

**REPORT OF THE ACTIVITIES
OF THE DISCRIMINATION AND HARASSMENT COUNSEL
FOR THE LAW SOCIETY OF UPPER CANADA
(for the period from July 1 to December 31, 2006)**

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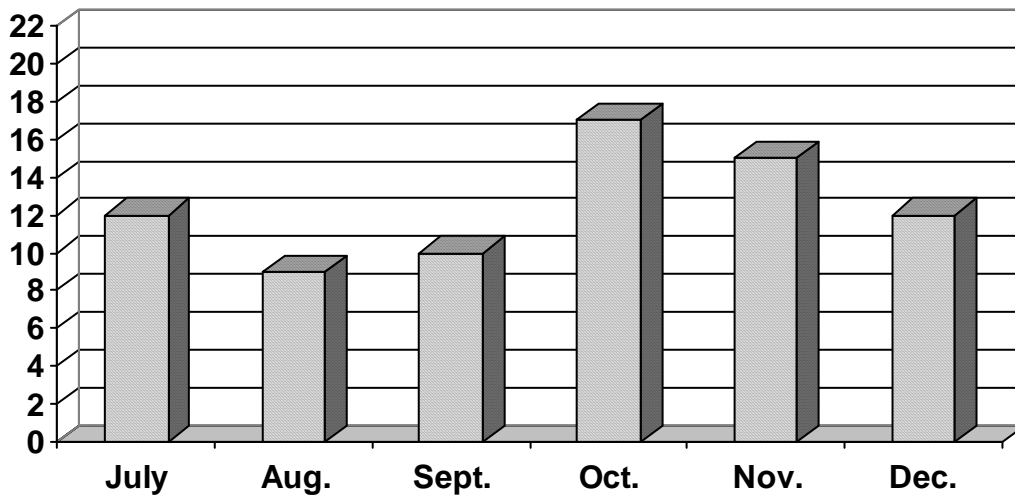
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OVERVIEW OF NEW CONTACTS WITH THE DHC PROGRAM

Number of New Contacts

1. During this reporting period (July 1 to December 31, 2006), 75 individuals contacted the DHC Program with a new matter¹.
2. The volume of new contacts was distributed as follows:



3. The average number of complaints (12.5/month) received in the last reporting period represents a decrease relative to the average (16.1/month) over the period from January 2003 and June 2006.

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

Method of Communication

4. The DHC toll-free telephone line remains the most common way in which individuals initiate contact with the Program.
5. In this reporting period, 55 individuals (73%) used the telephone to make their initial contact with the program, 19 people (26%) used email, and 1 used a fax.

Language of Communication

6. During this reporting period, the DHC communicated with 6 individuals in French (5 callers and one email contact).
7. All of the remaining contacts with the Program were in English, with the exception of one complainant who communicated in Russian (via an interpreter).

SUMMARY OF DISCRIMINATION AND HARASSMENT COMPLAINTS

Number of Complaints

8. Of the 75 new contacts with the DHC Program, 30 individuals raised specific complaints of discrimination or harassment by a lawyer, law firm, legal department or legal clinic in Ontario.²

² This number includes only complaints against lawyers that are based on prohibited grounds of discrimination enumerated in the *Ontario Human Rights Code* and LSUC's *Rules of Professional Conduct*.

Public / Profession Ratio

9. Of the 30 new discrimination and harassment complaints, 16 were from the public and 14 were from members of the legal profession.

COMPLAINTS FROM MEMBERS OF THE LEGAL PROFESSION

Student Complaints

10. Four (4) of the 14 complaints from within the legal profession were made by students. One of the students was in law school; the others were articling.

Male / Female Ratio

11. Of the 14 complaints from within the legal profession, 10 were made by women and 4 were made by men.
12. All four student complainants were women.

Context of Complaints

13. Ten (10) of the 14 complaints from members of the legal profession arose in the context of the complainants' employment.
2. The remaining four complaints from members of the profession arose in the following contexts:
 - (a) one lawyer complained about a mediator;
 - (b) one lawyer complained about opposing counsel in a case;
 - (c) one law student complained about the Dean of her Faculty;
 - (d) one lawyer complained about information that another lawyer had posted on an internet website.

Nature of Complaints

14. The 14 complaints from members of the legal profession were based on one or more of the following prohibited grounds of discrimination: race, ethnic origin, place of origin, disability, sex, age, and sexual orientation.

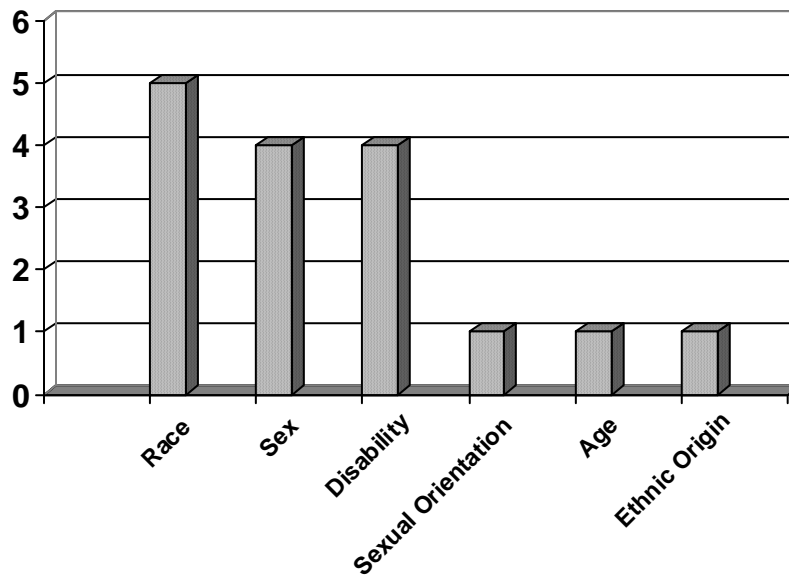
15. Five of the complaints from members of the profession were based (in whole or in part) on race:
 - four women (three lawyers and one articling student – two Black, one Filipino, and one South Asian) complained about racial harassment at work; one complained about management's failure to protect her from harassment by a staff member; the others complained about racial harassment by senior lawyers in their workplaces; and
 - a male lawyer complained about hateful racist comments posted by another male lawyer on an internet website.

16. Four of the complaints from members of the profession were based (in whole or in part) on disability:
 - a female law student complained about the Dean of her Faculty and his failure to accommodate her hearing disability;
 - a woman lawyer complained that a female partner at her former firm discriminated against her based on her psychiatric disability (in an employment reference context);
 - a male lawyer working in government complained that his employment was terminated based on his physical disability; and
 - a female lawyer working in a legal clinic complained that her employer was refusing to accommodate her psychiatric disability.

17. Four of the complaints from members of the profession were based (in whole or in part) on sex:
- a female South Asian lawyer complained about sexual harassment by a senior male partner in her firm;
 - a woman litigator complained about sexual harassment by a male mediator;
 - a male lawyer complained about sexist remarks posted by another male lawyer on an internet website; and
 - a woman lawyer working in a clinic complained about harassment and discrimination based on sex / pregnancy.
18. One of the complaints from within the legal profession was based on sexual orientation. A lesbian articling student reported that her employment at a law firm was terminated shortly after she disclosed that she was in a same-sex relationship.
19. One of the complaints from within the legal profession was based on age. A male lawyer in his fifties (a recent call to the bar) complained that he was being denied job opportunities as an associate because of his age.
20. One of the complaints from within the legal profession was based on ethnic origin and place of origin. A male lawyer complained that another male lawyer (opposing counsel in a case) had made inappropriate and derogatory comments about his Dutch clients.

21. In summary, the number of complaints³ (from members of the legal profession) in which each of the following prohibited grounds of discrimination was raised are as follows:

- race 5
- disability 4
- sex 4
- sexual orientation 1
- age 1
- ethnic origin 1
- place of origin 1



³ The sum of these numbers is greater than the total number of complaints because several complaints were based on more than one prohibited ground of discrimination.

PUBLIC COMPLAINTS

Male / Female Ratio

22. Of the 16 members of the public who contacted the DHC Program with a complaint of discrimination or harassment during this reporting period, 11 were women (69%) and 5 were men (31%).

Context of Public Complaints

23. Of the 16 complaints from members of the public:
- 9 were clients complaining about their own lawyer or a lawyer they had attempted to retain;
 - 5 were litigants complaining about counsel for the opposing party in their case;
 - 1 individual complained about a lawyer who was her employer; and
 - 1 woman complained about a lawyer who she met in a social context.
24. Thus, during this reporting period, 56% of public complaints involved clients and 31% involved litigants complaining about opposing counsel.
25. In previous reporting periods since January 2003, at least 1/3 of public complaints have arisen in the context of the complainants' employment, and complaints from litigants have been relatively infrequent. Complaints from clients consistently constitute a significant proportion of public complaints.

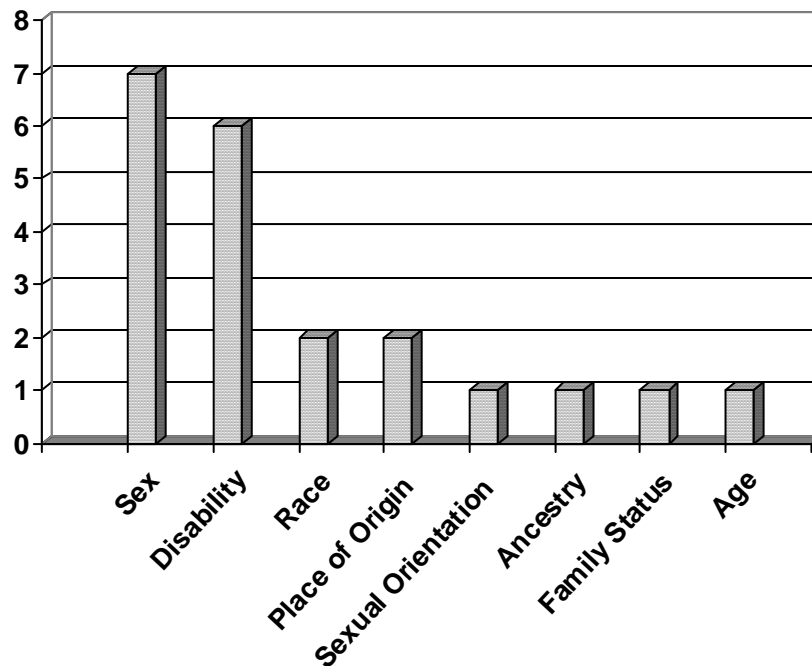
Nature of Public Complaints

26. The 16 public complaints were based on one or more of the following prohibited grounds of discrimination: race, ancestry, ethnic origin, place of origin, disability, sex, sexual orientation, age and family status.
27. Seven (7) of the public complaints were based (in whole or in part) on sex:
- a Pakistani woman complained that her own male lawyer was harassing her based on sex;
 - two women litigants complained that male opposing counsel in their cases called them sexist names;
 - two women clients complained that their own male lawyers had treated them in a sexist manner;
 - a woman employed as a secretary in a law firm complained about sexual harassment by her male boss; and
 - a woman complained about a sexual assault by a male lawyer who she had met in a social context.
28. Six (6) of the public complaints were based (in whole or in part) on disability:
- four female clients complained that their own male lawyers were failing or refusing to accommodate their disabilities; one of the women had a psychiatric disability, three had multiple chemical sensitivities and other environmental allergies and related syndromes, and one of those three also had a cognitive impairment;
 - a man with HIV/AIDS complained that a legal clinic was discriminating against him in the provision of legal services; and
 - a self-represented male litigant complained that opposing counsel in his case was harassing him based on his disability.

29. Two (2) of the public complaints were based (in whole or in part) on race:
- a Pakistani woman complained that her own male lawyer harassed her based on her race; and
 - a male litigant complained that opposing counsel made false and vexatious allegations of race discrimination against him because he is white.
30. Two (2) of the public complaints were based (in whole or in part) on place of origin:
- a Russian man complained that a lawyer refused to represent him because of his place of origin; and
 - a female litigant complained that opposing counsel engaged in offensive name-calling based on her place of origin (which was not disclosed) and the fact that she is a recent immigrant.
31. One of the public complaints was based on sexual orientation. A gay man complained that a legal clinic discriminated against him in the provision of services.
32. One of the public complaints was based on ancestry. A male litigant complained that opposing counsel in his case was harassing him because of his German ancestry.
33. One of the public complaints was based on family status. A man complained that he was denied legal services because of who his daughter is and the fact that his daughter has a psychiatric disability.
34. One of the public complaints was based on age. An elderly man complained that he was denied legal services because of his age.

35. In summary, the number of public complaints⁴ in which each of the following grounds of discrimination were raised are as follows:

- sex 7
- disability 6
- race 2
- place of origin 2
- age 1
- ancestry 1
- family status 1
- sexual orientation 1



⁴ The sum of these numbers is greater than the total number of complaints because several complaints were based on more than one prohibited ground of discrimination.

EXAMPLES OF RECENT COMPLAINTS

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

- a disabled male litigant reported that opposing counsel called him a “psycho” ;
- a female Filipino articling student reported that a female partner in her law firm swore at her, verbally abused her, and suggested that she work as a “nanny” for one of the other partners in the firm;
- a disabled woman reported that her own male lawyer refused to accommodate her disabilities (multiple chemical sensitivities and other environmental allergies), spoke to her condescendingly about her disabilities, and called her “sweetie”;
- a woman with a psychiatric disability reported that a female lawyer at her former firm, who agreed to provide her with an employment reference, disclosed the fact of her disability to a prospective employer, thereby violating her privacy and jeopardizing her job prospects;
- a Black woman lawyer working in a government office reported that her manager was refusing to intervene to protect her from ongoing workplace harassment by a member of her staff; although she did not believe that the harassment was racially motivated, she felt that the manager would not have ignored the situation if she were white (“no white lawyer would have to put up with this”);
- a male lawyer complained that opposing counsel in one of his cases (another male lawyer) had made derogatory remarks about his clients’ Dutch ancestry (including, “wooden shoes, wooden heads”);
- a 52 year old male lawyer, recently called to the bar, complained that he was not given a job interview for a position for which he was highly qualified; he had previous work experience related to the position and high grades in law school; he felt that his age was the reason why he was not considered for the job;
- a woman reported that she was sexually assaulted by a male lawyer in a bar (who touched her buttocks and grabbed her breasts); the lawyer gave her his business card after the assault;

- a woman lawyer working in a legal clinic reported that she was harassed and discriminated against at work because she took two maternity leaves in rapid succession;
- a woman lawyer working in a legal clinic reported that her employer was refusing to accommodate her psychiatric disability and was threatening to terminate her employment if she could not complete her duties without accommodation;
- a South Asian junior female associate reported that a senior white male partner in her firm sexually harassed her;
- a male lawyer complained that his employer refused to accommodate his disability, saying “we are not a rehab clinic”, and terminated his employment shortly after he requested the accommodation; and
- a woman litigator reported that a male mediator suggested that she might achieve “better outcomes” for her clients if she engaged in a sexual relationship with him.

DEMOGRAPHIC SURVEY OF COMPLAINANTS

37. Individuals who communicated with the DHC by telephone about specific 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. During this reporting period, 12 surveys were conducted. Six (6) members of the public and 6 members of the Law Society (including 1 student member) were surveyed and they self-identified as follows:

Gender/Sex	9	female
	3	male
Age	5	were 25-34 years old
	6	were 35-49 years old
	1	was over 65 years of age
Race / Ethnicity	2	South Asian
	1	Filipino
	9	white / caucasian
Sexual Orientation	1	lesbian / gay
	9	heterosexual
	2	undisclosed
First Language	10	English
	1	French
	1	Russian
Disability	4	identified as disabled
Region of Residence	8	Greater Toronto Area
	1	Southwestern Ontario
	2	National Capital Region
	1	undisclosed

SERVICES PROVIDED TO COMPLAINANTS

Advice and Counsel

38. Complainants who contacted the DHC were advised of the various avenues of redress open to them, including:
- reporting to the police (where alleged criminal conduct is involved);
 - filing an internal complaint or a grievance within their workplace (including, where appropriate, contacting their union or employee association for assistance);
 - filing a complaint with a human rights commission (usually the Ontario Human Rights Commission, but sometimes the Canadian Human Rights Commission);
 - making a complaint to the Law Society; and
 - contacting a lawyer for advice regarding other possible legal actions (eg. wrongful dismissal, defamation).
39. Complainants were also provided with information regarding each of the applicable options, including:
- what (if any) costs might be involved in pursuing an option;
 - whether legal representation is required to pursue an option;
 - how to file a complaint or make a report (eg. whether it can be done electronically, by telephone, or in writing; whether particular forms are required, etc.);
 - the process 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 (complainants were typically advised to immediately seek legal advice regarding the applicable statutory time limits in their circumstances).
40. Complainants were given information about who to contact in the event that they decided to pursue any of their options. They were advised that the avenues of recourse are not mutually exclusive.
 41. In some cases, strategic tips were provided on how to handle a situation without resort to a formal complaints process (eg. confronting the offender, speaking to a mentor, writing a letter of complaint to the managing partner of the law firm in question).
 42. In some cases, complainants were directed to relevant resource materials available from the Law Society, the Ontario Human Rights Commission, or other sources.
 43. In some cases, complainants were referred to support services, such as a sexual assault crisis centre, crisis counselling service, OBAP (the Ontario Bar Assistance Program) or LINK (short term professional counselling for lawyers).

Mediation Services

44. In addition to being advised of the above-noted options, where appropriate, complainants were offered the mediation services of the DHC Program.
45. 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 to reach a mutually satisfactory resolution of the complaint.

46. No formal mediations were conducted during this reporting period, but in several cases, at the request of the complainant, the DHC intervened informally and communicated with the respondent in an effort to resolve the complaint. These interventions were successful in achieving resolutions of issues raised by the complainants.

SUMMARY OF GENERAL INQUIRIES

47. Of the 75 new contacts with the DHC during this reporting period, 15 involved general inquiries.⁵ These inquiries included:
- questions from the public and from lawyers and law students about the scope of the DHC Program's mandate;
 - inquiries from lawyers about the confidentiality of the DHC program and whether communications with the DHC are privileged;
 - calls from members of the public who had suffered discrimination or harassment by a lawyer and were seeking a referral to support services (eg. depression or crisis counselling);
 - questions from lawyers about the mediation service offered by the DHC;
 - inquiries from the public and from law firms about educational workshops provided by the LSUC and/or the DHC;
 - requests from the public for promotional materials regarding the DHC Program;
 - law students seeking access to data collected by the DHC; and
 - inquiries about the LSUC *Rules of Professional Conduct* and equity issues.

⁵ Thirty (30) of the new contacts with the DHC during this reporting period related to matters outside the mandate of the DHC Program. Typically, such contacts involved individuals complaining about harassment or discrimination by someone other than a lawyer (eg. the police, their employer, their landlord). Some complaints were about judges or masters, whose conduct is not regulated by the LSUC. Some complaints were about lawyers but did not involve any equity issues (i.e., complaints were not based on human rights grounds but rather involved billing disputes, alleged conflicts of interest, etc.)

PROMOTIONAL ACTIVITIES

48. No new promotional activities for the Program were undertaken during this reporting period. However, French, English, Chinese and braille brochures for the Program continued to be circulated to legal clinics, community centres, law firms, government legal departments, and faculties of law. The DHC Program website was also maintained.
49. Given the decrease in new contacts with the DHC Program during this reporting period, I recommend that some new promotional activities be undertaken in the near future.

EDUCATIONAL ACTIVITIES

50. The DHC worked throughout this reporting period with the Law Society's Equity Advisor (Josée Bouchard) to offer workshops to law firms on the prevention of harassment and discrimination in the workplace.

EVALUATION OF THE DHC PROGRAM

51. An on-line survey was developed to enable the LSUC to obtain feedback from users about the services provided by the DHC. The survey has just recently been posted on the internet (linked to the DHC website), so it is too early to gather meaningful data yet.