

H R L S C
INTERIM GUIDELINE

**ELIGIBILITY FOR LEGAL SUPPORT SERVICES &
CASE SELECTION CRITERIA**

The Human Rights Legal Support Centre (Centre) has developed the following guideline for its consideration in making determinations on the provision of legal services to persons who are potential applicants to the Human Rights Tribunal of Ontario (Tribunal)

These interim guidelines have been prepared as a basis for internal discussions and have not been finalized by the Centre. However, this draft guideline will inform, on a case-by-case basis, the Centre's determinations on applications for its services until a policy is finalized.

The Centre welcomes public feedback on these proposed guidelines. Comments can be sent to: Jennifer.Ramsay.hrlsc@ontario.ca

A. OVERVIEW

This guideline recognizes that each applicant for legal support services will receive initial legal services from the Centre, including advice on whether or not their claim would fall within the jurisdiction of the Tribunal.

However, due to the significant volume of inquiries and the demand for legal support services, the Centre acknowledges that it will not be able to provide all applicants with complete legal services up to and including full representation at a hearing before the Tribunal.

In order to best allocate its limited resources, the Centre reserves the right to decide, with respect to each applicant, the level of legal support services that will be provided, to be determined on a case by case basis, after consideration of the factors set out below.

In general, the Centre will give priority to applicants with meritorious claims who would face barriers to self-representing, especially where the application raises public interest issues or complex factual or legal issues or could have a broad impact on other claims under the *Human Rights Code*.

B. DEFINITIONS

“*applicant*” means a person who has contacted the Centre for assistance with respect to a matter covered by the *Ontario Human Rights Code*

“*eligibility for services*” means that the applicant is generally eligible for services but does not mean that any particular level or amount of service will be provided to the applicant

“*legal support services*” includes the initial intake procedure and interview, summary information and advice, assistance with application completion, assistance with preparing for mediation, representation at mediation before the Tribunal and representation at hearings before the Tribunal

C. FACTORS

In determining the extent of the legal services that the Centre will offer to applicant, the Centre will consider:

- (a) the nature of the application;
- (b) the capacity of the applicant;
- (c) the nature of the respondent;
- (d) the existence of any intervenor; and
- (e) any other additional factors the Centre may consider relevant.

Considerations (a) to (d) above are evaluated by the Centre in respect of the following factors:

(a) The Application

1. The proposed application falls within/outside the jurisdiction of the Tribunal.
2. The proposed application raises/does not raise a ground of discrimination recognized by the *Code* and/or by applicable human rights jurisprudence.
3. There appears to be/ not to be a *prima facie* case to support the proposed application.
4. The proposed application raises/does not raise complex legal or factual issues that require legal representation.
5. The proposed application:
 - i. will/will not require particularly significant staff resources;

- ii. is expected/is not expected to impact on the Centre's ability to represent other applicants; and
 - iii. raises/does not raise issues that could have a broad positive or negative impact on other disadvantaged groups designated under the *Code* including other applicants or potential applicants for the Centre's services.
6. The proposed application is outside the one (1) year period for filing and there does not appear to be a significant public interest aspect to the claim.

(b) The Applicant

1. In light of the nature of the proposed application and the remedies sought, the applicant would face challenges in representing him/herself before the Tribunal. These challenges may include:

- lack of fluency in English/French;
- functional literacy level;
- issues related to a disability (including the need for accommodation of *Code*-related needs by the Centre);
- issues related to poverty (such as access to telephone, affordable transportation);
- unfamiliarity with legal processes;
- absence of other supports in daily living;
- challenges created by recent arrival in Canada, refugee status and related issues; and
- marginalization associated with membership in a designated group recognized by the *Code* (e.g. youth; senior; member of a racialized community).

2. The applicant is/is not able to self-represent in the Tribunal's process. Consideration shall be given to:

- nature of the proposed application
- circumstances affecting the applicant, and
- nature of the remedies sought.

3. The applicant lacks/ has access to other legal support in preparing their application or does not have reasonable access to legal support through a prepaid legal services plan, private resources, advocacy organization, Commission, etc.

4. The applicant is/is not a member of a historically disadvantaged group or a marginalized group.

(c) The Respondent

1. The respondent is/is not well-resourced.
2. The respondent is/is not expected to be have legal representation.

(d) Intervenors

1. The Commission has indicated that it will/will not apply to intervene in support of the application.
2. There are/are not other organizations or individuals that have indicated an interest in intervening for or against the proposed application.