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January 23, 2017

Mr. Eldon Horner, Chair, Federation of Ontario Law Associations
Ms. Jane Robertson, Chair, Legal Aid Committee
Federation of Ontario Law Association
731 9th Street West
Owen Sound, ON
N4K 3P5

Dear Mr. Horner and Ms. Robertson,

Thank you both for your letter dated January 9, 2017 regarding LAO's plan to address its financial challenges.

I will respond to a number of concerns that are raised in your letter, but first I would like to address your statement about the "differences of opinion and philosophical approaches" between our organizations.

Given the sheer number of low-income Ontarians who need assistance within our justice system, LAO's duty is to find the right balance of private bar lawyers and staff lawyers to provide the most service to as many people as possible. It is through this mix of service options that LAO assisted about 840,000 people across the province last year.

The duty to provide support to as many of our clients as possible drives the work that we do. We want to see more low-income Ontarians have access to justice. The private bar is and will remain a key part of any access to justice strategy that we develop.

In terms of some of the other issues you raise in your letter, let me address them individually.

Administration

First we challenge your assumption that administration costs automatically mean that we are "expensive" and "bureaucratic". One of LAO's key performance measures is to maintain administration costs between 10 and 11%; a target that we take very seriously and which is considered best practice. For 2015/16 LAO spent 10.9% of total expenditures on administration. As announced in December, our plan is to reduce that to 10% over the next fiscal year.

In addition, any concerted effort to serve as many clients as LAO does is going to require infrastructure. For example, since 2014/15 we have seen the number of calls answered by our call centre increase from 339,000 to a projected 427,000 for 2016/17; an increase of 26%.

Staff lawyers

The number of lawyers working at LAO has increased over the past number of years. The majority of these are duty counsel, who provide direct client services and support vulnerable clients who come to courthouses across Ontario. Duty counsel services are provided in most courthouses. These lawyers do not provide certificate services. In addition to duty counsel responsibilities a small number of our new lawyers (approximately 15) are senior counsel, who provide services to clients who, for a variety of reasons, are difficult to serve and unable to retain the services of a private lawyer. The work of these lawyers complements and does not compete with the certificates issued by LAO to the private bar.

Clinics

In terms of clinics, let me first indicate that we have been able to work with the Ministry of the Attorney General (MAG) to restore the \$1 million in planned cuts to clinics.

We would also like to point out that in 2014 the Province increased financial eligibility levels and provided commensurate additional funding to LAO. Recognizing that clinics would need funding in order to hire new staff and, get their infrastructure in place before they could start increasing client services, LAO has, to date, flowed \$20 million in new Financial Eligibility funding to the clinic system. This has enabled clinics to begin a bold range of new outreach projects that have connected with even more vulnerable Ontarians.

Per diem lawyers

Your letter takes me to task for talking about the economic viability of a staff lawyer versus a private per diem lawyer. The reference to staff duty counsel costing less than per diems has been supported by analysis conducted by staff and by outside third parties. In 2015/16, the last full year that data is available, the cost of per diem duty counsel was \$96 per assist while the cost for staff duty counsel was \$84 per assist.

LAO continues to conduct analysis on the cost of duty counsel on a court by court location and there are a number of court locations where it is more financially effective to use per diems. Per diem duty counsel provide 38% of the duty counsel assists. While the mix of staff and per diem fluctuate depending on the court location, I do anticipate that both options of service delivery will continue to be utilized.

Impact of eligibility on certificate levels

Since the announcement of expanded financial and legal eligibility, LAO has issued an additional 44,000 certificates and this, combined with the increase in the tariff rates that occurred, has meant more funding to the private bar in all areas of law.

Transparency and openness

As a government agency LAO is committed to providing information to stakeholders and those interested in supporting the delivery of legal aid services in Ontario. LAO's financial statements are audited by the Auditor General of Ontario and our internal audit unit reports to LAO's Board of Directors and their audits are routinely provided to the Auditor General to support their annual review.

Impact on clients

This is the most important issue that I think your letter does not address and that I think remains the most important issue for us to discuss. You have recently speculated that the changes that LAO is implementing will result in an increase in unrepresented litigants and an increase in the number of clients who plead guilty. LAO continues to provide duty counsel services across the Province in the same manner that it has always done and works to ensure that clients are appropriately represented at all stages of the judicial process. When duty counsel represent a client who wishes to plead guilty LAO staff work to ensure that clients understand the implications of their decision. In fact LAO has developed a Plea Comprehension Inquiry Form and has also established a hotline that will link duty counsel with LAO's Refugee Law Office to discuss the impact of a guilty plea on clients' immigration status.

We appreciate your concerns about our deficit. This deficit represents nearly six percent of LAO's overall budget. LAO takes this development very seriously and, as you are aware, has announced a number of proposed measures to address this situation. We also welcome the upcoming review as an opportunity to confirm that our plan will address the deficit. We appreciate the Attorney General's interest in the matter and welcome the opportunity to work with MAG and to review our processes and projections to ensure that low income Ontarians continue to receive the high quality services they need.

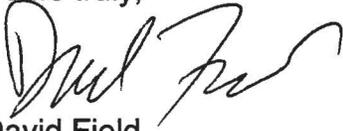
I want to state unequivocally that LAO values the work of legal aid's private bar members and we want to strengthen these relationships. I firmly believe that we are all on the same side when it comes to ensuring that the most vulnerable in our society have access to the services that they need when they need them.

On behalf of LAO, I want to reciprocate the sentiment in your letter: we, too, have enjoyed and have benefitted greatly by the relationship between LAO and FOLA and I welcome the opportunity to discuss these matters further in the months to come.

I would like to thank you and your members for their valued contributions to access to justice and for your ongoing support of legal aid.

If you have any further questions or concerns please feel free to contact me.

Yours truly,

A handwritten signature in black ink, appearing to read "David Field". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

David Field
President & CEO