



2017-2018 Annual Human Rights Office Report

Date: August 23, 2019

To: General Government and Licensing Committee

From: Chief People Officer, People and Equity

Wards: All

SUMMARY

This report analyzes data on harassment and discrimination inquiries and complaints made in 2017 and 2018 by City of Toronto employees and service recipients/facility users through the following complaint paths: the City's (internal) Human Rights Office (HRO); the City's grievance/arbitration procedures; the Human Rights Tribunal of Ontario (HRTO); and the Ministry of Labour (MOL). The report identifies complaint trends and various initiatives undertaken by the HRO to minimize legislative and policy breaches, thereby mitigating risks to the City.

The following are some of the notable trends from an analysis of the 2017 and 2018 HRO data.

2017 Trends:

- Non-human rights code related workplace harassment, disability and sexual harassment were the most often cited consultation and/or complaint grounds to the HRO (see Table 3).
- Disability consultations and/or complaints rose 6.5 percent in 2017 (see Table 3).
- For the first time, the HRO had an increase in concerns about reprisal with a 44 percent increase in the number of times it was cited to the HRO (see Table 3).

2018 Trends:

- For the first time in three years, the number of times family status was cited to the HRO sharply increased by 67 percent (see Table 3).
- Although the number of times creed/religion was cited in 2018 stayed the same, the number of times colour was cited climbed by more than 64 percent and race citations increased by almost 40 percent (see Table 3).
- There was a marked 33 percent increase in the number of sexual harassment consultations and/or complaints to the HRO (see Table 3).

The HRO's neutral, alternative dispute resolution approach has proven to be both a viable alternative to more adversarial formal complaint avenues (i.e., grievance

arbitration, the HRTA and the MOL) and an effective mechanism to advance equity. The HRO will continue to monitor complaint trends and promote dispute resolution services to all employees and members of the public. Under the *Ontario Health and Safety Act*, the HRO is required to review its Human Rights and Anti-Harassment/Discrimination policy annually. A 2018 review resulted in no changes to the policy.

RECOMMENDATIONS

The Chief People Officer, People and Equity recommends that:

1. City Council receive this report for information.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of the recommendation in this report.

The Chief Financial Officer and Treasurer 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 inquiry and complaint activities and on other program initiatives.

COMMENTS

BACKGROUND

Human Rights Office Mandate:

The Human Rights Office (HRO) is a confidential and neutral office in place to support the City in meeting its legislative requirements to ensure that harassment and discrimination does not occur in the delivery of City services and within the workplace. In accordance with the *Ontario Human Rights Code* (the Code) and the *Occupational Health and Safety Act* (OHSA), the Human Rights Office administers the City's Human Rights and Anti-Harassment/Discrimination Policy (HRAP) and the City's Accommodation Policy. The focus of the HRO is to prevent, correct and remedy harassing and/or discriminating behaviours that are contrary to this Policy. The Human Rights Office also administers the City's Hate Activity Policy and Procedures.

The jurisdiction of the Human Rights and Anti-Harassment/Discrimination Policy (HRAP) includes complaints made by employees, recipients of services, users of facilities, those who contract directly with the City, as well as those who occupy housing accommodations owned by the City of Toronto. However, under the HRAP, the City's HRO cannot intervene where the same or related events have been pursued through

another complaint avenue such as a grievance or a Human Rights Tribunal of Ontario application.

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

Human Rights Office Process:

See Appendix A to review a summary of the roadmap of an inquiry to the Human Rights Office.

All new interactions with the HRO are called "inquiries". An inquiry can come from any employee of the City of Toronto or a member of the public. An inquiry is then coded as either a consultation or a complaint/intervention. Consultations include non-jurisdictional inquiries where a referral is made to another office or agency, or an inquiry where information on policy, process, dispute resolution and/or jurisdiction is provided.

An inquiry becomes a complaint or intervention once the Complaints and Research Analyst has assessed that it is both within the HRO's jurisdiction and in need of further support of a Human Rights Consultant. Consulting and the provision of expert advice by staff in the HRO are core elements of the City's human rights strategy as they provide opportunities for HRO staff to educate parties about the City's human rights policies and to promote consistent practices.

The majority of harassment and/or discrimination inquiries continue to be directed to the HRO through phone, email, online and in-person consultations demonstrating an ongoing trust in the process and the office. Typically, the advice and/or investigative services provided by the HRO effectively addresses the issue, thereby avoiding the parties engaging in adversarial processes like pursuing the grievance process, filing a Human Rights Tribunal of Ontario application, and/or filing a complaint with the MOL.

2017-2018 REVIEW OF COMPLAINT RESOLUTION OPTIONS:

1. Total HRO Inquiries/Consultations by Employees and the Public

A total of 811 employee and service recipient inquiries were made directly to the HRO in 2017 (Table 1). This was a 13 percent decrease from the 927 inquiries made in 2016. There was a 10 percent increase in inquiries made directly to the HRO from 2017 to 2018.

For the seventh year in a row, the City has incurred no penalties from adjudicators charged with hearing harassment and/or discrimination complaints. Further, the consistent number of consultations and complaints to the HRO is an indicator that it continues to be a trusted office of first resort for individuals with human rights concerns, questions, issues, and/or requests.

The following is a review of four of the harassment/discrimination complaint resolution paths available to employees and service recipients:

Table 1 – Total Harassment/Discrimination inquiries and complaints through various complaint paths

Complaint Paths			
	2016	2017	2018
Inquiries and complaints made directly to the Human Rights Office	927	811	895
Harassment and discrimination grievances	98	75	85
Human Rights Tribunal of Ontario applications*	24	24	26
Complaints made to the Ministry of Labour*	1	4	2

*Please see the glossary of terms at the end of this report for detailed explanation

In 2017, the HRO was consulted on three separate inquiries related to potential Hate Activity Policy breaches. Upon further review, the allegations did not meet the definition under the Hate Activity Policy. However, the HRO proceeded to monitor and offer support to the organization on these inquiries. In 2018, the HRO was made aware of one event that was monitored in accordance with the Hate Activity Policy. The event was managed and responded to jointly by Corporate Security and Toronto Police Services.

2. Breakdown of the Nature of HRO Inquiries and Complaints

The following tables capture total inquiries to the Human Rights Office. Each new interaction through phone, email, online, or in person is logged as an inquiry.

There has been a steady increase in consultation by managers and employees for information, advice and/or early dispute resolution since 2016. This trend means that managers and employees are proactively seeking information from the HRO about the City's HRAP and companion complaint procedures in an effort to address issues early, and not have them escalate into human rights complaints or interventions. It is important to note that in 2018, the number of consultations increased by 16 percent from 2017 and the number of complaints/interventions decreased slightly.

Table 2.1 – Public and Employee Consultations from 2016-2018

Consultations generally include non-jurisdictional inquiries where a referral is made, an inquiry where detailed information on policy, process, jurisdiction and/or early resolution support is provided.

Inquiries/Consultations			
	Public	Employees	Total
2016	86	568	654
2017	183	381	564
2018	194	461	655

Table 2.2 – Public and Employee Complaints/Interventions from 2016-2018

Complaints/interventions refer to inquiries that are assigned to a Consultant for further support and may include complaint resolution, management support, investigations and/or accommodation support.

Complaints/Interventions			
	Public	Employees	Total
2016	61	212	273
2017	25	222	247
2018	33	207	240

Due to the complex nature of a person's identity (i.e. that people's lives involve multiple interrelated identities) there is frequently a multitude of code grounds cited in a single complaint, also referred to as intersectionality (see glossary). In 2017, the HRO consulted or intervened in 811 inquiries that cited 1,143 grounds. In 2018, 895 HRO inquiries cited 1,356 grounds. That represents a 19 percent increase in the number of code grounds cited and assessed by HRO staff.

Detailed Breakdown of Total Grounds Cited to the HRO:

Table 3 provides a breakdown of the frequency with which each prohibited ground of discrimination and/or harassment was cited in an HRO consultation or complaint/intervention initiated by City employees or service recipients from 2016 to 2018.

Table 3 – Employee and Public Inquiries/Consultations by Ground* (Code and HRAP) 2016-2018

2016-2018 Total Grounds (Code and HRAP)			
Ground	2016	2017	2018
Age	23	14	21
Ancestry	34	15	6
Citizenship	4	5	3
Colour	33	28	46
Creed	76	61	61
Disability	169	180	202
Ethnic Origin	42	39	33
Family Status	64	63	105
Gender Expression	38	26	16
Gender Identity	45	25	18

Level of Literacy*	3	3	7
Marital Status	2	3	4
Membership in a union or staff association*	2	2	5
Place of Origin	37	26	21
Political Affiliation*	3	2	0
Race	67	59	82
Receipt of Public Assistance	1	2	2
Record of Offences	2	0	1
Reprisal	18	26	48
Sex including pregnancy and breast feeding	45	8	38
Sexual harassment**	82	81	108
Sexual orientation	27	24	24
Workplace harassment**	208	232	221
No ground/non-jurisdictional/referral***	290	219	284
TOTAL GROUNDS:	1315	1143	1356

*In addition to the prohibited grounds under the Code, The City's Human Rights and Anti-Harassment/Discrimination Policy covers complaints related to Level of Literacy, Membership in a union or staff association, and Political Affiliation.

**Workplace harassment as defined in the OHSA includes harassment based on sex, gender identity, gender expression, sexual orientation and non-Code harassment, i.e., harassment that is not based on a prohibited ground listed above.

*** The "No ground/non-jurisdictional/referral" category captures issues that HRO staff are consulted on that may not be related to a prohibited ground in the Human Rights Anti-Harassment/Discrimination Policy. Such inquiries often result in referrals.

As in previous years, "No Ground" inquiries continue to account for the largest number of touchpoints with the HRO. This area continues to increase with an almost 30 percent increase in "no ground" inquiries in 2018.

Table 4.1- Most frequently cited total code grounds 2016-2018

The table below outlines the most often cited code grounds from both the public and City employee inquiries. The cited grounds *do not* include workplace harassment or non-code/non-jurisdictional/referral inquiries that are listed in Table 3.

Frequently-cited Total Code Grounds			
2016	Disability	Sexual Harassment	Creed
2017	Disability	Sexual Harassment	Family Status
2018	Disability	Sexual Harassment	Family Status

Table 4.2- Most frequently cited public code grounds 2016-2018

The table below outlines the top three cited grounds in public complaints between 2016-2018. Consistently, disability and race appear as the most commonly cited

grounds. The below table *does not* include non-code/non-jurisdictional/referral inquiries that are listed in Table 3.

Public Code Grounds			
2016	Disability	Creed	Race
2017	Disability	Race	Creed/Sexual Harassment
2018	Disability	Race	Sexual Harassment

Table 4.3 – Most frequently cited employee code grounds 2016-2018

The table below outlines the top cited code grounds in City employee inquiries. The cited grounds *do not* include workplace harassment or non-code/non-jurisdictional/referral inquiries that are listed in Table 3.

Employee Code Grounds			
2016	Disability	Sexual Harassment	Family Status
2017	Disability	Sexual Harassment	Family Status
2018	Disability	Sexual Harassment	Family Status

Prohibited grounds (Code):

Similar to previous years' complaint patterns, disability was the most frequently cited *Code* ground raised from 2017 and 2018 (180 and 202 respectively) resulting in a 12 percent increase in disability inquiries by both employees and members of the public.

Accommodation based on disability was the most commonly cited ground among City management seeking support from the HRO between 2016-2018 (Table 7). In addition, disability as it relates to a failure to accommodate, was also the most often cited *Code* ground of complaint raised by employees in HRTO applications.

Sexual harassment was cited 32 percent more often between 2016 and 2018. This is likely due in part to the additional protections under Bill 132. In addition, more broadly, sexual harassment and sexual violence has been highlighted by the #MeToo and #TimesUp movements. Both movements have potentially been a catalyst for some individuals who have experienced workplace sexual harassment to file a complaint where they may not have done so previously.

The City is committed to providing accessible service to the public that is free from harassment and discrimination. The public may file a complaint under the City's Human Rights and Anti-Harassment/Discrimination Policy.

3. 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 People & Equity Division has the responsibility of supporting the grievance process. ELR reports receiving 75 and 85 harassment/discrimination grievances in 2017 and 2018 respectively (see Table 5).

Table 5 – Employee Harassment and Discrimination Grievances by Prohibited Ground for the Period 2016-2018:

Prohibited Ground**:	2016	2017	2018
Creed/Religion	-	1	-
Disability (discrimination - code)	-	13	1
Disability (failure to accommodate)	27	6	9
Family Status (discrimination - code)	-	-	1
Family Status (failure to accommodate)	2	1	1
Ground not identified*	31	22	22
Race	1	-	1
Sex (includes sexual harassment)	1	-	4
Tied to Discipline	4	2	3
Workplace Harassment	32	30	43
Total	98	75	85

* Grievances that have been indicated to be discrimination or harassment but have not yet been heard, or were withdrawn ahead of categorizing.

** This chart reflects only code grounds identified by grievors in the process.

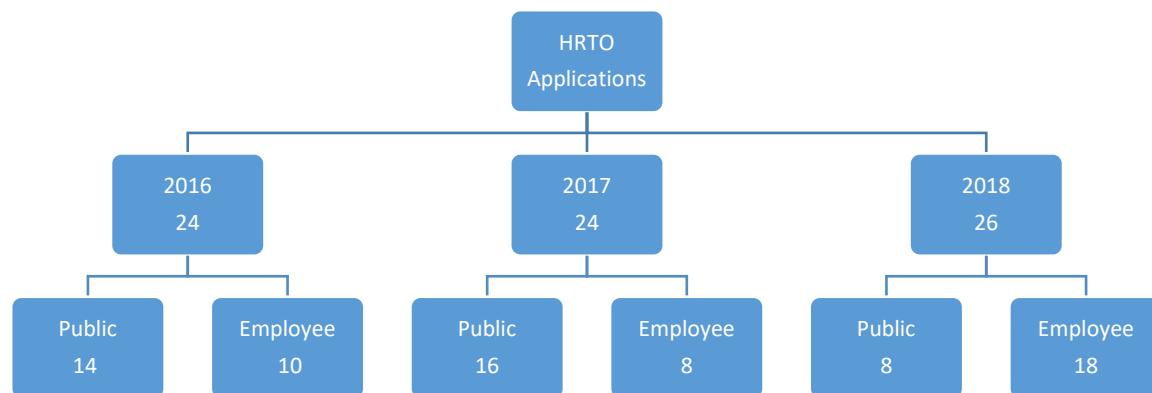
The HRO often collaborates with Employee and Labour Relations (ELR) to provide aligned support and expert advice to management in responding to workplace issues raised by employees that may have some human rights elements. This collaboration helps to ensure that, wherever possible, issues are assessed early and consistently to potentially resolve issues through an internal alternative resolution process before they escalate to the formal grievance process.

4. 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 2017; the same number of applications as was received in 2016. In 2018, 26 applications were made to the HRTO. Of the 26 applications, 18 were filed by employees and 8 by members of the public (see Table 6).

Table 6 – HRTO Applications Filed by the Public and City Employees 2016-2018



While the preference is for the City to have an opportunity to initially address complaints related to discrimination and harassment, employees and services users have the option of making an application directly to the HRTO. In these instances, the HRO is not usually made aware of the issue and there is no opportunity for the HRO to assist or provide any alternative dispute resolution options.

In 2018, there was an increase in applications made to the HRTO by City employees (18 applications compared to the 8 employee applications in 2017). However, it is important to note that of the 18 applications made to the HRTO, the City's HRO was consulted in only half of those complaints.

In 2017 and 2018, disability, race (and related grounds) and family status were cited most frequently in HRTO applications from both employee and service recipients.

As mentioned previously, there were no decisions made against the City as a result of HRTO applications in 2017 or 2018. Due to the lengthy process of an HRTO application, this does not necessarily reflect applications made in 2017 and 2018, but likely reflects applications made in previous years.

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

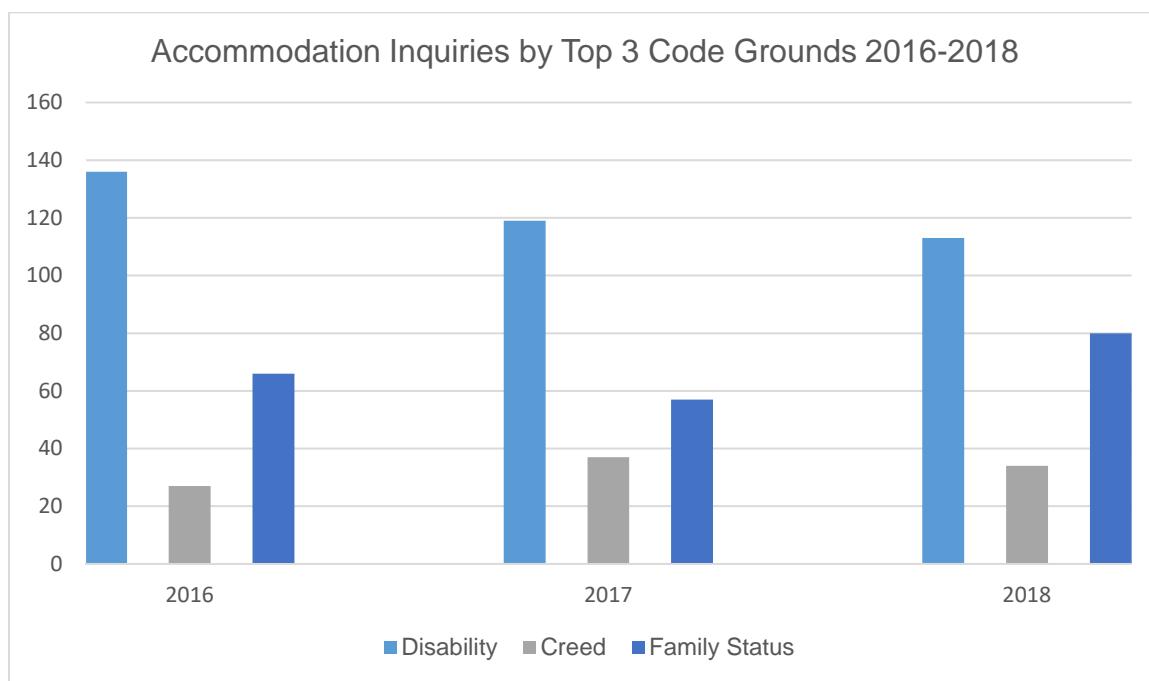
A Ministry of Labour (MOL) complaint is a mechanism available under the OHSA where employees who believe the City has not appropriately dealt with their harassment complaint can explore an additional complaint avenue. This mechanism is typically a last resort option, and as such, continues to be the least explored avenue of complaint at the City of Toronto (see Table 1). The MOL received four non-code workplace harassment complaints from City employees in 2017. Ensuing investigations resulted in no orders being issued. In 2018, the MOL received two complaints that were investigated with no orders issued.

6. Accommodation:

The City of Toronto, like all employers in Ontario has a duty to accommodate employees based on several different code grounds up to the point of undue hardship. As such, the Human Rights Office maintains the City's Accommodation Policy, procedures, and various guidelines to support management in assessing and supporting accommodation requests.

Table 7 shows a three-year snapshot of the three most commonly cited accommodation requests for support made to the HRO by City management. Year over year, disability is the most frequently cited code ground, followed by family status, and creed.

Table 7 - Accommodation Inquiries by Top Three Code Grounds 2016-2018



PROVIDING TIMELY CUSTOMER SERVICE:

The primary role of Consultants in the HRO is to inform City staff and members of the public who are service recipients and/or facility users, on their rights and responsibilities under HRAP. They also support City management in meeting their responsibilities under the HRAP by providing consultation, support, expert advice, investigations and making referrals as appropriate.

The customer service standard for the HRO is that all external and internal inquiries will be acknowledged and/or receive a response within 24 hours. In addition, all internal and external Human Rights and Anti-Harassment Policy complaints will receive a response within 48 hours. The HRO has recently added a new dedicated intake role to interface with members of the public and employees as the first point of contact with the office. This new role has resulted in greater consistency in inquiry response, data collection for the office, as well as contributed to the HRO's ability to meet its service standard and to provide timely customer service.

OPPORTUNITIES TO EMBED HUMAN RIGHTS IN CITY PRACTICES

Education:

Building organizational capacity through education is an important part of ensuring that all members of the Toronto Public Service are familiar with their rights and responsibilities in preventing, addressing and resolving human rights concerns. HRO-supported training is adaptive and flexible based on the various levels of responsibility and participation within the organization.

Beginning in late 2016 and into 2017, in compliance with the Government of Ontario's Bill 132, the City rolled out mandatory eLearning for all people managers, with a particular focus on responding to workplace harassment complaints. As of the end of 2017, 1610 employees had taken this training.

In 2018, the HRO saw an opportunity in the momentum of the #MeToo and #TimesUp movements and updated the Know the Line workplace sexual harassment educational campaign. In re-launching the campaign, the HRO updated the various supporting materials to include the varied lived experiences of City staff and added an interactive e-Learning opportunity. Know the Line also educated City staff about safe bystander intervention strategies and included new posters, information cards and external resources for staff.

Three of the major educational programs that the HRO supports through the Corporate Learning and Leadership Development unit includes:

- *Human Rights in the Workplace*, an all staff half-day high-level look at the Code, the OHSA and the HRAP. This course was attended by approximately 362 employees in 2017 and 308 employees in 2018;
- *Managing Human Rights and Responding to Complaints*, a day-long training for managers/supervisors to apply their knowledge of the HRAP and explore complaint resolution techniques. This course was attended by approximately 586 employees in 2017 and 239 employees in 2018; and
- *Managing the Duty to Accommodate in Employment and Service Provision*, a day-long management training where the City's Accommodation Policy and Accommodation Procedures are reviewed and applied. This course was attended by approximately 48 employees in 2017 and 45 employees in 2018.

The training attendance numbers reflected above capture training activities available through Corporate (city-wide) and Intact (divisional-specific) learning opportunities. The HRO will continue working with colleagues in the People & Equity Division to increase participation in the above courses over the next year.

To address the root causes of discrimination and harassment complaints raised by the public, the City of Toronto, led by Social Development, Finance and Administration (SDFA), in partnership with the City's Equity Diversity and Human Rights division (now part of the People & Equity Division) along with community agencies, promoted an external "Toronto For All" education campaign on intimate partner violence, anti-black racism and Islamophobia over 2017 and 2018.

Moving Forward:

There is an opportunity for the City to enhance its training offerings in the areas of human rights, harassment and discrimination to ensure that all employees have the required baseline understanding of their rights and obligations.

Further, given the trends identified in this report, the City will continue to emphasize building organizational capacity at a foundational level through equity, inclusion and human rights education in these specific areas:

- Disability and Accessibility,
- Sexual Harassment,
- Race,
- Creed, and
- Family Status Accommodation

In order to support the Toronto Public Service in fostering inclusive employment practices and service provision, more foundational education is needed on disability and accessibility, including the City's accommodation policies and procedures, to ensure that the City continues to support equity and inclusion initiatives in this area.

The City will continue to enhance and expand its educational offerings around accommodation to ensure that managers and supervisors have a thorough understanding of their human rights compliance obligations in all areas, including: disability, family status, creed, gender identity/expression, and sex (including pregnancy and breastfeeding), in both the employment and service provision context. New human rights learning modules are being developed for leaders and employees.

In addition, the HRO continues to be responsive to the organizational need for educational opportunities, and as such, the HRO has partnered with the Ontario Human Rights Commission to host a human rights conference later this fall.

Finally, the HRO remains committed to improving its current processes and is moving from a manual complaints management process to an electronic case management system that will allow for improved management of complaints and investigations.

CONCLUSION

The City of Toronto continues to be a leader in human rights consultation and complaint management, which has proven to be both a viable alternative to more adversarial and formal complaint avenues and an effective means to advance equity and inclusion. The steady stream of consultations and complaints to the HRO is an indication that it continues to be a trusted office of first resort for individuals with human rights concerns, questions, issues or requests.

The HRO will continue to monitor complaint trends, promote dispute resolution, develop proactive human rights resources, support best-in-class human rights education and promote its services to all employees and service recipients to continue to embed and advance a positive human rights culture.

CONTACT

Waheeda Rahman White, Director, Equity, Diversity and Human Rights,
People & Equity Division, waheeda.white@toronto.ca, 416-397-4118

SIGNATURE

Omo Akintan
Chief People Officer
People and Equity Division

ATTACHMENTS

Appendix A – The Human Rights Office – Roadmap of an Inquiry
Appendix B – Glossary of Human Rights Office Report Terminology