

4th ANNUAL STAKEHOLDER'S ROUNDTABLE
FACILITATION SESSION – DISCUSSION NOTES
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Marian De Souza

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INTRODUCTION

At the 4th Annual Stakeholders' Roundtable, Pro Bono Law Alberta (PBLA) invited stakeholders to share ideas and challenges. Large and small group sessions were designed to provide an opportunity to share general challenges, concerns and opportunities, in keeping with the theme "Strengthening Ties."

The groups then had an opportunity to discuss results of a recently conducted Legal Clinic Survey and generate ideas for a lawyer roster program. The roster program was an idea expressed by stakeholders in the working documents leading to the creation of PBLA and was an outcome of the 2008 stakeholder roundtable.

This document is designed to capture stakeholder feedback and ideas.

STAKEHOLDERS

Calgary Legal Guidance
Central Alberta Community Legal Clinic
Children's Legal Education and Resource Centre
Edmonton Centre for Equal Justice
Grande Prairie Legal Guidance
Law Society of Alberta
Legal Aid Alberta
Lethbridge Legal Guidance
Pro Bono Students Canada (Edmonton)
Women's Centre

GENERAL DISCUSSION

Group discussion fell into the following categories:-

A. Volunteer Recruitment

B. Management of Resources

C. Funding

D. Eligibility Criteria

A. VOLUNTEER RECRUITMENT

1. The issue of packaging files was raised. Efficiency and organization was an expressed need in this area and making the file palatable for the volunteer lawyer should include a profile of the prospective client, "what type of person am I serving? Is the matter finite or will it be an on-going file? Is it a matter for junior or senior counsel?"
2. Strategy for recruitment of individual lawyers was distinguished from recruitment of law firms. Establishing relationships with the firm was identified as an area of opportunity. For example, if the managing partner or firm is on board, they are instrumental in recruiting, i.e. Managing partners in Lethbridge have taken on the responsibility of lawyer recruitment for the legal clinic.
3. Pro bono policy for small/medium and large firms law firms has been successful in recruitment initiatives.
4. Accommodating the needs of lawyers must also be considered.

B. MANAGEMENT OF RESOURCES

1. Limited resources leads to continual challenge to obtain the biggest bang for a buck.
2. Taking ownership of information was expressed as a challenge.
3. Co-ordination of effort between clinic staff, clinics and PBLA recognized.
4. Big-picture thinking needs to happen notwithstanding day to day challenges.

5. Administration and office systems are a challenge in setting up. Databases, electronic calendar and diarizing systems are required but costly.
6. Keeping track of hours is time consuming. Is it necessary? Funding agencies do not require this information, but measuring results is necessary.
7. Particular need for family law pro bono services however there is a shortage of lawyers willing to take on these files given their long-term nature. May be more likely to take on pro bono files if the files can be divided into summary legal advice modules.
8. Remarks were made about the extent of services provided by the clinics with limited resources and infrastructure.
9. Centralization of application process considered.

C. FUNDING

1. Challenges to obtain funding, working with this uncertainty and sustainability concerns.
2. Different clinics measure progress differently. Some count hours, some don't. Some look at complexity of file or # of issues as relevant. Some look at client satisfaction or case outcome.
3. Professional fundraising considered but this would lead to significant staff cost in performed in-house.
4. Pro bono trust raised as a possible umbrella organization. This would lead to challenges of administering. Comparison made with alumni fund raising which is successful. Would this discourage other funding such as ALF/LSA?
5. Asking lawyers to contribute \$ or time.
6. Finite pockets and how to co-ordinate and maximize success needs to be considered.

D. ELIGIBILITY

1. Different clinics have different eligibility criteria. They serve different needs so standardization may not be an option.
2. This may be problematic if they are all referring to the roster program and there is no secondary screening or standardized eligibility for the roster program.
3. Changes to funding and eligibility criteria of legal aid will have an impact on eligibility criteria of clinics.

OUTCOMES

1. PBLA will continue to work closely with stakeholders in developing solutions to address these issues and maintain effective communication channels between stakeholders.
2. PBLA will continue the dialogue with Legal Aid and share information with the clinics to address issues outlined above and fall out from cutbacks to Legal Aid funding.
3. PBLA will work in collaboration with the clinics to develop the program and create a successful National conference agenda to be hosted in Calgary September 15-17, 2010.
4. PBLA will host monthly meetings between PBLA and legal clinics to discuss activities, needs and concerns to foster information sharing to follow from "Access Review" initiatives.
5. PBLA will include a session in next year's roundtable that will focus on staff lawyers. In response to stakeholder feedback, staff lawyers would like to be involved in the planning of this session to address issues pertinent to this group.
6. PBLA has received many inquiries from lawyers who would like to volunteer in a pro bono capacity and are interested in understanding insurance and membership requirements. PBLA worked with LSA Membership and ALIA to create a fact sheet explaining the differences in membership and insurance. The fact sheet will be provided to lawyers and they will be directed to LSA for more information.

7. PBLA will continue to develop a roster program to address many of the issues outlined above and to offer the public services outside the scope of work offered by the legal clinics and for potential clients who do not qualify for legal aid. The next tab captures in detail this discussion.

LAWYER ROSTER PROGRAM

METHODOLOGY:

Stakeholder feedback for the lawyer roster program was gathered using 2 methods: an on-line survey of the legal clinics and roundtable discussion.

1. Survey

Results from the survey are the foundation for affirming the need and establishing the essential purpose and features of an Alberta lawyer roster program.

Question:

Do you think that a pro bono or fee for service lawyer roster is a good idea? Why or why not?

Response:

Stakeholders responded almost unanimously that a lawyer roster program is a good idea to supplement work already being done by Legal Aid and legal clinics in Alberta.

Particular need in the area of family law is identified where clients do not qualify for legal aid and cannot afford to a lawyer on retainer.

The need for legal services beyond summary legal advice is identified.

One survey respondent indicated that the need that a roster program would be designed to address was unclear. The roundtable provided an opportunity to provide additional background information identifying the growing number of self-represented litigants and the growing need of Albertans ineligible for legal aid and unable to afford essential legal services.

Question:

What particular needs of your legal clinic do you see as being met by a roster program, if any?

Response:

- Files that require legal counsel but cannot be opened due to lack of resources or legal expertise.
- Capacity for evening legal clinics has doubled but capacity for follow-up and representation has stayed the same. These clients have already been screened for financial need and could receive follow-up service beyond the capacity of legal expertise of staff lawyers.
- Many requests are received for lawyers willing to do pro bono work.
- Disability benefit insurers who refuse to pay out and who will not negotiate and long-serving employees who have been dismissed without cause but whose employers will not pay severance. Many cases involving estate disputes, guardianship issues, bankruptcy trustee disputes, mortgage foreclosure issues and immigration and many situations of self litigants running their own litigation at Q.B. but perhaps in need of limited scope assistance such as drafting court documents or help preparing for discoveries.
- Legal clinics without staff lawyers would be able to provide extended legal service assistance.

Question:

What are the priorities of a lawyer roster?

Response:

- Quick turnaround time
- Roster should include specialized practitioners
- Roster should cover as many judicial districts as possible
- Include women who may not be "low-income" but do not have access to family income
- Roster information needs to be accessible for low-literate individuals

- Gender of lawyer should be identified
- Growing and maintaining a current roster of lawyers
- Screening clients so that lawyers do not need to
- Work collaboratively with existing community services
- Identify the target audience or client group to be served
- Develop appropriate measurements for success
- Focus on family law would be beneficial

Question:

What would you like a lawyer roster to look like?

Response:

- A centrally managed roster so that # of files per lawyer is tracked to avoid overloading lawyers and so that initial search/contact does not have to be done by the referring lawyer.
- There needs to be active contacts to specific lawyers not simply a passive mass request for assistance for particular files
- Legal clinic or another referring agency should screen the client for financial need, legal matter, merit, urgency, etc. and then submit request for a roster lawyer and then communicate results to the client. Once the client was matched with a roster lawyer, legal clinic involvement would end.
- On-line access would be preferred so that information can be updated regularly.
- Information in a table format.
- Accessibility to the service without interruption of service. For example the ability to refer to the roster without the client needing to leave the clinic.
- Clinic would summarize legal issue and parties and email information and within a few days a response is received.

- Someone would need to be in charge of deciding who the request is sent to and that it is formatted properly for a lawyer to accept.
- Roster should include lawyers genuinely interested in taking these cases because of their belief that everybody deserves justice and assistance in their legal matters.

Question:

What, if anything, do you see as the role of your legal clinic or your position in relation to the roster program?

Response:

- A referral source. We also may be able to encourage volunteer lawyers at the clinic to participate.
- Possibly involved with administration of the roster.
- Legal clinics could screen clients and issues and then send out the call for roster lawyer.
- CLG already runs a form of a roster program. This could be continued, expanded and formally named a "roster program."
- Legal clinics could ask lawyers to recommend cases that they think would benefit by assistance from the roster program.

Question:

What practice areas are to be served by the roster program in priority?

Response:

- Civil litigation
- Family
- Bankruptcy & Insolvency

- Labour & Employment
- Human Rights
- Aboriginal
- Administrative
- Landlord & Tenant
- Criminal
- Constitutional law
- Immigration
- Insurance
- Wills & Estates
- Poverty Law

Question:

What, if any, particular challenges or obstacles do you see to the success of a lawyer roster program?

Response:

- Recruiting lawyers. Maintaining local referral systems while the lawyer roster gets going may be way to take pressure of initial start-up of the roster program
- Referral agencies may have different thresholds of client financial need. This would be potentially problematic.
- Clients may have different financial means regarding ability to pay for disbursements. Many cannot afford filing fees, service fees, costs of discoveries, etc.
- Conflicts of interest—many opposing parties on files with clients of limited financial means are big clients of the big firms, i.e. banks, insurers, landlords
- The roster program would need to address circumstances where the lawyer ceases to act. There needs to be a process to efficiently review the case and determine whether the file will be referred to another lawyer.

2. Roundtable

Results from the break out session will be considered for establishing the core values that should underlie an Alberta lawyer roster model. Ideas shared will be considered in developing components of the roster including:

- intake/application eligibility
- lawyer/file matching
- lawyer roster (lawyer recruitment, qualification & retention)
- marketing

Intake and Eligibility

- Suggestion is that clinic referrals meet their particular eligibility and met legal aid's eligibility but cannot be helped due to capacity or area of law, then their eligibility for the roster program should not be questioned. Referrals beyond this do not have their own criteria, so perhaps the roster program should have eligibility criteria. i.e. if referral from a legal clinic and meet legal clinic criteria but no ability to provide services, should they automatically qualify for roster program or is there a broader or different criteria? What if there is a change in the client's financial situation or circumstances? What happens if they get a job that pays more money, are they re-assessed? Lawyers may have a concern that the client is no longer eligible for free services. Do lawyers want to be involved in assessing eligibility? Lawyer must have ability to turn down files. This will affect marketing the program. Clinic needs to know that they have been served.

Lawyer/File matching

- Dream roster will deal with charter issues, class actions, immigration, smaller contractors in construction law and family law.
- Centralized co-ordinator required.
- Pre-screening can occur at the clinics or authorized referral source and central co-ordinator can provide secondary screening, flag files for immediate concerns and if don't qualify notify immediately.

- Timely matching and communication of application approval/denial

Lawyer Roster Management (recruiting, maintaining, qualification, training)

- List of lawyers and what they will and will not do. Intake: client profile, personal information, demographics, opposing counsel and financial information, income sources and tax information. If you have that information, you can pull up other information. Privacy compliance. Communicate success of files and lawyer's need to be recognized and appreciated. Do clinics report? Tracking of time, how do you handle information? What should be the measure of success? Simple, what are the goals? Lawyer roster program about matching legal needs to lawyer within reasonable timeframe. Client satisfaction or success of legal outcome not the goal of a roster program. Successfully matching lawyer to legal problem is the goal and this is what needs to be achieved, reported and measured. Lawyer relationships need to be maintained. What happens if referral comes back? Hierarchy of what happens if referral comes back needs to be established.

Marketing or promoting the program

- Need to determine who is the market for the program? Legal clinics, lawyers, public? All of these? Need is that legal clinics do not have enough legal service providers, so the clinics need to be doing the referrals. Market will also likely include lawyers so Law Society newsletter, CBA newsletter, section meetings can be used but these do not replace face-to-face in person meetings to promote the program.
- Discussion as to how the Child Advocacy program works in partnership with Miller Thomson and Child Learning and Education Resource Centre. Catherine Christopher's staff at Calgary Legal Guidance vets the application, they identify areas for which CLG does not have capacity to serve and this became the basis for the roster program for pro bono legal services.
- Managing partner's luncheon could be a venue to promote program.

- Marketing beyond advertising to clinics and lawyers needs to be looked at. We need to determine where the access points of public into the legal system are, i.e. CLG, courthouse, LINC, Law Line.
- Marketing package providing information about the program would be useful tool for referral sources.

PBLA will continue to work closely with stakeholders in developing the best model for an effective and efficient lawyer roster program.