

Top of mind – an update on human rights and mental health



World Mental Health Day happens on October 10th each year, to raise awareness about mental health issues worldwide. To mark this day, the Ontario Human Rights Commission (OHRC) offers this update to let you know about our work to advance human rights for people with mental health and addiction disabilities.

In Ontario, people with mental health and addiction disabilities are protected from discrimination by the Ontario *Human Rights Code* (the *Code*) under the ground of “disability”. Yet they still face negative attitudes, stereotypes and discrimination in employment, housing, services and other areas.

Discriminating against someone because of a disability – including a mental health or addiction disability – is against the law. By developing a policy, educating the public, doing public interest inquiries, and through tribunals and courts, we are identifying and trying to remove the barriers many people with mental health and addiction disabilities face.

Here's what we have done so far...

Listening and learning about discrimination

During the winter and spring of 2011, we held a wide-scale consultation on human rights and mental health and addictions. This included eight town hall meetings in four cities across the province, in-depth interviews, nine focus groups and a public survey.

We received more than 1,450 written and verbal submissions from people with mental health issues, people with addictions, advocates, families and organizations, making it the biggest-ever response to an OHRC consultation. We are now analyzing this wealth of information, and will release a consultation report next year. The knowledge we have gained from this process will help define our future work on mental health and addiction as we develop a formal policy.

More info:

- [Public consultation paper: Human rights and mental health strategy](#)
- [Human rights and mental health research and policy consultation paper](#)

Police record checks guideline eliminates mental health descriptions

On July 25, 2011, the Ontario Association of Chiefs of Police (OACP) released its Guideline for Police Record Checks. This new guideline shows police services how to conduct police record checks for people seeking either work or volunteer opportunities.

The OHRC worked with the OACP to provide a human rights perspective, and to outline protections under the *Code* for persons with disabilities, with a focus on people with mental health issues. The OHRC got involved with the project after learning about the unfair impact of police records checks on people with mental health disabilities who have had non-criminal contact with police.

A more detailed look at the OHRC's concerns is set out in a letter written to the OACP in March 2011. This letter emphasized the need to balance the privacy and human rights of persons with mental health and addictions disabilities with community safety. The OHRC supports the new guideline as an important step to get this balance.

More info:

- [OACP press release](#)
- [Guideline for Police Record Checks](#)
- [OHRC letter to OACP](#)

Zoning land, not people

On February 23, 2010, The [Dream Team](#) and the Human Rights Legal Support Centre launched human rights applications against the municipalities of Toronto, Kitchener, Sarnia and Smiths Falls, because each had zoning bylaws that required minimum separation distances between group homes. The Dream Team, a group of psychiatric consumer/survivors, is a long-time advocate for more supportive housing in Ontario. They're concerned that the bylaws in question create unfair barriers to safe, secure and affordable housing for people living with mental health-related disabilities.

Concerns about affordable housing projects must be based on legitimate land-use planning, and not on stereotypical assumptions about the people who will live there. When policies or practices are directed at, or disproportionately affect, *Code*-protected groups, they may violate the *Code*.

Minimum separation distances, when not about proper land use zoning, can result in people zoning, which is against the law. These imposed distances may be discriminatory because they limit housing opportunities for vulnerable people, such as people with mental health and addiction issues.

In March 2011, the OHRC intervened in these cases, and continues to be involved.

Results to date:

- The Dream Team and Human Rights Legal Support Centre successfully settled their complaint with the City of Sarnia, which agreed to remove the discriminatory zoning requirements from its bylaws.
- The OHRC is involved in mediation with the City of Smith Falls and the City of Kitchener.
- The application against the City of Toronto is in its preliminary stages with the Human Rights Tribunal of Ontario. The Tribunal recognized the OHRC's legislated right to be a party, despite the City of Toronto's objections.



Special Diet Allowance cases

In 2008, the OHRC referred almost 200 individual complaints against the Special Diet Allowance Program to the Human Rights Tribunal.

The program is part of Ontario's social assistance system. It was designed to help people with extra costs for therapeutic diets prescribed by their health care professionals.

The Tribunal considered three "lead" complaints first. Its plan was to then apply the legal and evidence principles to the remaining cases. On February 17, 2010 the Tribunal released its decision in the lead cases. The Tribunal found that for each of the three applicants, the Special Diet Allowances violated the *Human Rights Code* and discriminated based on disability, because the program excluded certain medical conditions or provided relatively unequal amounts for other conditions.

In these decisions, the Tribunal set out guidelines that would apply to the roughly 150 outstanding cases. To be successful, complainants will have to show three things:

- They have a medical condition
- There is a dietary treatment for that condition that is "recognized by the Ontario medical community"
- The dietary treatment results in costs above the cost of a basic healthy diet.

The OHRC, together with community legal clinics, continues with these legal proceedings at the Tribunal to enforce the Tribunal's order to ensure people with certain medical conditions, including people with alcohol dependency and people with schizophrenia who are taking second generation medication, receive extra support.

Hearings resume at the Tribunal in January 2012.

Teaming up with Mental Health Works

Mental Health Works (MHW) is a program of the Canadian Mental Health Association (CMHA) that works to address mental health issues in employment. MHW offers presentations, training and workshops for employers across Canada on a range of topics, including:

- Talking with employees about mental health problems and addictions
- Promoting awareness of mental health issues in the workplace
- Overcoming workplace stress
- Employers' rights and responsibilities relating to mental health in the workplace.

MHW and the OHRC worked together to include human rights concepts in its training materials and resources. We reviewed curriculum and training slides to make sure that concepts such as discrimination, harassment and the duty to accommodate were clear



and consistent with the *Code*. MHW is currently incorporating these human rights concepts into their programs and services.

Forum on mental health and employment

On October 21, 2011 the OHRC will take part in a one-day brainstorming session that includes human rights commissions from across Canada, to discuss human rights in employment for people with mental health or addiction disabilities. These commissions all identify discrimination based on mental health as a key area of interest and concern in their jurisdictions.

This event is being hosted by the [Great-West Life Centre for Mental Health in the Workplace](#). This Centre is a public initiative of Great-West Life that supports research and development to improve workplace mental health.

Training Adjudicators on human rights and mental health

The OHRC was pleased to work with the Landlord Tenant Board and the Consent and Capacity Board, as well as the Society of Ontario Adjudicators and Regulators (SOAR) to deliver a one-day training workshop to adjudicators and administrators from over 15 different boards and tribunals.

One goal of the June 2011 workshop was to teach participants about the *Human Rights Code* and how to apply it in Tribunal decisions. The training also explored how tribunals can apply the *Code* when addressing the needs of people with mental health issues and addictions. Anita Barnes from Neighbourhood Legal Services and Pat Capponi from Voices from the Street provided valuable insights into the barriers that people with mental health issues and addictions face during the tribunal process and how these services can be made more inclusive.

The OHRC's presentations can be found at www.soar.on.ca/events/

Continuing to talk about mental health and addictions

OHRC Chief Commissioner Barbara Hall continues to meet and speak with a variety of organizations to share the OHRC's activities and commitment to removing the barriers for people with mental health or addictions disabilities.

Groups she has spoken with in the past few months include the Canadian Society of Association Executives (Trillium Chapter), the Dream Team, the Windsor Regional Staffing Association, the Canadian Mental Health Association and the Ontario Public Service.

Visit www.ohrc.on.ca for more information on human rights, mental health and addictions.

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