



Legal Services Society Providing legal aid in British Columbia since 1979

British Columbia
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New funding, new services Briefing paper

November 2018

Purpose: This document describes how the Legal Services Society (LSS) is using increased funding to improve services to clients and to support lawyers who do legal aid.

Introduction: LSS has made a lot of progress towards implementing new legal aid services and coverage since it received approximately \$12 million in new money from the provincial government for 2018/2019, \$1 million in additional federal funding for immigration and refugee services, and an extra \$700,000 from the Law Foundation (which was deferred from last year) for public legal education and information.

The LSS Board of Directors' priorities for the year are improvements to family and Indigenous legal aid services (which align with two of the Ministry of the Attorney General's priorities). As a result, LSS has allocated most of the new funding to changes in these two areas.

Below are brief descriptions of how we have expanded services to clients and implemented changes that will better support lawyers to provide legal aid to those who need it most.

Help for Families

Discretionary spending reinstated

The demand for family law services has always been greater than what LSS can provide, which made it a top priority. While the services we can provide remain limited, LSS has been able to reinstate all family discretionary spending, which it reluctantly had to eliminate over a year ago:

- Family Exception Reviews provide LSS and lawyers with an opportunity to help people who need representation — such as people who are incapable of representing themselves — but don't meet LSS's coverage eligibility criteria.
- Discretionary financial coverage for family cases means LSS will take a more generous approach to determining if a client is financially eligible for legal aid, which will result in more people getting help for their family law cases.
- The Extended Family Services tariff item will respond to the concern that family cases are often protracted and go unresolved because they require more hours. Under this tariff item, lawyers can apply for more hours to assist a client whose primary legal issue requires more time than provided in the original legal aid representation contract.

Implementation date: April 16, 2018

More hours for family law cases

LSS has also increased the number of hours family lawyers can use for general preparation of their cases. This responds to feedback from lawyers that the Family Tariff (the contract that describes what LSS will pay for) does not provide enough hours to adequately resolve their clients' cases. The additional 10 hours for general preparation will help more family lawyers bring cases to a stable situation.

Implementation date: April 16, 2018

Increased access to family duty counsel services wherever possible

Family duty counsel are in high demand around the province, so in locations where it's been possible LSS has increased duty counsel hours. This means LSS is able to serve more clients with family law matters in Colwood, Cranbrook, Dawson Creek, Duncan, Fort St. John, Invermere (new location), Kelowna, Nanaimo, Port Alberni, Richmond, Kamloops, Port Coquitlam and Prince George. LSS is still looking for lawyers to add to its duty counsel roster in some of these locations, however.

Elsewhere in the province, LSS is also experiencing difficulty filling family duty counsel shifts. The reasons include that lawyers are increasingly unwilling to do the work at the rate LSS pays, attrition through retirements, deaths, or other work opportunities, and the hiring of former duty counsel for LSS's new Parents Legal Centres.

Implementation date: Increased hours were added July through October 2018

New services for people with financial security issues

For a trial period, LSS will provide legal aid services for financial security issues. Eligible people will receive "unbundled" lawyer services for financial issues resulting from a separation or divorce, such as child and spousal support, and the preservation and/or division of family property.

Unbundling refers to lawyers providing legal assistance with parts of a client's case rather than representing them for an entire case. The new service means clients will get help to be able to negotiate a settlement or represent themselves in court – help for which they would not otherwise qualify.

LSS will pay lawyers for up to 15 hours to provide the services, including such things as case preparation and limited attendance at court-based case conferences.

Implementation date: October 30, 2018

Help for Indigenous People

Parents Legal Centres in more locations

LSS has started offering new child protection services during "soft" openings of some of its new Parents Legal Centres (PLCs). By the end of December 2018, services will be in full swing in Campbell River, Smithers/Hazelton, Prince George, and Duncan. Early in 2019, PLCs will also open in Williams Lake, Kamloops, and Victoria. The LSS regional office in Terrace will also offer PLC services. All of the locations except Duncan were recommended by Grand Chief Ed John in his 2016 report on Indigenous child welfare in BC.

PLCs provide families with a supportive team when they are facing the possible government removal of their children, helping them to resolve not only their legal matter but also the underlying non-legal issues, such as housing or addictions, which often lead to protection concerns in the first place.

Implementation date: Anticipated soft opening of PLCs in Prince George, Campbell River, Smithers and Duncan: November. Other locations: Early 2019.

Client support for family & child protection cases

LSS has a high proportion of Indigenous clients, for whom we are committed to improving legal aid services and contributing to the aims of Reconciliation. A first step is the introduction of an “Indigenous client support” fee for Family and CFCSA (child protection) lawyers to provide up to two hours of support to address their Indigenous clients’ needs.

By assisting an Indigenous client with their related legal and collateral issues, such as band membership applications or access to benefit programs, lawyers may find it easier to enhance their representation of Indigenous clients and address interrelated problems.

Implementation date: April 16, 2018

More Gladue reports

For some time LSS has funded Gladue reports, which describe the unique circumstances of Indigenous offenders’ backgrounds to ensure judges make fair sentences.

This year, LSS has allocated approximately \$500,000 of new funding to significantly increase the number of reports to 300, compared to 130 reports the previous year. To support the higher number of reports, LSS is increasing the number of writers on its roster and funding their Gladue report-writing training.

Implementation date: Ongoing

Matrimonial real property on reserve

Matrimonial property on reserve is a complicated area of law for which LSS previously did not provide legal representation. However, spouses living on reserve may lack typical rights and protections regarding matrimonial property if their relationship breaks down.

LSS will now pay lawyers up to 10 hours to assist Indigenous and non-Indigenous people who are eligible for family legal aid services and also have a family home or other real property on reserve.

Implementation date: July 19, 2018

Child Protection Services

Representation services for extended family members

A grandparent, aunt, uncle, or other relative — or a community member — is sometimes willing to raise a child who would otherwise be taken into government care because their parents are unable to. However, they are often not permitted to participate in the court proceedings leading to the possible removal of a child from the family home.

LSS will expand its representation coverage to include eligible relatives or community members who are not parties to a CFCSA (child protection) proceeding.

At its discretion, LSS will pay lawyers to advocate for and represent eligible relatives or community members in early, collaborative child protection processes before a court action starts, and, where necessary, to participate in a child protection proceeding.

Implementation date: August 27, 2018

Family Case Planning Conferences at Court

LSS pays for lawyers to attend family case planning conferences with their legal aid clients at court locations in Vancouver, Colwood (near Victoria) and Duncan, with more locations expected. The conferences are a pilot project of the Ministry of Children and Family Development, which began in Vancouver Provincial Court. It brings the collaborative process of family case planning conferences into the court location on list days when all of the parties in a child protection case are likely to be there. With the assistance of a facilitator, the parties can effectively discuss imminent issues such as access to a child or alternative caregivers.

Implementation date: April 2018

Criminal Services

Increased availability of criminal duty counsel

LSS will provide criminal duty counsel for weekend bail hearings province-wide. The courts are implementing changes that will ensure Crown counsel conducts bail hearings outside regular court hours in the place of police officers. The changes will increase the use of hearings via video and telecommunication.

Criminal duty counsel currently attend weekend bail hearings in Surrey and Vancouver, where new procedures were tested and refined. LSS is adding weekend duty counsel in Victoria, Prince George and Kelowna. These services will be in place by the end of November. Decisions about evening duty counsel beyond Vancouver and Surrey will be made later this fiscal year.

Implementation date: Weekend duty counsel: Victoria, August 11, 2018; Prince George, November 3, 2018; Kelowna, November 14, 2018. Evening duty counsel: TBD.

Expanded criminal duty counsel services

LSS continues to work toward implementation of expanded criminal duty counsel to more locations in the province. Securing appropriate space in selected communities is required to proceed. LSS has identified Surrey, Kelowna, and Victoria as priority locations.

We currently have expanded criminal duty counsel services at the Port Coquitlam Courthouse. An independent evaluation of the expanded service showed that the case resolution rate was higher there than in other duty counsel locations, the service increased court efficiencies with fewer court days from first appearance to resolution, and that it reduced the number of appearances required to reach resolution.

Expanded criminal duty counsel provides services to a range of clients who do not otherwise qualify for legal aid representation services.

Implementation date: Dependent on getting court space

Immigration and Refugee Services

LSS has received additional federal funding via the provincial government to help LSS keep up with the demand for immigration services this year. This is on top of core funding for immigration and refugee services. LSS is confident the amount will be enough to maintain services through to year end.

Maintaining services was problematic last year, when LSS had to announce a service shutdown before government provided extra money to get us through to the end of March 2018 (the end of the society's fiscal year).

Implementation date: Services are ongoing

Online Legal Aid Services

New government funding plus deferred Law Foundation money provides LSS with a big opportunity to enhance its online services for British Columbians who have family, child protection, and criminal law problems. LSS will also focus on improving access to justice for Indigenous clients.

A multi-year roadmap has been created for the largest project, which is a user-focused revamp of the Family Law in BC website. The work will include an increase in scope, a reimagining of self-help, and emotional and mobile-friendly design elements to better meet users' needs.

LSS will also be exploring means of integrating services online, such as videoconferencing and the addition of family online dispute resolution via MyLawBC. An LSS-initiated research report into common metrics for guided pathway-style websites, such as MyLawBC, is expected in January.

For Indigenous audiences, LSS will enhance the Aboriginal Legal Aid website based on users' needs, and develop additional child protection resources. User testing with Indigenous participants was conducted this fall, giving us crucial information about how to improve the site.

Implementation date: Throughout 2018/2019 and beyond

Lawyer Support

Investment in lawyer training

This year, one of LSS's strategic priorities is to increase the capacity of lawyers (and staff) to meet the unique needs of legal aid clients. With new funding, LSS has expanded its Quality Assistance Program, substantially increasing the number of bursaries for lawyers to take courses, including specialized training to provide culturally appropriate legal aid services for Indigenous people.

Lawyer training will also focus on the mental health and domestic violence issues faced by clients. In addition to more training opportunities under the expanded Quality Assistance Program, more lawyers than ever before will be eligible for LSS bursaries to attend them.

Implementation date: August 9, 2018

Digital Strategy Grant

In fiscal 2018/2019, LSS is providing lawyers with funding to assist them to keep pace with the many technological changes that are transforming legal aid work. The funding can be used to purchase any technology-related items that relate to the provision of legal aid services. The objective of the payments is to ensure lawyers have the tools they need to work efficiently and effectively with legal aid clients, LSS, the courts and other parts of the justice system.

The payments are structured so that lawyers with fewer years of experience receive a higher payment than those with more experience. Lawyers new to the profession typically have fewer financial resources, greater front-end costs to set up practice, high student debts, and they need time to build their practice and income. LSS hopes the grants will not only assist lawyers in their work but will encourage them to continue to take legal aid referrals.

Implementation date: June 18, 2018

Higher fees for two Criminal Tariff items

LSS has increased the fees for two items in the Criminal Tariff (the guide that outlines what LSS will pay lawyers to do): the “Provincial Court fee” and the fee for “Non-trial resolution”. These tariff items represent common parts of many criminal cases. The intention of the new fees is to recognize the ongoing work of counsel in assisting clients with more complex and challenging issues, such as mental health.

Implementation date: August 15, 2018

Higher fees for working on behalf of Indigenous clients

LSS now has the funds to pay lawyers a higher block fee when sentencing occurs in a recognized First Nations Court. It will also pay a fee for preparing and making Gladue submissions for bail or sentencing, with or without a Gladue report.

LSS expects these changes to improve the experience of Indigenous offenders within the justice system and may lead to better sentencing outcomes. It also recognizes that it takes lawyers more time to ensure their Indigenous clients’ rights are observed.

Implementation date: May 7, 2018

Lawyer incentive payment

In his 2018/2019 budget approval letter, the Attorney General asked LSS to put aside \$1 million for an incentive-based compensation program for lawyers. LSS considered the areas of greatest need and announced a \$500 incentive payment for each family and child protection contract accepted by a lawyer in a community where LSS is having difficulty placing cases with local lawyers.

In many communities outside Metro Vancouver and southern Vancouver Island, LSS has difficulty placing family and child protection cases with local lawyers.

LSS believes clients are best served by lawyers in the community because they are familiar with local circumstances and are more readily accessible to clients. Assigning lawyers from outside the community also increases LSS's costs as travel fees are required.

Implementation date: October 30, 2018