
**DISCRIMINATION & HARASSMENT COUNSEL PROGRAM
ANNUAL REPORT:
JANUARY 1, 2001- DECEMBER 31, 2001**

**Submitted to
THE LAW SOCIETY OF UPPER CANADA**

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EXECUTIVE SUMMARY

This report covers the activities of the *Discrimination & Harassment Counsel (DHC) Program* from January 1, 2001 to December 31, 2001.

The *DHC Program* was established by the Law Society of Upper Canada as a part-time pilot project in June 1999. It was created in response to a report submitted to Convocation by both the Finance and Audit Committee and the Treasurer's Equity Advisory Group based on a proposal developed by the Equity Advisor to implement the recommendations from the *Bicentennial Report on Equity Issues in the Legal Profession*.

In early 2001 the *Program* was evaluated by independent consultants and based on this evaluation, the *Program* was made permanent in June 2001.

During this reporting period, I received approximately 30 calls per month for a total of 366 calls. This represents a reduction in calls from the last reporting period when I received on average 40 calls per month. March, May, November and December were the most intense months with 40 or more calls per month. September was the slowest month with only 9 calls.

Of the 366 calls, the vast majority (325; almost 90%) were within the mandate of the Program. This represents a significant increase from the last reporting period when 75% of the calls were within the mandate.

Most of the calls continue to deal with sexual and personal harassment (51% combined total). The vast majority of these calls were generated by women. The next two most significant areas were calls regarding discrimination on the basis of disability and race. In these categories, the callers were fairly evenly divided between men and women.

Twenty-nine files were opened regarding complaints and matters requiring follow up. Fourteen of these files have been closed with the following resolutions:

1. 3 files were resolved through internal or external processes, such as a grievance or a civil law suit;
2. 1 file was resolved with a complaint to the Law Society that resulted in an Invitation to Attend;
3. 2 files were settled through successful intervention of the DHC, including 1 mediation;
4. 4 files were resolved by providing the requested information;
5. 4 files are unknown as contact was lost with the callers.

Of the files opened in 2001, 15 are ongoing and 3 involve requests for mediation which will take place in 2002.

Overall, there has been a decrease in calls. During the last reporting period, 469 individuals generated 582 calls. In this reporting period, 295 individuals generated 366 calls. However, there has been a sharp increase in the percentage of calls within the mandate: almost 90% this reporting period compared to 75% during the last reporting period.

Most of the calls (224 of 366 or 61%) were generated by members of the public. However, there has been an increase in the number of lawyers contacting the program. Calls from lawyers accounted for 19% of all calls this reporting period compared to 13.5% from the last reporting period. This increase is an encouraging sign that members of the profession are knowledgeable about the Program and are beginning to access the services offered.

Although to date, socio-economic data such as a caller's age, education, income level and race, has not been collected, the available information shows that the majority of the callers are English speaking, female, and members of the public. Typically these women are either clients of lawyers or employees in law firms. Plans are underway to collect more comprehensive data from the callers for the next reporting year (2002)

DIRECT SERVICES*Overview of Calls*

From January 1, 2001 to December 31, 2001 I received 366 calls generated by 295 callers. Of these calls, 325 fall within the mandate of the Program. This figure refers to all calls from people with either a specific complaint requesting direct services, or requests for information about the Program.

Significantly more members of the public continue to contact the Program than lawyers (224:71). As well, significantly more women than men continue to contact the Program on a 3:1 ratio both among the calls from the public and the calls from members of the profession. Callers are predominantly English speaking, however I did receive approximately a dozen calls from French-speaking individuals.

	2001	1999-2000¹
Total number of calls received:	366	582
Total number of calls w/in mandate:	325	430
Total number of individual callers:	295	469
Total number of female callers:	218	263
Total number of male callers:	77	91

Total number of calls from members from the profession (lawyers, law students):

	2001	1999-2000
a. F	53	52
b. M	18	27

¹These figures refer to the first 14 months of the Program's operation: November 1999 to December 2000.

Total number of calls from the public:

a.	F	165	267
b.	M	59	93

The monthly breakdown of calls for this reporting period is set out in “Appendix A” to this Report. Appendix “B” provides a breakdown based on subject areas of the calls within the mandate.

Appendix A: Number of Calls Received Each Month

On average, I received approximately 30 calls per month. March, May, November and December were the busiest months with 40 or more calls each. September was the slowest month with only 9 calls. In February and August, all of the calls received were within the mandate.

Appendix “B”: Breakdown of Calls Within the Mandate

Most of the calls (139 of 325, or 43%) were complaints, usually by women, of sexual harassment. This area, coupled with calls concerning personal harassment² (27 of 325, or 8%), account for over half of all calls within the mandate. Except for one call, all of the calls concerning personal harassment were generated by women.

²Personal harassment identifies behaviour that is physically and/or verbally abusive, demeaning, or degrading. The most common type of personal harassment is bullying, either by a supervisor or a co-worker. The term is not defined in the *Ontario Human Rights Code* or the *Canadian Human Rights Code*. However, it is often included in internal policies both in law firms and other organizations and it is included in the Law Society’s own internal *Workplace Harassment and Discrimination Prevention Policy and Procedures*.

The next two most significant areas were calls about discrimination based on disability (26 in total) and calls regarding racial discrimination (8 in total). In both of these areas, men and women complained in fairly even numbers.

Requests for general information about the DHC Program, including requests for specific information such as a copy of the *Rules of Professional Conduct*, or a *Model Policy*, accounted for 43 of the calls within the mandate (13%). As well, there were 32 calls received regarding requests for presentations and/or training. These calls led to a number of speaking engagements as outlined in Appendix "C".

Complaints

i. Number and Type

During this reporting period I have opened 29 files.³ Of these, 26 involved complaints and 3 involved requests for assistance with the development of internal policies and procedures. The breakdown of the 26 complaints is as follows:

- a. **sexual harassment**
 - F 12
 - M 1
- b. **personal harassment⁴ (by lawyer/within law firm)**
 - F 4
 - M 0

³The decision to open files is a subjective one based on whether there will be ongoing contact with a caller requiring a file to be maintained. As such, this figure is **not** indicative the number of matters dealt with under the mandate of the Program. Instead, reference should be made to the total number of calls within the mandate (325) during this reporting period.

- c. **discrimination - disability**
F 2
M 1
- d. **discrimination - age**
F 1
M 0
- e. **discrimination - gender**
F 1 (pregnancy)
M 0
- f. **discrimination - political beliefs/association⁵**
F 1
M 0
- g. **discrimination - race**
F 3 (1 matter also included in sexual harassment stats)
M 1

ii. Open Files

Of the 26 files involving complaints, 15 are ongoing and involve the following areas:

- a. **Sexual Harassment** 8
- b. **Personal Harassment** 1
- c. **Discrimination - Pregnancy** 1
- d. **Discrimination - Race:** 4⁶
- e. **Discrimination - Pregnancy** 1

⁵This complaint involved an allegation of different treatment based on the caller's union activities.

⁶Included in this figure is a matter also counted in the sexual harassment statistics as it involves an allegation of both racial and sexual harassment by an Aboriginal woman.

Of the 15 ongoing files, the services requested are as follows:

Information and Advice including what resources are available resources, copies of LSUC materials, reviewing a firm's existing policies and procedures and recommending changes: all 15.

Coaching including tips on how to handle the problem, who to approach, strategies, and possible responses: 2.

*Support*⁷ including ongoing contact through an external resolution process (usually a LSUC complaint) and/or attendance at the hearing: 10.

Mediation including negotiations with both parties to achieve as satisfactory result: 3.

The individuals involved in these ongoing matters are comprised of members of the profession (4 lawyers and 3 law students), clients (4) and employees (3). The lawyers who have complained work for the federal or provincial government either directly or through an agency as opposed to private practice.

Only two matters involve men. One is a complaint of discrimination based on disability and the other is a complaint of discrimination based on race. The other matters all involve women.

⁷During the last reporting period, support included accompaniment to the Law Society Discipline Hearing. Efforts have been made to arrange for this service to be provided by counsellors from the provincial Sexual Assault Centres at no cost to the complainant or the Law Society.

The complaints made by clients all involve allegations of sexual harassment. In all of these cases, the women had known their lawyer for years. In one case, the inappropriate behaviour occurred at the woman's home where the lawyer insisted that they meet.

The complaints involving allegations of racial discrimination are from students (2), a lawyer (1), and a client (1). One student reported inappropriate comments made by an instructor at the Bar Admissions Course. Two of the complaints involve allegations of unfair employment practices where the callers felt that they were being denied job opportunities because of their racial minority status. These callers have requested support and have not yet wished to file a complaint either through the DHC Program or with the Law Society.

iii. Closed Files

Fourteen of the 29 files opened in 2001 have now been closed. These files can be categorized as follows:

Sexual Harassment:	7
Discrimination - Age:	1
Discrimination - Association	1
Discrimination - Disability:	2
Presentations:	1
Development/Review of Policies:	2

Of these 14 closed files, the resolutions were as follows:

Internal Process⁸:	1 (Matter settled; confidential terms)
External Process⁹:	2 (One matter settled; confidential terms; status of the other is unknown)
LSUC:	1 (Matter resolved with “chat” to respondent; complainant not satisfied with the disposition)
Mediation¹⁰:	2 (Both settled; confidential terms)
Information Provided:	4 (All matters completed)
Lost Contact:	4 (Two involved students; one involved a lawyer and the fourth a client.)

iv. Cost of Complaints

The approximate cost of each complaint has been calculated based on an analysis of all the files closed to date¹¹. The time spent on each file was estimated, totalled, and then divided by the number of files. The final cost figure was arrived at by multiplying the average number of hours per file by the DHC hourly rate.

⁸Internal processes include a complaint pursuant to the organization’s internal policy or a grievance.

⁹External processes include filing a complaint with the Ontario or Canadian Human Rights Commission or filing a civil law suit.

¹⁰Mediation refers to formal complaints filed through the DHC Program where the resolution was achieved either through negotiation, conciliation, or mediation.

¹¹As of December 31, 2001, 47 files have been closed. Thirty-three were matters opened in the first reporting period, 1999-2001; 14 were matters opened during this reporting period.

Of the 47 closed files, the time estimates were as follows:

1.5 hours or less:	20
1.5 hours - 5.0 hours:	17
6.0 hours - 10 hours	4
11 hours or more	6

Based on the current available data, which represents a small sampling, on average, each complaint costs approximately **\$822.50** in fees. This figure does not include any disbursements or GST.

PROMOTION AND PUBLICITY

The promotional activities from January 1, 2001 to December 31, 2001 are listed in Appendix "D", attached to this Report. As you will see, the DHC was involved in over 11 presentations including presentations to law school students in March, a presentation to the annual Law Clerks conference in April, and a presentation in French to the Congrès de l'Association des juristes d'expression française de l'Ontario (AJEFO) in June.

The activities during this reporting period consisted of:

1. providing training, in collaboration with the Equity Initiatives Department to two major law firms;
2. providing support to a group of complainants in a sexual harassment case against a hearing. Arrangements have been made so that counsellors from Sexual Assault Centres will provide these services in the future.

APPENDIX "A"
NUMBER OF CALLS RECEIVED EACH MONTH

<u>Month</u>	<u>Total Calls</u>	<u>Calls w/i Mandate</u>	<u>Calls o/s Mandate</u>
January	35	31	4
February	18	18	0
March	42	35	7
April	32	29	3
May	45	40	5
June	37	32	5
July	23	21	2
August	23	23	0
September	9	7	2
October	23	17	6
November	39	34	5
December	40	38	2
<u>Totals</u>	366	325	41

It should be noted that these figures refer to the number of calls received, not the number of individuals calling. In some instances, particularly where the caller requires ongoing assistance, one person generated several calls. Also, these figures do not refer to the number of outgoing calls made by the DHC in relation to matters within the DHC mandate.

APPENDIX "B"
BREAKDOWN OF CALLS WITHIN THE MANDATE

During this reporting period, 325 calls were within the mandate as follows:

- a. **Sexual Harassment**
F: 139
M: 21 (8 were calls from Respondents)

- b. **Personal Harassment**
F: 26
M: 1

- c. **Discrimination - Age**
F: 1
M: 0

- d. **Discrimination - Disability**
F: 13
M: 13

- e. **Discrimination - Sexual Orientation**
F: 0
M: 1

- f. **Discrimination - Place of Call Outside Ontario**
F: 3
M: 0

- g. **Discrimination - Race**
F: 3
M: 5

- h. **Information**
F: 30
M: 13

- i. **Training/Presentations**
F: 20
M: 12

- j. **Administrative**
F: 16
M: 8

APPENDIX "C"
OVERVIEW OF TRENDS

- Overall reduction in number of calls (most likely due to less emphasis on promotional activities in this reporting period)
- Increase in the number of calls within the mandate (almost 90% compared to 75% in the last reporting period)
- Callers are predominantly English speaking female members of the public
- Significantly more women than men continue to contact the Program, both among the public and among members of the profession
- Over 40% of the calls deal with sexual harassment; the next most significant areas are discrimination on the basis of disability, personal harassment and racial discrimination
- More calls have been received dealing with discrimination on the basis of race; none of these calls have resulted in formal complaints to the Law Society or to the DHC Program

APPENDIX “D”
LIST OF PRESENTATIONS AND ACTIVITIES

1. PRESENTATIONS

February 2001

Feminist Legal Analysis Reception

Sexual Harassment: Action and Awareness in the Law and within the Legal Profession

March 2001

In collaboration with Susan Lieberman, I attended the Articling Day Sessions and presented the DHC Program to second and third year law students at the following law schools:

- Western University, March 14, 2001
- Queen’s University, March 19, 2001
- University of Ottawa, March 21, 2001

Law Society of Upper Canada Seminar

Equity Law, Social Context, and the New Rules of Professional Conduct: The Implications of the Law Society’s New Rules of Professional Conduct in Addressing Issues of Racism and Other Forms of Discrimination

April 2001

The Institute of Law Clerks of Ontario Conference 2001

Discrimination & Harassment Counsel Program: Introduction and Overview

May 2001

Elizabeth Fry Society of Toronto

Discrimination & Harassment Counsel Program: Introduction and Overview

Osgoode Hall Law School Professional Development Program

Responding to Harassment & Discrimination: The Role of Internal Advisers

June 2001

Congrès de l’Association des juristes d’expression française de l’Ontario (AJEFO)

Les initiatives du Barreau en faveur du français et de léquité au sein de la profession

November 2001

Faculty of Law, University of Windsor

Discrimination & Harassment Counsel Program: Introduction and Overview

Southwest Region Women's Law Association

Discrimination & Harassment Counsel Program: Introduction and Overview

2. ACTIVITIES

Training at Tory's , January - February 2001 (In collaboration with the Equity Initiatives Department)

Training at Goodmans LLP, January - February 2001 (In collaboration with the Equity Initiatives Department)

Support to Complainants a the Buck Hearing, May - June 2001

APPENDIX "E"
BUDGET FOR 2001

The budget for 2001 was \$100,000.00. These funds have been spent as follows.

Fees	\$75,654.35
Disbursements	\$13,189.17
GST	\$ 6,219.05
TOTAL	\$95,062.57