

Published: October 2021

LAO may, subject to available resources, provide funding or other supports as it determines appropriate to applicants for test case support who submit a completed application to LAO's test case program.

LAO's test case committee considers applications for test case support in the areas of law where LAO provides legal aid services.

Financially eligible individuals, financially eligible groups of individuals, community legal clinics, student legal services organizations and Indigenous legal services organizations may apply to the test case program.

Applications are reviewed by LAO's test case committee. The committee meets regularly to assess applications.

In reviewing applications, LAO considers the following criteria:

## General

Will the case:

- support areas of law in which LAO provides services
- align with LAO's mandate under LASA 2020 and strategic priorities
- demonstrably further an issue beyond the interests of the individual client
- be of high quality in that the facts of the case are clear, the proposed legal argument is fully developed, and the estimated budget is reasonable for the type of proceeding
- be likely to succeed
- be the most effective and efficient use of resources and public funding in bringing the issue before the court

# Significance

LAO considers these factors that relate to the significance of a case:

- it raises a novel issue not previously litigated
- broad impact, where the outcome can affect a large number of low-income people
- serious importance to the advancement of the law
- capacity to improve access to justice in areas of law where LAO provides legal aid services

# Merit and quality

Applications for funding need to be of high quality and likely to succeed before the court. LAO will consider:

- the facts of the case
- the timing of the case
- the characteristics of the client, including whether there is a different client who is better placed to bring these issues forward
- the skill, experience and resources of the lawyer representing the client

# Cost-effectiveness and responsible use of public funding

Services supported by LAO's test case program must be cost-effective, and must demonstrate responsible, accountable use of public funding. LAO considers the following questions:

- what is the estimated cost of the case, including research, preparation, drafting of legal documents and disbursements
- will this case resolve a number of existing or potential matters that raise the same issues, demonstrably reducing duplicative or unnecessarily costly litigation that is funded by LAO
- has litigation related to a similar issue previously been funded by LAO? What was the result
- is this issue otherwise unlikely to come before the courts

- does this application represent the most practical, realistic and cost-effective way to bring this issue forward
- what *pro bono* contributions have been secured
- has counsel explored partnering, mentoring or resource-sharing as potential conditions for provision of test case program funding for this matter, as a way of reducing costs
- are there other sources of funding or support which can be obtained from other organizations