

**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, 2006)**

Prepared by:

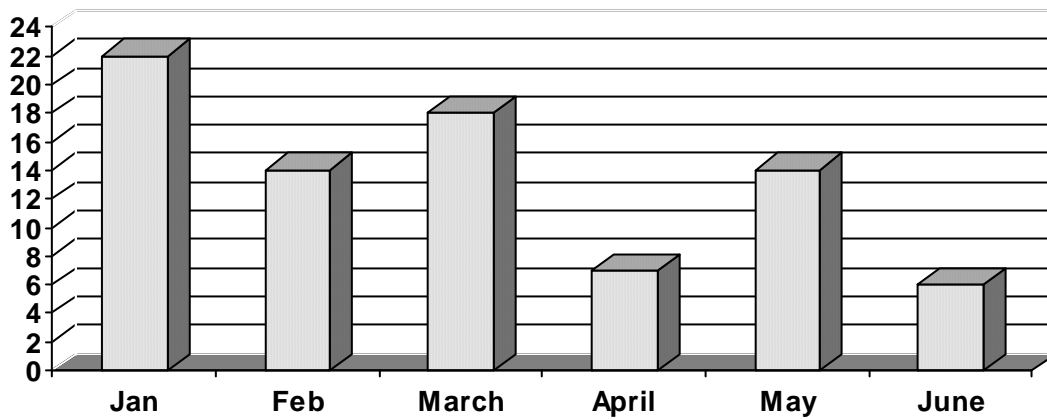
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A. OVERVIEW OF NEW CONTACTS WITH THE DHC PROGRAM

1. During this reporting period (January 1 to June 20, 2006), 81 individuals contacted the DHC Program with a new matter.¹ The volume of new contacts was distributed as follows:



2. Of the 81 individuals who contacted the DHC during this reporting period, 56 (69%) used the telephone to make their initial contact and 24 (30%) used email. One individual contacted the Program by fax.
3. The DHC provided services to two callers in French. The remaining contacts with the Program were all in English, with the exception of one caller who spoke Spanish and communicated with the DHC through the use of an interpreter.

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 81 new contacts with the Program, 26 individuals raised specific complaints of discrimination or harassment by a lawyer, law firm, legal department or legal clinic in Ontario.
5. Of the 26 new discrimination and harassment complaints against lawyers, 18 involved members of the public and 8 involved members of the legal profession.

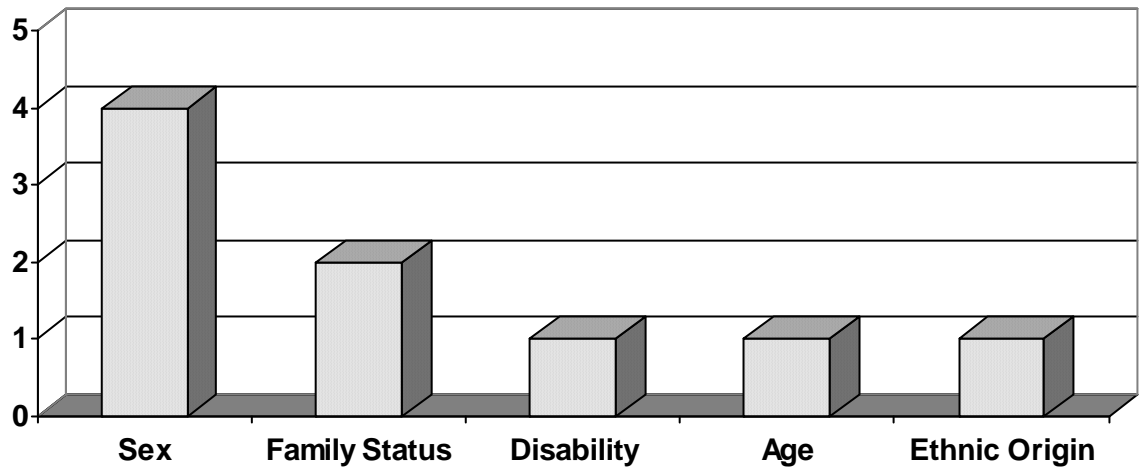
C. COMPLAINTS FROM WITHIN THE LEGAL PROFESSION

6. Two of the complaints from within the profession were made by an articling student. The same student made both complaints, but they involved discrete matters that arose months apart. All other complaints from within the profession were made by lawyers already called to the bar.
7. Of the 8 complaints from within the legal profession, 7 were made by women (including two by a female articling student) and only one was made by a male lawyer.
8. Of the 8 complaints from within the legal profession, one was about a lawyer working for LSUC. It involved an allegation of discrimination in the provision of services. The other 7 complaints all arose either in the context of the complainant's employment or in the context of a job interview.
9. The following grounds of discrimination were raised in the complaints from within the legal profession: sex, disability, ethnic origin, age and family status.

10. Four (4) of the complaints were based on sex as a ground of discrimination or harassment. Specifically:
 - a female articling student complained about sexual harassment by a male partner in her law firm;
 - the same female articling student complained about workplace reprisals that she suffered when she reported to a male partner in her firm that another male partner had sexually harassed her;
 - a female associate complained about sexist verbal abuse by a male partner in her law firm; and
 - a female lawyer working in a government department complained about employment discrimination resulting from her pregnancy.
11. Two complaints were based (in whole or in part) on family status:
 - a lawyer who had just returned from a maternity leave complained that her child care obligations were not accommodated by her employer and that she was being discriminated against based on her parental status; and
 - a lawyer complained that she was asked inappropriate questions about her family status in a job interview.
12. One complaint was based on ethnic origin. A Portuguese lawyer complained that a lawyer working for LSUC discriminated against her in the provision of services.
13. One complaint was based in part on disability. A female lawyer complained that she was asked inappropriate questions about whether or not she had a disability in a job interview. (This was the same woman who was asked whether she had children in a job interview.)
14. One complaint was based on age. A male lawyer reported that he was asked about his age in a job interview.

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

- sex 4 (2 sexual harassment and 1 pregnancy)
- family status 2
- disability 1
- age 1
- ethnic origin 1



² These numbers do not add up to 8 because some complaints involved multiple grounds of discrimination.

D. PUBLIC COMPLAINTS

16. Of the 18 complaints by members of the public, 13 involved women³ and 5 involved men.

17. Of the 18 public complaints:
 - 8 involved clients complaining about their own lawyer or about a lawyer they had sought to retain;⁴
 - 7 arose in the context of the complainant's employment or a job interview;
 - 2 involved litigants who were complaining about the conduct of opposing counsel in their cases; and
 - 1 involved a person who was a social acquaintance of the lawyer who was the subject of the complaint.

18. The public complaints raised one or more of the following grounds of discrimination: sex, race, disability, ethnic origin and religion.

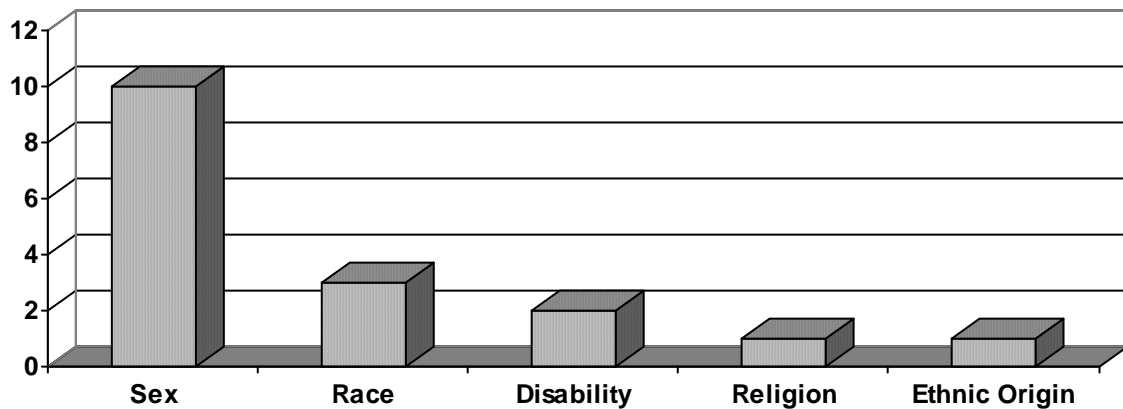
19. Eleven (11) of the public complaints were based on sex as a ground of discrimination. Of these:
 - one was based on pregnancy (a legal assistant complained about employment discrimination);
 - one female litigant complained about sexist harassment and verbal abuse by her ex-husband's male lawyer; and
 - nine (9) complaints involved allegations of sexual harassment and/or assault.

³ One of these complaints was reported to the DHC by a male lawyer who was acting on behalf of his female client. She had instructed him to contact the DHC Program on her behalf. This complaint is therefore registered as a "public" complaint in the DHC data, even though the contact with the Program was made by the complainant's lawyer.

⁴ One of these client complaints was reported to the DHC by a psychiatrist who was calling on behalf of a patient.

20. Of the 9 sexual harassment complaints, 4 involved clients and 5 arose in the context of the complainants' employment or a job interview. Specifically:
- one gay man complained that his male criminal defence counsel was sexually harassing him;
 - one psychiatrist reported that a female patient had been sexually assaulted by her male lawyer;
 - two female clients complained that their male lawyer / former lawyer was sexually harassing them;
 - an Aboriginal woman who worked as a support staff person in a law firm reported to her employer that she had been sexually assaulted by a male co-worker who grabbed her breast and tried to kiss her; she complained to the DHC that the management of the law firm was not following its own internal policy regarding the investigation and resolution of her complaint;
 - two female legal assistants complained about sexual harassment by their employers (male lawyers);
 - a woman who applied for a legal assistant's position complained about sexual harassment by the male lawyer who interviewed her; and
 - a female law clerk reported that she was sexually harassed and physically assaulted by a male associate in the law firm where she worked.
21. Three complaints were based on race. Specifically:
- a Black woman reported that a male lawyer whom she had dated made racist remarks in discussing litigation in which he was involved;
 - a Iranian woman complained that her lawyer was discriminating against her on the basis of race; and
 - a white male office manager complained about "reverse" race discrimination in the workplace – he worked in a small law firm that employed many lawyers of colour and felt that he was treated disadvantageously by the managing partner (a woman of colour) because he is caucasian.

22. Two complaints were based on disability:
- a legal assistant complained that her employer failed to accommodate her disability and terminated her employment because of her disability; and
 - a visually impaired litigant complained that opposing counsel refused to accommodate his disability and was exploiting his disability.
23. One complaint was based on religion. A man complained that an lawyer he had consulted made offensive anti-muslim remarks.
24. A man from the former Yugoslavia complained that he was denied legal services by a clinic based on his ethnic origin.
25. In summary, the number of complaints in which each of the following grounds of discrimination was raised are as follows:
- sex 11 (9 sexual harassment, 1 pregnancy)
 - race 3
 - disability 2
 - religion 1
 - ethnic origin 1



E. EXAMPLES OF RECENT COMPLAINTS

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

- A male lawyer reported that he was asked “how old are you?” in a job interview.
- A female lawyer reported that she was asked whether she had any children in a job interview.
- A man reported that an immigration lawyer made offensive remarks to him, equating muslims with terrorists. The man had consulted the lawyer with the intention of retaining his services.
- An female articling student reported that she was asked to accompany a male partner on an overnight trip to attend an out-of-town hearing. During the trip, the male partner insisted on socializing together (eg. eating meals, drinking wine), stood and sat very close to her, gave her leering looks, and used “double entendres” to flirt with her. The student was warned by other women in the firm that this partner had a history of “hitting on” young female lawyers and articling students.
- A recently hired legal assistant reported that her employment was terminated without cause (by a male lawyer) shortly after she disclosed that she was pregnant.
- A woman attended a job interview for a legal assistant’s position with a sole practitioner. The interview was conducted in the (male) lawyer’s home. She reported that the lawyer touched her arm suggestively during the interview and asked her for her bra size during a subsequent phone conversation.
- A legal assistant, who was a recent immigrant, reported that she was fired from her job after she refused to have sex with her male boss. She suspected that her boss exploited her status as a newcomer to Canada, believing that she would have few other employment opportunities available to her. The lawyer had frequently asked her out for drinks, had photographed her at firm events, had put his arm around her shoulders, and had ultimately told her that he wanted to have sex with her and to be her “boyfriend”.

- A gay male client, who was accused of committing a criminal act of indecency, reported that his male defence counsel always insisted on meeting in his (the lawyer's) home, despite the client's objection and expressed preference to meet in the lawyer's office. The lawyer's overly "friendly" demeanour made the client uncomfortable.
- A female legal assistant with a repetitive strain injury complained that her employer refused to provide her with modified duties to accommodate her disability and terminated her employment because she was no longer able to perform all of the duties of her position.
- A woman complained that her male lawyer was pressuring her to have sex with him. She reported that he told her she could not change lawyers because she had retained him on a Legal Aid certificate.
- A woman lawyer complained that her law firm was refusing to accommodate her with flexible hours of work upon her return from a maternity leave. She also complained that she was getting "substandard" files to work on since her return to the office. She attributed this discriminatory treatment to her family status as a new mother.
- A female client reported that her male lawyer asked her whether she was a virgin. He also called her at home, very late at night, and asked "are you alone?"
- A woman complained that her former lawyer sent her pornographic images by email, with sexually explicit messages indicating that he was interested in pursuing a sexual relationship with her.

F. DEMOGRAPHIC SURVEY OF COMPLAINANTS

27. Individuals who communicated with the DHC by telephone about complaints of discrimination or harassment were asked to participate in a short demographic survey to enable the DHC to record anonymous statistical data about them.
28. During this reporting period, 25 surveys were conducted. The complainants self-identified as follows:

Gender	19 female 6 male
Age	4 50-64 years old 10 35-49 years old 7 25-34 years old 2 8-24 years old 2 did not disclose
Race / Ethnicity	17 White / Caucasian 2 Iranian 2 Southeast Asian 1 Aboriginal 1 Black 1 Chinese 1 Latin American
Sexual Orientation	17 heterosexual 1 lesbian 1 bisexual 6 did not disclose
First Language	19 English 2 Farsi 1 French 1 Portuguese 1 Russian 1 Mandarin
Disability	7 identified as disabled

Region of residence	8	Greater Toronto Area
	6	Southwestern Ontario
	4	Eastern Ontario
	4	Central Ontario
	1	National Capital Region
	1	Northern Ontario
	1	United States

G. SERVICES PROVIDED TO COMPLAINANTS

29. 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.
30. 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.
31. Complainants were told that the options available to them are not mutually exclusive.
32. Complainants were given information about who to contact in the event that they decided to pursue any of their options.

33. 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).
34. Some complainants were directed to relevant resource materials available from the Law Society, the Ontario Human Rights commission, or other organizations.
35. 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.
36. 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 several cases in an effort to facilitate a resolution of the complaint. In each case, a resolution was reached.

H. SUMMARY OF GENERAL INQUIRIES

37. Of the 81 new contacts with the DHC during this reporting period, 16 (20%) involved general inquiries relating to equity issues within the Program's mandate.

These inquiries included:

- questions about whether lawyers have an obligation to report to the Law Society any information or knowledge that they have about another lawyer engaging in discrimination or harassment;
- questions about the scope of the DHC Program's mandate;
- questions about the mediation 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.

I. PROMOTIONAL ACTIVITIES

38. During this reporting period, the DHC was invited to speak about the Program and about professional responsibility to the 1st year class of students at the Faculty of Law at Windsor University.

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

40. 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. MATTERS OUTSIDE THE DHC MANDATE

41. During this reporting period, the DHC received 39 calls/emails relating to matters outside the Program's mandate.
42. 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, 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.
43. 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.
44. 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.