

Memorandum of Understanding

Legal Aid Ontario and Community Legal Clinic



Legal Aid Ontario Memorandum of Understanding Legal Aid Ontario and Community Legal Clinic

MoU between: Legal Aid Ontario (“LAO”) and Community Legal Clinic (the “Clinic”)
Content owner: Legal Aid Ontario Board of Directors
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LAO-Clinic dispute resolution policy

1. Introduction

The purpose of the *Legal Aid Services Act, 1998* is to promote access to justice throughout Ontario for low-income individuals, by identifying, assessing and recognising the diverse legal needs of low income and disadvantaged communities and responding by providing consistently high quality legal aid services in a cost effective and efficient manner.

In accordance with the Act, Legal Aid Ontario is to encourage and facilitate flexibility and innovation in the provision of legal aid services, while recognising the private bar as the foundation for the provision of legal aid services in the areas of criminal and family law, and clinics as the foundation for the provision of legal aid services in the area of clinic law.

Legal Aid Ontario and the Clinic recognize and acknowledge the legitimate, distinct and complementary roles and responsibilities of each in the delivery of legal aid services to low income and disadvantaged communities. Legal Aid Ontario and the Clinic will work together in promoting access to justice for low income Ontarians, in providing high quality legal aid services in a cost-effective and efficient manner and in demonstrating accountability for the expenditure of public funds. Both Legal Aid Ontario and the Clinic are committed to respecting and advancing the principles of equity and human rights.

Ontario's community legal clinics are a vital component of Ontario's legal aid system, and clinic law is a priority area of law for Legal Aid Ontario. Legal Aid Ontario recognises and acknowledges the importance and value of independent community legal clinics in the delivery of clinic law legal services. Legal Aid Ontario recognizes and acknowledges the importance of the support provided by Legal Aid Ontario to the Clinic. Legal Aid Ontario also recognises and acknowledges the Clinic's statutory responsibility to determine the legal needs of the individuals and communities served or to be served by the Clinic and the Clinic's responsibility to ensure that it provides legal aid services in accordance with those needs in a high-quality, cost-effective, accountable and efficient manner.

The Clinic recognises and acknowledges Legal Aid Ontario's statutory responsibility to ensure that the Clinic is determining the legal needs of the individuals and communities that the Clinic will serve and Legal Aid Ontario's responsibility to ensure that legal aid services are provided in a high-quality, cost-effective, accountable and efficient manner.

2. Purpose of the agreement

This Memorandum of Understanding is intended to:

- a) Define the roles and responsibilities of Legal Aid Ontario and the Clinic for the term of this Memorandum;
- b) Establish a framework for ongoing relations between Legal Aid Ontario and the Clinic. That framework includes the Funding Agreement, the Consultation Policy and the Dispute Resolution Policy that are appended to this Memorandum.

In the event of a conflict between this Memorandum of Understanding and the *Legal Aid Services Act, 1998* or any other applicable law, the Act or applicable law prevails.

3. Definitions

For the purposes of this Memorandum of Understanding and the attached Funding Agreement, Consultation Policy and Dispute Resolution Policy,

- a) "the Act" means the *Legal Aid Services Act, 1998*, and includes the regulations under the Act;
- b) "clinic" means an independent community organisation structured as a corporation without share capital that provides legal aid services to the community it serves on a basis other than fee for service, and includes the Board of that clinic;
- c) "Clinic Committee" means the committee of the LAO Board of Directors established under section 8 of the Act;
- d) "clinic law" means the areas of law which particularly affect low-income individuals or disadvantaged communities, including, legal matters related to,
 - i. housing and shelter, income maintenance, social assistance and other similar government programs,
 - ii. and human rights, health, employment and education.
- e) "Clinic Law Advisory Committee" means the advisory committee of the LAO Board of Directors established under section 7 of the Act;
- f) "clinic law services" means legal and other services provided under the Act, in clinic law areas, and includes legal representation and advice, community development and organising, law reform, and public legal education;
- g) "Legal Aid Ontario" or "LAO" or "corporation" means Legal Aid Ontario established under the *Legal Aid Services Act, 1998* and includes the Board of Directors of LAO;

4. Legal Aid Ontario corporate matters

Legal Aid Ontario is a corporation without share capital that is independent from, but accountable to, the Government of Ontario, as set out in the *Legal Aid Services Act, 1998*.

The affairs of Legal Aid Ontario are governed and managed by its Board of Directors.

The Clinic Committee of the LAO Board of Directors is responsible for any functions that are assigned to it by the LAO Board and those that are specifically identified in the Act, including:

- a) recommending policies and guidelines to the Board in respect of LAO's funding of clinics;
- b) recommending standards to the Board for the operation of clinics;
- c) making decisions with respect to applications by a clinic for funding and reconsidering such decisions made by it or by an officer or employee of LAO.

The LAO Board of Directors shall establish a Clinic Law Advisory Committee, whose composition and function shall be as determined by the Board of Directors.

5. Legal Aid Ontario's roles and responsibilities

The *Legal Aid Services Act, 1998* gives Legal Aid Ontario the responsibility and authority to establish and administer a cost-effective and efficient system for providing high quality legal aid services to low-income individuals and disadvantaged communities in Ontario, and to

- a) determine the legal needs of low-income individuals and disadvantaged communities in Ontario;
- b) establish priorities for the areas of law, types of cases and types of proceedings for which it will provide legal aid services;
- c) establish policies for the kinds of legal aid services to be provided in the different areas of law, types of cases and types of proceedings;
- d) establish policies and priorities for the provision of legal aid services based on its financial resources;
- e) develop the financial eligibility requirements to be prescribed under the Act;
- f) facilitate co-ordination among the different methods by which legal aid services are provided;
- g) provide legal aid services in the area of clinic law having regard to the fact that clinics are the foundation for the provision of legal aid services in that area;
- h) establish operational standards and policies which are consistent with this Memorandum of Understanding and its appendices;
- i) monitor and supervise legal aid services provided by clinics and other entities funded by LAO;

- j) co-ordinate services with other aspects of the justice system and with community services; and
- k) advise the Attorney General 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.

6. Legal Aid Ontario's support to the clinic

Legal Aid Ontario and the Clinic acknowledge that the responsibility for the success of the Clinic and the clinic system in delivering high-quality clinic law services to low income individuals and disadvantaged communities in Ontario is shared by LAO and the Clinic and is enhanced by LAO leadership and support. Accordingly, LAO commits to maintaining a clinic services office and to providing the following assistance and administrative and legal support services to the Clinic to facilitate the effective functioning of the Clinic, subject to the Act, this Memorandum of Understanding and LAO's available financial resources:

- a) Services to caseworkers delivering legal services, including legal research, a clinic law database, publications, litigation support and continuing legal education materials, as presently provided by the Clinic Resource Office;
- b) Services of the Quality Assurance Program;
- c) Management assistance with respect to clinic administration and personnel, annual business and budget planning including the approval of the annual business plan and budget, unresolved disputes within the clinic and the implementation of LAO policies, procedures and operational standards;
- d) Information and support to assist clinics in managing themselves, including information with respect to needs assessments, caseload statistics, financial management, and human resources management;
- e) Administration of a group benefits plan for clinic employees;
- f) Administration of a group RRSP for clinic employees;
- g) Administration of insurance policy coverage for clinics, clinic staff and clinic boards, including: property and general liability, directors and officers liability and professional liability;
- h) Training opportunities for clinic staff and clinic Board members;
- i) Audit of clinic and trust accounts;
- j) Support for purchasing, leasing and maintenance contracts for office equipment, including: computers, printers, telephone systems, photocopiers, fax machines;
- k) Computer and communications equipment installation, support and training;
- l) Software application development, training and support;
- m) Support for capital purchases and facilities management;

- n) Lease negotiation assistance;
- o) Copies of all LAO policies, procedures, directives, guidelines and other communications which pertain to the clinic system, including copies of operational standards and quality assurance standards.

7. The clinic's role and responsibilities

Pursuant to the *Legal Aid Services Act, 1998*, LAO and the Board of Directors of the Clinic have a responsibility to ensure that clinic law services are delivered to low-income individuals and disadvantaged communities in Ontario. The Board of Directors of the Clinic agrees to:

- a) ensure that the board is comprised of members of the communities to be served by the clinic and make reasonable efforts to have a board that includes persons representative of the low-income community, persons reflecting the diversity of the community, persons with experience working with community agencies, persons with financial skills, persons with management skills and lawyers;
- b) effectively and efficiently manage the services, finances and personnel of the Clinic in a manner consistent with the responsible and cost-effective expenditure of public funds;
- c) develop such policies, procedures and guidelines as are necessary for the effective and efficient operation of the Clinic;
- d) regularly determine the legal needs of the individuals and communities to be served by the clinic, and to provide clinic law services in accordance with those needs, including such advocacy as appropriate to address the community's needs;
- e) ensure that the Clinic is flexible and innovative in the provision of clinic law services;
- f) develop an annual business plan (for approval by LAO), based on an objective assessment of the community's needs, which sets out measurable goals and the objectives and results the clinic expects to achieve for the year;
- g) ensure that the Clinic complies with its approved annual business plan;
- h) ensure that clinic staff provide high quality services consistent with the clinic's business plan, including referrals, advice, brief services, casework, law reform, public legal education and community development as described in the approved business plan;
- i) ensure that clinic staff assess the eligibility of applications for clinic law services according to the financial eligibility requirements prescribed under the Act;
- j) provide LAO with an annual report(s) including audited financial statements, a summary of legal services provided for the year, a summary of complaints received by the clinic and any other information relating to the operation of the clinic, as requested by LAO;
- k) ensure that clinic staff, board members and volunteers co-operate with LAO's Quality Assurance Program;

- l) ensure that the Clinic co-operates on a reasonable basis with the local area office and area director, including maintaining a knowledge of the legal aid services provided by the local area office and working with the local area office towards providing the fullest and most complementary range of legal aid services;
- m) ensure that the clinic co-operates on a reasonable basis with LAO, other community legal clinics and other LAO funded service providers;
- n) advise the Clinic Committee of LAO, on its own initiative or at the request of the Clinic Committee, on matters relating to the provision of legal aid services by clinics.

8. Mutual Support

Under the Act and this Memorandum of Understanding, Legal Aid Ontario and the Clinic share a responsibility to provide legal aid services to low-income individuals and disadvantaged communities in Ontario. LAO and the Clinic agree to support each other in fulfilling this responsibility by:

- a) sharing information about the diverse legal needs of low-income individuals and disadvantaged communities in Ontario;
- b) taking such information into consideration when establishing legal aid service delivery priorities;
- c) providing the fullest and most complementary range of legal aid services, within available financial resources;
- d) facilitating co-ordination among the different methods by which legal aid services are provided; and
- e) co-ordinating services with other service providers in the justice system and with community agencies.

Nothing in this section derogates from Legal Aid Ontario's responsibility under sections 12 and 14(1) of the Act or the Clinic's responsibilities under section 39(2) of the Act.

9. Funding

LAO will provide funding to the Clinic under the terms and conditions set out in the Funding Agreement, which is attached as Appendix "A" to this Memorandum of Understanding.

10. Consultation

LAO will consult with the Clinic in accordance with the Consultation Policy, which is attached as Appendix "B" to this Memorandum of Understanding.

11. Dispute Resolution

Where LAO believes that a Clinic is not complying with its obligations under the Act, this Memorandum of Understanding or the Funding Agreement, disputes will be resolved in accordance with the Dispute Resolution Policy, which is attached as Appendix "C" to this Memorandum of Understanding.

12. French Language Services

The Clinic will endeavour to respect the spirit and intent of the *French Language Services Act* when providing services to all individuals and communities served or to be served by the Clinic.

13. Duration

This Memorandum of Understanding is effective on the date it is signed by both parties.

This Memorandum of Understanding shall remain in effect for five years from the date of signing or until a new or amended Memorandum of Understanding is agreed to by the parties.

14. New Board Members

A copy of the Memorandum of Understanding shall be provided to all new members of the Board of Directors of Legal Aid Ontario upon that member's appointment to the Board.

A copy of the Clinic's Memorandum of Understanding with Legal Aid Ontario shall be provided to all new members of the Board of Directors of the Clinic upon that member's appointment to the Board.

DATED: _____

SIGNED:

Chair, Board of Directors
Legal Aid Ontario

Chair, Board of Directors
Community Legal Clinic