

HRLSC | Human Rights Legal Support Centre

# ANNUAL REPORT

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## 2018-19

CAJDP | Centre d'assistance juridique  
en matière de droits de la personne

Ontario 

The HRLSC provides services throughout Ontario and has lawyers located in Toronto, Guelph, Hamilton, London, Thunder Bay, and Windsor. Accordingly, we acknowledge our presence on the traditional territories of the Wendat, the Haudenosaunee, and Anishinaabeg, Attawandaron and Leni-Lunaape, the Métis homeland and particularly the Mississauga of the Credit. The place now called Ontario is home to many Indigenous people from across Turtle Island and we are grateful to have the opportunity to work and operate in this land.

The HRLSC also recognizes and acknowledges we are in the territory subject to the Dish With One Spoon Wampum Belt Covenant, an agreement between the Haudenosaunee Confederacy, the Anishinaabeg and allied nations to peaceably share and care for the land and waters of the Great Lakes region.

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# MESSAGES FROM THE CHAIR AND EXECUTIVE DIRECTOR

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## EXCELLENCE RECOGNIZED

*Ena Chadha, Chair*

The *Ontario Human Rights Code* (“Code”) proclaims that it is public policy of the Province of Ontario to respect the right to equality and opportunity of every person, which includes promoting a climate of understanding and dignity so that each person can contribute to the community. As the Chair of the Board of Directors of the Human Rights Legal Support Centre (“HRLSC”), it is my honour to present the Attorney General of Ontario with the HRLSC’s 2018-2019 Annual Report describing our extensive commitment and accomplishments in advancing this important public mandate.

In June 2018, the HRLSC commemorated its 10th anniversary as an independent agency delivering human rights legal services to all people in Ontario who seek to claim, protect and fulfill their rights under the *Code*. The HRLSC hosted a celebration that brought together community members, human rights activists, academia, legal advocates, past employees and students to hear insightful speakers presenting on topics of equality and discrimination. What resonated throughout that event is how the HRLSC is seen as an essential entity in making human rights justice accessible for all people in Ontario, but especially those who experiencing compounding discrimination.

*“For other employers, it is now clear that it is contrary to the Human Rights Code to exclude non-citizens who have the legal ability to work in Canada. They now must be considered for all positions.”*

– Chantal Tie, HRLSC Lawyer.  
[Source: Rights tribunal slams Imperial Oil for canceling job offer to engineer over immigration status. By Nicholas Keung. July 26, 2018. *The Star*]

Over the past decade, the HRLSC’s role in protecting *Code* rights in the province has positively shaped the human rights landscape of the country. 2018 marked yet another exceptional year of the HRLSC’s legal team championing precedent-setting cases. For example, the HRLSC successfully argued the right of all legal job seekers to apply for and secure employment in Ontario regardless of their citizenship status, such as the international engineering student in *Haseeb v. Imperial Oil Ltd*, [2018 HRTO 957](#). Further, the HRLSC continued to promote watershed remedial compensation, such as the \$75,000 award for a survivor of sexual harassment in *A.M v. Kellock*, [2019 HRTO 414](#). Finally, in *Wickham v. Hong Shing Chinese Restaurant*, [2018 HRTO 500](#), the HRLSC represented a black man who was made to pay for his meal before being served. The HRTO found that Mr. Wickham and his friends were racially profiled by the restaurant’s staff and awarded general damages in consideration of the nature of the incident and the impact it had on Mr. Wickham.

Among its important achievements in 2018, the HRLSC’s Mediation Program received the

prestigious Amethyst Award, which recognizes service excellence within the Ontario Public Service. For over six years, the Mediation Program successfully increased HRLSC participation at mediations by an average of 90%, thereby diverting disputes from the Tribunal system and saving significant public and private costs of adjudication. The Mediation Program resulted in an average 81% increase in the number of HRLSC cases settled before formal hearing.

In addition to recognizing our many achievements, this 10th anniversary provides us with an opportunity to reflect on the challenges of growth. Over the decade, the HRLSC has provided legal advice to over 20,000 people. We know that Ontarians want a strong system of legal advice and representation that is responsive to their unique concerns. While the HRLSC answers over 23,000 calls a year and has an 89% satisfaction rate with our services, we hope to deploy technological resources to help us provide service more efficiently. As we look ahead to another decade of human rights advancement, I am confident that, with the support of community and government, the HRLSC will continue its progress as an integral pillar of the Ontario's human rights system.

I am immensely proud to serve as Director of an incredible group of intelligent and equity-minded individuals who constitute the HRLSC's Board of Directors. On behalf of this Board, I thank the dedicated employees of the HRLSC for their hard work, compassion and professionalism in striving to empower and uphold the rights of the Ontarians to live and work in a society free of all forms of discrimination and harassment.

## YEAR IN REVIEW

*Sharmaine Hall, Executive Director*

At the Human Rights Legal Support Centre, our unwavering focus is to provide the highest quality legal services to all those who believe they have experienced discrimination contrary to Ontario's Human Rights Code.

2018/19 has been a busy and productive year for the Centre. As our 2018-2019 statistics would indicate, the HRLSC had a great year of service to our clients.

- We conducted more mediations and hearing interviews than the previous fiscal year.
- We attended approximately 25% more mediations than 2017/18.
- We settled almost 29% more mediations and almost 39% more matters at the pre-hearing and hearing stages.
- Overall, the HRLSC settled over 100 more HRTO applications in 2018/19 than we did in 2017/18.

*“I could not have negotiated my complaint without you. My mediation resolved successfully due to your representation. I left feeling empowered that I stood up for myself.”*

– HRLSC Client

These successful results benefit the human rights system by removing matters earlier in the process; this helps the HRTO run more efficiently. More importantly, our successful settlement rate benefits our clients who are able to move on with their lives. The HRLSC applauds the courage and determination of all our clients. We also acknowledge our staff, a dedicated and talented group, who continue to provide excellent service to human rights claimants. Finally, we would like to recognize the HRLSC Board, for their continued commitment to the work of the Centre.

# WHAT WE DO: OUR MANDATE AND SERVICES

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*The Human Rights Legal Support Centre is an independent agency funded by the Government of Ontario's Ministry of the Attorney General.*

## MANDATE

The HRLSC advances equality and protects human rights by providing a range of accessible, high quality legal and support services to those who have faced discrimination contrary to Ontario's *Human Rights Code*.

## WHAT IS DISCRIMINATION?

Discrimination means treating someone differently and unfairly because of a personal characteristic such as race, disability, age or gender. Ontario's *Human Rights Code* recognizes that discrimination occurs most often because of a person's membership in a particular group.

The *Human Rights Code* prohibits unfair treatment in an area of our lives that is based on any of the following personal characteristics, which are called "grounds of discrimination".

- Citizenship
- Ancestry
- Marital status
- Race
- Colour
- Disability
- Place of origin
- Family status
- Gender/sex: gender identity, gender expression, pregnancy, sexual orientation and sexual solicitation or harassment
- Ethnic origin
- Creed (religion)
- Age
- Receipt of social assistance (housing)
- Pardoned criminal record (employment)

*"It is good that, in Ontario, we have a Code that protects people against unfair discrimination and harassment."*

- Benjamin Williamson  
[Source: Letter: Legal aid for people with disabilities is not well-funded.  
By Benjamin Williamson, March 7, 2019. *The Charlatan*]

The Code provides protection from discrimination in five areas of daily life, known as social areas. These social areas include:

- **employment** – includes job ads, application forms, job interviews, work assignments, work environment, training, promotions, discipline, terminations, volunteer duties;
- **housing** – the place where you live or want to live, whether you rent or own the premises;
- **services, goods and facilities** – including schools, hospitals, shops, restaurants, sports and recreation organizations and facilities;
- **contracts** – includes both written and oral agreements; and
- **membership** in vocational associations or unions.

## OUR SERVICES

The HRLSC provides free legal help to individuals who have been subjected to discrimination in an area of daily life that is covered by the Code. We do so by offering a **toll-free telephone advice service** across Ontario. The Center helps callers to identify discrimination, understand their options, and decide if they should take legal steps.

Our **legal services** (including advice and representation) are provided to assist clients with:

- filing human right applications at the Human Rights Tribunal of Ontario (the “Tribunal”);
- negotiating settlements;
- attending mediations and hearings at the Tribunal; and
- enforcing a Tribunal order after a successful hearing.

Our **services for Indigenous people** will assist those who want to access the human rights process in Ontario and receive free legal help from an Indigenous staff person at the HRLSC. We provide this service in recognition of the fact that Indigenous peoples have not traditionally used the human rights process as the western legal perspective is foreign to the world-views of many Indigenous peoples. The HRLSC is dedicated to providing Indigenous people with a culturally appropriate and accessible service.

*“[The legal system] is very complex and it’s easy for someone inexperienced like myself to get lost in the process or make mistakes. I’ve found the HRLSC invaluable in making sense of things, especially when the staff give real-world advice. I feel much better informed about the entire process than I was before.”*

– HRLSC Client

## ONLINE

Our online platforms including our website, [hrlsc.on.ca](http://hrlsc.on.ca), is a gateway to the Ontario human rights legal system, with an accessible collection of tools and resources about discrimination. For an in-depth look at the HRLSC’s services and eligibility criteria or to consult our helpful guides, visit [www.hrlsc.on.ca](http://www.hrlsc.on.ca), follow us on [twitter](#) or check us out on [Facebook](#).

*The Human Rights Legal Support Centre’s staff does more than provide legal advice and represent applicants. It is important for us to create community connections and partnerships to share information about the HRLSC’s services.*

## 10<sup>TH</sup> ANNIVERSARY

On June 28, 2018 the HRLSC celebrated its 10th year of providing legal help to people who have experienced discrimination contrary to the *Human Rights Code*. Our celebratory event was an opportunity to reflect on our past and look forward to our future. We also used this event as an opportunity to thank all those who contributed to the HRLSC’s success. We recognized the efforts of our partners – the Ministry of the Attorney General (“MAG”), the Ontario Human Rights Commission (“OHRC”); Legal Aid Ontario and our friends at Ontario’s community legal clinics; Osgoode Hall Law School and the wonderful students of the Anti-Discrimination Intensive Program. And our staff (past and present) whose commitment and dedication and tireless efforts have ensured that Ontarians have high quality legal services before the Human Rights Tribunal of Ontario (“HRTO”). Most importantly, we used the event to thank our clients, those brave citizens who decided to take a stand against discrimination. We celebrated the many legislative and policy changes that resulted from their cases, including:

- discriminatory zoning removed in four Ontario municipalities;
- accessible washrooms for disabled norther Ontario travelers;
- new policies to address discrimination against transgender hockey players;
- new equity plan for hiring practices at a provincial school board;
- the removal of expired medical information from drivers’ licenses; and
- prisoners’ access to mobility aids and a far reaching decision to ensure that human rights claimants can file both a professional regulatory complaint and a human rights claim.

We recognize there is more work to be done, but taking time to reflect on the HRLSC’s achievements to date strengthens our resolve to continue to fight to promote human rights and to make Ontario an equitable place for everyone to live and work.

## MEDIATION PROGRAM – AMETHYST AWARD

On Thursday, September 13th, the HRLSC’s Mediation Program was awarded the Ontario Public Service Amethyst Award for Service Excellence in the group category. Our Mediation

Program was nominated by the staff at MAG in recognition of the impact it has had in creating efficiencies in the human rights resolution process as well as the positive impact it has had on applicants. The program worked by shifting application stage interviews from the HRLSC's lawyers to a small team of paralegals. This shift was a more effective use of legal resources that allowed lawyers to provide legal representation to considerably more clients at mediation. The result was a substantial increase in the number of applicants represented at mediation and a significant increase in settlements reached before or at mediation. Resolving cases earlier in the justice system contributes to a more sustainable human rights system. In December 2018, the HRLSC was advised that as of April 1, 2019 the government could no longer fund the mediation program. This loss was a significant reduction to the HRLSC's services and a loss to the human rights system generally.

## **LAW STUDENT PROGRAM (ANTI-DISCRIMINATION INTENSIVE PROGRAM – ADIP)**

Each year, the HRLSC welcomes 12 students (6 each semester) from the Osgoode Hall Law School's Anti-Discrimination Intensive Program. The program offers students an opportunity to develop specialized knowledge of anti-discrimination law, build transferable litigation and mediation skills and to participate in the application process from beginning to end. This collaboration between HRLSC and Osgoode increases the HRLSC's capacity to answer inquiries and provide intake services. We look forward to having opportunities to strengthen this successful partnership.

## **HRLSC STAFF COACH DIVERSITY MOOT TEAM**

Since 2012 the Black Law Students Association of Canada (BLSA) has held the Julius Alexander Isaac Moot. Named after the late Chief Justice of the Federal Court of Appeal (the first Black judge to sit on the Federal Court of Canada), the Moot focuses on an area of law in which issues of equity and diversity arise. For the past 3 years, HRLSC lawyers Roger Love and Grace Vaccarelli have coached the team at Osgoode Hall Law School. The HRLSC values the opportunity to participate in this wonderful event.

## **PARTNERSHIP WITH BARBRA SCHLIFER COMMEMORATIVE CLINIC**

A few years ago, the HRLSC began a partnership with the Barbra Schlifer Commemorative Clinic to assist their clients who are survivors of sexual assault and have experienced discrimination contrary to the *Ontario Human Rights Code*. Part of this partnership has involved HRLSC staff conducting training sessions for staff of the Schlifer Clinic. Additionally, we have

a direct referral process which allows the Schlifer Clinic staff to refer clients quickly for advice and representation in human rights cases. This system of warm referrals has assisted an increasing number of survivor clients by ensuring that they don't have to continuously repeat their stories of sexual assault in order to get support with their Human Rights cases.

## **PARTNERSHIP WITH COMMUNITY LEGAL EDUCATION ONTARIO (CLEO)**

### *Evolving Legal Services Research Project*

The HRLSC is participating in a unique research project about access to justice. This three-year initiative examines the effectiveness of public legal education and information in helping low - and modest - income people address their legal problems with respect to income security, family breakdown, housing and discrimination and human rights. Led by Community Legal Education Ontario (CLEO) in partnership with the Institute for Social Research at York University, researchers are examining unbundled and other legal services in Ontario and British Columbia. The project hopes to generate empirical findings that provide information as to the type of circumstances or cases where less-intensive (and generally less expensive) services support or lead to quality outcomes.

## **INDIGENOUS SERVICES – MOBILE LEGAL CLINIC**

In the fall of 2018, HRLSC staff in London, Ontario began participating in the Indigenous Mobile Legal Clinic. This initiative is hosted by N'Amerind Friendship Centre and offers free legal consultations in a number of areas, including human rights. HRLSC's participation in this initiative is helping to build relationships with Indigenous Legal Workers in Southwestern Ontario and the staff at the legal clinic in London.

Additionally, this past February the HRLSC continued our partnership with Ontario Federation of Indigenous Friendship Centers (OFIFC) and delivered a second Human Rights Training at N'Amerind Friendship Centre in London. The training was provided to Indigenous front-line workers from various organizations in and around London.

As part of our OFIFC partnership, we also conducted workshops in Thunder Bay regarding human rights law and our Indigenous Service Program.

## VISIT FROM KOREAN DELEGATION

In October 2018, the HRLSC hosted a delegation from the National Human Rights Commission of Korea (“NHRCK”). The NHRCK is a national institution in charge of promoting and improving human rights in Korea. The Delegation consisted of 5 Investigators who were conducting research on how the Canadian national and regional human rights agencies cooperate with each other and whether the Canadian model could be applied to South Korea.

The visit provided the HRLSC with an opportunity to share information about Ontario’s unique system. We provided information on the roles of the Human Rights Tribunal of Ontario and the Ontario Human Rights Commission as well as the role our agency plays in ensuring the rights of Ontarians who have experienced *Code* based discrimination are protected. Before returning to Korea, the delegation had also planned visits to the Canadian Human Rights Commission and the Manitoba Human Rights Commission.

## HRLSC STAFF IN THE COMMUNITY

### TORONTO

HRLSC staff members conducted a 3-hour workshop at George Brown College (Toronto) on Housing Discrimination and the *Human Rights Code*. The workshop was part of the Housing and Homelessness class for students in the Community Worker Programme.

### WINDSOR

HRLSC staff spoke at the University of Windsor on the issue of migrant workers and access to justice. This presentation was part of a seminar on Feminist Legal Theory.

### THUNDER BAY

In Thunder Bay, HRLSC staff provided a workshop at Lakehead University. This event was hosted by the Human Rights Law Student Association.

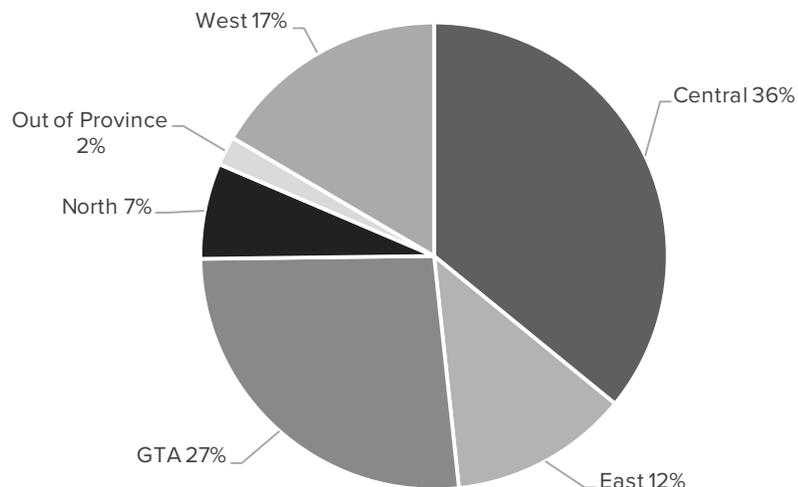
# BY THE NUMBERS: STATISTICS

*The HRLSC provides legal services to thousands of people across Ontario each year.*

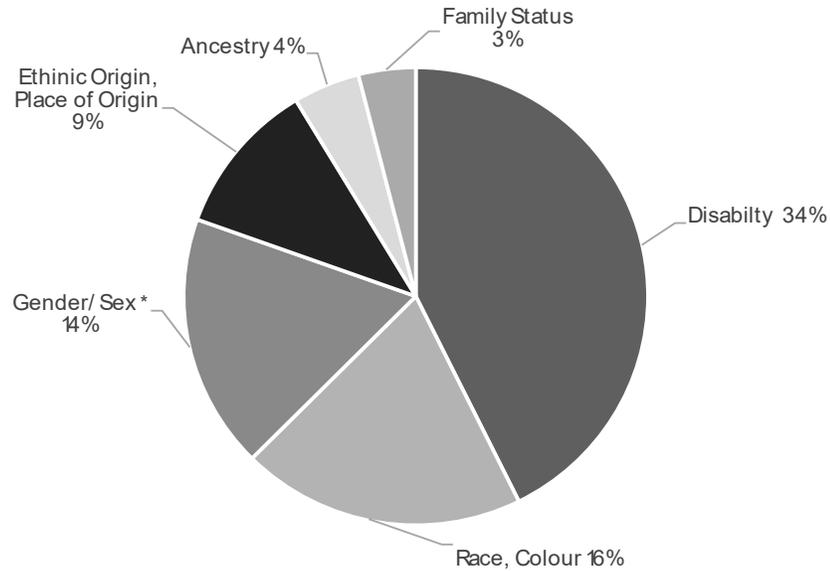
## STATISTICS

- 23, 279 Initial inquiries answered
- 15, 287 Individuals received free legal assistance about a potential *Human Rights Code* infringement
- 2, 725 Individuals received in-depth legal services from our lawyers and legal representatives
- 481 Mediations attended
- 81% Average increase in settlements over 6 years of the mediation project
- 526 Cases settled throughout the process—before a claim was filed, before or at mediation or before a hearing
- 30% Increase in Indigenous Service users compared to last year
- 1, 288 Inquiries involving sexual harassment
- 272, 353 Visits to our website

## INTAKES BY REGION



# MOST COMMON GROUNDS OF DISCRIMINATION



\*Includes: sexual harassment, sexual orientation, gender identity, gender expression, and pregnancy.

This chart shows the most common grounds of discrimination in our cases and totals 80%. The balance of cases are based on other *Code* grounds.

## ANALYSIS OF OPERATIONAL PERFORMANCE

In 2018/19 the HRLSC provided services generally at a higher level than or at levels consistent with previous years. Notable increases were in the number and percentage of cases settled, in the number of clients who received in-depth legal services and the number of mediations attended by HRLSC legal staff. Two significant factors contributed to this operational effectiveness. First, the Mediation Program funding was stable for almost the whole fiscal year, which enabled the HRLSC to maintain full staffing levels for most of the year. The second contributing factor was the HRLSC's success in retaining legal staff over the past two years. Retaining trained and experienced legal staff results in efficiencies that increase capacity to provide legal services and representation and supports the settlement of cases. As legal staff gain training and experience they become more adept at managing caseloads and negotiating settlements.

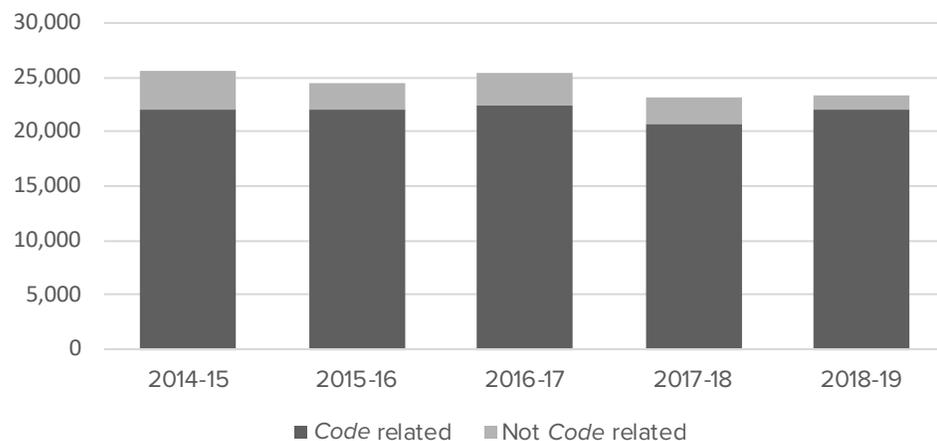
# RESPONDING TO INQUIRIES ABOUT HUMAN RIGHTS AND DISCRIMINATION

The total number of initial inquiries to the HRLSC increased slightly (0.3%) in 2018/19 from the previous year, to 23,279. However, the number of inquiries that were directly related to human rights or discrimination issues increased by 5.6%. Each year the HRLSC receives inquiries about issues that are not related to the *Human Rights Code*. The number of these non-Code related inquiries decreased by 49%, from almost 3,500 to less than 1,400, over the past three years.

These decreases may be attributed to:

- the use of the HRLSC's online tools that help people determine whether their experience was likely to be considered discriminatory under the *Human Rights Code*;
- the increased public awareness of discrimination as a result of media coverage of significant human rights cases; and
- the Ontario Human Rights Commission's initiatives.

**Code Related and Not Code Related Inquiries**

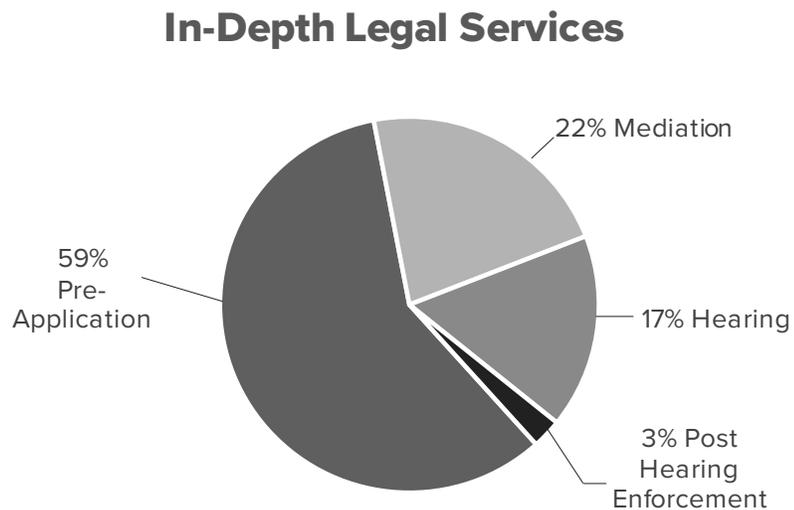


Over 14,000 individuals contacted the HRLSC to get legal information and advice about an event or events that they believed to have been discriminatory. We understand the Human Rights Tribunal of Ontario received approximately 4,500 human rights applications in 2018/19. This data indicates that many of the people who contact the HRLSC do not go on to file applications at the Tribunal. There may be various reasons for this, including that the HRLSC provides people with options to try to resolve the issue themselves (such as speaking with their employer about their concern about discrimination). The HRLSC provides a brief assessment of the merits of their case. This early information may help people understand human rights law and decide the best avenue for resolving

their issue. As well, it helps to defer unmeritorious applications from the Tribunal process. The balance of inquiries was related to human rights mediations and hearings and enforcement of Tribunal orders or post-hearing appeals, such as reconsiderations or judicial reviews.

## IN-DEPTH LEGAL SERVICES

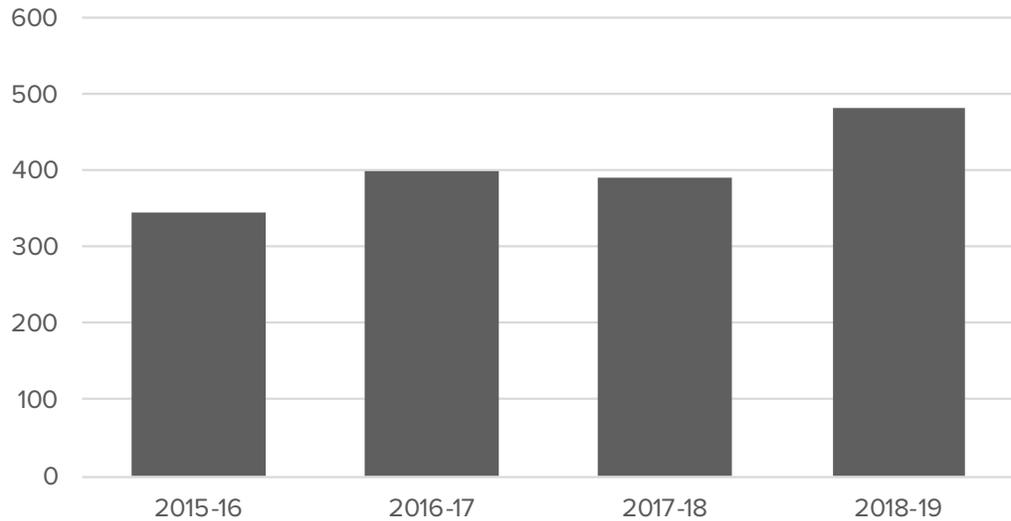
The HRLSC provided in-depth legal services, at all stages of the human rights process, to 2,725 people in 2018/19. This represents an increase of 5.3% over last fiscal year. The following pie chart shows the percentage of in-depth legal services at various stages of the application process.



## REPRESENTATION AT MEDIATIONS AND HEARINGS

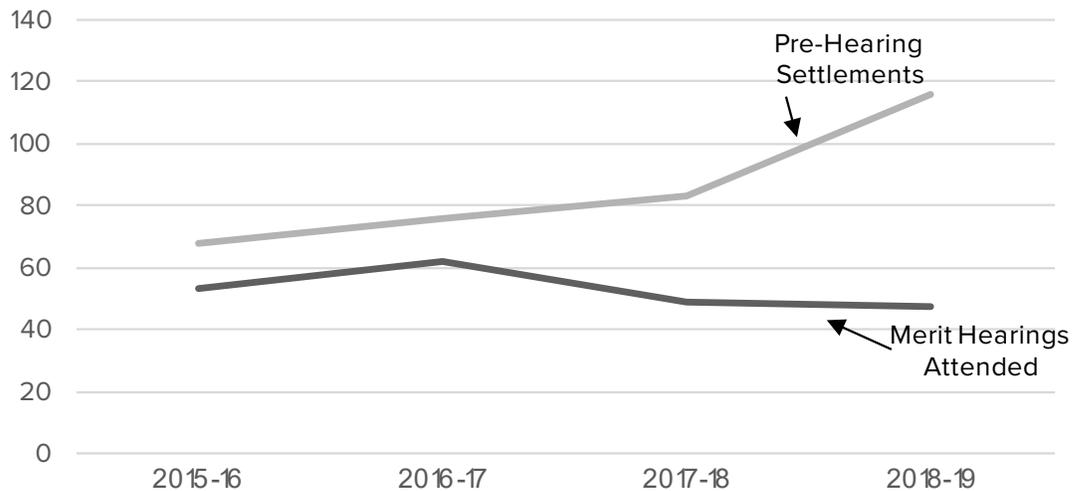
We provided legal representation for mediations to 481 people, almost 80% of those who contacted us about their mediation. This was a 23% increase over the previous year and the highest number of mediations attended in the past four years. As noted previously, factors that contributed to the increase included having a fully funded Mediation Program, the HRLSC's success in retaining legal staff and, potentially, the number of mediations scheduled by the Tribunal.

## Mediations Attended

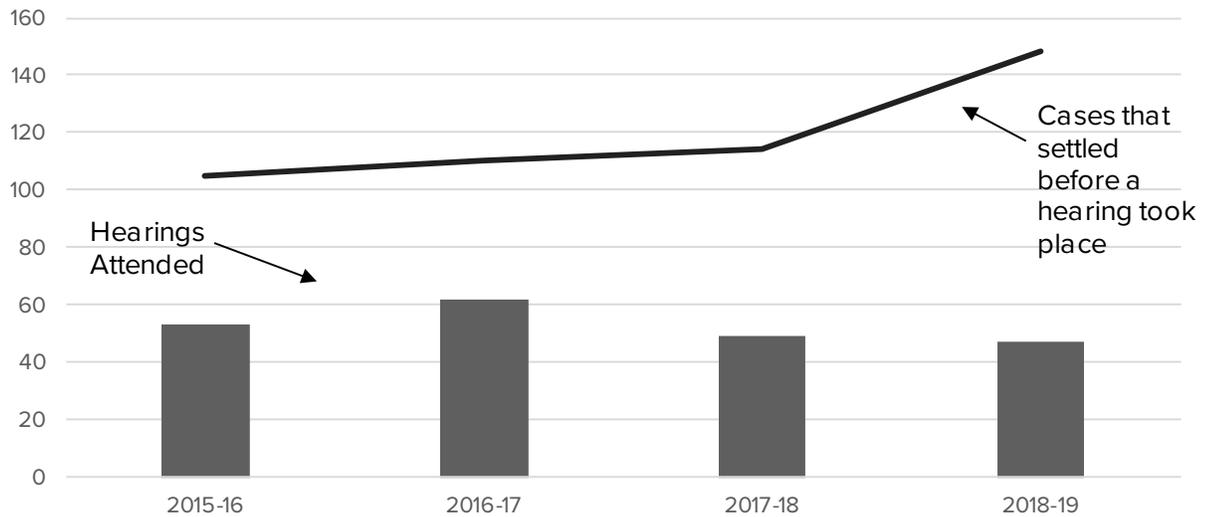


HRLSC counsel provided representation at 47 human rights hearings in 2018/19, 4% less than the previous year. However, in 2018-19 the HRLSC was more successful in settling cases before a hearing. 40% more cases were settled before the hearing day than in the previous year (116 vs 83). There has been a steady increase over the past three years in the number of HRLSC cases that settle before a hearing. Again, the factors that influenced these results included the HRLSC's success in retaining legal counsel and, potentially, the number of hearings scheduled by the Tribunal.

## Pre-Hearing Settlements and Merit Hearings Attended



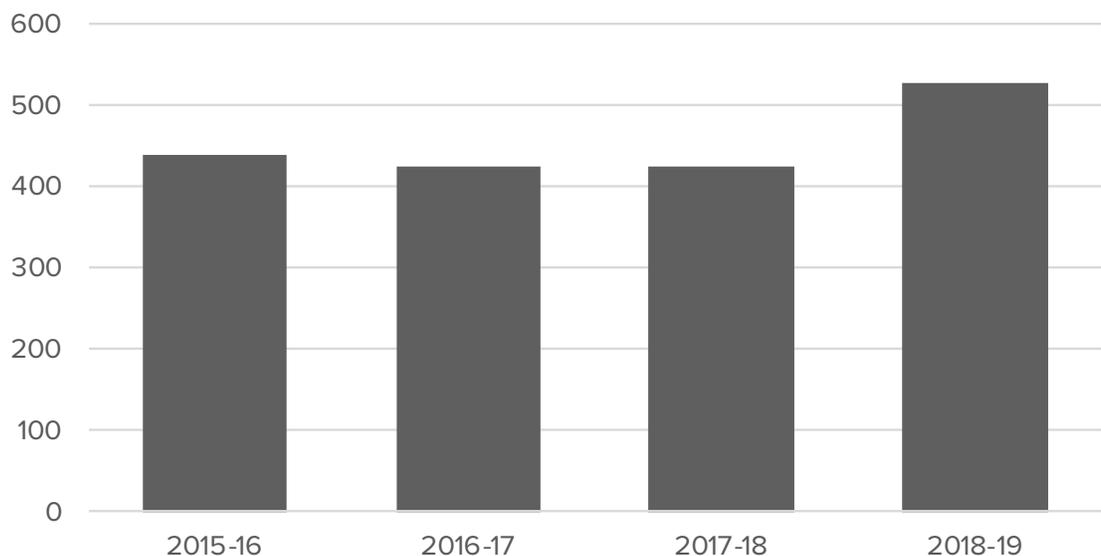
## Settlements & Attendances - Hearings



## SETTLING CASES

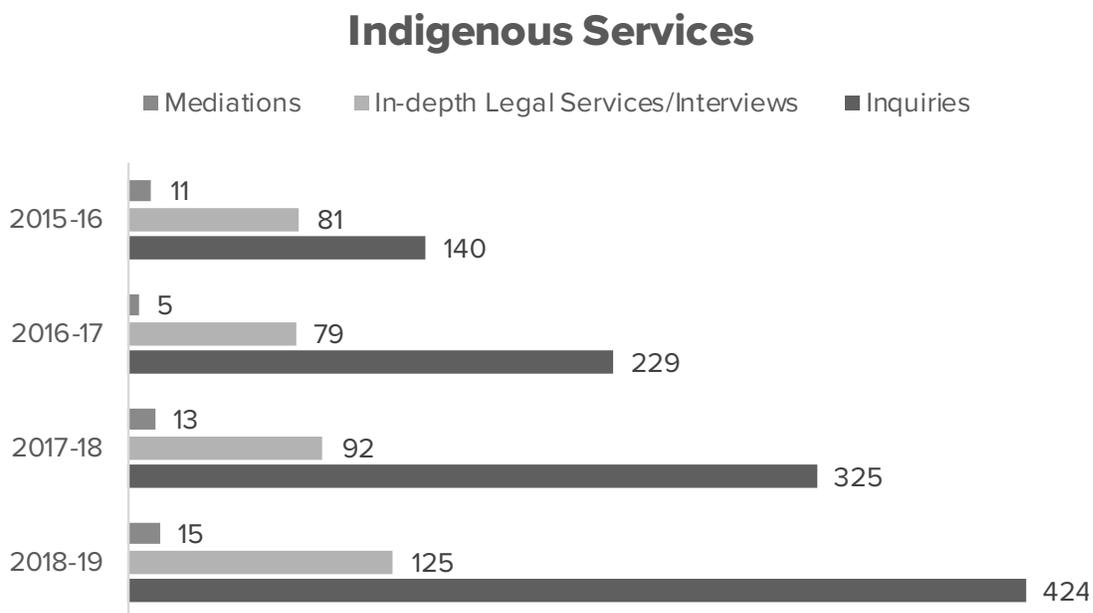
The HRLSC settled almost 25% more cases, at all stages of the human rights process, in 2018/19 than in the previous year (526 vs 424). This was the highest number of settlement in four years. 17.4% more cases settled before a mediation was held, 29% more settled at mediation and almost 40% more cases settled before a hearing than in the past year. Stable staffing and funding for the Mediation Program in 2018/19 contributed to these results.

## Total Settlements (All Stages)



# INDIGENOUS SERVICES

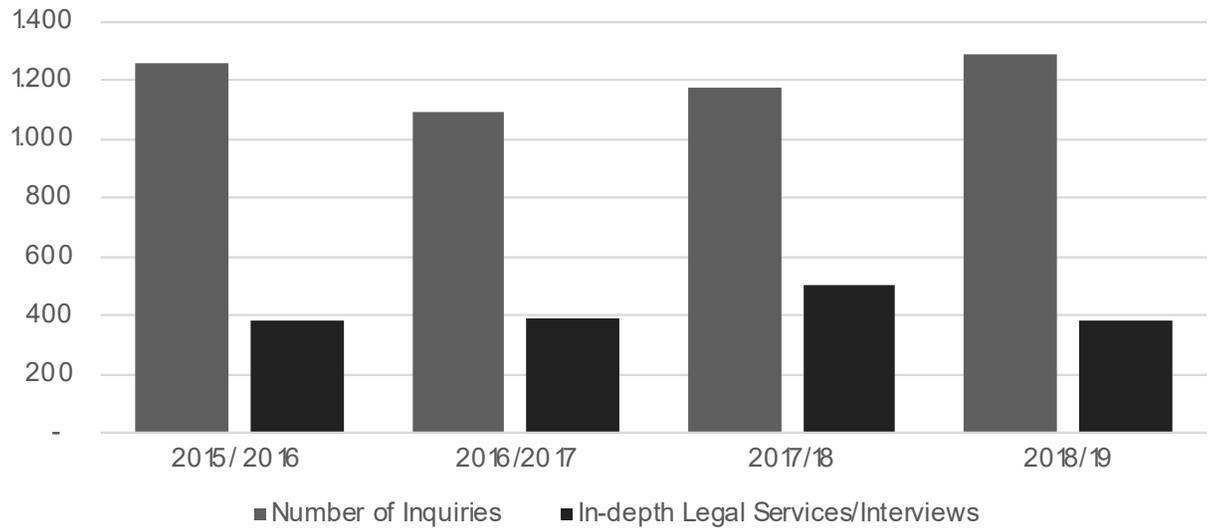
The HRLSC's Indigenous services continued to grow in 2018/19 across all service areas, with increases over the past four years in the areas of inquiries, in-depth legal services and representation at mediation of 203%, 54% and 36% respectively. The HRLSC has Indigenous staff in Toronto as well as in the west and northern regions of the province. The outreach initiatives and community connections of the HRLSC's Indigenous staff contributed significantly to the effectiveness and strengthening of the services.



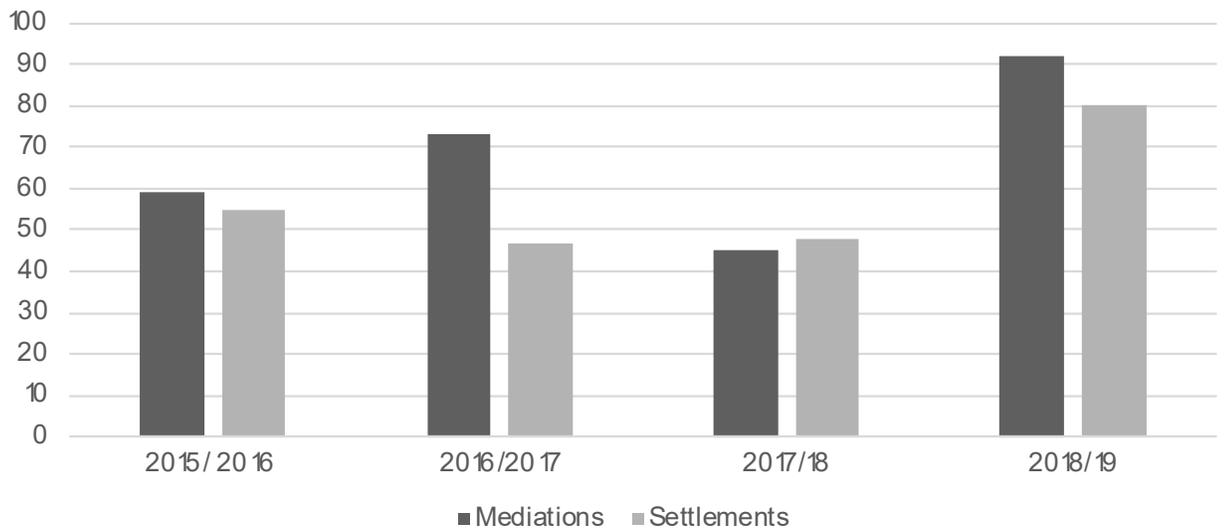
# SEXUAL HARASSMENT

There was a 10% increase in the number of people contacting us about sexual harassment, primarily in the workplace, in 2018/19 when compared to the average for the previous three years. The number of mediations involving sexual harassment increased by 56%, and the number of settlements increased by 60% when compared to the average for the previous three years. Several factors may have influenced these increases, including heightened public awareness of sexual harassment due to media and social media coverage of the issue, and human rights cases involving sexual harassment, as well as the HRLSC's partnership with the Barbra Schlifer Clinic.

## Sexual Harassment - Early Stage Services



## Sexual Harassment Cases - Mediations & Settlements



# PERFORMANCE MEASURES

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*Each year, the HRLSC sets ambitious goals to assess our results and service quality. These results are indicators of our success in meeting our mandate and strategic objectives, and are used to inform our service and program planning. The Operational Performance section of this report contains additional analysis of the HRLSC's service achievements.*

## 2018-19 ACHIEVEMENTS

### 115 **148** NUMBER OF CASES SETTLED BEFORE OR AT HEARING

TARGET ACHIEVED

The number of cases settled before or at hearing exceeded our target by almost 30%. Most of the increase came in settlements before the hearing (116 of 148). Settling matters prior to hearings:

- enables applicants to more quickly move on with their lives;
- may result in cost savings for respondents because they don't have to incur the cost of attending a hearing; and
- increases the efficiency of the Tribunal, by removing matters before a hearing is required.

### 85% **91%** PERCENTAGE OF HEARING CASES SETTLED BEFORE OR AT A HEARING

TARGET ACHIEVED

The HRLSC exceeded its target, settling 91% of its hearing-stage cases, either before or at the hearing. In 2018/19 the number of pre-hearing settlements increased by almost 40% from the previous year (116 versus 83 pre-hearing settlements in 2017/18).

### 84% **81%** TELEPHONE ANSWER RATE

TARGET ACHIEVED

The HRLSC telephone answer rate was slightly below our target. Again in 2018/19 we saw a significant decrease to the number of non-Code related calls and an increase in the number of Code related calls. More Code related inquiries often result in longer talk times, as more questions are often required to ensure that callers receive the most appropriate advice. As such, we saw a slight increase in the average talk time (from 13:39 in 2017/18 to 13:45 in 2018/19). The HRLSC is continuing to investigate and utilize, within available funds, enhanced digital tools on our website and technology tools in an effort to divert more straight-forward calls from our inquiry lines.

## 25,500 **23,279** NUMBER OF INQUIRIES ANSWERED

TARGET ACHIEVED

While the number of inquiries were slightly under our target, total inquiries were higher than in 2017/18. Additionally, as noted above, the number of non-Code related inquiries decreased by 1,074 from 2017/18, while the number of Code related inquiries increased by 1,155. This indicates that we are providing Code related advice to a greater number of callers. The decrease in non-Code related call may be attributed to our self-help materials on our website as well as regular media coverage of human rights and discrimination issues.

## 90% **89%** CLIENTS WHO RATED SERVICE AS GOOD OR VERY GOOD

TARGET ACHIEVED

Our client approval rating was minimally (1%) lower than our target. The most common concern about our services in our feedback surveys is that callers would prefer shorter wait times. As indicated above, the HRLSC is continuing to investigate and implement, as financially feasible, enhanced technology tools to reduce wait times. As well, we are planning to resume periodic client service training. Outside of the client feedback surveys, staff regularly receive unsolicited positive feedback from clients.

## 6 **20+** POSITIVE HUMAN RIGHTS STORIES IN THE MEDIA THAT FEATURED THE HRLSC'S LEGAL SERVICES

TARGET ACHIEVED

The HRLSC's cases, in 2018/19, received significant media coverage, significantly exceeding our target. It is not unusual for some of our cases to receive local media attention, however one case in particular (Wickham) received national and international attention this year. Additionally, on the international front, the HRLSC's work in addressing human rights matters was recognized in a news article in Australia.

## 70% **66%** SETTLEMENT RATE AT MEDIATION

TARGET ACHIEVED

While the HRLSC settlement rate at mediation came in slightly under our ambitious target of 70%, it has increased steadily over the past three years. As discussed in the operational performance analysis, retaining legal staff is a factor that may contribute to increasing the settlement rate. Historically, the HRLSC's mediation settlement rate has been between four and 14 percentage points higher than the Tribunal's overall mediation settlement rate (which includes the HRLSC's higher rates). The HRLSC's contribution to the HRT0 at mediation stage remains strong. In 2018-2019, the HRLSC attended almost 100 more mediations than the previous fiscal year (481 in 18/19 versus 391 in 17/18). This is an increase of 23%, and the highest number of clients assisted – at this stage – in the HRLSC's 11-year existence.

# RISK EVENTS

The HRLSC identified a number of internal and external risks that posed a potential threat to the optimal operation of our organization in 2018/19 including:

- inability to maintain service improvements that resulted from the funding of the HRLSC's Mediation Program;
- potential labour disruptions;
- potential negative media attention;
- inability to retain or replace lawyers;
- potential service disruptions due to external factors; and
- turnover among senior staff, including executives.

The most significant risk that materialized this fiscal year was learning in December 2018 that funding for the Mediation Program would be canceled effective April 1, 2019, with some reduction occurring in the fourth quarter of 2018/19. The HRLSC has been effective in mitigating its risks and maintain service levels through a variety of initiatives including using vacancy savings to augment staffing for the inquiry lines, staff retention plans and maintaining up to date IT systems. It will not be possible to continue to avoid risks, particularly the risk of service losses, with the loss of the Mediation Program. The HRLSC will manage the risks by restructuring, changing and reducing services, while maintaining core services as much as possible. Plans for digital service initiatives will continue, within available funds, and labour relations and staff retention strategies will be maintained within the scope possible.

# BOARD OF DIRECTORS, STAFF & STUDENTS

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## OUR BOARD

- **Ena Chadha** – appointed as Chair of the Board of Directors – February 21, 2018 to February 20, 2021.
- **Patrick Nadiwan** – appointed September 17, 2009 to November 24, 2019.
- **Nancy Gignac** – appointed September 17, 2009 to November 24, 2019.
- **Mary Gusella** – appointed September 17, 2009 to November 24, 2019.
- **Karen Drake** – appointed August 17, 2017 to August 16, 2020.
- **Tamar Witelson** – appointed February 8, 2018 to February 7, 2020.
- **Gilles Levasseur** – appointed February 21, 2018 to February 20, 2020.
- **Kowthar Omar** – appointed February 21, 2018 to February 20, 2020.

The total annual remuneration of the Board of Directors for the fiscal Year 2018-2019 was \$31,212.50

## OUR STAFF

### CHANTAL TIE RETIRES

After a long and successful career, our friend and colleague, Chantal Tie retired in November 2018. Over the years of her career on the “front lines”, Chantal was a staunch and tireless defender of the vulnerable and the marginalized and she fought long and hard on their behalf. With her retirement, the HRLSC and social justice in general lost one great lawyer and advocate. We were fortunate to have had the opportunity to work with Chantal. She willingly shared her knowledge and experience with us, provided support to all staff and was an all-around wonderful colleague. We will miss her knowledge, commitment, leadership and fearless advocacy. And of course, Chantal went out on a winning note; having successfully argued the *Haseeb v. Imperial Oil* case. Congratulations Chantal!

# HRLSC IN THE NATIONAL & INTERNATIONAL MEDIA

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*The Human Rights Legal Support Center is regularly mentioned in the Media. Last year, the Center was quoted numerous times by national and international media agencies. Here are a few stories reporting our work.*

## RACIAL DISCRIMINATION IN A RESTAURANT

A few years ago, Mr. Wickham went out to a restaurant to celebrate his birthday with his friends. After they ordered, the waiter asked them to pre-pay their meals. After checking with the other customers in the restaurant, they realized they were the only ones asked to pre-pay their meals and the only Black customers. The HRLSC represented Mr. Wickham before the HRTO in his claim of racial discrimination. This case was heavily reported by local and national media and was, indeed, a good example of violation of the equal treatment when accessing goods, services and facilities guaranteed by the *Human Rights Code*. The Tribunal awarded Mr. Wickham \$10,000 in general damages.

### More about this case:

- [CBC](https://www.cbc.ca/news/canada/toronto/hong-shing-tribunal-decision-1.4642009): <https://www.cbc.ca/news/canada/toronto/hong-shing-tribunal-decision-1.4642009>
- [The Globe and Mail](https://www.theglobeandmail.com/canada/article-toronto-restaurant-ordered-to-pay-10000-after-asking-black-customers/?cmpid=rss&click=sf_globe): [https://www.theglobeandmail.com/canada/article-toronto-restaurant-ordered-to-pay-10000-after-asking-black-customers/?cmpid=rss&click=sf\\_globe](https://www.theglobeandmail.com/canada/article-toronto-restaurant-ordered-to-pay-10000-after-asking-black-customers/?cmpid=rss&click=sf_globe)
- [The Guardian](https://www.theguardian.com/world/2018/may/01/toronto-restaurant-emile-wickham-race-discrimination): <https://www.theguardian.com/world/2018/may/01/toronto-restaurant-emile-wickham-race-discrimination>
- [CNN](https://www.cnn.com/2018/04/30/world/toronto-restaurant-discrimination-trnd/index.html): <https://www.cnn.com/2018/04/30/world/toronto-restaurant-discrimination-trnd/index.html>

## DISCRIMINATION IN THE WORKPLACE

The Toronto Star reported on one of our discrimination in the workplace cases. In 2014 Mr. Haseeb, a graduate from McGill University, was offered a job as an engineer at an important Canadian oil company. The offer was later revoked when the employer discovered that he did not have a permanent status in Canada but only a three-year work permit. The HRTO interim decision in favor of Mr. Haseeb made it clear for employers that discarding a candidate based on citizenship or immigration status is against the *Code*.

### More about this case:

- [The Toronto Star](https://www.thestar.com/news/gta/2018/07/26/rights-tribunal-slams-imperial-oil-for-cancelling-job-offer-to-engineer-over-immigration-status.html): <https://www.thestar.com/news/gta/2018/07/26/rights-tribunal-slams-imperial-oil-for-cancelling-job-offer-to-engineer-over-immigration-status.html>

# SEXUAL ASSAULT IN THE WORKPLACE

The media continued to report on one of our previous cases (decided before April 2018): a teenager was sexually assaulted by her boss during an unpaid internship at a tattoo parlor. The HRTO awarded the applicant \$75,000 recognizing the seriousness of the situation and her vulnerability as a minor. The respondent was also ordered to receive training in human rights and sexual harassment in the workplace.

## More about this case:

- [OBA](https://www.oba.org/Sections/Constitutional,-Civil-Liberties-and-Human-Rights-L/Articles/Articles-2018/May-2018/Justice-is-served-The-Human-Rights-Tribunal-of-Ont?utm_source=LYR&utm_medium=EM&utm_campaign=section%20insider): [https://www.oba.org/Sections/Constitutional,-Civil-Liberties-and-Human-Rights-L/Articles/Articles-2018/May-2018/Justice-is-served-The-Human-Rights-Tribunal-of-Ont?utm\\_source=LYR&utm\\_medium=EM&utm\\_campaign=section%20insider](https://www.oba.org/Sections/Constitutional,-Civil-Liberties-and-Human-Rights-L/Articles/Articles-2018/May-2018/Justice-is-served-The-Human-Rights-Tribunal-of-Ont?utm_source=LYR&utm_medium=EM&utm_campaign=section%20insider)
- [The Globe and Mail](https://www.theglobeandmail.com/canada/article-workplace-sexual-assault-survivors-claim-victory-at-human-rights/): <https://www.theglobeandmail.com/canada/article-workplace-sexual-assault-survivors-claim-victory-at-human-rights/>

## THE HRLSC INSPIRES AUSTRALIA

*“People who do not have equal access to help and fair treatment are so lucky to have social justice warriors like your staff.”*

– HRLSC Client

In an Australian newspaper, the HRLSC was mentioned as an example of accessible system for marginalized people to get legal help. In a research exploring the possible reforms to discrimination laws across Australia, Ontario inspires with its “expert legal support to those filing complaints” which improves accessibility to pursue a discrimination complaint. [Source: No remedy for gender pay-gap. By Isabel Bird. January 2, 2019. *The Examiner*]

## More about this story:

- [The Examiner](https://www.examiner.com.au/story/5833135/phd-on-legal-pay-gap-woe/): <https://www.examiner.com.au/story/5833135/phd-on-legal-pay-gap-woe/>

# SETTLEMENTS

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*Last year, the HRLSC legal staff settled 66% of their cases during mediation. The following cases are examples of successful settlements that prompt to policies and practices changes.*

## **SCHOOL BUS COMPANY TO ACCOMMODATE A MOTHER'S DISABILITY**

This case is an example of an early intervention settlement. The client is a mother with a disability which prevents her from walking any significant distance or walking on snow or ice.

She was not able to take her child to the designated school bus stop as her street does not have a sidewalk and the bus stop was too far from her house for her to walk. Her child is too young to walk on his own. Given this, the client's child could not access the Bus Company's services. The client would drive her child to school when the symptoms of her disability allowed her to do so but her child was missing half its classes due to its mother's disability and the placement of the bus stop.

The HRLSC sent a demand letter to the School Board and Bus Company asking for the school bus to pick up and drop off the client's child in front of her home.

After receiving the demand letter, the School Board and Bus Company agreed to the accommodation requested by the client.

## **EMPLOYER TO DEVELOP COMPLAINTS PROCESS AND IMPLEMENT POLICY CHANGE TO PREVENT SEXUAL HARASSMENT**

The client was working for the respondent. A few weeks into her employment, a senior male doctor began paying the client unwanted attention. He told her she was "special" and that he wanted to give her more responsibilities than her colleagues. He offered to permit her to enter more work hours into the payroll system so that her wages would be increased.

The doctor tried to kiss the client but she rejected him. The following day, she resigned from her job, citing the sexual harassment she experienced in her resignation letter as the reason for quitting.

HRLSC's settlement with the Clinic included:

- the respondent agreeing to public interest remedies including online Human Rights training for the doctor; and
- \$7,500 in general damages.

## DISABILITY SENSITIVITY TRAINING AND SUPPORT IMPLEMENTED TO ACCOMMODATE STUDENT'S DISABILITIES

The client alleged a school Board discriminated against her by failing to accommodate her disabilities and by disciplining her for disability-related behaviours. In addition to suspensions, the client was excluded from school for several months. The client's doctor and psychologist both stated she has been affected to this day by the exclusion, including experiencing anxiety and depression.

The HRLSC's settlement with the school Board included:

- the respondents to agree to non-monetary remedies including the removal of disciplinary notices from the student's school record and the Board to provide disability sensitivity training to any new staff of the school who work with the client; and
- \$20,000 in general damages.

## HUMAN RIGHTS TRAINING TO BE COMPLETED BY EMPLOYER'S STAFF AND MANAGEMENT

The client is an Indigenous woman. She learned that another employee was given a three-month contract for a position that she was interested in. There was no competition for that position. The client inquired with her manager about the decision and her manager explained that since the client was pregnant, the manager did not think that she would be interested. The client applied for two positions within the organization but was not considered

because she would be unable to start either position on the start date due to her maternity leave.

A non-indigenous employee who was interviewed and given a position while being on a maternity leave, despite not being able to start immediately. A temporary employee was hired until the end of the other employee's maternity leave. The client sent a letter to the employer and Board of Directors outlining her concerns. The Board reviewed the decision not to interview the client and agreed with it.

*"This matter being settled has given me the closure and will allow me to move forward with my life."*

– HRLSC Client

While the client was on maternity leave, there were several positions posted that she was not invited to apply for. She quit her position.

The settlement the HRLSC negotiated included:

- the respondent to do two sets of training: one for management covering the *Code* focusing on pregnancy and race and another for employees on *Code*-related issues chosen by staff; and
- \$20,000 in general damages.

## NOTABLE HRLSC CASES DECIDED AT HEARING

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*The following Tribunal decisions on HRLSC cases prevent similar discriminations from happening in the future by warranting public interest remedies such as changes in policies, training or hiring practices.*

### TRIBUNAL FIND IN FAVOUR OF INJURED WORKER

*Jabbari v. Medilean Wellness Clinics LTD, [2019 HRTO 240](#)*

As an employee of Medilean Wellness Clinics, Ms. Jabbari had to use several hand-held machines in providing treatments to the clinic's patients. Constant use of these machines caused pain in her wrists, neck and shoulders.

On May 5, 2017 Ms. Jabbari asked her boss, Mr. Violetis, to take one week off work to recover from her work-related injuries. Ms. Jabbari claimed that Mr. Violetis became very angry when she told him about it. Later that day, Ms. Jabbari's manager, Ms. Thomas, asked her to bring some aromatherapy oils home so that Ms. Thomas could retrieve them from her over the weekend. Ms. Jabbari was fired by Mr. Violetis for theft and told her she would be charged with trespassing if she returned to the clinic.

The HRLSC represented Ms. Jabbari at her hearing. The HRTO found that Mr. Violetis fired Ms. Jabbari because she needed time off to recover from her work-related injuries and not because she took home aromatherapy oils at her manager's request. Ms. Jabbari was awarded \$20,000 in general damages and \$15,728.99 in lost wages.

# VULNERABLE WORKER COMPENSATED FOR SEXUAL ASSAULT BY MANAGER

*AM v. Kellock*, [2019 HRTO 414](#)

*“The Tribunal is making a strong statement that sexual harassment and assault is not something that will be tolerated by our justice system. The significant financial consequences of these decisions for employers, should help deter employers that perpetrate or ignore such conduct in the workplace.”*

– Talvin Kaur. [Source: Justice is served: The Human Rights Tribunal of Ontario sends a strong message that there is no room for sexual assault and Harassment in the workplace. By Talvin Kaur. May 17, 2018. *Ontario Bar Association*.]

A.M. had a criminal record and was trying to develop a solid work history in order to obtain a pardon and clear her criminal record.

In May 2014, A.M. was hired as a housekeeper. The general manager of the hotel was Mr. Kellock. In late June 2014, A.M. asked Mr. Kellock for a reference letter, to support her pardon application. He told her he would be happy to provide her with a letter and to come by his office to let him know what she needed. When she came to his office, he locked the office door and made sexual solicitation and advances to her. Similar incidents occurred every time she visited his office to ask for her reference letter. He, then, tried to kiss her while she was cleaning his office. After he gave her the letter, A.M. contacted the police to complain about Mr. Kellock’s behaviour.

The HRLSC represented A.M. at her hearing. The HRTO found that Mr. Kellock had made sexual solicitations and advances towards A.M. The Tribunal found the power imbalance clear: A.M. was particularly vulnerable given her personal history and the events she experienced had a severe impact on her. The applicant was awarded \$75,000 in general damages.

# APPLICATION FOR JUDICIAL REVIEW AGAINST HRLSC CLIENT DISMISSED

*2076831 Ontario Ltd. v. Qiu*, [2018 ONSC 7295](#)

Ms. Qiu was represented by the HRLSC at her hearing before the HRTO. During the hearing, she successfully established that her former employer, a used car dealership, had discriminated and reprimed against her: **Qiu v. 2076831 Ontario Ltd.**, [2017 HRTO 1432](#). In that decision, the HRTO found that Ms. Qiu had experienced unwanted sexual contact and sexualized jokes and comments, which created a poisoned work environment for the applicant. Ms. Qiu was awarded \$30,000 in general damages.

The car dealership filed an application for judicial review with the Divisional Court. They claimed the award of monetary damages was too high, that the HRTO should not have found that Ms. Qiu was subjected to a poisoned work environment and that the adjudicator

should not have reproduced a large portion of the applicant’s written closing submissions in the decision

The HRLSC represented the applicant before the Divisional Court. The application for judicial review was dismissed. The Divisional Court found that the damages awarded and the finding of poisoned work environment were reasonable. The Court found no issue with the adjudicator’s reliance on the applicant’s written submissions because the adjudicator had still performed the required legal analysis, credibility assessments and factual findings independently.

## THE OTHER HRLSC CASES DECIDED AT HEARING

### *Bento v. Manito’s Rotisserie & Sandwich, [2018 HRTO 203](#)*

Ms. Bento experienced a hostile work environment and was often victim of hurtful and inappropriate comments based on race, colour, ancestry and ethnic origin. She reported it to her manager. When she refused to go out with him to have a raise, she got fired. The HRT0 awarded her \$20,000 in general damages and the employer was ordered to complete the “Human Rights 101” e-learning module.

### *MacDonald v. Russell L. Towle Enterprises Ltd. o/a Marvel Beauty Schools, [2018 HRTO 1459](#)*

Ms. MacDonald experience several allergic reactions on the premises of the campus where she was a student after she advised the campus director of her fish allergy. She later experienced harassment after she reported a fellow student to the campus director for bringing fish to the campus. The school did nothing to accommodate her condition and did not take her complaint of harassment seriously. The HRT0 awarded her \$20,000 in general damages, ordered the school to post *Code* card in visible location around the campus and ordered the members of management of the campus to take the “Human Rights 101” e-training.

### *P.T. v. Rahman Consulting Services, [2018 HRTO 1566](#)*

A woman was sexually assaulted and forcibly confined by her employer. The HRT0 awarded her \$45,000 in general damages plus special damages.

*A.B. v. Charity House (Windsor) o/a Brentwood Recovery Home, [2018 HRTO 1607](#)*

HRLSC represented the applicant in a contravention of settlement application where a recovery home-breached a settlement previously reached. The recovery home failed to provide policies that respect and correspond to trans individuals lived gender in a mutually acceptable language. The HRTO recognized the breach and awarded \$2,500 in general damages.

*Marcotte v. Hair Xtacy Academy of Hair Design Inc., [2019 HRTO 348](#)*

Ms. Marcotte was pregnant and informed her direct manager of it. She then developed a placenta abrasion due to stress and from standing for long periods. After she informed her boss of her condition, she received a termination letter saying she was not the “right fit”. The HRTO recognized that Ms. Marcotte’s pregnancy was a factor in her termination. Ms. Marcotte was awarded \$13,000 in general damages. Her manager was warranted public interests remedies.

*Napier v. Highpoint Management Inc., [2019 HRTO 382](#)*

Ms. Napier was suffering from gastrointestinal issues which resulted in her occasionally calling sick, being late, needing unexpected breaks or requiring visits to the hospital. One day, she went to the emergency room and was diagnosed with diverticulitis. She informed her supervisor she could not return to work for a few days and was fired. The HRTO awarded her \$22,500 in general damages, \$5,045 in lost wages and ordered her supervisor to complete a “Human Rights 101” e-learning module.

## **DIVISIONAL COURT DECISIONS**

*Shirley v. Staples Canada Inc., [2018 ONSC 1698](#)*

Mr. Shirley application to the HRTO was dismissed. His request for reconsideration of the dismissal and his application for judicial review were also dismissed. The Court found the HRTO’s decisions were reasonable.

*Alabi v. Madkour, [2018 ONSC 7006](#)*

Mr. Alabi filed a request for reconsideration against one of HRLSC’s clients. When his request was denied, he filed an application for judicial review, which was dismissed. The Divisional Court found no error in the decision or in the evidence admitted and found the awards reasonable.

# ANALYSIS OF FINANCIAL PERFORMANCE

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*The HRLSC's 2018/19 financial performance was consistent with previous years, with 87% of costs utilized for staffing, 13% for operating and 1% for Board expenses.*

<b>EXPENSE</b>	<b>2018/19</b>	<b>2017/18</b>	<b>2016/17</b>	<b>2015/16</b>
<b>SALARIES &amp; BENEFITS</b>	87%	86%	86%	86%
<b>OPERATING</b>	13%	13%	14%	13%
<b>BOARD</b>	1%	0%	1%	0%

The most significant financial challenge faced by the HRLSC has been maintaining competitive salaries and adequate staffing levels with a static budget. This challenge and associated risk of maintaining service levels has been effectively managed through close monitoring and management of operating costs and human resource initiatives, such as healthy workplace promotion, and a flexible and nimble staffing and service delivery model. The effectiveness of the financial management strategies has been demonstrated by the HRLSC's success in containing costs and sustaining or increasing its operational performance. Strategies to manage and constrain operating costs in 2018/19 included relocating regional staff to home offices, where viable.

# FULFILLMENT OF MANDATE LETTER

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*The HRLSC has fulfilled the expectations outlined in its most recent mandate letter (2016).*

## PRIORITY

Support the Ministry of the Attorney General's priorities by promoting access to justice, finding efficiencies and improving the services of Ontario's court and adjudicative tribunal systems.

Continue to carry out the agency's responsibilities as set out in the *Human Rights Code*.

Support the government's evidence-based decision-making framework to ensure programs and services are effective, efficient, relevant and sustainable.

Support the government's Open Government initiative to demonstrate a more open and transparent government including the application of the Open Data Directive.

Continue to manage the mediation program and make best efforts to meet performance targets.

Continue to build on the work that has begun with the cross appointments with the OHRC and the joint work with the OHRC and HRTO to improve Ontario's human rights system and reporting on its progress.

## ACHIEVEMENT

- Responded to more than 23,000 inquiries about discrimination, providing legal information and advice
- Provided in-depth legal services to almost 3,000 individuals
- Represented almost 500 applicants at mediations
- Increasing number and rates of settlement
- Consistently high client service ratings

- Operational performance sustained or increased over previous four years
- Requests for service remain consistent
- Financial and human resource strategies proven effective in bolstering sustainability

- Comprehensive open data available on HRLSC's website

- Mediation Program produced increased service levels, settlements and settlement rates in 2018/19; results sustained or increased over five years
- Significant performance measures met or exceeded and plans for addressing challenging areas are in place

- HRLSC/OHRC MOU signed in 2018
- HRLSC and HRTO shared service plans in 2018

# CONTACT US

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