



Discrimination and Family Status

Consultation Report and Policy



Key Themes

1. Lack of recognition and support for caregiving
2. Importance of recognizing the diversity of families
3. Workplaces, services must be inclusively designed
4. Role of government in providing adequate supports and setting minimum standards



Key Issues Raised

1. Narrow scope of protection for caregivers
2. Barriers to finding and maintaining employment
3. Duty to accommodate caregiving needs
4. Access to adequate affordable housing



Definition and Coverage

Context

- ◆ **Demographic changes:** aging population, lone parent families, movement of women into paid workforce
- ◆ **Impact of other *Code* grounds:** sex, marital status, disability, age, sexual orientation, race and race-related grounds



Definition and Coverage

Code Definition

- ◆ **Definition:** “the status of being in a parent and child relationship”
- ◆ Many familial/interdependency relationships not protected
 - Cultural diversity in definitions of family
 - “Chosen families” for LGBT individuals
 - Range of caregiving and support networks for older persons and persons with disabilities



Definition and Coverage

Conclusions

1. The narrow *Code* definition has adverse effects on groups identified under *Code* and should be amended
2. Legislation and programs should reflect the needs of the broad range of caregiving relationships currently existing.



Definition and Coverage

OHRC Policy

Family status protects:

- Adult children caring for parents
- Non-biological parent-child relationships
- Parent-child “type” relationships

Sex may protect where:

- gender-related caregiving roles lead to disadvantage

Association may protect:

- Persons providing care for persons with disabilities



Employment

Context

- ◆ Impact of demographic changes
- ◆ Intensification of work
- ◆ Increase in part-time, temporary, contingent work
- ◆ Declining or inadequate social supports for caregivers



Employment

Issues

1. Absenteeism policies and leaves
2. Hours of work
3. Access to alternative work arrangements
4. Treatment of part-time workers
5. Negative perceptions and stereotypes



Employment

Absenteeism Policies and Leaves

- ◆ Rigid attendance management programs that don't take caregiving needs into account may violate the *Code*
- ◆ Employees who require leaves because of family status should be comparably treated to those who require leave for other reasons (e.g., disability, pregnancy)



Employment

OHRC Policy - Hours of Work

- ◆ Inflexible, excessive or unpredictable hours may create barriers
- ◆ Employers may be required to accommodate through flexible or alternative scheduling
- ◆ Workplaces where there is a “culture of hours” can exclude caregivers



Employment

OHRC Policy – Part-time Workers

Persons in part-time work should be equitably treated with respect to access to opportunities, training, and benefits.



Duty to Accommodate

OHRC Policy - When Does a Duty Arise?

Where workplace rules or practices exclude or disadvantage employees who are caring for children or aging parents, employers should take steps to make accommodations, unless to do so would cause undue hardship.



Duty to Accommodate

OHRC Policy – Identifying Accommodation Needs

Consider:

- ◆ What is the nature of the caregiving responsibility? How serious is the conflict with the workplace rule?
- ◆ Is there a rule, policy or practice that may create a barrier for caregivers?
- ◆ What is the availability and adequacy of social supports?



Duty to Accommodate

OHRC Policy – Appropriate Accommodation

Accommodations:

- ◆ Should result in equal opportunity/same level of benefits and privileges
- ◆ Respect dignity and promote inclusion
- ◆ Take into account the practical realities of caregiving



Duty to Accommodate

OHRC Policy – Limits of Accommodation

- ◆ Accommodation need not be provided where it would cause undue hardship
- ◆ The standard for undue hardship is consistent with that taken in the OHRC's *Disability Policy*.



Housing

Context

- ◆ Disproportionate poverty
- ◆ Shortage of adequate affordable housing
- ◆ Pervasive negative attitudes and stereotypes



Housing

Issues

1. Refusal to rent to families with children
2. Adverse impact of rental criteria
 - Income criteria
 - Credit, rental and employment history
3. Occupancy policies
4. Treatment of children's noise



Housing

OHRC Policy – Age Restrictions

- ◆ The *Code* does not permit “adult lifestyle” housing that excludes children
- ◆ Exceptions:
 - preferential treatment for persons age 65 and older
 - special programs to address disadvantage



Housing

OHRC Policy -Income Requirements

Landlords may *not*:

- ◆ Use minimum income cutoffs or ratios
- ◆ Discriminate based on the *source* of income

Landlords may consider income information *if*:

- ◆ Information about credit references and rental history is also considered
- ◆ Assessment is non-discriminatory & *bona fide*



Housing

OHRC Policy -Children's Noise

- ◆ Normal noise associated with children should not be a reason for harassment, eviction or denial of housing
- ◆ Parents should take steps in accordance with good parenting practices to manage noise
- ◆ Landlords should ensure families with children are not harassed, and should take steps to accommodate where necessary.



Roles and Responsibilities

Government

Government has a key role to play:

- ◆ Provide appropriate supports for caregivers
- ◆ Set minimum standards that support the ability of caregivers to participate in the workforce
- ◆ Ensure vulnerable families have access to adequate affordable housing
- ◆ Design its own services inclusively



Roles and Responsibilities

Employers, and Housing and Service Providers

- ◆ Take issues related to family status discrimination seriously
- ◆ Eliminate discriminatory attitudes
- ◆ Design inclusively
- ◆ Identify and remove existing barriers
- ◆ Develop accommodation policies and procedures