

March 20, 2006

Via Fax and Mail

The Hon. Dalton McGuinty
Premier of Ontario
Room 281, Legislative Building
Queen's Park
Toronto, ON M7A 1A1

Dear Premier:

Re: Proposed Reforms to the Ontario Human Rights Code

I wish to convey the MS Society of Canada's serious concerns about the Attorney General's recent announcement of plans to change the human rights system. In our view, the proposal to reduce the powers and role of the Ontario Human Rights Commission in the enforcement of the Ontario Human Rights Code, and instead provide "direct access" to the Ontario Human Rights Tribunal may very well disadvantage Ontarians who experience discrimination.

Under the Code, the Commission receives, investigates, mediates and litigates human rights complaints in Ontario. We share your Government's concern that the current human rights enforcement system takes too long, doesn't adequately serve the needs of people who face discrimination and needs to be improved. However, we believe that your Government's proposal, though intended to fix this situation, may inadvertently make things worse.

Currently, any person who files a complaint of discrimination with the Commission has the statutory right to have the Commission investigate that complaint, so long as it is within its jurisdiction, not frivolous, vexatious or brought in bad faith, and is not sent to another appropriate external complaint board.

If the Commission investigates a human rights complaint, can't settle it between the parties, and decides that the case warrants a hearing before the Ontario Human Rights Tribunal (OHRC), one of the Commission's team of publicly-funded lawyers will present the case before the Tribunal. In other words, people who experience discrimination don't have to be able to afford a lawyer or qualify for Legal Aid to ensure that a lawyer with specialized knowledge in human rights will present their case to the Tribunal. The proposed changes appear to take away that guarantee.

People with disabilities will rarely be able to afford the costs of privately investigating their own case. They won't have the public investigation powers that the OHRC now has. Although the Attorney General has stated the Commission will retain the power to intervene in cases before the Tribunal if it chooses to, the implication is that other

complainants will have to fight their own cases. Unfortunately, this may result in "two-tier justice" and is a step in the wrong direction.

We are also concerned that these proposals run contrary to the basic understanding of how the Accessibility for Ontarians with Disabilities Act (AODA) will be enforced. When the new Act was being debated, many groups called for a new, independent enforcement agency to be established, to enforce the removal and prevention of barriers to access. Your Government took the position that no such new independent agency was needed, because Ontario already had the Commission, with all its powers to receive, investigate and prosecute human rights complaints. The proposed changes may seriously impact AODA enforcement.

If the proposed changes to the Human Rights Code are not revised, then we urge your Government to amend the AODA to provide for the establishment of a new, well-funded, independent enforcement body with a formal individual complaints process and mandatory investigation duties.

We commend your Government for recognizing the need to reform the Ontario Human Rights Code enforcement process. However, we ask that you not proceed with reform until the concerns we and many others have raised can be addressed.

We suggest as a next step the development of a public consultation process before introducing legislative change. We are eager to be involved with this process and look forward to working with you on any plans for human rights enforcement reform. Please contact Deanna Groetzinger, Vice-President, Communications, at 416 967-3007 or via e-mail at deanna.groetzinger@mssociety.ca.

Thank you for your consideration of this important issue.

Yours sincerely,

(original signed)

Alistair M. Fraser

President and Chief Executive