

House of Commons Briefing Paper

Barriers to Access to Legal Services via Technology

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Recommendations:

1. Implement a widely available community-based program to teach seniors to use videoconferencing programs such as Zoom. The program should begin with basics, as many participants may not be familiar with using the internet.
2. A publicly available, free or low-cost office space should be made available for people needing a private space to use videoconferencing. Assistance could be available onsite for technological issues.

COVID-19: Barriers to Access to Justice for Seniors

Overview

The Renfrew County Legal Clinic provides legal services to low-income seniors in many parts of Eastern Ontario. As a result of trying to adapt our services during the COVID-19 pandemic, we have noted

several barriers to access to justice for seniors. Funding for programs to teach seniors how to use programs such as Zoom, and providing publicly accessible spaces to use technology, would improve access to justice for seniors.

Background

The Renfrew County Legal Clinic houses a seniors' program for low-income people aged 60+. Our office provides free wills and powers of attorney, as well as advice and assistance relating to income benefits, long-term care and retirement home issues, debtor/creditor and Small Claims Court matters, and certain health and community care issues. We also provide public legal education to seniors and people supporting seniors.

Although the seniors' program is based in Renfrew, we serve a large geographic area which includes Renfrew County, Cornwall and SDG County, Peterborough and surrounding area, Northumberland County and Hastings/Prince Edward County. The program is staffed by one licenced lawyer and one assistant, though it relies heavily on local legal clinics in the wider geographical areas it serves. Prior to the pandemic, the seniors' lawyer would travel around Eastern Ontario on a monthly rotation and meet with seniors in person at local legal clinics, in hospitals and long-term care facilities, and in private homes.

The Renfrew County Legal Clinic's seniors' program is one of the only ways that seniors in many parts of Eastern Ontario can obtain a free will and powers of attorney. People living in poverty often lack opportunities to complete these documents, which creates challenges for family members and puts a strain on public resources when they become incapacitated or pass away. Will and power of attorney kits and other do-it-yourself options may be better than nothing, but they are not a substitute for proper legal advice and preparation of documents by a licenced lawyer. They are also not well-suited to people with certain disabilities affecting reading comprehension or cognitive functioning.

Adapting to New Circumstances

As a result of the COVID-19 pandemic, the seniors' program has had to modify its procedures to ensure that seniors can safely access our services. At certain points during the pandemic we have been able to see clients in-person behind a Plexiglas screen from Renfrew, Cornwall and Belleville. Some clients have not been able to travel to these locations, and many did not feel comfortable leaving their homes to meet in person despite safety precautions. Depending on the number of cases of COVID-19 in Ontario, we have at several points not been able to see clients in person at all. We have endeavoured to be very cautious in our approach due to the increased risks posed by the pandemic to seniors. In addition to being age 60 or over, many of our clients are affected by conditions like cancer, heart problems, COPD and diabetes. These same individuals tend to be more concerned about making sure that their health care and final wishes are properly documented.

In accordance with Ontario Regulation 129/20 under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, we have also begun to offer wills and powers of attorney services to seniors remotely. We are able to meet with clients using videoconferencing to take instructions, and we can witness documents remotely. We have had successes and challenges with providing remote services by Zoom, and we have taken note of the need for skills-building programs to be offered to seniors to improve access to technology.

Barriers to Access

Our new procedure for offering will and power of attorney services involves suggesting Zoom appointments to everyone who is eligible for our services. Typically, we will get one of three responses from people. The first group will confirm that they know how to use Zoom already and have access to the necessary technology, so we are able to proceed with their will or powers of attorney without issue. The second group has access to a computer, tablet or smartphone and is willing to try using Zoom, or has a family member or friend who is willing to assist them. The third group is unable to access Zoom at all.

Unfortunately, most of our clients fall into the third group. Individuals will often tell us that they do not have any electronic device they could use to access Zoom, that they do not have internet, or that they simply do not know how to use the technology, even though they may have access to it. Some people appear to be anxious when the subject of technology is raised, or express doubt that they would be capable of figuring out how to use it.

Anecdotally, the group with the least access to technology appears also to be the most vulnerable. Since our services are offered to those age 60+, we tend to find that those on the younger end of the spectrum are more likely to be comfortable accessing technology, with people of more advanced age having more difficulty. There are added complications for people who have low vision or hearing difficulties, or who have other disabilities affecting learning or cognition.

Having assistance from family and friends to help clients join a Zoom call is sometimes helpful, but it comes with its own set of challenges. Once a client joins a Zoom call with assistance, it is difficult to ascertain whether the helper (often a younger family member) has left the room, or if they are still within earshot. This raises privacy concerns and makes it difficult to guard against undue influence. Accordingly, we must deny Zoom services to clients when we detect possible undue influence or have concerns about a person's ability to speak to us privately. We have had greater success when clients are involved with a service such as hospice or a geriatric or mental health outreach program, where a staff member is willing to bring a computer to our clients and help them join the Zoom call.

When we are unable to serve people by Zoom, we offer to put them on our waiting list. In non-COVID times, our waiting list has been up to a year in length in certain parts of Ontario. At present, the list is just as long, but it is not moving as quickly because office space is limited in most areas. We always suggest to people that they contact a private bar lawyer if they need services urgently, but since our clients are people with low incomes, they typically tell us they will not be able to afford to pay a lawyer. As well, many clients have reported to us that private bar lawyers are largely not seeing people in person, either.

We propose that a widespread service be created to teach seniors the skills to access programs like Zoom independently. In addition, office space could be made available in a community space where help is available if needed. The ability to access technology independently is currently central to being able to receive legal services, and doubtless this is true across all areas of law. The added benefits of familiarity with videoconferencing include being able to interact with other people, including close family members, safely from home.

