

The Human Rights-Based Approach Framework



A Guide to Policy and
Program Development



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

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The Ontario *Human Rights Code* (Code)

The Ontario [*Human Rights Code*](#) is for everyone. It is a provincial law that gives everybody equal rights and opportunities without discrimination in areas such as jobs, housing, and services. The *Code*'s goal is to prevent discrimination and harassment because of 17 protected grounds, in five social areas.

Protected grounds	Protected social areas
<ul style="list-style-type: none">• 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)• Sexual orientation	<ul style="list-style-type: none">• Accommodation (housing)• Contracts• Employment• Goods, services, and facilities• Membership in unions, trade, or professional associations

The *Code* was one of the first laws of its kind in Canada. Before 1962, various laws dealt with different kinds of discrimination. The *Code* brought them together into one law and added some new protections. The *Code* has primacy and all other Ontario laws must agree with the *Code*.

The preamble of the *Code* provides that, “it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination”. To comply with the *Code*, public policy must consider the human rights of the people in Ontario.

Why use the HRBA Framework?

The *Code* prohibits discrimination with respect to housing, employment, services, including government services, and recognizes that discrimination can result from a failure to consider the differing needs and circumstances of *Code*-protected groups.

Policy and program decisions that fail to consider unequal burdens and systemic discrimination faced by *Code*-protected groups create risk of a *Code* violation.

For example, it is well-established that *Code*-protected groups were disproportionately burdened by the COVID-19 pandemic. In many instances, pre-existing barriers and disadvantages have been perpetuated or exacerbated by COVID-19. In this context, policy and program decision-makers should have a heightened awareness of the need for programs and policies to benefit *Code*-protected groups equally.

The HRBA Framework is a web-based tool that supports duty holders such as, municipal, and provincial governments, service providers and employers to design and develop policies and programs that meet these *Code* obligations. The HRBA Framework can also be used by advocates and researchers to help bring a human rights lens to their campaigns and projects. While the HRBA Framework will support your organization in meeting your human rights obligations, it does not replace receiving legal advice where necessary.

What is a human rights-based approach (HRBA)¹?

A human rights-based approach is derived from international and domestic human rights obligations and is used to promote and protect human rights in policy and program development. At the heart of a human rights-based approach is the recognition that inequality and marginalization deny people their human rights and often keep them in poverty.

A human rights-based approach seeks to analyze inequalities and redress discriminatory practices. It empowers the most marginalized communities (rights holders) by supporting their participation and inclusion in program or policy development and strengthens the capacity of government policy and decision makers (duty holders) to respect, protect and fulfill their legal human rights obligations.

It ensures that program or policy development, implementation, management, and ongoing monitoring consider human rights principles and goals including equality and non-discrimination, participation of impacted groups, and oversight and accountability.

What are the potential outcomes of applying the HRBA Framework?

1. The requirement to meet human rights obligations will permeate the entire program and policy development cycle.
2. Policies and programs will account for pre-existing sources of discrimination and inequitable conditions.
3. Vulnerable groups will benefit equally from policies and programs.
4. Policies and programs will address structural-level inequalities that interfere with human rights and will avoid adversely impacting *Code*-protected groups.

¹ For more on HRBA, see Government of Canada's fact sheet [here](#) and the United Nations Sustainable Development group paper [here](#).

The HRBA Framework

The following human rights-focused questions and considerations support users to think differently. Understanding human rights obligations, both procedural and substantive, is a gateway to building policies and programs that meet the human rights of all Ontarians.

Stage one: Context analysis – Identifying the human rights context of your initiative

What are the main program or policy challenges your initiative seeks to address?

What human rights issues are engaged by the program or policy?

How will this initiative respect and uphold the rights of First Nations, Métis, and Inuit (Indigenous) Peoples, e.g., Jordan's Principle

What historical and current factors underlie gaps or present challenges to effectively addressing those gaps?

Will the initiative require the use of a population-specific equity tool, e.g., a tool that focuses on disability?

Stage two: Undertaking research & analysis – Conducting research and analysis that considers and reflects human rights obligations

Does any current research/analysis identify potential barriers / systemic discrimination that may impact the ability of vulnerable and *Code*-protected groups to benefit from the initiative?

Does your research/analysis consider government and non-governmental sources of socio-demographic data collected in this program or policy area, e.g., data arising from comparable initiatives in other jurisdictions?

Does your research/analysis include the perspectives of human rights experts and people with lived experience?

Stage three: Planning engagement – Working with impacted communities to develop an engagement process that works for everyone

Have you built in time, adequate funding, and flexibility to allow for effective engagement throughout the policy or program development process?

Have you considered which communities will be specifically impacted and the extent to which a more individualized approach is necessary based on the unique circumstances of these communities?

How will you reach individuals and groups who have been disproportionately impacted by past policies and programs in this area and who can provide knowledgeable input about barriers, e.g., lived experts and frontline service providers?

What is your organization's current relationship with the communities you are working with?

Do you have a specific and tailored plan to engage First Nations, Inuit, and Métis communities?

Stage four: Developing options & recommendations - Proposing options and recommendations that respond to the rights, needs and perspectives of communities identified during research and engagements

Do any options/recommendations include unintentional barriers preventing *Code*-protected groups from accessing the program or service and reaping equal benefits?

Do the options/recommendations mandate the collection of socio-demographic data? And how will it use that data to inform decision-making and evaluate outcomes for the options/recommendations?

How do the options/recommendations seek to address the root causes of systemic discrimination in this area?

Do the options/recommendations address the specific needs of First Nation, Inuit, and Métis communities?

Stage five: Seeking approvals - Decision makers have confidence in a recommended approach that thoroughly considers and addresses human rights obligations

Do your approval documents demonstrate how human rights were considered/addressed?

Were there outstanding human rights issues you were unable to address and are they identified in your documents?

Are there unintentional barriers for *Code*-protected groups being created by this decision that you were unable to address and why?

Stage six: Implementing programs & services – Upholding human rights in service delivery and implementation

What mechanisms are in place to ensure that your initiative is delivering the intended benefits to all participants, including groups protected by the *Code*, and that any barriers can be identified and addressed?

Is your public communication inclusive, accessible, and provided in multiple languages where needed?

How will the data be collected and shared back with communities in culturally sensitive and ethical ways?

Stage seven: Monitoring & evaluation - Monitoring/evaluation frameworks to assess the human rights' impacts of the initiative

How will you monitor for potential disparate impacts? And what information will you rely on to inform decision-making and evaluate outcomes?

How will your monitoring and evaluation process document steps taken to assess, mitigate or remove any barriers that have been identified?

Would the monitoring/evaluation benefit from the involvement of impacted and *Code*-protected communities and organizations in designing, carrying out and or commenting on the evaluation?