

**ACCESSIBILITY FOR ONTARIANS**  
**“WHAT DOES IT MEAN FOR LAWYERS?”**

**INTRODUCTION**

Lawyers must be at the forefront of advances in the law of disability accommodation and accessibility.

Not all lawyers are fully aware of their legal obligation to accommodate people with disabilities. Lawyers are also service providers and employers to the public.

**THE CUSTOMER SERVICE STANDARD UNDER THE AODA**

The Customer Service Standard under the *Accessibility for Ontarians with Disabilities Act* (AODA) came into effect in the private sector on January 1, 2012. All lawyers in private practice must be compliant with the Act.

The AODA applies to both the public and private sector and therefore applies to lawyers in private practice in their capacities as service providers and employers.

The purpose of the legislation is to eliminate barriers that would prevent 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 would include attitudinal barriers (a belief that people with disabilities have an unfair advantage for example they have an easier workload), visible and invisible barriers or disabilities. “Disability” is defined broadly in the AODA using the same definition of disability found in the *Ontario Human Rights Code*.

**What is the purpose behind the AODA?**

We live in an aging society and over the next 20 years the number of people in Ontario with one or more disability will rise from 1 in 7 to 1 in 5. The accessibility standards under the AODA are designed to get the public and workplace ready for a world in which an increasing number of people we serve and employ have disabilities.

Accessibility Standards

The AODA does not contain accessibility standards, but they 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 communication
- Transportation
- Building and built environment

Lawyers would likely be most concerned with the customer service and employment standards.

### **What do Lawyers need to do in order to comply with the AODA Customer Service Standards?**

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

- Policies, practices, and procedures
- Training
- Feedback process
- Communications
- Service animals
- Support persons
- Notice of temporary disruption of service
- Documenting compliance with the regulation (for organizations with more than 20 employees)
- Reporting requirements (for organizations with more than 20 employees)

### **POLICIES, PRACTICES, AND PROCEDURES**

Lawyers should prepare some written policy documents setting out how the lawyer or their staff will comply with the requirements. This means having a written record of what reasonable efforts are being made 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. The LSUC has a Guide to Developing a Customer Service Accessibility Policy (available on its website).

**TRAINING**

Lawyers and 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, especially those who use assistive devices, have service animals or who engage a support person. Employees should also 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 be trained on how to handle disability accommodation request for which there is no specific plan or organizational experience.

For law firms with more than 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. Firms should also review their own policies on disability accommodation to ensure they are compliant with the AODA and the Human Rights Code, and to ensure that all employees understand these policies.

**LAW FIRMS AND LAWYERS AS EMPLOYERS**

The AODA contains an employment standard which is now part of the "Integrated Accessibility Standard". This involves accessibility in employment, as well as transportation, information and communications. The Integrated Accessibility Standard come into effect as a whole on January 1<sup>st</sup>, 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<sup>st</sup>, 2016 and smaller firms with less than 50 employees must be compliant by January 1, 2017.

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 not in compliance with its requirements. It does not contain an individual complaint or dispute mechanism, but instead is more akin to the Occupational Health and Safety Act in that it contemplates government investigation and fines for non-compliance. The maximum fines are \$50,000.00 per day for individuals and \$50,000.00 per day for corporate directors. The fines for corporations are \$100,000.00 for corporations.

**CONCLUSION**

Compliance with the AODA's Customer Service Standard should be relatively easy for most lawyer and firms. At the same time compliance is not just an exercise in drafting policies and not implementing them. Ongoing training and daily implementation of these policies will be required in order to make legal services fully accessible for everyone.