

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: June 24, 2014

SUBJECT: 2013 Annual Human Rights Report

ACTION ITEM

RECOMMENDATION

It is recommended that the Board:

1. Receive this report for information purposes; and
2. Forward 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 ("TTC Human Rights") 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 the TTC Human Rights in 2013, and actions undertaken to address these consultations and complaints. Overall, TTC Human Rights made considerable progress in 2013 in effectively addressing 1853 workplace harassment, discrimination and/or workplace violence related complaints raised by employees and customers. Included in this amount are the 24 applications filed in 2013 with the Human Rights Tribunal of Ontario ("HRTTO").

Although there was a slight increase of 3% in the overall complaints reported to TTC Human Rights in 2013 from 2012, there continues to be a decline in complaints reported by TTC employees (internal complaints). This is a downward trend that continues from 2012, and is indicative of successful efforts to promote respect and dignity in the workplace, and TTC's zero tolerance policy for harassment, discrimination and violence.

DISCUSSION

This report identifies the number of complaints received by TTC Human Rights, the types of complaints received and the actions undertaken by TTC Human Rights to address complaints and promote positive and respectful workplace conduct. TTC 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; and,
 - d) HRTO Applications.
3. Education.

1. CONSULTATION AND ADVICE:

Consultation refers to matters about which TTC 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 TTC 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 TTC 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, but not limited to, 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 allegation(s) of discrimination, workplace harassment or workplace violence where TTC Human Rights staff have assisted in, intervened, including *vis a vis* dispute resolution methods (*i.e.* mediation), or formally investigated the matter. TTC 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. TTC Human Rights also engages in various forms of alternate dispute resolution (*i.e.* facilitated discussions and mediation). In 2013, TTC Human Rights successfully intervened and handled 1501 complaints (including formal investigations and HRTO applications), and 352 consultations, for a total of 1853 cases—refer to Table 1.

Formal Investigations:

As noted earlier, TTC Human Rights will undertake an independent, formal investigation where other dispute resolution efforts have not been successful, are not appropriate or where the complaint allegations are of a serious and/or systemic nature. Formal investigations are time sensitive and require exclusive handling by the TTC Human Rights consultants. In 2013, 13 formal investigations were undertaken by TTC Human Rights to resolve employee complaints related to allegations of discrimination (6), personal harassment (4), workplace violence (2) and unprofessional conduct (1).

Statistics, Trends and Recommended Actions:

The following is a summary of consultations, complaints and formal investigations handled by TTC Human Rights in 2013:

Table 1—Overview of total complaints (including formal investigations and HRTO applications), and consultations received by TTC Human Rights, from 2011-2013

	2011	2012	2013
External Complaints*	897	1140	1210
Internal Complaints**	384	272	267
External Consultations*	5	2	10
Internal Consultations**	429	366	342
HRTO	18	16	24
TOTAL	1733	1796	1853

*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) HRTO Applications.

(a) Workplace Harassment and Discrimination

***Table 2** – Overview of total internal and external harassment and discrimination consultations, complaints and formal investigations received by TTC Human Rights, from 2011 - 2013.

Year	Consultations	Complaints	Formal Investigations	Total by Year
2011	230	1036	18	1284
2012	263	1194**	7	1464
2013	293	1270***	11	1574

*Table does not include HRTO complaints.

** 1017 external complaints and 177 internal complaints.

*** 1091 external complaints and 179 internal complaints.

Of the 1574 cases of workplace harassment and discrimination, 657 were dismissed (found to be unsubstantiated), 892 resolved (either settled by alternative dispute resolution, or substantiated and addressed with remedial corrective action), 13 complaints were withdrawn and 12 complaints are still pending resolution.

In 2013, harassment and discrimination consultations with TTC Human Rights increased by 30. This upward trend in consultations is positive, as consultations foster early resolution, promote consistent practices and enable TTC Human Rights staff to educate parties about legislative requirements and TTC's expectations for respect and dignity in the workplace.

Also in 2013, there was a slight increase in complaints of harassment and discrimination from 2012. Of the 1270 complaints received by the TTC Human Rights in 2013, 1091 of them were from customers. Customer complaints continue to make up 85% of the total complaints handled by TTC Human Rights. As the ridership has and continues to increase year to year, and TTC continues to promote and encourage better customer service standards and customer feedback, it is expected that the customer complaints reported and handled by TTC Human Rights will continue to increase. However, it should also be noted that only 2.1% of the total customer service complaints received by TTC in 2013 were human rights related.

***Table 3**—Overview of internal and external harassment and discrimination consultations, complaints and formal investigations, categorized by prohibited ground, from of 2011 – 2013.

Ground	Consultations			Complaints			Formal Investigations		
	2011	2012	2013	2011	2012	2013	2011	2012	2013
**No Ground/Other	2	0	0	0	0	3			
Personal Harassment and Unprofessional Conduct	122	128	131	309	233	231	7	5	5
Disability	64	67	72	430	566	594	2		
Sex (including pregnancy, breastfeeding and gender identity)	8	8	15	61	50	42	6	1	4
Race	4	8	11	102	143	156	1	1	1
Colour		5	2	45	66	87			1
Origin – Ethnic		2	2	22	30	20			
Origin – Place		1	1	10	17	15			
Ancestry				1			1		
Creed/Religion	22	34	23	14	11	12			
Family Status	4	7	34	21	46	63			
Sexual Orientation		1	1	6	14	24			
Reprisals	1			3	1				
Age		1		12	16	22	1		
Citizenship		1				1			
Marital Status	1				1				
Record of Offences	2		1						
Membership in a Union or Staff Association									
Level of Literacy									
Political Affiliation									
Systemic Discrimination									
Total	230	263	293	1036	1194	1270	18	7	11

*Table does not include HRTO complaints.

** No Prohibited Ground Identified in complaint.

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 TTC Human Rights. However, a majority of these complaints (approximately 90%) raise accessibility issues such as TTC's ramps not lowering, or station elevators or escalators not working, and approximately 10% relate to requests for accommodation in the workplace.

The next most frequently cited prohibited ground of complaint raised to TTC Human Rights was race (168), followed by family status (97), similar to 2012.

(b) Workplace Violence

Table 4—Overview of internal and external workplace violence consultations, complaints, and formal investigations received by TTC Human Rights from 2011 - 2013.

Year	Consultations	Complaints	Formal Investigations	Total by Year
2011	204	225	2	431
2012	105	206	5	316
2013	59*	194**	2	255

*4 external consultations and 55 internal consultations.

**118 external complaints and 76 internal complaints.

Of the 255 complaints of Workplace Violence in 2013, 164 were resolved (either settled, or substantiated and addressed with remedial corrective action), 3 withdrawn, and 88 dismissed (found to be unsubstantiated).

Since 2012, workplace violence complaints and consultations with TTC Human Rights have decreased by 61 (19%). This significant decrease is attributed to the positive effects of TTC's efforts to raise awareness on the importance of a safe workplace, Bill 168 amendments to the Occupational Health & Safety Act and TTC's zero tolerance policy for workplace violence.

(c) Customer Service Complaints

TTC Human Rights receives and assists management in addressing complaints filed by customers against TTC employees that relate to human rights issues including, but not limited to, accommodation, accessibility, workplace harassment and/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 2013, TTC Human Rights addressed 1091 harassment and discrimination complaints and 1 formal investigation for a total of 1092 complaints filed by customers. See Table 5 for a breakdown by prohibited ground. This is an increase of 75 cases or 6.9% from 2012, which was anticipated given TTC's increased efforts to promote and encourage customer feedback to help improve its service standards.

Table 5— External harassment and discrimination consultations and complaints, categorized by prohibited ground, for 2013.

Ground	External Complaints (including Formal Investigations)	External Consultations	Total
Personal Harassment and Unprofessional Conduct	101	3	
Disability	584	2	
Sex (including gender identity, gender expression, gender identity, pregnancy and breastfeeding)	26	1	
Race	148		
Origin – Ethnic	17		
Origin – Place	14		
Creed/Religion	10		
Family Status	63		
Age	21		
Colour	85		
Sexual Orientation	19		
Ancestry	0		
Citizenship	1		
Other	3		
Total	1092	6	1098

*Table does not include HRTO complaints.

*External means customer complaints filed against an employee.

Table 6—Total external consultations and complaints alleging workplace harassment and discrimination from 2011 – 2013.

Year	Consultations	Complaints	Formal Investigations	Total by Year
2011	4	773	1	778
2012	2	1017	2	1021
2013	6	1091	1	1098

Table 7—Total external consultations and complaints alleging workplace violence from 2011 - 2013.

Year	Consultations	Complaints	Formal Investigations	Total by Year
2011	1	123	0	124
2012	0	119	2	121
2013	4	118	0	122

(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 TTC Human Rights under significant time demands when handling HRTO applications.

Table 8—Overview of total internal and external HRTO complaints from 2011 - 2013.

Year	Internal	External	Total by Year
2011	12	6	18
2012	10	6	16
2013	17	7	24

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

Table 9 – 2013 HRTO complaints filed by employees and customers categorized by prohibited ground.

Prohibited Ground	HRTO Complaints filed in 2013		
	Total by Year	Employee Complainant	Customer Complainant
Disability	12	9	3
Sex (including pregnancy, breastfeeding, gender identity, gender expression)	1	1	
Race	7	3	4
Colour	2	2	
Origin – Ethnic	1	1	
Origin – Place			
Ancestry			
Creed/Religion	1	1	
Family Status			
Sexual Orientation			
Reprisals			
Age			
Citizenship			
Political Affiliation			
Total	24	17	7

There has been a slight increase (8) in HRTO applications received in 2013. Of the 24 HRTO applications received in 2013, none were withdrawn, 7 were dismissed, 4 were resolved through mediation, and the remaining 13 are on-going proceedings.

The pattern of complaint grounds are similar to prior years, with disability and race being the most commonly cited grounds of alleged discrimination.

Breakdown of Services Provided (by Client Area) in 2013

TTC Human Rights tracked who used their services in 2013, and the largest service group is customers. TTC Human Rights addressed 1227 cases (66%) customer complaints of workplace harassment, discrimination, workplace violence, accommodation, and/or accessibility. With respect to the latter, the TTC is improving its transit system's accessibility as per its Multi-Year Accessibility Plan in accordance with the Accessibility for Ontarians with Disabilities Act (AODA) legislation.

The next largest seekers of TTC Human Rights services are unionized employees. TTC 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 TTC 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 2013, TTC Human Rights continued to adopt a preventative strategy by providing education and information to TTC employees and management on mediation as a means to resolve workplace conflict in an effective and non-adversarial way. Mediation remains a voluntary process requiring the consent of both parties to proceed. Where mediation was not appropriate or not agreed to by the parties, TTC Human Rights continued to assist and educate TTC staff on effective complaint handling, and how to conduct fair, thorough and timely investigations.

Looking Ahead – 2014

In 2014, TTC 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. In 2013, TTC Human Rights settled 7 more complaints through mediation than in 2012. The TTC Human Rights intends to increase this number in 2014.

Furthermore, TTC Human Rights will continue in 2014 to educate TTC staff on TTC's Accommodation in the Workplace Policy and provide advice on individual accommodation requests.

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