



13-14 Human Rights

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Rationale

The Toronto Police Service (Service) is committed to the protection and promotion of human rights in both the workplace and in the delivery of police services. The Service is dedicated to providing work environments and policing services that are fair, respectful and unbiased.

The Ontario *Human Rights Code* (*Human Rights Code*) states that every person has a right to equal treatment with respect to employment without discrimination or harassment because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

The right to “equal treatment with respect to employment” applies to every aspect of the workplace environment and employment relationship.

This procedure outlines the process for reporting any incident where it is alleged a member contravened the *Human Rights Code*. This procedure also provides direction for the handling of complaints containing an allegation that a member contravened the *Human Rights Code*, which are received internally as conduct complaints or received directly from the Human Rights Tribunal of Ontario (HRTO).

Procedure

This procedure applies to the conduct of all Service members in the performance of their duties. This procedure also applies to the off-duty conduct of all members wherein participation in any off-duty activity is by virtue of their status as a Service member.

Ontario *Human Rights Code*

The *Human Rights Code* prohibits actions that discriminate based on a prohibited ground in a protected social area.

The following are the *Human Rights Code* prohibited grounds:

- Age;
- Ancestry;
- Colour;
- Race;
- Citizenship;
- Ethnic origin;
- Place of origin;

- Creed;
- Disability;
- Family status;
- Marital status (including single 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.

The following are the *Human Rights Code* protected social areas:

- Accommodation (housing)
- Contracts
- Employment
- Goods, services and facilities
- Membership in vocational associations and trade unions

Discrimination and/or Harassment

Harassment means engaging in a course of vexatious comments or conduct that is known or ought reasonably to be known to be unwelcome. Harassment can include a one-time incident or repeated incidents.

Examples include, but are not limited to, the following:

- any action, verbal or physical, that expresses or promotes intolerance, prejudice, discord or hatred based on any prohibited ground under the *Human Rights Code*;
- unwelcome or offensive comments, remarks, innuendos, banter, teasing, gossip or joking that is based on any prohibited ground under the *Human Rights Code*;
- unwelcome inquiries, questions or comments about an individual based on any prohibited ground under the *Human Rights Code*;
- offensive written or visual material, like graffiti or degrading pictures, based on any prohibited ground under the *Human Rights Code*;
- using bias or stereotypes in language or other forms of communication;
- threats, intimidation or physical force based on a prohibited ground under the *Human Rights Code*;
- condescending, paternalistic or patronizing behaviour based on a prohibited ground under the *Human Rights Code*;
- refusal to work or co-operate with a member based on any prohibited ground under the *Human Rights Code*;
- unwanted attention of a repetitive, derogatory or abusive nature;
- any unwelcome physical contact;
- implied or expressed promise of reward for complying with a sexually oriented request;
- implied or expressed threats or penalty for failure to comply with a sexually oriented request;
- unwelcome staring, obscene or offensive gestures;
- persistent unwanted contact or attention after a personal relationship has ended;
- misgendering trans and gender variant people, and failure to use chosen name and pronouns; and
- exclusion, ignoring and other “by omission acts”

Steps taken by a supervisor as part of performance management or discipline are not harassment.

Duty to Accommodate

The Service acknowledges its obligation and responsibility, short of undue hardship, to provide accommodated work to its members, for reasons related to a prohibited ground covered under the *Human Rights Code*.

For accommodation requests, both medical and non-medical, members shall refer to Procedure 08–13.

Freedom from Reprisal

Every member of the Service has a right to claim and enforce their rights, to provide evidence and to participate in proceedings without reprisal or threat of reprisal.

Members shall not harass, intimidate, retaliate or threaten to retaliate against any person who makes a report or complaint about their conduct or the conduct of another Service member.

Any member who, in good faith, reports a breach of Service or Legislative Governance or an act of misconduct shall not be subject to reprisal for making such report.

Confidentiality

Members who, by virtue of their positions, are privy to information or in possession of documentation pertaining to a complaint shall hold such information in strict confidence. This shall include refraining from discussions or releasing information, in any form, beyond that outlined in this Procedure, or as required by law.

Section 1: Human Rights Complaint Procedure for Service Members

Member

1. When reporting any incident where it is alleged that another member contravened the *Human Rights Code* may
 - initiate an internal complaint per the direction contained within Procedures 13-03 and 13-09, as applicable, and/or
 - initiate a Human Rights Complaint directly with the Human Rights Tribunal of Ontario (HRTO)
 - ➔ *Complaints can be mailed directly to the HRTO (<http://www.sjto.gov.on.ca/hrto/>). The Human Rights Legal Support Centre (<http://www.hrlsc.on.ca/>) is available for assistance and information.*

Supervisor

2. When receiving an internal complaint containing an allegation that a member contravened the *Human Rights Code* shall
 - comply with Procedures 13–03 and 13–09, as applicable
 - ensure the complainant and any witnesses are protected from reprisal
 - ensure the workplace is not poisoned/toxic

Unit Commander

3. When receiving an internal complaint containing an allegation that a member contravened the *Human Rights Code* or upon being notified by a supervisor of such complaint shall
 - ensure compliance with item 2
 - consider consulting with Equity, Inclusion & Human Rights
4. When resolving a complaint containing an allegation that a member contravened the *Human Rights Code* shall
 - comply with Procedures 13–04, 13–05 and 13–09, as applicable
 - consider consulting with Equity, Inclusion & Human Rights

Unit Commander – Equity, Inclusion & Human Rights

5. The Unit Commander – Equity, Inclusion & Human Rights shall ensure members are provided guidance and made aware of the resources available regarding an alleged violation of a prohibited ground under the *Human Rights Code*.

Section 2: Complaints Received from the Human Rights Tribunal of Ontario

Complaints received directly from the HRTO are generally mailed to a Service facility. These documents may be addressed to the Service, the Chief of Police, a Unit Commander and/or a specific member. It is important that these documents are sent immediately to Legal Services and that no member shall deal directly with the HRTO.

Member

6. When the respondent in an HRTO complaint shall
 - record on the reverse side of the original document
 - their name, rank/position, employee number, and unit
 - the date, time and location received
 - their signature
 - immediately send a copy of the document to Legal Services by TPS eFax
 - advise and provide a copy of the documents to their supervisor
 - may retain a copy of the document
 - forward the original document to Legal Services
 - not respond directly to the HRTO

Supervisor

7. Upon becoming aware that a member is the respondent in an HRTO complaint shall
 - ensure the member has complied with item 6
 - forward the copy of the documents to the respondent's Unit Commander
 - ensure that the complainant and any witnesses are protected from reprisal
 - ensure the workplace is not poisoned/toxic
 - not respond directly to the HRTO

Unit Commander

8. Upon becoming aware that a member is the respondent in an HRTO complaint shall
 - ensure compliance with items 6 and 7
 - review and file the documents in the unit file
 - ensure that the complainant and any witnesses are protected from reprisal
 - ensure the workplace is not poisoned/toxic
 - not respond directly to the HRTO

Unit Commander – Legal Services

9. The Unit Commander – Legal Services shall
 - manage the intake, administration, co–ordination and maintenance for all HRTO complaints where the Service and/or members are respondents
 - ensure all HRTO complaints data are entered into Professional Standards Information System (PSIS)
 - assign HRTO complaints as follows
 - all employment-related HRTO complaints shall be assigned to Labour Relations for response and case management
 - all HRTO complaints regarding the delivery of police services shall remain with Legal Services for response and case management
 - ensure guidance is provided to members, supervisors and Unit Commanders regarding HRTO complaints regarding the delivery of police services
 - ensure monthly reports are made to the Toronto Police Services Board (Board) on the status of all HRTO complaints regarding the delivery of police services

Unit Commander – Labour Relations

10. The Unit Commander – Labour Relations shall
 - manage all employment–related HRTO complaints assigned from Legal Services
 - ensure guidance is provided to members, supervisors and Unit Commanders regarding employment-related HRTO complaints
 - ensure monthly reports are made to the Board on the status of all employment–related HRTO complaints

Supplementary Information

Governing Authorities

Federal: Constitution Act, Part I, Canadian Charter of Rights and Freedoms.

Provincial: Accessibility for Ontarians with Disabilities Act; Human Rights Code; Occupational Health & Safety Act; Police Services Act – Part V, Complaints and Disciplinary Proceedings; Police Services Act, O.Reg. 268/10 – Part VII, Code of Conduct.

Municipal: Toronto Municipal Code, Chapter 219, Article I, Records Retention Schedule.

Associated Governance

TPSB Policies: Adequacy Standards Compliance Policy - Part 2 V AI-003/AI-016 Equal Opportunity, Discrimination and Workplace Harassment, Violence and Sexual Harassment Prevention; Board Policy - Conduct of Service Members; Board Policy - Human Rights; Board Policy - Race and Ethnocultural Equity Policy.

TPS Procedures: 08–13 Workplace Accommodation; 13–03 Uniform Internal Complaint Intake/Management; 13–04 Uniform Unit Level Discipline; 13–05 Police Services Act Hearing; 13–09 Civilian Complaint and Discipline Process.

Other: 1.9.2 Standards of Conduct – Respect for Gender Diversity and Trans-Inclusive Policing.

Forms: TPS 649 Internal Correspondence.

Definitions

For the purposes of this Procedure, the following definitions will apply:

Complainant in reference to human rights complaints means the person initiating a *Human Rights Code* complaint.

Discrimination means any distinction, conduct or action, either by intention or not, on the basis of any prohibited ground under the *Human Rights Code*, which has the impact of excluding persons, denying benefits or imposing burdens on an individual or group, which are not imposed on others or which withholds or limits access to benefits available to others.

Gender: the set of socially classified behaviours, attitudes and norms associated with and roles of men, women, trans people, non-binary people and more. Encompasses gender identity, a person's internal sense of being a man, woman, both or neither.

Gender Expression is how a person publicly presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common and important ways of expressing gender.

Gender identity is each person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along or beyond the gender spectrum. A person's gender identity may be the same as or different from the typical pairing with their birth-assigned sex. Gender identity is fundamentally different from a person's sexual orientation.

Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

[Source: ss. 10(1), *Human Rights Code*]

Human Rights Complaint means an alleged violation of a prohibited ground under the *Human Rights Code*.

Human Rights Tribunal of Ontario (HRTO) means the independent provincial government agency who receives *Human Rights Code* complaint applications and assists parties to resolve complaints through mediation and/or a hearing.

Internal Complaint means an allegation from internal sources concerning the conduct of a police officer, or the policies or the services provided by the Toronto Police Service.

Internal Complaint – Civilian in reference to the civilian complaint and discipline process means an allegation from internal sources concerning the conduct of a civilian member, or the policies or the services provided by the Toronto Police Service.

Offensive Material means the possession, reproduction, circulation, dissemination, publication or posting of any material that may be considered harassment under the *Human Rights Code* in any area of a Toronto Police Service facility.

Ontario Human Rights Commission (OHRC) means an independent government agency that provides leadership for the promotion, protection and advancement of human rights and builds partnerships across the human rights system (but does not receive *Human Rights Code* complaints).

Poisoned/Toxic Environment is created in a workplace when harassment or discrimination creates a hostile, negative, intolerable environment as assessed by a reasonable, objective observer. A poisoned/toxic environment can interfere with and/or undermine work performance, and can cause emotional and psychological impacts. As such, it results in unequal terms and conditions of employment, and prevents or impairs full and equal enjoyment of employment, benefits, or opportunities. It often involves severe, wrongful behaviour that is persistent or repeated, but a single, stand-alone incident can amount to a poisoned/toxic environment if it is particularly egregious. Service providers must also take steps to also ensure that any environment where they are providing a service to the public is not poisoned or toxic.

Prohibited Grounds means the protected grounds under the Ontario *Human Rights Code* for which a person cannot discriminate. These include: age, ancestry, citizenship, colour, creed, disability, ethnic origin, family status, gender expression, gender identity, marital status (including single status), place of origin, race, receipt of public assistance (in housing only), record of offences (in employment only), sex (including discrimination based on pregnancy and breastfeeding), and sexual orientation.

Racially Biased Policing occurs when a member of a police service inappropriately considers race or ethnicity in deciding how and with whom to intervene in an enforcement capacity. Racial Biased Policing includes racial profiling.

Respondent – Human Rights Complaint means the member who is the subject of a *Human Rights Code* complaint.

Sex: the classification of people as male, female or intersex based on a specific combination of reproductive organs, chromosomes and hormones and assigned at birth based on observation of a person's genitals.

Stereotyping means that particular roles and characteristics are attributed to people on the basis of a prohibited ground under the *Human Rights Code*.

Systemic Discrimination means organizational policies or practices that create or perpetuate a position of relative disadvantage for some individuals/groups, on the basis of prohibited grounds.

Trans: is an umbrella term referring to people with diverse gender identities and expressions that differ from their assigned sex at birth. It includes but is not limited to people who identify as transgender, trans woman (someone assigned male at birth who knows themselves to be a woman), trans man (someone assigned female at birth who knows themselves to be a man), non-binary, gender non-conforming, gender variant or gender queer. Some people may consider two-spirit to be a trans identity. Trans persons may or may not make a social transition, have surgery, use prosthetic devices or take prescription medications (such as hormone therapies) to affirm their gender identity. They may or may not have identity documents that reflect their lived identity.

We are dedicated to delivering police services, in partnership with our communities, to keep Toronto the best and safest place to be.

Learn more about our Service Core Values and Competencies [here](#)

