

Improving the Legal Aid System in Ontario to Better Support Clients with Mental Health and Addictions Issues

Submission from the Schizophrenia Society of Ontario

March 2014

The Schizophrenia Society of Ontario (SSO) applauds Legal Aid Ontario (LAO) for prioritizing issues of access to justice for individuals living with mental health and addictions issues and welcomes this opportunity to provide feedback in regards to the development of the LAO's Mental Health Strategy.

The SSO is a provincial charitable organization dedicated to making a positive difference in the lives of people, families and communities affected by schizophrenia and psychotic illnesses. We are the largest organization representing people affected by schizophrenia and psychosis in Ontario. Since our inception in 1979, the SSO has established our expertise in the realm of serious mental illnesses through counseling and system navigation support to individuals and families affected by psychotic illnesses; public education and professional training; research; designated youth programs; and public policy analysis and development.

Individuals with mental health and addictions issues deserve access to timely, quality legal services and supports. At the same time, because of historical marginalization of this group and numerous systemic barriers that undermine employment and educational opportunities for this population, many individuals with mental health and addictions issues are disproportionately affected by poverty and rely upon provincial legal aid system to address their legal support needs. These needs can range from assistance with housing and social assistance matters, appearances before the Consent and Capacity Board and/or Ontario Review Board, criminal and immigration matters, family law, youth justice issues, and other matters responded through the use of duty counsel.

The SSO supports the direction taken by LAO to better respond to the needs of individuals with mental health and addictions issues. Specifically, we applaud the objectives under the LAO's Mental Health Strategy to expand access to mental health legal aid services; develop structures, policies, and procedures to better reflect clients' needs within the LAO and justice system; provide better supports to those involved in provision of legal and mental health legal aid services; and promote ongoing discussion and evaluation of mental health legal aid services.

To inform our response to the LAO's Mental Health Strategy, the SSO co-hosted two community consultations with the LAO, in Toronto and in Sudbury, in February 2014. The purpose of these

consultations was to hear directly from individuals and families living with mental health and addictions issues, legal and criminal justice professionals, and community service providers about the barriers and challenges but more importantly, about preferred solutions to how the LAO can better support clients with mental health and addictions issues. Through these consultations, we heard from 36 individuals, half of whom were individuals and families with lived experience.

This submission coalesces the feedback that we heard through these consultations and summarizes challenges and recommendations proposed by those who use and work within the legal system.

Barriers and Challenges with the Current System:

There are many barriers that individuals with mental health and addictions experience when trying to access legal assistance through the LAO. These challenges are shared by those who work within the legal aid and criminal justice system as well. Through our consultations, common themes arose when discussing barriers and challenges that individuals and families experienced with current LAO services. Prior to presenting these themes, SSO would like to highlight that all of the participants stressed that the major issue that the system needs to address is the disproportionate representation of individuals with mental health and addictions issues within the criminal justice system and the systemic discrimination that this population faces in all aspects of social life. Other challenges and barriers that participants shared included:

- **Difficulty navigating the legal aid system** – complicated processes, narrow eligibility criteria, too much paperwork (participants noted that more time is spent on paperwork than on delivery of service), lack of proper explanation and support from LAO workers to connect to legal services either through certificate lawyers or community legal clinics, lack of accommodations within the LAO system for clients with mental health and addictions issues.
- **Lack of communication and coordination between various legal aid services** – the system is very compartmentalized (for example, a client may have LAO certificate for a criminal matter and is a client at local community legal clinic for housing and ODSP issues but these 2 services are not sharing information nor working together to support this shared client).
- **Quality of legal services and lack of accountability on lawyers who accept LAO certificates.**
 - Sense that lawyers treat clients with LAO certificates as low priority.
 - Poor communication between lawyers and individuals with mental health issues – lawyers do not have necessary training nor sensitivity to effectively respond to the needs of people with mental health issues.

- **Duty counsel refusing to assist individuals who have an LAO certificate**, even if these individuals are not able to connect with a lawyer or have a lawyer who is not addressing their needs.
- **Transportation** to get to LAO offices and/or legal clinics is often a challenge.
- **Amount of time that lawyers/legal clinic workers spend** on individual clients is not enough (e.g. block fees and retainers do not provide enough time and coverage to fully assist on the cases).
- **Stress of legal proceedings and complexity of the legal aid system** has adverse effects on individuals' mental health.
- **Youth are most marginalized** and often in need of greatest support but rarely get it (don't know how to navigate the system, often transient, don't meet LAO eligibility, can't access proper representation, involvement of child protection agencies/or lack thereof, etc.).
- **Lack of focus on prevention** – current services are available only after something has gone amiss, causing the system more money and seriously undermining the quality of the individuals' lives.

Recommendations for Improving the Legal Aid System in Ontario:

Similar to issues of concern, individuals, family members, and service providers shared common ideas on how the legal aid system could better support individuals with mental health and addictions issues. Specifically, the following themes arose in both of the consultations and were shared across the experience continuum with the legal aid system:

- **Develop consistent definition of “mental health and addictions issues”** to be used across all LAO services.
- **Develop consistent standards, policies and protocols** for how LAO will support clients with mental health and addictions issues, including establishment of mentally healthy working environment for the LAO employees.
- **Establish an Ombudsman for LAO and/or mental health and addictions lead** to coordinate and monitor LAO's mental health strategy implementation and progress and address issues as they arise.
- **Provide all legal aid workers with designated and continuous training** on mental health and addictions and how to effectively support this client group.
 - Additional/special training for LAO workers who do the initial assessment to have ability to flag potential mental health and addictions issues, identify all of the client's

needs (beyond just the presenting legal issue), and effectively triage these clients to appropriate LAO services.

- **Establish centralized access “hub,” with one number** that anyone can call to access all LAO services.
- **Develop intake screeners/assessment tools** that are person-centered, recovery-focused and assess clients’ needs holistically (focus on social and health needs, in addition to legal issues).
- **Expand LAO eligibility criteria** to make it easier for individuals with mental health and addictions issues to access legal services.
 - Develop fast-tracked eligibility for clients with mental health and addictions issues.
 - Make eligibility needs-based rather than diagnosis-based.
 - Focus eligibility on prevention, rather than waiting for legal matter to escalate (e.g. get rid of “no jail time” specification for criminal matters).
 - Expand current financial eligibility criteria.
- **Make LAO services available and accessible in first-point-of-contact locations** (e.g. police stations, jails, hospital emergency departments, etc.) and other community locations where the clients are, rather than making the client come to LAO locations. These can include service delivery through mobile teams or rotation of legal aid services between local community agencies (e.g. legal support is housed within particular agency on a particular day and then moved to another agency on a different day).
- **Expand LAO services to cover issues related to ‘secondary consequences’** of legal involvement (e.g. loss of employment, police records, involvement with child protection agencies, etc.).
- **Utilize “navigators”/“trusted intermediaries”** to function as case managers to help clients with mental health and addictions issues connect to legal workers/lawyers, coordinate the various legal aid services and supports for the clients, and liaise between other community services and the criminal justice system. These navigators could be peer-support workers and/or social workers. Another model proposed was utilization of inter-professional teams, comprised of legal and mental health providers and/or peer workers to follow the clients through the course of their journey, assisting with legal, social and health matters in coordinated and consistent manner.
- **Compile a list of lawyers who are knowledgeable about mental health and addictions** categorized by “issue areas” (i.e. housing, criminal, immigration, etc) and provide this list to the clients seeking legal services.
- **Develop community “maps” that identify local services** (with up-to-date information) that LAO can partner with and cross-refer clients to.

- **Allow for longer times for lawyers to assist the clients** with mental health and addictions issues.
- **Recognize contributions and needs of the clients' families** and provide supports for them as well, on par with the client.
- **Establish a reward/incentive system for lawyers/legal workers** who effectively support clients with mental health and addictions issues.

In summary, SSO strongly supports the development of Mental Health Strategy for the LAO in order to better respond to the needs of clients with mental health and addictions issues. It is an important step to decrease systemic marginalization and inequities that this population experiences within the legal system. We hope that the feedback and recommendations provided by individuals and families with mental health and addictions issues, service providers and legal workers highlighted in this submission will help to build a stronger, client-centered, accessible and responsive legal aid system for Ontario.

Thank you for considering this submission. If you have any questions, please do not hesitate to contact Irina Sytcheva, Manager of Policy and Community Relations at (416) 449-6830 ext. 255 or isytcheva@schizophrenia.on.ca.