

2021 Annual Human Rights Office Report

Date: June 16, 2022

To: General Government and Licensing Committee

From: Acting Chief People Officer

Wards: All

SUMMARY

In accordance with the City's Human Rights and Anti-Harassment/Discrimination Policy, this report provides an annual update to City Council on the data trends and information related to human rights inquiries and complaints involving the City in 2021 through the City's internal Human Rights Office (HRO) or external legal processes.

The report also identifies program initiatives and policy development undertaken by the HRO to minimize legislative and policy breaches, thereby mitigating risks to the City while promoting equity and inclusion, including development and dissemination of educational materials for City staff.

The HRO provides neutral, confidential advice and complaint resolution services to residents who use City services and facilities, as well as to the Toronto Public Service, Councillors' Offices and Accountability Offices.

In 2021, the HRO received 1,935 inquiries, compared to 1,055 inquiries in 2020. The COVID-19 pandemic, coinciding with the implementation of the City's Mandatory Vaccination Policy, 2021 saw a significant increase of inquiries related to accommodation. Inquiries related to the grounds of sex, including pregnancy and breastfeeding, creed and disability increased.

There were notable increases in complaints related to gender identity, gender expression and sexual orientation, and the number of sexual harassment inquiries increased in 2021, representing a shift from 2019-2020 reporting.

As a result of the compounding effects of the COVID-19 pandemic and the continued inequities faced by Black, Indigenous and equity deserving communities, inquiries related to race in 2021 were comparable to that of 2020 which saw a significant increase in race-based complaints from prior years, while other race-related grounds (e.g. colour, ancestry) increased in 2021.

RECOMMENDATIONS

The Acting Chief People Officer recommends that:

1. City Council receive this report for information.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of the recommendations in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

EQUITY IMPACT

The HRO annual report has been analysed for potential impacts on Indigenous, Black, and equity-deserving groups in Toronto communities and the workplace.

The HRO recognizes that the accommodation processes and complaint processes are often the last resort for individuals seeking redress. The HRO encourages divisions to review their processes and practices proactively to enhance inclusion and prevent the harms of discrimination or harassment prior to a complaint being made. Although the corrective and remedial work that the HRO conducts through its robust complaint resolution process is essential for preserving the rights of individuals and addressing harm, the HRO also acknowledges that the proactive work to prevent discrimination and harassment of equity seeking groups needs to be enhanced. The HRO is committed to providing accessible, inclusive, and fair complaint processes in order to mitigate perpetuating harm to individuals involved while supporting restorative approaches to conflict. The HRO provides support to individuals who are engaged in complaint or accommodation processes who raise concerns regarding the process itself. The HRO can intervene to ensure procedures are followed in a manner that enhances inclusion and equity. The HRO recognizes that internal processes can be daunting, and works to minimize this by providing accessible means to understand the processes, direct information and referrals, as well as informing individuals on their rights and responsibilities under the City's human rights policies.

DECISION HISTORY

At its meeting of July 16, 2013, City Council adopted the Human Rights and Anti-Harassment/Discrimination Policy, which requires the submission of an annual report to City Council about statistics and trends in human rights complaints and other initiatives:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX32.1>

In accordance with City Council Directive 2019 EX.5.3, the Human Rights Office facilitated a review of the Hate Activity Policy and Procedures in consultation with Legal Services, and no changes were made to the Hate Activity Policy. Council adopted changes to strengthen the Hate Activity Policy on April 7, 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EX5.3>
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.GL21.27>

COMMENTS

Background

The Human Rights Office (HRO) is a confidential and neutral office that supports the City in meeting its legislative requirements to provide and maintain harassment and discrimination free workplaces and in the delivery of services and operation of facilities to residents. These requirements stem from the *Ontario Human Rights Code* (the Code), the *Accessibility of Ontarians with Disabilities Act* (AODA), and the *Occupational Health and Safety Act* (OHSA). The City has three key human rights policies which the HRO supports: the Human Rights and Anti-Discrimination/Harassment Policy (HRAP), the Accommodation Policy, and the Hate Activity Policy.

This report includes accumulated data from 2019, 2020 and 2021 to capture trends as well as information regarding the number and nature of inquiries made to the HRO.

The following is a summary of notable trends in the 2021 data:

- In 2021 the HRO received 1,935 inquiries¹ which was a significant increase from the 1055 inquiries in 2020 (an 83 percent increase). Since 2019, inquiries received by the HRO rose on average by 55 percent (833 inquiries in 2019). (Table 1)
- In 2021, the HRO received 1,128 accommodation² related requests, representing a 167 percent increase in requests related to accommodation from 2020 (423 inquiries).
- In 2021, the HRO received 275 disability related inquiries (a 49 percent increase from the 185 inquiries in 2020). The HRO has seen an overall increase of disability related inquiries since 2019. (Table 2)
- The HRO previously reported a downward trend in reports of sexual harassment for 2019 and 2020. In 2019, the HRO reported a 29 percent decrease in the

¹ Interactions with the HRO are called "inquiries", all inquiries made to the HRO are categorized based on whether any prohibited ground under the Ontario Human Rights Code can be applied, or if they fall under one of the additional grounds in the HRAP

² Accommodations relate to the obligation of an employer, facility, and service provider to take steps to eliminate the disadvantage caused by systemic, attitudinal, or physical barriers that exclude individuals or groups protected under the Code from participating in all aspects of employment, use of facilities and service provision.

number of times sexual harassment was cited as a Code ground (77 inquiries) in comparison to 2018 (108 inquiries) and in 2020 there was a 51 percent decrease (38 inquiries). In 2021, the HRO received 55 inquiries citing the grounds of sexual harassment, reflecting an increase from 2020 by 45 percent. (Table 2)

- In 2021, the HRO saw an increase of inquiries citing the grounds of Gender Identity (32 inquiries) and Gender Expression (20 inquiries), which doubled over the last year while Sexual Orientation increased by 186 percent (20 inquiries) (Table 2). These inquiries were mainly related to complaints and accommodations.
- Inquiries citing the ground of race in 2021 (143 inquiries) were comparable to 2020 citations (146 inquiries), although slightly decreased by 2 percent. In 2021, there were notable increases of inquiries on race-related grounds. Citations of ancestry more than doubled (20 inquiries in 2021, compared to 9 inquiries in 2020), while citations of the ground colour saw a 30 percent increase (56 inquiries in 2021 compared to 43 inquiries in 2020). (Table 2)
- In 2021, the HRO received 713 non-medical accommodation inquiries related to the Mandatory Vaccination policy over a period of five months.
- In relation to the City's COVID-19 Mandatory Vaccination Policy, accommodation inquiries citing the grounds of creed (religion) rose significantly, representing a 37 fold increase from a total of 17 creed related accommodation inquiries in 2020 to 651 creed vaccine related accommodation inquiries in 2021 (Figure 4).
- Although, family status was one of three top cited grounds related to accommodation, 2021 saw a 20 percent decrease in family status related accommodation inquiries. This decrease may be because of schools reopening in 2021 and the continuation of accommodations which were put in place in 2020.
- In 2021, the HRO continued to observe an increase in complexity of complaints including individuals who raised systemic discrimination concerns, incidents that occurred over many years, and intersecting grounds.
- In 2021, 27,277 active Toronto Public Service employees completed mandatory training on Human Rights.

Breakdown on interactions with the Human Rights Office

Interactions with the HRO are called "inquiries", which are then categorized by issue type. Since 2019, inquiries received by the HRO rose on average, by 55 percent. In 2021, the HRO received 1,935 inquiries in comparison to 833 inquiries in 2019, representing a 132% increase. In 2021, 1,935 inquiries were made to the HRO, which represents an 83% increase in inquiries from 2020.

There continues to be a significant and increasing demand on HRO services both in its advisory and proactive support capacity as well as for complaint resolution services.

Table 1: Total internal and external inquiries from 2019-2021

	2019	2020	2021
Internal	619	786	1,559
External	214	269	376
Total	833	1,055	1,935

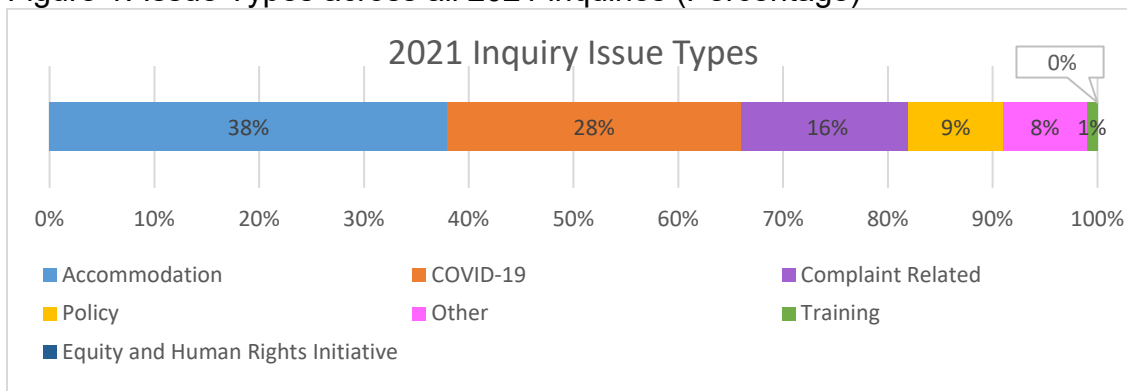
Issue types

The HRO provides a wide range of services and support to City staff and residents that broadly fall under 6 categories:

- Complaints
- Accommodations
- Policy Information
- Equity and Human Rights Initiatives
- Training review and development
- Referrals

In 2021, the issue type 'accommodation' was referenced in 38 percent of inquiries, followed by 'COVID-19' at 28 percent. The issue type 'complaint related' was cited in 16 percent of all inquiries. The shift in issue types in comparison to 2020 can be attributed to continued concerns related to COVID-19.

Figure 1: Issue Types across all 2021 inquiries (Percentage)



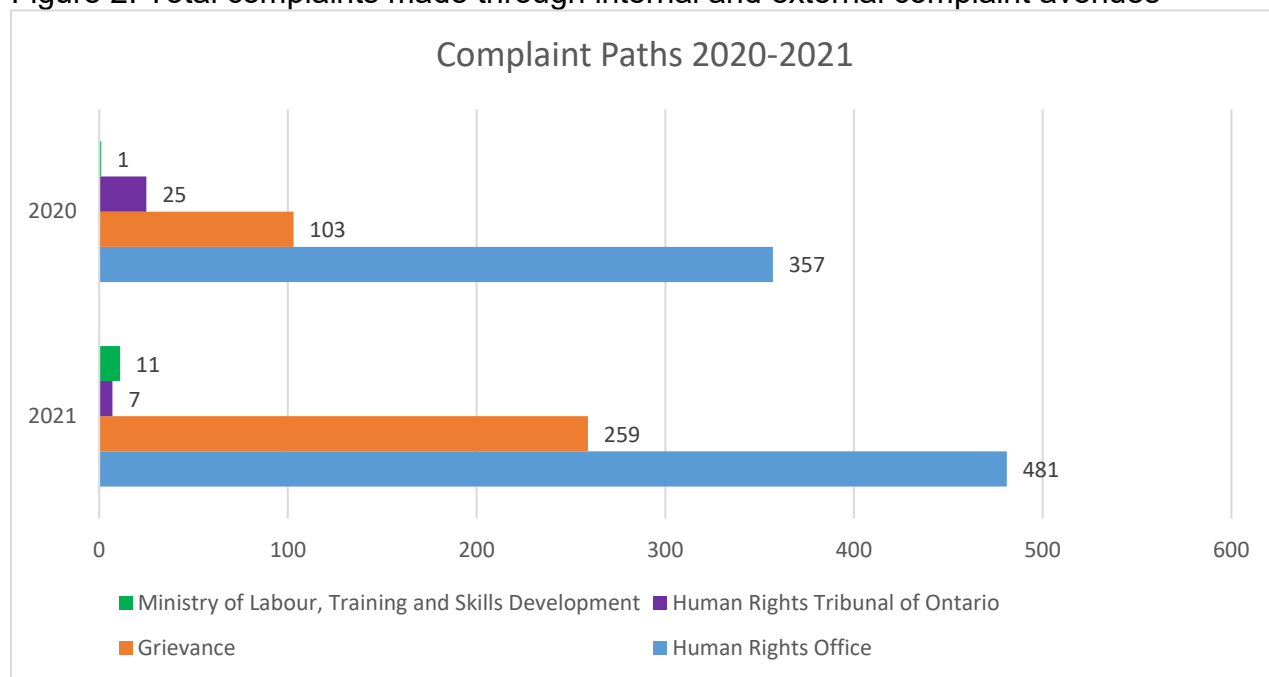
Complaint avenues for employees and service/facility users:

A member of the public or an employee can resolve a complaint of harassment or discrimination through various avenues as outlined in the Human Rights and Anti-Harassment/Discrimination Policy's Complaint Procedures. Individuals with complaints have the option of internally raising their concerns directly to management or to the HRO to be addressed. Alternatively, they can pursue external avenues such as:

- Filing a complaint to the Ministry of Labour, Training and Skills Development (MLTSD);
- Filing an application to the Human Rights Tribunal of Ontario (HRTO); or
- Filing a grievance through the Collective Agreement process that is supported by the Employee Relations section of People & Equity

Figure 2 illustrates the various avenues for complaint resolution but does not include internal complaints raised to divisional management where the HRO was not involved.

Figure 2: Total complaints made through internal and external complaint avenues



Breakdown of total grounds cited in HRO inquiries

All inquiries made to the HRO are categorized based on whether any prohibited ground under the *Ontario Human Rights Code* can be applied. The City's HRAP includes additional protections for staff beyond the Code, such as level of literacy, membership in a union/association, and political affiliation as well as incivility, workplace harassment, and reprisal. Table 2 below provides a breakdown of the frequency in which each ground was cited from 2019 to 2021.

Table 2: Total grounds cited to the HRO across all inquiries 2019-2021

2019-2021 Total Grounds (Ontario Human Rights Code and Human Rights and Anti-Discrimination Policy)			
GROUND	2019	2020	2021
Age	17	29	32
Ancestry	7	9	20
Citizenship	3	2	4
Colour	24	43	56
Creed	46	37	673

Disability	116	185	275
Ethnic Origin	25	47	46
Family Status	110	262	214
Gender Expression	17	10	20
Gender Identity	22	16	32
Level of Literacy	0	5	10
Marital Status	7	2	8
Membership in a union or staff association	5	2	6
Place of Origin	21	41	26
Political Affiliation	1	0	4
Race	64	146	143
Receipt of Public Assistance	2	2	5
Record of Offences	0	0	5
Reprisal ¹	22	19	46
Sex including pregnancy and breast feeding	29	52	76
Sexual harassment ²	77	38	55
Sexual orientation	19	7	20
Workplace harassment ²	129	85	103
No ground/non-jurisdictional/referral ³	350	335	518
Incivility	9	24	49
Total Grounds:	1,123	1,399	2446

¹ Reprisal refers to complaints of retaliations as defined in the HRAP Complaint Procedures

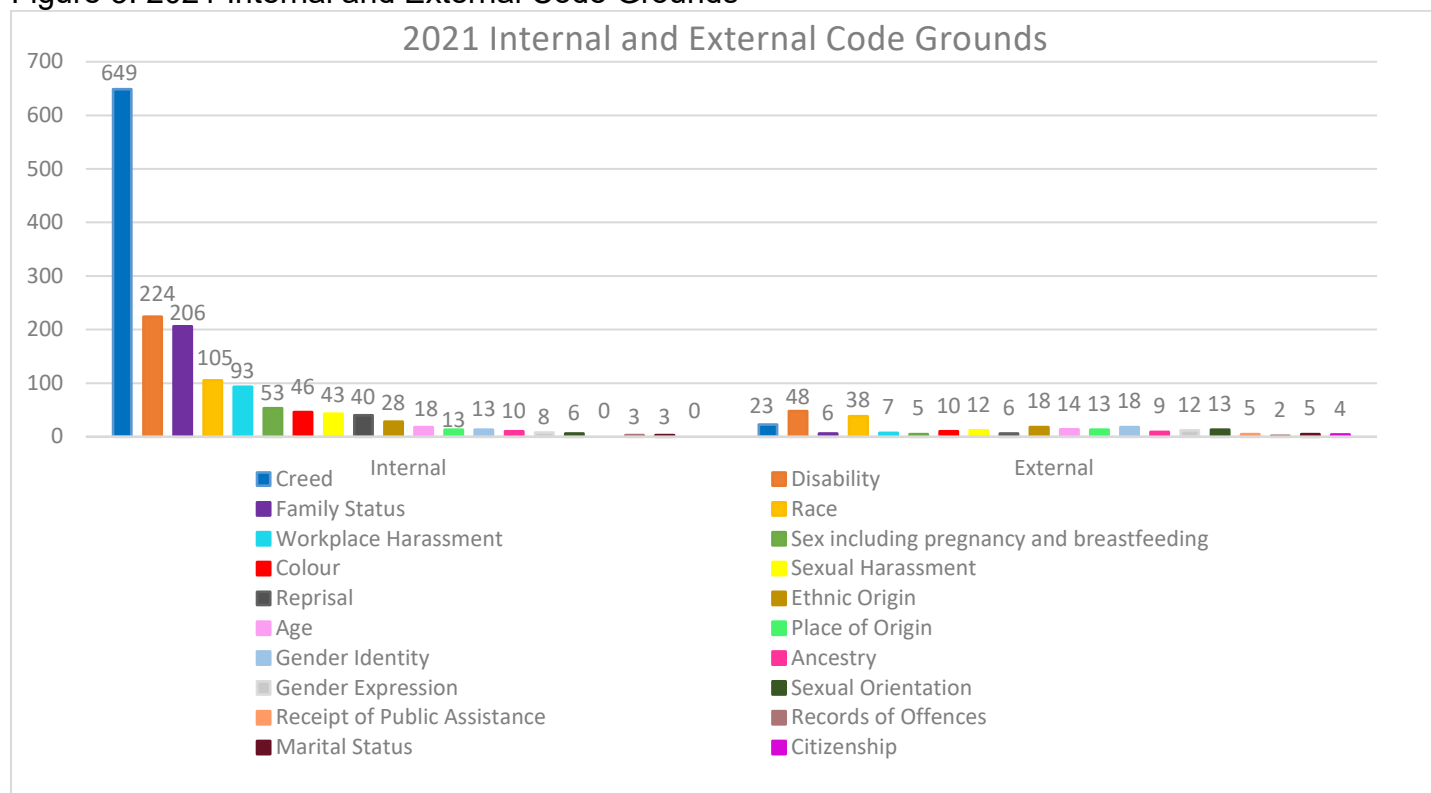
² Workplace Harassment as defined in the Occupational Health and Safety Act includes harassment based on sex, gender identity, gender expression, sexual orientation and non-Code harassment, i.e., harassment that is not based on a prohibited ground.

³ The "No ground/non-jurisdictional/referral" category captures issues that HRO staff are consulted on that may not be related to a prohibited ground

Given the complex nature of a person's identity (i.e. that people's lives involve multiple interrelated identities) there is frequently a multitude of Code grounds cited in a single inquiry, also referred to as intersectionality. In 2021, 1,935 HRO inquiries cited 2,446 grounds. In 2020, 1,055 HRO inquiries cited 1,399 grounds.

In 2021, of the 481 complaint related inquiries, 182 cited one or more grounds (38 percent). In comparison, in 2020 of the 357 complaint related inquiries, 130 cited one or more grounds (36 percent). This reflects an increase of complex and intersectional complaints received by HRO. The HRO has observed an increasing trend since 2019 where individual complaints have additional complexity as they may include issues related to systemic discrimination, historical allegations and incidents which occurred over many years, and complaints which involve many intersecting grounds, which inform experiences of discrimination or harassment. In order to ensure that all complaints are addressed in a manner that honours and respects the lived experience of the individuals who raise concerns, the HRO is committed to using an intersectional lens in responding to complaints and inquiries.

Figure 3: 2021 Internal and External Code Grounds



Accommodations

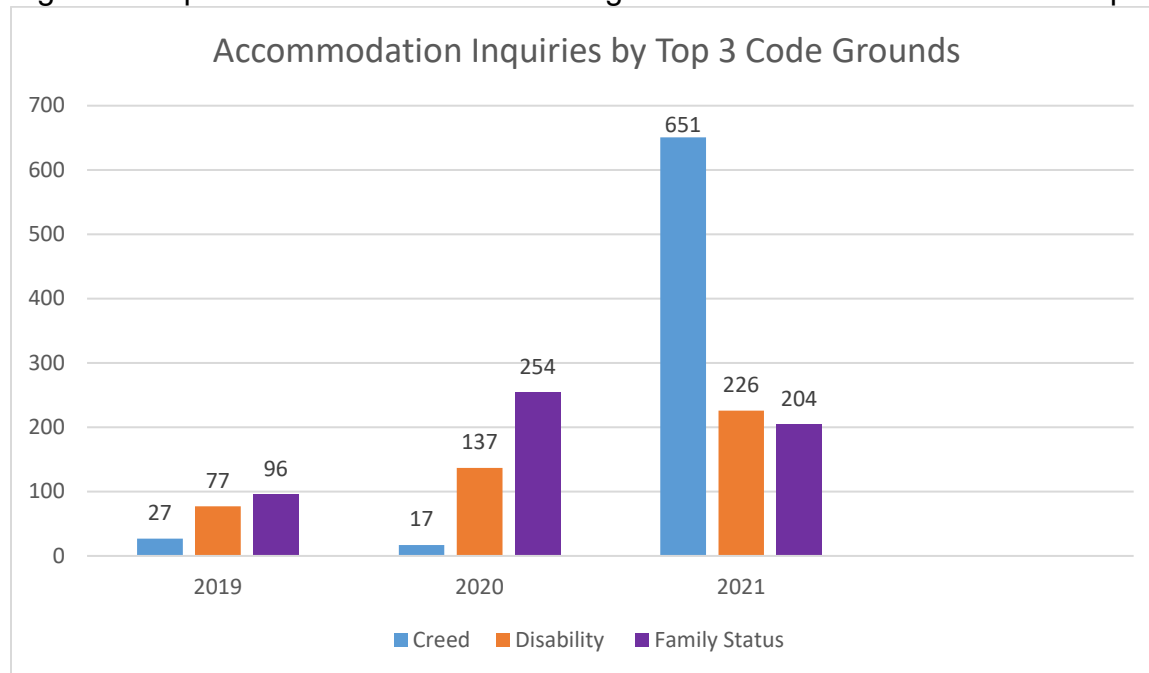
The City of Toronto as an employer and service provider, has a duty to accommodate service and facility users as well as job applicants and employees who request accommodation based on the prohibited grounds in the Code and does so through the City's Accommodation Policy.

For the 5th consecutive year, creed, disability and family status remain the top three most cited accommodation related requests (Figure 4).

In 2021, the HRO received a total of 1128 accommodation inquiries in comparison to 2020 in which accommodation was cited in a total of 423 inquiries, which represents a 167 percent increase and an on average 18 fold increase since 2019.

In 2021, the largest amount of accommodation requests were creed related, which reflected a 37 fold increase from 2020. This significant increase, coincides with the implementation of the City's COVID-19 Mandatory Vaccination Policy for all City of Toronto employees.

Figure 4: Top three accommodation code grounds for internal and external inquiries



The City's COVID-19 Mandatory Vaccination Policy, was announced on August 19, 2021 and required all City staff to disclose and provide proof of their vaccination status that they received two doses of the COVID-19 vaccine. In order to comply with human rights obligations, the City continued to accommodate employees who were legally entitled to accommodation. Employees who were not able to obtain a COVID-19 vaccine for a reason related to a protected ground set out in the Code, were able to request an accommodation in accordance with the City's Accommodation Policy.

With the implementation of the City's COVID-19 Mandatory Vaccination Policy, the HRO received an influx of accommodation related requests. Over the course of five months, the HRO received 713 internal accommodation inquiries related to the COVID-19 Mandatory Vaccination Policy. Of those, 665 were non-medical accommodation inquiries which cited the grounds of creed and sex which includes pregnancy and breastfeeding. Medical related accommodation requests were referred to and addressed by Employee Health & Wellness.

Hate Activity Policy

The City of Toronto is committed to eliminating hate activity and condemns the promotion of hate. The Hate Activity Policy and Procedures provide a mechanism for complaints related to hate activity to be addressed. The policy also supports the City's commitments to eliminating hate activity. In 2021, the HRO received 8 complaint related inquiries (5 external inquiries and 3 internal inquiries) under the Hate Activity Policy. Of the 8 complaints, common grounds cited were creed, followed by race and race-related grounds (ethnic origin, place of origin, ancestry).

Early Intervention and Resolution

The HRO uses alternative dispute resolution processes to resolve complaints and seeks to do so in a manner that is timely, accessible, fair, and inclusive.

As an internal office the HRO supports the resolution of human rights issues at the earliest stages to restore trust and good relations wherever possible, to prevent further harm, or to correct and address harms before they become litigious or adversarial.

Early intervention often requires providing support directly to the individuals who come forward with concerns. By providing information and referrals to residents, the HRO is able to offer guidance and resources to address matters before they become complaints. When the HRO is contacted by residents who use City services or employees who believe they have been discriminated against or harassed, the HRO can provide direct support on how the issues could be addressed appropriately, liaise and facilitate connections with the appropriate individuals in the Toronto Public Service to resolve the concerns, and where required, conduct an investigation.

The HRO also provides resolution supports directly to City staff to address concerns raised in order to build divisional capacity, ensure matters are reviewed with a human rights and equity-lens as well as provide advice on how to address matters in accordance with the City's robust complaints processes and legislative obligations.

The HRO is able to make recommendations to City divisions and examine matters beyond individual concerns such as underlying systemic issues which may have contributed to the complaint. The HRO provides recommendations in order to support the City's goals of positive and respectful work and service environment.

Employment harassment and discrimination grievances

Employees who belong to a union may grieve harassment and discrimination through provisions in their respective Collective Agreements. As illustrated in Table 3, the City received:

- 259 harassment/discrimination grievances were filed in 2021, representing a 151 percent increase from 2020.
- In 2021, disability (failure to accommodate), creed (discrimination) and workplace harassment were the top three cited grounds.

Table 3: Grounds cited in grievances from 2019 to 2021

Ground ¹	2019	2020	2021
Disability (failure to accommodate)	30	44	42
Disability (discrimination - Code)	1	7	1
Sex (includes sexual harassment)	2	-	1

Ground¹	2019	2020	2021
Race	-	-	1
Creed/Religion (failure to accommodate)	-	-	1
Creed/Religion (discrimination- Code)	-	-	86
Family Status (failure to accommodate)	5	17	4
Family Status (discrimination - Code)	1	-	-
Age	-	-	1
Workplace Harassment	44	27	45
Tied to Discipline ²	1	2	5
Ground not identified ³	23	6	71
Union Affiliation	-	-	1
Total:	107	103	259

1 This chart reflects only grounds identified by grievors in the process

2 Grievances related to discipline but not necessarily harassment or discrimination

3 Grievances that have been indicated to be discrimination or harassment but have not yet been heard, or were withdrawn ahead of categorizing

Employee and service recipient complaints filed to the Human Rights Tribunal of Ontario

Employees and Service recipients or Facility users are legally entitled to file human rights complaints, referred to as 'Applications', directly to the Human Rights Tribunal of Ontario (HRTO). The Legal Services Division is responsible for representing the City at HRTO hearings.

Employees and Service recipients may also initiate a legal process directly with the HRTO. In these occurrences, the HRO is typically not made aware and there is no opportunity for the HRO to assist or provide any internal alternative dispute resolution options in the matter.

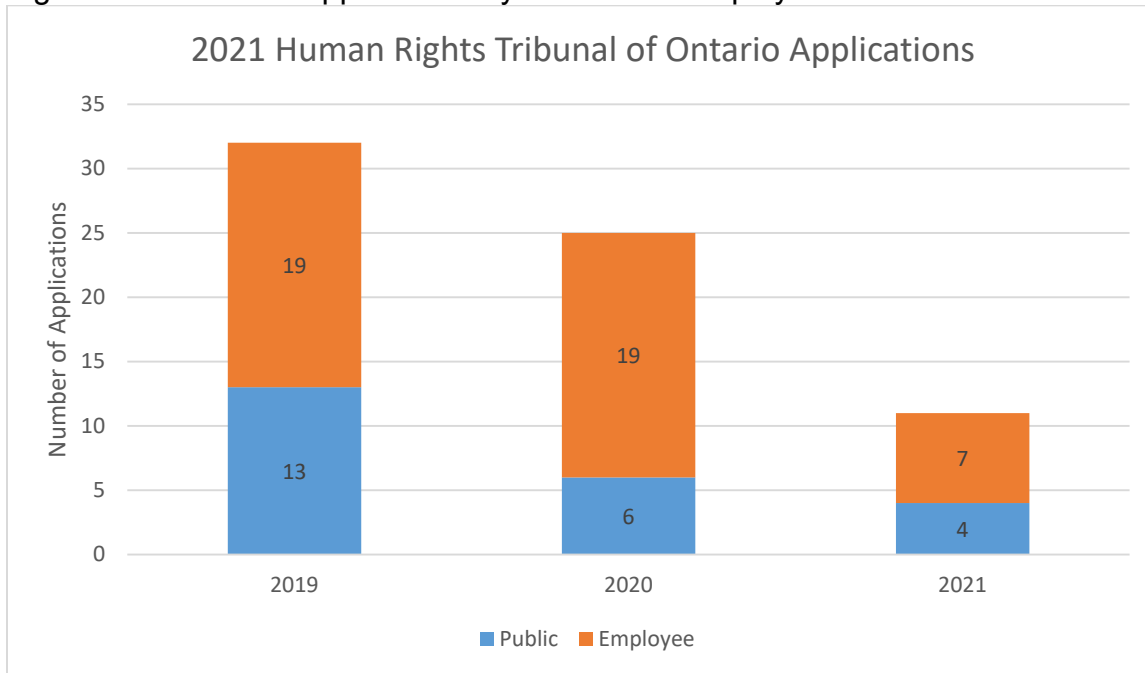
The Legal Services Division reported:

- In 2021, receiving 11 HRTO Applications, of which 7 were filed by employees and 4 were filed by members of the public.
- The number of Applications made to the HRTO naming the City as respondent decreased by almost half in comparison to 2020. The overall decrease in

Applications filed by employees and recipients, may be reflected by the continued impacts of COVID-19.

- The most commonly cited grounds in 2021 HRTO Applications where the City was named as a respondent were disability, race, colour, age and creed. As in previous years, there were no decisions in 2021, made against the City as a result of an HRTO Application.

Figure 5: Number of Applications by Public and Employees to the HRTO



Employee harassment complaints filed with the Ministry of Labour, Training and Skills Development

A mechanism under the *Occupational Health and Safety Act* (OHSA), is filing a complaint with the Ministry of Labour, Training and Skills Development (MLTSD). Employees may file a complaint based on non-code workplace harassment and sexual harassment. In 2021, the MLTSD made eleven visits, predominately relating to non-Code workplace harassment complaints followed by reprisal and workplace violence.

There were no orders issued in 2021 by MLTSD against the City.

Human Rights Policy Review

The HRO reviewed the Human Rights and Anti-Harassment/Discrimination Policy (HRAP) and Hate Activity Policy and associated procedures, no changes were identified for 2021. Council approved changes to strengthen the policies and enhance clarity in 2020. The HRO will continue to review the City's human rights related policies annually.

Advancing Human Rights

In a continued effort to support City divisions in a proactive approach to promote human rights the HRO undertook various initiatives to support individuals who were negatively impacted by the COVID-19; particularly as it related to the increase of caregiving responsibilities (elder and child care). The HRO provided resources, training, and policy guidance to the organization on accommodations to mitigate negative impacts and prevent loss of income where possible.

The HRO also provided policy and accommodation support to individuals with disabilities related to masking policies and return to office initiatives to provide an accessible and inclusive service and employment environment.

The HRO provided strategic advice across the organization on embedding human rights and inclusivity through divisional policies, procedures, and practices. The HRO is committed to addressing the systemic barriers that exist within the organization beyond individualized complaints and works with divisional partners to actively remove barriers for job applicants, employees, and residents who use City services or facilities.

The HRO continued to provide strategic advisory support to divisions and external organizations, vendors, and 3rd party contractors to enhance the use of and alignment with the City's [Declaration for Compliance with Anti-Harassment/ Discrimination Legislation and City Policy](#) to ensure the commitments to preventing and addressing human rights issues and hate activity are applied through our partners. The HRO also provided targeted instruction to support human rights understanding for Toronto Public Health's Mass Immunization Clinics and orientation for the Boards and Executives of the Association of Community Centres. The HRO also provided a human rights lens and support for the City's bid as a host City for FIFA 2026.

Continuing to build organizational capacity through educational opportunities is an important role that the HRO facilitates in conjunction with key City stakeholders and divisions. In 2021, the HRO developed and supported the roll-out of the mandatory human rights training e-Learning for all staff "Human Rights 101". Staff were expected to complete this training by December 31, 2021 and all new staff are required to take it as part of their onboarding. In 2021, 27,227 active Toronto Public Service employees completed this training. The goal of this training is not only to ensure staff are aware of their rights and responsibilities as it relates to upholding human rights but to create inclusive environments for the communities we serve.

In 2021, the HRO also developed:

- A new guide for employees on the City's Complaint Process
- A resource for all staff on addressing microaggressions with support from internal stakeholders
- e-Learning for management on Family status accommodations during COVID-19

- Resources for staff and managers on accommodations related to COVID-19 and Return to Office
- An updated Manager's Guide for responding to Complaints and Incidents of Harassment and Discrimination, as well as created new tools to support managers in responding to such incidents effectively.

The HRO is committed to improving efficiency and is moving from a manual complaint management process to an electronic case management system that will allow for improved management of complaints and investigations as well as richer data analysis. After experiencing delays due to COVID-19 priorities at the City, the project will be completed in 2022.

Looking forward:

The HRO will continue to be a leader in promoting human rights and addressing concerns at the earliest stages to minimize harms and prevent reoccurrence. In 2022, the HRO will develop additional eLearning training for all management staff on human rights and resources for all staff to increase learning and capacity.

The City of Toronto is committed to increasing representation of 2SLGBTQ+ staff at the City and preventing discrimination of the 2SLGBTQ+ community. The HRO will continue to work with its partners across the City to enhance inclusion for non-binary and trans staff as well as job applicants and service users through review of policies, practices, and systems as well as addressing complaints.

Given the rise in hate activity during the COVID-19 pandemic in Toronto, the HRO will support the City's Toronto for All learning program on developing additional resources to combat hate.

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SIGNATURE

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