

Interim Report of the Legal Aid Working Group

June 29, 2017

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Purpose

The purpose of this report is to update Convocation about the Legal Aid Working Group.

Background

The Law Society administered legal aid in Ontario for almost 50 years, starting in 1951. That ended in 1998 with the creation of Legal Aid Ontario (LAO) as a statutory body. Since then, the Law Society's primary involvement in legal aid has been to recommend appointments to the LAO board, pursuant to the statute, and to coordinate the Alliance for Sustainable Legal Aid (ASLA), comprised of organizations with an active interest in legal aid.

Alliance for Sustainable Legal Aid	
• Association of Community Legal Clinics of Ontario	• Law Society of Upper Canada
• Federation of Ontario Law Associations	• Ontario Bar Association
• Criminal Lawyers Association	• Refugee Lawyers Association
• Family Lawyers Association	• The Advocates' Society
	• Mental Health Legal Committee

In November 2016, the Treasurer announced the creation a Legal Aid Working Group to enable the Law Society to engage more fully in legal aid. See Appendix A for the working group's mandate and membership.

Law Society announces Legal Aid Working Group

Treasurer Paul Schabas announced the formation of a Legal Aid Working Group that will focus on the provision of legal aid in order to support and enhance the delivery of robust and sustainable legal aid services for Ontarians. Led by Bencher John Callaghan, the group will also identify opportunities for engagement and enhancing the Law Society's relationship with Legal Aid Ontario and the Alliance for Sustainable Legal Aid. It will also seek to involve government and other justice system and community services partners.

Convocation News, Nov 9, 2016

Early in its mandate, the Working Group developed a work plan to guide its activities:

December 2016 – Jan 2017

Provide briefings and materials to ensure all working group members have a good understanding about the history of legal aid, the current operations of Legal Aid Ontario, and the environment in which it operates.

January – June 2017

Convene a series of consultation meetings with LAO officials, selected stakeholders, academics, and individuals affiliated with various legal organizations to canvass ideas about the Law Society’s role in legal aid. See Appendix B for a list of consultation participants.

June 2017

Provide an interim report to Convocation.

July – September 2017

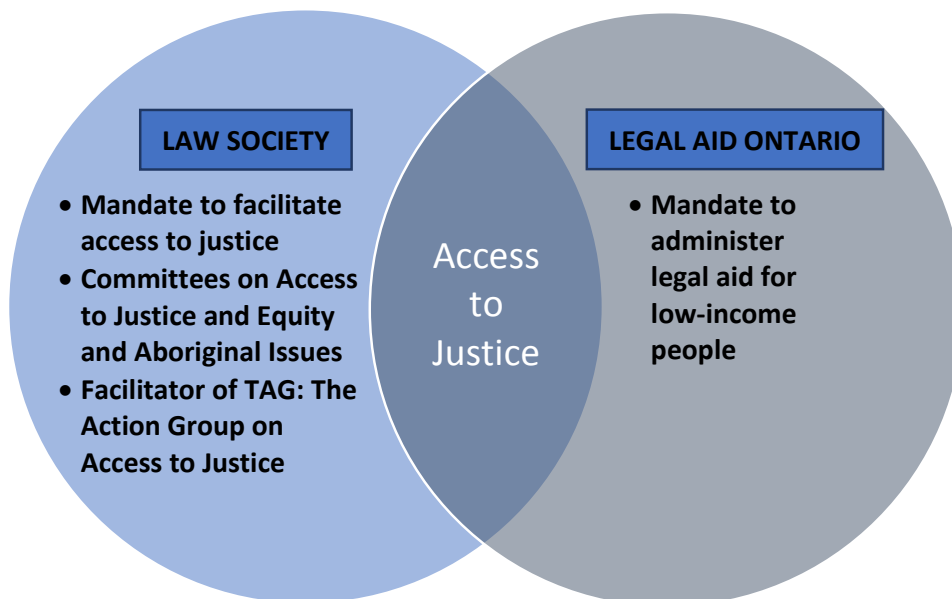
Continue and complete the consultation and develop and recommendations for future involvement of the Law Society in legal aid.

October 2017

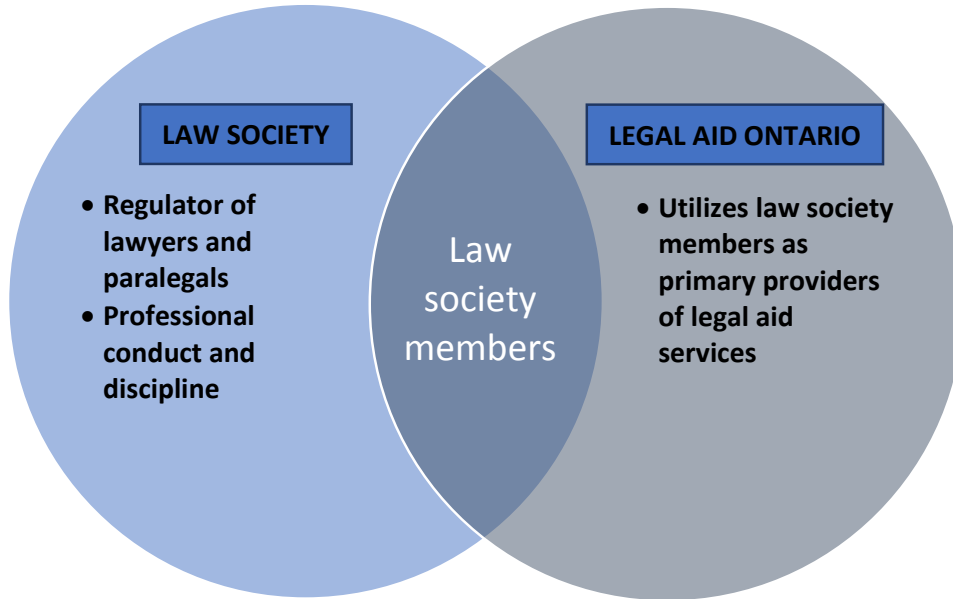
Provide a final report to Convocation.

Law Society and Legal Aid Ontario Roles

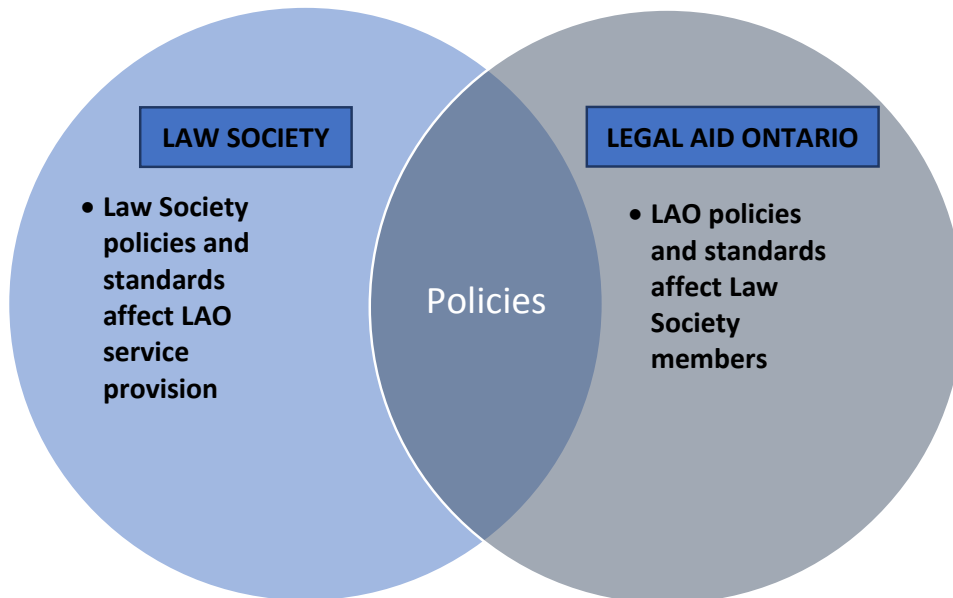
It will be important to define a Law Society role in legal aid that complements the role of Legal Aid Ontario and other organizations and fits well with the Society’s mandate. The diagrams below indicate areas of intersection between the roles of the Law Society and LAO. For example, both bodies are major players in access to justice in Ontario.



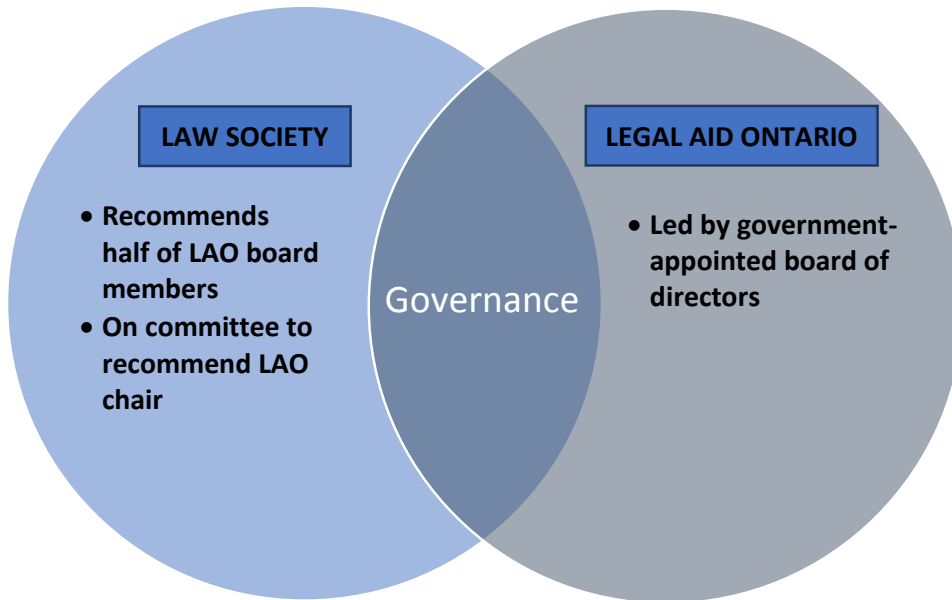
Legal Aid Ontario utilizes Law Society members as its primary source of service providers, including private bar lawyers, community legal clinic lawyers and paralegals, and staff lawyers and duty counsel.



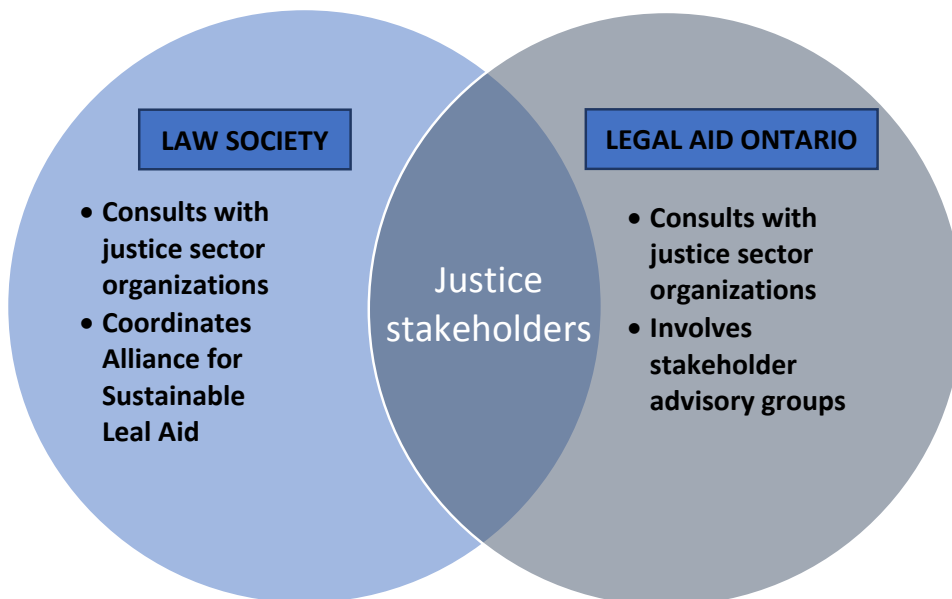
The policies of both organizations have an impact on each other's operations.



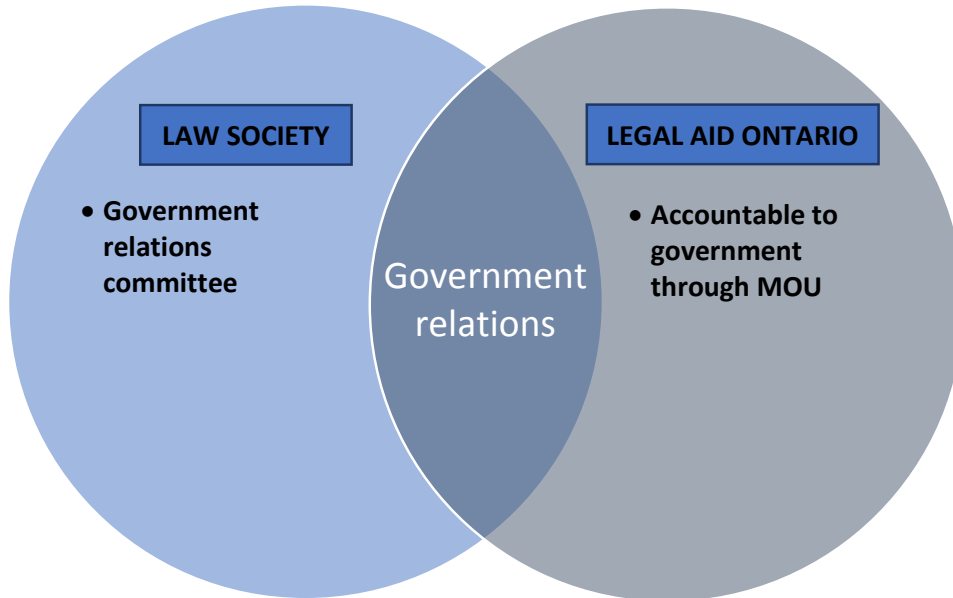
Legal Aid Ontario is an independent statutory body, led by a government appointed board of directors. The Law Society Treasurer (or designate) sits on a three-person committee that recommends the chair. In addition, five of ten board members are selected by the Attorney General from a list of persons recommended by the Law Society.



Both the Law Society and LAO connect with a wide range of justice sector stakeholders.



Both organizations interact with the provincial government through the Ministry of the Attorney General. The Law Society interacts with the Ministry through its government relations function. Legal Aid Ontario is an independent government agency, accountable to government through a memorandum of understanding.



Next steps

The Legal Aid Working Group will:

1. Engage in further consultation and deliberations to develop options and recommendations about the Law Society's role in legal aid
2. Consider where leadership on initiatives arising from the work of the Legal Aid Working Group should reside within the Law Society
3. Prepare a final report for approval by Convocation, targeted for October, 2017

Appendices

Appendix A: Legal Aid Working Group mandate and members

TERMS OF REFERENCE OF THE LAW SOCIETY OF UPPER CANADA LEGAL AID WORKING GROUP

The Law Society of Upper Canada Legal Aid Working Group (the “Working Group”) will:

- (i) inform and educate itself on the legislative framework for Ontario's current legal aid model, how Legal Aid Ontario (“LAO”) currently administers Ontario's legal aid program, and on recent developments in Ontario regarding the delivery of legal aid, utilizing a variety of resources;
- (ii) consider these developments in light of LAO's requirement to promote access to justice throughout Ontario for low-income individuals, including in accordance with its objects prescribed by the *Legal Aid Services Act, 1998*, S.O. 1998, c.26 at s.4;
- (iii) identify opportunities for engagement and enhancing the Law Society's relationship with LAO, ASLA, government and other justice system and community services partners in accordance with and further to the Law Society's functions and duties respecting competence, access to justice, the rule of law and the public interest, as prescribed in the *Law Society Act*, RSO 1990, c. L.8, ss. 4.1 and 4.2;
- (iv) explore opportunities for robust and sustainable legal aid services for Ontarians; and
- (v) create a Work Plan for the Working Group that will include:
 - (a) a project plan outlining key steps, timing and necessary operational resources;
 - (b) budget as required; and
 - (c) the provision of reports to Convocation as appropriate beginning in 2017.

Members

John Callaghan, Chair
Peter Beach
Suzanne Clément
Paul Cooper
Julian Falconer
Avvy Go
Howard Goldblatt
Janet Leiper
Marian Lippa
Susan McGrath
Susan Richer

Appendix B: Consultation participants

The Legal Aid Working Group conducted an initial round of consultation meetings from mid-November 2016 through January 2017. Supplementary meetings were held in June 2017. The meetings involved over 25 people from a variety of justice stakeholder organizations.

Participants in Consultation Meetings as of June 2017	
<p>Academics</p> <ul style="list-style-type: none"> • Les Jacobs • Janet Mosher • Michael Trebilcock <p>Alliance for Sustainable Legal Aid (ASLA) and Association of Community Legal Clinics of Ontario (ACLCO)</p> <ul style="list-style-type: none"> • Lenny Abramowicz, Chair of ASLA and Executive Director of ACLCO <p>Criminal Lawyers’ Association</p> <ul style="list-style-type: none"> • Anthony Moustacalis, President • Michael Mandelcorn, Board Member • Sam Boutzoubis, Board Member • Andrew Furgiuele, Director in Toronto region <p>Family Lawyer’s Association</p> <ul style="list-style-type: none"> • Katharina Janczaruk, Chair • Julia Vera, Board Member <p>Federation of Ontario Law Associations</p> <ul style="list-style-type: none"> • Mike Ras, Executive Director • Jane Robertson, Chair, Legal Aid Committee <p>Historical perspective</p> <ul style="list-style-type: none"> • Derry Millar, former Law Society Treasurer and current LAO board member <p>Law Commission of Ontario</p> <ul style="list-style-type: none"> • Aneurin (Nye) Thomas, Executive Director 	<p>Ministry of the Attorney General</p> <ul style="list-style-type: none"> • Ali Arlani, Assistant Deputy Attorney General, Agency and Tribunal Relations Division <p>Legal Aid Ontario</p> <ul style="list-style-type: none"> • John McCamus, Chair • David Field, CEO • David McKillop, VP, Policy and Research <p>Ontario Bar Association</p> <ul style="list-style-type: none"> • Chris Cheung, Director, Policy and Public Affairs • Steve Pengelly, Executive Director & Counsel • Colin Stevenson, Chair of Public Affairs • Daniel Goldbloom, Criminal Justice Section Executive <p>Mental Health Legal Committee</p> <ul style="list-style-type: none"> • Marshall Swadron, Chair <p>Refugee Lawyers Association</p> <ul style="list-style-type: none"> • Raoul Boulakia, President <p>The Action Group on Access to Justice</p> <ul style="list-style-type: none"> • Sabreena Delhon, Manager <p>The Advocates’ Society</p> <ul style="list-style-type: none"> • Alexandra M. Chyczij, Executive Director, • Dave Mollica, Director of Policy and Practice • Jessyca Greenwood, Partner, Greenwood Lam LLP

In March 2017, two members of the Legal Aid Working Group conducted a tour of community legal clinics and met with representatives from various clinics.

Tour of Community Legal Clinics
<p>Specialty clinics</p> <ul style="list-style-type: none">• Metro Toronto Chinese & Southeast Asian Legal Clinic• Advocacy Center for Tenants Ontario• Canadian Environmental Law Association• Justice for Children and Youth• HIV-AIDS Legal Clinic• Income Security Advisory Centre• ARCH Disability Law Centre• Industrial Accidents Victims Group of Ontario <p>General service clinic</p> <ul style="list-style-type: none">• Neighbourhood Legal Services

The Working Group is planning to convene additional consultation meetings in July and August, 2017. This will be an opportunity to hear from individuals in organizations such as the Law Foundation of Ontario, Community Legal Education Ontario, the Modernization Division of the Ministry of the Attorney General, and justice sector groups that focus on Indigenous and equality seeking populations. It will also be an opportunity to further discuss and test ideas with officials from Legal Aid Ontario.