

**REPORT OF THE ACTIVITIES OF
THE DISCRIMINATION AND HARASSMENT COUNSEL
FOR THE LAW SOCIETY OF UPPER CANADA**

For the period from January 1, 2008 to June 30, 2008

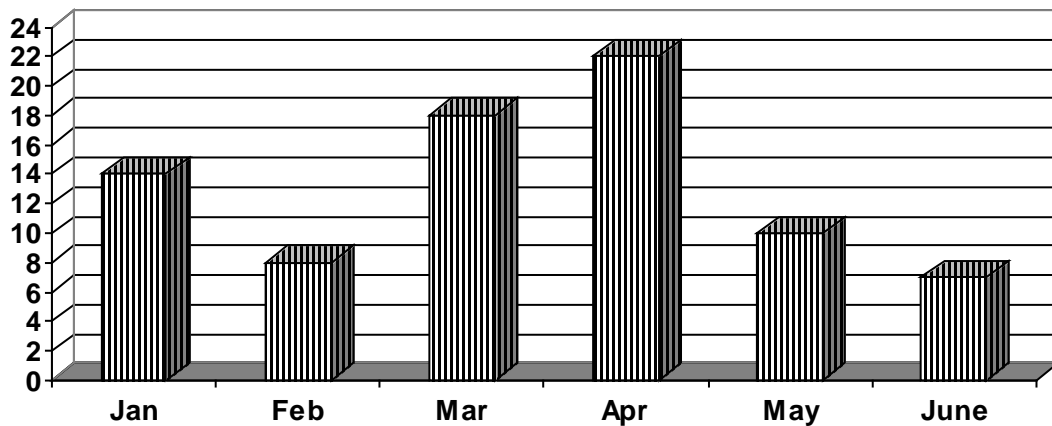
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A. OVERVIEW OF NEW CONTACTS WITH THE DHC PROGRAM

1. During this reporting period (January 1 to June 30, 2008), 79 individuals contacted the DHC Program with a new matter.¹
2. The volume of new contacts was distributed as follows:



3. Of the 79 individuals who contacted the DHC, 60 (76%) used the telephone to make their initial contact, 16 (20%) used email, 2 used a fax communication, and one walked in to the DHC office in person.
4. During this reporting period, all of the new contacts with the Program were made by anglophones and the DHC services were provided to them in English. (DHC services are also available in French.)

¹ Individuals who had previously contacted the Program and who communicated with the DHC during this reporting period with respect to the same matter are not counted in this number.

B. SUMMARY OF DISCRIMINATION AND HARASSMENT COMPLAINTS

5. Of the 79 new contacts with the Program, 22 individuals raised specific complaints of discrimination or harassment by a lawyer, paralegal, or law firm in Ontario.
6. One complaint was made against a paralegal. The remaining 21 complaints were made against lawyers.
7. Of the 21 discrimination and harassment complaints against lawyers, 15 were made by members of the public and 6 were made by members (or student members) of the bar.

C. COMPLAINTS AGAINST LAWYERS FROM MEMBERS OF THE BAR

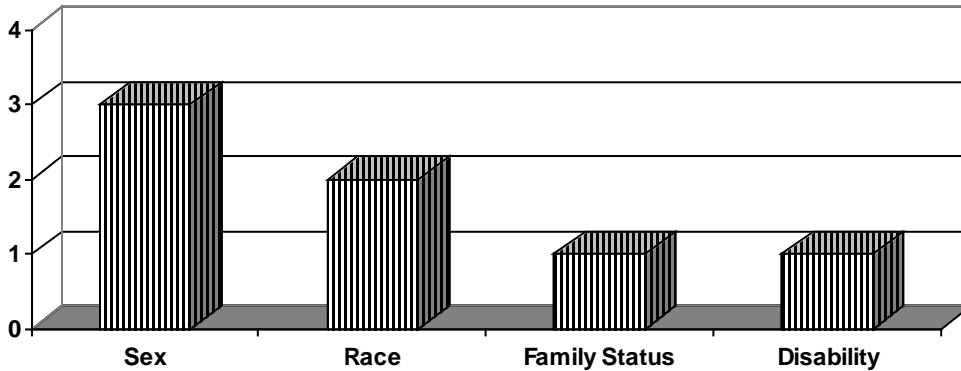
8. In this reporting period, there was a total of 6 complaints against lawyers made by members of the bar.
9. Two (2) of the complaints were made by law students.
10. Three (3) of the complaints were made by women (including the 2 student complaints).
11. Three (3) of the complaints were made by male lawyers, but 2 of those involved men who contacted the DHC on behalf of female lawyers.
12. Five (5) of the complaints arose in the context of the complainant's employment.
13. One complaint was regarding the conduct of opposing counsel in litigation.

14. The following grounds of discrimination were raised in the complaints from members of the bar: sex, disability, race, and family status.
15. Three (3) complaints were based (in whole or in part) on sex:
 - a female articling student complained about sex discrimination by her employer;
 - a male partner in a law firm complained about male opposing counsel, who had behaved in a sexist manner toward a female associate in his firm; and
 - a male lawyer contacted the DHC on behalf of his client, who was a pregnant female associate terminated from her employment with a private law firm just prior to taking a maternity leave. The lawyer believed that his client was discriminated against because of her pregnancy.
16. Two (2) complaints were based (in whole or in part) on race:
 - a male Asian lawyer complained about race discrimination within his law firm; and
 - a Black female lawyer complained about race discrimination by her law firm after her employment was terminated. (She also complained about discrimination based on family status while she was working for the firm.)
17. One complaint was based on disability:
 - a female articling student complained that her principal was discriminating against her on the basis of her disability.

18. In summary, the number of complaints² in which each of the following prohibited grounds of discrimination was raised are:

- disability 1
- sex 3 (1 involving pregnancy-related discrimination)
- race 2
- family status 1

Grounds Raised in Complaints by Members of the Profession



D. PUBLIC COMPLAINTS AGAINST LAWYERS

19. During this reporting period, there was a total of 15 complaints against lawyers made by members of the public.

² The total exceeds 6 because some complaints involved multiple grounds of discrimination.

20. Eleven (11) of the public complaints were made by women and 4 were made by men.
21. Of the 15 public complaints:
- Eleven (11) involved clients complaining about their own lawyer or a lawyer retained by their union to represent their interests;³
 - 1 involved a legal secretary complaining about discrimination by her employer;
 - 2 involved litigants who were complaining about the conduct of opposing counsel in their case; and
 - 1 involved a person complaining about a lawyer who was practising law in his community.
22. The following grounds of discrimination were raised in one or more of the public complaints: sex, race, national origin, disability and sexual orientation.
23. Nine (9) of the public complaints were based (in whole or in part) on sex as a ground of discrimination:
- six (6) women complained about sexual harassment by their own male lawyer;
 - one woman complained that her own male lawyer was harassing, intimidating and bullying her based on her sex;

³ Two of these client complaints were made by individuals on behalf of a relative or friend (i.e., the client did not call himself to make the complaint, but rather had a relative or friend contact the DHC on his behalf).

- one woman involved in litigation complained about offensive sexist remarks made by the opposing male counsel in her case; and
- one woman who worked as a legal secretary complained about discrimination and harassment in her employment based on her pregnancy.

24. Five (5) complaints were based (in whole or in part) on disability:

- a disabled man involved in class action litigation asserted that his own lawyer was failing to accommodate his disability;
- a man complained on behalf of a disabled friend that the disabled man's lawyer was failing to accommodate his disability;
- a woman complained on behalf of her disabled husband, asserting that union counsel had discriminated against him in a grievance arbitration/mediation proceeding;
- a disabled male client complained about harassment by his own lawyer based on his disability (he also complained about racial harassment by his lawyer); and
- a disabled female client complained about harassment by her own lawyer based on her disability.

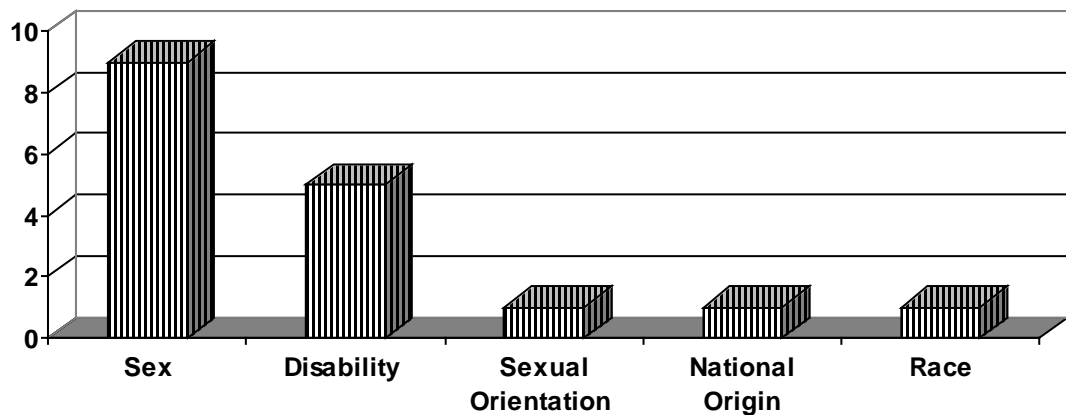
25. One complaint was based on sexual orientation and national origin. A man complained that an immigration lawyer in his community was exploiting and discriminating against Mexican gay refugees based on their sexual orientation and national origin.

26. One complaint was based in part on race. A man complained that his own lawyer was harassing him based on his disability and race.

27. In summary, the number of complaints⁴ in which each of the following grounds of discrimination was raised are as follows:

- sex 9 (6 sexual harassment and 1 pregnancy-related)
- disability 5
- sexual orientation 1
- national origin 1
- race 1

Grounds Raised in Public Complaints



⁴ The total exceeds 15 because some complaints were based on multiple grounds of discrimination.

E. COMPLAINTS AGAINST PARALEGALS

28. In this reporting period, the DHC received one complaint against a paralegal. The complaint was made by a female Asian paralegal who felt that her (white female) boss, who was also a paralegal, was discriminating against her on the basis of her race.

F. EXAMPLES OF COMPLAINTS

29. The following are random examples of the complaints received by the DHC Program during this reporting period:

- A female client complained that her family law lawyer constantly flirted with her, gave her his home phone number, called her at home late at night, referred to her as “pretty”, and pressed his leg against her leg under a table during a meeting. When she began bringing a friend to her meetings with him, he resigned from the file, stating that he could no longer represent her because of a “communication breakdown”.
- A woman involved in civil litigation complained that her male lawyer set up a meeting with her in his home on the eve of her trial, then sexually assaulted her during the meeting by “putting his hands all over” her and attempting to rape her.
- A male Vietnamese lawyer complained that he was being discriminated against on the basis of his race within the firm where he was working. He felt that he was not given the same quality of work and opportunities for advancement as other non-Asian lawyers in the firm and that his work was held to a higher standard than other lawyers in the firm.
- A woman called on behalf of her husband who is disabled from a brain injury. She complained that the lawyer retained by her husband’s union to

represent her husband's interests in a grievance arbitration hearing had exploited her husband's vulnerability as a disabled person.

- An advocate called on behalf of a disabled acquaintance who was involved in litigation. The disabled litigant has difficulty processing information, organizing his thoughts and communicating. The caller felt that this man's lawyer was not accommodating his intellectual disability and sought advice on how best to address the issue with the lawyer.
- A legal secretary complained that, shortly after her return to work from a maternity leave, when she advised her employer that she is pregnant again, her employer told her that she would be better off working in government since she plans on having more children. Her employer strongly suggested that she start looking for other employment. Her employer then began criticizing her work unfairly and treating her poorly (eg. refusing to greet or acknowledge her). She was concerned that her employer was attempting to make her look incompetent in order to fire her. She felt harassed and discriminated against because of her pregnancy;
- A male lawyer contacted the DHC on behalf of his client, who is a female associate in a private law firm. Her employment was terminated shortly before she commenced a maternity leave and she felt that the termination was because of her pregnancy;
- An Asian paralegal complained that her boss (another paralegal) was discriminating against her in the workplace on the basis of her race. She said her boss denied her advancement opportunities available to other non-Asian colleagues (eg. attendance at professional development conferences). Her boss also often spoke to her in a confrontational or demeaning manner, whereas she was friendly and respectful toward non-

Asian colleagues. The complainant also observed her boss making belittling comments about Asian clients.

- A Black female lawyer, who is a single mother, complained that her firm was discriminating against her on the basis of her race and family status. She was told that her employment was terminated because she did not meet the firm's billing and docketing targets, but she felt that the firm had resiled from an earlier agreement with her, which accommodated her childcare needs (by permitting her to leave work early and bill fewer hours). She also felt that she was mistreated in various ways after being given notice of her termination (eg. the firm refused her access to its premises on the basis that she might steal furniture from the offices). She felt that she was treated unfairly on the basis of her race.
- A male partner in a law firm called to complain about the conduct of another male lawyer, who was opposing counsel in a case argued by one of the female associates in his firm. The lawyer in question had an angry outburst during discoveries, shouted at the female associate and called her "little missy".

G. SERVICES PROVIDED TO COMPLAINANTS

30. Complainants who contacted the DHC were advised of various avenues of redress open to them, including:

- filing an internal complaint within their workplace;
- filing a complaint with the Ontario Human Rights Commission;
- filing a complaint with the Law Society; and
- contacting a lawyer for advice regarding other possible legal actions.

31. Complainants were also provided with information about each of these options, including:
 - what (if any) costs might be involved in pursuing an option;
 - whether legal representation is required in order to pursue an option;
 - how to file a complaint or make a report (eg. whether it can be done electronically, whether particular forms are required, etc.)
 - the processes involved in each option (eg. investigation, conciliation, hearing, etc.)
 - what remedies might be available in different *fora* (eg. compensatory remedies in contrast to disciplinary penalties, reinstatement to employment versus monetary damages, etc.); and
 - the existence of time limits for each avenue of redress.
32. Complainants were told that the options available to them are not mutually exclusive.
33. Complainants were given information about who to contact in the event that they decided to pursue any of their options.
34. In some cases, upon request, strategic tips were provided to complainants about how to handle a situation without resort to a formal complaints process (eg. confronting the offender, documenting incidents, speaking to a mentor).
35. Some complainants were directed to relevant resource materials available from the Law Society, the Ontario Human Rights Commission, or other organizations.

36. In addition to being advised about the above-noted options, where appropriate, complainants were offered the mediation services of the DHC Program. Where mediation was offered, the nature and purpose of mediation were explained, including that it is a confidential and voluntary process, that it does not involve any investigation or fact finding, and that the DHC acts as a neutral facilitator to attempt to assist the parties in reaching a mutually satisfactory resolution of the complaint.
37. One formal mediation session was conducted during this reporting period. Both parties to the complaint (an articling student and her principal) were represented by counsel during the mediation. The parties reached an agreement in principle to resolve the complaint at the end of the mediation session.
38. A number of informal interventions were also conducted by the DHC, upon complainants' request, to assist parties in resolving their disputes.

G. SUMMARY OF GENERAL INQUIRIES

39. Of the 79 new contacts with the DHC during this reporting period, 25 involved general inquiries relating to equity issues within the Program's mandate. These inquiries included:
 - questions about the scope of the DHC Program's mandate;
 - questions about the services offered by the DHC;
 - requests from the public for promotional materials about the DHC Program;
 - inquiries about the data collected by the DHC; and

- inquiries about the Rules of Professional Conduct and human rights legislation as they apply to lawyers in practice in Ontario.

H. MATTERS OUTSIDE THE DHC MANDATE

40. During this reporting period, the DHC received a number of calls and emails relating to matters outside the Program's mandate.
41. These contacts included complaints about workplace harassment or discrimination that did not involve lawyers or paralegals (eg. complaints against the police) and complaints against lawyers that did not involve any human rights issues (eg. allegations of breach of confidentiality, client billing disputes, etc.) In addition, several individuals called the DHC to seek legal representation and/or a referral to a lawyer for a human rights case.
42. All of these individuals were referred to other agencies, including the LSUC's Lawyer Referral Service. An explanation of the scope of the Program's mandate was provided to each person.
43. Although there is a relatively high volume of these "outside mandate" contacts, they typically do not consume much of the DHC's time or resources, since we do not assist these individuals beyond their first contact with the Program.

H. PROMOTIONAL ACTIVITIES

44. The LSUC maintains a bilingual website for the DHC Program.
45. Throughout this reporting period, periodic advertisements were placed (in English and French) in the Ontario Reports to promote the Program.

46. French, English, Chinese and braille brochures for the Program continue to be circulated to legal clinics, community centres, libraries, law firms, government legal departments, and faculties of law.
47. The DHC, Alternate DHC and Director of Equity Initiatives at the LSUC will be meeting in September 2008 to discuss a number of matters relating to the Program, including how best to promote the expanded mandate of the Program in relation to complaints against paralegals.