is in the unique position of recognizing the direct impact of administrative and other decision-making on the lives of London/Middlesex residents living in poverty. Part of our clinic's mandate is to engage in law reform, thus ensuring that the interests and concerns of low income Londoners/Middlesex County residents (those on social assistance, fixed-income, working poor) are made known and taken into consideration in the area of public policy. This is a crucial part of our role in this community.

The Association of Community Legal Clinics of Ontario (ACLCO) has provided a very extensive and well-reasoned submission on the value and critical importance of the legal clinic system in this province. Note that we fully support and endorse the submissions of the ACLCO. The following constitutes our submission from the point of view of those we serve in London and Middlesex County. Indeed, we believe that the results of the LAO's modernization project have the potential to greatly impact low income individuals in London and Middlesex County.

Funding and Assessment of Local Needs:

Our clinic has repeatedly been determined to be an under-resourced clinic based on the number of low income persons residing in London & Middlesex, and the Financial Eligibility Guidelines

(FEG). As a result, on three occasions our clinic has received additional funding in order to better service the low income population in our area. With this additional funding, NLSLM and its Board have assessed and then expanded our services in a number of areas, focusing on where the demand for poverty law and other legal services for the most vulnerable have been greater than our resources. We have consistently found those areas to be: Housing (representing tenants), Employment law (for precariously employed and other low income workers), and Income Maintenance/Social Assistance (where social assistance benefits are affected such to put the necessities of life in jeopardy for individuals and families).

In determining how to implement increases to our funding (referred to in the system as FEG increases), we received extensive input from the community and completed a number of assessments of the unmet legal needs of our local low income population. Based on the input from our community and our collection of data, our Board of Directors, which is made up of volunteer community members representing various segments of the London and Middlesex population (Middlesex County, Labour, Law, Social Work, Mental Health, Social Services, and people with lived experience in poverty and disability) made the decision as to how the most recent two FEG increases would be delivered to our community. This resulted in a focus on Employment law for precariously employed and low income workers, and representation for tenants facing the loss of their subsidized housing due to mental health and other reasons beyond their control. It has been essential to have a local Board of Directors in a position to assess our local needs and our ability to respond to them as a poverty law clinic.

Despite receiving FEG funding, demand for our services is greater than we are resourced for, particularly in the areas of Employment Law and Housing. Indeed, the number of individuals and families defined by the Low Income Measure (LIM) residing in London and Middlesex is high. We are a community with high levels of unemployment and are within an urban area where low income individuals migrate to due to the availability of other necessary services (transportation, health care, mental health/addictions services, homeless and women's shelters, etc.).

Our clinic has constantly evolved to better meet the unmet legal needs of the community here, and we have adapted to local realities. Below are a number of our initiatives, only to name a few:

- (a) NLSLM is committed to working directly with our local Indigenous community to understand its needs and adapt accordingly. Our expansion in this area includes operating and staffing a Mobile Legal Clinic at a local Indigenous community agency. This is an example of how our clinic, and the clinic system, is flexible and adapts to meet the needs of society's most vulnerable groups.
- (b) Previously, NLSLM implemented a program with the Family Law Information Centre (FLIC) and Family Law Duty Counsel to increase the availability of family law advice for our clients. The program involved hosting a lawyer who provided family law advice on-site. This program did not continue beyond its one year pilot period as we found most clients attended FLIC directly for this service and our program was not utilized. NLSLM maintains an excellent working relationship with those at FLIC and is fortunate to be located just one block away from the courthouse

where the FLIC is housed. For London, the hub of services is downtown, with best access to bus routes, and an array of community and other services.

- (c) NLSLM was also involved with the Legal Health Check-Up Pilot, which endeavoured to use a web based platform to detect our clients' legal issues before they reached the point of requiring urgent attention. The Legal Health Check-Up also allows for collection of important data about our clients and their needs. Despite the pilot project having ended, NLSLM continues to implement the project, monitoring the results of surveys clients complete on line.
- (d) Our clinic has evolved to develop an excellent working relationship with the post-secondary institutions in London, including Western University and Fanshawe College, such to increase and expand our services. We oversee and utilize a number of student programs, hosting several students a year for placements from the programs of Law, Paralegal, Social Work, and Social Service Worker. While the use of social work students has allowed us to offer greater and different services, there is immense need for an on-site registered social worker. Our clients come to us with complex needs and multiple issues, including some that go beyond a legal solution. In order to serve our clients with a holistic approach and improve their stability, having a social worker on site is essential.
- (e) We continue to participate in many local endeavours aimed at reducing the impact of poverty for our clients, and this is an important aspect of our role. We Chair several groups and committees including the Community Advocates Network and Sub-Committees of the Child and Youth Poverty Network. We are pulled into many consultations with the City, in various areas including housing and homelessness, due to our expertise and experience about the local realities of the most vulnerable residents of London & Middlesex.

Local Boards of Directors/Clinic Governance:

We submit that clinic law services must be provided by independent community clinics governed by community boards of directors. Clinic boards must continue to be responsible for determining the needs of their specific communities and how best to meet those needs. Clinics cannot be at the whim of governments and bureaucrats but must maintain their independence and ability to speak out and act for those who are powerless against such forces. Independent clinics governed by their own Boards of Directors are therefore essential.

Notwithstanding that, we do support the ACLCO's recommendation that clinic governance be improved by strengthening boards and clinic management. Indeed, local volunteer Boards made up of various types of community members need to be supported and strengthened by Legal Aid Ontario, and resources which already exist at LAO need to be made available to them.

We submit that LAO needs to better support local Boards in a number of areas. Indeed there are many facets of LAO that, despite its vast resources and role as funder, serve only to hinder (and

not help) Boards in their ability to make appropriate decisions in a way which constructively moves the agency forward, and which is responsive to the legal and other real world realities clinics face. We submit that the clearest example of that, for our clinic historically, and at this moment as well, is the example of Commercial Leasing.

Our experience has been particularly difficult of late as we are in a situation of having exercised our right to extend our lease some time ago and before the change in government. At that time, we triggered a provision that extends our lease automatically, and leaves us with only the issue of determining the amount of rent. If an amount of rent for the extended term cannot be agreed upon between landlord and tenant (us), there is a forced and expensive arbitration which will determine the rent (and likely impose a rent not as favourable as that which we have been able to negotiate). Those are the only two options. The lease is already extended – it is not a new commitment since the change in government and recent budget.

We have advised LAO that we were able to negotiate a new rent which is below fair market value. Though it is in our financial interests to accept that (and is also in LAO's financial interests as funder), instead of proceeding to an arbitration (which is the only other option), there has been a failure on the part of LAO to direct its resources in a way as to recognize that, and support our Board accordingly. With that lack of support and guidance from the commercial Leasing department at LAO, our Board has been left confused. The response of LAO has been only to advise our Board that they are not to enter into new commitments beyond March 2020 (though we have explained it is not a new commitment) and that they are on their own to get legal advice and govern themselves accordingly.

This situation has left the Board in an unnecessarily difficult situation. The entire exercise around this Lease is demonstrative of the problem of Leasing at LAO and lack of adequate support for Boards, as one example. We would submit that the matter of our Lease should not have been a time consuming and expensive exercise. With the resources at LAO (in commercial leasing and legal) this is a matter that should have been straightforward and based on sound business principles.

Finally, we submit that there also needs to be clinic led learning and training for clinic Boards and managers to support and improve clinic governance and management.

Cost Efficiencies of Clinics and Degree of Front Line Service:

We submit that our clinic, like many others, is extremely cost efficient and that this reality needs to be considered in any review of legal aid services. The cost per file is very low, compared to any other form of legal representation (certificate, or otherwise).

Significantly, personnel costs are low in the clinic system as lawyers and caseworkers are paid far below their counterparts in government, private sector, and even within Legal Aid Ontario and Duty Counsel across the province.

The costs of operating clinics are particularly low when considering the quantity of front line services that Clinics provide. The Clinic budget is basically comprised of rent, supplies, and personnel costs for front line staff. All caseworkers (lawyers and paralegals), as well as support staff, provide significant front line functions, helping people who have nowhere else to turn on a daily basis. Even Executive Directors carry caseloads, including here in London where the Executive Director has always carried a full caseload.

Clinics as Model of Choice and Importance of *Legal Aid Services Act*:

Based on the foregoing, we submit that our clinic, and the clinic system as a whole, is extremely cost efficient and flexible in adapting to changing local needs. We are actively working to improve the system and change alongside our changing society, and we are doing so despite financial constraints.

We submit that the current clinic model is an envy of most jurisdictions worldwide and must be protected and preserved, partly through the preservation of the elements of the *Legal Aid Services Act* which pertain to Clinics.

The clinic model, arguably, should be considered as the model of choice for the delivery of all legal aid services (including family/criminal/immigration). At a minimum, the clinic system should be looked to for ideas on how to improve other legal aid service areas. **However, we submit that the current clinic system cannot immediately take on new areas, such as family and criminal law, as this would deplete our resources and impact our ability to provide our current services and remain as poverty law clinics.**

The Submission of the ACLCO speaks to the importance of the clinic system, and provides important background in terms of independent reports, research, and statements of previous Attorney Generals. We would emphasize that such information is crucial for any review of Legal Aid and the Clinic system.

Conclusion:

We submit that the Clinic system must be preserved in its entirety given its ability to continue to provide front line service and access to justice, at an extremely reasonable cost. Clinics are indeed very lean entities and this should be a consideration for this government given its priorities.

We require stable and adequate funding to continue to meet the needs of our low income population in London & Middlesex. Our clinic must also retain its independence with a local Board of Directors who will govern with the needs of the most vulnerable residents of London & Middlesex in mind.

In order to preserve Ontario's clinics, the protections which allow for a separate and independent clinic system need to be maintained in any review of the *Legal Aid Services Act*. Clinics must retain their ability to not only represent individuals and families, but to participate in law reform

to advocate for systemic change, and engage in community development and public legal education initiatives. All of those measures serve the interests of access to justice for Ontario's most vulnerable, and allow us to be a province which is just and equitable.

All of which is respectfully submitted
this 5th day of September, 2019

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Services (London &
Middlesex) Inc.