

2016 Annual Human Rights Office Report and the Human Rights and Anti-Harassment/Discrimination Policy

Date: April 30, 2018
To: Executive Committee
From: Interim City Manager
Wards: All Wards

SUMMARY

This report analyzes data on harassment and discrimination inquiries/consultations and complaints filed in 2016 by City of Toronto employees and service recipients through the following complaint avenues: (1) the City's (internal) Human Rights Office (HRO); (2) the Human Rights Tribunal of Ontario (HRTTO); (3) the City's grievance/arbitration procedures; and (4) the Ministry of Labour. The report discusses complaint trends as well as some activities that were undertaken to advance equity and minimize legislative breaches, penalties and risks to the City.

The following are some of the notable trends from an analysis of the 2016 data:

- The total number of inquiries and complaints filed in 2016 was about the same as in the previous year (Table 1)
- The vast majority of inquiries and complaints continue to be raised through the City's internal HRO, which administers an alternative dispute resolution process (Table 1)
- There was a notable increase in the number of complaints filed through the grievance arbitration process (Table 1)
- There was an almost 30% decrease in the number of complaints filed with the HRTTO (Table 1)
- As a result of changes to the *Occupational Health and Safety Act* which came into effect on September 8, 2016, employees who felt the City had not appropriately dealt with their harassment complaint could also file a complaint with the Ministry of Labour (MOL). There was one complaint filed with the MOL in 2016 (Table 1)
- City employees filed 98 harassment/discrimination grievances in 2016, most frequently citing workplace harassment (Table 5)
- As in previous years, personal or non-Code harassment, disability, sex and creed/religion were the most often cited complaint grounds raised to the HRO (Table 3)

- There was a 7% increase in the number of times sex (including pregnancy, breastfeeding, sex harassment) was cited to the HRO (Table 3)
- Although there was no change in the number of times 'race' was cited as a ground in a complaint or consultation there was an increase of almost threefold in the number of times each of colour, ethnic origin, place of origin and ancestry were cited to the HRO (Table 3)
- The number of times creed/religion was cited in an HRO complaint or consultation almost doubled from 2015 to 2016 (Table 3)
- A total of 54 grounds were cited in the 24 applications filed with the HRTO by employees and service recipients in 2016. In those applications, disability, ethnic origin, colour, reprisal and race were the most often cited grounds (Table 7)
- There was a 20% increase in human rights related training participation
- The City's Human Rights Office remains the most utilised complaint avenue demonstrating that employees and service recipients continue to have confidence in the HRO. Typically, the advice and/or investigative services provided by the HRO effectively addresses the issue thereby avoiding resort to adversarial processes.
- The City incurred no penalties or damage awards from any adjudicators charged with addressing harassment and discrimination complaints (i.e., the Human Rights Tribunal of Ontario, grievance arbitrators, the Ministry of Labour, the Ontario Labour Relations Board or a court) in 2016 or in the five preceding years.

The City's Human Rights and Anti-Harassment/Discrimination Policy (HRAP) was amended to reflect consultation with the City's Occupational Health and Safety Coordinating Committee. The revised HRAP attached as Attachment 1 reflects revisions made to bring the policy in line with legislative changes that came into effect on September 8, 2016.

Education remains an important focus of the HRO. In 2016, particular focus was given to equipping the Toronto Public Service with the skills required to ensure compliance with the City's new legislative obligations. Related activities included amending guidelines for employees and managers and, providing templates, resources and training to staff and management.

RECOMMENDATIONS

The Interim City Manager recommends that:

1. City Council adopt the amended Human Rights and Anti-Harassment/Discrimination Policy contained in Attachment 1, which includes minor enhancements to Supervisors/Manager/Directors' responsibilities under the policy to ensure compliance with updated legislative requirements and additional minor clarifications to the definitions of "incivility" and "harassment".

FINANCIAL IMPACT

There are no financial implications arising from the recommendation in this report.

The Interim Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

The City's Human Rights and Anti-Harassment/Discrimination Policy requires the submission of an annual report to City Council about statistics and trends in human rights enquiries and complaint activities and on other program initiatives.

COMMENTS

The City's HRO administers an alternative dispute resolution program. The program satisfies the City's obligations in the *Ontario Human Rights Code (the Code)*, the *Accessibility for Ontarians with Disabilities Act (AODA)*, and the *Occupational Health and Safety Act (OHSA)*. It also supports the City's goals of providing equitable, harassment and discrimination free employment and services.

The goal of the program is to enable inclusive employment practices and service provision through policy development, education and dispute resolution of harassment and discrimination complaints.

2016 Review of Complaint Resolution Options:

The following is a review of the four harassment/discrimination complaint resolution avenues available to employees and service recipients and a discussion about complaint trends, service use and HRO activities to promote equity.

Table 1 – Harassment/Discrimination Complaints/Applications/Grievances in 2014 - 2016

Harassment/Discrimination Complaints, Applications and Grievances:	2014	2015	2016
Complaints filed to the City's HRO by employees and service recipients	312	287	273
Grievances filed by employees who are members of a Bargaining Unit	74	73	98
Applications filed to the HRTO by employees and services recipients	34	34	24
Complaint to the MOL	N/A	N/A	1
Total	420	394	396

1. Consultations/Complaints Raised by Employees and Service Recipients to the HRO:

A total of 273 employee and service recipient complaints were filed with the HRO in 2016 (Table 2). This marked a 4% decrease from 2015. The HRO was consulted on

an additional 654 Human Rights and Anti-Harassment/Discrimination Policy related issues.

Table 2 – Employee and Service Recipient Consultations and Complaints Addressed by the HRO in 2014 to 2016:

Year	Consultations	Complaints	Total by Year
2014	705	312	1017
2015	658	287	945
2016	654	273	927

As in previous years, it remains common to have multiple grounds cited in one complaint. There were 1313 grounds (Table 3) cited in the 927 complaints or consultations in which the HRO was involved in 2016 (Table 2). As a result, even though the total number of employee and service recipient consultations and complaints addressed by the HRO decreased by 18 in 2016, the number of grounds cited to the HRO increased by 129.

Table 3 provides a breakdown of the frequency with which each prohibited ground of discrimination or harassment was cited in an HRO consultation or complaint initiated by City employees or service recipients in 2016.

Table 3 – Employee and Service Recipient Consultations and Complaints by Prohibited Ground; Addressed by the HRO in 2014 to 2016

Prohibited Ground	Consultations			Complaints			Total by Ground		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
No Ground / Other	446	296	246	77	46	44	523	342	290
Workplace Harassment (OHSA)	57	130	127	54	74	81	111	204	208
Disability (Code)	65	116	128	57	74	41	122	190	169
Sex (including pregnancy, breastfeeding, sex harassment*) (Code)	36	61 (19 +42*)	69 (24 +45*)	58	57 (14 +43*)	58 (21 +37*)	94	118 (33 +85*)	127 (45 +82*)
Creed/Religion (Code)	22	21	46	21	17	30	43	38	76
Race (Code)	22	39	34	29	29	33	51	67	67
Family Status (Code)	44	28	30	31	27	34	75	55	64
Gender Identity (Code)	12	13	28	10	13	17	22	26	45
Origins – Ethnic (Code)	8	6	20	15	9	22	23	15	42
Gender Expression (Code)	6	8	23	9	10	15	15	18	38
Origins – Place (Code)	8	7	21	13	6	16	21	13	37
Ancestry (Code)	2	3	19	4	6	15	6	9	34

Prohibited Ground	Consultations			Complaints			Total by Ground		
Colour (Code)	9	11	14	11	5	19	20	16	33
Sexual Orientation(Code)	9	12	17	12	11	10	21	23	27
Age (Code)	6	5	14	1	5	9	7	10	23
Reprisals (Code)	8	11	8	8	10	10	16	21	18
Citizenship (Code)	3	2	3	6	1	1	9	3	4
Level of Literacy (City Policy)	-	3	2	2	1	1	2	4	3
Political Affiliation (City Policy)	1	3	1	-	-	-	1	3	3
Record of Offences (Code)	2	2	2	3	-	-	5	2	2
Membership in a Union or Staff Association (City Policy)	-	1	2	-	-	-	-	1	2
Marital Status (Code)	3	3	2	1	1	-	4	4	2
Receipt of Public Assistance (code)	3	2	1	-	-	-	3	2	1
Total	772	782	857	422	402	456	1194	1184	1313

No Ground/Other:

The "No Ground/Other" category captures issues that HRO staff are consulted on or investigate that are not related to a prohibited ground in the policy. These interventions provide opportunities for the HRO to integrate human rights and equity principles into a broad range of City employment and service initiatives such as: program/policy reviews; education and resource development; advice regarding job postings, collective agreement provisions, application of legislation, etc. The decrease in 2016 consultations may be attributed to the increased availability of detailed, web accessible resources, including guides, which promote better understanding of the HRO's jurisdiction and directs people wishing to address matters outside the HRO's scope to appropriate entities.

Non-Code Workplace Harassment (OHSA):

Workplace harassment is harassment that is not related to a prohibited ground in the Code. As in previous years, workplace harassment continues to be the most frequent ground of complaint cited to the HRO. There was a slight rise in the number of workplace harassment complaints in 2016.

To increase the City's managers' ability to respond to these matters and promote positive workplace conduct, the HRO continues to update the manager's guide "[Resolving Conflict: Preventing Incivility and Workplace Harassment](#)". The guide discusses how to prevent conflict, address it when it occurs and support respectful behaviour.

Prohibited grounds (Code):

Similar to previous years' complaint patterns, disability was the most frequently cited *Code* ground raised to the HRO in 2016 by both employees and service recipients (see Table 4). It was also the most often cited *Code* ground raised by employees who filed discrimination grievances and Human Rights Tribunal applications. Most often the disability complaints are related to accommodation. Overall, there was a decrease in the total number of complaints and consultations that cited disability in 2016. New training on disability accommodation obligations under the *Code* and *AODA* was offered in 2016 to foster understanding and consistent practices and compliance.

The next two most frequently cited prohibited grounds raised to the HRO were Sex (including pregnancy, breastfeeding, and sexual harassment) and Creed/Religion.

In 2016, in addition to providing training and other resources, the HRO developed a robust sexual harassment resource document which educates staff on identifying, addressing and preventing sexual harassment in the workplace.

To address the root causes of discrimination and harassment, the City of Toronto, led by Social Development, Finance and Administration (SDFA), in partnership with the City's EDHR division and OCASI (a community agency), promoted a "Toronto For All" education campaign on Islamophobia.

Table 4 provides the breakdown of the frequency with which each prohibited ground is cited in service recipient related complaints or consultations filed with the HRO.

Table 4 - Service Recipient Consultations and Complaints by Ground, 2014 – 2016

Ground	Consultations			Complaints			Total		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
Disability	2	17	26	3	26	9	5	43	35
No Ground/Other	50	11	15	5	11	9	55	22	24
Creed/Religion	1	4	8	3	2	7	4	6	15
Race	3	6	6	4	4	7	7	10	13
Gender Identity	-	4	6	-	2	6	-	6	12
Gender Expression	-	3	5	-	2	6	-	5	11
Colour	1	-	2	1	2	5	2	2	7
Sex (includes Sexual Harassment, Pregnancy and Breastfeeding)	6	3	3	4	4	3	10	7	6
Origins – Ethnic	-	1	2	3	2	3	3	3	5
Ancestry	-	-	2	1	1	2	1	1	4
Origins – Place	-	1	2	2	1	1	2	2	3

Ground	Consultations			Complaints			Total		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
Family Status	-	-	2	-	1	1	-	1	3
Sexual Orientation	-	1	2	1	-	1	1	1	3
Citizenship	-	-	1	-	-	1	-	-	2
Reprisal	-	-	2	-	1	-	-	1	2
Age	-	-	1	-	-	-	-	-	1
Political Affiliation	-	-	1	-	-	-	-	-	1
Workplace Harassment	-	-	-	-	1	-	-	1	-
Receipt of Public Assistance	-	-	-	-	-	-	-	-	-
Record of Offences	1	-	-	-	-	-	1	-	-
Level of Literacy	-	-	-	-	1	-	-	1	-
Total	64	53	86	27	59	61	91	112	147

The City has a strong commitment to providing equitable, discrimination and harassment free service to the public. Residents and service recipients may complain under the City's 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.

The training and resources provided by the HRO address both employee and service recipient complaints.

2. Employee Harassment/Discrimination Complaints Addressed through the Grievance/Arbitration Process:

Employees who belong to a union may grieve harassment and discrimination through provisions in their respective Collective Agreements.

The Employee and Labour Relations Unit (ELR) of the Human Resources Division has responsibility for managing grievances. ELR reports receiving 98 harassment/discrimination grievances in 2016, see Table 5 below. This is a 25% increase from 2015.

Table 5 – Employee Harassment and Discrimination Grievances by Prohibited Ground for the Period 2014-2016:

Prohibited Ground:	2014	2015	2016	2016 Heard concluded	Carried into 2017
Disability (failure to accommodate)	8	11	27	3	24

Prohibited Ground:	2014	2015	2016	2016 Heard concluded	Carried into 2017
Workplace Harassment	40	37	32	8	24
ground not identified	21	20	31	12	19
Tied to Discipline	2	3	4		4
Family Status	-	-	2		2
Sex (includes sexual harassment)	2	2	1		1
Race	1	-	1	1	
Colour	-	-			
Place of Origin	-	-			
Ethnic Origin	-	-			
Ancestry	-	-			
Creed/Religion	-	-			
Sexual Orientation	-	-			
Gender Expression	-	-			
Gender Identity	-	-			
Age	-	-			
Citizenship	-	-			
Marital Status	-	-			
Record of Offences	-	-			
Reprisal	-	-			
Total	74	73	98	24	74

3. Employee and Service Recipient Complaints Filed to the Human Rights Tribunal of Ontario:

Service recipients and employees have a legal right to file human rights complaints, referred to as 'applications', directly to the HRTO. The Legal Services Division is responsible for representing the City's interests at HRTO hearings. The Legal Services Division reports receiving a total of 24 HRTO applications filed in 2016, representing an almost 30% decrease in the number of applications. Of the 24 applications, 10 were filed by employees and 14 by service recipients (see Table 6). The number of applications from employees decreased by over 50%.

Table 6 – Applications Filed by Employees and Service Recipients to the HRTO 2014 - 2016

Year	Employee	Service Recipient	Total Applications
2014	27	7	34
2015	23	11	34
2016	10	14	24

Table 7 provides a breakdown of the grounds cited in the HRTO applications. The total number of cited grounds indicated in Table 7 exceeds the total number of HRTO applications reflected in Table 6 because applicants may select more than one ground.

Disability and race (and related grounds) were cited most frequently in HRTO applications.

Table 7 - HRTO Applications Received by Legal Services Division, by Ground 2014 – 2016

Prohibited Ground	HRTO Complaints Received by Legal Services Division – by Ground Cited 2014-2016								
	Employee Related			Service Related			Total Grounds Cited		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
Disability	9	13	6	3	6	11	12	19	17
Origins – Ethnic	6	3	2	2	2	6	8	5	8
Race	9	5	3	1	2	4	10	7	7
Reprisals	7	5	4	1	1	1	8	6	5
Colour	7	5	2		1	3	7	6	5
Age	2	6	-	1	1	1	3	7	1
Record of Offences	1	-	1		1	-	1	1	1
Gender Expression		2	-		-	1	-	2	1
Origins – Place	6	1	-	1	1	2	7	2	2
Ancestry	3	2	-		-	1	3	2	1
Creed/ Religion	2	3	-		1	1	2	4	1
Family Status	3	2	1	1	-	1	4	2	2
Sex (including pregnancy, breast feeding)	5	7	-	1	1	1	6	8	1
Gender Identity	1	-	-		-	-	1	-	-
Sexual Orientation	2	-	-	1	-	-	3	-	-
Citizenship	1	1	-		-	1	1	1	1
Marital Status	1	1	-		-	1	1	1	1
Receipt of Public Assistance	-	-	-	2	1	-	2	1	-
Total	65	56	19	14	18	35	79	74	54

Table 8 captures HRTO final decisions released between 2014 and 2016. A Tribunal application can take two to three years to reach a final decision. As such, these decisions are not based on the applications received by the City in 2016. The decisions relate to applications filed in the preceding years.

In 2016, the HRTO released 13 final decisions regarding four service recipient and nine employee applications. There were a total of 28 prohibited grounds cited in the 13 cases. As in the preceding years, the complaints against the City were dismissed by HRTO adjudicators for a variety of reasons including abandonment of case and a determination that the application has no reasonable prospect of success.

Table 8 - HRTO Final Decisions by Prohibited Ground 2014 - 2016

Prohibited Ground	HRTO Final Decisions – by Ground for 2014-2016								
	Employee Related			Service Related			Total Grounds Cited		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
Disability	3	3	5	1	2	2	4	5	7
Race	2	2	4	1	-	1	3	2	5
Colour	1	1	2	1	-	1	2	1	3
Origins – Ethnic	1	1	3	1	2	-	2	3	3
Origins – Place	1	1	3	1	-	-	2	1	3
Reprisals	2	3	3	1	2	-	3	5	3
Age	3	2	-	1	-	2	4	2	2
Family Status		-	1	2	-	-	2	-	1
Receipt of Public Assistance		-	-	1	-	1	1	-	1
Ancestry		1	-	1	-	-	1	1	-
Creed/Religion		-	-	1	-	-	1	-	-
Sexual Orientation		1	-	2	1	-	2	2	-
Sex (including sex harassment, pregnancy and breastfeeding)	2	-	-	1	-	-	3	-	-
Gender Identity		-	-	1	-	-	1	-	-
Gender Expression		-	-	1	-	-	1	-	-
Citizenship		1	-	1	-	-	1	1	-
Marital Status		1	-	2	-	-	2	1	-
Record of Offences		1	-	1	-	-	1	1	-
Total	15	18	21	21	7	7	36	25	28

4. Employee Harassment Complaints Filed with the Ministry of Labour:

As a result of changes to the *OHS Act* which came into effect on September 8, 2016, employees who believe the City had not appropriately dealt with their harassment

complaint could also file a complaint with the Ministry of Labour (MOL). There was one anonymous complaint filed with the MOL in 2016 (Table 1). As is the MOL's practice when complaints are received, an investigator attended the facility in question. The City's harassment and workplace violence policies were reviewed. The investigator made a few suggestions about the format of the City's policy and determined that there was insufficient information to support further investigation.

5. Education:

Education plays an important role in ensuring that all members of the Toronto Public Service are familiar with their rights and responsibilities in preventing, addressing and resolving human rights concerns.

To support the Toronto Public Service in appropriately responding to the new *OHSA* obligations and to foster inclusive employment practices and service provision to promote an inclusive workplace for LGBTQ2S employees, the City continues to support the Positive Space Toronto training program to City staff.

The HRO also focused on equipping the Toronto Public Service to meet the new *OHSA* obligations through amending guidelines and providing templates, resources and training to staff and management (i.e., Manager's Guide for Responding to Harassment/Discrimination Complaints & Incidents and the Sexual Harassment in the Workplace resource document).

Table 9 below captures a three-year snapshot of human rights related staff training activity. Throughout 2015 and 2016 the HRO worked with divisions to increase participation of unionized staff in human rights training. 2016 saw a significant increase in e-learning training delivery. The majority of 2016 training sessions were online as opposed to the traditional classroom format. This resulted in a 20% increase in training participation.

Table 9 – Human Rights Training Activity 2014 – 2016

year	# Union attendees	# union sessions	# mgmt. attendees + eLearning	# mgmt. sessions	Total Sessions	Total In-class Participants	Total + eLearning
2014	368	21	183	13	34	551	n/a
2015	2961	141	253	16	157	3214	n/a
2016	534	21	404 + 2028	21	42	938	2966

6. Amendments to the City's Human Rights and Anti-Harassment/Discrimination Policy

Attachment 1 contains the revised Human Rights and Anti-Harassment/Discrimination Policy. Under the *OHSA*, the HRO is required to review its Human Rights and Anti-Harassment/Discrimination Policy annually. This year's review resulted in very minor changes to the policy following the September 8, 2016 coming into force of certain

amendments to OHSA (Bill 132) and required consultation with the City's Occupational Health and Safety Coordinating Committee. The minor enhancements include clarification on Supervisors/Managers/Directors' responsibilities under the policy, particularly noting that they must "ensure complaints/incidents are addressed in a timely manner and investigation results letters are provided to parties" whether those issues are raised to them formally or informally. There were also minor clarifications to the definition of "incivility" and "harassment" (revised policy is attached as Attachment #1). Once the policy has been adopted, the HRO will amend any Complaint Procedures as necessary and communicate revisions to all City staff.

The City is recognized as a leader in its progressive approach to human rights and, as noted earlier in this report, has incurred no penalties from adjudicators charged with hearing harassment and discrimination complaints in the last six years. That said, there are some concerning trends in the data and the HRO is responding to those trends with training, resources and through engagement with the City's management. The City's robust human rights related educational programs and its proactive approach to addressing discrimination and harassment issues will continue to aid the City in achieving its goal of providing equitable access to City services and a discrimination and harassment free workplace for its employees.

CONTACT

Omo Akintan
Acting Director, Equity, Diversity and Human Rights
416-392-8703
Omo.Akintan@toronto.ca

SIGNATURE

Giuliana Carbone
Interim City Manager

ATTACHMENT

Attachment 1: Amended Human Rights and Anti-Harassment/Discrimination Policy (HRAP)