

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

For the period from July 1, 2007 to December 31, 2007

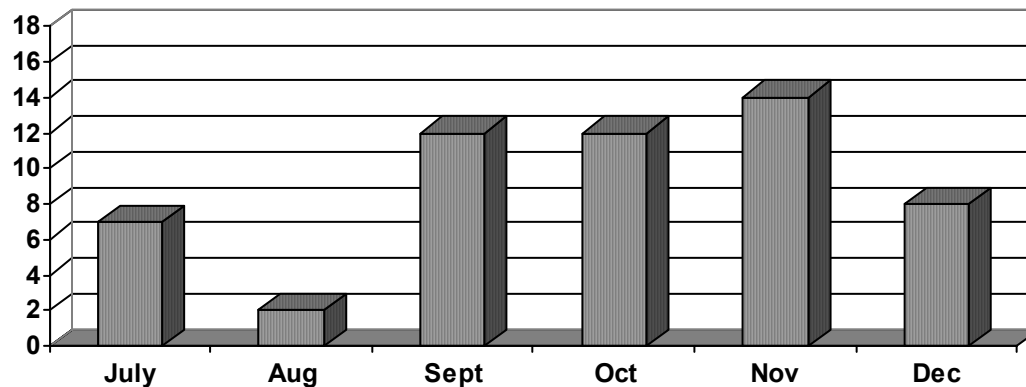
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A. OVERVIEW OF NEW CONTACTS WITH THE DHC PROGRAM

1. During this reporting period (July 1 to December 31, 2007), 55 individuals contacted the DHC Program with a new matter.¹
2. The volume of new contacts was distributed as follows:



3. Of the 55 individuals who contacted the DHC, 40 (73%) used the telephone to make their initial contact, 13 (24%) used email, and 2 used a fax communication.
4. During this reporting period, the DHC provided services to three 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

5. Of the 55 new contacts with the Program, 18 individuals raised specific complaints of discrimination or harassment by a lawyer, law firm, legal department or legal clinic in Ontario.
6. The mandate of the Discrimination and Harassment Counsel Program was recently expanded to include complaints against paralegals. There were, however, no complaints against paralegals during this reporting period.
7. Of the 18 new discrimination and harassment complaints against lawyers, 10 were made by members of the public and 8 were made by members of the legal profession.

C. COMPLAINTS FROM WITHIN THE LEGAL PROFESSION

8. Half (4) of the 8 complaints from within the legal profession were made by law students. The other half were made by lawyers called to the bar.
9. Of the 8 complaints from within the legal profession, 7 were made by women (including the 4 student complaints). Only one complaint from within the profession was made by a male lawyer.
10. All of the complaints from within the legal profession arose in the context of the complainant's employment or a job interview.
11. The following grounds of discrimination were raised in the complaints from within the legal profession: sex, disability, age and marital status.

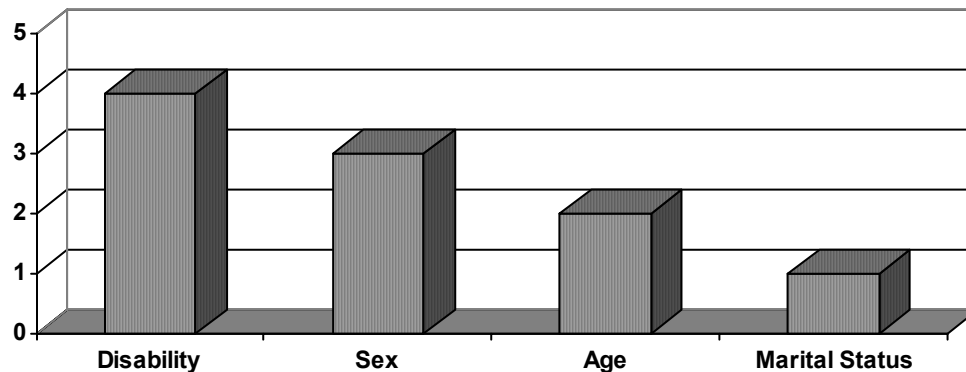
12. Four complaints were based (in whole or in part) on disability:
- a female law student reported that she was asked inappropriate questions about her disability during articling job interviews;
 - two female lawyers complained that their employers were refusing to accommodate their disabilities in the workplace; and
 - a female articling student reported that she was discriminated against in her firm's hire-back decisions because of her disability.
13. Three (3) complaints were based on sex. Specifically:
- 2 female articling students complained about sexual harassment by male partners in their respective law firms; and
 - a female associate complained about gender-based harassment and bullying by a male partner in her law firm.
14. Two (2) complaints were based (in whole or in part) on age. A female law student² and a male lawyer³ complained that they were asked about their age in job interviews. (Both identified themselves as "older" than most of their peers.)
15. One complaint was based on marital status. A male lawyer reported that he was asked an inappropriate question about his marital status during a job interview.
16. In summary, the number of complaints⁴ in which each of the following prohibited grounds of discrimination was raised are:
- disability 4
 - sex 3 (2 involving sexual harassment)
 - age 2
 - marital status 1

² This student also complained that she was asked about her disability in job interviews (see above).

³ This lawyer also reported that he was asked about his marital status in a job interview (see below).

⁴ The total exceeds 8 because some complaints involved multiple grounds of discrimination.

Grounds Raised in Complaints by Members of the Profession



D. PUBLIC COMPLAINTS

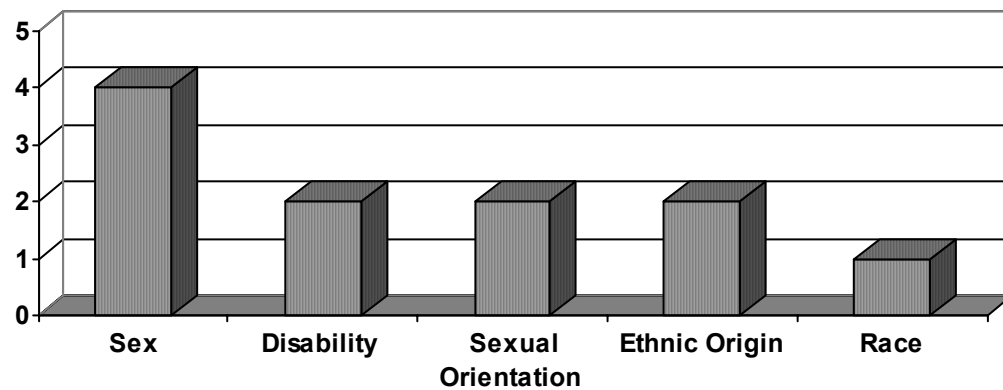
17. Of the 10 complaints by members of the public, 2 were made by women and 8 were made by men.
18. Of the 10 public complaints:
 - 5 involved clients complaining about their own lawyer or a lawyer they had sought to retain;⁵
 - 2 arose in the context of the complainant's employment;
 - 1 involved a litigant who was complaining about the conduct of opposing counsel in his case;
 - 1 involved a victim of crime who was complaining about the conduct of a Crown Attorney; and
 - 1 involved a person complaining about a lawyer who was his neighbour.

⁵ Two of these client complaints were made by individuals on behalf of a relative or friend (i.e., the client did not call herself to make the complaint, but rather had a relative or friend contact the DHC on her behalf).

19. The following grounds of discrimination were raised in one or more of the public complaints: sex, race, ethnic origin, disability and sexual orientation.
20. Four (4) of the public complaints were based (in whole or in part) on sex as a ground of discrimination:
 - two men complained on behalf of women they knew who had been sexually harassed by their male lawyers;
 - a gay man complained about sexual harassment by his male lawyer; and
 - one legal assistant complained about discriminatory changes in her terms and conditions of employment, which occurred upon her return to work after a maternity leave.
21. Two (2) complaints were based (in whole or in part) on sexual orientation:
 - a gay man complained about homophobic harassment by a female lawyer who was his residential neighbour; and
 - a gay client complaint about sexual harassment by his male lawyer.
22. Two (2) complaints were based on disability:
 - a disabled client complained about a lawyer who exploited his brain injury and took advantage of him financially; and
 - a female litigant complained about discrimination based on her psychiatric disability by the opposing counsel in her case.
23. Two (2) complaints were based on ethnic origin:
 - a man complained that a lawyer refused to represent him because of his ethnic origin; and
 - a victim of crime complained that the Crown prosecutor in his case made discriminatory remarks based on ethnic origin.
24. One complaint was based on race. A Chinese man complained that in-house counsel was discriminating against him in his employment.

25. In summary, the number of complaints⁶ in which each of the following grounds of discrimination was raised are as follows:

- sex 4 (3 sexual harassment and 1 pregnancy-related)
- disability 2
- sexual orientation 2
- ethnic origin 2
- race 1



E. SERVICES PROVIDED TO COMPLAINANTS

26. 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.

⁶ The total exceeds 10 because some complaints were based on multiple grounds of discrimination.

27. 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.
28. Complainants were told that the options available to them are not mutually exclusive.
29. Complainants were given information about who to contact in the event that they decided to pursue any of their options.
30. 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).
31. Some complainants were directed to relevant resource materials available from the Law Society, the Ontario Human Rights commission, or other organizations.
32. 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.

33. 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.

F. SUMMARY OF GENERAL INQUIRIES

34. Of the 55 new contacts with the DHC during this reporting period, 11 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; and
 - inquiries about the data collected by the DHC.

G. EXPANDED SCOPE OF PROGRAM MANDATE

35. The scope of the DHC Program's mandate was recently expanded to include complaints against paralegals.
36. The DHC has previously received complaints about lawyers from paralegals, but did not previously have the authority to deal with complaints about paralegals.

Discrimination and harassment complaints from paralegals were historically classified as “public” complaints in the DHC data.

37. In this reporting period, some of the general inquiries and “outside mandate” contacts with the program were made by paralegals, but none of the discrimination and harassment complaints was made by a paralegal and none was made about a paralegal.
38. In future, data regarding complaints by and about paralegals will be gathered separately from the data regarding complaints by and about lawyers and law students, in order to analyze trends within the paralegal profession.

H. MATTERS OUTSIDE THE DHC MANDATE

39. During this reporting period, the DHC received a number of calls and emails relating to matters outside the Program’s mandate.
40. These contacts included complaints about workplace harassment or discrimination that did not involve lawyers or paralegals 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.
41. 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.

42. 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.

I. PROMOTIONAL ACTIVITIES

43. The LSUC maintains a bilingual website for the DHC Program.
44. In the past, periodic advertisements were placed (in English and French) in the Ontario Reports to promote the Program. These advertisements did not run during this reporting period. In order to enhance promotion for the Program within the legal profession, the advertisements will begin to run monthly again in January 2008.
45. 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.

J. PROGRAM EVALUATION

46. The LSUC created a client satisfaction survey for the DHC Program, which can be completed anonymously on-line. A link to the survey appears on the DHC website.
47. During this reporting period, three individuals completed the survey. The results appear on the following pages.

DISCRIMINATION AND HARASSMENT COUNSEL PROGRAM

PROGRAM EVALUATION

SUMMARY OF EVALUATION FORMS

If you used the services of the Discrimination and Harassment Counsel Program (DHC Program), please complete this program evaluation form. This questionnaire should take 10 minutes to complete. Your confidential and anonymous responses will be used to determine the effectiveness of our program and make improvements or changes where appropriate. Your comments are important to us.

To complete the questionnaire, simply scroll down and fill in your responses.

1. When did you first contact the DHC Program? _____

- Today
- February 2006
- November 7, 2006

2. How did you contact the DHC Program?

- a. Phone (all 3)
- b. Email
- c. Fax
- d. Mail
- e. Other

3. What was the time period between your first contact with the DHC program and your first exchange with the DHC?

- a. Within 48 hours (all 3)
- b. Between 2 days and 5 days
- c. Between 5 days and 10 days
- d. Longer than 10 days

4. Do you believe that the DHC Program provided services in a timely manner? Yes all 3 No _____

Please explain:

5. For how long and how often have you used the services of the DHC?
Just today

This was my first experience using the services of the DHC.

I have been used service starting from February, 2006 to October, 2006. It was my first time when I was using this service but I found it an extremely useful.

6. The following Counsel provide or have provided the services of the DHC Program. Please indicate which Counsel provided services to you (you may select more than one):

- a. Cynthia Petersen (2)
- b. David Bennett
- c. Lynn Bevan
- d. Mary Theresa Devlin
- e. Sylvia Davis
- f. I do not know (1)

7. In what language did you request the services of the DHC?

- a. French (all 3)
- b. English

8. Did you receive the services in the language requested?

- a. Yes (all 3)
- b. No

9. Why did you contact the DHC?

- a. To complain about discrimination or harassment by a lawyer (2)
- b. To inquire about the services offered by the Program (1)
- c. To inquire about harassment and discrimination
- d. To inquire about education programs offered by the DHC Program
- e. To seek mediation services
- f. Other (please specify):

10. What types of services were provided to you by the DHC? (you can select more than one)

- a. Information about harassment and discrimination
- b. Information about my options
- c. Mediation
- d. Informal resolution
- e. Information about who to contact to make a formal complaint

- f. Referral to other support services
- g. Information about resource materials
- h. Other: _____

11. Are there any other services that you would like the DHC Program to offer? Yes _____ No ___ all 3 ___

If yes, please specify:

12. Did you experience any difficulties or challenges in your relationship with the DHC?

- a. Yes
- b. No (all 3)

If yes, what were they?

13. Was your contact with the DHC Program helpful to you?

- a. Yes
- b. No

Please explain:

Having experienced a troubling and violating incident involving a lawyer, and feeling uncertain about my options, I was relieved to speak with Cynthia Petersen. I appreciated the time she took to thoroughly inform me of my options, the implications, and the necessary steps I would need to take. I was given the name of an additional support service to contact (which I never would have thought to do otherwise) and was provided with detailed and candid answers to my questions. As a result of contacting the DHC Program, I feel confident in my ability to make an informed decision about my next steps.

I am really grateful DHC Program for providing me all necessary information and support in my difficult situation. I came to Canada in 2005, found a job and immediately faced with the sexual harassment in my work place. I was so stressed out and shocked when I was fired during my probation period because I refused to have a sexual relation with the partner. DHC Program gives me not just guidance but also support me emotionally.

14. Was the information provided by the DHC clear?

- a. yes (all 3)
- b. no

15. How did you hear about the DHC program?

- c. DHC brochure in French/English
- d. DHC brochure in Chinese
- e. DHC brochure in Braille
- f. Web site (2)
- g. Advertisement in the Ontario Reports
- h. Through colleagues or friends
- i. By contacting the Law Society
- j. By attending an education/information session offered by the DHC
- k. Other: www.settlement.org

14. Did the DHC Program meet your needs/expectations?

- a. Yes (2)
- b. No

Please explain: _____

I strongly believe that this program is an extremely helpful for people who has such a bad experience, because it gives you a feeling that you are not alone and you have mechanism to wrestle against inappropriate behavior.

Yes, See above.

15. Please rate the quality of the services provided by the DHC.

- a. Excellent (all 3)
- b. Very good
- c. Satisfactory
- d. Fair
- e. Poor

16. What can we do to improve the DHC Program?

Re: Website In your website I have some difficulties with finding contact information. Can you be so kind to make it more clearly?

17. Would you recommend this program to your friends or colleagues?

- a. Yes
- b. No

Please explain _____

Without hesitation. As a result of the information Cynthia Petersen provided me, I no longer feel like a powerless victim. This program is invaluable.

INFORMATION ABOUT PARTICIPANT:

18. How do you identify your gender?

- a. male
- b. female (all 3)
- c. transgender

19. Members of equality seeking communities are defined as people who consider themselves a member of such a community by virtue of ethnicity or cultural background, race, religion or creed, disability, language, sexual orientation, or gender. The uniqueness of Aboriginal and Francophone communities are also recognized. Do you consider yourself a member of an equality seeking, Francophone or Aboriginal community?

- a. yes
- b. no (all 3)

If you answered “yes”, are you a member of an equality seeking community for one or more of the following reasons:

- a. You are Aboriginal
- b. You are Francophone
- c. Your race
- d. Your ethnic or cultural background
- e. Your religion or creed
- f. A disability
- g. Your language
- h. Your sexual orientation
- i. Your gender
- j. Or some other reason

20. Are you a lawyer? Yes _____ No ___all 3_

If yes, please check the description that best applies to you:

- i. Partner in a law partnership
- ii. Sole practitioner
- iii. Employee/associate in a law firm
- iv. Employed in education
- v. Employed in government
- vi. In-House counsel
- vii. Employed, other

21. Are you law student? Yes _____ No _____

a. If yes, please check the description that best applies to you:

- i. In law school
- ii. Articling student
- iii. Student in Law Society licensing process

iv. Other (please specify):

22. Are you a non-lawyer? Yes 2 No 1

a. If yes, did you contact the DHC Program in your capacity as:

- i. Client of a lawyer
- ii. Employee in a law firm
- iii. Employee in a legal clinic
- iv. Employee in government
- v. Litigant
- vi. Other (please specify): educator

23. Please specify your geographic location:

- a. Toronto or Greater Toronto Area (all 3)
- b. Ottawa or National Capital Region
- c. Southwestern Ontario
- d. Central Ontario
- e. Eastern Ontario
- f. Northern Ontario
- g. Elsewhere in Ontario
- h. Outside Ontario

Do you have any final comments or suggestions regarding this program:

Once again, I would like to thank you DISCRIMINATION AND HARASSMENT COUNSEL PROGRAM