

Human Rights Legal Support Centre
Submission to the Ontario Human Rights Review

April 2012

EXECUTIVE SUMMARY

The Human Rights Legal Support Centre is pleased to provide the Ontario Human Rights Review with this report on its achievements in its first four years.

This submission documents the many steps that the Centre has taken to provide the best possible service to all Ontarians who request our assistance after having been subjected to unequal and discriminatory treatment. The Centre has developed service delivery policies that maximize its capacity to provide focussed and effective legal services, including representation. It has initiated a number of projects and programs to expand the reach of its services including:

- Placing lawyers at selected community legal clinics in each part of the province
- Establishing province-wide partnerships with Ontario's community legal clinics and with Student Legal Aid Services to augment our services
- Partnering with Osgoode Hall Law Faculty to establish an intensive legal education program to place full-time law students as service-providers at the Centre
- Creating and training a *pro bono* panel of lawyers to provide no-cost representation at mediations
- Undertaking outreach to bring our services to the attention of hard-to-reach *Code*-protected communities
- Developing public legal education resources to assist self-representing claimants
- Establishing training and referral linkages with community partners working with immigrant, disability-rights, injured worker, Aboriginal and other communities.

As we near the completion of our fourth year of operation, we believe that the results of our efforts are paying off. In the past year alone, we have provided legal assistance to 12,562 individuals who have experienced an infringement, or possible infringement, of their rights under Ontario's *Human Rights Code*. Of these, 2,399 individuals sought and received extended assistance from our lawyers in pursuing and resolving a discrimination claim. We provided representation on 732 files at one or more stages in the Tribunal process. Our lawyers have settled 85% of our mediation files, exceeding the Tribunal average by almost 20%.

The Centre is winning significant public interest remedies at mediation and hearings, getting results that will have an important impact on the lives of Ontarians. The mediation and hearing summaries included in our submission demonstrate how the Centre is winning changes to provincial, municipal and school board policies, in police conduct, in the provision of health services and in ensuring accessible housing and services, in workplaces, in rental housing and at service venues across the province.

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INTRODUCTION

This submission to the Ontario Human Rights Review has been prepared to provide information on the work of the Human Rights Legal Support Centre ("Centre") since it opened its doors in June 2008. The submission does not, for the most part, repeat information contained in the Centre's three Annual Reports to date. The materials prepared by the Centre in response to the Review's public consultation are attached as Appendices and referenced in this submission.

START UP OF THE CENTRE

The first year of any new agency serving the public is expected to be challenging. This was particularly true for the Centre. The Executive Director of the Centre commenced employment at the end of April 2008, shortly after the Government committed to a launch date of June 30, 2008. The tight timeframe meant that the Centre had to commence delivering service to the public before the full staff had commenced employment and before securing adequate office space. On June 30, 2008, the Centre moved into temporary office space and opened its doors to the public on the same day. The amendments to the *Human Rights Code* ("Code") became effective that day and the phones starting to ring with requests for legal services. By the end of the first week, over 450 people had received legal advice and assistance through the Centre's telephone advice service.

In many ways, the start-up period for the Centre is only drawing to a close now, after almost four years of operation. It has required two phases, moving from two temporary office locations to permanent office space, and from very basic file tracking and intake systems to updated case management and communications systems that will meet the Centre's needs for the long term.

The Centre moved into its permanent office space in February 2010; completed the initial implementation of its first full case management system in February 2011; and implemented a much-needed, much-improved telephone intake system at the end of 2011. On March 31st, 2012, the Centre completed its first year with legal services data from its new case management system. The first statistical reports from the new case management system demonstrate that the Centre is providing extensive service within its mandate. March 31st also marks the completion of the first full quarter of reported data from the new telephone system: the reports show significant improvement in the Centre's ability to respond to the hundreds of telephone inquiries received each week.

PLANNING versus REALITY

In preparation for the establishment of the new Centre, the Ministry of the Attorney General (MAG) created a Transition Team, under the leadership of a Transitional Director, and retained both PSTG and Deloitte, consecutively, to assist in achieving operational readiness for the June 30, 2008 start-up. A key goal of the Transition Team was to develop a service delivery model that would be cost-effective, consistent with the statutory requirement that the Centre deliver services within its financial resources.¹

PSTG and Deloitte developed a number of possible service delivery models, one of which came within the allocated annual budget for the Centre. The Transition Team adopted a proposed staffing complement based on this model, which concentrated legal services at the initial stage of the Tribunal's process. It was projected that the Centre could provide the following services annually:

- Answer 56,390 inquiries
- Interview 3,577 individuals who were considering bringing an application
- File 1,473 applications on behalf of applicants but remain on the record in only 10% of these applications
- Provide representation at 134 mediations
- Provide representation at 33 hearings.

As discussed below, the experience of the Centre in its first years of operation has not matched these planning projections in several respects.

Fewer but Longer Telephone Inquiries

The volume of "offered" calls or inquiries was significantly lower than projected, averaging 39,268 per year. However, the calls took longer than typical calls at the Commission and an inefficient telephone intake system (inherited from the Commission) was unable to stream calls effectively to options other than the advice service (for the many callers who were not actually looking for human rights legal advice). It quickly became clear that front-end staffing was inadequate, and within 4 months, the Centre doubled its inquiries staff. During the same period, the Commission closed down its incoming telephone service and the Centre's call volume continued to grow. A 21% increase in the number of answered calls was quickly swallowed up by growth in the number of incoming calls.

¹ s.45.12(b) *Code*

Despite numerous initiatives to improve our response rate (see below under Steps to Augment Service Capacity), the Centre was able to answer an average of only 54% of incoming calls until 2011, when a new telephone system, and new intake resources (through a special law student program with Osgoode Hall at York University), finally allowed the Centre to reach a response rate of over 79% in the last quarter of 2011/12. Unfortunately, wait times have improved but remain high, averaging over 8 minutes.

Significantly, in the first two years in particular, only about 50% of answered calls were seeking the services provided by the Centre (i.e. assistance in resolving a Code-related dispute). For this reason, the Centre was concerned about moving staff resources to address a service pressure that did not fall squarely within its mandate. After the Commission closed down its telephone intake system in 2008/9, the Centre was left as the sole contact point for thousands of callers who wanted general human rights information or were seeking advice and a referral in respect of a legal problem that, on closer examination, was not a human rights or discrimination problem.

Although in the pre-2008 planning period, MAG had considered the establishment of a shared telephone intake system for the three human rights agencies, this option was ultimately abandoned, leaving the Centre with responsibility, in the absence of telephone service from the Commission, for re-directing calls from the human rights system to other legal services (e.g. Legal Aid Ontario; Office of the Worker Advisor; Employment Standards Branch) or to the Commission's website for general human rights information.

Recognizing that there was a danger that the Centre would use its limited resources to provide a legal information and referral service that was not within its core statutory mandate, the Centre submitted a business case to MAG for increased funding. As well, the Centre discussed with MAG the possibility of again considering a shared telephone intake system for Ontario's human rights agencies. In addition, the Centre approached the Commission to discuss how the Commission might contribute to the job of responding to callers seeking general human rights information or a referral to another agency or legal resource. None of these initiatives was successful.

At the same time as pursuing collaborative and resource-based solutions, the Centre looked at how technology could assist and pursued other more creative solutions, some of which are outlined below under STEPS TO AUGMENT SERVICE CAPACITY. An improved telephone system, secured through one-time funding from MAG, has produced a very significant improvement in our inquiries response rate. Data from that system shows that many callers are choosing the information options that are now available on that system, and then declining to exercise the option of entering the advice queue to speak to a Human Rights Advisor.

A joint project with Osgoode Hall Law Faculty at York University has also made a notable contribution to our improved inquiries response rate. The Centre is hosting a

new intensive legal education program at Osgoode that places 6 students per term at the Centre, almost full time, with 4 full time summer positions. The Osgoode students augment our intake staff, with each student trained to provide telephone information and advice 2 days per week.

More Interviews, More Legal Services, More Settlement Assistance, More Referrals

Although challenged by the volume of telephone inquiries, the Centre was able to meet a higher demand for interviews than MAG had projected, assisting more than 12,562 individuals who had experienced a potential *Code* violation in 2011/12. Many individuals received ongoing legal assistance, either from a Human Rights Advisor (through our telephone advice service), through our Early Intervention Team or through one of the Centre's lawyers.

Members of the Centre's intake staff devote a significant portion of their time to helping callers to understand their rights under the Code and to explore legal and non-legal options for resolving their situation. Our Human Rights Advisors (intake staff) provide constructive suggestions to help callers defuse and potentially resolve disputes, often without resorting to a Tribunal application.

Where there is an opportunity to negotiate a formal resolution with an employer, service provider or landlord, the potential applicant is either referred to a lawyer or scheduled to meet with the Early Resolution Team. With the instructions of our client, the Centre's next step is to make direct contact with the potential respondent to discuss if both sides can work together to avoid litigation.

A big part of what our Human Rights Advisors do at the pre-application stage is to identify problems and disputes that, on closer examination, do not involve a human rights violation. Part of the Centre's job is to explain to callers that, if there is no ground of discrimination, the Tribunal will not be able to assist them to find a solution. Sometimes a caller will identify a problem that can potentially be resolved in another legal or non-legal forum. In 2011/12, a total of 6,856 inquiries were identified as relating to a legal problem that was not appropriate for the Human Rights Tribunal. The Centre's intake staff in each of these cases explained why a human rights application would not address the individual's problem; and, where appropriate, referred the individual to an agency or other legal service.²

² In 2011/12, callers were referred to: Canadian Human Rights Commission; LSUC Lawyer Referral Service; Legal Clinics; Ministry of Labour; Office of the Worker Advisor; Student Legal Aid Services; Other Service Agency; Community Organizations; Other Legal Service; Pro Bono Panel.

Fewer Filed Applications and More Resolutions and Settlements

The Centre initially attempted to complete and file Tribunal applications on behalf of every person with a meritorious claim who requested our assistance. It became clear very quickly, however, that this was too resource-intensive and not sustainable.

Centre staff noted that many applicants were able to complete the Tribunal application form themselves, with our specific guidance as necessary. As a result, we adapted our approach, giving detailed self-help assistance at the filing stage, while encouraging applicants to call back the staff person who assisted them for further assistance, and possible representation, at a later stage. Criteria were developed for identifying individuals for whom this was not appropriate, however, so that these people would still receive full representation in completing and filing their application.

The fact that very few draft applications³ are rejected by the Tribunal as incomplete was a factor in this shift in approach. The Centre decided that, instead of accepting a smaller number of cases on which we could on the record to provide full representation at the filing stage, we would “spread” our resources further to:

- Provide extended assistance (short of representation) to more individuals at the pre-application stage, including help in resolving their dispute without filing an application and in assistance in completing the application form⁴; and
- Provide more representation at mediations and hearings.

Based on our experience in the first few months of operation, the Centre concluded that our legal services were most critically needed at mediation, and to an even greater extent, at the hearing stage, when it is difficult for many self-represented parties to navigate the process.

This shift in approach has arguably benefited the enforcement system as a whole. More applicants receive in-depth help in drafting their applications. As well, the Centre is able to settle applications, at mediation and in the pre-hearing period, at a significantly higher rate than is reached in cases where the applicant is self-represented or otherwise represented.

³ The Tribunal has reported that only about 2% of filed applications are rejected as incomplete. A much higher percentage of applications are sent back for more information before being accepted as filed.

⁴ For example, in 2011/12, 1,201 individuals received legal assistance from a Centre lawyer at the pre-application stage. In addition, approximately 600 individuals were given legal services at the pre-application stage through our Legal Service Representatives, including intervention in resolving a human rights dispute.

More Representation in Settlement Negotiations and at Mediations and Hearings

The Centre has adapted its service model to maximize its ability to provide representation at mediations and hearings to applicants with meritorious claims. Notwithstanding the skill with which Tribunal adjudicators conduct hearings where one or both sides are unrepresented, our experience is that, in the majority of cases the applicant, and the Tribunal, are better off when the person presenting the facts and the law is legally trained. A lawyer or skilled paralegal is able to ensure that the best case is put forward for the purpose of settlement, and can assist the hearing process by ensuring that the appropriate evidence and legal arguments are presented.

Callers to the Centre are very often unsophisticated individuals who could not readily navigate the pre-hearing process for disclosure and witness statements. They are able to tell their story for the purpose of completing the application form, but are not able to organize the relevant information in the ways required by the adjudicative process. For many, the circumstances of the discrimination itself make it very difficult, if not impossible, to stand up alone in a hearing room to face the respondent, whether or not the respondent has counsel.

Bearing in mind that the pre-start-up service model projected that the Centre would provide representation at 134 mediations and 34 hearings annually, the Centre is proud that it has been able to significantly exceed these targets.

In 2011/12, the Centre accepted retainers to provide representation at mediation in 278 applications. Of these, the Centre settled 15 before mediation and provided representation at 230 scheduled mediations, of which 196 settled. The Centre's settlement rate at mediation was 85% in 2011/12, as compared to a reported average rate of settlement at Tribunal mediations of 67%.⁵

In 2011/12, the Centre accepted retainers to provide representation at hearings in 219 applications. The Centre settled 69 before the hearing and 33 at or during the hearing. The Centre's lawyers provided representation at 91 hearings on the merits.⁶ By way of comparison, we note that under the former human rights system, only a small percentage of referred complaints were **not** settled at Tribunal mediation and went to a full hearing on the merits, with Commission counsel representing the public interest in approximately 10 to 15 new cases a year.⁷

⁵ As reported in the Tribunal's 2009/10 Annual Report. No figure was reported in 2010/11 or for 2011/12.

⁶ About 1/3 of these hearings were converted to mediation/adjudication hearings after commencing.

⁷ This is corroborated by the number of released final decisions. In the last three years before the Code amendments, the Tribunal issued an average of just over ten (10.5) final substantive decisions each year.

These numbers represent the limits of our capacity to provide representation within current resources. However, in considering the fact that the majority of applicants are unrepresented at hearing, we do want to note a couple of points.

First of all, not every applicant before the Tribunal contacts the Centre to request assistance or representation. In fact, in a review of final Tribunal decisions on the merits in 2010, the Centre found that fully 40% of unsuccessful applicants had not approached the Centre for assistance at any point, notwithstanding the information about the Centre that is available on the Tribunal's forms and website.

Other applicants, with straightforward cases and good advocacy skills, have accepted the Centre's assistance in preparing to represent themselves at hearing, and have gone on to win their cases on the merits. Our review of 2010 decisions showed the Centre represented 33% of successful applicants but that another 50% of successful applicants had represented themselves with legal assistance from the Centre. Many of these applicants had not in fact requested representation.

Applicants do win cases without representation, both with and without the Centre's assistance. For the Centre, the challenge is to find the right balance between representation and assistance – and to ensure that we provide the right level of assistance to those who need it. Our goal is to offer hearing representation to every applicant who requests legal assistance and whose case appears to have a chance of success.

FUNDING

Annual Allocation

2008/9	\$3,149,366
2009/10	\$5,632,400
2010/11	\$5,414,900
2011/12	\$5,521,200

No Transitional Funding

Unlike the Tribunal and the Commission, the Centre did not receive transitional funding to provide services to individuals who chose to 'transfer' human rights complaints, previously filed at the Commission, to the Tribunal.

No Budgetary Increases

The Centre prepared a business case for increased staffing in September 2009, after a year of operation. The business case put forward 3 options, ranging in cost from \$1,534,000 to \$2,642,000. The business case was based on an extensive and detailed review of our workload pressures and related staffing pressures at each stage of our service model: advice, legal assistance and legal representation. We matched our service pressures to each stage of the Tribunal's case resolution process and requested funding to allow an expansion of our intake and legal staff to meet demand.

This request has not resulted in an increase in the Centre's allocation.

Unlike the Tribunal and the Commission, the Centre has not received budgetary increases pursuant to collective agreements with staff. The Centre's staff received no compensation increase of any kind last year (no inflationary increase; no merit increase) and increases of only 2% in each of the past two years. Our lawyers are paid substantially less than lawyers within the Ontario government. The median salary for our lawyers is \$74,350, excluding the 5 lawyers with management responsibilities.

One-time Funding for Infrastructure

The Centre has received one-time funding for special IT projects in each of the past two years. In 2009/10, it received \$350,000 to cover the costs of purchasing services and building an electronic case management system required to accurately track its work. In 2010/11, it received \$100,000 to cover the cost of purchasing and implementing a new telephone system.

STEPS TAKEN TO AUGMENT SERVICE CAPACITY

In the face of funding realities, the Centre has taken a number of steps to maximize its service capacity and to direct and focus its resources on the services most needed by the people accessing its services. Many of these steps are discussed in our Annual Reports. Some key examples include:

- **Cross-training of staff**

The Centre increased its telephone intake capacity by training people in other positions to assume intake duties during peak hours or during periods of staff illness.

- Enhanced emphasis on appropriate diversion and early resolution**

The Centre trained front line inquiry staff to provide advice about resolving human rights issues without filing an application. For example, Human Rights Advisors advise callers about how to request accommodation, and will often provide assistance in drafting letters to employers or service providers asking for specific actions to resolve a dispute. Where the Centre's intervention would be useful at an early stage, the caller is referred to an Early Intervention team that will contact the other side of the dispute to propose a resolution that will allow the parties to avoid the Tribunal process altogether if possible. The resources for Early Intervention were doubled after the Centre had been operating for about 10 months.
- Application Clinics**

The Centre developed an "application clinic" program, offered in the evening, as well as during the day, several times a year. Although most sessions have taken place in Toronto, the Centre has offered an application clinic in Thunder Bay and is assessing the interest and viability of holding clinics in other cities, focussing initially on sessions that would be hosted by Aboriginal community organizations. The purpose of the clinic is to assist individuals who need general assistance but not extensive one-on-one advice. Only persons with meritorious applications are referred to this program.
- Service criteria**

The Centre developed service guidelines to assist staff in focusing resources on applicants who are not capable of self-representing and do not have access to other legal resources. No service is provided where claim appears to lack merit or evidentiary support.
- Limited retainers and continuous triage**

The Centre developed an "unbundled" service model that focuses its resources on providing the level of service to each individual that is needed or warranted at each point in the Tribunal's process. Priority is given to persons who have barriers to self-representation. All retainers are limited in scope to ensure that the Centre has the flexibility, at each stage, to re-assess the merits of the application and the applicant's eligibility for further service.
- Pro Bono lawyer panel**

The Centre established a panel of pro bono lawyers who are willing to represent a limited number of our clients at Tribunal mediations. The Centre trained over 80 law firms to participate in the panel through a video training session offered through the Law Society.

- **Partnerships with Legal Clinics**
 The Centre has provided training to legal clinics across the province to assist clinic staff to provide representation in HRTO cases that would otherwise be referred to the Centre. Through partnership with clinics, the Centre has placed its own staff in clinics in Ottawa, Sault Ste. Marie, Thunder Bay, Guelph, Sarnia and Windsor.
- **Partnerships with Student Legal Aid Societies**
 The Centre has worked with Student Legal Aid Societies at the University of Toronto, York University and the University of Ottawa to train and support students to provide service to applicants at the Tribunal in appropriate cases. Discussions are underway with other Ontario law faculties.
- **Self-help and public legal education materials**
 The Centre has developed accessible materials to assist applicants in preparing and filing their own applications. Materials on substantive issues have been prepared on topics that are frequent areas of inquiry on our telephone lines.
- **Osgoode Intensive Legal Education Program**
 The Centre established an intensive legal education program with Osgoode Hall Faculty of Law at York University to place students at the Centre full time throughout the year including the summer. The first students were accepted into this program in September 2011.
- **Mediation Duty Counsel Service (Cancelled)**
 In 2009, the Centre operated a pilot duty counsel service at Toronto mediations. Although successful in achieving a higher level of settlements than the Tribunal average, the pilot could not be offered province-wide and was under-utilized, so ultimately could not be rationally justified in light of the competing demands for representation in retained files. The service was discontinued.
- **Leverage of staff resources**
 The Centre developed protocols to ensure that all work is assigned to most junior level appropriate to task: when the Centre is retained to file application, non-complex application preparation is done by paralegal staff.
- **Diversion of operating funds to staffing**
 The Centre has closely managed its operational and administrative costs, allowing it to devote a very high percentage of its budget to staffing (approximately 88% inclusive of benefits). This has allowed us to double our telephone inquiries staff.

LEGAL SERVICES: STATISTICS FOR 2011/12

The just-completed fiscal year is the first full year since implementation of the Centre's case management system. The statistics below provide the most reliable picture of the services that the Centre has been providing since June 2008. All figures below are for the period from April 1, 2011 to March 31, 2012⁸.

Inquiries

- Answered Inquiries:

25,276 answered calls from 18,968 individuals

- Percentage of Inquiries Answered:

- Average for the year: 66%
- Average for last quarter only: 79%

- Breakdown of Answered Inquiries:

- 73% of inquiries (18,420) related to a situation in which the *Code* offered a potential avenue of redress;
- 27% of inquiries (6,856) sought general human rights information or assistance with respect to a legal dispute or other situation that could not be redressed under the *Code*.

⁸ For our Annual Reports (2008/9; 2009/10; 2010/11), the Centre was able to draw only limited data from its electronic data base.

- Breakdown of *Code*-related Inquiries by Social Area.
Each social area is cited as a % of all social areas for all inquiries.
[Note that there is no comparable chart from OHRC]

Contracts	0.2%
Employment	78.8%
Goods, Services or Facilities	14.4%
Housing	6.3%
Membership	0.3%
	100%

- Breakdown of *Code*-related Inquiries by Ground of Discrimination.
Each ground is cited as a % of all grounds of discrimination in all inquiries.
[Note that there is no comparable chart from OHRC]

Age	5%
Ancestry	3%
Association	1%
Citizenship	0%
Colour	3%
Creed (e.g. Religion)	3%
Disability or Perceived Disability	46%
Ethnic Origin	3%
Family Status	4%
Marital Status	1%
Place Of Origin	3%
Race	8%
Receipt of Public Assistance	1%
Record of Offences	1%
Reprisal or Threat of Reprisal	1%
Sexual Harassment, Pregnancy and Gender Identity	15%
Sexual Orientation	1%
Sexual Solicitation, Sexual Advances or Reprisals	1%
	100%

Legal and Support Services

- Legal and Support Services:
 - 12,562 new individuals received *Code*-related legal assistance at one or more stages of the human rights enforcement process.
- In-depth Legal Services:
 - 2,399 new individuals received in-depth legal services⁹ at one or more stages of the human rights enforcement process.

Retained Services

- i. Application Stage
 - Number of Applications filed by the Centre as Counsel of Record:
 - 100
- ii. Mediation Stage
 - Number of Applications where the Centre was retained to provide full representation at Tribunal Mediation:
 - 278
 - Number of Mediations Attended:
 - 230
 - Number of Mediations Settled before Mediation:
 - 15
 - Number of Mediations Settled at Mediation:
 - 211
 - Settlement rate at Mediation:
 - 85%
- iii. Hearing Stage
 - Number of Applications where the Centre was retained to provide full representation at Hearing:
 - 219

⁹ In 75% of these cases, service was provided by one of the Centre's lawyers. In the remainder, service was provided through a team of Legal Services Representatives that handles urgent cases, usually where an application is facing a limitation period or other Tribunal deadline, and early settlement initiatives.

- Number of hearing files that settled before, at or during hearing:
 - 101
- Number of hearings on the merits:
 - 91¹⁰

iv. Settlements by Stage

- Number of Applications Settled at all Stages:
 - 378

Pre Application	56	15%
Application	7	2%
Pre Mediation	15	4%
Mediation	196	52%
Pre Hearing	69	18%
Hearing	32	8%
Post Hearing	1	0%
Enforcement	2	1%
	378	100%

v. Breakdown of Retainers All Stages by Ground of Discrimination
Each ground as a % of all grounds in all retainers

Age	4.3%
Ancestry	4.7%
Association	1.2%
Citizenship	0.7%
Colour	6.5%
Creed (e.g. Religion)	2.5%
Disability or Perceived Disability	34.2%
Ethnic Origin	5.6%
Family Status	2.6%
Marital Status	0.9%
Place Of Origin	5.3%
Race	8.7%
Receipt of Public Assistance	0.3%
Reprisal or Threat of Reprisal	4.4%
Sexual Harassment, Pregnancy and Gender Identity	14.2%
Sexual Orientation	0.6%
Sexual Solicitation, Sexual Advances or Reprisals	3.3%
	100%

¹⁰ Of the 91 hearings, almost one-third were converted to mediation-adjudication hearings at the start or during the hearing.

vi. Breakdown of Retainers All Stages by Ground of Discrimination
 % of retainers that cited each ground
 1,389 grounds were cited all retainers

Age	59	8.1%
Ancestry	64	8.7%
Association	16	2.2%
Citizenship	10	1.4%
Colour	90	12.3%
Creed (e.g. Religion)	35	4.8%
Disability or Perceived Disability	470	64.2%
Ethnic Origin	77	10.5%
Family Status	36	4.9%
Marital Status	13	1.8%
No Ground Identified	14	1.9%
Place Of Origin	73	10.0%
Race	120	16.4%
Receipt of Public Assistance	4	0.5%
Reprisal or Threat of Reprisal	60	8.2%
Sex - Sexual Harassment, Pregnancy and Gender Identity	195	26.6%
Sexual Orientation	8	1.1%
Sexual Solicitation, Sexual Advances or Reprisals	45	6.1%
	1,389	190%

SPECIFIC ISSUES RAISED IN THE PUBLIC CONSULTATION

1. Self-represented Applicants

- a. Why isn't the Centre representing more applicants? What services does the Centre provide to everyone requesting service?
 - b. Are self-represented applicants using the Centre's services at hearings on the merits?
-
- a. Why isn't the Centre representing more applicants? What services does the Centre provide to everyone requesting service?

Several advocacy groups have commented in submissions to the Review that the current human rights system has not provided every applicant with full representation at every stage of the Tribunal's process. Whatever statements were made in the Legislature before the passage of the new legislation, it is certainly not the case that all, or even most, applicants are, or could be, fully represented by lawyers at the Centre, given current resources.

On the other hand, it is fair to say that every person who requests legal assistance from the Centre, receives legal assistance from the Centre, including at minimum, legal advice in assessing their circumstances, in identifying discrimination, in considering possible resolutions and, where appropriate, in taking legal steps including filing an application. In every case that has potential merit, the Centre provides legal services - the highest level of service that is possible - in accordance with the needs and resources of the individual, the complexity of the claim and the resources of the Centre.

Sometimes the legal service provided is a legal opinion that the person does not have a human rights claim. In our view, it would not be in the interest of a healthy publicly-supported human rights system if all claims, regardless of merit, were entitled to full legal representation at public expense throughout the process and regardless of the ability of the would-be applicant to self-represent. The public outcry over the Ottawa laneway parking "discrimination" case in recent media is just one example of how quickly the human rights system would lose public support if it provided free and unlimited legal services to every applicant regardless of merit.

Financial resources are also relevant in some cases. The Centre has on several occasions provided legal assistance short of full representation to applicants who are university professors, lawyers, medical doctors and even on one occasion to a member

of legislative assembly. But before providing full representation to a financially well-resourced applicant, the Centre looks at several factors including whether the litigation has the potential to produce systemic change that will benefit other designated group members, including disadvantaged communities.

If a wealthy applicant is pursuing a personal financial remedy in a case that lacks public interest impact, the Centre would not provide free legal representation at the Tribunal. An example could be an application challenging a nepotism policy affecting a top-earning financial advisor at one of the big accounting firms. The Centre has refused to provide full representation in cases like this.

With more resources, the Centre would certainly provide more representation at mediations and hearings. But our experience is that individuals who get less than full representation are for the most part satisfied and pleased with the service that the Centre provides. Only two individuals have pursued complaints to the Centre's Board of Directors. The Ombudsman has received ten times fewer complaints about the Centre than were received about the Commission in typical year.¹¹

We also note that the Centre has received hundreds of 'thank you' notes from individuals who have used our service. These come to us from individuals who received assistance at all levels and at various stages, not just from individuals who received full representation. Take a look at these at Tab O. Even in the face of our limited ability to provide full representation, something is working right here.

To understand more about how the Centre makes decisions about level of service, go to Tab A for our *Service Eligibility Guidelines* and "Service Eligibility Questions and Answers: How the Centre Provides Legal Services".

Before leaving this topic, we want to reflect briefly on the recommendation of some advocacy groups that the Government must be held to its promise of a publicly-funded lawyer for every applicant. The Centre would welcome increased resources that would allow it to offer representation to more applicants each year. However, we are mindful of two factors:

¹¹ The 2010/11 Annual Report of the Ontario Ombudsman stated that the Ombudsman had received thirteen (13) complaints about the Centre from members of the public. To our knowledge, all complaints to the Ombudsman have been closed without further investigation after the Centre was contacted by Ombudsman representatives. By way of contrast, we note from previous Ombudsman Annual Reports that the Ontario Ombudsman typically received over one hundred and thirty (130) complaints per year about the process under the pre-reform Code.

- Under the former human rights system, in a typical year, only approximately 140 claimants each year¹² were provided with publicly-funded legal assistance, through the Ontario Human Rights Commission (from the point when their complaint was referred to the Tribunal). By any measure, the statistics in this submission demonstrate that the new system is providing startlingly more legal services to claimants. Most significantly, those services are offered starting at the front end of the process, before an application is filed, not after waiting an average of more than two years for referral of a complaint to the Tribunal.¹³
- Self-represented parties are part of the legal reality in Ontario before all tribunals and the courts. This is far from an ideal situation but in light of this situation, the Centre does not expect that its resources could appropriately be expanded to allow it to represent all applicants, regardless of merit and other financial means, as has been suggested to the Review.

Nonetheless, the Centre sees the need to be able to adapt and expand its services as the new system becomes more familiar to the public and is more frequently accessed by individuals who have experienced discrimination, particularly by more members of marginalized communities who would be unable to litigate to enforce their right to non-discrimination without legal assistance.

b. Are self-represented applicants using our services at hearings on the merits?

In order to take a closer look at how self-represented applicants are using our services, the Centre reviewed all substantive final Tribunal decisions on the merits for a 10-month period in 2010 and for all of 2011. We examined our client records to determine how many applicants in these final decisions had accessed the Centre's services, and to what extent. We looked at both successful and losing applications.

Our key findings were that:

- 67% of all applicants in the decisions had received legal services from the Centre before their hearing;
- 29% had never contacted the Centre for legal services before their hearing;

¹² See Tab M for a comparative chart of OHRC case statistics.

¹³ For example, in 2005/6, the average age at which a complaint was referred to the Tribunal was 27.6 months.

- 1% contacted the Centre for the first time after their hearing.

When we looked at the decisions where the applicants were **successful** in proving discrimination, we found that:

- 33% were represented by the Centre;
- Over 50% received legal services (but not full representation) from the Centre;
- Remaining applicants were represented by a lawyer or were themselves a lawyer.

When we looked at the decisions where the applicants were **unsuccessful** in proving discrimination, we found that:

- 10% were represented by the Centre
- 40% had never contacted the Centre
- Remaining applicants had received legal services from the Centre including, in every case, a negative assessment of the merits of their application.

This means that, in the time period reviewed, there were no applicants who lost at their hearing after we had provided them with self-help advice and a positive assessment of their case. Our staff did a good job of identifying applicants who were able to self-represent and then did a good job in providing them with the tools and information needed to win their case.

The Centre tries to provide representation at the hearing stage in all meritorious claims but where this is not possible (for example, if the applicant contacts us too late in the process), the record shows that applications are succeeding with the assistance of Centre staff on a self-help basis.

2. Early Resolution of Claims

We understand that the Review heard from individuals at its public meetings who expressed the view that the Centre should be providing assistance to individuals who experience discrimination, or possible discrimination, but who want assistance in finding a resolution without litigation. In fact, the Centre provides assistance to thousands of individuals each year in resolving disputes and potential claims outside of the human rights enforcement system. We understand that this part of our work does not have a high profile and that individuals who have not contacted the Centre would not be aware of this part of our service. Now that we are more aware of the need to bring this to the attention of the public, we are taking steps to do so, including through community outreach and information on our website.

Finding solutions without litigation is a considerable part of the work of the Centre's intake team. Our Human Rights Advisors devote a very significant portion of their time to helping callers appreciate the fact that solutions other than litigation may be available to them. For example, HRAs help callers draft letters to their employers; assist callers in planning a strategy for requesting accommodation from a service provider; advise callers of community resources available to help them find a non-legal solution to their problem.

Where a dispute or incident falls under the *Code*, the first task of our intake staff is to see if there are steps that the caller has not taken that could address their problem informally. If informal steps have been exhausted but there may be an opportunity to negotiate a more formal resolution with an employer, service provider or landlord, the Human Rights Advisors refer the potential applicant to the Early Resolution Team which can go to the next level of intervention – contacting the potential respondent to discuss how both sides can work together to avoid litigation.

In more complex situations where the potential applicant is seeking an early resolution, our intake staff arrange for the individual to meet with one of our lawyers. With instructions, our lawyers will contact the potential respondent or send a demand letter to try to resolve a dispute on behalf of a potential applicant prior to filing an application (or providing assistance in filing).

In all, 15% of the Centre's settlements are achieved at the pre-application stage, with another 2% of settlements being negotiated at or before filing of the application. The Centre settled 378 applications in 2011/12. This figure does not include resolutions achieved through the advice and assistance provided by our Human Rights Advisors through our telephone advice service, as discussed above and under Enhanced Emphasis on Appropriate Diversion and Early Resolution.

3. Telephone Advice Service

A number of issues have been raised with respect to the Centre's telephone advice service and the capacity of the new human rights system to respond to public telephone inquiries.

a. Volume of Calls

For a discussion of the question of whether the system as a whole is answering more or fewer calls than the previous human rights system, please see correspondence to the Accessibility for Ontarians with Disabilities Act Alliance (“AODAA”) at Tab B of the Appendices, page 5 “MORE TELEPHONE INQUIRIES ARE BEING ANSWERED UNDER REFORMED SYSTEM”.

In making a comparison of call volume, it is important to look at consistent figures (whether it is “answered” calls or “offered” calls). It is also important not to lose sight of the fact that under the old system, every individual who wanted to obtain a complaint form had to phone the Commission to get the form. This inflated the number of attempted or “offered” calls and the number of answered calls. The Commission can confirm that requests for the complaint form comprised a significant proportion of the 40,000-47,000 calls answered per year.

All such requests would now go to the Tribunal website or its telephone line. This factor alone makes it misleading to simply compare in isolation the Centre’s approximately 25,000 answered calls with the annual number answered by the Commission, without reference to the approximately 50,000 annual calls answered by the Tribunal, especially while factoring in the large number of calls that are made unnecessary by the ability to download the application form from the Tribunal website

b. Unanswered Calls

The chart below sets out the track record for the Centre’s telephone advice service in the three-year period after operations began in June 2008. The Centre’s inability to achieve a satisfactory response rate has been highlighted in our Annual Report each year.

Fiscal Year	Calls offered	Calls answered	Calls not answered	Answer rate
2008-09	26,934	13,121	13,813	49%
2009-10	38,579	21,871	16,708	57%
2010-11	41,736	23,673	18,063	57%
2011-12	36,238	20,226	16,012	66%

The answer rate for 2011/12 can be split into two parts: OLD phone system (44%) and NEW phone system (79%).

4 th Quarter	Calls offered	Calls answered	Calls not answered	Answer rate
Jan 1- Mar 31, 2012	11,655	9,317	2338	79%

Fortunately, as discussed above, the Centre has been able to substantially improve its response rate in the past year. Our new telephone system, secured through one-time funding from MAG, has made a very significant contribution. It has allowed us to direct those callers who are not seeking individual legal advice to the information that they need, provided by recordings on the phone. Many callers choose the information options and then decline to exercise their option to enter the advice queue to speak to a Human Rights Advisor. This allows us to conclude that, in most cases, the caller received the information that they were seeking without having to speak to a Human Rights Advisor. Of course, in some cases, the caller will phone back on a later occasion to speak to a Human Rights Advisor. See Tab N for a breakdown of calls from the first quarter.

The second factor that has helped us to improve our response rate has been a new intensive legal education program offered through Osgoode Hall Law Faculty at York University, as discussed above.

These two factors have allowed the Centre to answer 79% of incoming calls in the last quarter of 2011/12. However, the average wait time remains high at over 8 minutes. The Centre will take steps to try to improve the wait times in the coming year, including enhancing timeliness of service for French-speaking callers.

Notwithstanding our best efforts in the months ahead, the Centre believes that it will soon reach its maximum capacity without new resources. With that in mind, we hope that the Review will recognize that, in the absence of a Commission telephone service, the Centre will continue to carry the burden of responding to telephone inquiries that would otherwise appropriately be shared between the two agencies: general questions about the human rights system, human rights policy questions, questions from respondents (directed to our taped information) and inquiries that need to be re-directed to agencies or other legal resources.

We note that 5% of callers identify themselves as respondents and choose to listen to information that is geared to landlords, employers and service providers. See Tab N.

The Centre has discussed options for sharing this responsibility with the Commission. One possibility, not yet discussed, would be for the Commission to fund two intake

positions at the Centre, in recognition of the fact that many of our calls fall within areas of shared mandate. This would share the work without requiring the Commission to have its own phone intake system.

The Centre also hopes that, in addition, the Commission will add a public telephone line to its website in the coming year.

4. Grounds of Discrimination

The AODAA, in its submission to the Review, questioned whether claims based on disability were being well-served by the new human rights system and by the Centre in particular. The Centre is aware that the Review may have heard similar concerns with respect to claims involving discrimination based on race, colour, ethnic/place of origin, ancestry or creed.

The Centre has attempted to provide responsive material with respect to the disability-related issues in the letter to the AODAA that can be found at Tab B.

We also draw your attention to the chart provided at Tab C which sets out the Centre's response to each of the AODAA recommendations to the Review pertaining to the Centre, many of which are specific to disability-based applications.

With respect to the issue of how race-related claims are faring in the new system, the Centre has prepared a Power Point presentation for community forums. It can be found at Tab D. See slide 23 for a comparison of race-related cases as between the Commission and the Centre. See slide 2 for a comparison of the number of race/colour applications to the number of race/colour complaints. Most significant is the comparison of decisions on slide 3. In its first three years, the new Tribunal found race-related discrimination in at least 27 decisions, as compared to only 6 findings of race-related discrimination in the last three years before the amendments.

This distrust and concern at the community level about how particular kinds of cases are faring highlights the need to ensure that the public has access to accurate transparent data about the human rights system. The fact that the Centre now has a case management system is part of the answer. Closer collaboration between the three human rights agencies in this area would also be helpful, especially if one agency assumed responsibility for producing public reports, on an annual basis, analysing both decision data and application data. This is discussed below under Transparency in the Human Rights System.

One reason why collaboration would be helpful is that comparisons are difficult to draw. Any attempt to compare the breakdown of grounds of discrimination between the current human rights system and the old system is complex. Some comparative data is not available. For example, the Commission did not publish a breakdown for telephone inquiries.

The Commission did publish a breakdown of grounds at two stages – complaints filed and complaints closed – and by two different methods of calculation. First, each ground was expressed as a percentage of all grounds in all filed complaints and all closed complaints. Secondly, the Commission reported on how many filed complaints and closed complaints cited each ground. The percentage by the first calculation was typically about half the percentage produced by the second calculation. Because complaints averaged two grounds per complaint, the second calculation resulted in the sum of the percentages amounting to about 200%.

Comparisons can be drawn between Commission and the current Tribunal in terms of the breakdown of grounds in filed complaints/applications. The Tribunal publishes its statistics using the second method of calculation.

As between the Commission and the Centre, the most appropriate comparison is based on files where representation is provided – that is, Commission complaints referred to a hearing can be compared to applications where the Centre is retained to provide representation before the Tribunal.

Based on our analysis of statistics for 2011/12, the breakdown of the Centre's representation files appears to track fairly closely the breakdown of the Commission's referred files. Looking at the Commission figures for 2006/7, for example, disability cases comprised a higher portion of our retained files than Commission-referred files (HRLSC 64% versus OHRC 41%) and race/colour cases comprised a slightly lower portion of our retained files. (HRLSC 29% versus OHRC 36%). These figures will vary from year to year somewhat, as was the case for the Commission.

Looking at files where we were retained and provided representation in 2011/12, we can report that disability was cited as a ground of discrimination in 468 files and race/colour were cited in 212 files. In most of these files, other grounds of discrimination were also cited. Although there may be issues that require analysis in making this comparison, we note that in 2006/7, disability was a ground of discrimination in 56 referred Commission complaints and race/colour were cited as grounds in 50 referred Commission complaints.

5. Public Interest Remedies

Submissions to the Review have questioned whether the new human rights system is addressing the need for public interest remedies and is effective in dealing with systemic discrimination cases. The Centre has considered this issue in answer to questions from advocacy groups. See the materials from our website at Tab E, pages 10 to 14: “Taking a broad lens: public interest remedies and system discrimination claims”.

In response to further specific questions to the Centre, we prepared the information at Tab F: “Is there an increase in public interest remedies”, at page 1.

Also see Tab G, a letter previously copied to the Review, which discusses the Centre’s work in achieving public interest remedies in disability discrimination cases.

Also note the consideration of public interest remedies in the Power Point presentation at Tab D.

A summary of decisions and settlements in our cases is found at Tab H. This provides a good overview of our work in achieving broad-based remedies. The Centre regularly seeks public interest remedies on behalf of its clients and assists and encourages self-represented applicants to do so as well.

6. Limited Scope Retainers

The Centre has adopted an “unbundled” service model that maximizes the number of applicants and potential applicants who receive our assistance before and during the Tribunal process. Legal services are provided on a stage-by-stage basis – in pre-application settlement negotiations, in filing an application, at mediation and hearings and in enforcement and judicial review proceedings.

This allows us to match the level and extent of service at each stage to a number of factors including the needs of the individual, the merits of the claim and the complexity of the evidentiary and legal issues.

In the typical situation, an individual is given legal assistance in filing their application and then full representation at mediation. Over the past three years, the Centre has settled over 80% of the cases where it has provided representation at mediations.

At the hearing stage, we represent many new individuals who approach the Centre for the first time when their application is going to hearing, in addition to many of the less than 20% of our mediation clients whose cases did not settle.

In some circumstances, we would not remain on the record after mediation. This might occur if, for example, there is a breakdown in the solicitor-client relationship or if we obtain new evidence, at mediation or otherwise, that undercuts the viability of the claim; or in circumstances where an applicant has refused a settlement offer that significantly exceeds a reasonable outcome at hearing.

For more information about how the Centre makes determinations on the level and extent of legal services offered on a case-by-case basis, see our *Service Eligibility Guidelines* and SERVICE ELIGIBILITY QUESTIONS AND ANSWERS at Tab A.

7. Availability of Interpreters

The Human Rights Legal Support Centre provides interpretation services in over 140 languages. Immediate interpretation service is available daily to individuals who call our telephone advice lines in all 140 languages. We also provide interpretation services on an ongoing basis for individuals whom we represent at the Tribunal, as needed. Over the past two years, we have arranged for interpretation in 35 different languages.

In fact, because members of our staff speak 16 different languages, we can often provide service directly in the language of the person seeking legal assistance. We have staff that speak the following languages: Bengali, Hindi, Swahili, Italian, French, Cantonese, Urdu, Punjabi, Latvian, Arabic, Spanish, Serbian, Armenian, Greek, as well as basic Ojibwa and Mandarin. Our full time law student placements this year have added: Ukrainian, Kenyang and another Hindi-speaker.

See Tab J for a list of instances where interpreters were provided in 2011/12.

8. Providing Service to Aboriginal Communities

Aboriginal people in Ontario experience discrimination on a very frequent basis, and yet are not significant users of the human rights system, either today or prior to 2008. In recognition of this fact, the Centre has prioritized its limited capacity to do outreach, placing special focus on Aboriginal people and communities.

A non-exhaustive summary of our outreach activities in Aboriginal communities includes:

- Anishnawbe Mushkiki (Aboriginal Community Health Centre Thunder Bay): PLE with mental health workers: high attendance
- Confederation College: Open PLE, guest speaker in multiple classes: high attendance
- Ontario Native Women's Association: PLE with most staff members: high attendance
- Thunder Bay Friendship Centre: PLE with alternative school students: high attendance
- Timmins Native Friendship Centre: PLE: high attendance
- NAN legal: PLE with staff and discussion of potential formal relationship: high attendance of ED, managers, and community workers
- Thunder Bay Metis Community Centre: Meeting with senior staff and Board: PLE type info and discussion surrounding a potential relationship
- N'Swakamok Sudbury Friendship Centre: Letter from HRLSC offer of PLE: No reply from N'Swakamok Sudbury Friendship Centre
- North Bay Indian Friendship Centre: Letter from HRLSC offer of PLE: No reply from North Bay Indian Friendship Centre
- Ontario Federation of Indian Friendship Centres: Letter from HRLSC with proposed relationship: No reply from OFIFC
- Indigenous Bar Association: Attendance at 2011 Conference: Networking with provincial Aboriginal human rights lawyers, outreach with Federal Aboriginal Human Rights Initiatives
- Toronto District School Board Aboriginal Division: attendance at various events: connecting with Aboriginal parents and teachers and informally informing them of human rights system
- Ryerson University Aboriginal Student Services: attendance at various events: connecting with Aboriginal students and professors and informally informing them of human rights system
- Indigenous Sovereignty Week Toronto: attendance at various events: connecting with Aboriginal community members and informally informing them of human rights system.

The Centre has an Aboriginal Issues Committee that has worked with Aboriginal members of staff to develop a guideline governing appropriate service for individuals who identify as having Aboriginal ancestry.

Two of the Centre's Aboriginal lawyers have trained staff on how to apply the guideline. One of the lawyers acts as Aboriginal Services and Outreach Co-ordinator.

The Centre has recently been able to hire a third Aboriginal lawyer as a permanent member of staff, based in Thunder Bay. This lawyer will be able to continue with our

outreach activities already ongoing within the Aboriginal community in that part of the province.

The Centre would like to provide more locally-based services, particularly to Aboriginal communities in northern Ontario. For example, the Centre has discussed possible expansion to northeastern Ontario communities, such as Kapuskasing.

Finally, the Centre recognizes that it is not an Aboriginal organization and that there is a need for more legal services, including human rights legal services, delivered by Aboriginal organizations. Prior to the establishment of the Centre, the Transition Team discussed a number of possibilities that were not adopted by MAG or supported by the funding model that was eventually established. Our understanding is that Aboriginal Legal Services of Toronto, and perhaps other Aboriginal service providers, may have had an expectation, based on discussions with the Transition Team, that the Government or Legal Aid Ontario or the Centre would fund it, and perhaps other Aboriginal agencies, to deliver an independent human rights service exclusively by and for Aboriginal people.

The Centre would certainly support a government initiative to fund an Aboriginal organization to provide human rights legal services. If asked, we would be pleased to collaborate in any way that would be helpful to support the establishment of an Aboriginal-delivered service in Ontario.

9. Transparency in the human rights system

A number of organizations, including ARCH Disability Law Centre and the Urban Alliance on Race Relations, have expressed the view, in submissions to the Review, that there is a need for more transparency in terms of the work of Ontario's three human rights agencies. In particular, both organizations have asked for more public information on settlements achieved within the human rights enforcement system. The organizations point to the educational impact of making information on settlements, particularly public interest remedies, available to the broader community, through publicly accessible materials, posted on our websites.

These recommendations merit consideration. The Centre produces anonymized summaries of its settlements, including pre-application settlements and those achieved at mediation or prior to hearing. These summaries are posted on our website and highlighted in our annual reports. See Tab H.

But the Centre is not representing the majority of applicants at mediation. Currently, the Tribunal does not retain and produce information on settlements achieved through its mediation process and yet the majority of applications are resolved at mediation. Arguably, the public cannot understand the work of the human rights enforcement system without having access to at least basic statistical information on its settlements, including for example a breakdown of settlements by ground and social area, a tally of public interest remedies, a total of quantum by ground and social area. The Commission used to produce a single chart in its Annual Reports setting out this information on all settlements achieved within its own process, prior to referral to the Tribunal.

Although comparisons with the former human rights system will likely have decreasing importance in the coming years, the Centre has responded to the demand for comparative data from certain stakeholder groups by undertaking a preliminary comparative analysis of some key “markers” of the two case resolution systems:

- # of applications filed versus # of complaints filed, by ground of discrimination
- age of case at mediation and adjudication
- # of decisions on the merits, broken down by result
- breakdown of decisions by ground and social area
- tally of public interest remedies in final decisions.

Some of our findings are discussed in the materials that we prepared in the course of the public consultation. For example, the information in our Power Point presentation on Race-based Decisions and Settlements, at Tab D, draws on our analysis of Tribunal decisions, as well as on comparative caseload statistics found in Commission and Tribunal Annual Reports. Also see, at Tab K, our analysis of representation data at HRTO hearings on the merits in 2011.

The Centre is not in a position, without more resources, to continue this kind of data analysis, nor do we see this as part of our mandate. However, we offer these examples to contribute to the Review's consideration of how to appropriately build more transparency into the human rights system.

The three human rights agencies could work collaboratively, with one agency taking lead responsibility, to identify and develop a shared set of public information reports that could be posted on an umbrella website that serves as one point of entry to the three independent websites. With relatively small adjustments to current operations

and data management practices, it would be possible to produce data that would make the work of the system more transparent.¹⁴

The mandate of the Commission, which includes public education about human rights, would seem to be consistent with this role. Certainly the Centre could not take the lead without an infusion of resources dedicated for this purpose. The Centre would be pleased to discuss this issue further with the Commission and would support the Commission in taking on this role.

10. Co-ordination and collaboration in the human rights system

The issue of how to achieve better co-ordination between Ontario human rights agencies has been raised in submissions to the Review. For example, ARCH Disability Law Centre writes:

“Nevertheless, we have not found that there has been effective coordination between each of the agencies. ARCH urges the Review to recognize that Ontario’s human rights system would be more effective if the three Agencies worked in collaboration.”

The Centre has initiated a series of meetings with the Commission to discuss how to collaborate more effectively in meeting the needs of the public. Better co-ordination and more collaboration as between the Centre and the Commission in particular, could enable us to provide better “customer service” in a number of areas. We appreciate that the public may have difficulty differentiating between the two agencies, and better co-ordination would allow us to present a less confusing face to the public.

For example, we see value in having more integration of the websites of the three agencies, with a shared homepage (even if most users do not enter through the homepage) and more detailed links to each other throughout the material on the three sites, as appropriate. The Centre is currently working on a new website that will

¹⁴ For example, a small change in the way the Tribunal reports grounds of discrimination would allow percentages to be more readily compared as between the Tribunal and the Centre, and would at the same time allow comparison to the Commission statistics as a reference point. If the Tribunal reported each ground of discrimination as a percentage of all grounds in all applications, in addition to reporting the percentage of applications with each ground, this would be consistent with the Commission’s past practice and would allow more accurate comparisons with the Centre’s statistics.

include specific links to legal information materials on the Commission website. We would like to see the Commission include specific links to appropriate pages of our website and the Tribunal website.

The Centre has discussed with the Commission a better system for responding to the requests that both agencies receive for outreach and for speakers on human rights issues at community events. Outreach and public education are key functions of the Commission mandate. The Commission focuses significant resources on outreach and education efforts with large employers and service providers, seeking systemic change by engaging with big entities or sectors. The Centre, on the other hand, primarily engages in outreach and public education in marginalized communities to ensure that Code-identified groups are aware of our services.

With limited resources, in its first three years of operation, the Centre focussed on responding to requests from communities that appear to be under-utilizing the human rights system, such as northern Aboriginal communities. The Centre also participates, to the extent that resources permit, in educational events with partners and referring organizations, like community legal clinics, the Ontario Council of Agencies Serving Immigrants, the Elizabeth Fry Society and the Ontario Network of Injured Workers.

The Centre receives requests by telephone while the Commission requires requests to come through its website. This has resulted in community organizations contacting the Centre because they are unable to speak directly with anyone at the Commission. The Centre has provided assistance to community groups by contacting the Commission on their behalf and setting up the connection.

The Centre is committed to continuing to explore opportunities to coordinate our resources more effectively with the Commission to provide a better community education/outreach service, particularly to designated group communities and to "small" respondents who regularly approach the Centre for assistance.