GTA LEGAL CLINICS' TRANSFORMATION PROJECT

TRANSFORMATION DISCUSSION PAPER

March 2014

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1. INTRODUCTION

The GTA Legal Clinics' Transformation Project Steering Committee has approved a list of principles to guide transformation. This paper looks at how a transformed GTA legal clinic system might look, including delivery of legal services, governance, community work and more. The recommendations in this paper are drawn from the Principles paper.

It is not presumed that every detail found in this discussion paper will be incorporated into the new legal clinics. This is a descriptive paper, intended to paint a picture of what the transformed clinics might look like. The specific decision points for the Steering Committee to decide at its March 29th meeting are set out in a separate document. This paper provides some background to the thinking behind therecommendations to be decided on.

The recommendations (found in the Recommendations paper) will guide the Steering Committee as it moves forward to consider such issues as the number and size of legal clinics and resource allocation. The recommendations will ultimately be incorporated into the report which will go to all of the participating clinics for approval.

2. GOVERNANCE

- Each community legal clinic will be a non-profit corporation guided by a board of directors.
- The boards of directors must be policy boards (the "Carver" model) which deal with policy development, engagement with the funder and the strategic direction of the legal clinic.
- Boards are responsible for ensuring sound financial management through oversight of the Director.
- Governance of legal clinics must be community based.

- A key element of the Transformation Project is transformation of the way that we do our work: it is not enough to create new clinics with no change in the way that services are delivered.
    - The new clinics must agree to a collaboration agreement specifying some elements of service delivery.

- Boards must ensure that the clinic is engaged in active work that enhances the board's capacity to understand and connect to community.

- Boards need a mix of skills and backgrounds (such as accountants, lawyers, managers, community workers, *etc.*) and should be reflective of the diversity of the community.

3. TRANSFORMING SERVICE DELIVERY & STRUCTURE OF CLINICS

The recommendations provided are intended to provide client centred services: from initial triage through the continuum of available services, the focus is on smooth delivery of services from the client's perspective. The service delivery path includes:

- Initial contact.
- Triage.
- Referrals.
- Advice.
- Limited Retainer Services.
- File Opening.

3.1 Transformation of Legal Service Delivery

A key aspect of this project is transformation of legal service delivery. It is not sufficient to simply become larger or change catchment areas without also changing the way that we work. We need to develop methodologies which will ensure high quality, efficient, and client centred legal service delivery. We should be able to deliver more and better services. We also seek consistency in service across the GTA.

To ensure that the proposals for transformation of legal clinic services and consistency of services are implemented, the new clinics should sign a Collaboration Agreement setting out the service delivery principles which they will adhere to. Over time, the agreement can be changed as needed with the agreement of all clinics. This agreement should also provide for periodic review of resource allocation.

3.2 Core Areas of Law

- The GTA legal clinics should agree on a core list of areas of law to be provided by all – the service available should not depend on the street you live on.

- Clinics should be free to provide service in additional areas of law.

- Preparing the actual list is a complex and technical task.
  - Given the high demand for service, it is not as simple as identifying broad categories such as OW or Housing.
  - Service would be mandatory in the specific types of cases listed.
  - This will likely mean specifying types of cases within a broad case type such as housing or immigration.
  - It could also involve the principles which may be applied in the exercise of discretion.

- Preparing the core list will be part of the implementation process.

3.3 Intake

- Currently there are about 150 advice/brief services sessions per business day across the 17 GTA general service clinics (approximately 36,600 in 2012-13) and almost as many straight referrals (no advice provided).

- Centralized intake and advice (such as a central hotline) would have some advantages:
  - The number of advice staff can be more closely matched to the demand for service, so that advice is provided promptly but staff are not sitting idle.
  - A larger number of advice staff would allow for more specialization than would be possible with advice staff located in each clinic.

- It also has disadvantages:
  - We want to have seamless legal service for clients, so they can easily be passed from advice staff to case workers (and vice versa).
  - There is greater administrative overhead in maintaining a central intake system on behalf of separate organizations.
  - Intake staff may not be cognizant of local conditions and that would impact on the quality of referrals and advice.

- Conclusion: referrals and advice should not be centralized.
  - When intake staff determine that someone requires legal advice, not just a referral, the client can be passed to staff in the same clinic.
  - When advice staff determine that the client needs representation, it is easier and smoother to accomplish that within the same clinic.
  - When a case worker determines that a client also requires a referral or some other sort of assistance, the client can be passed to staff in the same clinic for that part of the service.

3.4 Catchment Areas?

- One option is to have clinics without catchment areas. Like hospitals, a client could go to whatever clinic they wished.

- This is not practical for legal clinics: the flow of clients based on perceived (or real) quality could overwhelm a clinic.
    - Implementation of a core list of areas of law will greatly reduce the importance of the catchment areas.

- If a clinic offers assistance in an area of law not offered by other legal clinics, the clinic could be overwhelmed if there was catchmentless service.
    - However, a clinic offering a particular legal service not offered at other clinics should have the option of making the service available to anyone.

3.5 Data Input on Intake

- We do not need a centralized intake (*e.g.* everyone goes through a single telephone hotline) or a rigid consistent intake procedure used by all clinics. However we do need to ensure that the same information is gathered and input regardless of where the intake takes place.
    - This will facilitate transfer of files between legal clinics.
    - Most importantly, it can reduce the need for a client to repeat her story.
    - Acknowledging that issues of confidentiality and privilege will need to be addressed; if they can be adequately addressed, it is preferable for the client to not have to tell her story repeatedly.

3.6 Initial Contact

- Allow multiple entry points:
    - Telephone.
    - Walk-in.
    - Email.
    - Web page, including an A2J software intake questionnaire.
    - Community Access Points.
    - Tenant Duty Counsel
    - All entry points should all contain legal information (CLEO materials, *etc.*) and after hours contact opportunities should be provided.

- Walk-in and telephone access should at a minimum be available 9:00 a.m. to 5:00 p.m. (or equivalent 8 hour period) without interruption.

- Intake should be by each clinic, not a central hotline: seamless client centred service is best maintained if we keep the client within one organization.

- Initial contact should be with a trained triage receptionist.
    - Identify eligibility for service (geographic and area of law).
    - Input basic information into case management system.
    - Make appropriate referrals (or pass on to referral specialist).
    - Identify urgent issues.
    - Transfer to referral or legal staff.

3.7 Referrals

- Currently, almost half of initial contacts with legal clinics are resolved through a referral and the client does not speak with legal staff.

- Many will be very straightforward referrals which can be done quickly by the receptionist (complex and time consuming referrals going to referral staff).
    - For common referrals, we should offer to email or mail written referral instructions.

- Some referrals (based on either the type of referral or the abilities of the client) should be handled by a referral specialist. Possibly these could be social service workers (or SSW students), supervised by a social worker.
    - These referrals would involve more than just providing a phone number. Active referrals could include making an appointment with a family law advice lawyer or a counselor; and follow-up calls to see if the client went to the appointment.

- The goal is to have trained staff provide active referrals; depending on staffing, this might be done by specialized staff or might be a function of the reception staff.

- An up to date and well maintained database of services available is essential.

- Local expertise is important for high quality referrals.

3.8 Advice

- Clinics could have staff dedicated to advice (that is all, or almost all, of the work that they do) *or* have case workers who also provide advice.
    - Dedicated advice staff will reduce call-backs as much as possible. Call-backs cannot be totally eliminated but a reduction in call-backs will improve client service.

- Given the benefits of faster client response and of freeing up case workers from advice duties, it is preferable to have dedicated advice staff.
    - However, some clinics may lack sufficient resources to have dedicated advice staff and may need to have advice provided by case workers.

- Dedicated advice staff could be attached to an area of law team (advice staff are specialized) or form a separate advice team (advice staff knowledgeable in many areas of the law).

- It is beneficial to have advice staff who are specialists in an area of law but there are competing issues.
    - Including advice staff are included in every team, and ensuring sufficient backup when staff are away, could amount to more advice staff than possible for a small clinic.
    - A non-specialized advice team would provide more flexibility on intake, more depth of backup, and would make it easier to adjust the numbers to the work load.

- Conclusion: the optimal model is an advice team.
    - Using an "advice team" model means that in different areas of the law, matters might be bumped up to the case workers sooner; for example, if there are few "simple advice issues" in immigration, those intakes may go to case worker staff at an earlier stage than housing matters.
    - An alternate model would be advice staff attached to each area of law team, backed up by case workers: this could be possible in larger clinics.

- There should be an advice supervisor (who also provides advice in addition to supervision), to assist when staff are unsure of correct advice, to mentor, and to review advice for quality.

- The advice staff should mostly be paralegals, to keep costs down, with the ability to easily move matters up to a lawyer when necessary.

3.9 Limited Assistance

- Advice staff should also provide limited assistance such as drafting LTB documents or a warning letter to a landlord or a phone call to OW.
    - This provides faster, effective and seamless service for the client.
    - Having this done by initial advice staff means that someone else does not have to get up to speed on the facts.

- Clinics should make more use of initial demand letters and early intervention, trying to resolve matters before litigation is required.
    - This can provide faster and better resolution for clients.
    - It can provide a resolution with less use of clinic resources than litigation.

- Provision of limited services will often mean an ongoing relationship with a client until the matter is resolved. This is part of a shift from staff centred service provision (focusing on discrete provision of advice and quick closing of intakes) to client centred services (continuous service until resolution of the matter).

- The Law Society requires a signed, written retainer for anything other than summary advice. Summary advice presumably would not cover drafting documents or contacting a third party.
    - Clinics should use document assembly software to quickly put together retainers, with a lot of common options available.

- Advice staff can prepare the retainer and pass it to intake staff, students or volunteers to arrange signature.
- Client can come into the office to sign retainer.
- Retainer can be emailed to the client, signed, scanned and sent back.
- Retainer can be sent to a community partner for signature and return.
- Someone from the clinic can meet client at a Community Access Point.

- We should use a standard follow-up email specifying the limited assistance.
    - Standardized to make it quick and easy for the advice staff. However, they have the option of inputting some customized comments, which gives an opportunity to repeat the key points of the advice. After talking to a doctor or lawyer, people quickly forget the details. This could be sent by email or mail.

- Ideally, we should follow-up later to check results.
    - Follow-up could be done by students or volunteers: the advice staff could type in what the follow-up points should be (did you file the T2? Did you send in the internal review request?); the students or volunteers could do the contacting.
    - For ongoing matters – anything beyond simple advice/information – we should follow-up and offer ongoing assistance. This means that advice staff are handling ongoing matters. They are also always considering whether to pass a matter on for full representation.

    - After initial provision of advice, we should conduct a public benefits “check-up” to see if client is eligible for any benefits not being received or at risk for other legal problems.
        - Develop A2J program for students or volunteers to use.

- Affidavits: preparation could be done on the phone or online, with a commissioner sent to a Community Access Point with completed affidavits.

3.10 Teams

- There should be area of law teams: there is an improvement in quality with specialization. Clients get faster and better service and the clinic operates more efficiently.
    - This is not just a matter of legal knowledge; it is also knowledge of procedure and local practices and contacts.

- This would also increase a clinic’s ability to engage in both test case litigation and large scale advocacy projects.
    - Small clinics have difficulty putting resources into this work.
    - Specialized teams will be better able to spot test case opportunities and to act upon them.

- Teams should be structured to enable appropriate staff to be assigned for efficient and effective services. Each task should be done by someone competent to do a good job but not by someone over-qualified for the task.

- Teams need to be of sufficient size to provide for backup coverage.

- There could be some major teams and some where a few areas of law get lumped together into one team.

- There could be varying levels of service for different areas of law. For example, consumer law service might be limited to advice, or advice/brief services.

- Each team should have a lawyer as team leader, with a mix of staff as appropriate for each particular team, which could include lawyers, paralegals, articling students, social workers and others.

- Community development workers should be outside of the teams, so that their work is not limited to "area of law" projects. This helps to recognize the inter-related issues of clients and would also help to encourage collaboration between teams when legal staff are working with the CD staff.

- There should be regular meetings of the team leaders to ensure exchange of information (again, since the clients' problems often cut across areas of law) and to encourage cross-fertilization of ideas.

- Advice staff and case workers need to be able to quickly and easily consult with other teams when clients have multiple problems.

3.11 ODSP Disability Cases

- Almost 60% of the GTA file openings are ODSP disability files (about 3,000/yr.).
    - Such high volume, with a relatively high degree of consistency case to case, warrants a specialized case management system.

- One option is to centralize these cases: one clinic does all ODSP disability files:
    - It is usually only necessary to meet with the client a couple of times; that could be done by travelling to the client.
    - Efficiencies gained by volume.
    - However, clients may prefer to receive service from their local clinic.
    - This is a complex issue which requires more study during the implementation phase of the Transformation Project.

- ODSP disability cases need to be addressed in a multi-faceted way. This would include:
    - Assistance with ODSP applications (shifting from appealing denials to developing successful applications).
    - Triage cases (clients who contact the clinic when the hearing date is imminent: review the matter and decide whether to go for a quick and dirty appeal hearing or provide advice on self-representation).
    - Wrap-Around (multi-disciplinary approach for hard to serve clients).
    - Independent medical examinations.
    - Training for health professionals.
    - Vetting of applications before submission.

3.12 Multi-Disciplinary Staff

- Many clinic clients suffer from problems which affect their ability to deal with their legal issues. Collaboration between legal clinic staff and non-legal staff can improve the outcome of legal processes.

- Helpful collaborators could include mental health workers, social workers, social service workers and social service worker student placements.

- These non-legal staff could be included in the staffing of legal clinics or clinics can work in collaboration with staff in other agencies (or a combination of both).

- The non-legal work for clients with serious mental health issues, including a lot of time spent building trust, is very time consuming. A social worker at the legal clinic could take much of this client relationship work from legal staff.
    - A social worker could also supervise social service worker students, which would improve the quality of their work and their placement experience.

3.13 Duty Counsel& Advice Lawyers

- Clinics should have close relationships with duty counsel
    - This will facilitate smooth referrals in both directions.
    - Closer connections could provide seamless service and continuity of care for clients.

- Clinics should have advice lawyers available on-site in areas of law which we do not provide service in, such as family law and criminal law.

3.14 Clinic Management

- Clinic Directors should be lawyers.
    - This is necessary so that legal services leadership can be provided.
    - There is more effective management when the manager is thoroughly knowledgeable of the work done by the organization.

- Clinic directors should focus primarily on legal leadership, strategic interests, and the management and operation of the clinic.

3.15 Consolidated Back Office Functions

- Some back office functions will be more efficient centralized. Consideration should be given to functions such as bookkeeping, payroll, audits, purchasing, IT support, corporate compliance, HR support, *etc.*

- Deciding exactly what functions should be consolidated will require some expert advice.

- We need to ensure that centralization does not undermine local accountability and accessibility.

4. COMMUNITY WORK

- The difficulty of the balance between commitment to community work and the relentless pressure of case work must be addressed in the transformed system.

- Community work has three distinct components for clinics:
    - public legal education – mostly through presentations and the use of public legal information materials;
    - law reform activities – through test cases, lobbying efforts, deputations, and legislation review; and
    - community development work – capacity building with organizations and individuals, outreach and relationship building with community agencies, and community organizing.

- To ensure capacity for community work there should be dedicated community workers.
    - Clinics engage in community work in order to address the systemic sources of the case work we do for our individual clients. It is through this work that we hope to achieve meaningful change.
    - Clinics will decide on staffing and priorities, but specific staff resources must be directed to this critical and unique aspect of clinic work.

- Another way to maintain and increase capacity is to look for opportunities to coordinate work so as to avoid duplication of effort.
    - Including with specialty legal clinics and other community agencies.

- Centralization of things like training and supports can also enhance efficiency and capacity: a registry of available PLE materials developed by clinics, training in making PLE available in other languages, and training for students or lawyer volunteers to present PLE could be centralized.

- Public legal education is an important way for a clinic presence to be represented in the community. One of the most important aspects of the transformed system will be development of relationships with agencies that can become community access points. PLE is a tool that can be used to help develop these relationships so priority should be given to presenting with these kinds of agencies.

- Larger catchment areas will challenge our local knowledge of neighbourhoods so outreach opportunities must always be seen as an important opportunity to collect information on service priorities.
    - Clinics should implement formalized information gathering procedures and ensure that information is passed along to the casework teams, their Board of Directors, and incorporated into their clinic planning processes.

- It will be critical to develop common measurements of the impact of clinic community work to support our advocacy efforts for expanded resources for improved access to justice.

5. COMMUNITY PARTNERSHIPS & ACCESS POINTS

5.1 Introduction

- Ensuring access to clinic services is fundamental to our work. It is a vital component of our commitment to access to justice.

- Clinics should strive to remove as many barriers to accessibility as possible and provide many different ways to access clinic services.

- Access to clinic services does not just mean proximity to a clinic office.
    - Our locations cannot be equally proximate to all those seeking our services.
    - We need other ways of reaching out to our clients.

5.2 Client Service Partnerships

- Clients often present with complex issues which go well beyond purely legal concerns.

- We rely on community partners to direct clients to us and to address the non-legal issues of our clients.

- Many clinics have long standing relationships with other agencies.
    - These tend to be ad hoc and based on personal relationships.
    - The relationship can falter or fall apart with a change of staff at the legal clinic or the other agency.

- Clinics would benefit from more formal relationships with other agencies which are not dependent on specific personnel.

- Outreach staff should maintain a system for ongoing maintenance of relationships.
    - Database of community partners and categorizing of them. Some examples are provided here without attempting to establish actual category details.
    - For example, one class of partners would get a personal phone call at a minimum every three months and reminders would be set to ensure this happened.
    - Another group might have a visit from clinic staff every six months or twelve months.
    - Another might just get an annual letter reminding of our existence and offering our brochures for their display area.

5.3 Community Access Points

- To promote greater access to clinic services, whether a client lives close to a legal clinic office or not, clinics should use the concept of "Community Access Points".

- The data has shown that while clients value the ability to meet in person with clinic staff, they do not particularly care whether that is at the clinic office or some other location.
    - Often, it can be more convenient for clients to meet at different location, for reasons of proximity, comfort level (at an agency they already have a relationship with) and convenience (one stop shopping by accessing more than one service at a location).

- For this approach to be successful, it is necessary to have a structured, collaborative agreement with the community partner.
    - The agency should act as an initial contact point for the clinic on an ongoing basis.
    - Agency staff should be able to call and get priority access to legal clinic staff.

- There are many advantages to community access points:
    - Access Point allows the clinic to maintain a presence in the local community; piggy-backing on the host agency.
    - Develop a closer relationship with the host agency.
    - Can make clients more comfortable, especially those who already have a good relationship with the host agency.
    - Done right, the host agency effectively acts as an intake location for the clinic all the time, not just during the clinic staffs' presence there.
    - Even if the client phones in from the host agency or documents are faxed back and forth, the connection with the host agency makes the client more

comfortable, provides the human touch and face to face contact, without any increased use of legal clinic resources.

- The agency may want a regular legal clinic presence at their location (for example, a monthly or bi-weekly advice clinic).

- There are negative aspects to having a regularly scheduled legal clinic presence:
  - If there are insufficient appointments, clinic staff are wasting time.
  - Case workers actually spend a small percentage of their time face to face with their clients.
  - In a typical case, there might be two client meetings: once early on and once just before the hearing.
  - Initial advice can usually be done by telephone (although not for everyone), so it does not matter where the client lives.
  - For clients who need an in-person appointment, that can be booked at the community access point on an as needed basis.
  - As needed appointments are better for clients: if a client has a problem on Thursday, and the legal clinic is only there on Wednesdays, the client is better served by phoning the clinic

- A regularly scheduled legal clinic presence (such as a monthly advice clinic) can be a necessary trade-off for the benefits obtained by having the collaborative agency providing a friendly, walk-in access point for legal clinic clients.
  - It also has the benefit of building the clinic's presence in that area.
  - Properly equipped staff can work from mobile locations almost as if at their desks in the clinic office, so time will not be wasted.
  - A non-legal staff person could be sent, with a lawyer or paralegal standing by on the phone or by video link back at the clinic office.

- With a clear collaborative agreement and confidentiality safeguards, the partner agency can collect the initial contact information that a clinic requires, make copies of all documents, and email or fax all of this to the legal clinic.
  - An A2J software tool to facilitate guided and supported intake is being developed and will help to reduce the chances for errors.

- The "initial contact" piece can be done by the partner agency. The information is then with the clinic which follows its usual procedures.

- If the clinic then wants to meet with the client, agency staff can make the appointment and follow up with the client to ensure attendance.

- The legal clinics need to provide regular and systematic training for staff at the agencies acting as community access points. This training should include:
  - How to be "problem noticers" – able to spot potential legal issues which the legal clinic might address.

- How to collect the information needed by the legal clinic on initial contact. This is through a form – paper or electronic – which specifies what is needed but training helps to reduce errors.
- What issues are urgent, particularly limitation periods.
- Basic legal information which could be provided by agency staff.

6. STUDENTS & VOLUNTEERS

6.1 Clinical Law Education Program

- A clinical law education program is an essential part of the legal clinic system.

- Currently, the major program is the Poverty Law Intensive Program at Parkdale Community Legal Services, a joint project of Legal Aid Ontario and Osgoode Hall Law School.

- The Parkdale program has greatly benefited the legal clinic system over the decades.

- A student education program:
  - Develops future clinic lawyers.
  - Develops support for the community legal clinic system throughout the legal profession.
  - This support has often been critical in preserving the community legal clinic system.

- The transformed GTA legal clinic system must incorporate a clinical law education program.

6.2 Volunteers

- There is potential for clinics to enhance their capacity through the use of students (law students and others), *pro bono* lawyers and other volunteers.

- Volunteers, of all kinds, require training and supervision resources, training and management. Clinics must consider how to best use volunteers for enhanced capacity or effectiveness for the clinic and a positive experience for the volunteer.

- Some clinics are already making effective use of volunteers but this is difficult for small legal clinics.

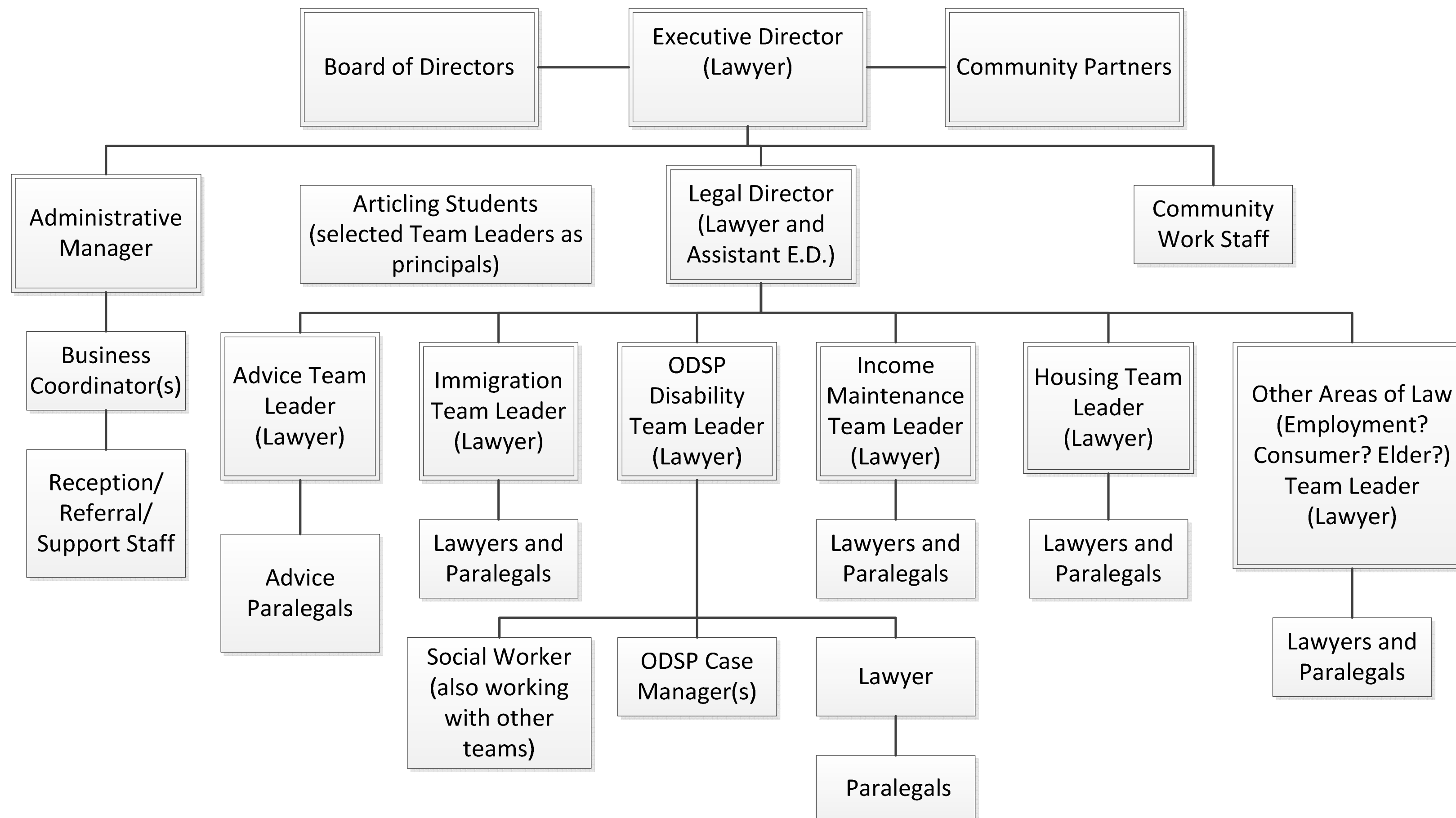
- It would be beneficial to have central supports for volunteers.

- Proper use of volunteers can expand both the quality of service (for example, adding non-legal supports such as accompanying a client to an appointment) and

the range of services offered (such as *pro bono* lawyers providing advice in other areas of law).

7. SAMPLE ORGANIZATIONAL CHART

A sample organizational chart is provided to demonstrate the sort of organization that a transformed legal clinic might have. This is not intended to suggest that a new clinic's organizational structure would look exactly like this, nor is this intended to suggest that every clinic will have the same organization structure. This is just a sample to show how the recommendations could potentially be implemented.



Board of Directors
Executive Director (Lawyer)
Community Partners
Administrative Manager
Articling Students (selected Team Leaders as principals)
Legal Director (Lawyer and Assistant E.D.)
Community Work Staff
Business Coordinator(s)
Reception/ Referral/ Support Staff
Advice Team Leader (Lawyer)
Advice Paralegals
Immigration Team Leader (Lawyer)
Lawyers and Paralegals
ODSP Disability Team Leader (Lawyer)
Social Worker (also working with other teams)
ODSP Case Manager(s)
Lawyer
Paralegals
Income Maintenance Team Leader (Lawyer)
Lawyers and Paralegals
Housing Team Leader (Lawyer)
Lawyers and Paralegals
Other Areas of Law (Employment? Consumer? Elder?) Team Leader (Lawyer)
Lawyers and Paralegals