Integrating Diversity, Equity and Inclusion into Legal Services



IMLA Conference
October 22, 2022



Overview

- Diversity, Equity and Inclusion can be integrated into all areas of municipal legal practice. From procurement to employment to planning.

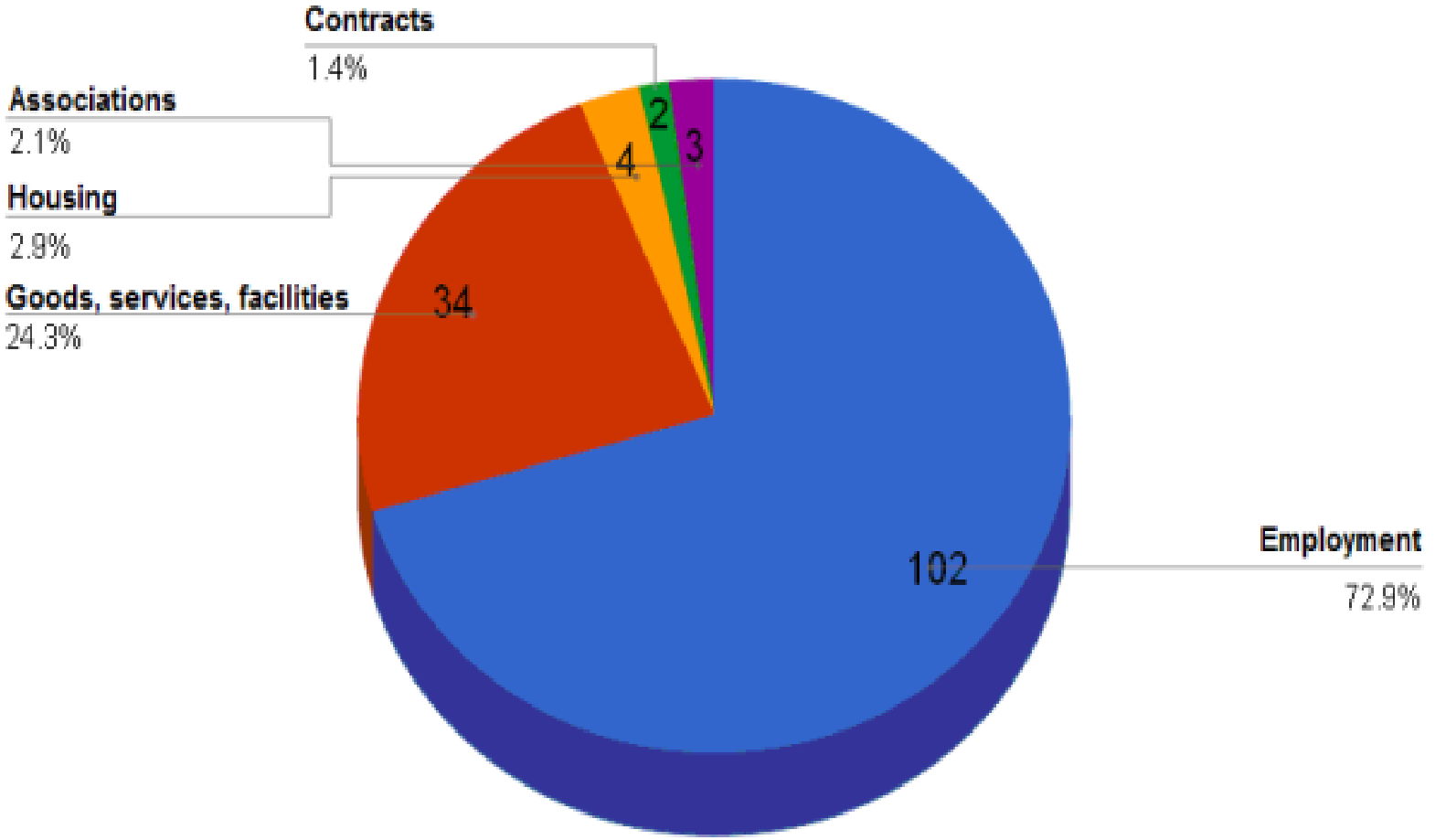
- DEI should be at the forefront of our minds to better assist the municipality become an inclusive place to live and work.

Agents for Change

- Municipal lawyers are a key agent for DEI change and we can have a significant impact on creating inclusive environment.



Background



Source: Ontario Human Rights Commission



What is DEI?

Diversity *refers to the similarities and differences that exist between people and that can impact employment and opportunities and outcomes. Diversity refers not only to similarities and differences linked to personal characteristics such as age, disability, gender, gender identity, ethnicity, race, religion, sexual orientation and people living with HIV but also similarities and differences such as values, workstyles, caring responsibilities, hierarchical levels and work roles.*

Source: ILO, Transforming enterprises through diversity and inclusion



What is DEI?

Equality *focuses on ensuring every person can experience equal opportunities and treatment. .. all persons, regardless of their personal characteristics can participate in and contribute according to their capacity without interference of discrimination or bias. Equality recognizes … that historically, some groups of people have experienced discrimination and that reaching equal outcomes will not be achieved by treating everyone the same.*

Source: ILO, Transforming enterprises through diversity and inclusion



What is DEI?

Inclusion *is relational. It refers to the experience people have and the extent to which they feel valued for who they are, the skills and experience they bring and the extent to which they have a strong sense of belonging. A person's feeling of inclusion is related to their personal characteristics, their own behaviour and that of others and the environment they are in.*

Source: ILO, Transforming enterprises through diversity and inclusion

What is DEI?


Presence of differences
DIVERSITY
Fair access, opportunity, and support
EQUITY
Genuine sense of belonging and value
INCLUSION



Areas


Procurement
Employment
City Services
By-Laws
Planning, Real Estate
Diversity
Equity
Inclusion

Planning and Real Estate

- Planning Act requirements:

"Inclusionary zoning policies
16(4) An official plan of a municipality that is prescribed for the purpose of this subsection shall contain policies that authorize inclusionary zoning by,

(a) authorizing the inclusion of affordable housing units within buildings or projects containing other residential units; and

(b) providing for the affordable housing units to be maintained as affordable housing units over time."

Climate change policies
16(14) An official plan shall contain policies that identify goals, objectives and actions to mitigate greenhouse gas emissions and to provide for adaptation to a changing climate, including through increasing resiliency.

Planning and Real Estate

Accessibility for Ontarians with Disability Act (AODA) and the Integrated Accessibility Standards Regulation (IASR)

29. (1) **The council of every municipality having a population of not less than 10,000 shall establish an accessibility advisory committee** or continue any such committee that was established before the day this section comes into force.

…

(b) review in a timely manner the site plans and drawings described in section 41 of the *Planning Act* that the committee selects; and

(c) perform all other functions that are specified in the regulations.

Duty of council

(5) The council shall seek advice from the committee on the accessibility for persons with disabilities to a building, structure or premises, or part of a building, structure or premises,

(a) that the council purchases, constructs or significantly renovates;

(**Supplying site plans**

(6) When the committee selects site plans and drawings described in section 41 of the *Planning Act* to review, the council shall supply them to the committee in a timely manner for the purpose of the review.

Planning and Real Estate

- Bill 109, *More Homes for Everyone Act, 2022*

	No Refund	50% Refund	75% refund	100% Refund
ZBA	Decision made within 90 days	Decision made within 91 and 149 days	Decision made within 150 and 209 days	Decision made 210 days or later
OPA/ZBA	Decision made within 120 days	Decision made within 121 and 179 days	Decision made within 180 and 239 days	Decision made 240 days or later
SP	Decision made within 60 days	Decision made within 61 and 89 days	Decision made within 90 and 119 days	Decision made 120 days or later

York Region Adopted Official Plan 2022

It is the policy of Council:

- 2.3.3 That communities shall be designed in a manner that fosters ***physical and mental health, facilitates inclusivity and accessibility*** for people of all ages and abilities, and York Region's diverse population.
- 2.3.4 To recognize that well-designed communities positively impact human health.
- …
- 2.3.6 To support and encourage the delivery of human services in a manner that considers the ***diverse needs of residents***, workers and visitors.

York Region Adopted Official Plan 2022

It is the policy of Council:

- 7.1.1 To engage in a timely manner with the public, Indigenous communities, stakeholders and governments to ensure accountable and transparent planning processes that deliver the key objectives and policies of the Plan.

- 7.1.2 To periodically review and ensure that engagement through the planning process is inclusive and reaches diverse communities.

Planning

- State of Oregon – DEI Action Plan
  - *Racial Equity Impact Statements*





SOCIAL PROCUREMENT is the new PROCUREMENT

…for municipalities



Social Procurement

What is social procurement?

Social procurement is defined as a procurement approach whereby social and environmental impact is as decisive as the value of the service and product demanded. The social procurement concept is also referred to as “innovative procurement”, “responsible procurement” or “socially responsible public procurement.”

Source: ILO, *A Roadmap for Reducing Inequalities, Involvement of Disadvantaged Groups in Public Procurements and Supply Chains* 2021



Social Procurement

- "Social procurement can help public organizations put their purchasing dollars to work not just once, but twice by supporting social enterprise and other community benefits, at no extra cost.”



Social Procurement

History

- Late 1800s/early 1900s – federal governments required those entering into contracts with the government to pay minimum wage and follow labour standards

- 1960s U.S. federal government and some states through procurement required respect for civil rights to help end racial discrimination



Social Procurement

Federal Contractor Program (Canada)

FCP requires that organizations who do business with the Government of Canada implement employment equity in their workplace. This includes ensuring their workforce is representative of Canada's labour force with respect to the 4 designated groups under the *Employment Equity Act*:

1. Women
2. Indigenous peoples
3. Persons with disabilities
4. Members of visible minorities



Social Procurement

Federal Contractor Program (Canada)

- FCP applies to organizations that have:
  - a combined workforce in Canada of 100 or more permanent full-time or permanent part-time employees, and
  - received an initial federal government goods or services contract valued at $1 million or more

- The FCP does not apply to:
  - private-sector employers
  - contracts for the purchase or leasing of real property, or
  - construction or legal service contracts



Social Procurement

City of Toronto – Social Procurement Policy

"Equity-seeking Community"
An equity-seeking community is a group that experiences discrimination or barriers to equal opportunity, including women, Aboriginal People, persons with disabilities, newcomers/new immigrants, LGBTQ+ people, visible minorities/racialized people, and other groups the City identifies as historically underrepresented.



Social Procurement

City of Toronto – Social Procurement Policy

"Diverse Supplier"
A diverse supplier is any business or enterprise that is certified by a Supplier Certification Organization to be:
More than 50% (majority) owned, managed and controlled by persons belonging to an equity-seeking community, or
A social purpose enterprise whose primary purpose is to create social, environmental or cultural value and impact, and where more than 50% of the persons who are full-time equivalent employees or are participating in, or have completed, transitional employment training, experience economic disadvantage.



Social Procurement

City of Toronto – Social Procurement Policy

“Supplier Certification Organization”
A supplier certification organization is a non-profit organization recognized by the City of Toronto that certifies businesses and enterprises as diverse suppliers by assessing them using established, consistent criteria.



Social Procurement

City of Toronto – Social Procurement

- "The Social Procurement Program will:
  - increase the diversity of companies and provide equal opportunity for those businesses wishing to bid on City contracts
  - encourage companies already doing business with the City to work with diverse suppliers and suppliers who provide community benefits
  - increase the number of employment, apprenticeship and training opportunities for those living in poverty, newcomers and youth"



Social Procurement

- Trends from Municipalities Across North America
    - Reviewing and seeking input from stakeholders on diversity
    - Supplier demographic information
    - Focused procurement e.g. Indigenous community



Procurement

- Encouraging bids from diverse groups
- Points for diversity bids / proposals
- Declaration for Human Rights (Anti-Discrimination
- Develop Supply Chain/Subcontractor Diversity policies

Employment

- City’s employment
  - Statistics on hiring candidates and employees
- Recruitment Policy
- Diversity for leadership
- Policies



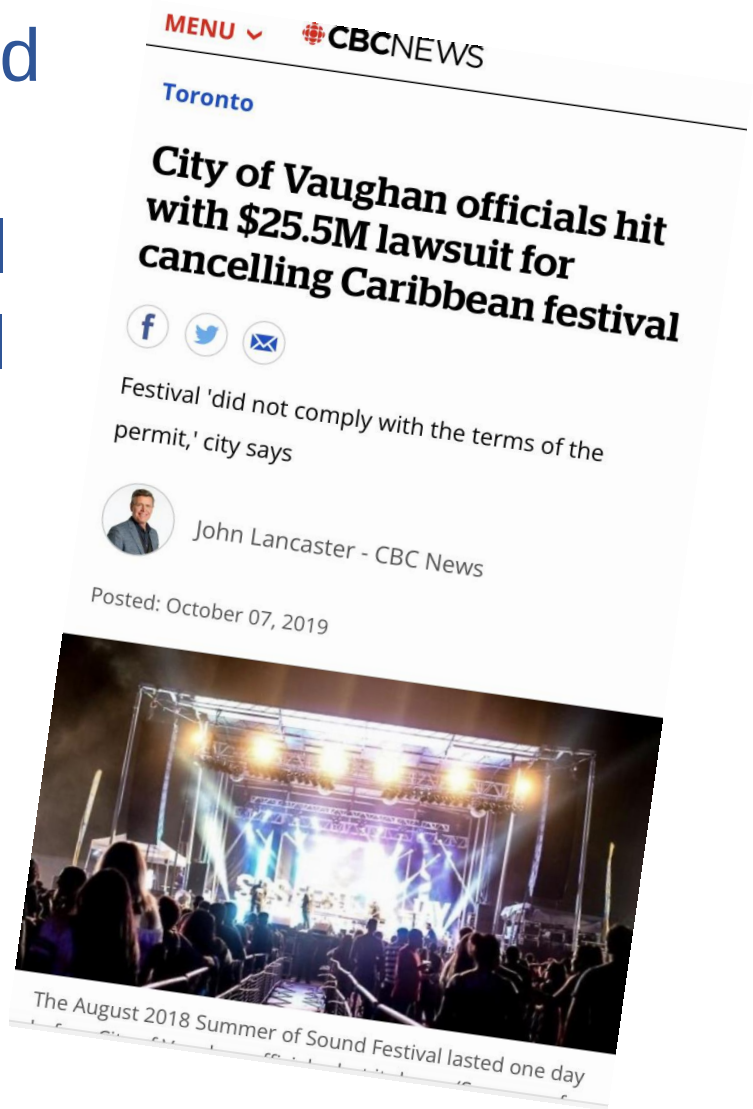


Employment

- Training
  - Human Rights
  - AODA
  - Harassment
  - Unconscious Bias
    - Especially enforcement dealing with the public

City Services

- More Code-related service based complaints or civil actions with racial discrimination claims


MENU CBCNEWS

Toronto

City of Vaughan officials hit with $25.5M lawsuit for cancelling Caribbean festival

Festival 'did not comply with the terms of the permit,' city says

John Lancaster - CBC News

Posted: October 07, 2019

The August 2018 Summer of Sound Festival lasted one day



City Services - AODA

***Hejka v. The Regional Municipality of Durham*, 2022 ONSC 2233**

- Mr. Hejka is a person with disabilities who accessed Durham Region's paratransit services independently for approximately eight years. He used the service to travel to and from his employment, his gym, and his local community centre.
- In or around 2021, Durham Region and Durham Region Transit Commission (the Region) took steps in an effort to improve the accessibility of their conventional transportation services, including making their services more compliant with the AODA. As part of this process, the Region initiated a review of paratransit users, including Mr. Hejka's eligibility to use their services on an unconditional basis.



City Services - AODA

***Hejka v. The Regional Municipality of Durham*, 2022 ONSC 2233**

- Based on their review, the Region decided that Mr. Hejka was no longer eligible for unconditional door to door service and changed his eligibility to conditional.
- Under conditional eligibility, Mr. Hejka was required to use conventional (rather than paratransit) transportation for part of his trip and to be accompanied by a personal care assistant (PCA) which, according to the Region, he had to provide at his own expense.
- Following an internal appeal that did not resolve Mr. Hejka's issue, he sought a judicial review of the Region's decision.



City Services - AODA

***Hejka v. The Regional Municipality of Durham*, 2022 ONSC 2233**

- First case for the courts to consider the purposes of the AODA.
- Court found:
  - Interpret AODA legislation fair, large and liberal interpretation
  - the purpose of the legislation is to develop, implement and enforce accessibility for persons with disabilities in recognition of the history of discrimination against persons with disabilities in Ontario.
  - The definition of “disability” in s. 2 of the Act makes it clear that it encompasses far more than just a physical disability and includes the mental and cognitive impairments that Mr. Hejka has.



City Services - AODA

***Hejka v. The Regional Municipality of Durham*, 2022 ONSC 2233**

- The definition of “barrier” in the Act is also expansive. It means “anything that prevents a person with a disability from fully participating in all aspects of society because of his or her disability, including a physical barrier, an architectural barrier, an information or communication barrier, an attitudinal barrier, a technological barrier, a policy or a practice.”
- Adopting a practice or policy that requires a person with a disability to provide a [Personal Care Attendant] to use public transportation services is a barrier within the meaning of the Act. It limits and potentially prevents a person with a disability from fully accessing public transportation services.



City Services - AODA

***Hejka v. The Regional Municipality of Durham*, 2022 ONSC 2233**

- City's decision found to be unreasonable given purposes of AODA



City of Vaughan DEI Approach

- Hired a Diversity and Inclusion Officer in January 2021
  - Expanded the DEI Office in 2022
- Revised policies including *Accessibility Policy* (AODA) and *Respectful Workplace Policy (Human Rights and Anti-Discrimination/ Harassment)*
  - Includes remedial action including workplace restorative process but *only* if the parties and the City agree.



City of Vaughan DEI Approach

- Anti-Black Racism Special Advisory Committee
  - Community members with lived experience to advise the City on engagement of the black community in Vaughan and develop an action plan.



City of Vaughan DEI Approach

Diversity Equity and Inclusion Plan 2022-2026

COMMITMENT TO DIVERSITY, EQUITY AND INCLUSION

The City recognizes and celebrates the human similarities and differences of people and communities who call the City home. The City of Vaughan is home to diverse communities whose significant contributions to the cultural, economic and social fabric make the City what it is today.

Our commitment to diversity includes all groups protected by the Ontario Human Rights Code. We recognize that a community's needs and experiences may reflect intersecting membership in more than one of those groups.

The City recognizes the unique status and diversity of First Nations, Métis and Inuit communities and their right to self-determination.

The City recognizes that advantages and barriers exist; therefore, we do not all start from the same place, nor do we have the same access to all opportunities.

The City recognizes that the impact of systemic, structural and institutional barriers must be addressed for Indigenous and equity-deserving groups to reach their fullest potential and achieve civic engagement.

The City recognizes that inclusion is an active, intentional and continuous process to address inequities in power and privilege.

The City is committed to identifying and addressing barriers to reduce inequities and disparity, and ensuring that everyone has access to the same opportunities.

The City is committed to addressing all forms of oppression, including racism, discrimination and bigotry, which this Diversity, Equity and Inclusion Plan serves as a broad strategy to redress injustice.

VAUGHAN





CITY OF VAUGHAN'S COMMITMENT TO HUMAN RIGHTS, EQUAL ACCESS TO CITY SERVICES AND A RESPECTFUL ENVIRONMENT

The City of Vaughan is committed to providing an environment in which all persons are treated with respect and dignity. Employees, elected officials, members of the public and all those interacting with the City have the right to a respectful environment and to receive Service Excellence from the City.

In accordance with the *Ontario Human Rights Code*, the City will not condone or tolerate discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (includes pregnancy and breastfeeding), sexual orientation, gender identity, gender expression, age, marital status, family status, or disability.

The City is committed to identifying and addressing barriers to reduce inequities, ensuring that everyone has the right to access City services. The City recognizes that discrimination can impact an individual's dignity and well-being. The City will take all reasonable steps to ensure a respectful environment and provide services in accordance with the *Ontario Human Rights Code.*

If a person feels they have been discriminated against when interacting with City Staff or when receiving City services, please contact Access Vaughan. The City will take appropriate action. Employees that feel they have been discriminated or harassed at work, should refer to the City's Respectful Workplace Policy (Human Rights and Anti-Discrimination/Harassment).



City of Vaughan DEI Approach

- Diversity and Inclusion Task Force
  - September 2020
  - Chaired by Councilor Carella and Councilor Shefman
  - Report to Council
  - Report Recommendations
    - Focused on procurement, employment and City services and programs



City of Vaughan DEI Approach

- Vaughan Official Plan 2010
  - Recognized indigenous (aboriginal) communities in the City
  - Develop a consultation protocol with aboriginal groups and other stakeholders to identify and protect cultural heritage resources
  - Currently under review
- Integrated Design Standard
  - Public Spaces

City of Vaughan DEI Approach

- LGBTQ2S+



City of Vaughan
DEI Approach





Municipal Lawyers as Key Agents for Diversity, Equity and Inclusion

- Advice on Human Rights and accessibility legislation for their area of specialty
- Education for lawyers DEI beyond the Law Society requirements
- Review by-laws, policies, and reports with DEI in mind
- Equity Impact Assessment (not just financial) working with DI officer or consultant (integrate)



THIS IS A SAFE SPACE



Questions?

Discussion!