



STAFF REPORT INFORMATION ONLY

2008 Annual Human Rights Report

Date:	May 28, 2009
To:	Employee and Labour Relations Committee
From:	City Manager
Wards:	All
Reference Number:	

SUMMARY

This report presents information on human rights issues raised by City staff and service recipients and initiatives undertaken by the Human Rights Office to resolve complaints and promote respectful, discrimination-free employment practices and service provision.

FINANCIAL IMPACT

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

EQUITY IMPACT STATEMENT

The Human Rights Office administers the City's Human Rights and Anti-Harassment Policy and Complaint Procedures to ensure harassment and discrimination-free service provision and employment practices. The Office undertakes initiatives to prevent, remedy and resolve complaints and integrate human rights principles into City program, policy and service initiatives.

DECISION HISTORY

In response to legislative changes to the Ontario Human Rights Code, City Council adopted and amended the City of Toronto Human Rights and Anti-Harassment Policy and Complaint Procedures in June 2008. Section 3.6 of the policy requires the submission of an annual report to City Council about statistics and trends in human rights enquiry and complaint activities and on other program initiatives.

ISSUE BACKGROUND

The Ontario Human Rights Code requires employers and service providers to ensure that employment practices and service provision are free from discrimination and harassment and to have internal processes to prevent and respond to human rights infringements. In June 2008, City Council adopted a revised Human Rights and Anti-Harassment Policy (the Policy) that reflects legislative amendments and demonstrates the City's continued commitment to provide an effective human rights complaint resolution process.

As with the City's former (1998) policy, the revised Human Rights and Anti-Harassment Policy articulates the City's obligations set out in the Code and sets standards of behaviour that go beyond protections offered in the Code. The City's policy includes employment protections based on level of literacy, political affiliation, membership in a union or staff association and non-Code or personal harassment. An employer having an internal process for resolving non-Code harassment is prescribed in case law and is a best practice.

The Policy covers City of Toronto employees (full-time, part-time, contract and temporary), volunteers, contractors, senior management, members of Council and their staff, as well as City residents/recipients of municipal services. The policy applies to City employment, services and facilities, contracts, and occupancy of City owned accommodation.

COMMENTS

It has proven to have been a busy year in 2008 for the Human Rights Office. The Office responded to over 1000 enquiries, implemented the amended Human Rights and Anti-Harassment Policy and Complaint Procedures and a City-wide communications and education strategy. The Human Rights Office was included in the 2008 *Audit of the City of Toronto's Performance in Achieving Access, Equity and Human Rights* where the Auditor General recognized the City's pre-eminence in terms of dealing effectively with human rights issues.

The Human Rights Office promotes respectful, discrimination-free employment practices and service provision through the following activities:

1. Consultation and advice
2. Complaint investigations and interventions
3. Education and communication
4. Other initiatives

1. Consultation and Advice:

Consultation refers to matters where the Human Rights Office was contacted on a human rights-related issue and provided advice, coaching or information, but did not directly

intervene to resolve the issue. In addition to harassment and discrimination-related matters, consultations cover a broad range of issues, including Code and policy interpretation, equity issues, divisional policy and program advice and review, training design, discipline, collective agreement and service provision issues.

2. Complaint interventions/investigations:

The term “complaint” refers to allegation(s) of discrimination and/or harassment, where human rights staff have intervened and/or investigated the matter. Human Rights staff will intervene and/or investigate a complaint to facilitate resolution where consultation, coaching and providing advice are not effective or appropriate in resolving a situation.

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.

All employees and service recipients have a right to file a human rights complaint with the Human Rights Tribunal of Ontario (HRTO). Employees can also file a discrimination grievance if they belong to one of the City’s bargaining units. Through the City’s internal complaint resolution processes outlined above, the Human Rights Office successfully resolves more than 100 complaints each year. The effectiveness of alternate dispute resolution approaches undertaken by Human Rights staff results in few complaints filed with the HRTO - refer to HRTO complaints sections, below.

Statistics, Trends and Future Activities:

While the statistics do not reflect the complexity of individual consultations and complaints, the data is used to identify trends, determine education needs and identify policy and program development priorities.

Table 1 below provides an overview of the number of consultations and complaints raised to the Human Rights Office in 2006, 2007 and 2008. Consulting, providing expert advice and coaching are core elements of the City’s human rights strategy; it promotes early, prompt resolution and enables employees and service recipients to craft their own solutions to resolve issues. In 2008, consultations with the Human Rights Office more than doubled from 424 to 875, while the number of interventions (i.e., 129) remained consistent with 2007.

Table 1 – Total Consultations, Interventions and Formal Complaints received by the Human Rights Office, 2006 - 2008

Year	Consultations	Interventions	Internal Formal Complaint	Total by Year
2006	310	159	3	472
2007	424	129	0	553
2008	875	129	3	1007

Table 2 – Consultation and complaint investigations, by prohibited grounds and non-prohibited grounds, managed by the Human Rights Office for the period 2006 - 2008.

Prohibited Ground	Consultations			Interventions			Internal Formal Complaint			Total By Ground		
	2006	2007	2008	2006	2007	2008	2006	2007	2008	2006	2007	2008
No Ground / Other	132	151	620	32	14	13				164	165	633
Personal Harassment	81	126	108	67	43	56	3		1	151	169	165
Disability	46	66	77	33	33	25				79	99	102
Race	12	23	19	15	12	12	1			28	35	31
Colour			1									1
Origins – Ethnic		5	4	2		6				2	5	10
Origins – Place	2	2		2		4				4	2	4
Ancestry		4	2		2						6	2
Sexual Harassment	11	22	20	13	19	16			2	24	41	38
Sex (gender, pregnancy & breastfeeding)	12	13	3	6	6	5	1			19	19	8
Sexual Orientation		9	7		2	6					11	13
Creed/Religion	10	17	13	5	6	5				15	23	18
Age	7	1	6	3	2	3				10	3	9
Family Status	1	4	6	4	3	2				5	7	8
Membership in a Union or Staff Association		1	2		2						3	2
Marital Status		1	1		1						2	1
Reprisals		2	1	1						1	2	1
Citizenship			1									1
Gender Identity	1	2								1	2	0
Level of Literacy	1	1								1	1	0
Political Affiliation												0
Record of Offences	1									1		0
Total by Ground	317	450	891	183	145	153	5		3	505	595	1047

The totals in Table 2 are 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.

No Ground/Other:

The “No Ground/Other” category captures a variety of issues that human rights staff are consulted on that are not related to a prohibited ground in the policy. Examples of these consults/interventions include: divisional policy/procedure reviews, program advice, research, mediation of workplace conflicts, requests to design and deliver educational initiatives, requests for advice on job postings, hiring, terminations, collective agreement provisions etc.

Issues captured in the “No Ground/Other” category increased considerably in 2008. A significant number of these consultations were received via the Human Rights Office confidential enquiry phone line. Once these calls were ‘triaged’, it was determined that 441 enquiries were not within the mandate of the Human Rights Office and callers were referred to other internal and external resources. The Human Rights Office will consult “311” staff to determine whether they can assist with the hundreds of calls that are unrelated to human rights.

Personal (non-Code) Harassment:

Consistent with previous years’ patterns, personal (non-Code) harassment 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 personal (non-Code) harassment. There have been several arbitration awards on this issue and court awards against employers who fail to appropriately address non-Code harassment can exceed \$500,000. The Human Rights Office successfully resolved all 2008 non-Code harassment complaints utilizing the range of effective alternative dispute resolution processes offered in the Policy.

Prohibited Grounds:

Of the grounds prohibited in the Ontario Human Rights Code, disability (accommodation) continues to be the most frequently cited ground of complaint. Disability-related complaints raised to the Human Rights Office dropped from 33 in 2007, to 25 in 2008, while consultations increased. The increase in disability consultations is largely related to requests for guidance about accommodation obligations, solutions, and processes. Consultations are encouraged as they provide opportunities to educate and communicate consistent practices. In addition to disability complaints resolved by the Human Rights Office, employees filed 31 disability discrimination grievances and 9 Human Rights Tribunal of Ontario complaints – refer to sections on Grievances, HRTO complaints, below.

The Human Rights Office will monitor future disability/service accessibility issues and trends. In 2010 the province is implementing the first of five standards: *The Customer Service Standard* under the *Accessibility for Ontarian’s with Disabilities Act*. The standards/obligations are broader than the disability protections available under the Human Rights Code and City policy. The Human Rights Office is working with divisions on communications and training to ensure that the City will be in compliance with the Act.

The next most frequently cited ground was race and related grounds (colour, ancestry, ethnic origin and place of origin), followed by sex (harassment, pregnancy & breastfeeding discrimination). These trends have been consistent over the past few years and are similar to those reported by the federal and provincial human rights commissions. The Human Rights Office has incorporated sex and race related resources into human rights training to raise awareness and is exploring anti-racism education.

Hate Activity:

The Human Rights Office received no reports of hate activity in 2008.

Complaints by Residents and Service Recipients:

Residents and service recipients may complain under the 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 2008, the Human Rights Office resolved 6 complaints from residents and service recipients related to disability (3), creed (1), race (1) and family status (1). The Office received 36 enquiries from residents and service recipients largely related to information requests on the City's amended Policy and practices.

Formal Complaints:

Three formal investigations related to employee complaints were undertaken by the Human Rights Office in 2008.

Grievances of Harassment and/or Discrimination:

The Employee and Labour Relations section of the Human Resources Division reported 169 discrimination and/or harassment grievances filed in 2008. This is a reduction from 207 harassment grievances filed in 2007. Of these 169 grievances, 36 were based on prohibited grounds listed in collective agreements and the Human Rights and Anti-Harassment Policy with 31 related to (disability) accommodation. The remaining prohibited grounds grieved were: sexual orientation (1), age (1), race (1) and sexual harassment (2).

The other 133 of 169 grievances were related to issues such as being placed in the attendance management program, discipline, training, promotion processes, benefits or management authority and it was determined, upon a review of the issues, that these grievances were not considered harassment under the Code or the City's Human Rights and Anti-Harassment Policy.

Human Rights Tribunal of Ontario Complaints (HRTO):

In 2008 the Legal Services Division reported that 18 complaints were filed at the Human Rights Tribunal of Ontario against the City of Toronto. Of the 18 complaints, 11 were filed by employees and 7 were filed by service recipients. By comparison, 19 complaints were filed in 2007 and 12 complaints were filed in 2006.

Of the 11 employee complaints, 9 allege disability discrimination, 1 alleges age discrimination and 1 alleges (multiple grounds) age, sex ethnic origins discrimination and reprisal. Of the 7 complaints related to service provision, 4 allege disability discrimination, and the remaining complaints allege discrimination related to receipt of public assistance (1), race (1), and sexual orientation (1).

Future reports will include Human Rights Tribunal of Ontario complaint resolutions and associated costs.

3. Education and communication:

All members of the Toronto Public Service are expected to comply with the Human Rights and Anti-Harassment Policy. Education and communication are central in building the City's human rights culture, can deepen understanding and awareness of human rights issues and serve to reinforce policy expectations to ensure that staff knows how to raise and respond to human rights concerns. In response to amendments to the Code and City Policy, the Human Rights Office re-designed the employee and supervisory/management human rights training. A mandatory supervisory/management human rights training program was implemented to communicate new responsibilities under the amended Code and Policy in 2008. The 2009 Human Resources Client Satisfaction Survey reported that: 87% of managers surveyed felt satisfied or very satisfied that they could respond appropriately to human rights concerns.

Table 3 – Human Rights Training Sessions and Participants, 2006 - 2008

Year	Training	
	No. of Sessions	No. of Participants
2006	13	298
2007	25	446
2008	147	2702

A total of 261 unionized employees and 2441 management and supervisory staff attended the 2008 training program. In 2009 multiple strategies and activities will be developed by the Human Resources Division to expand human rights training to non-management employees.

In addition to the education initiatives reflected in Table 3, in 2008 the Human Rights Office:

1. Delivered seven information sessions to the City's senior management teams on Code and City Policy amendments and the City's human rights strategy.
2. Participated in the delivery of two community engagement courses designed for staff who works on community committees or projects.
3. Delivered a variety of human rights information sessions to staff that have specific human rights responsibilities.
4. Partnered with Local 79 to jointly design and deliver two human rights sessions to Local 79 and Local 416 union stewards.
5. Offered harassment videos with facilitators' guides to all members of the Toronto Public Service.

The City's internal human rights web page includes information on human rights related policies, complaints procedures, training, articles on current human rights issues and contact information. The City's public website has information about the Human Rights and Anti-Harassment Policy, the complaints process and provides contact information, including a phone line and email address to make a confidential enquiry.

Over 4000 members of the public viewed the City's policy and complaint procedures in 2008. The Human Rights Office will be developing an on-line human Rights complaint form in 2009 for employees and service recipients.

4. Other initiatives

The Human Rights Office is regularly consulted by external stakeholders on the City's human rights approach and participates on a variety of City and community committees, work groups, networks etc., to advocate and promote human rights. In 2008 the Human Rights Office implemented the amended Human Rights and Anti-Harassment Policy, complaint procedures, a communications strategy and updated human rights training programs. The effectiveness of the Human Rights Office and human rights initiatives were recognized in the 2008 Audit of City of Toronto's Performance in Achieving Access, Equity and Human Rights.

Looking Ahead – 2009

In addition to initiatives noted above, in 2009 the Human Rights Office will continue to proactively manage the complaint and dispute resolution process and establish partnerships to further a positive human rights culture. The Office will also work with City staff to implement operational improvements recommended by the Auditor General related to independence and resources, evaluating complaint protocols, researching complaints management systems and exploring opportunities to develop consistent human rights processes with the City's Agencies, Boards and Commissions. In 2009, City Council approved the addition of a new Human Rights Consultant position to assist with the workload of the Human Rights Office and to continue with the advances in human rights activities and furtherance of a positive human rights culture.

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