

Housing and Human Rights in Ontario

Presented by: Rita Samson
Ontario Human Rights Commission



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

Region of Peel
January 26, 2016

ONTARIO's HUMAN RIGHTS SYSTEM



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

Ontario human rights system



Ontario Human Rights Commission
(OHRC)



Human Rights Tribunal of Ontario
(HRTO)



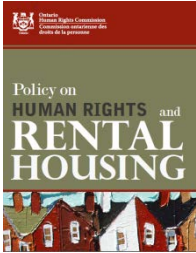
Human Rights Legal Support Centre
(HRLSC)



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne



Ontario Human Rights Commission (OHRC)



- **Policy**



- **Public inquiries**

- **Legal cases (initiates, intervenes)**



- **Community outreach**



- **Monitoring**



- **Public education**



Human Rights Tribunal of Ontario (HRTO)



- **Hears complaints**



- **Considers evidence**



- **Makes decisions**



Human Rights Legal Support Centre (HRLSC)



- Provides human rights legal advice



- Assists with filing an application



- Provides representation at the Tribunal



ONTARIO *HUMAN RIGHTS CODE*



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

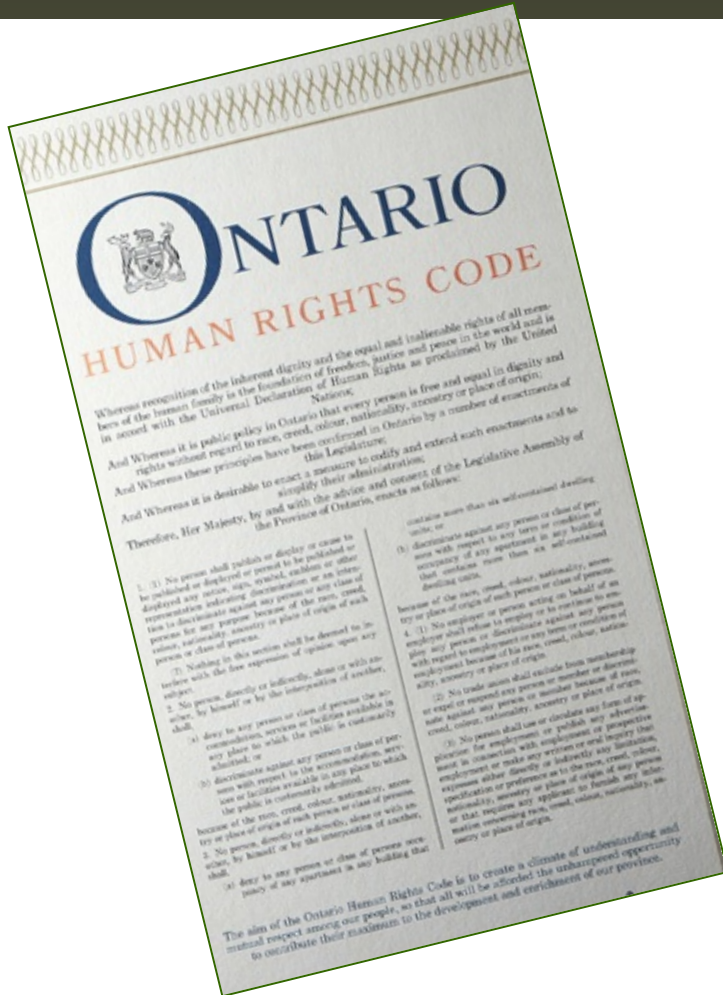
Aims of the Code

preamble

- **Protect the dignity and worth of each person**
- **Ensure equal rights and opportunities**
- **Create climate of respect and mutual understanding**
- **Ensure that everyone can take part fully in society**



Human Rights Code



Code prohibits discrimination and harassment in 5 social areas, based on 17 protected grounds.



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne



5 protected social areas



- **Employment**



- **Contracts**



- **Housing**



- **Membership
in unions or
professional
associations**



- **Services,
facilities,
goods**



17 protected grounds

- **Race**
- **Ancestry**
- **Place of origin**
- **Colour**
- **Ethnic origin**
- **Citizenship**
- **Creed**
- **Age**
- **Disability**
- **Sexual orientation**
- **Sex / pregnancy**
- **Gender identity**
- **Gender expression**
- **Family status**
- **Marital status**
- **Receiving public assistance (housing only)**
- **Record of offences (employment only)**



Applications to the HRTO by social area

Employment	74%
Goods, services and facilities	22%
Housing	6%
Contracts	1%
Membership vocational association	1%
No social area	2%

**(some applications cited more than one social area)
(2013-2014)**



Applications to the HRTO by protected ground

Disability	54%	Creed	8%
Sex	25%	Marital status	8%
Race	22%	Sexual orientation	8%
Ethnic origin	17%	Gender identity	7%
Colour	16%	Gender expression	5%
Age	13%	Citizenship	5%
Place of origin	15%	Record of offences	3%
Ancestry	13%	Receipt public assistance	2%
Family status	13%	No grounds	4%

(2013-2014)



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne



HUMAN RIGHTS and HOUSING



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

OHRC Policy



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

Policy on
HUMAN RIGHTS and
**RENTAL
HOUSING**



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne



Where could human rights issues arise?

- **Between tenants**
- **Between owners, operators, superintendents, management and tenants**
- **Housing policies**
- **Screening practices and decision-making processes**
- **Repairs, common areas**
- **Internal and outside service providers**
- **Evictions**



Discrimination

- Happens when a person experiences negative treatment or impact based on a *Code* ground
- Negative treatment could involve: being excluded, having benefits withheld, having burdens imposed
- Intent is not required, look at effect



Discrimination (cont'd)

- **Can be direct and obvious**

Example:

A landlord decides that she does not wish to rent apartments to families with young children and designates her building as “adults-only”.



Discrimination (cont'd)

- **Can be subtle**

Example:

Racialized applicants are consistently told that apartments have already been rented.



Discrimination (cont'd)

- **Can involve more than one ground that combine or “intersect” to create unique experiences of discrimination**

Example:

Young Black men with mental health disabilities face unique barriers when they try to rent housing.



Discrimination (cont'd)

- **Can involve organizational rules or policies that appear to be neutral but end up affecting people negatively, based on one or more *Code* grounds**



Discrimination (cont'd)

Example:

A building manager requires prospective tenants to provide an employment history before entering into a rental agreement.



Harassment

- Ongoing behaviour (comment or conduct)
- Know, or ought to know, is unwelcome (subjective and objective test)
- Based on one or more *Code* ground



Harassment (cont'd)

Examples:

- **threats**
- **questions**
- **jokes**
- **bullying**
- **touching**
- **name-calling**
- **images**



Harassment (cont'd)

Example:

A housing provider makes several comments to a woman who is a lesbian with a small child about the child's lack of “proper role models” and a “real family.”



Sexual harassment

Examples:

- **unwelcome sexual contact and remarks**
- **leering and inappropriate staring**
- **unwelcome demands for dates**
- **requests for sexual favours**
- **displays of sexually offensive pictures/ graffiti**



Sexual harassment (cont'd)

- **Comments or conduct do not need to be sexual in nature.**

Example:

A landlord repeatedly makes comments to a female tenant about her choices of clothing. He tells her that she should wear skirts more often because they make her look feminine” and that she looks “prettier” when she wears her hair down.



Poisoned environment

- Ongoing or widespread harassment can lead to a poisoned environment
- Hostile or oppressive atmosphere for one or more people
- One serious incident might be enough
- Look at the nature of the behaviour and its impact, not just number of times



Poisoned environment

(cont'd)

- **Does not need to be directed at a specific person**

Example: A Hindu man lives in a social housing complex where slurs and stereotypical language about Muslims are commonly used by other tenants in common recreation areas.



Poisoned environment

(cont'd)

Examples:

- **Comments, signs, caricatures displayed in a common area that show people identified by Code grounds in a demeaning manner**
- **Discriminatory graffiti that is tolerated by a housing provider who does not act promptly to have the graffiti removed .**



Reprisal

- **Code protects against reprisals**
- **Cannot be treated negatively as a result of exercising one's rights**

Example:

Repairs not being made in a timely manner after a tenant complains about sexual harassment.



Duty to accommodate

- **Remove barriers upon request, once known**
- **Accommodate remaining needs**
- **Principles of accommodation:**
 - **Respect for dignity**
 - **Individualization**
 - **Integration and full participation**
- **Shared responsibility for process and outcome – both are important**



Accommodation Process

Duties of accommodation seeker:

- Inform accommodation provider of his/her needs, where possible
- Co-operate in obtaining necessary information
- Participate in discussions about solutions



Accommodation Process

Duties of accommodation provider:

- Accept accommodation requests in good faith
- Request only information required to make accommodation
- Obtain expert advice where necessary
- Maintain confidentiality of persons seeking accommodation
- Take an active role in ensuring possible solutions are examined
- Deal with accommodation requests in a timely way



Appropriate Accommodation

- **Consider a continuum of accommodation options: most appropriate, phased-in, next best, interim solution**



Examples of accommodation

- Alternate formats of written notices
- Changes to building entrances, sidewalks, parking facilities & common areas
- Physical modifications; elevators, ramps, different door handles, lower counters, *etc.*
- Changing a rule or policy
- Allowing transfer to another unit without penalty
- Providing better maintenance such as more frequent snow removal
- Offering assistance to someone who is experiencing a mental health crisis



Undue hardship

Must accommodate short of “undue hardship”

FACTORS CONSIDERED

- Costs
- Outside sources of funding
- Health and Safety

FACTORS NOT CONSIDERED

- Inconvenience
- Resentment or hostility from others
- Other tenants’ “preferences”



Costs

- **Quantifiable**
- **Related to the accommodation**
- **Look at whole organization, not just branch/unit or accommodation budget**
- **Will the housing-related amenities, services, conditions, *etc.* for all tenants be substantially and permanently altered?**



Minimizing Costs

- **Recover/distribute costs**
- **Outside sources of funding**
- **Reserve funds**
- **Creative design solutions**



Health and Safety

- Risk assessed after precautions have been taken to reduce it
- Assess nature/severity/probability/scope of risk
- Does risk remaining after accommodation outweigh benefits of enhancing equality?



Balancing rights

- **Duty to accommodate** *Code* rights of one person may conflict with others' *Code* rights/other rights
- **OHRC's *Policy on competing rights*** provides step-by-step framework



Inclusive design

- **Designing / changing facilities, systems, policies, practices to avoid, eliminate or reduce barriers based on *Code* grounds**
- **Barriers can be attitudinal, communication, physical and systemic**
- **Effective inclusive design will reduce the need for people to ask for individual accommodations**



Organizational Responsibility

Organizations:

- are obligated to provide an environment free from discrimination and harassment.
- are liable for discriminatory acts of employees or agents
- can be held liable if they condone, ignore or do not respond appropriately to acts of discrimination

Human rights policies are important



SCENARIOS



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

Questions

- What kind of human rights issues are raised by the scenario?
for example:
 - what *Code* ground(s) are involved?
 - what form of discrimination? (direct, adverse effective, harassment, etc.)
- Is there anything that should have been done differently?, Was anything done well?



Scenario #1

A person in a lodging house is referred to in homophobic terms by other tenants as a form of “teasing”. He is singled out for jokes. The manager notices he does not object or complain and sometimes laughs along.



Scenario #2

A housing provider asks a tenant with a mental illness to provide verbal or written assurances that he will take psychiatric medications and seek medical treatment as a condition of getting housing.



Scenario #3

A mother receiving a subsidy failed to quickly report to her social housing provider the addition of a child to her household. When she explained to her housing provider that the delay was due to complications arising out of labour and childbirth that required extended bed-rest, the provider said that “rules are rules” and revoked her subsidy.



Scenario #4

A person with a disability asks her landlord for an accommodation. The landlord tells her that before he can accommodate her, he requires that she give him her medical diagnosis.



Scenario #5

A landlord was concerned that the behaviour of a woman with schizophrenia had the potential to endanger the safety of other tenants in her building. For example, on several occasions, she screamed loudly in the halls and other common areas, and once she left food cooking on her stove unattended. The landlord evicted the tenant because she interrupted others' "reasonable enjoyment of the premises."



Scenario #6

In response to concerns from an older tenant with a hearing loss, a landlord installs, as part of the building's fire safety system, a visual alerting component with a flashing light. This feature allows the tenant, and all other tenants with hearing loss, to live their lives independently and not have to rely on their neighbours in the event of an emergency.



Learning resources on the OHRC website

www.ohrc.on.ca

- **Policies, guides and brochures**
 - Policy on human rights and rental housing
 - Policy on competing human rights
 - A policy primer: Guide to developing human rights policies and procedures
- **eLearning modules**
 - Human rights and rental housing
- **Webinars and videos (variety of topics)**

