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## Introduction

This Tribunal Practice Direction outlines the Tribunal's approach under section 31 of the *Alberta Human Rights Act* for stating a special case for the opinion of the Court of King's Bench of Alberta on a question of law arising from the proceedings.

Not all questions of law require the Court's opinion. The Tribunal has a statutory obligation to determine if there has been a breach of the *Act*. The Tribunal only has discretion under section 31 to ask discrete questions of law to the Court, but not to abdicate its statutory function. Section 31 is a tool the Tribunal may use at its sole discretion where there is a distinct question of law in which the Tribunal is not expert and where there is an adequate evidentiary record.

Referrals to the Court under section 31 are made on the Tribunal's own motion. To ensure the orderly administration of justice and responsible use of public resources, the Tribunal may only state a special case to the Court with the written approval of the Chief of the Commission and Tribunals. The Chief will state the case to the Court on behalf of the Tribunal as a whole.

## Process

Where a Member of the Commission chairing a Tribunal proceeding (Tribunal Chair) believes there is a distinct question of law that requires the Court's opinion, the Member will inform the Chief, in writing, that there is a potential question of law for a stated case under section 31 of the *Act*.

Where a party believes there is a distinct question of law that requires the Court's opinion, they must apply to the Tribunal Chair for leave (permission) to request that the Chief state a special case to the Court. If the Tribunal Chair grants leave, they will inform the Chief, in writing, that leave was granted to make the request.

Where a party is granted leave to request that a stated case is sent to the Court, the Chief may request submissions from the parties. The Chief will decide whether it is in the public interest to state a special case for the opinion of the Court and may consider whether:

- a) there is a distinct question of law;
- b) the question of law is within the Tribunal's jurisdiction and/or expertise;
- c) there is an adequate evidentiary record for the Court to answer the question of law;
- d) the question of law must be considered prior to the decision on the merits;
- e) the stated case will lead to unreasonable delay in hearing the complaint on its merits;  
and/or
- f) the overall interests of justice.