

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: JUNE 24 2013

SUBJECT: 2012 ANNUAL HUMAN RIGHTS REPORT

ACTION ITEM

RECOMMENDATION

It is recommended that:

1. The Board receive this report for information purposes; and
2. The Board authorize forwarding this report to City Council, through the Executive Committee, for information purposes.

FUNDING

There are no financial implications from this report beyond what has already been approved in the current year's budget.

BACKGROUND

The Toronto Transit Commission's Human Rights Department administers the TTC's Respect and Dignity Policy, Workplace Violence, and Accommodation in the Workplace policies, and is responsible for providing expert advice, investigating or co-ordinating the investigation into complaints, and developing a plan of dispute resolution to resolve complaints of harassment, discrimination and/or violence related to employment practices and service provisions.

This report provides information on consultations and complaints filed by customers and TTC employees with Human Rights in 2012, and actions undertaken to address these consultations and complaints. Overall, Human Rights made considerable progress in 2012 in effectively addressing 1796 workplace harassment, discrimination and/or workplace violence related complaints raised by employees and customers. Included in this amount are the 16 applications filed in 2012 with the Human Rights Tribunal of Ontario ("HRTO").

Although there was a slight increase of 8.4 % in the overall complaints and incidents reported to Human Rights in 2012 from the previous year, there was a remarkable 41 % decrease in complaints and incidents reported by TTC employees. This is largely due in part to the awareness efforts by the TTC to promote a workplace free from harassment, discrimination and/or violence. On account of legislative changes to the *Occupational Health and Safety Act* (the "Bill 168 amendments"), TTC increased its efforts to educate and raise awareness of workplace harassment and workplace violence issues, and the obligation on employees to report such matters immediately for action. This downward trend for internal complaints and incidents reported by TTC employees is reasonably indicative of the successful Bill 168 awareness efforts, and in turn, a better understanding and appreciation by employees of what constitutes harassment and discrimination and TTC's zero tolerance policy for either.

DISCUSSION

This report identifies the number of complaints received by Human Rights, the types of complaints received and the actions undertaken by Human Rights to address complaints and promote positive and respectful workplace conduct. Human Rights promotes positive and respectful workplace conduct through the following three activities:

1. Consultation and advice
2. Complaint intervention and investigations
 - a) Workplace Harassment and Discrimination
 - b) Workplace Violence
 - c) Customer Service Complaints
 - d) HRTO Applications
3. Education.

1. CONSULTATION AND ADVICE:

Consultation refers to matters about which Human Rights was contacted and provided advice, coaching, information or referral, but did not directly intervene to resolve the issue. Consulting, providing expert advice and coaching are core elements of Human Rights' strategy; these elements foster early resolution and enable employees to craft their own solutions to resolve issues. Consulting activities also provide opportunities for Human Rights staff to educate parties about the legislative requirements under the Ontario Human Rights Code and TTC's expectations, and to promote consistent practices. In addition to harassment and discrimination matters, consultations cover a broad range of issues including Respect and Dignity and Workplace Violence policy interpretation, accommodation and accessibility for employees and customers; workplace violence response for issues such as domestic violence and the preparation of employee safety plans.

2. COMPLAINT INTERVENTION/FORMAL INVESTIGATIONS:

The term "complaint" refers to allegations(s) of discrimination, workplace harassment or workplace violence where Human Rights staff have assisted in, intervened, including *vis a vis* dispute resolution methods (i.e. mediation), or formally investigated the matter. Human Rights staff will intervene or investigate a complaint to facilitate resolution where consultation, coaching, and providing advice are not effective or appropriate in resolving a situation. Human Rights engages in various forms of alternate dispute resolution, i.e. facilitated discussions, mediation, exploring allegations to recommend remedies and undertaking independent, formal investigations where other dispute resolution efforts have not been successful, are not appropriate or where the allegation(s) are of a serious and/or systemic nature. In 2012, Human Rights successfully intervened and handled 1428 complaints (including formal investigations and HRTO applications) and 368 consultations, for a total of 1796 cases—refer to Table 1.

Formal Investigations:

As noted earlier, Human Rights will undertake an independent, formal investigation where other dispute resolution efforts have not been successful, are not appropriate or where the complaint allegation(s) are of a serious and/or systemic nature. Formal investigations are time sensitive and require exclusive handling by the Human Rights Consultants. In 2012 twelve formal investigations were undertaken by Human Rights to resolve employee complaints related to allegations of discrimination (2), personal harassment (5) and workplace violence (5).

Statistics, Trends and Recommended Actions:

The following is a summary of consultations, complaints and formal investigations received by Human Rights in 2012:

Table 1—Overview of total complaints (including formal investigations and HRT0 applications), and consultations received by Human Rights, 2010-2012

	2010	2011	2012
External Complaints*	968	897	1140
Internal Complaints**	467	384	272
External Consultations*	3	5	2
Internal Consultations**	171	429	366
HRT0	16	18	16
TOTAL	1625	1733	1796

*External means customer complaints filed against an employee.

**Internal means employee complaints filed against another employee or customer.

The following is a breakdown of the consultations and complaints statistical data by the following categories:

- (a) Workplace Harassment and Discrimination;
- (b) Workplace Violence;
- (c) Customer Service Complaints (External); and
- (d) HRT0 Applications.

(a) Workplace Harassment and Discrimination**Table 2** – Overview of internal and external harassment and discrimination consultations, complaints and formal investigations received by Human Rights, 2010 - 2012.

Year	Consultations	Complaints	Formal Investigations	Total by Year
2010	157	1120	21	1298
2011	230	1036**	18	1284
2012	263	1194***	7	1464

*Table does not include HRTO complaints.

**774 external complaints and 262 internal complaints.

***1017 external complaints and 177 internal complaints.

Of the 1464 complaints of workplace harassment and discrimination, 677 were dismissed (found to be unsubstantiated), 734 resolved (either settled by alternative dispute resolution, or substantiated and addressed with remedial corrective action) and 30 complaints were withdrawn.

In 2012, harassment and discrimination consultations with Human Rights increased by 33. This upwards trend in consultations is positive, as consultations foster early resolution, promote consistent practices and enable Human Rights staff to educate parties about legislative requirements and TTC's expectations for respect and dignity in the workplace.

Also in 2012, complaints of harassment and discrimination increased by 158. This increase is largely attributable to an increase in customer complaints of alleged harassment and discrimination against TTC employees. Of the 1194 complaints received by the Human Rights in 2012, 1017 of them were from customers. This is an increase of 24% (179 complaints) from 2011, which is consistent with TTC's overall corporate experience in 2012 whereby it received 6,597 more (for a total of 45,408) customer complaints (15% increase) than the previous year. This was a result of the TTC's Customer Service Centre hours increasing in 2012 from 9 a.m. to 5 p.m. Monday to Friday, to 7 days a week from 7 a.m. to 10 p.m., thereby facilitating the intake of more customer complaints. Also, as the ridership has and continues to increase year to year, and TTC properly continues to promote and encourage better customer service standards and customer feedback, it is expected that the customer complaints reported and handled by Human Rights will increase, too. The statistics also show that only 2.2 % of the total customer service complaints received by TTC in 2012 were human rights related.

Table 3—Overview of internal and external harassment and discrimination consultations, complaints and formal investigations, by prohibited ground, managed by Human Rights for the period of 2010 – 2012.

Ground	Consultations			Complaints			Formal Investigations			Total by Ground		
	2010	2011	2012	2010	2011	2012	2010	2011	2012	2010	2011	2012
**No Ground/Other	32	2	0	75	0	0				107	2	0
Personal Harassment (including inappropriate conduct)	77	122	128	404	309	233	12	7	5	493	438	366
Disability	21	64	67	309	430	566	3	2		333	496	633
Sex (including pregnancy, breastfeeding and gender identity)	7	8	8	89	61	50	4	6	1	100	75	59
Race	6	4	8	123	102	143	1	1	1	130	107	152
Colour			5	8	45	66				8	45	71
Origin – Ethnic	4		2	25	22	30				29	22	32
Origin – Place			1	4	10	17				4	10	18
Ancestry				2	1			1		2	2	0
Creed/Religion	6	22	34	13	14	11				19	36	45
Family Status	2	4	7	34	21	46	1			37	25	53
Sexual Orientation	1		1	19	6	14				20	6	15
Reprisals		1		3	3	1				3	4	1
Age	1		1	10	12	16	1	1		11	13	17
Citizenship			1									1
Marital Status		1				1					1	1
Record of Offences		2									2	
Membership in a Union or Staff Association												
Level of Literacy												
Political Affiliation				2						2		
Systemic Discrimination												
Total	157	230	263	1120	1036	1194	21	18	7	1298	1284	1464

*Table does not include HRTO complaints.

** No Prohibited Ground Identified.

Prohibited Grounds

Of the prohibited grounds under the Ontario Human Rights Code, disability continues to be the most frequently cited ground of complaint raised to Human Rights. Similarly, there were 8 disability related applications filed with the HRTO in 2012. A majority of these complaints approximately 74% report accessibility issues such as TTC's ramps not lowering, or station elevators or escalators not working, and the remaining relate to accommodation in the workplace.

The next more frequently cited prohibited ground of complaint raised to Human Rights was race (152), colour (71), sex (59) (including gender identity, gender expression, and sexual harassment) followed by family status (53) complaints.

The ground of family status has generated, and is expected to continue to generate more activity for Human Rights in future. New and emerging family status case law has both raised the profile of this protection and expanded protections by requiring employers and service providers to explore accommodation requests related to this ground. For example, an employee who requests a leave of absence or a flexible working schedule to care for an aging parent or a child with a disability.

(b) Workplace Violence

As a result of the Bill 168 amendments, the TTC's Workplace Violence Policy was revised as earlier noted. The definition of workplace violence focuses on exercising physical force, attempting to exercise physical force or threatening to do so. Effective June 2010, intimidation and bullying that does not involve the exercise or attempted exercise of physical force, are now both categorized as personal harassment under the TTC's Respect and Dignity Policy.

Table 4—Overview of internal and external workplace violence consultations, complaints, and formal investigations received by Human Rights for the years 2010 - 2012.

Year	Consultations	Complaints	Formal Investigations	Total by Year
2010	17	284	10	311
2011	204	225	2	431
2012	105	206*	5	316

*119 external complaints and 87 internal complaints.

Of the 316 complaints of Workplace Violence in 2012, 219 were resolved (either settled, or substantiated and addressed with remedial corrective action), 1 withdrawn, and 93 dismissed (found to be unsubstantiated).

The statistics show that workplace violence complaints and consultations with Human Rights have decreased by 115 (27 %) since 2011. This decrease is a positive sign and indicative of the positive effects of TTC's efforts to promote Bill 168 awareness and TTC's expectations for a safe workplace free from violence.

(c) Customer Service Complaints

Human Rights receives and assists management in addressing complaints filed by customers against TTC employees that relate to human rights issues including accommodation and accessibility, workplace harassment or workplace violence.

Customers may submit complaints about discrimination and harassment in the administration and delivery of TTC's services under the TTC's Respect and Dignity Policy. In 2012, Human Rights addressed 1019 harassment and discrimination complaints (including formal investigations) from customers. See Table 5 for a breakdown by prohibited ground. This is an increase from the 778 complaints filed in 2011.

As noted above under section (a) Workplace Harassment and Discrimination, Human Rights handled 24 % more complaints from TTC customers. This increase appears consistent with the TTC's overall corporate experience in 2012 whereby it saw a 15 % increase in customer complaints. This increase was anticipated by staff as in 2012, TTC engaged in a public campaign to promote and encourage customer feedback to help improve its service standards. TTC also increased its Customer Service Centre hours of operation to 7 days a week to facilitate more customer feedback.

Table 5—Overview of external harassment and discrimination consultations and complaints, by prohibited ground, managed by Human Rights for 2012.

Ground	External Complaints (including Formal Investigations)	External Consultations	Total
Personal Harassment (including inappropriate conduct)	105	1	
Disability	558	1	
Sex (including gender identity, gender expression, gender identity, pregnancy and breastfeeding)	38		
Race	136		
Origin – Ethnic	22		
Origin – Place	17		
Creed/Religion	8		
Family Status	46		
Age	15		
Colour	63		
Sexual Orientation	11		
Ancestry	0		
Political Affiliation	0		
Total	1019	2	1021

*Table does not include HRTO complaints.

*External means customer complaints filed against an employee.

Table 6—Overview of external consultations and complaints alleging workplace harassment and discrimination for 2010 – 2012.

Year	Consultations	Complaints	Formal Investigations	Total by Year
2010	2	843	3	848
2011	4	773	1	778
2012	2	1017	2	1021

Table 7—Overview of external consultations and complaints alleging workplace violence for 2010 - 2012.

Year	Consultations	Complaints	Formal Investigations	Total by Year
2010	1	120	2	123
2011	1	123	0	124
2012	0	119	2	121

(d) HRTO Complaints

All employees and customers have a right to file a human rights complaint directly with the HRTO. In June 2008, extensive amendments to the Ontario Human Rights Code were implemented. The amendments included, but were not limited to: time limits for filing a complaint were expanded; caps on monetary damages were eliminated; the former screening process for complaints without merit was removed; a provincially-funded Human Rights Legal Support Centre, providing a full range of legal services for complainants, including legal representation at Tribunal hearings was established; and the TTC is only given 35 days upon receipt of application to conduct an internal investigation into the application and file its response. This places Human Rights under significant time demands when handling HRTO applications.

Table 8—Overview of internal and external HRTO complaints for 2010 - 2012.

Year	Internal	External	Total by Year
2010	9	7	16
2011	12	6	18
2012	10	6	16

* Internal refers to complaints filed by TTC employees, and external refers to complaints filed by customers.

Table 9 – 2012 HRTO complaints filed by employees and customers categorized by prohibited ground.

Prohibited Ground	HRTO Complaints filed in 2012		
	Total by Year	Employee Complainant	Customer Complainant
Disability	8	5	3
Sex (including pregnancy, breastfeeding, gender identity, gender expression)	1	0	1
Race	3	3	0
Colour	2	1	1
Origin – Ethnic			
Origin – Place	1	0	1
Ancestry			
Creed/Religion			
Family Status			
Sexual Orientation			
Reprisals	1	1	0
Age			
Citizenship			
Political Affiliation			
Total	16	10	6

Of the 16 HRTO complaints received in 2012, 1 was withdrawn, 4 were dismissed, and 1 was resolved through mediation. No complaints were substantiated. Final resolutions for the remaining 10 HRTO complaints are unknown because of on-going proceedings.

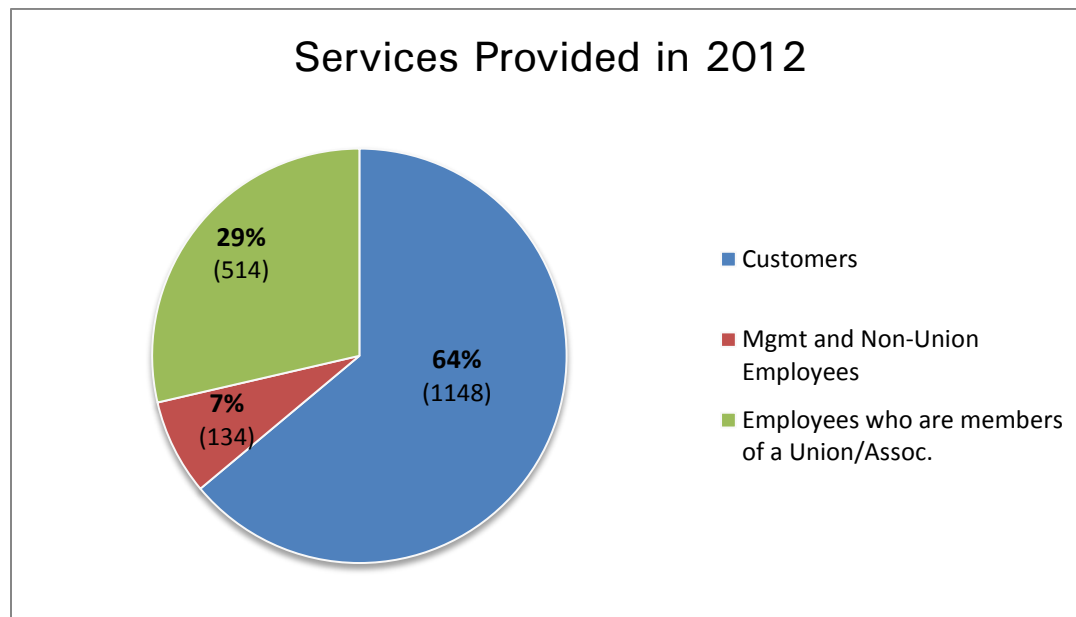
The decrease in HRTO complaints received in 2012 is a positive sign that Human Rights offers a valuable service to both employees and customers, resolving for the most part significantly more complaints in a shorter time frame than those filed with the HRTO. Also, while the numbers of consultations and complaints filed with Human Rights are considerably higher than the number of complaints filed against the TTC with the HRTO, the pattern of complaint grounds are similar— with disability and race being the most commonly cited grounds.

Breakdown of Services Provided (by Client Area) in 2012

Information on who used the services of Human Rights is tracked and the largest group is customers. Human Rights addressed 1148 cases (64%) involving customers alleging workplace harassment, discrimination and workplace violence, the majority of which were alleging discrimination based on disability (accessibility).

The next largest seekers of Human Rights' services are unionized employees. Human Rights was consulted by unionized employees to address complaints of workplace violence, workplace harassment, discrimination, and accommodation issues.

Future service use will be monitored to ensure Human Rights resources are appropriately aligned with complaint patterns and to determine whether focused training and education, related to trends in complaint activities, is necessary.



3. EDUCATION

All TTC employees are expected to comply with the provisions of the TTC's Respect and Dignity and Workplace Violence policies and be familiar with their rights and responsibilities for preventing, and addressing human rights, workplace violence and workplace harassment infractions. Education can enhance skills and knowledge and plays an important role in contributing to a culture of respect and dignity, and integrating human rights practices into all employment and service activities at the TTC.

In 2012, Human Rights continued to adopt a preventative strategy by providing education and information to TTC employees and management as needed in an effort to target specific issues raised in particular work areas. Human Rights made sure that all managers and supervisors understood their responsibility to provide a safe and discrimination-free work environment. These education efforts were supplemental to the general training programs on workplace harassment, discrimination and violence administered by TTC's Training Department.

Looking Ahead – 2013

In 2013, Human Rights will continue to educate and promote alternate dispute resolution services like mediation to all employees to help address complaints in a more expeditious and amicable manner, to the satisfaction of all parties. Mediations, where appropriate, are effective in helping to reduce the escalation of conflict in the workplace, and allow for better opportunities for understanding between parties, thereby preserving working relationships.

Human Rights will also continue to educate and assist TTC staff on effective complaint handling and educate on how to prepare and conduct fair and thorough investigations.

Human Rights will also continue to monitor complaint trends, and make recommendations to align training program resources to respond to these shifts.
