



**Advocacy Centre
for the Elderly**

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BY E-MAIL (treasurer@lsuc.on.ca)

Janet E. Minor
Law Society Treasurer
The Law Society of Upper Canada
Osgoode Hall, 130 Queen Street West
Toronto, ON M5H 2N6

Dear Treasurer Minor:

Re: Online Lawyer Referral Service

We write this letter to comment on the recent change to the Law Society Referral Service (LSRS), which we understand is now only accessible online, except in the case of a crisis, such as being in custody. The LSRS fills an important community need by connecting people looking for legal assistance with a lawyer or paralegal. In converting the LSRS to an online referral system, the Law Society of Upper Canada (LSUC) is denying access to justice to those who have no access to the internet; a chronically underserved segment of the population.

About the Advocacy Centre for the Elderly

The Advocacy Centre for the Elderly (ACE) is a specialty community legal clinic funded by Legal Aid Ontario which was established to provide a range of legal services to low income older adults in Ontario. The legal services include individual and group client advice and representation, public legal education, community development, and law reform activities. ACE has been operating since 1984 in Toronto, and is the first and oldest legal clinic in Canada with expertise in legal issues of the older population.

ACE provides services to individual client in areas of law that have a particular impact on older adults. These include, but are not limited to: regulatory issues, capacity, substitute decision-making and health care consent; end-of-life care; supportive housing and retirement home tenancies; long-term care homes; patients' rights in hospitals; and elder abuse. In addition to these substantive areas of law, ACE continues to advocate for greater access to justice for older adults. ACE also publishes widely on these issues and has been consulted by many levels of government as well as private sector entities.

Given ACE's experience over the years of working on legal and policy issues that affect older adults in Ontario and across Canada, we trust that our input on the access to justice impacts of an online referral service will be of use to LSUC.

Current LSRS System

We understand that the current LSRS system operates as follows:

- When members of the public contact the LSRS by telephone (either 416-947-3330 or 1-800-268-8326), there is a voicemail which advises that they should use the online service.
- The online system takes the member of the public through a list of screens in which:
 - contact information must be entered;
 - a choice must be made as to whether the member of the public wants a paralegal or a lawyer; and,
 - The member of the public indicates the tribunal or court in which assistance is required if the person has elected to speak to a paralegal; or
 - The member of the public indicates the area of law in which assistance is required if the person has elected to speak to a lawyer.

The member of the public is then provided with a referral to a paralegal or lawyer who can be called for a free consultation of up to 30 minutes.

- There is a telephone line to make referrals if a person is in crisis – the example given is when a person is in custody - (416-947-5255), which is answered from 9:00 a.m. to 5:00 p.m.

Effects of the Current LSRS System on Older Adults

LSUC operates as the face of justice for most Ontarians. Any access to justice gained by creating an online LSRS system must be balanced against other access to justice considerations. As indicated in the Washington State Principles on Access to Justice and Technology, “use of technology in the justice system should serve to promote equal access to justice and to promote the opportunity for equal participation in the justice system for all. Introduction of technology or changes in the use of technology must not reduce access or participation and, whenever possible, shall advance such access and participation.”¹ Using technology to advance access for some should not come at the expense of access for others.

While an online system may be beneficial for some users, it is crucial that the LSRS also be accessible by telephone. Although many seniors are technologically savvy, ACE submits that a large proportion continue to rely on the telephone to access services. Certainly, this is the case for many seniors living in congregate settings such as retirement homes and long-term care homes. Many of the residents of retirement homes and long-term care homes do not have access to a computer with an Internet connection.

Further, the online system is presently inaccessible to those who are unable to read English or to persons who are visually impaired. A telephone service with access to

¹ Washington State, *Access to Justice Technology Principles* (2004), available at: <http://www.atjweb.org/wp-content/uploads/2013/01/The-Washington-State-Access-to-Justice-Technology-Principles.pdf>

interpretation services must be available so that members of the public can be provided with appropriate services based on their legal issues.

Presently, when members of the public call the LSRS telephone line, they are redirected to the online service. Many ACE publications, as well as publications by Community Legal Education Ontario, make reference to the LSRS telephone numbers. These documents are provided to the public by legal clinics all across Ontario. As there was very little opportunity provided to make corrections to these materials, many persons will continue to call this line. Further, the LSUC website itself encourages the public to call the number in their "For the Public" section under "Access to Legal Services", where they will be redirected to use an online source. Therefore, members of the public who are in need of assistance may be frustrated by being "bounced around" to different referral sources.

While there is a telephone line for crisis situations, many of our clients would not classify themselves in crisis. While they are in serious need of legal assistance, this need may not be an emergency or life-threatening. Therefore, many of our clients would not call this line. If some do call this line in order to access the LSRS in the only mode that would be available to them, the risk is that the line will be overburdened resulting in persons who are truly in crisis, such as those in custody, may not be able to access the services they need. We understand that callers have experienced significant wait times while calling in on the crisis line.

Finally, the online system itself is not user-friendly. For example, the second screen forces a person to choose between a lawyer and a paralegal. In a bullet point list below "paralegal", one of the services provided is assistance in attendance before a tribunal. This screen is confusing if members of the public wish to be represented at tribunals by a lawyer. It may be unclear to a lay person that the term "administrative law", which is listed under the "lawyer" option, would refer to proceedings before a tribunal as well and, therefore, a person could choose to be represented by a lawyer. The online LSRS system does not provide sufficient detail to allow a person to make an informed choice.

The fourth screen (if the paralegal option is chosen) asks the person to identify the tribunal where they require assistance. The member of the public may not even know which tribunal is involved if their legal problem is in nascent stages. If the lawyer option is chosen, the member of the public must read through several choices of issue areas in order to select the area of law they feel is most appropriate. Many of our clients do not conceive of their legal problems in terms of issue area.

In our practice, we know that particularly complex legal problems require a live person to ascertain the most suitable referral. Based on the online screening process, it is unlikely that a pertinent referral would be made for them. This would also waste the time of the legal professional who would have to then make an appropriate referral.

Recommendations:

By the time individuals access the LSRS, they may have tried many different avenues to obtain representation. To call a number just to be told that they need to apply online and then to apply online and be faced with an inappropriate referral because they did not conceive of the legal problem as intended by the screening process exhausts their own limited resources. More importantly, the online LSRS system ignores individuals who are unable to apply online because of a lack of access to the Internet or other barriers to accessibility. To ensure that the members of the public have continued access to legal services through the LSRS, ACE recommends that:

- The LSRS be made accessible by telephone to any callers who require it, not only to persons who are in crisis;
- An opportunity be provided to correct materials which reference the LSRS telephone number to advise that most people would be redirected to the online system of referrals and how to navigate that system; and,
- A review of the efficacy and accessibility of the online system be conducted.

We request a meeting with you to further discuss this issue which has the potential to make a tremendous impact on the lives of older adults.

Yours very truly,

ADVOCACY CENTRE FOR THE ELDERLY

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