

2019 - 2020 Annual Human Rights Office Report

Date: March 15, 2021

To: General Government and Licensing Committee

From: 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 2019 and 2020 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 updates to the Human Rights and Anti-Harassment/Discrimination Policy and Hate Activity Policy as well as the development of human rights courses for City staff.

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

In 2019 and 2020, the HRO received 833 and 1,055 inquiries, compared to 895 inquiries in 2018. As a result of COVID-19 and coinciding with the increased awareness of inequalities faced by Black and Indigenous peoples, anti-Black racism and the Black Lives Matter movement, 2020 saw notable increases to inquiries related to race and race-related grounds. While the number of sexual harassment inquiries decreased in both 2019 and 2020, inquiries related to the ground of sex, including pregnancy and breastfeeding increased as did those related to family status. The increase in both of these inquiry types are attributed to accommodations related to COVID-19.

RECOMMENDATIONS

The Chief People Officer recommends that:

1. City Council adopt the amended Human Rights and Anti-Harassment/Discrimination Policy contained in Attachment 3.
2. City Council adopt the amended Hate Activity Policy contained in Attachment 4.

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

Equity and inclusion is the outcome of respecting and advancing our commitment to human rights. The amendments to the City's human rights related policies provide clearer information on the application of the policies to Agencies and Corporations, use simplified language, and enhances processes for addressing complaints of harassment, discrimination, and hate activity.

The policy changes and corresponding resources to inform staff of their rights and responsibilities have positive equity implications by supporting the City's capacity to prevent and address the intersectional experiences of discrimination and prejudice experienced by employees or users of City facilities and services.

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 complaint activities and other program initiatives:

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

In accordance with City Council Directive EX.5.3, the Human Rights Office facilitated a review of the Hate Activity Policy and Procedures in consultation with Legal Services, City Manager's Office and Equity, Diversity and Human Rights. As a result, updates were made to the Hate Activity Policy and corresponding procedures:

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

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).

This report includes accumulated data from 2018, 2019, and 2020 to capture trends and information regarding the number and nature of inquiries made to the HRO and summarizes changes made to relevant City policies and procedures.

The following is a summary of notable trends in the 2019 and 2020 data:

- In 2018, the HRO received 895 inquiries, compared to 833 inquiries in 2019 (a seven percent decrease from 2018) and 1,055 inquiries in 2020 (a 27 percent increase from 2019) (Table 1).
- In 2018, the HRO received 202 inquiries related to disability compared to 116 inquiries in 2019 (a 43 percent decrease from 2018) and 185 inquiries in 2020 (a 59 percent increase from 2019) (Table 2).
- Since 2018, the HRO has seen a downward trend in reports of sexual harassment following the spike seen coincident with and in the aftermath of the #metoo movement in prior years. In 2019, there was a 29 percent decrease in the number of times sexual harassment was cited as a Code ground and in 2020 there was a 51 percent decrease (Table 2).
- In 2020, the ground of sex, including pregnancy and breastfeeding increased almost 80 percent. This may be related to pregnancy being considered a risk factor for COVID-19 complications leading more pregnant individuals to seek accommodation (Table 2).
- In 2020, due to the COVID-19 pandemic and its disproportionate impact on those with child or eldercare needs, family status was cited as an accommodation ground in 254 inquiries, a 165 percent increase over 2019's 96 inquiries (Figure 6).
- In 2020, coinciding with the Black Lives Matter protests, heightened awareness of inequalities faced by Black and Indigenous peoples, and greater calls for accountability, inquiries related to race and race-adjacent grounds increased by 71 percent in the second quarter over the first quarter.

Breakdown of interactions with the Human Rights Office

Interactions with the HRO are called "inquiries", which are then categorized by issue type. In 2019, the HRO received a total of 833 inquiries, citing a slight decrease from 2018's 895 total inquiries. In 2020, 1,055 inquiries were made to the HRO.

Table 1: Total internal and external inquiries from 2018-2020

	2018	2019	2020
Internal	668	619	786
External	227	214	269
Total	895	833	1,055

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 2019 the issue type 'complaint-related' was referenced in 41 percent of inquiries, followed by 'accommodations' at 25 percent. In 2020, the issue type 'accommodation' was cited in 28 percent of inquiries, followed by 'complaint-related' at 27 percent. In 2020, COVID-19 was featured in 22 percent of total inquiries which included complaints, accommodations, and policy information.

Figure 1: Issue Types across all 2019 inquiries (Percentage)

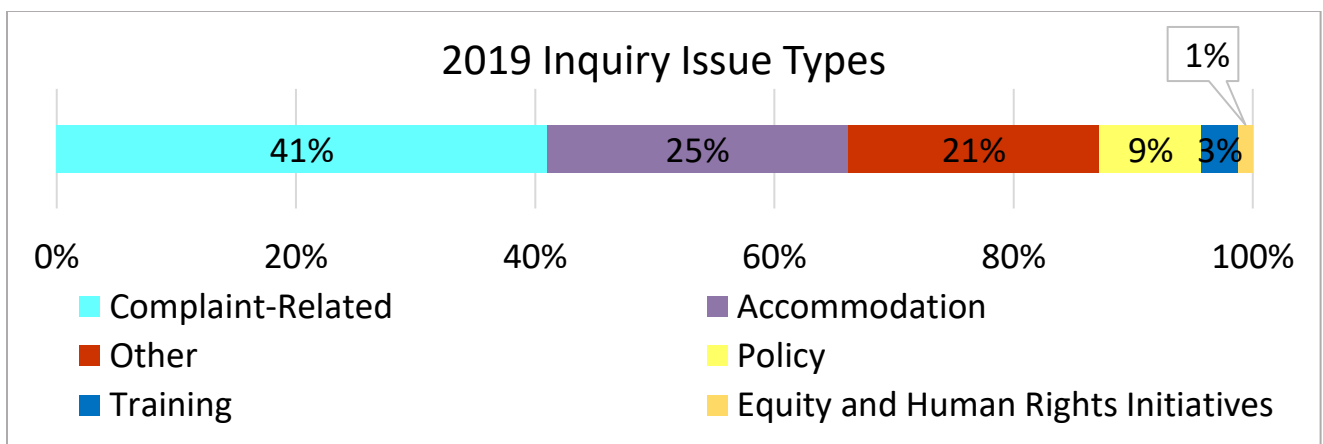
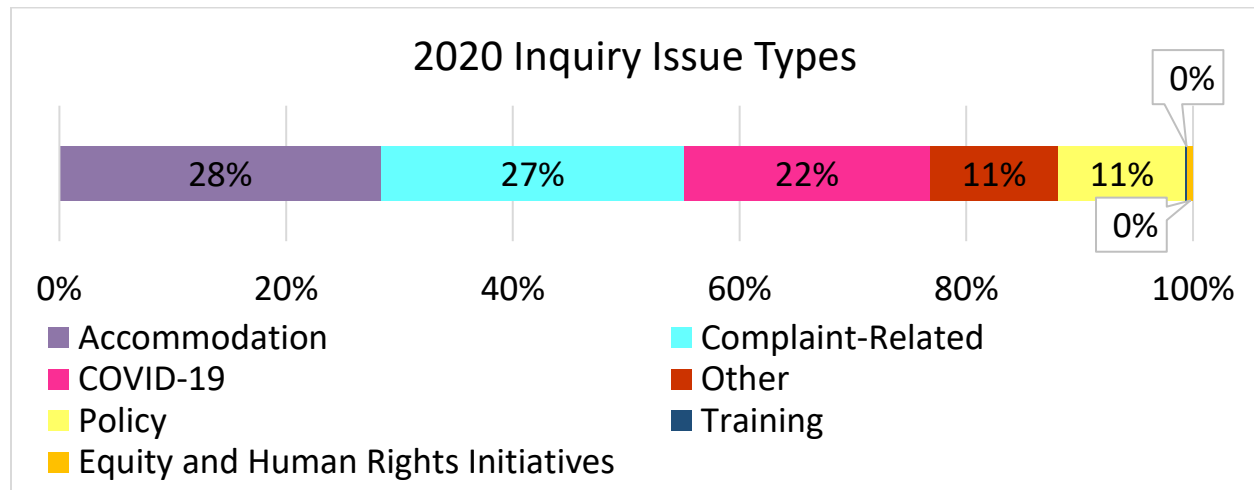


Figure 2: Issue Types across all 2020 inquiries (Percentage)



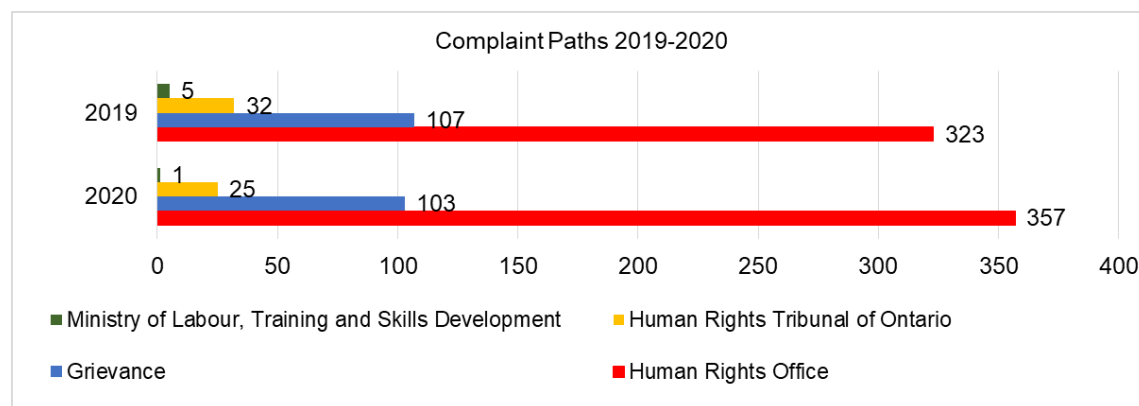
Complaint avenues for employees and service/facility users:

A member of the public or an employee can resolve a complaint of harassment or discrimination through various avenues. Individuals with complaints have the option of addressing their concerns internally by raising concerns directly to management or the HRO. Alternatively, they can pursue external resources 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 3 illustrates the various avenues for complaint resolution but does not include internal complaints made to divisional management where the HRO was not involved.

Figure 3: 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 Human Rights Code can be applied. The City's HRAP includes additional protections for staff beyond the Code, such as level of literacy or political affiliation, these additional policy grounds can be applied to internal inquiries. See Table 2 below for a breakdown of the frequency in which each ground was cited from 2018 to 2020.

Table 2: Total Code grounds cited to the HRO across all inquiries 2018-2020

2018 - 2020 Total Grounds (Ontario Human Rights Code and Human Rights and Anti-Discrimination Policy)			
Ground	2018	2019	2020
Age	21	17	29
Ancestry	6	7	9
Citizenship	3	3	2
Colour	46	24	43
Creed	61	46	37
Disability	202	116	185
Ethnic Origin	33	25	47
Family Status	105	110	262
Gender Expression	16	17	10
Gender Identity	18	22	16
Level of Literacy*	7	0	5
Marital Status	4	7	2
Membership in a Union or Staff Association*	5	5	2
Place of Origin	21	21	41
Political Affiliation*	0	1	0
Race	82	64	146
Receipt of Public Assistance	2	2	2
Record of Offences	1	0	0
Reprisal**	48	22	19
Sex including Pregnancy and Breast Feeding	38	29	52
Sexual Harassment***	108	77	38
Sexual Orientation	24	19	7
Workplace Harassment***	221	130	85
No Ground/Non-Jurisdictional/Referral****	284	350	335
Incivility*****	N/A	9	24
Total Grounds	1,356	1,123	1,399

* In addition to the prohibited grounds under the Code, The City's HRAP covers complaints related to Level of Literacy, Membership in a union or staff association, and Political Affiliation.

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

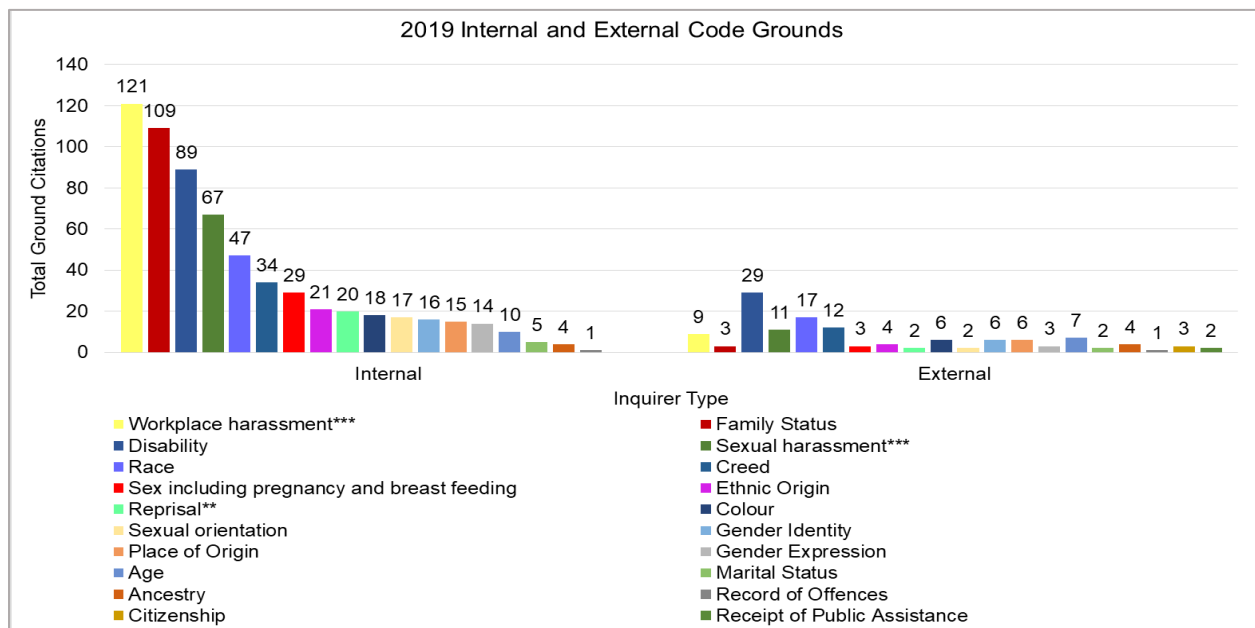
*** Workplace harassment as defined in the Occupational Health and Safety Act includes harassment based on sex, gender identity, gender expression, sexual orientation and non-Code harassment, i.e., harassment that is not based on a prohibited ground listed above.

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

***** The introduction of a new complaints database includes Incivility as a Code ground which would have previously been captured in No ground/non-jurisdictional/referral

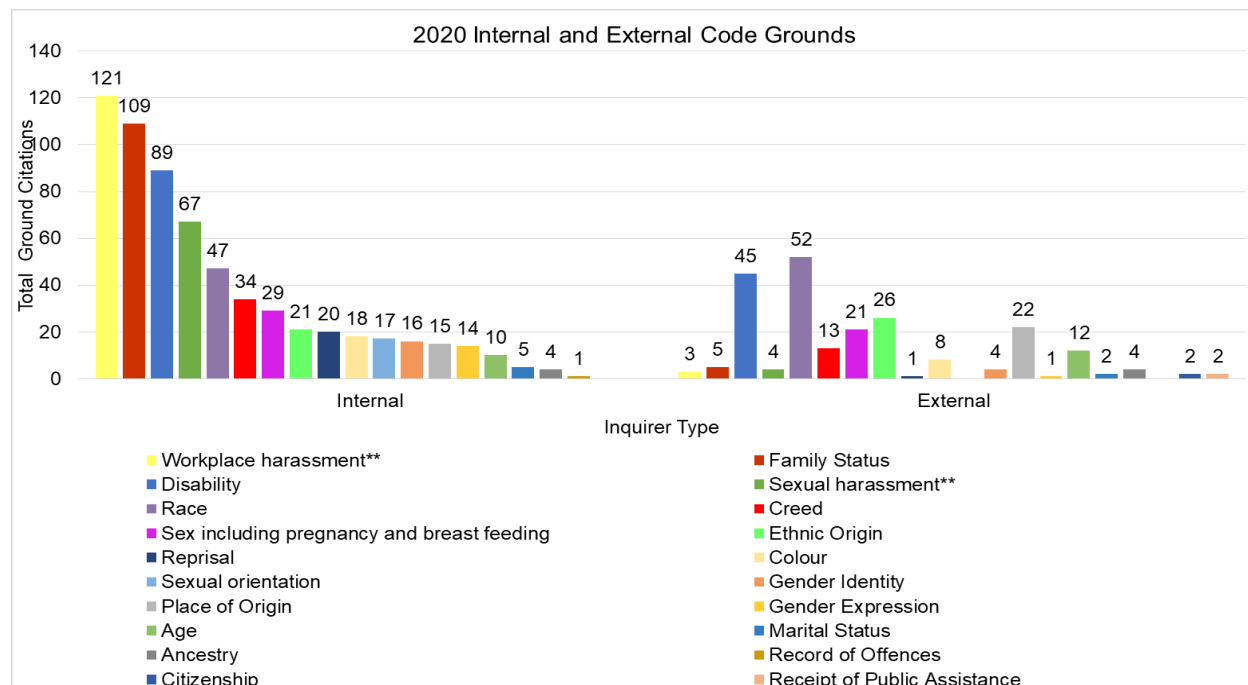
Due to the complex nature of a person's identity (i.e., that people's lives involve multiple interrelated identities) there is frequently a multitude of Code grounds cited in a single inquiry, also referred to as intersectionality. In 2019, 833 HRO inquiries cited 1,123 grounds. In 2020, 1,055 HRO inquiries cited 1,399 grounds.

Figure 4: Total code ground citations for internal and external inquiries in 2019*



*The above figure only include grounds listed in the Ontario Human Rights Code and omits additional HRAP grounds

Figure 5: Total code ground citations for internal and external inquiries in 2020*



*The above figure only include grounds listed in the Ontario Human Rights Code and omits additional HRAP grounds

A further analysis of 2020 Code grounds showed a significant increase in the grounds of family status and race. This is as a result of family status accommodation requests during the first wave of COVID-19, and an influx of complaints related to race as Black Lives Matter movements surged around the world.

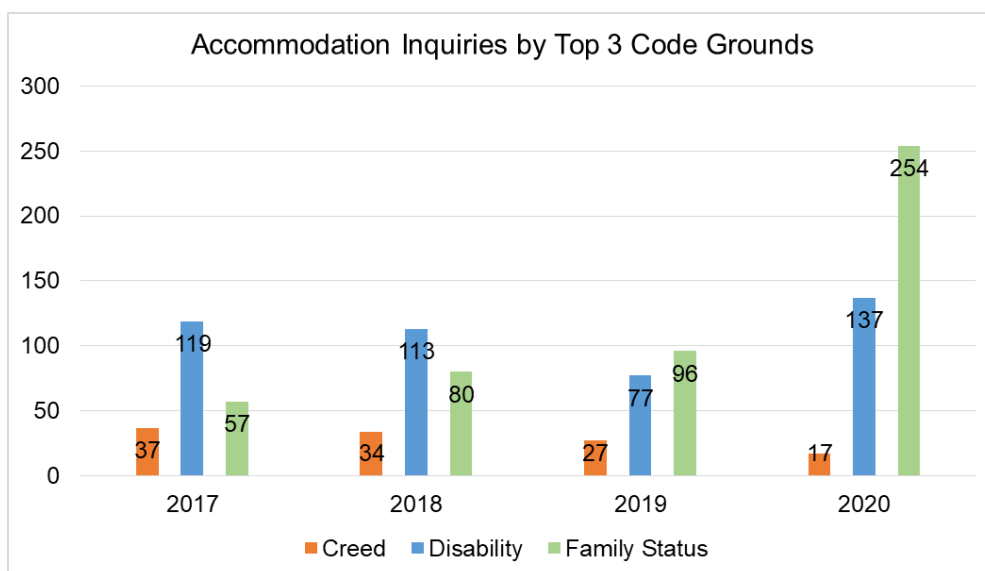
Accommodations

The City of Toronto as an employer and service provider has an obligation to accommodate service users and employees based on Code grounds.

Family status, disability and creed remain the top three most commonly cited accommodation related requests for support (Figure 6).

- In 2019, the HRO saw a decline in the number of disability related requests and an increase in family status requests.
- In 2020, disability citations increased 78 percent and family status citations increased by 165 percent. These increases are primarily due to the demand for COVID-19-related accommodations starting in the second quarter of 2020.

Figure 6: Top three accommodation code grounds for internal and external inquiries 2018-2020



In 2020, accommodation was cited in a total of 423 inquiries to the HRO. Of the 423, 274 cited the change in circumstances related to COVID-19 was the reason for their request. The above chart depicts the top 3 grounds cited in accommodations for both employees and members of the public across the years 2018-2020.

In accordance with the City's Accommodation Policy, employees of the City of Toronto could seek accommodation related to the impact of COVID-19. The HRO saw a spike in disability related accommodations in the days leading to the peak of the first wave in Toronto. During this time, some City staff were being sent home to work remotely and others were redeployed to essential services. Similarly, in April 2020 as schools and care facilities began to close there was a significant strain on individuals with child or eldercare responsibilities or for those who have family members who are considered high risk if infected with COVID-19. As accommodations were put in place to support staff, accommodation requests stabilized with slight increases where conditions changed again (e.g., school re-openings and closures).

To address the influx of accommodation requests from redeployed staff, the People & Equity Division created a temporary cross-sectional Accommodation Team. This team, assessed approximately 1,100 accommodation requests to support essential services.

Employee 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 below, the City received:

- 107 harassment / discrimination grievances in 2019, representing a 26 percent increase from 2018 and 103 harassment/discrimination grievances in 2020.
- Disability and workplace harassment grievances remain the top two cited grounds in 2019 and 2020.

Table 3: Employee harassment and discrimination grievances by ground for 2018-2020

Ground¹	2018	2019	2020
Disability (failure to accommodate)	9	30	44
Disability (discrimination - code)	1	1	7
Sex (includes sexual harassment)	4	2	-
Race	1	-	-
Creed/Religion	-	-	-
Family Status (failure to accommodate)	1	5	17
Family Status (discrimination - code)	1	1	-
Workplace Harassment	43	44	27
Tied to Discipline²	3	1	2
Ground not identified³	22	23	6
Total:	85	107	103

¹ This chart reflects only Code 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

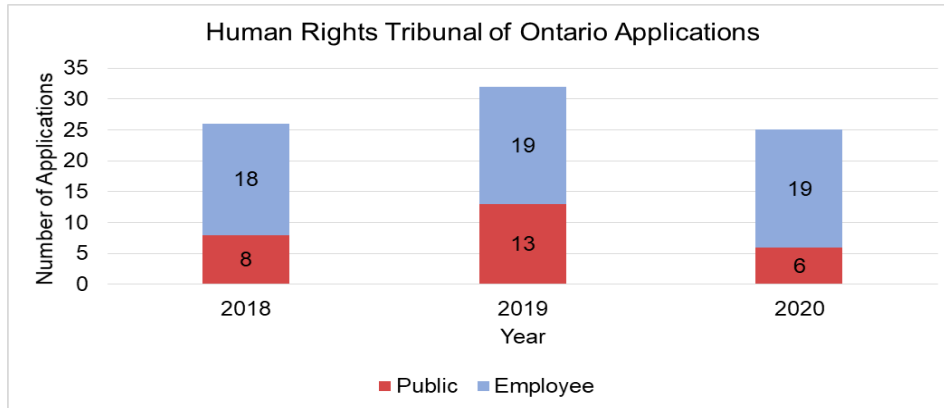
Service recipients and employees have a legal right to file human rights complaints, referred to as 'Applications', directly to the Human Rights Tribunal of Ontario (HRTO). The Legal Services Division is responsible for representing the City's interests at HRTO hearings.

- The Legal Services Division reported receiving 32 HRTO Applications filed in 2019, of which 19 were filed by employees and 13 by members of the public.
- The number of Applications made to the HRTO naming the City as a respondent increased 23 percent in 2019 as compared to 2018. However, in 2020 the number of Applications filed decreased and were similar to those in 2018.
- In 2020, employee Applications remained at 19 but service recipient Applications decreased over 50 percent from 13 to 6. Reduced interactions between the City and service recipients as a result of COVID-19 closures may have played a role in this decrease.

Employees and service users may initiate a legal process directly with the HRTO. In these instances, the HRO is not usually made aware of the issue and there is no opportunity for the HRO to assist or provide any alternative dispute resolution options.

In 2019, the most commonly cited grounds in HRTO Applications where the City was named as a respondent were disability, race, ethnic origin, and reprisal. In 2020, the most commonly cited grounds at the HRTO were disability, reprisal, sex, race, place of origin, and ethnic origin. As in previous years, there were no decisions made against the City as a result of HRTO Applications between 2019 and 2020. Due to the lengthy process of the HRTO these numbers may not reflect Applications made in current years, but likely reflect Applications made in previous years.

Figure 7: Applications to the Human Rights Tribunal of Ontario for 2018-2020



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

Filing a complaint with the Ministry of Labour, Training and Skills Development (MLTSD) is a mechanism available under the Occupational Health and Safety Act (OHSA) for employees based on non-code workplace harassment and sexual harassment. In 2019, The MLTSD made one visit related to a non-code workplace harassment complaint from a City employee. An ensuing investigation resulted in no orders being issued. In 2020, the MLTSD also had one visit related to a non-code workplace harassment complaint, and a follow-up visit took place to determine that the City was making progress in addressing the complaint.

Ensuring legislative and policy compliance

Human Rights and Anti-Harassment/Discrimination Policy

In 2019, the Human Rights and Anti-Harassment/Discrimination Policy (HRAP) was reviewed as required by the *Occupational Health and Safety Act* and no substantive changes were made.

In 2020, the HRO undertook an in-depth review of the HRAP and Complaint Procedures with stakeholders including staff in the People & Equity Division, Legal Services, and the Integrity Commissioner. Minor changes were made to the HRAP to update titles, division names, and ensure internal consistency (Attachment 1). The Procedures were reorganized for ease of use and additional direction for internal investigations and updates to the role of the Integrity Commissioner were included in the changes.

To better support the organization, the HRO developed additional resources for managers and staff.

Hate Activity Policy

In 2019 and 2020 the Hate Activity Policy and Procedures were reviewed with stakeholders including Legal Services, People & Equity, and the City Manager's Office. Based on the review, the Hate Activity Policy has been revised to include clear direction that Agencies and Corporations are required to have their own internal policies consistent with the City's Hate Activity Policy (see Attachment 3).

The [Hate Activity Procedures](#) were strengthened to include information on the use of space within the City of Toronto's jurisdiction where a permit was issued as well as outlining steps the City can take where a permit was not issued. The Procedures were further revised to include information on conducting risk assessments where hate activity is suspected. They also highlight possible outcomes where hate motivated incidents occurred such as the involvement of Legal Services, issuing no trespass notices, removal under the Trespass Property Act, and/or contacting Police. The Procedures also make clear that if an employee of the Toronto Public Service breaches the Policy they may be disciplined up to and including termination. Once the Policy is approved by Council, the revised Procedures will be posted and communicated to staff.

Additionally, the Declaration of Compliance with Anti-Harassment/Discrimination Legislation and City Policy (Attachment 5) was simplified to ensure that individuals and groups who obtain contracts, permits, or grants from the City more clearly understand their obligations to comply with City policy and legislated obligations. It more clearly stated (as set out in both the HRAP and Hate Activity Policy) that signing the Declaration is a pre-requisite for approval of permits, contracts, or agreements with the City. The Declaration was also revised to set out that there may be consequences for failure to comply with the Declaration beyond the cancellation of the contract, agreement, or permit.

Building organizational capacity through education is an important part of ensuring that all members of the Toronto Public Service are knowledgeable of their rights and responsibilities in preventing, addressing and resolving human rights concerns.

Looking forward and opportunities to embed human rights in City practices

The City continues to be a leader in advancing human rights through its robust policies and programs. The City's internal complaint process through the HRO's neutral role has proven to be both a viable alternative to more adversarial and formal complaint avenues and an effective means to advance equity and inclusion.

The HRO remains committed to improving efficiency and is moving from a manual complaints management process to an electronic case management system that will allow for improved management of complaints and investigations. This project was delayed due to COVID-19 priorities at the City, but is expected to launch in 2021.

In addition, in an effort to support divisions in taking a more proactive approach to promoting human rights and embedding equity and reconciliation, the People & Equity Division conducted a detailed analysis of data trends from human rights complaints and other sources. The results of that analysis have been used to make recommendations and offer additional support to select divisions.

The City's commitment to human rights, inclusion and equity is reflected in its motto and in two of the Toronto Public Services' culture themes: "being respected, empowered and valued" and "embracing diversity and inclusion". Building organizational capacity through education is an important part of ensuring that all members of the Toronto Public Service are knowledgeable of their rights and responsibilities in preventing, addressing and resolving human rights concerns.

In 2019, under the Toronto for All equity, reconciliation and inclusion educational program, the HRO developed an eLearning course "Human Rights 101" to ensure staff have accessible and appropriate instruction in accordance with legislative requirements. This course is foundational to establishing a positive and respectful workplace and became part of the management onboarding curriculum in 2019. In 2020, the HRO developed an Accommodation Framework to support Transitioning Employees, as well information on employee rights and responsibilities to prevent, address, and respond to Anti-Black Racism. In an effort to support employees and managers during COVID-19, the HRO developed various tools, and guidance documents related to accommodations and the impacts of COVID-19 on human rights and equity. Additional human rights courses for employees and managers will be rolled out in 2021 and 2022.

CONTACT

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SIGNATURE

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Chief People Officer

ATTACHMENTS

Attachment 1: Summary of changes to Human Rights and Anti-Harassment/Discrimination Policy
Attachment 2: Summary of changes to Hate Activity Policy
Attachment 3: Amended Human Rights and Anti-Harassment/Discrimination Policy
Attachment 4: Amended Hate Activity Policy
Attachment 5: Declaration of Compliance with Anti-Harassment/Discrimination Legislation & City Policy

Attachment 1: Summary of changes to Human Rights and Anti-Harassment/Discrimination Policy

Nature of Change	Location of change
Amended grammar or other errors	Policy statement, 2.0, 3.0, 3.7, 4.3, 4.9, 4.11, 4.12, 4.13, 4.14, 5.0, A12
Updated titles and names	3.1, 3.6, 3.8, B5, B6
Added relevant policies	End of Document
Moved text	Moved from 4.13 to 4.10
Clarified application to all internal investigations by removing reference to formal and informal	3.1, 3.6
Updated pending review date	End of Document

Attachment 2: Summary of changes to Hate Activity Policy

Nature of Change	Location of change
Updated for clearer language and grammar	Policy statement, Interpretation, The Law
Included reference to other relevant legislation not previously covered	Policy statement
Added clarification that Agencies and Corporations require policy consistent with City	Application
Added clarification on application of policy	Application, Use of Public Facilities
Updated data to most current Hate Crimes Report from Toronto Police Services (2019)	Background Information
Updated review date	End of Document