



## STAFF REPORT INFORMATION ONLY

### Human Rights Office 2007 Annual Report

<b>Date:</b>	April 2, 2008
<b>To:</b>	Employee and Labour Relations Committee
<b>From:</b>	City Manager
<b>Wards:</b>	All
<b>Reference Number:</b>	

#### **SUMMARY**

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This report provides an overview of the activities of the Human Rights Office for 2007.

#### **FINANCIAL IMPACT**

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There are no financial implications from this report beyond what has already been approved in the current year's budget.

#### **EQUITY IMPACT STATEMENT**

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The Human Rights and Harassment Policy articulates the City of Toronto's commitment to creating and maintaining respect for human rights and fostering equality and inclusion. The policy is designed to promote an environment of respect where employees and citizens can fully contribute to the well being of the City. Human Rights Office staff work with divisions to integrate human rights principles into all City program and policy initiatives and to ensure employees and service recipients are aware of their rights and responsibilities under the policy.

#### **DECISION HISTORY**

City Council adopted the City of Toronto Human Rights and Harassment Policy and Procedures and the Hate Activity Policy on December 16 and 17, 1998. Section 5.20 of the policy requires the submission of an annual report to City Council about statistics and trends in human rights inquiry and complaint activities.

## ISSUE BACKGROUND

Under the Ontario Human Rights Code all orders of government, employers and service providers have a legal obligation to ensure that employment practices and service provision are free from discrimination and harassment. Organizations are encouraged to develop effective and fair processes to prevent and respond to human rights infringements.

With respect to human rights, the City of Toronto is an employer, a public service provider and community partner. The City of Toronto is identified as the world's most culturally diverse city and the City as an employer is considered a role model to other organizations for its human rights approach. The City's approach includes the Human Rights and Harassment Policy, an internal complaints procedure, an Employment Accommodation Policy and Procedure, an Employment Equity Policy and an education and training program. In addition, the City has strong, visible and ongoing commitment to human rights from senior staff in the organization.

The Human Rights and Harassment Policy goes beyond the protections offered in the Ontario Human Rights Code. It includes provisions about discrimination in employment based on level of literacy, political affiliation, membership in a union or staff association and any other personal characteristic. The City's definition of "harassment" includes a policy commitment to the prohibition of non-Code or "personal harassment". A growing body of case law supports the need for workplace policies and procedures that prescribe employer obligations to ensure that employee behaviour is appropriate. The inclusion of non-Code harassment in the Policy is an industry best practice.

The Human Rights Office continues to address personal harassment referrals from the City's bargaining agents. Article 16.30 of the collective agreement with CUPE Local 79 extends time limits for filing a discrimination or harassment grievance to allow a Local 79 member to try to resolve their issue through the Human Rights Office. This provision supports the reduction of grievances filed under the collective agreements.

The Human Rights and Harassment Policy covers City employees (full-time, part-time, contract and temporary), volunteers, contractors, senior management and members of Council, as well as City residents and recipients of municipal services. The policy applies to City employment, services and facilities, contracts, and occupancy of City owned accommodation. It is administered by the Human Rights Office, which is staffed by two senior consultants who report to the Executive Director of Human Resources.

## COMMENTS

Human rights are a shared responsibility. The Human Rights Office promotes the organizational integration of human rights through the following activities:

1. Consultation and advice
2. Complaint investigations
3. Education and communication
4. Policy development and advocacy

### **1. Consultation and Advice:**

The Human Rights and Harassment Policy offers a range of dispute resolution processes that are consistent with private and public sector best practices. Consulting, coaching and providing expert advice can help staff and City residents: understand their rights and responsibilities, prevent and resolve disputes themselves, prevent dispute escalation and foster timely dispute resolution. Consultation refers to matters where an employee, manager or citizen has contacted the Human Rights Office for information or guidance on an equity or human rights-related issue and human rights staff have provided advice, coaching or information, but have not directly intervened to resolve the issue. A consultation can take anywhere between 20 minutes to many hours to handle.

In addition to harassment and discrimination-related matters, consultations with the Human Rights Office cover a broad range of issues, including policy and program review, training needs, employment accommodation, discipline, collective agreement and service provision issues.

### **2. Complaint investigations:**

Under the Ontario Human Rights Code, employers may be held liable for damages where they fail to take appropriate action about a harassment and/or discrimination complaints. Legal obligations to conduct fair and thorough human rights investigations are well established in case law. Human rights investigations may be used to defend the City's position at legal proceedings such as arbitration hearings, Ontario Human Rights Tribunal and/or other court proceedings.

The term "complaint" refers to allegation(s) of discrimination and/or harassment, raised by an employee or service recipient who requests human rights staff to intervene and/or investigate the matter. Complaint investigations can involve multiple parties, work locations, issues and may take several months to resolve, remedy and ensure that the City complies with both its own policy and the Ontario Human Rights Code.

If consultation, coaching and providing advice are not effective or appropriate in resolving a situation, Human Rights Office staff will intervene and/or investigate a complaint to facilitate resolution. This may involve an in-depth exploration of the concerns, consulting and/or interviewing other parties, an impartial review of

documentary evidence, facilitating mediation, communicating and/or negotiating written or verbal recommendations to resolve a dispute and addressing broader issues that caused or contributed to the dispute.

The Human Rights Office undertakes independent, neutral formal investigations where other dispute resolution efforts have not been successful, are not appropriate or where the allegation(s) are of a serious and/or systemic nature. A formal investigation requires a signed statement by the complainant(s), written notification to all parties named and to the division head, providing the allegations to the respondent(s), interviewing all parties complainant(s), respondent(s), witness(es), collecting and reviewing documentation, determining findings of fact and producing a report to the complainant(s), respondent(s) and division head about the allegations, evidence, factual findings, conclusions, recommendations and remedies.

Through the complaint resolution approaches outlined here, the Human Rights Office successfully resolves more than 100 complaints each year. The effectiveness of alternate dispute resolution processes by the Human Rights Office results in few formal complaints.

It should be noted that all employees have the legal right to file a human rights complaint with the Ontario Human Rights Commission. These complaints are handled by the Legal Services Division in consultation with the Human Rights Office.

### **Statistics and Trends:**

The following tables summarize the number of consultations and complaints to the Human Rights Office between 2005 and 2007. This information is used to identify trends, determine educational/training needs, identify policy and program development priorities and develop strategic organizational interventions.

Table 1 provides an overview of the number of consultations and complaints managed by the Human Rights Office. In 2007 Human Rights Office staff focused on providing expert advice, coaching and increasing awareness through education efforts to enable clients to resolve issues themselves without intervention by the Human Rights Office. The increased number of consultations (114) with a corresponding decrease (33) in the number of complaints from 2006 suggests that this new focus has had positive results. While many consultations involved employees seeking advice and assistance to resolve matters themselves, there was an increase in the number of consultations with external organizations, division management and bargaining agent representatives. Consultations were related to accommodation, service provision, policy issues, harassment and/or discrimination grievances, management investigations, employee communications related to harassment and/or discrimination, discipline. The increased consultations suggest that the Human Rights Office has established a greater level of trust among stakeholders who have increased confidence in the City's human rights approach and processes.

Table 1 – Total Consultations and Complaints

Year	Consultations	Complaints	Total by Year
2005	324	209	542
2006	310	162	472
2007	424	129	553

Table 2 provides an overview of the number of consultations and complaints managed by the Human Rights Office, by prohibited ground. The totals in Table 2 are slightly higher than the total number in Table 1 because some issues involve more than one ground. For example, if an employee believes that he or she has been denied a promotional opportunity because of both race and age; both grounds are examined and counted for statistical purposes.

Table 2 – Total Consultations and Complaints by Prohibited Ground

Prohibited Ground	Consultations			Complaints			Total By Ground		
	2005	2006	2007	2005	2006	2007	2005	2006	2007
Personal Harassment	71	81	126	88	70	43	159	151	169
No Ground / Other	178	132	151	24	32	14	202	164	165
Disability	30	46	66	54	33	33	84	79	99
Sexual Harassment	12	11	22	20	13	19	31	24	41
Race	17	12	23	13	16	12	30	28	35
Creed/Religion	17	10	17	8	5	6	25	15	23
Sex (Including Pregnancy)	8	12	13	5	7	6	13	19	19
Sexual Orientation	5	0	9	1	0	2	6	0	11
Family Status	7	1	4	2	4	3	9	5	7
Ancestry	1	0	4	0	0	2	1	0	6
Origins – Ethnic	3	0	5	3	2	0	6	2	5
Membership in a Union or Staff Association	1	0	1	0	0	2	1	0	3
Age	2	7	1		3	2	2	10	3
Gender Identity	0	1	2	0	0	0	0	1	2
Origins – Place	2	2	2	2	2	0	4	4	2
Reprisals	0	0	2	1	1	0	1	1	2
Marital Status	0	0	1	0	0	1	0	0	2
Level of Literacy	1	1	1	1	0	0	2	1	1
Citizenship	1	0	0	0	0	0	1	0	0
Colour	2	0	0	0	0	0	2	0	0
Political Affiliation	0	0	0	0	0	0	0	0	0
Record of Offences	2	1	0	0	0	0	2	1	0
<b>Total by Ground</b>	<b>360</b>	<b>317</b>	<b>450</b>	<b>220</b>	<b>183</b>	<b>145</b>	<b>582</b>	<b>505</b>	<b>595</b>

Consistent with previous patterns, personal harassment (referred to as non-Code – that is harassment unrelated to a prohibited ground in the Ontario Human Rights Code) continues to be the most frequent ground of complaint. While not included as a prohibited ground in the Code, the law is clear that employers must have processes in

place to respond to non-Code harassment. Personal harassment often involves a pattern of behaviour; examples of personal harassment complaints include targeting individuals in humiliating practical jokes, bullying, abuse of authority, threats or intimidation, spreading malicious gossip.

The number of “No Ground/Other” consultations and complaints are related to issues that arise from policy, procedure and program review, mediation of workplace conflicts, etc.

Of the grounds prohibited in the Ontario Human Rights Code, disability continues to be the most frequently cited. The numbers of disability-related complaints remained the same as in 2006. The increase in disability consultations is largely related to requests for information and advice about accommodation obligations, solutions, processes. Consultation is encouraged as it provides opportunities to engage in dialogue, educate and communicate consistent approaches to human rights issues. The next most frequently cited ground was sex followed by race-related grounds (race, colour, ancestry, ethnic origin and place of origin). These trends have been consistent over the past few years and are similar to those reported by the federal and provincial human rights commissions.

**Hate Activity:**

The Human Rights Office received no reports of hate activity in 2007.

**Human Resources Division:**

Human Resources Division staff have an important role in building and supporting human rights initiatives. Human Resources staff provide advice to clients on a variety of human rights-related issues and have a role in ensuring policy compliance.

Recommendation 12 (c) of the Auditor General’s 2004 Review of the Implementation of the Recommendations of the Final Report of the Task Force on Community Access and Equity is that all data on human rights complaints, enquiries, and concerns received and addressed by the Human Resources Division be reported to the Human Rights Office for inclusion in its annual report to Council. Human Resources Division staff consulted the Human Rights Office on 141 enquiries and complaints received in 2007. These consultations are incorporated in Tables 1 and 2.

**Grievances of Harassment and/or Discrimination:**

The Employee and Labour Relations section of the Human Resources Division reported 207 discrimination and/or harassment grievances filed in 2007. Of these 207 grievances, 29 were based on prohibited grounds listed in collective agreements and the Human Rights and Harassment Policy. The remaining 178 were related to issues such as being placed in the attendance management program, discipline, training, promotion processes, benefits or management authority. These issues are not within the mandate of the Human Rights and Harassment Policy.

**Complaints by Residents and Service Recipients:**

Residents and service recipients may complain under the Human Rights and Harassment Policy about discrimination and harassment in the administration and delivery of City

services, access to and use of City facilities, occupancy of City-owned accommodations, or discrimination in legal contracts. In 2007, the Human Rights Office received 17 complaints/enquiries from residents and service recipients. Of the 17 complaints/enquiries received, seven were related to job applicant accommodation and ten were related to service provision.

**Formal Complaints:**

There were no formal complaints filed by or against employees, service recipients, senior management or members of City Council in 2007.

**Ontario Human Rights Commission Complaints:**

In 2007 the Legal Services Division reported 19 complaints filed at the Ontario Human Rights Commission against the City of Toronto. Of the 19 complaints, 10 were filed by employees and 9 were filed by external complainants related to service provision. This total is an increase from the 12 complaints filed in 2006, 16 complaints filed in 2005 and seven complaints filed with the Commission in 2004.

Of the 9 external complaints related to service provision, three have been withdrawn and/or settled and 6 are active. Of the 10 employee complaints, 4 complaints have been withdrawn and/or settled and 6 are active and related to the grounds of race (1), disability (2) and reprisal (3).

**3. Education and communication:**

All members of the Toronto Public Service must comply with the Human Rights and Harassment Policy. Education and communication are important components of the City's human rights approach. The goal of education efforts is to build a human rights culture where all staff are familiar with their rights and responsibilities for preventing, addressing and raising human rights issues under the Ontario Human Rights Code and City's policies, programs and procedures. Human rights training for staff focuses on the principles and provisions of the Code and City policy and is tailored to employees who are responsible for complying with the Policy, management staff who have specific responsibilities under the Code and Policy and staff who are responsible for the provision of advice related to human rights obligations, i.e., Human Resources staff.

Human rights training is provided for employees and for supervisors/managers through the Toronto Public Service course calendar. Customized training for specific issues and workplaces is available on request. Videos about harassment with facilitators' guides are also available for the Toronto Public Service.

In addition to training, the Human Rights Office provides members of the Toronto Public Service resources on the City's intranet that includes regularly updated information on policies, training, resources and current human rights issues. A public web site was launched in 2007, providing citizens with access to the City's Human Rights and Equity Policies.

In 2007, 25 training sessions were delivered to 446 members of the Toronto Public Service (358 staff and 88 supervisors/managers).

Table 3 – Number of Human Rights Training Sessions and Participants

Year	Corporate Training		Customized Training		Total	
	No. of Sessions	No. of Participants	No. of Sessions	No. of Participants	No. of Sessions	No. of Participants
2005	11	230	28	569	39	799
2006	12	283	1	15	13	298
2007	11	177	14	269	25	446

In addition to the education initiatives reflected in Table 3, in 2007, the Human Rights Office:

1. Delivered an information session for 200 Human Resources Division staff on accommodation obligations under the Ontario Human Rights Code and City policies to ensure that staff are able to advise clients of their legal responsibilities.
2. Participated in the design and delivery of two community engagement courses for staff who work on community committees or projects.
3. Partnered with the Toronto Professional Fire Fighters Association to jointly design and deliver human rights training to association representatives and Toronto Fire Services management.
4. Delivered presentations on managing harassment at public meetings and human rights obligations and the public consultation process to Social Development & Policy Administration Division staff.
5. Worked with Toronto Public Health in developing their Access, Equity, Diversity and Human Rights program.
6. Participated in human rights orientations for newly hired senior management.
7. Delivered a variety of presentations on the Ontario Human Rights Commission restructure and its effect on City programs, policies and training.

The City's public website includes Human Rights Office contact information, and information about the Human Rights and Harassment Policy and complaints process for residents and recipients of municipal services.

#### **4. Policy development and advocacy:**

Human rights staff are regularly consulted on policy and program initiatives to ensure promotion of and compliance with human rights principles. In 2007 the Human Rights Office participated on the following City and community committees, work groups, networks etc., to advocate and promote human rights:

1. Toronto Public Service Reference Group
2. Corporate Access and Equity Reference Group
3. Interdivisional Staff Team on Access and Equity and Human Rights
4. Canadian Human Rights Practitioners Network



5. Toronto Public Health Access, Equity, Diversity and Human Rights Reference Group
6. Ontario Human Rights Commission Restructure workgroup

## **Ontario Human Rights Commission Restructure**

The *Human Rights Code Amendment Act*, 2006 received Royal Assent on December 20, 2006 and comes into effect on June 30, 2008. The Act introduces five central changes that will affect the City of Toronto. The Human Rights Office has provided information about the amendments and their effect on the City on its intranet pages for members of the Toronto Public Service.

In 2007, The Human Rights Office convened a workgroup to review and revise human rights related Toronto Public Service policies, guides and training to ensure compliance with the *Human Rights Code Amendment Act*, 2006. The Human Rights and Harassment Policy, adopted by City Council in 1998, has been amended to ensure that the City will be in compliance with the Act. It is the subject of a separate report to this committee.

## **CONTACT**

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## **SIGNATURE**

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