

Transcript—Human Rights 101, the Ontario Human Rights Commission, Third Edition (2020)

Introduction

[NARRATOR, OFF SCREEN]

Welcome to Human Rights 101! This eCourse is an interactive introduction to the Ontario Human Rights Code.

Human Rights 101 is for information only. It provides a basic understanding of rights and responsibilities under the Ontario Human Rights Code.

If you have a human rights concern, contact the Human Rights Legal Support Centre or a community legal clinic.

This eCourse

[New slide: 5 buttons and corresponding lists emerge as the narration progresses.]

There are 5 parts to this eCourse. Parts 1 to 4 are about the Code. Part 5 takes you through Ontario's human rights system.

This is how the eCourse is set out:

Part 1 is on the Code: preamble, social areas and grounds

Part 2 is on the Code and types of discrimination

Part 3 is on interpreting and applying the Code: harassment, the duty to accommodate, and exceptions to the Code.

Part 4 asks the question, "What *is* discrimination under the Code?"

And Part 5 is on Ontario's human rights system: past and present.

Why human rights?

[New slide: large question mark hovers above a facsimile of the Human Rights Code; illustrated people appear, representing the diversity of Ontario.]

Why do we need to know about the Human Rights Code?

We need to know about the Code because we all have rights and responsibilities to make sure that everyone is treated equally and without discrimination.

Human rights touch our lives every day. We want a healthy workplace. Our friends and family come from around the world, they may be getting older, or have a disability. Our children's friends may have same-sex parents, or only one parent.

Human rights are for everyone.

[New slide: the Code; images of the Universal Declaration of Human Rights and Canadian Charter of Rights and Freedoms appear in time with the narration.]

The Code reinforces this in its Preamble which refers to two significant human rights documents. The first is the Universal Declaration of Human Rights.

The second is the Canadian Charter of Rights and Freedoms, which guarantees the people of Canada certain political and civil rights.

Key concepts

[New slide: 4 large buttons look like keys.]

[NARRATOR...]

As you go through this eCourse, keep 4 key concepts in mind.

[Four buttons play the following narrated animations when clicked.]

[Animated video illustrating the concept of primacy. The Code makes its way to the front of a line of Ontario laws.] [NARRATOR...]

The Code has “primacy”. This means that the Code takes precedence over other provincial laws unless there is a specific exception written into the law.

[Animated video: we observe from behind a row of diverse students as the Code stands up at the front of the class.] [NARRATOR...]

The Code is remedial. This means that it tries to remove discrimination, prevent it, and provide remedies to help restore people to where they would have been before the discrimination happened. It also means that the Code is not meant to punish. The Code also allows for approaches that can stop discrimination and prevent it in the future by educating the public and creating awareness.

[Animated video: a man with a disability arrives at the theatre and follows the access signs to the elevator, only to find it's been out of service for a very long time.] [NARRATOR...]

Under the Code, it doesn't matter if you didn't intend or mean to discriminate. To understand if discrimination happened, it's the impact on the person that matters. The only time intent may be considered is in cases where people face reprisal for upholding human rights under the Code.

[Animated video: the province of Ontario extrudes from the map of Ontario, while the flags of Canada and Ontario appear in time with the narration.] [NARRATOR...]

The Code is provincial only—it applies to workplaces, housing, services and other areas that are covered by Ontario laws. The Canadian Human Rights Act covers workplaces or services that are regulated under federal law, such as banks, Canada Post, the airlines and the federal government.

Before we begin

How much do you already know?

True or false: as a refugee I'm not protected under the Code.

[When you're ready, continue reading to get the correct answer.]

This statement is false.

I can't live in adult-only apartments because of my young children.

[When you're ready, continue reading to get the correct answer.]

This statement is false.

At the library, a man sitting near me says he doesn't like Black people and that I should move away. If I tell the librarian she can tell him to stop.

[When you're ready, continue reading to get the correct answer.]

This statement is true.

I'm 64 so it's all right for the manager to keep asking me when I'm going to retire.

[When you're ready, continue reading to get the correct answer.]

This statement is false.

A landlord can refuse to show Tal and his boyfriend the apartment because they are a gay couple.

[When you're ready, continue reading to get the correct answer.]

This statement is false.

Part 1: the preamble, the social areas and the grounds of discrimination

[NARRATOR (OFF SCREEN)]

Part 1 of this eCourse takes you through the core sections of the Code, which are the Preamble, the social areas and the prohibited grounds of discrimination.

The preamble

[New slide: images of the Preamble]

The Code opens with a Preamble.

This is an introduction that sets out the philosophy of the statute. The Code's Preamble states that it is public policy in Ontario that we can all live, work and receive services with dignity, can contribute to society, and have equal access to opportunities without discrimination.

The Preamble also refers to the Universal Declaration of Human Rights, which reflects human rights values in Canada and around the world.

The Social Areas

[New slide: 5 large buttons, icons that represent the social areas throughout this course.]

After the Preamble comes Part I of the Code. This section sets out the right to be free from discrimination in 5 specific areas of our lives, called "social areas."

The 5 social areas are:

1. Services, goods and facilities
2. Housing accommodation
3. Contracts
4. Employment and
5. Vocational associations

[Press each button to hear details and then proceed through the course...]

Services, goods and facilities

[Illustrations of the places and things described appear in time with the narration.] [NARRATOR...] Services and facilities include... stores, restaurants and bars; hospitals and health services; schools, universities and colleges; public places and facilities, such as community centres, public washrooms, libraries, malls and parks; municipal and provincial government services and programs such as social assistance and benefits, and public transit; also, services provided by insurance companies.

Housing and accommodation

[NARRATOR...]

Accommodation may include: buying, selling, renting or being evicted from an apartment, house, condominium or commercial office.

Depending on how long a guest is staying, a hotel could be a service or an accommodation, or both.

This social area includes entry to the building, using swimming pools and the laundry room.

For example, a landlord can't refuse to rent to a tenant who has young children, or who is receiving public assistance or disability benefits.

Contracts

[NARRATOR...]

Everyone has a right to enter into a contract on equal terms. This includes the offer, acceptance, price or even rejection of a contract.

Employment

[NARRATOR...]

Employment is interpreted broadly, and covers everything from hiring to firing.

Employment can include applying for a job, training, promotions, dismissal, overtime, rates of pay, vacations, benefits, discipline, and performance evaluations.

The Code can also apply to discrimination that takes place outside the workplace but that has work-related consequences – for example, at an after-hours office party or on a business trip. This is called the “extended workplace.”

Vocational associations

[NARRATOR...]

Everyone has a right to join and to be treated equally in unions, professional associations or other vocational associations, without discrimination based on the grounds set out in the Code.

Now that you know more about the social areas covered by the Code, let’s go through the prohibited grounds of discrimination.

Grounds of Discrimination

[New slide: 11 large buttons assembled somewhat like bricks. 17 grounds are grouped within these. Press each button to hear details and then proceed through the course]

[Illustrations of the places and things described appear in time with the narration. Photos of people who might identify with each ground appear at the end.] [NARRATOR...]

Grounds of discrimination

Under the Code, you cannot discriminate against another person or group of people because of their citizenship, race, gender identity, gender expression, place of origin, ethnic origin, colour, ancestry, disability, age, creed, sex – which includes pregnancy, family status, marital status, sexual orientation, receipt of public assistance – in housing only, and record of offences – in employment only.

Race-related grounds

[Group of 6 related grounds. Black and white outline fades into photo of seven diverse smiling people, in a circle, looking down from above us.]

Race and related grounds include: race, ancestry, place of origin, colour, ethnic origin and citizenship. In some cases, racial discrimination is also based on creed.

Creed

[Illustration of many religious symbols forming a circle fades out while photos of a Métis man in the outdoors, a seated man folded hands bowing his head over an open Bible, and a smiling Muslim woman wearing the hijab.]

Creed includes religion. It may also include other belief systems that greatly influence a person's identity, world view and way of life.

Sex

[Symbols and silhouettes of stereotypical gender roles fade in and out in time with the narration, and are replaced with real-world photos of a pregnant woman at work with colleagues, a woman apparently breastfeeding, and two men walking together pushing infants in strollers.]

Sex is generally considered to relate to someone's biological sex assigned at birth: male, female or intersex. It also includes a person's gender – that is, expectations and stereotypes about behaviours, actions and roles linked to being a 'man' or a 'woman.' The ground of sex includes pregnancy and breastfeeding.

Sexual orientation

Sexual orientation includes people who are gay, lesbian, bisexual or heterosexual.

Gender identity and gender expression

[Group of 2 grounds.]

Gender identity is each person's internal sense of being a woman, a man, both, neither or anywhere along the gender spectrum.

Gender expression is how a person publicly expresses or presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice.

Age

Age under the Code refers to a person who is 18 years or older. Examples of age discrimination might be someone being forced to retire at age 65, or being denied housing because a landlord is looking for older tenants. People under the age of 18 are protected from discrimination based on other Code grounds. For example, a child under age 18 could bring a claim under the Code relating to sex, disability, or race. Parents or guardians can file applications on their behalf.

Marital status

Marital status includes being single, married, widowed, divorced, in a common-law relationship, and same- or opposite- sex partnership.

Family status

Family status means being in a parent-child type relationship and can include caring for children and older family members.

Disability

Disability includes temporary and permanent disabilities, past or present disabilities, receiving or having received Workplace Safety and Insurance Board benefits. Disabilities can be physical, learning, developmental, or can be mental health-related, or drug and alcohol addictions. Disabilities can be visible, invisible or perceived.

Record of offences

Record of offences applies to employment only. Code protections apply if you have been convicted of a federal offence and have received a pardon, or have been convicted of a provincial offence such as under the Highway Traffic Act.

Receipt of public assistance

Receipt of public assistance applies only to discrimination in housing. It includes receiving social assistance benefits, disability benefits, Old Age Security pensions, Canada Pension Plan benefits and unemployment benefits.

One more thing...

[ATTENTION icon appears after all grounds have been discussed.] [NARRATOR...]

It's important to remember that if you have a complaint of discrimination or harassment under the Code, you must identify a social area and at least one ground of discrimination AND there must be a connection between the two. An example is being denied housing because you have children.

Section 2 of this eCourse discusses discrimination in more detail.

Exceptions to the Code

[New slide: 3 large buttons. Press each button to hear details and then proceed through the course.]

[NARRATOR...]

Exceptions to the Code

There are some exceptions to protections for discrimination under the Code.

If a person shows that they were discriminated against, the person or organization responsible for the discrimination has the chance to show that they have a defence or exception to the Code.

Exceptions are very specific situations where the Code allows people to be treated differently based on Code grounds. We'll cover special programs under section 14, special interest organizations under Section 18, and Special Employment under Section 24.

Special programs (section. 14)

Special programs help people from disadvantaged groups protected by the Code improve their situation. Special programs can be used to create jobs or provide special services or opportunities for people from specific Code-protected groups.

The Code allows for programs designed to

- Relieve hardship or economic disadvantage
- Help disadvantaged people or groups to achieve, or try to achieve, equal opportunity or
- Help eliminate discrimination

Here are some examples of special programs:

- A housing co-op keeps a set number of spaces for women who are leaving abusive relationships
- The government funds a job program for persons under age 25 to combat youth unemployment, because a Statistics Canada study shows that youth under age 25 face higher rates of unemployment than other groups
- A government-funded community legal clinic offers its services only to people with disabilities, to help them deal with some of the systemic barriers they face.

Special interest organizations (section. 18)

There is an exception to the rule that services must be offered without discrimination. This exception only applies to organizations such as charities, schools, social clubs or fraternities that want to limit their right of membership and involvement.

They are allowed to do this on the condition that they serve only or mostly a particular group of people identified by a Code ground.

For example, a cultural club serving only persons with physical disabilities may limit membership to those persons, and a shelter for abused women is allowed to serve only people who identify as women.

Special employment (section. 24)

Organizations are generally not allowed to hire in a discriminatory way. However, there are some exceptions.

The Code allows certain types of organizations to hire people who identify with the same Code grounds as the people the organization serves. They include: philanthropic or charitable groups; educational organizations such as religious colleges; fraternal organizations; and social organizations such as a cultural club that serves a particular ethnic group.

This exception is only permitted if identification with a particular Code ground is reasonable and genuine, and is linked to the duties of the job the person is being hired for.

[To fully complete the course and receive a certificate you must complete the following knowledge check. There are three social area examples and one grounds example to identify.]

Knowledge Check for Part 1

Which social area?

Stores, restaurant, hospitals, schools, community centres or public transit...

Is that... services, goods and facilities? housing and accommodation? employment? contracts? or vocational associations?

[When you're ready, continue reading to get the correct answer.]

[The correct answer is, services, goods and facilities.]

Working as a nurse, cleaner, server, bus driver or engineer...

Is that... services, goods and facilities? housing and accommodation? employment? contracts? or vocational associations?

[When you're ready, continue reading to get the correct answer.]

[The correct answer is, employment]

Submitting an application to rent an apartment...

Is that... services, goods and facilities? housing and accommodation? employment? contracts? or vocational associations?

[When you're ready, continue reading to get the correct answer.]

[The correct answer is, housing and accommodation]

What grounds of the Code could this person identify with?

[We're shown an image of an older, racialized doctor wearing religious headgear, a white coat and a stethoscope.]

Disability, sexual orientation? Race, place of origin, ethnic origin, colour, ancestry, creed, or age? Family status? Sexual orientation? Receipt of public assistance?

[When you're ready, continue reading to get the correct answer.]

[The correct answer is, Race, place of origin, ethnic origin, colour, ancestry, creed, or age]

Part 2: The Code and types of discrimination

[NARRATOR (OFF SCREEN)]

Types of discrimination

Did you know...?

Did you know that there are different types of discrimination?

Part 2 of this eCourse introduces you to several types of discrimination.

What is discrimination?

How would you answer this question -- what is discrimination?

Discrimination in human rights law does not simply mean treating someone differently. In human rights law, it means treating someone differently because of personal characteristics that are based on the grounds of discrimination set out in the Code.

Discrimination under the Code happens when a person experiences negative treatment or impact.

Negative impact

The negative treatment or impact doesn't have to be intentional but it must be linked to a ground or grounds such as race, sex, disability or other grounds protected by the Code.

For example, discrimination could mean treating someone unfairly because of their race, disability, sex or other Code ground, or it could mean that an organization's policy or practices have a negative effect on someone because of a Code ground.

Remember that under the Code, discrimination must happen in one of the social areas: employment, housing, goods, services and facilities, contracts, or membership in unions, professional or other vocational associations.

Types of discrimination

[New slide: three buttons, labelled Overt vs Hidden, Constructive / Adverse effect, and Systemic open descriptions of these three types of discrimination.]

Discrimination is not always easy to identify. This next section will help you identify and name the different types of discrimination under the Code.

Overt vs Hidden discrimination

Discrimination can be overt or it can be subtle or hidden. Here's an example of subtle or hidden discrimination: a housing provider is renting out an apartment and screens out application forms from people who are receiving public assistance. This happens without the knowledge of people affected.

Constructive / adverse effect discrimination

Discrimination is not always just between people.

Rules, policies, procedures, requirements, eligibility criteria or qualifications may seem fair on the surface, but actually lead to discrimination based on Code grounds.

This type of discrimination is called constructive or adverse effect discrimination. For example, height and weight requirements for police officers have been deemed to be a form of constructive discrimination.

Systemic discrimination

Patterns of behaviour, policies, or practices that are part of an organization and its culture can negatively affect people based on Code grounds.

This is called “systemic discrimination.”

Systemic discrimination can exist inside an organization, or within a set of organizations. An example could be the education or judicial system.

What’s the impact?

Think about this scenario.

The manager of an apartment requires all applicants to meet a specific rent-to-income-ratio. The manager sets the applicant’s minimum employment income at three times the rent amount, and also requires that the applicant has a “solid work history.”

What impact could this type of policy have on people?

This policy would affect people who may have a lower income, such as young people or people who are new to Canada. It could also affect people who have a disability or who are older, and are in receipt of public assistance.

People in these groups are often less likely to have had long-term stable employment and may have difficulty showing a “solid work history.”

Reprisal

The Code also protects you against reprisal.

Reprisal means taking action, or threatening to take action, that is intended as punishment for someone asserting their rights under the Code, such as making a human rights complaint.

You cannot be punished or threatened with punishment for objecting to discrimination, trying to make a complaint, filing a human rights application, filing a grievance based on the Code, or acting as a witness during a human rights investigation or hearing.

Reprisal is the only area under the Code where intent is a required element, and circumstantial evidence may be considered to establish intent.

Harassment

Harassment is another type of discrimination.

Harassment under the Code means “a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”

Harassment usually involves the following requirements:

- what was said, or the behaviour usually happened more than once, and
- the person responsible for the comment or conduct knew or should have known that it was not welcome.

If you or someone you know is being harassed, you can ask the person to stop. This isn't always easy to do. Sometimes it's hard to tell someone to stop, especially if you are afraid to speak out.

Under the Code, you do not have to object to harassment for there to be a violation of the Code.

Section 3 of the eCourse discusses more about harassment.

For now, let's move on to poisoned environments.

Poisoned environments

A poisoned environment could be a form of harassment.

Sometimes all it takes is one unwelcome comment or action based on Code grounds, and if it's serious enough, it could poison your environment.

Unwelcome comments or conduct directed at others may also create a poisoned environment for you.

A poisoned environment could be created when Code-based harassment is ongoing or widespread in an organization -- where you work, live, or receive services.

Sending offensive emails to everyone in the office or posting an offensive message on the bulletin board, based on a Code ground, are examples of how a poisoned environment can be created.

Profiling

Discrimination also includes profiling. Instead of relying on objective identifiable facts or reasonable suspicion, a person or organization in authority subjects someone who is protected under the Code to greater scrutiny, lesser scrutiny, or other negative treatment for claimed or real reasons of safety, security or public protection.

An example would be security officials in a mall following young Black men more than other groups based on stereotypes.

Intersecting grounds

Discrimination can also happen in other situations:

It can happen when a person experiences negative treatment or impact based on the unique stereotypes or assumptions that arise because of overlapping Code grounds. This is called discrimination based on intersecting grounds.

Discrimination by association

Discrimination can happen through association, where someone experiences negative treatment or impact because of their relationship with a person who identifies with a Code ground, such as a family member or friend.

Perceived discrimination

Discrimination can also happen based on perceived grounds, when a person experiences negative treatment or impact because they are believed to identify with a Code ground when, in fact, they may or may not.

Knowledge Check for Part 2

[Fill in the blanks using the terms you learned in Part 2.]

[Scenario 1: Promotions]

An organization hires people from diverse backgrounds and abilities, but it seems that all the managers are older white men.

There may be [blank] built into the process that results in promotions for certain groups at the expense of others.

[When you're ready, continue reading to get the correct answer.]

[The correct answer is, systemic discrimination]

[Scenario 2: A summer stroll]

Carl is a teacher who is Black.

One summer evening he was walking with his friends in a wealthy area of the city.

A police officer suddenly flashes on the cruiser lights, pulls up beside Carl, and asks him directly where he is going and to see his identification.

The officer doesn't speak with Carl's White friends.

This could be [blank].

[When you're ready, continue reading to get the correct answer.]

[The correct answer is, racial profiling and/or racial harassment.]

[Scenario 3: Graffiti]

When a service provider, employer or housing provider permits or does nothing to remove homophobic graffiti, this may be creating a [blank].

[When you're ready, continue reading to get the correct answer.]

[The correct answer is, poisoned environment].

Human Rights 101, the Ontario Human Rights Commission, 2020 - Part 3 — Interpreting and applying the Code: harassment and the duty to accommodate

[NARRATOR]

Part 3 – Interpreting and applying the Code: harassment and the duty to accommodate

Harassment and the Duty to Accommodate

Part 3 of this eCourse provides more information on 2 specific human rights concepts that often arise -- harassment and the duty to accommodate.

Definition of harassment

We discussed harassment briefly. You already know that harassment is a form of discrimination. In fact, the Code specifically defines what harassment means:

“a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”

Effect not intent

You'll remember that the Code looks at the effect or consequence of the words or behaviour, not whether or not there was an intention to harass or discriminate.

Employers, service providers, housing providers and others are responsible for preventing and stopping harassment.

Costly

Many people don't realize that there is a high cost when harassment happens – a high personal cost and a high business cost.

Harassment can make people become physically, mentally and emotionally ill.

Harassment can cause people to miss work or to quit their jobs altogether. For companies, harassment could result in low productivity. Low productivity may mean spending more on benefits, and result in a bad reputation in the industry.

Organizational responsibility

Employers, housing providers, service providers and other responsible organizations have a duty to prevent and stop harassment.

They can start by developing anti-harassment policies and providing training.

It's important to stay informed about the Code and to take action to prevent harassment, and to stop it when it happens.

What would you do?

What if you, or someone you know, is harassed? What would you do?

First, check if there is an anti-harassment policy, and follow the steps or instructions on what to do.

Or, if you can, tell the person to stop.

Tell your supervisor, manager, union steward, or a human resources person.

Make good notes about what happened. If the behaviour is criminal, like sexual assault or criminal harassment, you can call the police.

You can also file a human rights complaint – called an application with the Human Rights Tribunal of Ontario.

You can also contact the Human Rights Legal Support Centre for legal advice.

Duty to accommodate

Now, let's quickly consider the duty to accommodate. Go to the OHRC's eLearning on The Duty to Accommodate for more information.

Failing to accommodate is a form of discrimination.

Accommodation means making special arrangements for some people based on their needs that are related to Code grounds, so they can have the same opportunities as everyone else.

Accommodation may mean changing rules, policies, procedures and requirements where needed. For example, flexible working hours or a ramp into a building can allow someone with a disability to be able to work.

Employers, housing providers, service providers and others have a legal duty to accommodate people based on Code grounds.

The accommodation must be made in a respectful and dignified way so people don't face barriers and are able to fully participate.

The person or organization making the accommodation must look at each person's individual needs and work co-operatively to find a solution.

The process to find and assess the accommodation is just as important as the accommodation that is decided on.

Undue hardship

Undue hardship is an important concept associated with the duty to accommodate.

The only time an accommodation doesn't have to be provided is when to do so would cause undue hardship – that is, where the accommodation creates major health and safety risks or excessive costs.

An example of undue hardship is an accommodation that is so expensive that it would put a company out of business. Another example is a severe health and safety danger that can't be reduced.

Undue hardship is a very hard test to meet. The accommodation provider must be able provide evidence that undue hardship will result.

So, you now know that the Code expectation is to provide the "duty to accommodate," up to the point of "undue hardship."

Both the person seeking accommodation and the accommodation provider have responsibilities.

Workplace example

Here's a workplace example:

The employee must make the request to the best of their ability, explain what is needed and why, provide necessary information on their restrictions and limitations, discuss possible accommodation solutions, cooperate with experts if required, agree to meet work standards, and work with the employer to manage the accommodation process.

Employers must accept the request for accommodation in good faith (unless there are genuine reasons for acting otherwise), respect the employee's dignity, assess the employee's needs, respond as quickly as possible, maintain confidentiality, take an active role in exploring solutions, and cover the costs of the accommodation.

The employer must be alert

In some cases – for example, when a person is clearly unwell and is perceived to have a mental health disability – employers must be alert to the possibility that a person may need an accommodation even if they have not made a specific or formal request.

More information on the duty to accommodate is available in the recorded webinar available on the OHRC's website. There's a direct link under the Resources tab above.

[New slide, end of section. Note: there is no Knowledge Check for this section.]

[NARRATOR]

Well done! You've completed this section. Click the button if you would like to know what should go into a quality anti-harassment or discrimination policy – or skip to the next section.

[OPTIONAL SECTION FOR ORGANIZATIONS]

Assessing your in-house policy

[NARRATOR]

Self-assessment of organization's anti-harassment/discrimination policy.

[Animated illustrations coincide with words and concepts from the narration, ending with an illustration of a bearded man in a suit, shrugging.]

Employers, housing providers, service providers and other organizations covered by the Code are responsible for making sure their environments are free from discrimination and harassment.

Organizations operating in Ontario have a legal duty to take steps to prevent and respond to breaches of the Code. Organizations and individuals can violate the Code whether they do it directly or indirectly, intentionally or unintentionally and where they ignore, tolerate or adopt behaviour that is against the Code.

If someone came to you with a human rights concern, would you or your organization be prepared to deal with it?

[New slide shows the checklist form available from the OHRC at the link that appears at the end of the section. The boxes become check-marked in time with the narration.]

Checklist

Your organization should have an anti-discrimination / anti-harassment policy. Use the checklist that follows to learn what your policy should include.

Your policy should have a plan for preventing, reviewing and removing barriers; anti-harassment and anti-discrimination policies; an internal complaints procedure; an accommodation policy and procedure; and an education and training program.

Your plan for removing barriers must – set specific, measurable goals for removing barriers; create clear timelines for achieving these goals; must allocate adequate resources towards meeting goals; ensure accountability and responsibility for meeting goals; and include a way to regularly review and evaluate progress towards the identified needs.

Your anti-harassment and anti-discrimination policy should clearly state the organization's commitment to creating and maintaining respect for human rights, and fostering equality and inclusion. It should describe the objectives of the policy, such as promoting human rights in the organization, preventing harassment and discrimination, and setting out standards for appropriate workplace behaviour. It should set out the activities and persons it applies to, list and explain the grounds protected under the Code. It should provide key definitions and concepts, including poisoned environment and the duty to accommodate, and set out rules and responsibilities.

Any empty boxes? There should not be any. Your in-house policy and process must include each item on the list!

[Link appears: [Download the self-assessment form.](#)]

Need some help? See the OHRC's *A policy primer: guide to developing human rights policies and procedures*.

Human Rights 101, the Ontario Human Rights Commission, 2020 - Part 4: Discrimination under the Code?

Part 4: What is discrimination under the Code?

Would you recognize discrimination?

Would you recognize discrimination under the Code when it happens?

Discrimination under the Code

Discrimination on its face is called prima facie discrimination. Under the Code, a human rights claim made to the Human Rights Tribunal of Ontario must show prima facie discrimination.

Prima facie discrimination

A prima facie complaint often involves one or more grounds of discrimination listed under the Code.

The problem you're complaining about must have happened in one of the five "social areas," such as employment, housing or services. And, you must have experienced negative treatment or impact in the social area, whether it was intentional or not.

Was the Code ground a factor in the impact or treatment you experienced? It's important to know that the Code ground only needs to be one reason for the negative treatment or impact.

Did the incident(s) occur in Ontario and involve an organization that falls under Ontario law?

Discrimination under the Code

Start with this simple check-list:

1. One or more Code grounds Y / N
2. Social area Y / N
3. Negative treatment or impact Y/N
4. At least one Code ground is a reason for the negative treatment or impact. Y / N
5. Provincially regulated Y/N

If the answers are "yes" ...

If you answered 'yes' to each question, your concern may fall under the Code.

You may be able to make an application, directly to the Human Rights Tribunal of Ontario.

If you want legal advice before making an application, the Human Rights Legal Support Centre may be able to help you.

You can contact: the Human Rights Tribunal of Ontario or the Human Rights Legal Support Centre. Links to their web sites are found under the Resources tab.

What happens next?

If you file a human rights application, the person or organization you have complained about will be told that you complained and will be asked to explain what happened.

The organization or person has a chance to explain why it was not discrimination, or why a defence or exception in the Code applies.

Human Rights 101, the Ontario Human Rights Commission, 2020 - Knowledge Check 2

Scenario: The food court

Camilla worked at a food court near Hamilton and left after a short period of time. Camilla said that the owner, who was also the cook, made inappropriate sexual comments about her and about customers.

The cook said that if "the kitchen was getting too hot for her, she could leave." "No one else was bothered." "They like the informal atmosphere in the workplace."

Camilla wonders, "Is this discrimination? Am I being harassed?"

[Choose "Yes" or "No". When you're ready, continue reading to get the correct answer.]

[The correct answer is "Yes".]

That's right! Continue and consider how the five questions you learned apply to the current scenario.

Checklist linked to our scenario

You've identified a social area [employment] at least one ground of discrimination [sex], and there's a connection between the two. It impacted Camilla when she had to quit her job in Hamilton, Ontario.

Scenario: Hiring and promotions

[Animation follows the narration.]

[NARRATOR]

You are the Human Resources manager. The president of the company has come to you because she has noticed a problem and needs your help. An external report about the company found that 95% of managers and other high-level staff are men and all of them are White. The company has been working hard to hire and keep a diverse workforce. She says all the employees are being given the same training and opportunities.

The president wants you to figure out what is happening during the hiring and promotion process.

[Three ideas are represented by light bulbs you must click to continue.]

You decide to:

- a) Talk to the directors to learn more about the promotion process.
- b) Talk to some people who were passed over for promotions, and ask why they think they missed out.
- c) Check performance evaluations to see if they explain why some people were not promoted.

[The following paragraphs pop up when the corresponding light bulb is clicked]

- a) The directors all agree that the process in place is fair and that they promote staff based on merit. See what else you can find out.
- b) You talk to 10 employees who were passed over for promotion. All of them have similar experiences. None are part of the "club" that golf and socialize together. While everyone gets invited to in-house golf tournaments, employees with child-care or elder-care

responsibilities, and employees who are newcomers to Canada don't often attend. You get the sense that employees who may have a disability also don't join in.

- c) Performance evaluations show very little distinction between employees who get promoted and those who do not.

What would you tell your company's president?

- a) This could involve systemic discrimination because the "club" has a pattern of behaviour that is part of the organizational culture, which can negatively affect people based on Code grounds. You will do some research and see what could remedy the problem.
- b) Playing golf is an important part of corporate culture – not just internally but also for meeting and networking with external clients. If some people choose to not participate, it's not within management's control, and it should not be a factor for promotions or other benefits.
- c) Everyone should be encouraged to join in the golf games, even people with no previous experience playing. This will help ensure everyone gets the same networking and advancement opportunities.

[When you're ready, continue reading to get the best answer.]

The best response is "a". Answer "b" could be part of the conversation but "b" points out how corporate culture may unknowingly exclude people who identify with Code grounds. Answer "c" is a reminder of what steps can be taken to ensure that corporate culture does not negatively affect people who identify with any of the Code grounds.

Human Rights 101, the Ontario Human Rights Commission, 2020 - Part 5 Ontario's human rights system – past and present

[NARRATOR]

Part 5 of this eCourse discusses the foundations of the Ontario Human Rights Code, and highlights some of the important historical moments in the evolution of Ontario's human rights system.

It also gives an overview of Ontario's current human rights system.

Timeline of human rights in Ontario

Background

Shocked by the atrocities of World War II and the Holocaust, a human rights movement emerged in Canada.

The 1940s

Ontario became a leader among the provinces in 1944 when it introduced the Racial Discrimination Act. Canadian John Humphrey would also play a leading role in drafting the Universal Declaration of Human Rights. This movement brought together politicians, trade unionists and everyday people who actively lobbied for stronger legislation to protect human rights.

The 1950s

By 1950, Ontario amended an old discriminatory statute – the Conveyancing and Law of Property Act – and removed the section that prohibited “any person of Jewish, Hebrew, Semitic, Negro or coloured race or blood” from buying or selling real estate property.

Over the next decade, under Premier Leslie Frost, Ontario would introduce new anti-discrimination legislation.

The Fair Employment Practices Act of 1951 prohibited discriminatory employment practices.

The Female Employees Fair Remuneration Act of 1951 protected a woman’s right to equal pay.

The Fair Accommodation Practices Act of 1954 prevented discrimination in services, facilities and accommodations in public space.

In 1959, Ontario established its first Anti-Discrimination Commission to raise awareness and to educate the public about these new anti-discrimination Acts.

The 1960s

In 1961, the Ontario Human Rights Commission and the Human Rights Tribunal of Ontario, then called the Ontario Board of Inquiry, were established.

On June 15, 1962, the various anti-discrimination Acts were brought together under the Ontario Human Rights Code.

The early Code focused primarily on race-related and creed grounds. Since then, new grounds of protection against discrimination have been added to reflect social changes.

The present

Today, the Code prohibits discrimination in five social areas: services, goods and facilities; accommodation (housing); contracts; employment; and vocational associations.

Today’s Code includes 17 grounds of discrimination: age, ancestry, colour, race, citizenship, ethnic origin, place of origin, creed, disability, family status, marital status, gender identity, gender expression, receipt of public assistance (in housing only), record of offences (in employment only), sex (including pregnancy and breastfeeding) and sexual orientation.

Section 2 of this eCourse discusses the Code's social areas and grounds of discrimination in more detail.

Structure of the Ontario Human Rights System

Let's go through the structure of the Ontario Human Rights System.

The Ontario Human Rights Commission

In 1961, the Ontario Human Rights Commission was established to enforce the Ontario Human Rights Code. At the time complaints were filed with the Commission which would investigate their merits to determine which cases would be referred to the Board of Inquiry for adjudication. In 2008 the current human rights system was established in Ontario. This new system included 3 separate organizations: the Human Rights Tribunal of Ontario, the Human Rights Legal Support Centre and the Ontario Human Rights Commission.

The Ontario Human Rights Commission focuses on public education and outreach including eLearning, developing policies, monitoring laws, taking legal action in the public interest, and conducting public inquiries.

The OHRC's policies are important because they help people and organizations understand rights and responsibilities under the Code. If you appear before the Human Rights Tribunal of Ontario, you can ask that these policies be considered by the adjudicator, who is the person hearing the case.

The Human Rights Legal Support Centre

The Human Rights Legal Support Centre can give advice about human rights concerns, can help you file an application and may provide legal representation at the Tribunal. For more information on the HRLSC's services visit their website. The link can be found under the Resources tab, in the upper right corner of your screen.

The Human Rights Tribunal of Ontario

The Human Rights Tribunal of Ontario is where applications are filed directly for adjudication. Many applications are resolved through mediation, which is offered to applicants and respondents at an early stage. If the application proceeds through preliminary screening and is not resolved through mediation, an adjudicator looks at the human rights concerns, considers the evidence, and makes a decision. For more information on the HRTTO, visit their website. The link can be found under Resources tab, in the upper right corner of your screen.

Knowledge Check for Part 5

Scenarios / Review

Scenario 1: Helping a co-worker

Your friend has been taking her sick child for medical appointments. Her manager wants to know why she can't keep to her regular work schedule and has asked her several times if her family life is interfering with her work. Your friend was given verbal and written warnings about taking too much time off and is worried about losing her job.

You go online to find out where she can get some advice. Where would you start?

- a) If the company has more than 50 employees, you could start with the Ministry of Labour. She may have the right to take up to 10 days of unpaid job-protected leave. This is known as personal emergency leave.
- b) The Ontario Human Rights Commission.
The OHRC has policies and guidelines that would be helpful, for example its Policy on ableism and discrimination based on disability, or its Policy and guidelines on discrimination because of family status.
- c) The Human Rights Legal Support Centre
The Centre can help her decide if she has a human rights claim under the Ontario Human Rights Code, and file an application at the Human Rights Tribunal of Ontario.
- d) Union steward or representative.
If the workplace is unionized, a union steward or representative can explain what protection she has under the collective agreement.

Answers: a, b, c, and d

[NARRATOR]:

Good work! These are all good ideas, depending on the workplace.

Scenario 2: It's just a joke

You work in a factory. The owner's wife looks after personnel issues.

Alan makes rude comments about women; he laughs about people's accents and complains about what they eat for lunch.

You talk to his wife about his comments about your co-workers. His wife says, "Everyone knows Alan just likes to joke around".

You tell her you don't think he's funny at all and that what he says makes you feel very uncomfortable.

You decide to go online to get some information.

Where would you start?

- a. The Ministry of Labour
However, the Ministry of Labour does not handle complaints of harassment or discrimination under the Code.
- b. The Ontario Human Rights Commission.
The OHRC develops policies and guidelines. In this case, its Policy on preventing sexual and gender-based harassment and Policy and guidelines on racism and racial discrimination would be helpful.
- c. The Human Rights Legal Support Centre
Note that the HRLSC does not provide services to employers.
- d. Consult an employment lawyer.
Contact the Law Society of Ontario's lawyer referral service if you need to find an employment lawyer.

Answers: b, c or d

[NARRATOR]:

Good work! These are all good ideas, depending on the complaint and the workplace.