

Government Cuts to Legal Aid Funding Threaten Access to Justice

The provincial government has announced that it will cut funding for legal aid by 38.8% over the next three years. In addition, the Legal Services Society (LSS) is expected to absorb significant new costs.

Attorney General Geoff Plant, QC, and ministry officials presented the LSS Board of Directors and senior management with a “hierarchy of services” to be covered by legal aid. This hierarchy is summarized below. In brief, the government intends to restrict its legal aid funding to little more than cases where legal representation is required by the Charter of Rights and Freedoms or the courts. Consequently, the Society is expected to stop funding almost all family matters except child protection and domestic violence cases, and to severely restrict support for poverty law matters.

The LSS Board of Directors has asked senior managers to prepare information on the costs associated with the “hierarchy of services” put forward by the Ministry of Attorney General. Based on that information, the board will make decisions concerning what changes must be made to the Society's services and the methods of delivering them.

The Society anticipates making these decisions by early February and will announce them at that time.

Summary of Information from the Ministry of Attorney General

- Funding for legal aid in BC will be cut by 38.8% over three years. The funding schedule is:
 - \$71.5 million in 2002 – 2003 (however, this allocation must also cover new costs LSS has been told to take on — see below)
 - 62.5 million in 2003 – 2004
 - 54.0 million in 2004 – 2005

(This is down from provincial government funding of \$88.3 million in 2001 – 2002.)

- On top of the funding cuts, LSS must also cover the following *new* costs:
 - *Rowbotham* cases and large cases that exceed \$50,000 (until now, these costs have been covered by the Ministry of Attorney General);
 - transition costs related to downsizing (for example, lease payouts, severance pay, etc.); and
 - inflationary pressures (including, for example, the cost of previously negotiated salary increases).

- The government based its funding decision on the following “hierarchy of services”:
 1. LSS must:
 - provide legal aid for cases where representation is required by the Charter of Rights and Freedoms or the courts, as follows:
 - adult criminal matters
 - Young Offenders Act matters
 - mental health reviews
 - child protection (Child, Family and Community Service Act) matters
 - immigration and refugee matters (the ministry plans to work with the federal government to clarify responsibility for funding these cases)
 2. Priorities for service are to:
 - cover domestic violence restraining orders
 - reduce expenditures for Family Relations Act matters from \$16.7 million to \$6 million in 2004 – 2005 (The Attorney indicated that the ministry wants to work with LSS to expand the use of mediation and out-of-court alternatives, and to amalgamate intake for all government family services.)
 - restrict poverty law assistance to \$1 to \$2 million in 2002 – 2003 (This service is to be provided mainly in the form of public legal education and information services.)
 3. Ministry officials also indicated they would like LSS to continue to provide:
 - Brydges Line services
 - out of custody duty counsel services
 - tariff coverage for the arraignment court process
 4. LSS must clear its deficit (it remains unclear whether this must be done in 2002 – 2003).
- Amendments to the Legal Services Society Act will be introduced in the spring sitting of the legislature. The immediate priority will be to draft changes to the LSS mandate (section 3). To do that, the Attorney said ministry officials want to consult with LSS, the Law Society of BC, and the Canadian Bar Association, BC Branch. He said he would also like input from the Society and the legal profession regarding the LSS board structure and appointing process.

LSS provides legal aid to qualified applicants and legal education for everyone in BC. In 2000 – 2001, the Society helped about one-quarter of a million people with referrals, summary advice, and legal information. Services are provided by some 440 staff (FTEs) in 60 offices across the province, and by more than 1,300 private bar lawyers who provide representation for about 77% of LSS referrals in criminal, family, immigration, human rights, and other civil law matters.
