

MOTHERS WITHOUT STATUS

**Practical Information For Service
Providers Working With Mothers
Without Permanent Resident Status**

Mothers Without Legal Status:

Practical Information For Service Providers Working With Mothers Without Permanent Resident Status

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This booklet offers general information on mothers without permanent resident status and involves federal and BC law. Information in this guide is accurate as of January 2017.

This information is NOT about those who already have permanent resident status (Permanent Resident Card or a Record of Landing Document). If your client does not know whether she has permanent resident status, you should advise her to seek legal advice about her status in Canada. If your client is a permanent resident, and her sponsorship relationship has broken down, or her sponsor is abusive and failing to support her, you may wish to consult a guide on sponsorship breakdown, available at <http://www.lss.bc.ca/publications/pub.php?pub=113>

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Contents

- Introduction 1

- Section I: Understanding the Issues 2
 - Who Are Mothers Without Legal Status? 2
 - First Steps: Understanding the System and Getting Immediate Help 4
 - 1. Charting the Way 5
 - 2. Applying for Legal Aid 5
 - 3. Working with Lawyers 6
 - Navigating the Family Law System 8
 - 1. Staying or leaving: The Options 8
 - 2. Ministry of Children and Family Development Involvement 11
 - Navigating the Immigration System 13
 - 1. Sponsorship 14
 - 2. Conditional Permanent Residence 14
 - 3. Applying for Permanent Residence: Humanitarian & Compassionate Grounds 14
 - 4. Applying for Refugee Status 16
 - 5. Applying for a Temporary Resident Permit 16
 - Dealing with Canada Border Services 16

- Section II: Helping Women Meet Their Basic Needs 18
 - Access to Money 18
 - 1. Legal Employment 18
 - 2. Child Support 18
 - 3. Spousal Support 19
 - 4. Family Assets 19
 - 5. Income Assistance 19
 - 6. Money From Family Members or Friends 20
 - 7. Canada Child Tax Benefit and Universal Child Care Benefit 20
 - 8. Income From Illegal Employment and “Survival Sex” 21
 - 9. Banking 21
 - Food 22
 - Housing 22
 - 1. Shelters 22
 - 2. Transition Houses 22
 - 3. Second-stage Transition Houses 23
 - 4. BC Housing 23
 - 5. Housing Co-operatives 23
 - 6. Homelessness Prevention Programs 23

Health Care	23
1. Medical Care	23
2. Dental Care	23
Education	24
1. Education for Adults	24
2. Education for Children	24
Child Care.....	24
Section III: Commonly Asked Questions	25
Section IV: Tips for Providing Support to Mothers Without Legal Status	27
Section V: Resources – Free and Low-cost Resources to Meet Basic Needs.....	28
Appendix: Guide to Writing an H&C Letter of Support for Mothers Without Legal Status	32
Figures	
1. Navigating the Family Law System	10
2. Navigating the Immigration System	13

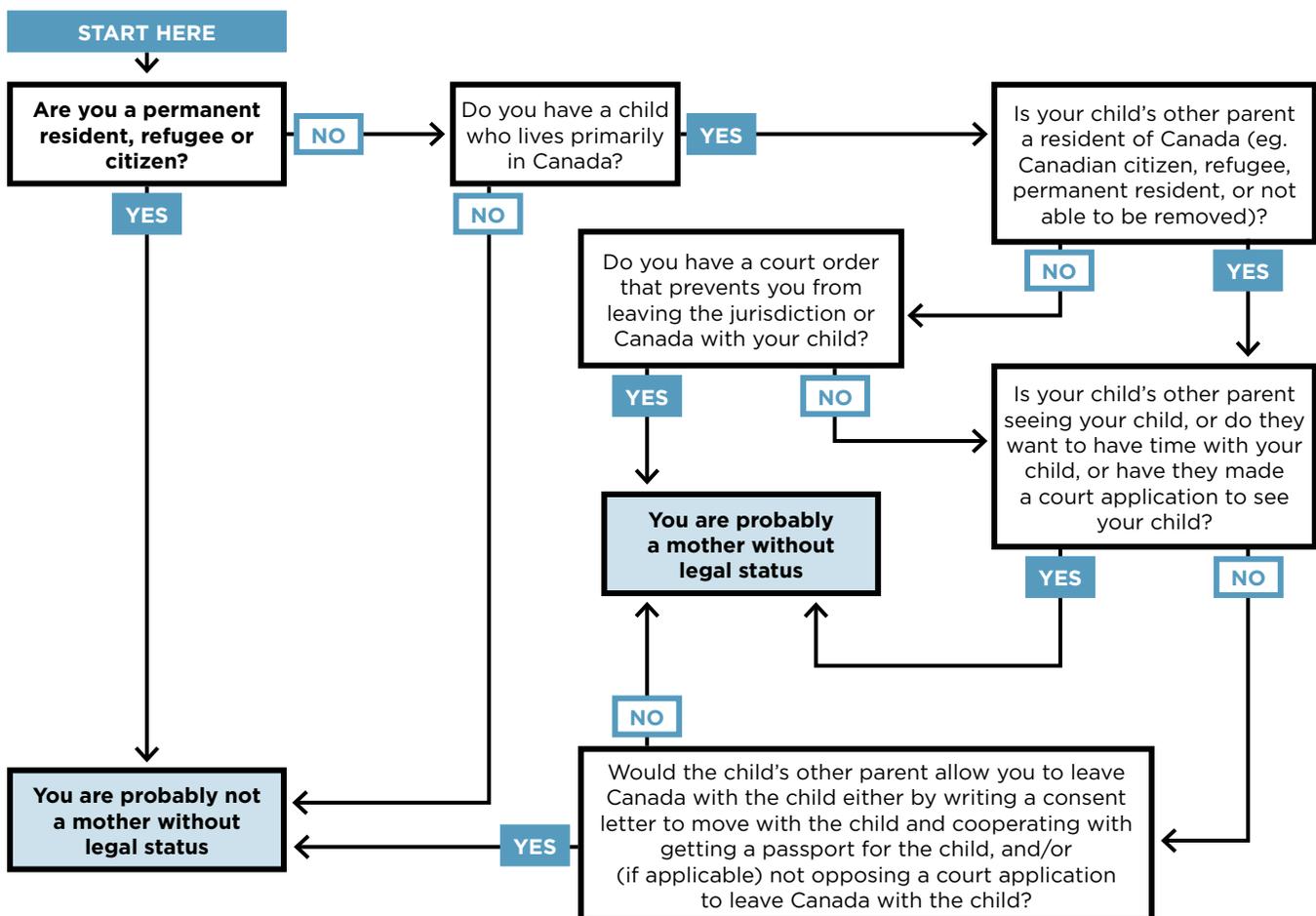
Introduction

This booklet has been written for service providers who assist “mothers without legal status” – those women who are neither Canadian citizens nor permanent residents, and who need help navigating their way through both the Canadian immigration system and the family law system. It provides an overview of the issues mothers without legal status face, what they need to do to resolve their status and what support is available to help them. This booklet does not provide legal advice.

This is not a reference book for those who have been sponsored or are a part of sponsorship breakdown; this booklet specifically focuses on women who were not sponsored or where the sponsorship application was withdrawn (or will be withdrawn) before she is approved for permanent resident status.

As a service provider, you may feel overwhelmed in your efforts to assist and support mothers without legal status, given the complexity of their situation. This booklet is here to help. It breaks down the topic into manageable pieces and tackles each issue individually. It focuses on what you can do, step by step, to help guide a woman without status through the maze of Canadian immigration law and family law, and it provides useful contact information that will make the process easier for both you and the woman you are supporting.

In this booklet we are talking about a specific group of women and their children, this flow chart can help you to decide if this publication will help your woman:



Section I: Understanding The Issues

Who Are Mothers Without Legal Status?

For the purposes of this booklet “mothers without legal status” (MWLS) is a term used to describe a woman who is in Canada and:

- Does not have Canadian citizenship or permanent residence,
- Has a dependent, minor child with her in Canada,
- Has an ex-partner also in Canada who typically has Canadian citizenship or permanent resident status, and
- She has a family court order, or obligation under the family law system, to keep her child in Canada.

Mothers without legal status have found themselves in this position because they were previously in an intimate relationship with a man who is a Canadian citizen or permanent resident and had a child with him. Once the relationship ended, these women were left with no permanent legal status.

The YWCA Metro Vancouver has been working extensively with MWLS for almost a decade. Describing MWLS can be difficult as they are a very diverse group of women. They arrived in Canada in various ways including, but not limited to, the following:

- With a temporary visitor’s visa
- With a student visa
- With a work visa
- With a working holiday visa
- As a traveller with a valid passport
- As a traveller who did not require a visa

All of them were in intimate relationships with men that subsequently ended for one or more of these reasons:

- They were experiencing abuse from their intimate partners.
- Their intimate partners were abusing their children.
- They were told to leave the relationship by the Ministry of Children and Family Development because their children were witnessing and/or experiencing abuse.
- Their partners ended the relationships.

The vast majority of MWLS were told by their spouse that he would sponsor them; he may have even completed the application, but withdrew it before the sponsorship was completed so that at the end of the relationship, the mother found herself without sponsorship or permanent residence.

Generally, mothers without legal status must stay in Canada if they want to remain with their children; they cannot legally take the children out of the country. But staying means applying for permanent resident status, which can be a lengthy and costly process. It can take up to three years for the application to be fully processed. If the woman can get pro bono assistance with her application or get legal aid, the application fees and associated costs (police certificates, medical exam, translation, etc) alone can be about \$1500; however, if your client does not receive assistance from legal aid then application fees and legal fees can easily go up to \$5000 with a lower priced immigration lawyer.

What is the difference between a visa and a permit?

A visa is what some foreign nationals must apply for before they can travel to Canada. A visa is what allows them to get on a plane and come to Canada.

Once in Canada, people have permit. A permit is what allows a person to do something (visit, study, work) while they are in Canada. For example, not every foreign national needs a visitor visa to come to Canada, but all foreign nationals who stay longer than 6 months must have a visitor permit to remain in status.



To find a lawyer who understands MWLS cases, contact YWCA Munroe House at **604-734-5722**, we can assist to find a lawyer or help you to plan to select a lawyer.

During this time these women have limited financial opportunities and they may have very real fear of living close to their ex-partners if they have been abused. Consequently, mothers without legal status and their children live under extreme duress and hardship while they wait for immigration and family law issues to be resolved.

Throughout this book we speak extensively on Humanitarian and Compassionate Grounds Applications as these are typically the applications used for Mothers Without Legal Status as they are not typically covered by any other application process. When talking to lawyers and others, the term used is usually “H&C”. H&C may be used in this booklet instead of Humanitarian and Compassionate Grounds Application.

First Steps: Understanding the System and Getting Immediate Help

Mothers without legal status must understand the legal choices and limitations they face and the practical steps they need to take to get the result they want. As a service provider, you may be a woman's main support as she examines her options.

Some mothers in this situation will want to stay in Canada where they have established ties. Others will tell you that they want to return to their country of origin with their children. Their reasons for wanting to return may include, but not be limited to, the following:

- They may have limited or no source of income and no legal right to work in Canada.
- They want to keep safe from abusive ex-partners.
- They want to protect the children from abusive fathers.
- They have family and support systems in their country of origin.
- They want to leave behind the challenges presented by the immigration and family law systems in Canada.

As a service provider, encourage the woman to meet with a lawyer - either a pro bono program or other summary advice program to have her options assessed. Additionally, you will need to be cautious when exploring the woman's options with her while discussing the next steps. In many cases, a woman without status will not be able to take her children out of Canada because of unresolved family law issues. This will seem very unfair; however, assisting her to prepare her story together before meeting with her lawyers will give her the best chance to be able to do what she wants to do.

Take the time to review your client's situation and be prepared to explain to both a family lawyer and an immigration lawyer about the history of your client's case and current situation.

The woman may also not understand what is happening. If possible, review with her any relevant documentation to help her understand the situation (e.g., court orders that prevent the children from leaving the jurisdiction, emails that show her asking her ex-partner for permission to take the children that he has refused).

A woman without status will usually be involved with both the Canadian immigration system and the family law system. These two systems operate completely independently of one another and navigating both can be overwhelming for anyone, but particularly for MWLS.

You, as a service provider, can help a woman steer her way through whatever is required, getting appropriate professional help along the way.

Each situation will be different, but her options may include:

- Starting an immigration process (applying for Permanent Residence based on Humanitarian & Compassionate grounds, refugee status, or temporary resident status).
- Applying to the courts for permission to leave the country with the child, or
- Returning to her country of origin without the child.

Some women in this situation may decide to return to their abusive partners. If this is their choice, you may want to offer to help them create safety plans and let them know that you are there if they need you again.

Most MWLS return to abusive partners for four key reasons:

1. They have little to no income and cannot afford to be on their own.
2. They think that the only way to get permanent residence is through sponsorship (often men will offer to sponsor her when she leaves).
3. They are overwhelmed by everything that is happening (living in a transition house, fear of deportation, being a single parent, having no income, and having no easy answers).
4. They were forced to leave their partner by MCFD when they did not want to leave, and the file has since closed.

Assisting a MWLS who is planning to return to their partner is really no different than supporting any other woman in that situation. Help her create a safety plan, let her know you are there for her if she needs you, and that you respect her decision. The key difference for MWLS is ensuring that she is making this choice freely and has the information she needs to make the best choice for herself.

1. Charting the Way

It is helpful for the lawyers who will become involved to start a small narrative of what has happened in her case.

The first step is to determine where a mother without status sits within the legal systems - both the immigration system and the family law system.

One of the most important details is to find out if she currently has any status in Canada (as a visitor, worker, or student) . If she does not have any immigration status then she is in a more precarious situation. She will need to be more mindful to obey all laws (i.e., being stopped for jaywalking can cause police to look into her status) and she may be more vulnerable to being reported to Canadian Border Services Agency (CBSA) by her abusive ex-partner or others.

If her ex-partner was in the process of sponsoring her, it is important to find out where he was in that process. If the MWLS does not know, it will be useful to find out when he filed the application and any other information she has about the sponsorship process.

It is also very important to find out whether she has started the process of applying for a family court order. Figures 1 and 2 (on pages 10 and 13) will help you determine a woman's current situation. These two flow charts show the various stages of the immigration and family law system for mothers without legal status. (Note: These figures are intended as planning tools only; they are not a substitute for legal advice.)

Regardless of where in the process a mother without status is, she needs to get immediate advice from both an immigration lawyer and a family law lawyer.

Remember, while front-line workers in the immigration and family law systems are often very knowledgeable and will be able to answer some questions about process and paperwork, they are not legal experts. At the very least, a mother without status should obtain summary advice from a lawyer on the options available to her. The next step may be to apply for Legal Aid, if appropriate, in order to obtain funding for legal representation.

For immigration cases it is normally best to speak to a lawyer prior to applying for Legal Aid; they will be able to explain the best course of action to take and will be able to ensure that all relevant facts are presented to Legal Aid to prevent unnecessary appeals at Legal Aid. When speaking with the

lawyers, ask them what the specific 'merits' are of her case – these are the points you will want to raise with Legal Aid.

2. Applying for Legal Aid

Legal Aid provides provincially funded access to legal counsel for those who cannot afford to pay for lawyers on their own. In British Columbia, Legal Aid is provided through the Legal Services Society through offices across the province.

Despite their lack of permanent status in Canada, mothers without legal status are entitled to apply for Legal Aid for help with both their family law situations and their immigration situations.

To be eligible for Legal Aid, a woman must meet certain financial eligibility criteria, which are outlined on the Legal Services Society website: www.lss.bc.ca.

If you wish to talk to someone at Legal Aid in person, you can call the following numbers:

In Victoria: **250-388-4516**

In Vancouver: **604 408 2172**

Outside Victoria and Vancouver (toll-free):
1-866-577-2525

One of the most important supports that you can provide to a mother without status is help with her Legal Aid application. You can fill out the form with her, help her prepare for and accompany her to any meetings with Legal Services staff, and be her advocate throughout the process.

Generally, Legal Aid provides a limited amount of time for a lawyer to prepare an application. Therefore, it is important to help keep a woman focused on safety concerns and be sure to tell the Legal Aid worker about any abuse that she or her children have experienced at the hands of her ex-partner.

Limitations of Legal Aid

Keep in mind that Legal Aid is limited in the services it provides coverage for and services covered change. For family law issues, Legal Aid will help a woman without status obtain a protection order to stay safe and/or to address family law issues to keep the children safe. They typically will not provide coverage for a woman to get a divorce or request child support

or spousal support if that is the only presenting legal issue. Legal Aid primarily provides coverage in serious family matters where there are safety issues or a serious denial of access.

Women with Ministry of Children and Family Development (MCFD) involvement will have access to legal representation through Legal Aid if they financially qualify and if there is a possibility that their child may be removed from the home or their child has already been removed from their home.

For immigration issues, Legal Aid may fund legal representation for applications for permanent residence based on Humanitarian & Compassionate grounds or for refugee claims. (These hours are separate from the hours spent on family law issues.)

Some MWLS may tell you that they have already been refused permanent residence. However, there may still be options for her. If a woman has received a negative decision on her immigration or refugee application, Legal Aid may fund legal representation for a judicial review of the decision. Legal Aid also provides funding in some cases for Pre-Removal Risk Assessments (PRRAs).

Changes to Legal Aid Coverage

Coverage for both family law and immigration situations can change, but both areas can cover cases that are exceptional. Be sure to take the time to find out the merits of her immigration case by speaking with a lawyer. For her family court case, be sure to explain the history of abuse, current or ongoing issues of safety for her or the children (be prepared with specific examples, and it is better to talk about more recent examples first, then you can talk about examples from the past).

If Legal Aid is denied

If your client is denied Legal Aid, encourage her to ask the Legal Services worker to put the reasons for the denial in writing (this is usually a check box indicating that her situation is not approved and/or she is not eligible financially). This information may be helpful if she needs to appeal the decision, or if you need to advocate on her behalf.

Once you have the denial in writing, review it to make sure that your client provided the intake worker with all the information needed. If you discover

that the woman did not have the opportunity or failed to provide specific information on a safety or immigration concern, you can contact the Legal Services Society intake worker who issued the denial and provide the “new” information. You will need to get your client’s written permission to speak with Legal Services Society about the case.

If the woman is denied Legal Aid for financial reasons, take the time to assess why she was denied. If she cannot access the money or assets that have made her financially ineligible, contact the Legal Services Society and explain the situation. Sometimes a mother without status may have income or assets on paper, but in reality cannot access the money because her ex-partner controls all the finances.

If all of the information was provided at the intake interview, or if despite new information the woman is still denied Legal Aid, she can appeal the decision. If you believe that Legal Aid was denied unfairly, you can assist your client by writing out the appeal. Be sure to include any history of abuse and the reasons why she cannot take the children out of the country with her if she has to leave herself.

Even if a woman was turned down for Legal Aid, she can reapply if her situation changes. A change in situation can include another threat, another assault, or a change in her financial situation or a removal order issued.

In the interim (or before applying to Legal Aid) she may seek summary advice from a lawyer; some lawyers offer free summary advice through pro bono clinics such as Access Justice and Law Students Legal Advice Program.

3. Working With Lawyers

One of the most important things a support person can do to let the woman know that she has complete confidentiality with her lawyer. For clients who come from places where corruption is common or whose ex-partners have caused them to fear the Canadian system, this is extremely important.

While it would be ideal to find a lawyer who could represent a mother without status for both immigration and family law issues, this is generally not possible because lawyers specialize in different areas of the law. Consequently, a mother without status may be working with two different lawyers. You, as the mother’s advocate, can help the woman liaise between the two lawyers.

Transition houses, women's centres, advocates and other organizations that serve women sometimes provide lists of lawyers who accept Legal Aid clients and who understand the issues that pertain to mothers without legal status. They may also have lists of lawyers who can provide services in languages other than English. Alternatively, a woman on Legal Aid can ask the lawyer for an interpreter if needed as Legal Aid will fund the costs of interpretation and translation.

Once professional legal representation has been found, you can help a mother without status with strategies to make the best use of the lawyer. Helpful steps you can take include the following:

- Remind her to remain calm and to stay focused on the legal issues when talking with her lawyer. Remind her that her lawyer is not her support worker or counsellor and that she can discuss emotional issues with you.
- Help her to write down the story of her relationship and have it ready for her first meeting with her lawyer. Include any abuse she or her children may have experienced, evidence of the abuse (such as witnesses or medical reports), financial information, a history of her status in Canada (including all dates and types of permits she had in Canada, as well as any sponsorship information).
- Suggest that she be mindful of the time spent on telephone calls to her lawyer as legal aid is

a time limited service and she may use up her time with the lawyer.

- Suggest that as she thinks of questions that she needs answers to, she write them down to take to the lawyer at the next scheduled visit. This will help the time spent with the lawyer be as efficient as possible.
- Ask her if she would like you to keep copies of all relevant documents on file in your office. This includes correspondence from the woman's lawyer, from her ex-partner and his lawyer, and from immigration and family law services, as well as copies of all court orders. Some women without status move frequently and important documents can get lost during the moves. If you do keep copies, be sure to take them with you when you accompany the woman to any appointments with lawyers. If the woman is attending appointments without you, make a second copy of the relevant documents for her to take with her (leaving you with the first copy).
- Remind her to be aware of all upcoming court dates and immigration interviews, and support her to be able to arrive on time. Some mothers without legal status may not have bus fare to get to their legal appointments or court dates. You can help by taking her to the appointments or by providing her with bus tickets if your organization offers these services.



Navigating the Family Law System

When her intimate relationship ends, a mother without status needs to make decisions about her children, and that means understanding how the family law system works. Even though a woman may not have legal status herself in Canada, she could apply for parenting time and parenting responsibilities (in divorces the terms custody and access may also be used) of her children, but she must do so within the framework of the legal system.

The BC Family Law Act came into effect in March 2013 and contains new terminology that is different from the terminology that was used under the Family Relations Act. Any order made under the Family Relations Act will still be effective now that the Family Law Act is in force. It is important that a woman without status understand that she may not be able to leave the country with her children if she does not have an order allowing her to do so. The first step is to get legal advice so she understands her current situation and her options. She will also need to understand what the words mean.

Under the Family Law Act

Parents who live together after the birth of their child are both considered guardians. If a parent has never lived with or regularly cared for the child, that parent is not the child's guardian unless he or she was made so by a court order or agreement. Guardians have parental responsibilities and parenting time. Non-guardians, which can include a parent who is not a guardian, can have contact with a child.

Parenting responsibilities refer to the responsibilities of a guardian to make decisions about their child's life. These include everyday decisions, such as those about the child's daily care, and larger decisions, such as those regarding healthcare, education, religious upbringing, travel, and extra-curricular activities. It also allows parents the right to apply for passports, permits and to be legally responsible for the child.

Parenting time is the time a guardian is entitled to have with a child under a court order or an agreement or by arrangement. An parenting time agreement or arrangement does not have to be formal, it can be an agreement done verbally, or through actions (example: if after leaving she brings the child to visit every Saturday, there is an informal parenting time arrangement).

Contact is the time that a person who is not a guardian, such as a non-guardian parent or another relative, like a grandparent, spends with the child.

Women will not automatically be sole guardian of the children when they leave a relationship, even if the father or other partner has been abusive. Guardians have parenting time and responsibilities based on what is in the children's best interests. It is common for courts to maximize time that a child spends with each guardian.

As a support person, it is helpful to write out the history of the child's care, the history of abuse and any particular needs of the child for the woman to use to consult with a lawyer about her options and strategies of her case.

1. Staying or Leaving: The Options

Each woman in this situation will have her own unique family law situation and desire for her and her child/ren. Some women want to raise their children in Canada, some want to return to their country of origin. Some want their ex-partner involved, some want to be far away from him. The following flow chart (Figure 1) provides the various routes a woman without status may take in the family law system, depending on whether she wants to remain in Canada or not. The following discussion provides more information about the basic paths illustrated in Figure 1 (page 10).

Pre-existing court order from another country, but no court order in Canada

As women leaving abuse may leave and return to a partner on a number of occasions, sometimes women may already have a court order from another country. If a woman without status wants to return to her country of origin, and she has an existing court order granting custody of the children from the country of origin, generally she can safely leave Canada with her children. However, she should consult with a lawyer before leaving to ensure all documentation is in place.

Note that this situation is very rare for women without status.

Non-removal order (an order that prevents the child from leaving the city, region, province or country) and/or an order giving parenting time to the father and/or the father regularly has parenting time with the child

Sometimes women will have already been in court, or an ex-partner may already have gotten an emergency (called *ex parte*) order to prevent the children from leaving Canada. The *Family Law Act* also states that if there is an informal arrangement for parenting time, it should not be changed without the agreement of the other parent (section 48).

If a woman without status attempts to leave Canada with the children when there is a court order in place that states they must remain in the country, or where there is an established schedule of parenting time, she could be charged with abduction and may risk losing guardianship of her children.

Even if a woman successfully removes the children to her country of origin, she could face serious legal repercussions. More than 80 countries have signed *The Hague Convention on the Civil Aspects of International Child Abduction*, which ensures the quick return of children who have been wrongfully removed from Canada or from another country that is a signatory. This means that a court order made in Canada stating the children cannot be removed will be valid in a country that is a signatory to The Hague Convention.

Even if a woman flees to a country that has not signed The Hague Convention, such as Vietnam, her ex-partner may still take the case to court in that country to try to get custody of the children. If he is granted custody of the children and brings the child back to Canada, her lack of status may prevent her from being able to return to Canada.



No court order at all

If a woman without status attempts to return to her country of origin with the children, and there is no court order regarding custody or guardianship at all, she still risks serious legal consequences.

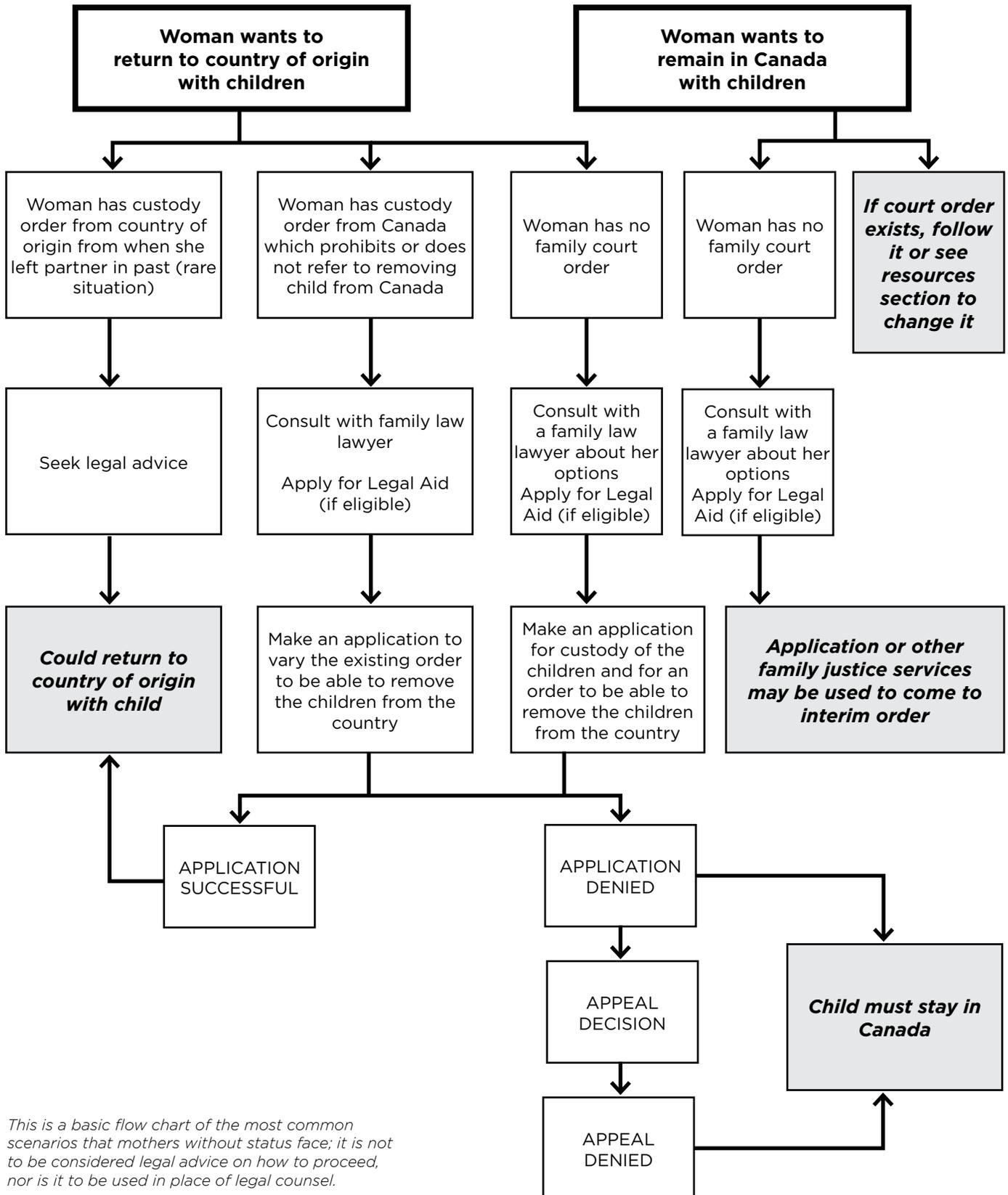
If there is no court order and the woman has not obtained the father's notarized permission and/or the court's permission to leave the country, the father could go to court without notice (*ex parte*) to apply for all the parenting time and responsibilities. In that case, if the woman and children are in a country that has signed The Hague Convention, they can be forced to return to Canada, and the mother could lose guardianship and/or be charged with abducting the children.

In the situation where there is no court order, a mother without legal status has two options and she should consult with a lawyer about which strategy is best for her. Under the *Family Law Act* she can go to court to apply for an order specifically allowing her to remove her children from Canada on an *ex parte* basis if she risks family violence or if the child has no relationship with the other parent. If she does not risk family violence and there is an existing relationship with the other parent, she will need to provide the other parent with 60 days notice of her proposed move (including the date of the move and the location of the move); the father will have 30 days to apply to the courts to stop the move. In order to successfully argue that she should be allowed to leave the jurisdiction with the child, she will need to gather evidence to prove that the move is in the best interests of the children, that the move is being done in good faith, and that she has reasonable and workable options for the father to exercise parenting time.

Evidence might include that the country she intends to move to has a quality of life equivalent to Canada's (including education and health services), and plans for maintaining the children's access to their father from the other country (where appropriate).

Whether the woman wishes to remain in Canada with the child or return to her country of origin with the child, it is very important that she recognizes that without a court order she creates an opportunity for the other parent to go to a court (without notice to her) and tell a story that may be inaccurate, and cause the court to create an order that is not in the child's best interests.

Figure I: Navigating the Family Law System



Staying in Canada with the children

If a woman without status wishes to remain in Canada and there is no existing court order, she may still want to have some form of written agreement with her ex-partner regarding the visits, so that she will have proof in case of a future dispute. This agreement can be as simple as an email discussion.

Many MWLS have found that their ex-partners have gone to court without informing her (ex parte) claiming she is a flight risk. Often these orders give him the majority of parenting time and/or responsibilities. Having documentation of an ongoing agreement for visits, or going through a formal process to make an agreement could help protect her if such an order is made and may even prevent an order like this from being made.

MWLS can be at a disadvantage in family court because their lack of status creates a situation where they are unable to provide consistency and stability for the children, and/or because it makes them appear to be at risk of fleeing the country with the children. Therefore, it is helpful for the woman to include information in her affidavit stating how she will provide a stable environment for her children despite her lack of legal status, as well as her ties to the community. She may also include reasons why she would not return to a country or origin or where she could obtain citizenship – for instance, lower quality of life, poor treatment of single mothers, or any other factor that would make leaving Canada unpleasant.

For a woman planning to remain in Canada, it can be helpful for her to state on her affidavit that she plans to stay and to describe what legal steps she is taking to make that happen. Even early in the process she can explain that she is applying to legal aid for immigration assistance, or has met with lawyers about preparing an application on Humanitarian & Compassionate Grounds.

For detailed information on Family Law Issues, please see the Legal Services Society Guide to the new BC Family Law Act at <http://www.lss.bc.ca/publications/pub.php?pub=432>. You can find additional information at the YWCA Metro Vancouver website at ywcavan.org/legaleducator and refer to the brochure *Mothers Leaving Abuse from an Intimate Partner: Family Law Information*.

2. Ministry of Children and Family Development Involvement

The Ministry of Children and Family Development, MCFD, Child Welfare or Child Protection are all names for the child protection system which has a government mandate to ensure that all children in BC are safe and healthy.

It is our experience that many mothers without legal status become involved with the BC Ministry of Children and Family Development (MCFD). In our experience, about 50% of MWLS who come into contact with our program have been told by social workers that they need to leave the relationship. This may happen if the children have witnessed their mother being abused or if the social worker believes the children may be harmed or neglected if the parents continue to reside together. The worker may also tell the woman that if she does not leave, the children may be apprehended by the Ministry.

This scenario can add to the stress of a woman without status. When a mother without status leaves an abusive relationship at the insistence of a child protection worker, she often has nowhere to go, nor does she have the resources to support herself and her children. Consequently, some women in this situation, to survive, decide that they must stay in contact with their abuser so that the abuser does not cancel their sponsorship applications and/or to get food, shelter, or financial support from him. This is an important place for you to provide support to the woman about helping her to meet her needs, to help her to learn more about the immigration and family law systems, and to work with her to make a choice that will help her and her children live free from violence.

Child protection workers may not fully understand these challenges experienced by mothers without legal status or why a woman hesitates to leave an abusive relationship. You, as a service provider, can help your client by explaining the complexities of the situation to the child protection worker. To be an effective advocate, it is helpful to know MCFD policies. Child protection workers are required to follow the MCFD Guidelines for Best Practice Approaches - Child Protection and Violence Against Women (http://endingviolence.org/files/uploads/MCFD_best_practice_approaches_nov2010.pdf). Some workers have even shared the previous version of this booklet with social workers at MCFD to help them to learn more about the problems that MWLS face.

If MCFD is already involved in your client's case, there may be some ways they can help financially, such as providing a monthly bus pass or gift certificates. Although it is not typical, there is a precedent for MCFD to cover the cost of the medical exam required for a permanent resident application of a mother without status and to contribute some money toward her right of permanent residence fee. (See the section below on the immigration system.)

If MCFD threatens to remove the children from the mother, contact the mother's family law lawyer and immigration lawyer immediately. This may allow her permanent residency application on Humanitarian & Compassionate Grounds to be processed more quickly. Don't try to create this situation if it doesn't already exist as the results cannot be predicted. The family law lawyer can also seek to make sure that the child stays with the mother. If she does not have a lawyer, contact Legal Aid as she should be eligible for a lawyer for the child protection matter. If she is found financially ineligible, there are resources to help her to make an application to the courts for representation for the purposes of a child protection matter – there is more information available on this process on the Legal Services Society website (<http://lss.bc.ca/publications/pub.php?pub=452>).

Support workers can be of great assistance for MWLS who have MCFD involvement. Helping the woman to prepare for meetings, to anticipate safety issues and plan for them, as well as being present at meetings can be an enormous help to women in this situation.

Specific strategies for helping women who have MCFD involvement can help ensure that the woman knows the concerns that MCFD has. Sometimes it

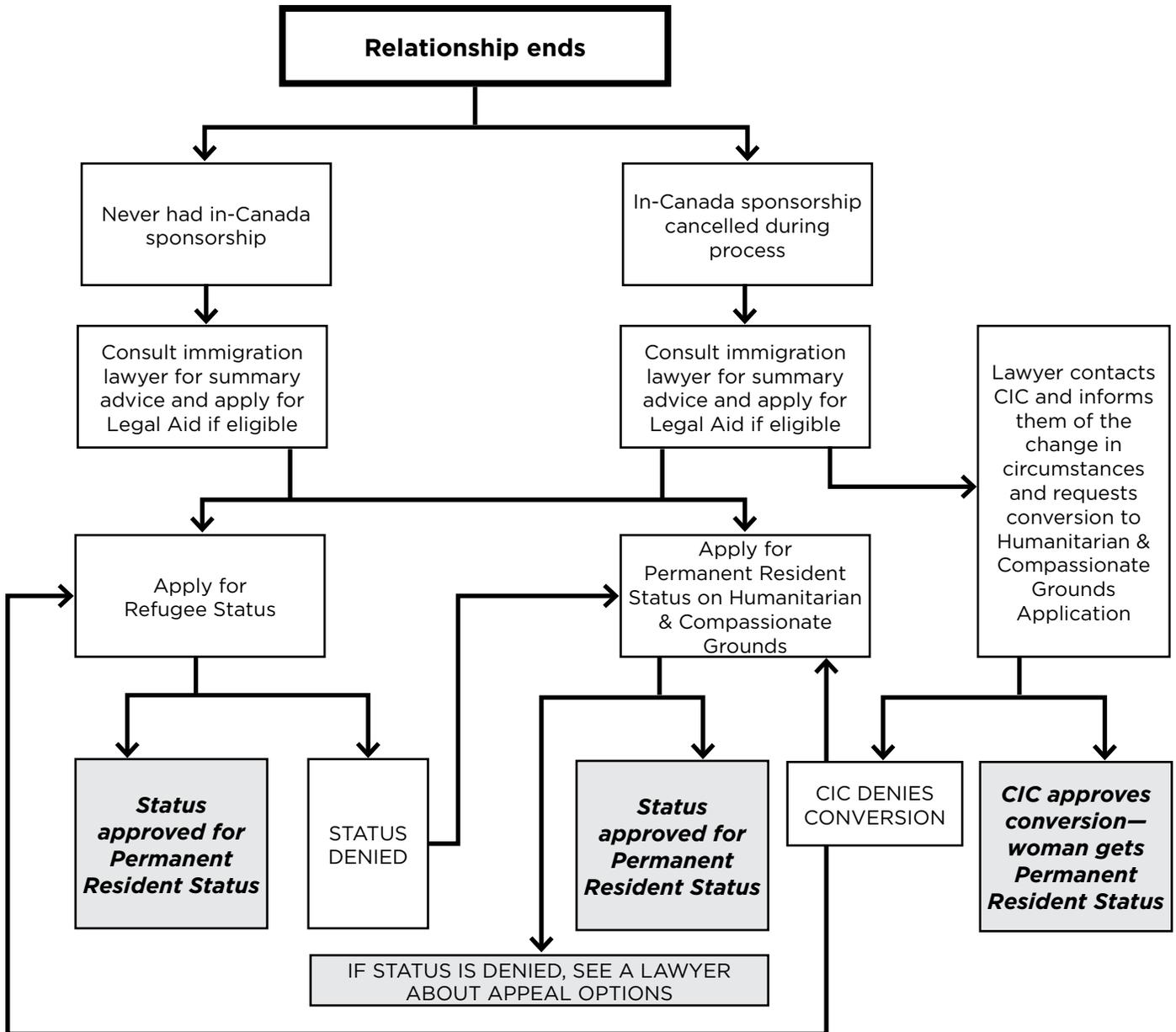
can be unclear even to workers what a social worker is concerned about. Don't be afraid to ask questions and to request specifics about their concerns – for instance, if their concern is “we're afraid there isn't enough stability for the child” – ask what stability means for them; it may mean housing or it may mean that the child should primarily be with one parent or a specific parent. Sometimes the concerns may be vague, such as “there are concerns she does not have parenting skills”. In those situations it may be helpful to ask how the woman can demonstrate that she has resolved this protection concern. You may offer that she can find a local parenting class to meet that need.

Two areas that MWLS may be at a particular disadvantage when working with MCFD is if there are mental health concerns or substance use concerns. Because she is without status she will almost certainly not have access to BC medical coverage (Care Card), and private insurance typically does not cover comprehensive medical needs. If MCFD requires doctor involvement, treatment or assessment, you may have to advocate to help MCFD understand that they will need to pay for those interventions. This can be a difficult situation to resolve. As a support person, you may need to demonstrate her inability to use services she is referred to. One strategy is to call each place as a support worker asking if they can help individuals without medical coverage and report back to the social worker that she was denied. It is often much easier on the woman to call ahead to referrals to ensure that she will be able to access services than to have her attend and find out that she cannot use the services, particularly as this is tied in with her ability to keep her children. It can be devastating for MWLS to feel like they are being denied a service that will help her keep her child.

Navigating the Immigration System

The following discussion provides more information about the routes a woman without status may take as outlined in Figure 2 below.

Figure 2: Navigating the Immigration System



This is a basic flow chart of the most common scenarios that mothers without status face; it is not to be considered legal advice on how to proceed, nor is it to be used in place of legal counsel.

1. Sponsorship

Many mothers without legal status will be part of the In-Canada Spousal Sponsorship program, which is different from the overseas spousal sponsorship program. “Sponsorship” refers to the process under Canadian immigration rules that allows one family member to sponsor another family member (e.g., spouse, common-law partner) to become a permanent resident. Some women without status will have come to Canada with the promise of sponsorship by their ex-partners. Others will be in the midst of the sponsorship process, only to find that their former partners cancelled the sponsorship before or once the relationships ended.

If a woman without status has no sponsorship pending or if her ex-partner cancelled the sponsorship towards the end of the process, the woman should be referred to a lawyer who can help her determine the options available to her. A lawyer may be able to make a conversion of the sponsorship to an H&C Application; which means that she will not have to start the process from the beginning.

If a woman without status finds that the sponsorship was cancelled early in the process, she can either apply for permanent residence based on Humanitarian & Compassionate Grounds or for refugee status depending on the circumstances. She cannot apply for both at the same time.

When women are speaking with their immigration lawyers they will have confidentiality and be provided with their legal options.

2. Conditional Permanent Residence

From October 2012 to April 18, 2017 there was a class of PR called Conditional Permanent Residence. There are a number of women who went through the sponsorship process either ‘in country’ or ‘overseas’ who were affected by this. Conditional Permanent Residence required women to remain with her partner for two years after she became a permanent resident unless she was abused or neglected by him or his family, or if he died.

She may have had conditional permanent residence if:

- At the time of application, they did not share a child,
- At the time of application they had been in a relationship for less than two years, and

- The application was made after October 25, 2012.

Now that the government has ended this program, a woman with conditional permanent residence who is concerned about her status should speak with a lawyer to assess her situation.

3. Applying for Permanent Residence: Humanitarian & Compassionate Grounds

If a woman without status finds herself without sponsorship, or with her sponsorship cancelled, she may apply for permanent residence status on Humanitarian & Compassionate Grounds (H&C). The application can be made based on the strong connections the woman has made in Canada, the impact that leaving Canada would have on her children and the hardship she would face if forced to leave, and to live in her home country.

Applying for permanent residence based on Humanitarian & Compassionate grounds can be a long process. Filing the application costs \$550 and \$150 for each child (if the child is not a citizen or entitled to citizenship based on the father), and if the application is approved, the woman will have to pay the Right of Permanent Residence fee which is \$490.

There are currently no loans available to cover this application fee. There are no waivers for this fee and an application filed without the application fee paid will not be processed. Unless a woman already has a work permit, she will not be able to work legally in Canada during this process until she is “approved in principle”. Once she is approved in principle, she can apply for a work permit to be able to work while waiting to officially be granted permanent resident status.

The basic steps for applying for an H&C application are as follows (this is a very brief overview):

1. Use the document checklist for H&C applications to collect the various documents and complete the required forms.
2. Pay the processing fee: \$550 for the woman and \$150 for each child who is not already a citizen or entitled to citizenship. Note: All fees are accurate as of 2016. Please check the IRCC website to ensure amounts are still correct.
3. Wait for approval in principle, which can vary from 6 to 18 months. If there are any significant changes in an applicant’s life, updates should

be provided while the application is pending. If an approval in principle is granted, follow the instructions provided and pay the additional associated fees (see discussion below).

For more information on H&C applications please see Guide 5291: <http://www.cic.gc.ca/english/information/applications/guides/5291ETOC.asp>

As a service provider, there are many things you can do to help a woman without status through this application process. First, you can help her prepare for her lawyer's appointment by filling out draft versions of the forms and gathering all the required information and evidence, which includes the following:

- A written explanation of why obtaining permanent resident status in Canada would be in the best interests of her children. This includes details about:
 - family and other relationships in Canada that support her request for humanitarian and compassionate considerations;
 - any knowledge you have of the history of the abuse by her partner/ex-partner;
 - whether/how the woman has established herself in Canada;
 - how she supports herself financially in Canada;
 - why her children can't leave the jurisdiction, and why it is in their best interests for her to stay (for instance, their close relationship, her role as primary caregiver, any special needs they have that she is supporting them with);
 - and why it would be a hardship for her to return to her home country (e.g., racial discrimination for having bi-racial children).
- Two recent passport-size photos of herself and any children included in the application
- Documents proving her identity
- Documents proving her relationship to every person included in the application

Second, you can write a letter of support for her and/or help her to make a list of other people who could write letters of support for her application, such as friends, co-workers, teachers and representatives from places where she has volunteered. Volunteer work and letters of support from volunteer supervisors can be useful in showing that she will contribute to Canadian society. (If the woman has not done any volunteer work but she is interested in doing so, you could help her find a placement within walking distance of her home. Some volunteer placements also give honorariums which will help her financially.) The YWCA has a form on its legal educator site that provides general information on how to write support letters, it is also included at page 32 of this booklet.

Third, you can help the woman find ways to pay the processing fees, which may be a barrier to her. Help her make a list of religious and cultural organizations that may be willing to assist, or of other people she knows who may be willing to contribute. You may want to inform the woman of the fees early in the process so that she can try to save for them.

Fourth, you can support the woman emotionally as she waits to hear the results of her application. The long wait can be difficult for a woman who is struggling with little money and who is worried about the outcome. It is not useful for friends, family and service providers to barrage her immigration lawyer with calls asking for updates; this will not speed up the process. Instead, you can help her check her status and processing time online at the IRCC website, as long as she knows her client ID number.

If the application is approved in principle, the woman will receive instructions on what to do next and what further fees she must pay. She cannot proceed on these items until after she has been told to do so by IRCC. Once she is approved in principle she will need to get the following (all prices are current as of 2016):

- **Medical examination:** The woman must complete a medical examination with a designated Panel Physician (a list will be supplied). The medical exam cannot be performed by a doctor who is not on the designated list. The cost of this examination varies around \$250-\$325 (depending on the doctor) and there are no programs to assist with this cost. Women who live in rural areas where the nearest designated Panel Physician is outside of a 242-kilometre radius can call IRCC to discuss other options.

- **Police certificates:** The woman will be asked to supply a police certificate from every country where she has lived for six months or longer since the age of 18. The fee for this will vary from country to country. She does not have to provide a police certificate from Canada unless specifically instructed to do so.
- **Work permit:** A woman whose permanent resident application has been approved in principle is eligible to apply for a work permit. The application fee for the work permit costs \$255.

4. Applying for Refugee Status

Refugee status may be granted to persons in or outside of Canada who are seeking protection from serious harm in their own country. Usually they are seeking protection due to fear of persecution in their country of origin due to race, religion, nationality, membership in a particular group (which can include women), or because of their political beliefs. Sometimes their removal from Canada would mean risk of torture, risk to their life, or the possibility of cruel and unusual punishment.

If you believe a woman without status may be eligible for refugee status, you can help her to write a list of the reasons why she believes she is at risk in her home country. She can use this list when she talks with a lawyer.

More information on refugee applications and processes is available at: <http://www.iss.bc.ca/resources/pdfs/pubs/Refugee-Claim-Flow-Chart-eng.pdf>

It is not possible to apply for both refugee status and for an H&C application at the same time.

Please note that there is a one-year bar on making an H&C application after a failed refugee claim, unless there are children who would be adversely affected by the woman's removal from Canada.

5. Applying for a Temporary Resident Permit

A Temporary Resident Permit (“TRP”) may be the only option for some mothers without legal status. This is typically in situations where she would not usually be allowed to remain in Canada because of her criminal history or a significant health issue. The application fee is \$200 and would need to be reapplied for each year. After remaining in Canada for 3-5 years continuously with a TRP, a mother without legal status could apply to become a permanent resident.

Dealing with Canada Border Services Agency

The Canada Border Services Agency (CBSA) is the federal agency that is responsible for all border enforcement and customs services. Women without status are at risk of being reported to CBSA if they are in the country without status. This applies to women who don't have any sort of temporary visa or permit.

Some women are reported by their ex-partners, others have been reported by service agencies while trying to access services (e.g., hospitals) where official documents are required, and yet others have been reported when caught for minor infractions, such as not wearing seatbelts.

Many cities are adopting “sanctuary city” policies (Vancouver being one such city). Under sanctuary city policies, municipal service providers are not to ask about an individual's status in Canada, and are not to report people who are suspected to be ‘out of status’ to CBSA. When working with a MWLS it is worth reaching out to members of your municipal governance to find out if your city has adopted such policies. If the MWLS is not in a sanctuary city, she must be mindful about who she discloses her status to.

As a service provider, you can help a woman without any status by advising her to take these common sense steps:

- Do not discuss her lack of status with anyone who does not need to know. This includes friends and neighbours. Some MWLS have been reported by trusted friends or people they are close to.
- Stay on the right side of all laws, especially minor ones. This includes wearing seatbelts and crossing at corners and lights.
- If she has to go to the hospital, go with her and to explain her situation to hospital staff if they ask questions about her status. If she has already submitted an H&C application, emphasize this fact.

If your organization is providing housing to a woman without status, be sure you discuss the possibility of CBSA calling your organization to try to find her, or even showing up in person. Inform her of your organization's policies on disclosing her whereabouts to them.

If your client does get reported to CBSA, advise her to see a lawyer immediately so she can make an informed choice about responding. Failure to meet with the CBSA when asked can lead to a warrant being issued, arrest and possible detention.

If a woman without status responds to a call from CBSA, she will be given an appointment which she must attend in person. An interpreter can be provided for the meeting. She can bring a support person to the meeting.

A woman who is presented with a removal order may be offered a Pre-Removal Risk Assessment (PRRA), which is a written application intended to protect those who face the risk of torture, death, or other forms of persecution if they are removed from Canada. In most cases, a person must be offered

PRRA prior to removal from Canada and they cannot be removed from Canada until the PRRA application has been decided.

The woman should have the assistance of a lawyer to complete the PRRA form and to send it in. If she does not have a lawyer, Legal Aid may provide coverage for the PRRA application. If she is already in the process of applying for permanent resident status on Humanitarian & Compassionate Grounds, both the Humanitarian & Compassionate Grounds application and the PRRA will often be considered at the same time.

If she has submitted the PRRA, she can apply for a work permit in Canada while the PRRA is being considered. CBSA will call the woman to set up a meeting when they have the results of the PRRA.

She will need to attend in person, and she can take a lawyer and/or an advocate with her. Advise her of the importance of remaining calm and accepting of the results even if they tell her that she needs to leave Canada. If she gets upset at the meeting, starts arguing, or starts saying things like "you can't make me leave" or "I won't leave my child", they may detain her – which is why it is of the utmost importance that she remains calm. It may be worth practicing with her or engaging in a 'role play', so that she can be mentally ready.

A woman may be able to review a negative PRRA decision at Federal Court. She should see a lawyer immediately after she has received the decision if she wants to pursue this option. Legal Aid may fund this type of application.

If a mother without status has been issued a removal order she may also request a deferral of removal by preparing reasons why she needs to defer the removal, such as current court proceedings, or needing to wait until the end of the school year to minimize the impact on the children.

Section II: Helping Women Meet Their Basic Needs

This section applies specifically to women who are only applying for permanent resident status on Humanitarian & Compassionate Grounds, as they currently have different entitlements than refugee claimants. As a service provider, you will find the following information useful as you help your client meet her basic needs while she waits for a decision on her permanent resident status.

Access to Money

Although some mothers without legal status have no income at all, others may be accessing, or able to access, one or more of the following sources of income:

- Legal employment
- Child support
- Spousal support
- Family assets
- Income assistance
- Money from family or friends
- Canada Child Tax Benefit and Universal Child Care Benefit.
- Income from ‘under the table’ employment and/or “survival sex”
- Donations
- Help from charitable organizations

Wherever income or other money comes from, women without status will also need help dealing with the banking system.

1. Legal Employment

A woman who holds a temporary resident permit, work permit, some study permits or a working holiday permit can legally work in Canada.

Otherwise, a mother without status will have to wait until she receives approval in principle for permanent resident status, at which time she can apply for a work permit. The exception to this is for women who have applied for PRRA (see the section on Canada Border Services above), who are also generally eligible to apply for work permits in Canada. A woman’s permit will state what type and how much

work she is able to do (for instance some permits do not allow for her to do child care). When meeting with an immigration lawyer it is useful to find out if she is allowed to work.

For MWLS applying to stay on Humanitarian & Compassionate Grounds, it benefits their application to be working if they are able to. MWLS are not eligible for child care subsidies and often MWLS cannot get work that pays enough for her to pay full costs of child care, which means that even MWLS who can work, often find that practically they are unable. If a MWLS is looking to try to work, helping her to explore work options that she can bring her child with (like child care or other home care) or helping her to make community connections with other mothers so they can share child care duties, can be of great assistance.

2. Child Support

A mother without status has the same entitlement to child support as permanent residents and citizens of Canada. If the children reside mainly with the mother, she can apply for child support even if family law issues have not yet been determined. Once a court order is in place, she can also register with the Family Maintenance Enforcement Program to ensure child support is paid.

As a service provider, it is important to respect a woman’s choice about seeking child support. Women who have experienced abuse from their ex-partners may have safety concerns about seeking child support and choose not to do so. Some women may also choose not to ask for child support as their ex-partners will retaliate by seeking guardianship and parenting time with the children.

3. Spousal Support

A mother without status has the same entitlement to spousal support as permanent residents and citizens of Canada. For a MWLS who was not married, she must file a motion in court asking for spousal support within two years of separating from her partner. For those who married their spouses spousal support determinations can be made up to two years after the divorce.

There are four factors a court will consider when deciding on spousal support:

- Length of marriage/cohabitation
- Difference in incomes
- Economic disadvantage created by the marriage or child care responsibilities
- Earning capacity based on family obligations

It is important to respect a woman's choice about seeking spousal support. Women who have experienced abuse from their ex-partners may have safety concerns about seeking spousal support and choose not to do so.

4. Family Assets

A mother without status is entitled to the same division of family property as permanent residents and citizens of Canada. As a service provider, you can explain that it may take a long time for the assets to be divided in court, and it will be difficult to find a lawyer to assist in the process if she has no money to pay the legal costs.

Foreign assets can be considered by BC courts in dividing assets; however, enforcement of orders outside of BC may be difficult. She should consult with a family law lawyer about the family assets.

5. Income Assistance

Women who have applied to stay in Canada on Humanitarian & Compassionate Grounds are now eligible for Income Assistance under circumstances outlined in section 7.1 of the Employment and Assistance Regulations. In order to be eligible, the woman must:

- a) Be the sole recipient of the assistance, other than the dependent children who live with her and are Canadian citizens. No other adult or child can be on her file.
- b) The child or children must live with the recipient.

- c) The recipient must identify as having separated from an abusive partner. The Ministry of Social Development will ask for details about the abuse, and may ask for proof of the abuse (for example, reports to police, doctors, transition houses, or counsellors).
- d) The applicant has applied for status as a permanent resident under the Immigration and Refugee Protection Act.
- e) The applicant or recipient cannot readily leave British Columbia with the dependent children because:
 - (i) a court order, agreement or other arrangement with respect to one or more of the dependent children provides custody, guardianship or access rights to another person who resides in British Columbia and leaving British Columbia with the dependent children would likely contravene the provisions of the court order, agreement or other arrangement,
 - (ii) another person who resides in British Columbia is claiming custody, guardianship or access rights with respect to one or more of the dependent children and the person's claims have not yet been resolved, or
 - (iii) the applicant or recipient, or a dependent child of the applicant or recipient, is being treated for a medical condition and leaving British Columbia would result in imminent danger to the physical health of the applicant, recipient or dependent child.

The YWCA Metro Vancouver has not seen refusals of H&C applications because a MWLS was on income assistance. However, many MWLS will get warnings about receiving income assistance from support workers, community members, and possibly her lawyer, and the negative effect it may have on her application.

The YWCA Metro Vancouver has done extensive work and advocacy for MWLS and could be a resource to provide support and services if a mother without legal status was denied permanent residence because she was receiving income assistance.

6. Money From Family Members or Friends

Family members, friends, religious organizations and cultural groups may be willing and able to provide support and help to a woman without status. You can offer to help your client write a letter to her potential supporters, explaining why she needs assistance. Alternatively, you could ask the woman if she will give you permission to talk directly to potential supporters on her behalf. Because of the associated fees during the process, it is helpful to suggest to women to start saving aggressively, even with her very modest income, as continued support can be difficult to maintain.

7. Canada Child Tax Benefit and Universal Child Care Benefit

A woman who has some form of legal status in Canada, such as a work permit, is legally entitled to receive the Canada Child Tax Benefit and the Universal Child Care Benefit if she has resided in Canada continuously for 18 months with ongoing status during this time. In this case the benefits will begin from the 19th month and continue from that time. However, her right to these benefits changes if she no longer has status.

Some examples of this:



Woman	Her case	Is she entitled to CCTB?
Maria	Arrived in Canada in 3 years ago as a visitor from Mexico and has had valid visitor status the entire time. Maria makes sure she is never 'out of status'	Yes. Maria has had 36 months of continuous status.
Fatima	Arrived in Canada on a work permit 4 years ago from England, which lapsed 2 years ago. She was out of status for 2 months until she received a visitor permit which she has had for 22 months.	Yes. Fatima has had different types of status, and she was out of status for two months, but she has had status for 22 consecutive months.
Amie	Came to Canada from the US 4 years ago. She was allowed entry for 6 months (as is usual for visitors) but she never applied to extend her status.	No. Amie has been out of status for the past 3.5 years.
Asami	Came to Canada from Japan 3 years ago on an open work permit for 2 years. Asami applied for a visitor permit 10 months ago.	No. Asami was out of status for 2 months. If she continues to extend her permit, she will be eligible in 9 months.
Polina	Came to Canada from Ukraine with a visitor visa 20 months ago. She renews her visitor status every 6 months, sometimes sending in the application only the day before it is set to expire. It can take up to 2 months for her to get approved for her new visitor permit.	Yes. Polina has been 'in status' the entire time. As long as the application is sent before her status expires, she has "implied status" while waiting to hear the results of her new application.

A mother without any status at all, or who has not had status for 18 months continuously, might have been receiving the Canada Child Tax Benefit and the Universal Child Care Benefit while she was with her partner if he was a permanent resident or Canadian citizen and if he filed an income tax return for the previous year. In this case, even if the woman had no status in Canada, if she was listed on the tax return, the Canada Child Tax Benefit and the Universal Child Care Benefit would normally be issued in her name. When the relationship ended, the Canada Child Tax Benefit and the Universal Child Care Benefit would continue to be issued to the mother without status until parents contacted the Canada Revenue Agency (CRA) to inform them of the change in circumstances or until one or both of them files the next year's taxes and records the changes (in which case the last cheque will usually be received in September).

However, a mother who has absolutely no legal status in Canada or who has not had status for 18 months continuously ceases to be entitled to the Canada Child Tax Benefit and the Universal Child Care Benefit at the end of her relationship with the parent who has legal status in Canada, even if the children are Canadian citizens. If CRA becomes aware that a woman has received benefits after the end of the relationship, she will be asked to pay back the money. Even in cases where the mother without status subsequently gets legal status, and permanent legal entitlement to the Canada Child Tax Benefit and the Universal Child Care Benefit, she will still have to pay back any money that she received before becoming eligible.

8. Income From 'Under the Table' Employment and 'Survival Sex'

In the struggle to meet basic needs, some mothers without legal status will work without a permit and/or depend on "survival sex." Survival sex includes working in the sex trade or dating/living with a new partner who she would not otherwise choose to be with in order to meet her basic needs.

As a service provider, you must be very careful when dealing with this issue. Women need to be informed of the possible consequences of working without a permit, including sex-trade work. A woman without status who is caught working under the table could be found to have violated the *Immigration and Refugee Protection Act* and be issued an exclusion order that requires her to seek the special permission of Canada to return once she has been removed from the

country. She may also be reported to CBSA. Working under the table will not typically have a negative impact on her Humanitarian and Compassionate Grounds application, although she should speak to a lawyer about her specific situation.

A woman also needs to know the potential safety risks of survival sex. At the same time, it is important to respect the woman's choices, acknowledging that she is entitled to make her own decisions. You may want to investigate the possibility of your own organization offering extra support to mothers without legal status to ease the pressure for them to rely on survival sex or under the table work to get by.

At Munroe House, our program for MWLS can accommodate 3 MWLS at any given time. We provide an apartment with power, heat, hot water and cable included. We provide grocery store vouchers of up to \$200 monthly, as well as collect food donations and assist women to get food from the food bank. Not all agencies can do all of these, but perhaps your agency can use this to explore ways you can assist MWLS to meet her needs.

9. Banking

Banking may be challenging for a mother without status due to lack of documentation and potential language barriers. Most banks require two pieces of identification to open a bank account. Usually one of these must be a form of photo identification such as a passport. Women can also use birth certificates, temporary social insurance numbers, or work permits.

A bank is more likely to let a woman without status open an account if she is accompanied by someone that they know (such as a regular customer). You can help your client by encouraging her to find someone she knows who already has an account with a bank to accompany her. If she has no other resource, you could go with her and advocate on her behalf.

Food

If your client needs to go to a food bank or to an organization that serves free meals, she may need to provide proof of residence, income, or identity. You can help your client by writing a letter to the food bank or other agency confirming her lack of status and her income level.

Some MWLS may want to volunteer at the food bank or organization that provides food security assistance as they receive benefits of extra food to thank them for their help. Volunteering is also helpful for their H&C application as it shows that they will work and that they are contributing to their community. The organization will often provide her a letter for IRCC that will be helpful in showing her work ethic.

You might also explore whether your own organization can adopt a policy for mothers without legal status that provides them with extra donations given their lack of access to many of the usual resources.

Housing

1. Shelters

Shelters are designed to assist individuals who are in need of housing. Shelters offer temporary free shelter and food in a communal living setting. Different shelters have different policies regarding length of stay (many have maximum stays of 30 days) and rules of the shelter (for instance, some shelters require that clients leave the house for the entire day until returning that evening). The rules of different shelters may be hard on some MWLS. It can be helpful for you to reach out to different temporary housing providers and ask about their policies, and to see if they are flexible to provide assistance for MWLS.

2. Transition Houses

Transition houses are designed to assist women who have experienced intimate partner abuse. In our experience, all MWLS have experienced abuse by their spouse. For most MWLS, transition houses may be the most appropriate free housing referral. The support workers are often knowledgeable about family law issues and can provide other supports to women.

First-stage transition houses offer free shelter and food in a communal living setting, typically, for a period of up to 30 days. Occasionally, transition houses will give women without status extensions so that they can stay longer.

As a support person, it may be worthwhile for you to reach out to transition houses and find out if they are able to provide flexibility with their extension to assist a MWLS.



3. Second-stage Transition Houses

Second-stage transition houses provide long-term housing (often 9 months to 2 years) and support to women who have experienced abuse from their intimate partners. While they typically have a housing charge, some offer partial or complete subsidy to women with low or no income. As a support person, it may be helpful to reach out to different houses and find out how they assist MWLS.

In second stage transition houses, families typically live in their own self-contained apartments that are furnished or partially furnished. As most second-stage programs do not provide food, it is useful to assist your client with a plan for securing food and attaching it to her application.

4. BC Housing

BC Housing is a provincial Crown agency that assists those in need with affordable housing options. However, BC Housing accepts applications from mothers without legal status and who are in receipt of income assistance.

5. Housing Co-operatives

Many housing co-operatives do not ask about status on their applications or in their interviews. However, housing co-operatives often have long waitlists, the mother without status will need to have some source of income, and most co-ops do not have subsidies available.

If a mother without status is accepted into a co-op, the BC Co-operative Housing Federation's Opening Doors program can provide an interest-free loan to pay for the required share purchase. (See Section V: Resources.)

6. Homelessness Prevention Programs

BC Housing provides some modest rental supplements to groups who are at higher risk of homelessness, such as youth leaving foster care, people leaving corrections or hospitalization, Aboriginal people, and victims of intimate partner violence. Mothers without legal status who are leaving abuse are eligible for such programs. Find your local HPP partner here: http://www.bchousing.org/Options/Emergency_Housing/HPP

Health Care

1. Medical Care

A mother without status who has applied for an H&C application is not eligible for medical benefits unless she has received a temporary work or student permit. If she does not have one of these, she is eligible for basic coverage under the Medical Services Plan (MSP), but not for premium assistance. Premium assistance is not available until one year after she has received her permanent resident status. This means she must pay the full monthly expense for MSP.

As of January 2017, the cost for the BC Medical Services plan for the woman alone will be \$75/month.

A child born in Canada or who has Canadian citizenship is eligible for medical benefits.

If the mother is on income assistance and her child is Canadian, the child would be eligible for medical services plan through income assistance.

The BC Government has updated the policy so that as of January 2017 “minors and dependent post-secondary students will not be charged MSP premiums.

Some clinics will provide free care even if the woman has no status or proper ID – typically free clinics are called youth clinics, but they may still provide assistance for a MWLS. In Vancouver, street nurses can also be a supportive resource in helping to navigate medical assistance.

MWLS who are pregnant can get assistance through the New Beginnings Program at BC Women's Hospital. They provide prenatal care and assistance with the birth of the child.

2. Dental Care

Unless a woman without status is receiving income assistance, no dental care coverage is available for her or her children.

The Healthy Kids Program, which helps middle- and low-income families with the costs of children's basic dental care and prescription eyewear, is available to families who have been approved for MSP premium assistance. However, since women without status become eligible for MSP coverage only after they have permanent resident status for one year, this program is not available to them, even if their children are Canadian citizens.

Some dental clinics in Vancouver offer low-cost options. Your organization may be able to make connections with benevolent groups providing pro bono dental care. You can help by advocating for a space your client and her children if such an opportunity arises.

Education

1. Education for Adults

A mother without legal status is not entitled to access free government-funded education programs in Canada. This includes English-as-a-second-language programs, such as the government-funded ELSA.

Some women may be eligible to apply for student permits from within Canada, but each case is different. It is best to encourage the woman you are helping to consult with her immigration lawyer.

An option for women without status who wish to take English classes are those courses offered for free by some churches, neighbourhood houses or family centres. You can help your client by checking out the churches with programs in her neighbourhood.

2. Education for Children

Children are eligible to attend school for free if the parent or guardian with whom they principally reside is a resident of British Columbia. As a service provider, you can help by accompanying a mother without status to the school and advocate for her to be able to register the children.

Once children are registered in school, the mother can speak to the principal or administrative assistant about waiving costs for outings and to find out if the school offers a hot meal program.

Child Care

Your client may need time without her children to prepare documents, attend immigration or court hearings, meet with her lawyer, work, or just have a break. Encourage your client to connect with other single mothers who may be willing to help with child care.

The BC Ministry of Children and Family Development offers a child care subsidy to assist eligible British Columbia families with the cost of child care. However, mothers without legal status are not eligible for this subsidy.

As a support person, it may be worth exploring with your organization if there is any way that you can provide assistance to MWLS to have limited child care available, especially for her to attend court and lawyer appointments.



Section III: Commonly Asked Questions

How long does a woman without status have to wait to get status?

An H&C application can take up to three years to be finalized completely (to the point where the woman is granted permanent resident status). However, when the application is approved in principle, the woman can apply for temporary status (usually a work permit).

If a woman without status has Canadian-born children, will it be easier for her to get status? Will she get approval for status more quickly?

Immigration officers consider the circumstances of each woman without status when determining whether or not to approve an application for permanent residence, including whether she has Canadian-born children. However, having Canadian-born children does not normally influence how quickly the application is accepted or denied.

If a woman is leaving an abusive partner, does she automatically get sole guardianship (custody) of the children?

No. While a judge must examine the “best interests of a child” in making a family law decision, and that includes factors, such as “family violence” there are a number of factors that make up the best interests of the child, including attachment to the other parent, stability and history of care.

If a woman’s husband offers to do the sponsorship now – and she doesn’t even have to go back to him – is that okay?

No, sponsorship is for couples that are together. If she says she’s with him and she isn’t, she is misrepresenting to IRCC. Even if she is successful, and the sponsorship application is approved based on the misrepresentation, she may be at risk later of having her permanent resident status taken away because it was obtained through misrepresenting facts.

If a woman does not have full time care of her children, how will this affect her immigration status?

It depends on an individual woman’s circumstances. Immigration officers must consider the best interests of the children when making decisions about a woman’s immigration status.

If the mother has consistent and regular access to her children, then her removal from the country would significantly affect the children, even though they are not in her care. This situation should be explained to the immigration officer, including a detailed list of access visits, so that he or she can make a decision based on all of the facts.

Can older children decide if they want to leave the country with their mother who does not have status?

It depends on the specific circumstances including the ages of the children.

If the children’s father is not considered a guardian (or does not oppose being removed as a guardian), seeking parenting time or contact, the children may have the right to leave the country with their mother. She will need to speak to a family lawyer about her options as typically a parent needs to provide 60 days notice to the other parent if she plans to relocate, and the other parent has 30 days to apply to the court to stop the move. At court, a Judge will consider if the move is being made in good faith, there are reasonable and workable alternatives for access, and that the move is in the best interests of the child.

Judges are more likely to consider the wishes of older children (12 years and older), but almost all children’s views will be considered by the courts as part of looking at all of the interests of the child.

Can a woman leave the country if she's pregnant?

There is nothing to prevent a woman from leaving the city, province or country while she is pregnant.

Once the baby is born, the father of the child may still seek guardianship. This will have to take place in a court that has jurisdiction over the issue. It is unlikely that the courts in British Columbia will make an order for a child who has never even visited the province. If a woman returns to a country of origin and believes her ex-partner may pursue rights to the child in that country, she should speak with a lawyer in that country to find out what rights he may have under the laws of that country.

Can the woman without status move to another province?

Based on her lack of status alone, a woman can move to another province. If she does so, she must inform the IRCC and, in some cases CBSA, right away with her new address and contact phone numbers.

However, for mothers without legal status, the answer to this question also depends on the family law situation. If there is a current court order in place and she violates it by removing the child (e.g., the father cannot have his court ordered weekly access visit), the father can go back to court and get an order to have the child returned to the city they lived in. The child may be ordered to return even if the mother cannot or will not return.

If the mother or children may face family violence if she provides notice of her relocation plans, or if the father has no relationship with the child, she can apply to the courts to have an order that she does not have to provide notice of the move to the other parent. The mother should seek legal advice before making this application.

Can a woman without status return to her country of origin to visit her family and then return to Canada?

It is best that a woman does not return to her country of origin when she does not have status, as she may not be able to get back into Canada. She will likely be denied entry as the immigration officer may believe that she will overstay her status as she is not a "genuine" visitor.

If a woman has applied for an H&C application then a return to her country will undermine her application. Usually, a mother without status applying for an H&C application states that it would be a hardship for her and her children to return to her country of origin. Therefore, if she goes back to her country to visit, immigration officers may not believe it is a hardship for her and her children to live there.

Women who have made a refugee claim cannot return to their home countries, without withdrawing their claim for protection. A person can only make one claim for refugee protection in a lifetime. Therefore, once the claim is withdrawn, she will not be able to reapply as a refugee when she returns to Canada.

If a woman without status commits a crime while in Canada, will she be deported?

IRCC's response to a crime will differ depending on the type of crime, the kind of harm inflicted as a result of the crime, and the views of the immigration officer who is informed of the crime. The woman will need to see a lawyer to discuss the impact of her criminality on her immigration status.

Can a service provider get in trouble for helping someone who is in Canada without status?

Historically people without status were said to be here "illegally" and this misnomer created a perception that helping someone without status would cause a person to be an accessory to a crime. Being here without status is not a criminal act, so it is not illegal. There is no law that prevents service providers from assisting a mother without status as long as the service provider follows the law and encourages the woman to do the same. Additionally, there is no duty to report that someone is living here without status.

Section IV: Tips For Providing Support to Mothers Without Legal Status

Mothers without legal status experience many challenges, which can provoke feelings of anxiety, loss, fear and frustration. They are forced into situations that require huge amounts of faith in strangers in situations that may be entirely opposite to their experience in their country of origin (like service providers, lawyers, and officers of the state). The complexity and uncertainty of the family law and immigration issues, the impact of having experienced abuse from their intimate partners, the challenges of language barriers and the struggles to meet daily needs for themselves and for their children can be overwhelming.

As a service provider, you might be a woman's entire support system in Canada. This can present unique challenges and may require that you "go the extra distance" by providing more time and services than usual. You may find that you need to rethink the usual policies and processes of your organization, as they may not be helpful when working with mothers without legal status. Often, typical referrals are not applicable and there are no obvious solutions to the situation.

Here are a few tips for working with mothers without legal status that will help you in your job:

- Don't guess when asked questions about immigration or family law. Too much damage can be done! Let your client know that you will find the answer and get back to her, or refer her to a lawyer. With the changes to family law, it is a good idea to consult with a lawyer to be certain or any information being given.
- Draw in other front-line workers from the community who can help support your client so that everything doesn't fall on you. Meet together to divide up tasks and to avoid duplicating services. Taking time to meet with the different members of her team can help ensure that there is no duplication of services and that everyone is on the same page. It also allows the woman to be in a room with all of her supporters and gives her a sense that everyone is working together.

- Remember the importance of self-care, including debriefing with colleagues when you are feeling overwhelmed.
- Remember that you are making a difference. During interviews for the YWCA project, mothers without legal status consistently identified the importance of the assistance they received from various individuals and agencies.
- Remember that you do not have to do this on your own. The YWCA Legal Educator is available to provide information and support to workers assisting MWLS.



The YWCA is hopeful that the situation for mothers without legal status will change on many fronts. Any updates will be posted on the YWCA Metro Vancouver website at ywcavan.org.

Section V: Resources – Free and Low-cost Resources to Meet Basic Needs

National:

Immigration, Refugees and Citizenship Canada (IRCC)

www.cic.gc.ca

Provides information on applying for permanent resident status on Humanitarian & Compassionate grounds, and on refugee claims.

Food Banks Canada

<http://foodbankscanada.ca>

This site has a list of food banks across all of Canada.

Provincial:

ClickLaw

www.clicklaw.bc.ca

Offers a wide range of information about legal resources and services, including pro bono services.

Foreign Affairs and International Trade Canada

<http://travel.gc.ca/voyager/publications/enlevements-internationaux-d-enfants>

An online brochure on international child abductions offers information on the Hague Convention.

J.P. Boyd on family law

bit.ly/jpboyd

Provides general information on the new BC Family Law Act.

Legal Services Society (Legal Aid)

www.lss.bc.ca

Provides information on Legal Aid, including requirements to qualify, information on duty counsel who can provide up to three hours of family law service, and Legal Aid tariffs, to provide a greater understanding of allotted times for lawyers being paid through Legal Aid.

YWCA Vancouver

ywcavan.org

Has information on Mothers Without Legal Status project and updates.

Co-operative Housing Federation of BC

www.chf.bc.ca

List of housing co-operatives, some may offer subsidies.

The Ministry of Social Development and Social Innovation

www.gov.bc.ca/meia/online_resource/verification_and_eligibility/idreq/procedures.html

http://www.gov.bc.ca/meia/online_resource/general_supplements/idsupp/

Has a Client Identification Process (CIP) for those who do not have identifications or other documents to apply for income assistance. MSD will supplement the cost of obtaining identifications, but it is up to the applicant to get their identification.

Nurse Line

Dial 8-1-1 for a non-emergency free health information and advice phone line for people who are covered by MSP, operated by HealthLink BC and part of the Ministry of Health. You can speak to nurses, pharmacists, dietitians, exercise professionals, and translation services. They can also connect you to other health resources in your area.

BC211

Dial 2-1-1 to find community, social, and government services near you. They update their shelter lists daily.

Homelessness Prevention Program

Can provide modest rental supplements to women leaving abusive relationships, youth leaving foster care, Aboriginal people, and individuals leaving hospitalization & correctional institutions:

http://www.bchousing.org/Options/Emergency_Housing/HPP

Regions:

General:

Access Justice

services.www.accessjustice.ca/clients/resources.asp

Offers free pro bono legal advice clinics. Find your local office via the website.

Your Dental Health

www.bcdental.org/yourdentalhealth/dentalclinics.aspx

Provides a list of reduced cost dental clinics throughout BC.

Free Clinics

Youth clinics typically service clients who are under 24 years, are free, and do not require them to be on MSP, although some exceptions may be made for MWLS. They can provide basic health care.

Vancouver Coast & Mountains:

Vancouver and Lower Mainland Multicultural Family Support Services Society

www.vlmfss.ca

Appointments needed. Many of the community support workers are very knowledgeable about the issues mothers without legal status face. Offers emotional and culturally sensitive support in many languages. Free pro bono family law and immigration law clinics on a monthly basis for internal clients.

Greater Vancouver Food Bank Society

www.foodbank.bc.ca

Provides free food once a week, except on the week that the Ministry of Social Development issues income assistance cheques. Phone for locations: 604 876 3601.

The Elizabeth Fry Society of Greater Vancouver

<http://www.elizabethfry.com/>

Housing first program, to help women get permanent housing

Drop-in centre at the head office that has donations that women can help themselves to as well as a washer and dryer and a shower.

Quest Food Exchange

www.questoutreach.org/

Not-for-profit grocery stores that provide reduced prices on groceries. An application needs to be filled out by referral. Visit the website to obtain the client referral form. Grocery stores are Vancouver, East Vancouver, Surrey, and Burnaby.

Global Family Care Clinic

http://www.fraserhealth.ca/find-us/services/our-services?program_id=14410 or <https://www.divisionsbc.ca/burnaby/globalfamily>

Provides health care services those living in Burnaby, New Westminster, and surrounding areas. They have interpreters for those who do not speak English. If they do speak English, they can self-refer to the clinic. The clinic requires that an application be made to access services, but mothers without legal status may be eligible for services.

Vancouver General Hospital – Sexual Assault Services

http://www.vch.ca/locations-and-services/find-health-services/?program_id=11289

Available for anyone at the Vancouver General Hospital. Female doctors and nurses provide assessment and treatment of injuries, sexually transmitted infections, pregnancy prevention and forensic evidence collection. They also provide referrals for health, legal, and support services. These services can be accessed by anyone who has been sexually assaulted within the past seven days.

Sheway

sheway.vcn.bc.ca/programs-and-services/health-care/

Health clinic for pregnant women in the downtown eastside. Their mandate is for pregnant women and/or those who have recently delivered (6 months) and have substance use issues. They will provide services for women if they are not yet on MSP. They provide multidisciplinary resources, such as prenatal, housing, help with getting social assistance and MSP, food support and hot lunches, and there are social workers. They will also look after mothers and babies while they are there and will provide health services similar to general practitioners.

Ravensong youth clinic

http://www.vch.ca/locations-and-services/find-health-services/?program_id=14694

Will see women without legal status to provide basic health care with or without MSP. 604-709-6400

MOSAIC

<http://mosaicbc.com/>

Has many services, including translation and interpretation, settlement services, legal advocacy, and other community supports.

Leisure Access Programs

Surrey: www.surrey.ca/culture-recreation/1773.aspx

Vancouver: vancouver.ca/parks-recreation-culture/leisure-access-card.aspx

Burnaby: www.burnaby.ca/things-to-do/be-active-programs/leisure-guide/registration-information/financial-assistance.html

Provides passes and reduced fees for accessing community recreation programs.

Vancouver Island:

The Victoria Cool Aid Society

<http://coolaid.org>

Works to end homelessness and have a number of services including shelters, a health and dental clinic, community centre, and thrift store. They also have advocates and an outreach program to assist clients navigate systems, as well as a drop-in centre for clients.

LIFE program

www.victoria.ca/EN/main/departments/parks-rec-culture/facilities/life.html

The LIFE program is a financial assistance program for low-income individuals and families to access recreational programs and services. Applications can be found on the website.

Camosun College Dental Clinic

<http://camosun.ca/learn/school/health-human-services/dental-clinic/>

Charges \$60 for adults, \$20 for children and youth. Services are provided by students under supervision by faculty.

Thompson Okanagan:

Elizabeth Fry Society of Kamloops and District

www.kamloopsefry.com

Poverty law advocacy, housing programs, and women and youth support programs. They have women's support program that can help with paperwork and filling applications. If they are in housing and are working they have a rent bank program. They also have resource services for low income housing.

Elizabeth Fry Society in Central Okanagan

<http://www.empowerific.com/>

Assists women dealing with abuse and sexual assault. They provide counselling, support, and emergency services for violence in relationships. They have a victim service program that can help with housing and family law, and can help women find lawyers.

Vernon Women's Transition House Society

<http://vwts.ca/>

Has a transition house with beds for women and children, and a homelessness prevention program. They also have a Legal Services Society community worker who can connect them with resources and help with paperwork.

Ask Wellness

www.askwellness.ca

Housing, health, addictions, mental health, and harm reduction services and programs.

Cariboo Chilcotin Coast:

South Cariboo Elizabeth Fry Society

<http://www.caefs.ca/feature/local-societies/>

Assists women filling out applications and paperwork, apply for legal aid, find housing, and general advocacy. They also have a food bank run through their office. They have a partnership with the local thrift store for women to obtain household items or clothes.

Bella Coala Community Support Society

bccss.net

Children and families services, women's services, victim assistance, and a food bank.

Kootenay Rockies:

Community Connections Society of Southeast BC in Cranbrook

www.ccscranbrook.ca

Women's centre, a homelessness outreach program, advocate program, and programs for children.

The Nelson Community Services Centre

nelsoncommunityservices.ca

Provides programs for families and women and a transition house.

The Upper Room Mission in Vernon

upperroommission.ca

Provides meals and has a thrift store.

Advocacy Centre

<http://advocacycentre.org/>

Programs to assist in dealing with welfare, poverty law, victim services, family law and child protection, tenancy issues.

Northern BC:

Elizabeth Fry Society of Prince George and District

<http://www.pgefry.bc.ca/>

3 locations: Prince George, Quesnel, and Burns Lake.

Provides advocacy, legal services, accompaniment, a transition house, and assistance finding housing.

The Northern Society for Domestic Peace in Fort St. John

domesticpeace.ca

Has services that include a transition house, a Stopping the Violence program, Stopping the Violence Outreach, Victim Services, and Pregnancy Outreach.

Prince George Leisure Access Program

princegeorge.ca/cityhall/grants/leisureaccess/Pages/Default.aspx

Assists low-income individuals and families access recreational programs and services in Prince George.

Appendix: Guide to Writing an H&C Letter of Support for Mothers Without Legal Status

What is an H&C application?

An H&C application is an application for permanent resident status based on Humanitarian and Compassionate grounds.

People usually apply for an H&C for three main reasons: hardship if she has to leave Canada, establishment in Canada, and the Best Interest of a Child (BIOC) affected by the application.

IRCC is the government body that reviews and makes decisions on H&C applications.

What happens if an H&C application is rejected?

If an H&C application is rejected, the applicant will not be allowed to stay in Canada and will be removed to her home country. In the case of an applicant with Canadian-born children, she may be separated from her children if she is removed and her children are kept in Canada.

Why am I being asked to write a letter?

You have been asked to write a letter because someone making an H&C application to stay in Canada believes that you could provide information that would help to demonstrate why her application should be accepted.

It can be difficult to succeed on an H&C application – letters of support can be very important in improving an applicant's chances of succeeding and being allowed to stay in Canada. Gathering lots of letters of support can be helpful but a few strong letters will be better than many weak letters!

Examples of people who may be asked to write a letter of support include:

- Family members in Canada, including children if appropriate (drawings can be submitted too!)
- Friends and neighbours
- Employment/volunteering supervisors and colleagues

- School officials
- Health workers
- Community group members

What kind of information can be helpful to include in a letter of support?

When writing a letter of support, it can be helpful to include information about any of the following (if you have it and it is relevant to the situation of the person you are writing about):

How the applicant has integrated into the community:

- Any classes or groups that she has joined
- Any community activities that she has participated in
- Any religious communities she participates in
- Any relationships that she has formed with members of the community
- Anything else that you think shows how she has integrated into the community

How the applicant has a strong and important bond with her children:

- Any knowledge/observations you have that suggest that she is close with her children
- Any knowledge/observations you have that show the love that she has for her children, and/or the love her children have for her
- Any knowledge/observations you have that suggest that she plays an important role in the lives of her children
- Any knowledge/observations you have that show how her children depend on her
- Anything else that you think shows that she has a strong and important bond with her children

How the applicant has been/will be a contributing member of Canadian society:

- Any past/ongoing work or volunteer experience she has
- Any future plans she has for her work or career
- Efforts or plans by the applicant to improve her English/French, education, or skills while in Canada
- Any other ways that she has contributed to, or plans to contribute to, her community

How the applicant is a person of good character:

- Any positive characteristics that you have noticed about her
- Examples of how she has impressed you, or has done something that you admire
- Anything else that you think demonstrates that she is a person of good character

How the applicant has overcome adversity:

- Any information that shows that she has overcome adversity, such as through managing with few financial resources, learning English, or adapting to a new culture
- Examples of how she has remained positive and/or resilient in the face of adversity
- It may also be relevant to cite any risk she may have in her country of origin if forced to return

(For her immigration lawyer to complete)

Also include information about:

- _____

- _____

What kind of information is not helpful to include a letter of support?

The following information can weaken a letter of support, and so is best avoided:

- References to an applicant’s receipt of welfare or other government support

- References to any barriers they are facing in integrating in the community
- References to substance abuse
- References to an applicant’s criminal record

I’m ready to get started! What else should I know?

Here are some other basic details to help you get started on your letter:

- Address the letter to "Immigration Officer", the letter needs to be included with her application
- If you are writing the letter as a professional (as a community agency, as a person providing training, or as a place where she is volunteering), you should use formal letterhead and attach a business card when writing your letter if it is available
- If you are a Canadian citizen or permanent resident, directly say so in your letter
- Describe how you know the applicant and, if applicable, her children
- Feel free to attach any photos that could help to show your relationship with the applicant and/or her children, or illustrate their establishment in Canada
- Finish your letter with this sentence: "If you would like any further information, please feel free to contact me at (###-###-####)" – and include your phone number
- Date the letter, and include your full name and signature

That’s it – you’re ready to get started!

If you have any questions about your letter, you can contact :

Name: _____

Agency: _____

Phone/Email: _____

Address: _____

Thank you for taking the time to make a difference!

This document was created by the YWCA Metro Vancouver for the use of community organizations and lawyers to assist clients in getting letters of support written for Mothers Without Legal Status.

This document is not legal advice, it is to be used for information purposes only. If you have a legal question relating to this letter, please contact your client's immigration lawyer.

