

FTR Now

Ontario Human Rights Review Chair Invites Comments on 2008 Changes to *Human Rights Code*

Date: January 3, 2012

The Ontario Human Rights Review Chair, lawyer Andrew Pinto, has published a Consultation Paper inviting public commentary, further to the review process mandated by section 57 of the *Human Rights Code (Code)*. That section requires that the Minister appoint a person to review the implementation and effectiveness of changes resulting from the 2008 amendments to the *Code*, three years from the effective date of the amendments.

This *FTR Now* discusses the details of the review process and its implications for employers and service providers, who may wish to participate.

BACKGROUND

Ontario's human rights system changed substantially with amendments to the *Code* which came into effect on June 30, 2008. As of that date, the human rights system in Ontario became a "direct access" system; those who wish to file an application are now able to file the application directly with the adjudicative body that hears them, the Human Rights Tribunal of Ontario (HRTO). In accordance with the requirements of section 57, the Attorney General appointed Mr. Pinto as Chair of the process to review the implementation and effectiveness of these amendments.

THE CONSULTATION PAPER

Further to the language in section 57, the Consultation Paper notes that the purpose of the review is to examine the implementation and effectiveness of the changes resulting from the enactment of the amended *Code*; in that regard the Paper prescribes a narrow focus for the review. Chair Pinto states:

My mandate is to focus on the extent to which the current system is delivering against universally desirable objectives such as access to justice, transparent adjudication, timely disposition of cases, and the elimination of systemic discrimination.

The Paper therefore expressly requests that "**comments be focused** on the implementation and effectiveness of the changes brought about by the *Human Rights Code Amendment Act, 2006*." (emphasis added)

The Paper sets out the terms of reference for the review as well as a number of questions for consideration in the review, including:

- whether the new system is accessible and easy to use;
- whether the redesigned HRTO is providing quicker and direct access for applicants and a fair dispute resolution process for all parties;
- should the Tribunal decide to award costs in the future, whether it would be fair to make an unsuccessful party pay (or partially pay) the successful party's legal costs; and
- whether the Ontario Human Rights Commission is proactively addressing systemic human rights issues.

HOW TO PARTICIPATE IN THE REVIEW



The Consultation Paper sets out the process by which any interested parties may participate in the review; for example, by sending written submissions (to be received no later than March 1, 2012), and by making oral remarks at a public meeting or, if invited to participate, at a stakeholder meeting.

Public meetings (subject to interest) are scheduled on the following dates:

- Windsor – February 13
- London – February 14
- Toronto – February 15 and 24
- Ottawa – February 16
- Sudbury – February 21
- Thunder Bay – February 23

Details regarding public participation in the review process are found in the [Consultation Paper](#).

IMPLICATIONS FOR EMPLOYERS

Many employers and service providers in Ontario have now had significant experience responding to applications filed with the HRTO. Accordingly, your organization may wish to make written submissions or participate in the public meetings. The review process presents an excellent opportunity for employers and service providers to provide feedback on their experiences in the new system.

If you would like more information about this review process, please contact any member of our [Human Rights Practice Group](#).

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