



## **Suspension of Immigration and Refugee Services**

### **Background and Information**

June 2017

Effective August 1, 2017, the Legal Services Society will no longer accept applications for immigration and refugee cases due to a lack of funding. There has been a significant increase in refugee cases with no increase in funding from the federal government.

#### **Services affected**

1. LSS issues contracts to private lawyers to represent financially eligible clients who have a refugee claim or who have an immigration problem that could lead to their removal from Canada to a country where they would be at risk. LSS will stop taking applications for these services on August 1, 2017.

#### **Services not affected**

2. Cases that were approved before August 1, 2017 are not affected but must be concluded by the end of the fiscal year (March 31, 2018).
3. Cases in which a client has applied for legal representation before August 1, 2017 but which have not yet been approved will not be affected and will be processed in the usual manner.
4. LSS also funds duty counsel who provide advice to people held in custody at the Canada Border Services' Vancouver enforcement centre. This service will not be affected.
5. LSS will continue to provide online materials in multiple languages that help unrepresented clients understand the immigration and refugee hearing process and the steps they have to follow to maintain their claims.

#### **Reinstatement of services**

6. Services will be reinstated when additional funding is received from the federal government or the beginning of the 2018/19 fiscal year (April 1, 2018).

#### **Demand for refugee services has increased dramatically**

7. LSS issued 860 contracts for refugee services in 2016/17 compared to only 350 in 2013/14, a 145% increase over three years.
8. The increase is the result of the global refugee crisis. About half of LSS's refugee clients come from Iraq, Afghanistan, Iran and Turkey. About one-quarter come from Central and South America.

9. Demand for other immigration services, such as representation for persons facing removal from Canada, is relatively stable over the same time period.

#### **How immigration and refugee legal aid is funded**

10. Under the Canadian constitution, the federal government is responsible for immigration and refugee laws including the immigration tribunals and their processes.
11. The federal government is also responsible for funding immigration and refugee legal aid. Pursuant to a cost-sharing agreement, the federal government gives the provincial government \$900,000 annually for immigration legal aid which the province passes on to LSS along with an additional \$800,000 for a total of \$1.7 million each year.
12. Last year (2016/17), in response to increasing demand, the federal government gave the province an additional \$530,000. Even with the increased funding, LSS had to restrict services.

#### **The funding shortfall for 2017/18**

13. Based on current projections, LSS estimates an additional \$1.07 million is needed to maintain services until year end.
14. LSS has provided regular updates on demand and funding issues to the federal Minister of Justice and the Minister of Immigration throughout 2016/17 and 2017/18.
15. In May, at the request of the federal Department of Justice, LSS submitted a business case for increased immigration and refugee legal aid funding.
16. The federal government has said that additional funding will be distributed to the provinces that provide immigration and refugee legal aid services, but BC's share of this additional funding has not yet been confirmed.

#### **Why services have to be suspended**

17. LSS must stop issuing new contracts for immigration and refugee services on August 1, 2017 to ensure it has enough money to pay for contracts that have already been issued. The provincial government prohibits LSS from incurring a deficit and from reallocating funding from other services to cover immigration and refugee costs.

#### **Managing immigration costs**

18. LSS merit screens all applications for immigration and refugee legal aid. The test for referral to a lawyer is whether a person of modest means would pay privately for the case given the ultimate chance of success and the risk the person faces in his or her country of origin.
19. LSS applies a more stringent merit assessment for non-refugee cases in which long-term residents face a risk of removal from Canada.

20. Approval of appeal cases has also been reduced.
21. A lawyer earns approximately \$1,950 for a typical case and the average annual earnings from immigration cases are about \$17,300 per lawyer.

**Impact on immigration and refugee clients and the justice system**

22. Refugee claimants face multiple challenges. Many are vulnerable individuals who speak limited if any English or French; belong to a cultural minority; are traumatized due to persecution, domestic violence, or torture; and face housing and financial challenges upon arrival in Canada with limited access to settlement services. These clients are often unfamiliar with Canadian principles of fairness and justice, have little education, and low levels of literacy, and cannot effectively represent themselves.
23. Legal aid funding provides efficiencies for the Immigration and Refugee Board. An increase in self-represented refugees will likely result in hearings taking longer and will require hearing officers to take a more active role in ensuring the claim is properly heard.
24. Providing legal representation also takes a burden off immigrant serving agencies and other community resources that will have to assist an increased number of unrepresented claimants.