



**STAFF REPORT
INFORMATION ONLY**

2014 Annual Human Rights Report

Date:	September 28, 2015
To:	TTC Board
From:	Chief Executive Officer

SUMMARY

This report provides information on workplace harassment, discrimination and violence consultations and complaints filed by Toronto Transit Commission (“TTC”) employees and customers with the TTC’s Diversity and Human Rights Department (DHRD) in 2014.

The DHRD administers TTC’s policies relating to human rights, accommodation and workplace violence. This includes providing expert advice and complaint investigation and resolution services to address matters related to accommodation, harassment, discrimination and violence in the workplace and in the provision of service.

In 2015, the DHRD’s mandate expanded to include responsibility for diversity and inclusion, and this was reflected in the department’s recent name change. The DHRD has developed a 2 year plan establishing TTC’s 2015 and 2016 diversity and inclusion initiatives, which will be described in further detail in TTC’s 2014 Annual Report on Diversity and Human Rights Achievements.

Overall, the DHRD made considerable progress in 2014 in effectively addressing 1723 workplace harassment, discrimination and/or workplace violence related complaints raised by employees and customers. Included in this amount are the 20 applications filed against TTC in 2014 with the Human Rights Tribunal of Ontario (“HRTO”).

Overview of total complaints and consultations received by DHRD from 2012-2014

	2012	2013	2014
External Complaints*	1140	1210	1075
Internal Complaints**	272	267	301
External Consultations*	2	10	3
Internal Consultations**	366	342	324
HRTO	16	24	20
TOTAL	1796	1853	1723

* External means customer complaints filed against an employee.

**Internal means employee complaints filed against another employee or customer.

Notably, in 2014, there was a significant decrease of 130 complaints (7%) from the overall complaints reported to the DHRD in 2013, and a decline in customer complaints by 135 or 11%. This trend is a positive indicator of the corporate actions taken to date to improve customer service, including the introduction of a customer charter with commitments and deadlines that are publicly reported on. TTC has made it publicly known that it is committed to ensuring the respect and dignity of all its customers and employees, in the provision of its service.

However, in 2014, there was an increase in complaints reported to the DHRD by TTC employees (internal complaints). On a positive note, this is indicative of a greater awareness among managers and employees to promptly report such matters to the DHRD for investigation and resolution. Moreover, this increase supports and validates the need for TTC's recent efforts to increase employee engagement and advance TTC's new revitalized Diversity and Inclusion Plan, which is being led by the DHRD. More information on TTC's plans and progress in delivering policies, programs and services that meet the needs of TTC's diverse employees and customers will be provided in TTC's 2014 Annual Report on Diversity and Human Rights Achievements.

It is recommended that the Board:

1. Receive this report for information purposes; and
2. Authorize forwarding this report to City Council, through the Executive Committee, for information purposes.

FINANCIAL SUMMARY

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

ACCESSIBILITY/EQUITY MATTERS

As a newly integrated Diversity and Human Rights Department, the objective of the DHRD is to advance human rights, and foster inclusion. This is done by providing advice and complaint investigation and resolution services to address matters related to accommodation, accessibility, harassment, discrimination and violence; and by educating on, and promoting respect and dignity in the workplace. The DHRD also assists in workplace accommodations, including scheduling ASL interpreters for TTC public events and internal meetings as required. Most recently, the DHRD is advancing a number of initiatives in 2015 that promote accessibility, diversity and human rights, which are described in detail in TTC's 2014 Annual Report on Diversity and Human Rights Achievements.

DECISION HISTORY

By decision dated December 2008, City Council adopted the Auditor General's report and recommendations in Item AU9.4 "Audit of City Performance in Achieving Access, Equity and Human Rights Goals." Motion 3 requires the TTC to provide the following:

#3 ...an annual human rights report to Council detailing the numbers and types of human rights complaints received by the Human Rights Tribunal of Ontario involving the TTC, and their complaint resolutions and associated costs.

Below is the link to the City Council Decision:

<http://www1.toronto.ca/City%20of%20Toronto/Facilities%20Management/Shared%20Content/Union%20Station/PDFs/2008-12-01-cc27-dd.pdf>

The intent of this report is to meet this requirement.

ISSUE BACKGROUND

In addition to developing and supporting initiatives to advance diversity and equity, the DHRD provides complaint resolution services to address complaints of workplace harassment, discrimination, accommodation, accessibility and violence relating to TTC employees and customers. These complaint resolution services are focused on promoting positive and respectful workplaces, and include the following:

1. Consultation and advice;
2. Complaint investigations;
3. Education.

1. Consultation and Advice:

Consultation refers to matters for which DHRD was contacted and provided advice, information or referral, but did not directly intervene to resolve the issue. Consulting and providing expert advice are core elements of DHRD's strategy; these elements foster early resolution and enable employees to craft their own solutions to resolve issues. Consulting activities also provide opportunities for the DHRD to educate parties about the legislative requirements under the Ontario *Human Rights Code*, the Bill 168 Amendments to the *Occupational Health and Safety Act* (OHSA), the *Accessibility for Ontarians with Disabilities Act* (AODA), as well as TTC's expectations, and to promote equitable practices. In addition to harassment and discrimination matters, consultations cover a

broad range of issues, including, but not limited to, Respect and Dignity and Workplace Violence policy interpretation, accommodation and accessibility for employees and customers; emergency workplace violence response for issues such as domestic violence and the preparation of employee safety plans.

2. Complaint Investigations:

The term “complaint” refers to allegation(s) of workplace harassment, discrimination, accommodation/accessibility, or violence where the DHRD have assisted in, intervened through alternate dispute resolution methods (i.e. mediation), co-ordinated a management investigation or exclusively conducted an investigation in (also known as “formal investigations”). The DHRD staff will undertake an independent, formal investigation where consultation, mediation, or other dispute resolution efforts have not been effective, appropriate or where the complaint allegations are of a serious or systemic nature. In 2014, 14 formal investigations were undertaken by the DHRD to resolve employee complaints related to allegations of Code harassment/ discrimination (8), personal harassment (4), and workplace violence (2).

As mentioned, the DHRD also engages in various forms of alternate dispute resolution (*i.e.* facilitated discussions and mediation). In 2014, the DHRD conducted 28 mediations, 19 of which were successful in reaching settlement.

3. Education:

The DHRD understands that education plays an important role in contributing to a culture of respect and dignity, and is an effective mechanism to advance equity, diversity and inclusion. In 2014, the DHRD continued to provide information to TTC employees and management through its site visits, and the circulation of its “HR Updates”, an annual publication that discusses recent developments in human rights case law and its impact on TTC. The DHRD also continued to assist and educate TTC managers on effective complaint handling, and how to conduct fair, thorough and timely investigations. The DHRD also continued to educate and promote alternate dispute resolution services like mediation to help resolve complaints in a more expeditious and amicable manner.

COMMENTS

In 2014, the DHRD effectively addressed a total of 1723 workplace harassment, discrimination and workplace violence related complaints raised by employees and customers. This report will summarize in detail the numbers and types of consultations and complaints received by the DHRD, and their resolutions, using the following outline:

1. Workplace Harassment and Discrimination (Employee/Internal);
2. Workplace Violence (Employee/Internal);
3. Customer Service Complaints of Workplace Harassment (External);

4. Customer Service Complaints of Workplace Violence (External); and
5. HRTO Applications

1. Workplace Harassment and Discrimination complaints raised by Employees (Internal):

Table 1 – Overview of total internal workplace harassment and discrimination consultations and complaints received by DHRD, from 2012 - 2014.

Year	Consultations	Complaints	Total by Year
2012	261	182	443
2013	287	189	476
2014	285	245	530

Of the 530 cases of workplace harassment and discrimination, 77 were dismissed (found to be unsubstantiated), 435 were resolved (either settled by mediation or substantiated and addressed with remedial corrective action), 12 were withdrawn and 6 are still pending resolution.

In 2014, workplace harassment and discrimination consultations with the DHRD remained steady. Consultations are encouraged by the DHRD as they foster early resolution, promote consistent equitable practices and enable DHRD staff to educate parties about legislative requirements and TTC’s expectations for respect and dignity in the workplace.

Also in 2014, there was an increase of 56 workplace harassment and discrimination complaints by TTC employees from 2013. This is partly because of a greater awareness and appreciation for the need to report and address, without a fear of reprisal. It may also be interpreted as further backing for TTC’s renewed commitment to diversity, inclusion and employee engagement, which in turn is a commitment to ensuring the characteristics and differences of TTC employees are valued and supported, and that their diverse perspectives are embraced.

Table 2—Overview of internal workplace harassment and discrimination consultations and complaints, categorized by prohibited ground, from of 2012 – 2014.

Ground	Consultations			Complaints			HRTOs		
	2012	2013	2014	2012	2013	2014	2012	2013	2014
*No Ground/Other									
Personal Harassment	43	48	21	67	44	63			
Unprofessional Conduct (i.e. profanity)	84	80	65	66	91	96			
Disability	67	70	87	8	10	18	5	8	8
Sex (including pregnancy, breastfeeding and gender identity)	8	16	13	13	20	26		1	
Race	8	10	3	8	9	16	3	4	2
Colour	5	2		3	3	7	1	2	
Origin – Ethnic	2	2	4	8	3	4		1	
Origin – Place	1	1			1				
Ancestry									
Creed/Religion	34	22	46	3	2	2		1	
Family Status	6	34	43			3			1
Sexual Orientation	1	1		3	5	7			
Reprisals				1		1	1		1
Age	1		2	1	1	2			
Citizenship	1								
Marital Status				1					
Record of Offences		1	1						
Membership in a Union or Staff Association									
Level of Literacy									
Political Affiliation									
Systemic Discrimination									
Total	261	287	285	182	189	245	10	17	12

**no prohibited ground identified*

A majority of the complaints (39%) submitted to the DHRD in 2014 are related to unprofessional conduct under primarily section 4.6 of TTC’s Code of Conduct Policy and not harassment. Section 4.6 of the TTC’s Code of Conduct prohibits unprofessional conduct in the workplace like profanity or swearing; excessive noises; insulting or negative comments that can affect the workplace; offensive pictures or jokes; demonstrating little or no respect for others or their personal belongings. Of the 96 cases alleging unprofessional conduct, 17 were dismissed, 3 were withdrawn and 76 were resolved (either settled by mediation or substantiated and addressed with remedial corrective action).

In 2014, 26% of the complaints received by DHRD related to non-Code personal harassment. Of the 63 cases alleging non-Code personal harassment, 8 were dismissed, 1 was withdrawn, 49 were resolved (either settled by mediation or substantiated and addressed with remedial corrective action), and 5 cases are pending resolution.

The remaining 35% (86) of complaints received by DHRD alleged discrimination or harassment on the basis of a prohibited ground. Of the prohibited grounds under the Ontario *Human Rights Code*, sex is the most frequently cited ground of complaint raised to the DHRD in 2014. Of the 26 claims of discrimination on the basis of sex, 12 were either dismissed or withdrawn. The remainder raised mostly allegations of inappropriate comments, including jokes of a sexual nature being made in the workplace, and were resolved either by mediation or substantiated and addressed with corrective action. In response to this trend, the TTC’s Respect and Dignity Policy was revised in 2015 to define with greater detail and examples of what constitutes sexual harassment and discrimination in the workplace, and a reminder on how it is not appropriate conduct at TTC. Also, in 2015, the DHRD will be consulting with TTC’s Human Resources and Training Departments to discuss ways to make available more information and education on this topic.

The next most frequently cited prohibited ground of complaint raised to the DHRD in 2014 was disability (18), followed by race (16), similar to 2013.

2. Workplace Violence complaints raised by Employees (Internal)

Table 3—Overview of total internal workplace violence consultations and complaints received by the DHRD from 2012 - 2014.

Year	Consultations	Complaints	Total by Year
2012	105	90	195
2013	55	78	133
2014	39	56	95

Of the 95 cases of workplace violence in 2014, 80 were resolved (either settled, or substantiated and addressed with remedial corrective action), 1 withdrawn, and 14 dismissed (found to be unsubstantiated).

Since 2012, there continues to be a decline in workplace violence complaints reported to the DHRD by TTC employees. This downward trend is primarily attributed to the positive effects of TTC’s efforts to raise awareness on the importance of a safe workplace, Bill 168 amendments to OHSAA and TTC’s zero tolerance policy for workplace violence.

3. Customer Service Complaints of Workplace Harassment and Discrimination raised to DHRD (External)

The DHRD receives and assists management in addressing complaints filed by customers against TTC employees that relate to human rights issues including, but not limited to, accommodation, accessibility, workplace harassment and/or workplace violence.

Customers may submit complaints about discrimination and harassment in the administration and delivery of TTC’s services under the TTC’s Respect and Dignity Policy. In 2014, the DHRD addressed 1001 harassment and discrimination complaints filed by customers, which is a significant reduction of 104 complaints from 2013. Also, these complaints only make up 1.6 % of the total customer service complaints received by TTC in 2014, which amounted to 63,175. Moreover in 2014, TTC’s ridership was 535 million people, which is a growth of 1.9% from 2013’s ridership of 525 million. Notwithstanding this substantial ridership increase, it is important to note that the DHRD has not experienced a correlating increase in customer complaints relating to harassment and discrimination. See Table 5 for a breakdown of complaints by prohibited ground.

Table 4—Total external consultations and complaints alleging workplace harassment and discrimination from 2012 – 2014.

Year	Consultations	Complaints	HRTD	Total by Year
2012	2	1018	6	1026
2013	6	1092	7	1105
2014	3	990	8	1001

Table 5— External harassment and discrimination consultations and complaints, categorized by prohibited ground, for 2014.

Ground	External Complaints (including Formal Investigations)	External Consultations	External HRTD	Total
Personal Harassment	14			
Unprofessional Conduct (i.e. profanity)	73			
Disability	534	2	2	
Sex (including gender identity, gender expression, gender identity, pregnancy and breastfeeding)	38		1	
Race	147	1		
Origin – Ethnic	27		1	
Origin – Place	9		1	

Creed/Religion	14			
Family Status	38			
Age	18			
Colour	61		1	
Sexual Orientation	17		1	
Ancestry				
Citizenship			1	
Other				
Total	990	3	8	1001

Of the prohibited grounds under the Ontario *Human Rights Code*, disability (534) continues to be the most frequently cited ground of complaint raised to the DHRD by customers. These customer complaints raise concerns with accessibility and accommodation, including but not limited to, station elevators not working; a failure to lower ramp; automated stop announcements not working; temporary bus stops not accessible; failure to display proper signage. Such complaints are immediately investigated and addressed upon receipt.

The next most frequently cited prohibited ground of complaint raised to the DHRD by customers in 2014 was race (147), followed by sex and family status (38 each), similar to 2013.

4. Customer Service Complaints of Workplace Violence raised to DHRD (External)

Table 6—Total external consultations and complaints alleging workplace violence from 2012 - 2014.

Year	Consultations	Complaints	Total by Year
2012	0	122	122
2013	4	118	122
2014	0	85	85

The DHRD received a total of 85 complaints of workplace violence from TTC customers in 2014, which is a significant reduction in complaints from 2013. This decrease can be attributed to TTC's significant efforts to: drive its customer service standards up; remind TTC employees on the importance of courtesy and respect for all persons utilizing TTC's services; and enforce TTC's zero tolerance policy for workplace violence.

Of the 85 complaints of workplace violence received by the DHRD, 39 were resolved (either settled, or substantiated and addressed with remedial corrective action), 0 withdrawn, and 46 dismissed (found to be unsubstantiated).

5. Human Rights Tribunal of Ontario (HRTO) Applications involving TTC

All employees and customers have a right to file a human rights complaint directly with the HRTO. In 2014, the DHRD received 20 HRTO Applications involving TTC.

Table 8—Overview of total internal and external HRTO Applications involving TTC from 2012 - 2014.

Year	Internal	External	Total by Year
2012	10	6	16
2013	17	7	24
2014	12	8	20

There has been a decrease in the number of HRTO applications involving TTC in 2014 from 2013. Of the 20 HRTO applications received in 2014, 2 were withdrawn, 1 was dismissed, 7 were resolved through mediation, and the remaining 10 are on-going proceedings.

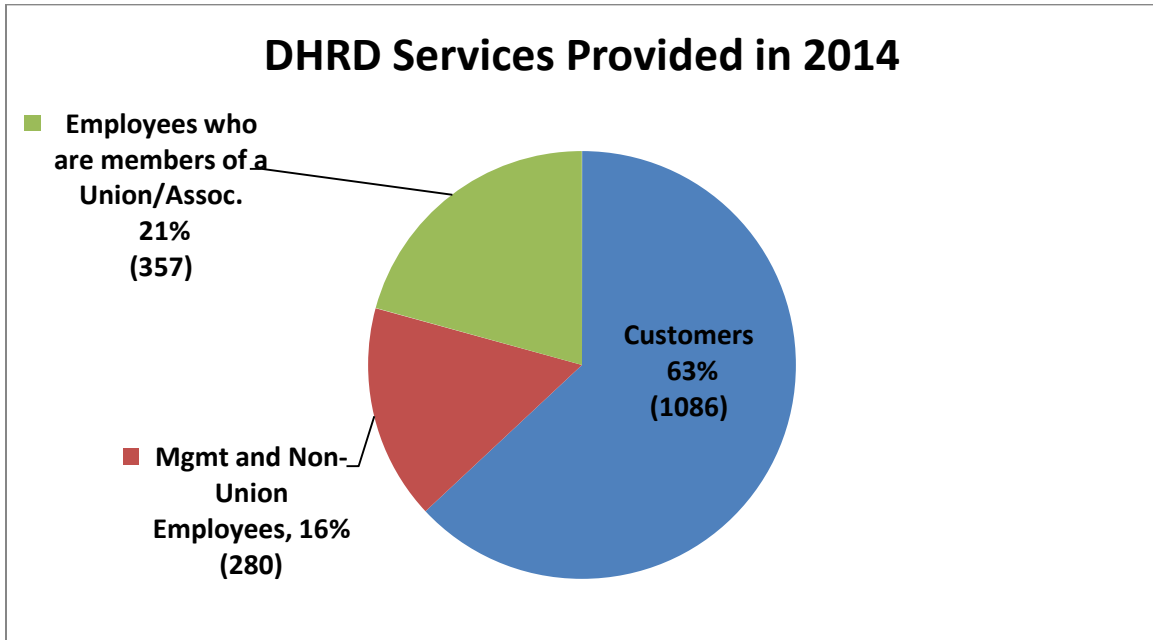
The pattern of complaint grounds are similar to prior years, with disability and race being the most commonly cited grounds of alleged discrimination by both TTC employees and customers. See Tables 2 and 5 above.

CONCLUSION

Breakdown of Services Provided (by Client Area) in 2014

The DHRD tracked who used their services in 2014, and the largest service group is customers. The DHRD addressed a total of 1086 (63% of total annual caseload) of customer complaints alleging workplace harassment, discrimination, workplace violence, accommodation, and/or accessibility. With respect to the latter, the TTC is improving its transit system's accessibility as per its 2014-2018 Multi-Year Accessibility Plan in compliance with the *Accessibility for Ontarians with Disabilities Act* (AODA) legislation, and the DHRD anticipates that the number of such complaints will likely decline over the next 10 years.

The next largest seekers of the DHRD's services are TTC employees who are members of a Union. The DHRD was consulted by TTC employees to address complaints of workplace violence, workplace harassment, discrimination, and accommodation issues.



Future service use will be monitored to ensure the DHRD resources are appropriately aligned with complaint patterns and to determine whether focused training and education, related to trends in complaint activities, is necessary.

Looking Ahead - 2015

In 2015, the DHRD's mandate has broadened to include responsibility for diversity and inclusion at the TTC, which involves leading a number of strategic initiatives including, but not limited to: the development and provision of training on diversity and inclusion for all TTC employees; the development and launch of a Diversity and Inclusion Corporate Policy, and a guideline or tool to assist TTC employees in considering diversity and inclusion values and principles in their corporate decision making. This guideline or tool is called a Diversity and Inclusion Lens. The DHRD expects that the effectiveness of such initiatives can be measured, among other ways, by a noticeable reduction in human rights complaints in the upcoming years. The DHRD will continue to monitor complaint trends in future to assess these outcomes.

The DHRD will also continue to educate and promote alternative dispute resolution services like mediation to all employees to help address complaints in an efficient and non-adversarial way. Mediation, where appropriate, helps to reduce the escalation of conflict in the workplace, and maintain positive working relationships.

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