

Accessibility for Ontarians

What Does it Mean for Lawyers?

By Andrew Pinto, Patrick James, and Christian Vernon

Lawyers need to be at the forefront of advances in the law of disability accommodation and accessibility. However, not all lawyers are fully aware of their legal obligations to accommodate persons with disabilities. Beyond being advocates and trusted advisors, we are also employers and service providers to the public. In these capacities, it is important that we know and understand our obligations to ensure that the vital legal services we provide are accessible to all. The coming into force of the regulations under the *Accessibility for Ontarians with Disabilities Act* (AODA) provides a great opportunity for Ontario lawyers to demonstrate our profession's leadership role in making legal services fully accessible.

The following is a brief synopsis of our AODA obligations and what AODA compliance means for lawyers as employers and service providers.

The Customer Service Standard under the AODA came into force in the private sector on January 1, 2012, and as such all lawyers in private practice in Ontario are required to be compliant with the Act.

The AODA applies to both the public and private sectors, and therefore applies to private practice lawyers in their capacities as service providers and employers. The purpose of the legislation is to eliminate barriers that may keep someone with a disability from participating fully in society. For lawyers, that would mean any barrier that may keep someone from accessing legal services, or from working for the lawyer.

Barriers to people with disabilities are defined broadly under the AODA, and include attitudinal barriers, visible barriers and invisible barriers. Disability is defined broadly in the AODA using the same definition of disability found in the *Ontario Human Rights Code*.

Part of the impetus behind the AODA is a recognition that we live in an aging society, and that over the next 20 years, the proportion of Ontarians with one or more disabilities will rise from 1 in 7 to 1 in 5. The accessibility standards under the AODA are designed to get us ready for a world in which an increasing percentage of the people we serve and employ have disabilities.

The AODA itself does not contain accessibility standards. Rather these standards are contained in regulations made under the AODA. There are five such standards, each one for a different area of daily living:

- customer service
- employment
- information and communications
- transportation
- buildings and built environment

For most lawyers, the customer service and employment standards are going to be the most relevant of the five standards.

What do Lawyers Need to Do to Comply with the AODA Customer Service Standard?

Your law firm or legal practice may have a website, phone number, email server and a variety of other ways of communicating your services to the public. However, most firms will not have large print websites, familiarity with the TTY-TDD phone service, text-to-voice software, and other tools or assistive devices to ensure persons with disabilities can learn about your firm and effectively communicate with you once they become clients. It is a requirement of the AODA Customer Service Standard for private-sector service providers to be in compliance with the accessibility standards.

Lawyers need to create a Customer Service Standard customized for their firm or their legal practice. Depending

on the size of your firm, the obligations may be different. Some of the key areas that law firms and legal practices must address are the following:

- policies, practices, and procedures
- training
- feedback process
- communication
- service animals
- support persons
- notice of temporary disruption of service
- documenting compliance with the regulation (for organizations with 20 + employees)
- reporting requirements (for organizations with 20 + employees)

In terms of policies, practices, and procedures, lawyers should prepare some written policy documents setting out how the lawyer and his or her staff will comply with the requirements. This means writing out what reasonable efforts are being taken to ensure that the methods of providing services to persons with disabilities are consistent with the principles of dignity and independence, integration with other people, and provide an equal opportunity to obtain, use, and benefit from the lawyer's services. The policies themselves should be available in accessible formats, as should any documents that the practice routinely provides to clients, such as retainer agreements and bills. To learn more about compliance with the Customer Service Standard, you may wish to refer to the Law Society of Upper Canada's *Guide to Developing a Customer Service Accessibility Policy*, which is available on its website.

With regard to employee training, lawyers and law firms should review the purposes of the AODA and the requirements of the Customer Service Standard with all employees. Employees should be trained on how to interact with persons with disabilities, specifically with people who use assistive devices, have service animals, or who engage a support person. Employees should be trained to use the most commonly encountered assistive devices that may be provided by the lawyer or law firm, such as text-to-voice software and optical character recognition software. Employees should also receive training on how to handle the disability accommodation request for which there is no specific plan or organizational experience.

For law firms with 20 or more employees, there is a requirement to prepare a document detailing the training that is provided and making a record confirming that training has been delivered, how often, and what feedback was received. Of course, an important aspect of any train-

ing program is reviewing the law firm's own policies on disability accommodation to ensure that they are compliant with the AODA and the Human Rights Code, and to ensure that all employees understand these policies.

Lawyers and Law Firms as Employers

The AODA contains an employment standard, which is now part of what is called the "Integrated Accessibility Standard" which involves accessibility in employment, as well as transportation, information and communications. The Integrated Accessibility Standard as a whole comes into effect on July 1, 2012, but the various requirements under the Standard become applicable to different sectors on different dates. With the exception of the workplace emergency provisions which come into effect immediately, large law firms with 50 or more employees must be compliant by January 1, 2016 and small law firms with less than 50 employees must be compliant by January 1, 2017.

It is worth noting that all law firms, in their capacities as employers and service providers, already have an obligation to accommodate persons with disabilities under the *Ontario Human Rights Code*.

Penalties

The AODA has stiff penalties for those who are found not to be compliant with its requirements. It does not contain an individual complaint or dispute mechanism, but is instead more akin to the Occupational Health and Safety Act in that it contemplates government investigation and fines for non-compliance. The maximum fines set out in the Act are \$50,000 per day for individuals, \$100,000 per day for corporations; \$50,000 per day for corporate directors.

The Bottom Line

Compliance with the AODA's Customer Service Standard should be relatively easy for most lawyers and law firms, so there is no excuse not to become compliant as soon as possible. At the same time, it is important to note that this is not simply an exercise in drafting policies and letting them collect dust in a filing cabinet. To make the most of this opportunity to treat people with disabilities with the respect and dignity they deserve, and to properly comply with the Act, ongoing training will be required. As lawyers, we should seize the opportunity to demonstrate to the public we serve that we are leaders in making public services, including our own legal services, fully accessible.

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