

# Equality, Diversity and Inclusion

## Working Together for Change

### Key Concepts of Human Rights /Diversity Policies

This document is intended to assist licensees with recommendation 3(2) – “The Adoption of Equality, Diversity and Inclusion Principles and Practices.” The new requirement requires “a licensee representative of each legal workplace of at least 10 licensees in Ontario to develop, implement and maintain a human rights/diversity policy for their legal workplace”.<sup>1</sup> This document sets out the key elements that a human rights/diversity policy should contain.

A comprehensive human rights/diversity policy aimed at: (a) preventing harassment and discrimination; and (b) promoting diversity and inclusion, should consist of:

1. A plan for preventing, reviewing and removing barriers
2. A prohibition on harassment and discrimination
3. A complaints procedure
4. An accommodation policy and procedure
5. An education and training program.

#### 1. Barrier review<sup>2</sup>

The World Health Organization (WHO) describes barriers as being more than just physical obstacles, and defines barrier as: “[f]actors in a person’s environment that, through their absence or presence, limit functioning and create disability. These include aspects such as:

- a physical environment that is not accessible,
- lack of relevant assistive technology (assistive, adaptive, and rehabilitative devices),
- negative attitudes of people towards disability,
- services, systems and policies that are either nonexistent or that hinder the involvement of all people with a health condition in all areas of life.”

The most common barriers (and more than one can occur at a time) are: attitudinal; communication; physical; policy; programmatic; social; transportation. The first step in creating a comprehensive human rights/diversity policy should examine the following potential barriers:

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<sup>1</sup> Challenges Faced by Racialized Licensees Working Group, “[Working Together for Change: Strategies to Address Issues of Systemic Racism in the Legal Professions – November 2016](#)”

<sup>2</sup> See: Centre for Disease Control and Prevention, “[Common Barriers to Participation Experienced by People with Disabilities](#)”

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- Physical accessibility: Identify barriers for persons with disabilities, including physical or intellectual disabilities
- Organizational policies, practices: Identify barriers to people (based on Human Rights Code grounds) in policies and practices on recruitment, compensation, promotion, etc.
- Organizational culture: Create an organizational culture that is inclusive and does not marginalize or exclude persons identified by Code grounds

Licensees should also be aware of their obligations under the [Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11](#) (“AODA”), and [O. Reg. 191/11 “Integrated Accessibility Standards”](#) under AODA.

## 2. Anti-harassment and anti-discrimination policies

Anti-harassment and anti-discrimination policies should include:

- Organization commitment: State that the organization is committed to providing an environment free of discrimination and harassment, where all individuals are treated with respect and dignity
- Policy objectives: Set out the objectives of the policy, such as promoting human rights within the organization, preventing harassment and discrimination, and defining principles and standards for behaviour
- Application of the policy: Set out:
  - who the policy applies to (eg. owners, managers, temporary, casual and contract staff, students)
  - where it applies (ie. The offices worksites, business trips, as well as outside of normal working hours, where activities are connected to the workplace and
  - what it applies to (eg. performance management, and dealings with co-workers, clients, and suppliers)
- List and explain protected grounds: Set out the Human Rights Code grounds upon which discrimination or harassment is prohibited (eg. age, race, sex (including pregnancy, etc. Note that there are 17 protected grounds;)<sup>3</sup>
- Define key concepts: Define key concepts and terms, and provide examples of what is prohibited (eg. offensive jokes or innuendos related to a person’s race, disability, sexual orientation, creed, age, or any other ground)

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<sup>3</sup> Licensees who work at federally regulated workplaces may review the grounds set out in the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 <http://laws-lois.justice.gc.ca/eng/acts/h-6/page-1.html>

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- Roles and responsibilities: Set out the roles and responsibilities of all people in the organization with respect to the anti-harassment and anti-discrimination policies (eg. all employees must comply; managers and supervisors have a duty to act on complaints)

### 3. Complaints Procedure

- Making a complaint: How to make a complaint if someone has witnessed harassment or discrimination. List the details should be put into the complaint (ideally in writing): ie. who was involved? what happened? when? Are there witnesses?
- Appointing an investigator: Who will investigate – someone internal or external to the organization?<sup>4</sup> (Investigator must have knowledge about the Code, and about conducting fair and impartial investigations)
- Investigation format: Must include witness interviews, and a report with conclusion(s)
- Potential outcomes: List the potential outcomes where a policy breach is found (eg. discipline, education, counselling, suspension, transfer or termination of employment)
- Communication: The complainant and the respondent(s) must be apprised of the outcome of the investigation, and in particular, whether the policy was found to have been violated, and any actions that will be taken as a result

### 4. Accommodation Policy and Procedure

- Organization commitment: State that the organization's is committed to providing a work environment that is inclusive and barrier-free, and to providing accommodation to the point of undue hardship
- Policy objectives: Set out the objectives of the policy, such as to establish the organization's procedures for accommodation and the responsibilities of each of the parties to the accommodation process
- With respect to accommodation of disabilities, licensees should also be aware of their obligations under the [Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11 \("AODA"\)](#), and [O. Reg. 191/11 "Integrated Accessibility Standards"](#) under AODA
- Application of the policy: Set out
  - How to and to whom to make requests for accommodation
  - List examples of appropriate accommodations, which might include, among others: work stations, technical aids; building modifications; temporary or permanent changes to scheduling or hours of work

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<sup>4</sup> Reasons to hire an external investigator could include: whether there is someone internally with the requisite expertise; whether the allegations involve someone senior in the organization; whether there is a conflict of interest. See eg. Canadian HR Reporter, "[Conducting Workplace Investigations](#)"

### 5. Education and Training Programs

Organizations should have:

- General human rights training for all employees on the organization's human rights policies to ensure an understanding legal rights and responsibilities under the Code
- Extensive, specialized training for staff responsible for implementing human rights policies and procedures, as well for those who may receive, investigate, mediate or decide on complaints or accommodation requests