[19] There is no indication that this organization has been involved in constitutional litigation regarding the issues now before the court or has any particular expertise in these *Charter* issues. There is indication it has experience with at risk youth and, in particular, those who are gender diverse and experiencing homelessness. It would appear the position of this organization will align with the position to be advanced by the applicant.

Canadian Civil Liberties Association [CCLA]

[20] This organization has been in existence since 1964 and is involved in the development of fundamental human rights and civil liberties in Canada. It has a national standing and deposes that it is involved in research, advocacy, public education, and engagement, to advance an interest in human rights and civil liberties.

[21] The affidavit filed in support by this organization sets forth an extensive national involvement in numerous legal actions. That involvement is at all levels of court and at virtually all, if not all, courts across Canada. It seeks here to bring its experience with respect to the civil liberties at issue in this litigation. Included amongst the actions in which it has intervened are several that deal specifically with the rights of young people.

[22] From the submission of counsel, it appears this entity seeks to provide assistance to the court with the difficult constitutional issues presented in this litigation. It does not appear the entity is aligned with a particular side in this dispute but rather seeks to present argument on the law and how it is to be applied. This entity does not have any direct connection or involvement to the issues presented by the Policy.

Women's Legal Education and Action Fund [LEAF]

[23] This organization deposes that it has 38 years of involvement in the legal protection of gender equality rights. Its mandate is to support substantive equality for women, girls, trans, and non-binary people. Through its litigation and law reform activities, it deposes that it has acquired extensive specific expertise in issues involving substantive gender equality.

[24] The organization lists an extensive history of involvement as intervenor in actions at the Supreme Court of Canada, involving litigation matters across the country. In particular with respect to the matter now before the court, LEAF sets forth its experience dealing with the legal issues surrounding those issues presented by the Policy in issue.

[25] From the submissions of counsel, it appears LEAF seeks to provide assistance to the court in dealing with the difficult *Charter* issues that are presented by this litigation. It seeks to provide that assistance based on its long experience in assisting with the development of the law in these areas. Based on the information filed in this matter, I am not able to conclude that this entity is aligned with one side or the other in this dispute but rather seeks to present argument on the development of the law on these constitutional issues. There was some suggestion that this entity was aligned with the applicant due to its previous work with Egale Canada or other organizations. Based on the material before the court I decline to both make that connection and I decline to determine that should, in any way, influence the exercise of my discretion in these proceedings.

[26] There is no suggestion that this entity has direct involvement in the specific issues raised by the Policy.

DECISION

1. Discussion on the role of the court in determining the granting of intervenor status

[27] This decision makes no comment on the nature of the activities carried on by the various organizations who seek to obtain intervenor status. What the entities advocate for, or on behalf of, are matters within their determination. The role of the court at this stage is solely to apply the applicable considerations for determining whether intervenor status ought to be granted and then determining whether to exercise its discretion in granting such status. As will be seen in this decision, there are a number of touchstones for the court in arriving at the conclusion of when to exercise its discretion regarding allowing a non-party to engage in this litigation.

[28] Counsel for the Government advanced the position that the test for granting intervenor status is different for a trial court than for appellate courts. To a degree, this argument has merit on this application. It would appear that appellate courts are somewhat more willing to grant intervenor status to those that apply. However, regardless, this court must still consider those factors outlined in the authorities and exercise its discretion judicially when arriving at its conclusions in this regard.

2. The test for granting intervenor status

[29] *The Queen's Bench Rules* provide as follows:

> **Intervenor status**
>
> 2-12 On application, the Court may grant status to a person to intervene in an action subject to any terms and conditions and with the rights and privileges specified by the Court.
>
> **Leave to intervene as a friend of the Court**

> 2-13(1) The Court may order that a person may, without becoming a party to the proceeding, intervene in the proceeding as a friend of the Court for the purpose of assisting the Court by way of argument or by presentation of evidence.
>
> (2) The Court may make an order pursuant to subrule (1) on any terms as to costs or otherwise that the Court may impose.

[30] While there have been other pronouncements on the specifics of the test to apply when considering whether to grant intervenor status, I refer to, and rely upon, the succinct comments of Brown J. in *Saskatchewan (Environment) v Saskatchewan Government Employees Union*, 2016 SKQB 250:

> [41] The granting of intervenor status is discretionary and should be exercised sparingly. Within the ambit of that discretion, CIFFC [The Canadian Interagency Forest Fire Centre Inc.] as an applicant seeking to be made an intervenor in this Queen's Bench matter pursuant to Rule 2-12 should be prepared to address the following:
>
> a. A sufficient interest in the outcome of the matter must be shown such that their involvement is warranted. An outcome that adversely affects them may well be considered sufficient to meet this criterion;
>
> b. There must exist the reasonable prospect that the process will be advanced or improved by their addition as an intervenor. This includes demonstrating that, as an intervenor, they will bring a new perspective or special expertise to the proceedings that would not be available without their participation. Merely echoing the position of one or more of the parties indicates they will not provide the requisite value;
>
> c. As an intervenor they cannot seek to increase the number of issues the parties themselves have included in the proceeding;
>
> d. Adding them as an intervenor must meet the goals and objectives identified by Rule 1-3 such that the issues raised by the litigation will be heard with reasonable dispatch and the matter will not be overwhelmed with procedure by virtue of their inclusion as an intervenor;
>
> e. Adding them as an intervenor must not unduly prejudice one of the parties;

> f. The intervention should not transform the court into a political arena; and
>
> g. The court is not bound by any of these factors in determining an application for intervention but must balance these factors against the convenience, efficiency and social purpose of moving the case forward with only the persons directly involved in the proceeding.

[31] The same, or similar requirements are set forth in *A.G. v Saskatchewan*, 2022 SKQB 11, 77 CPC (8th) 330 and earlier in *R v Latimer*, 128 Sask R 195. Recently, in Alberta, Feehan J.A. in *Justice Centre for Constitutional Freedoms v Alberta*, 2021 ABCA 295 provided a somewhat expanded listing of the considerations with intervenor applications:

> [8] Granting intervenor status is a two-step process. The court first considers the subject matter of the appeal and then determines the proposed intervenor's interest in it: ***Orphan Well*** [*Orphan Well Association v Grant Thorton Liminted*, 2016 ABCA 238, 40 Alta LR (6th) 11], para 8, citing ***Papaschase Indian Band v Canada (Attorney General)***, 2005 ABCA 320, para 5, 380 AR 301.
>
> [9] In ***AC and JF v Alberta***, 2020 ABCA 309, para 9, this Court described the factors to be examined:
>
> > 1. whether the proposed intervenor has a particular interest in, or will be directly and significantly affected by the outcome of the appeal, or
> >
> > 2. whether the proposed intervenor will provide some special expertise, perspective, or information that will help resolve the appeal.
>
> See also ***Papaschase***, para 5; ***Edmonton (City) v Edmonton (Subdivision and Development Appeal Board)***, 2014 ABCA 340, para 8; 584 AR 255; ***UAlberta Pro-Life v Governors of the University of Alberta***, 2018 ABCA 350, para 9; ***Wilcox v Alberta***, 2019 ABCA 385, para 12; ***Hamm v Canada (Attorney General)***, 2019 ABCA 389, para 5.
>
> [10] The following factors may also be considered:

> 1. is the presence of the intervenor necessary for the court to properly decide the matter;
>
> 2. might the intervenor's interest in the proceedings not be fully protected by the parties;
>
> 3. will the intervention unduly delay the proceedings;
>
> 4. will there possibly be prejudice to the parties if intervention is granted;
>
> 5. will intervention widen the dispute between the parties; and
>
> 6. will the intervention transform the court into a political arena.
>
> See ***Pedersen v Alberta***, 2008 ABCA 192, para 3, 432 AR 219; ***UAlberta Pro-Life***, para 10; ***Wilcox***, para 13; ***Hamm***, para 6; ***AC and JF***, para 10.
>
> [11] This Court also indicated in ***Papaschase***, para 6, that the standard for intervenor status is more relaxed in a constitutional case and at the appellate level:
>
>> In cases involving constitutional issues or which have a constitutional dimension to them, courts are generally more lenient in granting intervener status ... Similarly, appellate courts are more willing to consider intervener applications than courts of first instance.

I do not see that expanded discussion as changing the considerations summarized by Brown J.

[32] In a very recent decision of the Supreme Court of Canada, *R v McGregor*, 2023 SCC 4, 422 CCC (3d) 415 [*McGregor*], Rowe J., speaking for himself, set forth useful commentary on the role of intervention in litigation. While I recognize that the Supreme Court of Canada has specific rules with respect to intervenor applications, I find the comments of Rowe J. of assistance in determining what ought to happen when considering the roles of intervention on a case such as that presently before this Court. I also recognize that Rowe J. was speaking for himself, and not other members of the