

**REPORT OF THE ACTIVITIES
OF THE DISCRIMINATION AND HARASSMENT COUNSEL
FOR THE LAW SOCIETY OF UPPER CANADA
(for the period from January 1 to June 30, 2007)**

Prepared by:

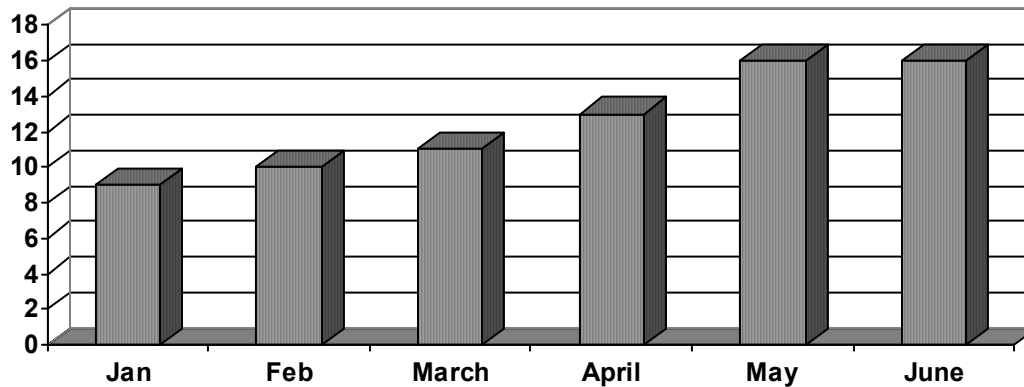
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A. OVERVIEW OF NEW CONTACTS WITH THE DHC PROGRAM

1. During this reporting period (January 1 to June 20, 2007), 75 individuals contacted the DHC Program with a new matter.¹ The volume of new contacts was distributed as follows:



2. Of the 75 individuals who contacted the DHC during this reporting period, 50 (67%) used the telephone to make their initial contact and 25 (33%) used email.
3. The DHC provided services to two callers in French. The remaining contacts with the Program were all in English.

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.

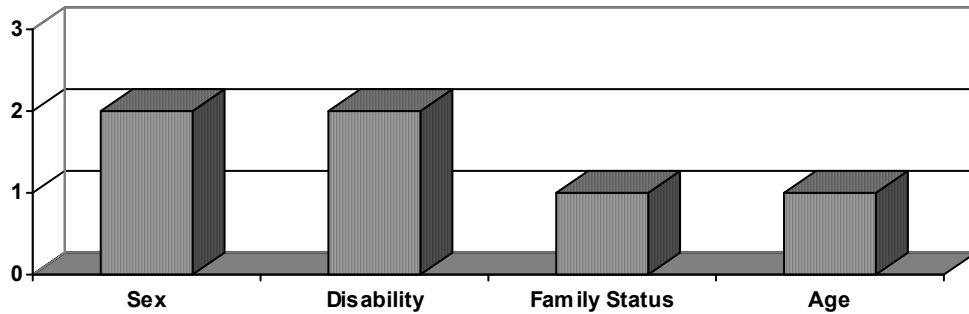
B. SUMMARY OF DISCRIMINATION AND HARASSMENT COMPLAINTS

4. Of the 75 new contacts with the Program, 17 individuals raised specific complaints of discrimination or harassment by a lawyer, law firm, legal department or legal clinic in Ontario.
5. Of the 17 new discrimination and harassment complaints against lawyers, 12 were made by members of the public and 5 were made by members of the legal profession.

C. COMPLAINTS FROM WITHIN THE LEGAL PROFESSION

6. One of the complaints from within the profession was made by a law student. All other complaints from within the profession were made by lawyers called to the bar.
7. Of the 5 complaints from within the legal profession, 4 were made by women (including one by a female law student). Only one complaint from within the profession was made by a man.
8. All of the complaints from within the legal profession arose in the context of either the complainant's employment or a job interview.
9. The following grounds of discrimination were raised in the complaints from within the legal profession: sex, disability, age and family status.

Grounds Raised in Complaints by Members of the Profession



D. PUBLIC COMPLAINTS

15. Of the 12 complaints by members of the public, 9 were made by women and 3 were made by men.

16. Of the 12 public complaints:
 - 3 involved clients complaining about their own lawyer or about a lawyer they had sought to retain;
 - 3 arose in the context of the complainant's employment;
 - 4 involved litigants who were complaining about the conduct of opposing counsel in their cases;
 - 1 involved an investigator who was complaining about a lawyer representing one of the parties involved in the investigation; and
 - 1 involved a person who complained about a lawyer who was a tenant in her building.

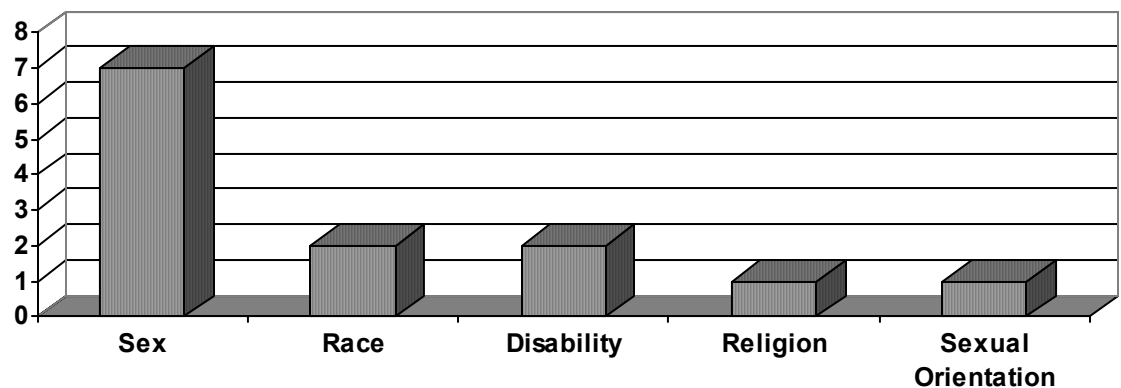
17. The public complaints raised one or more of the following grounds of discrimination: sex, race, disability, sexual orientation and religion.

18. Seven (7) of the public complaints were based (in whole or in part) on sex as a ground of discrimination:
- one man complained about anti-male sexist discrimination by opposing counsel in a custody dispute;
 - one woman complained about sexual harassment by opposing counsel in a family court matter;
 - two women employed in law firms (one as a law clerk and the other as a secretary) complained about sexist discrimination and sexual harassment by their respective male bosses;
 - a female client complained about sexist remarks that were made by her own female lawyer;⁴
 - one female client complained about sexist harassment by her own male lawyer; and
 - one woman complained about sexual harassment by a male lawyer who was a tenant in her building.
19. Two (2) complaints were based (in whole or in part) on race. Specifically:
- a woman of mixed-race reported that her female lawyer uttered racialized insults at her in anger;⁵ and
 - a Chinese man complained that opposing counsel made discriminatory racist remarks about him and his colleagues in correspondence related to litigation.
20. Two complaints were based on disability:
- a disabled client complained about discrimination by a lawyer that she sought to retain for civil litigation; and
 - a legal assistant employed in a law firm complained that her employer failed to accommodate her disability.

⁴ This client also complained about racialized insults uttered by her lawyer (see below).

⁵ She also complained about sexist remarks made by the lawyer (see above).

21. One complaint was based on religion. A man complained that opposing counsel in a custody dispute made discriminatory derogatory remarks about his Christian faith.
22. One complaint was based on sexual orientation. A lesbian retained to conduct an investigation reported that counsel for one of the parties involved in the investigation harassed her based on her sexual orientation.
23. In summary, the number of complaints⁶ in which each of the following grounds of discrimination was raised are as follows:
 - sex 7 (including 4 sexual harassment)
 - race 2
 - disability 2
 - religion 1
 - sexual orientation 1



⁶ These numbers do not add up to 12 because some complaints were based on multiple grounds of discrimination.

E. EXAMPLES OF RECENT COMPLAINTS

24. The following are examples of some elements of the discrimination and harassment complaints received by the DHC during this reporting period:

- A female associate complained that a male partner in her law firm repeatedly suggested to her that she should wear make-up and shoes with stiletto heels to attract male clients.
- A female client complained that her own (male) family law lawyer, who knew she had been a victim of domestic abuse in her marriage, repeatedly told her to “shut up” and said that he “understood why her husband had left her” because she was “difficult”.
- A disabled law student was asked in an articling job interview at a litigation boutique how she thought her hearing impairment would hurt her in the courtroom.
- A female client of mixed race complained that her own female lawyer was repeatedly rude to her and made sexist and racist remarks, including a comment about how she “didn’t look like a normal human being”.
- A female associate who had a consensual sexual relationship with a senior male partner in her law firm complained about employment reprisals (eg. unwarranted poor performance appraisals, ostracization, poor quality of work) after the affair ended. She left the firm claiming that it had become a poisoned work environment.
- A female law clerk reported that her male boss repeatedly made uninvited sexual advances toward her (“I can see you’re interested in me”, “if you sleep with me I’ll take you away on vacation”, “I like your short skirt”, etc.) She rejected his advances and he subsequently gave her unwarranted negative job references when she sought employment elsewhere.
- A male associate complained that his employment was terminated by a law firm because he suffers from depression and anxiety.
- A female associate who is a single mother of two young children reported that she was refused flexible hours and flexible working arrangements to accommodate her child care responsibilities, and complained that she was discriminated against at her firm (in terms of compensation and quality of work) because she requested this accommodation.

F. SERVICES PROVIDED TO COMPLAINANTS

25. 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.
26. 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.
27. Complainants were told that the options available to them are not mutually exclusive.
28. Complainants were given information about who to contact in the event that they decided to pursue any of their options.

29. 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).
30. Some complainants were directed to relevant resource materials available from the Law Society, the Ontario Human Rights commission, or other organizations.
31. 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.
32. No formal mediation sessions were conducted during this reporting period. However, at the request of complainants, the DHC intervened informally and communicated with respondents in a number of cases in an effort to facilitate a resolution of the complaint. In each case, a resolution was reached.

G. SUMMARY OF GENERAL INQUIRIES

33. Of the 75 new contacts with the DHC during this reporting period, 26 (35%) 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;
- requests for educational seminars on discrimination and harassment issues; and
- inquiries about the data collected by the DHC.

H. PROMOTIONAL ACTIVITIES

34. During this reporting period, the DHC spoke about the Program and about professional responsibility to the 1st year class of students at the Faculty of Law at Windsor University. She also participated in a panel at the University of Toronto (Faculty of Law) at a Conference on Equity in the Legal Profession, where she disseminated data collected in the Program.

35. Periodic advertisements were placed (in English and French) in the Ontario Reports to promote the Program. The DHC website was also maintained.

36. 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.

I. MATTERS OUTSIDE THE DHC MANDATE

37. During this reporting period, the DHC received 32 calls/emails relating to matters outside the Program's mandate.
38. These contacts included complaints about workplace harassment or discrimination in non-legal settings, discrimination and harassment complaints against judges, and complaints against lawyers that did not involve any human rights issues (eg. allegations of breach of confidentiality or unethical conduct, 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.
39. 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.
40. 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.