The 2017 Annual Report
Simon Fraser University Human Rights Office

Abstract and Introductory Remarks

In the 2017 calendar year, the SFU Human Rights Office (HRO) dealt with 213 issues related to discrimination and harassment. This represents a 28% decrease (a total of 82 cases) when compared with the previous calendar year. This reduction in caseload is significant when compared with the previous ten years in which increased annually by between five and fifteen percent in seven of the years, the caseload decreased by 0.9% and 8% in two years, and remained the same as in the previous year in one calendar year. Based on these figures, a 28% decline in caseload is both significant and noteworthy.

A major operational difference between 2017 and other reporting periods was in staffing and operations. From 1998 to the end of 2016, the HRO was staffed by a full-time Director, who is the author of this report. The Director retired in 2017, and a search for her replacement was undertaken. The Director’s services were retained as an off-campus part-time consultant. Therefore, throughout the 2017 calendar year, there was no staff presence on campus, and the office was closed as a campus resource. The reason for a 28% decrease in caseload in 2017 is thought to have resulted from a lack of presence on campus.

It is important to note that in 2017, as in previous years, the HRO did not deal with 213 complaints. The majority of the work was providing advice to managers who were dealing with human rights issues, and to people who thought they were targets of discrimination and harassment and wanted advice about how to deal with it. In other words, the vast majority of those seeking advice did not want to pursue a complaints process, formal or otherwise.

The University has grown significantly in the last twenty years, but the caseload in the Human Rights Office has not grown proportionally, and the staff allocation has remained as one full time staff member. The fact that the caseload has not increased proportionally with the rise in the student population suggests that members of the University community are well aware of their human rights obligations, and that they seek assistance and advice in meeting those obligations. As a further demonstration that the community is mindful of
human rights considerations, no cases have gone to formal investigation since 2002, and in the last twenty years, no cases have been adjudicated by the BC Human Rights Tribunal.

Brenda E. Taylor
Director of Human Rights
March 26, 2018
The 2017 Annual Report
Simon Fraser University Human Rights Office

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The 2017 Annual Report

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Introduction and Acknowledgements

This report covers the 2017 calendar year and is the fourteenth report presented under the revised SFU Human Rights Policy\(^1\), which came into force in 2003. It is the twentieth and final report by the Director of Human Rights and Equity, Brenda Taylor, who retired from the University on January 23, 2017. She provided part-time consulting services throughout 2017.

I would like to express my gratitude to the following individuals for their unwavering professional support, guidance and friendship over the years:

Ian Forsyth, University Secretary  
Tim Rahilly, Vice Provost and Associate Vice President, Students & International  
Barry Cartwright, Chair, Human Rights Policy Board  
Doug Thorpe-Dorward, Executive Director, Faculty Relations  
Mitchell Stoddard, Director, Centre for Students with Disabilities  
Chris Hatty, Director, Labour Relations  
Elsa Plican, Director, Advisory Services  
Sandi de Domenico, Associate Vice President, Human Resources

I would also like to thank the members of the Human Rights Policy Board for their support and expertise and to the management, faculty and staff of the University.

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\(^1\) The policy can be accessed via the SFU web site at [www.sfu.ca/human rights](http://www.sfu.ca/human rights), by calling 778.782.4446 or by visiting the Human Rights Office on the Burnaby campus. If any part of this Annual Report differs from the policy, the policy prevails.
A Brief Overview of Cases

The SFU Human Rights Office dealt with 213 issues related to discrimination or harassment during the 2017 calendar year. This represents a decrease from last year’s total of 295 cases. During this calendar period, 148 were consultation files and 65 were Mediation/Investigation/Accommodation cases\(^2\). As identified in last year’s Annual Report, it is important to note that the vast majority of these were *not* complaints about discrimination or harassment; rather, they were instances in which members of the University community sought advice about situations they were either experiencing or managing. As such, the work of the HRO continues to shift from a complaints-driven focus to that of a University resource.

In the 2017 calendar year, the majority of consultation work consisted of management consultations. Management consultations are traditionally defined as situations in which a manager or supervisor seeks advice on how to manage and resolve discrimination/harassment that is alleged to be taking place in their department, faculty or program. This year, the HRO undertook 78 management consultations dealing with harassment, and a further 70 dealing with discrimination, for a total of 148 management consultations.

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\(^2\) When the 2013 Annual Report was reviewed by the Human Rights Policy Board (HRPB) it was noted that the term “informal” conveyed the impression that such cases were “casual” in that they did not follow prescribed processes. Such is not the case; intake forms are completed on every case, notes to file and records or correspondence are kept on file and mediation is undertaken with signed contracts. During 2013 this term was changed to Mediation/Investigation/Accommodation cases. At that time the term “Formal Files” was also changed to “External Investigations.”
1. The Work of the Office

1.1 Staffing

The office is staffed by one person, the Director of Human Rights, who is the author of this report.

1.2 Members of the University Community

Several categories of individuals comprise the University community:

- students, represented by the Simon Fraser Student Society (SFSS) and the Graduate Student Society (GSS);
- certain administrative staff, represented by the Administrative and Professional Staff Association (APSA);
- clerical and support staff, represented by the Canadian Union of Public Employees (CUPE);
- trades people, represented by PolyParty, which comprises all on-campus trades;
- faculty, represented by the Simon Fraser University Faculty Association (SFUFA);
- teaching support staff, represented by the Teaching Support Staff Union (TSSU);
- senior non-academic managers and staff excluded from union or association membership because they deal routinely with labour relations material, plus some administrators referred to as “Excluded Employees” who are not represented by any employee group;
- postdoctoral fellows and researchers.

1.3 Role of Staff in Complaints Process

It is mandatory for the HRO to remain impartial in carrying out all functions of the policy. These functions include:

- providing assistance and advice to people who believe they are the target of harassment and/or discrimination;
- conducting management consultations with supervisors;
- rejecting complaints that fall outside the jurisdiction of the policy;
- providing conflict resolution services on the request of the parties;
- referring matters for external investigation;
- providing guest lectures and seminars for faculty and staff.  

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Footnote: 3 Faculty and staff are both employees of the University. Where the term “employee” is used, it includes but is not restricted to both faculty and staff.
The HRO is the “office of record” for all cases, including those that undergo external investigation.

The Director of Human Rights:

- acts in all human rights related matters involving the University;
- provides advice and guidance on a full range of human rights issues;
- identifies, analyzes and assesses potential legal risks to the University;
- negotiates and drafts legally-binding agreements and settlements and resolves disputes;
- works in collaboration with the University Secretary and other senior managers to provide strategic and advisory support on human rights compliance, policy and processes;
- ensures that the University meets or exceeds its obligations under the BC Human Rights Code;
- investigates allegations made by Complainants by conducting interviews, determining whether a prima facie case of discrimination or harassment exists and/or is legitimate;
- rejects complaints that are frivolous, vexatious, malicious, beyond the jurisdiction of the policy or are outside the time limits for laying a complaint.

1.4 The Intake Process

The majority of people who come to the HRO are looking for advice. They are either people who believe they are or have been targets of discrimination or harassment, or people (such as managers and supervisors) who believe that harassment or discrimination may be occurring in their environment. For individual consultations, people want advice about how to deal with what they perceive to be harassment or discriminatory behaviour, while in the latter case, managers want advice about how to manage such behaviour. Such cases are categorized as “Consultations.”

The next major category of cases used to be called “Informal Files.” These are now called Mediation/Investigation/Accommodation cases, in which the HRO is asked to act on a complaint. Typically, these cases involve assisting the parties with informal resolution or mediation.

The final and least frequent category of cases is “External Investigations” formerly referred to as “Formal Files.” These are cases in which the Complainant requests the appointment of an external investigator.

On intake, the individual is asked to give a full account of the behaviours that are alleged to fall within the policy. Comprehensive case notes are taken during the initial meeting. These notes might be transcribed and the Complainant asked to sign the written version of the particulars of the complaint.
1.4.1 Harassment

To bring a particular complaint of harassment within the scope of the policy, all of the following factors must be present:

- the impugned activity or behaviour is University-related and occurred within the preceding twelve months;\(^5\)
- both parties are members of the University community (students, faculty, employees), and/or the University itself as a legal entity;
- the behaviour is persistent;
- there is evidence that the behaviour was not welcomed by the Complainant;
- the Respondent knew or should have known that the behaviour was not welcomed;
- if true, the behaviour would constitute a violation of the policy.

All of the foregoing conditions must be met to establish proper jurisdiction. However, if a member of the University community is complaining about harassment by someone who is not a member of the community, the HRO offers assistance such as advice and referral of the matter to the proper authority (such as the police or the Human Rights Commission).

1.4.2 Discrimination

To bring a particular complaint of discrimination within the scope of the policy, all of the following factors must be present:

- the impugned activity or behaviour is University-related and occurred within the preceding twelve months; (please see footnote 5)
- both parties are members of the University community (students, faculty, employees), and/or the University itself as a legal entity;
- it meets the legal definition for discrimination in that either:
  - the behaviour intentionally or unintentionally, and without \textit{bona fide} justification, imposes a burden or an obligation on an individual by virtue of that person’s membership in a group which is enumerated under the \textit{B.C. Human Rights Code};
  - or -
  - there is evidence that the University has failed to accommodate up to the point of undue hardship an individual protected from discrimination.

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\(^4\) A university-related activity is one which is sponsored by or operated under the auspices of the University.
\(^5\) The Chair of the Human Rights Policy Board can waive the time limitation period.
1.5 Harassment and Discrimination as Defined in Policy GP 18

Three types of harassment fall under the policy.

(i) **Harassment Based on a Prohibited Ground of Discrimination.** This is defined as behaviour directed towards a person which is abusive or demeaning, is based on a ground of discrimination enumerated in the *British Columbia Human Rights Code*, and which would be viewed by a reasonable person as interfering with a University-related activity.

(ii) **Sexual Harassment** is defined as sexual behaviour by a person who knows or ought reasonably to know that the behaviour is unwelcome and which either interferes with another person’s participation in a University-related activity or which leads to or implies employment or academic consequences for the person at whom it is aimed.

(iii) **Personal Harassment** is defined as behaviour directed at an individual which serves no legitimate purpose and which would create an intimidating, humiliating or hostile work or learning environment.

**“Discrimination”** - The University expressly adopts the definition of discrimination articulated by the Supreme Court of Canada,\(^6\) i.e., intentional or unintentional differential treatment for which there is no *bona fide* and reasonable justification. Such discrimination imposes burdens, obligations, or disadvantages on specific individuals or groups as defined by the *B.C. Human Rights Code*.

Currently, grounds of discrimination prohibited by the *B.C. Human Rights Code* are age, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, and, in the case of employment, unrelated criminal convictions. “Age” means an age of 19 years or more.

The University is under a legal duty to accommodate individuals or groups protected from discrimination under the *B.C. Human Rights Code* unless doing so would create undue hardship to the University.

1.6 The Human Rights Policy Board

This eleven-person body consists of a Chair, three faculty members (appointed to three-year terms), three staff members (each of whom serves a three-year term), and four students (each of

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\(^6\) Discrimination is defined as intentional or unintentional differential treatment of a person or group based on a prohibited ground in the *Human Rights Code*, R.S.B.C. 1996, c. 210 (“*Code*”), for which there is no *bona fide* or reasonable justification. (Simon Fraser University Policies, GP18: Human Rights Policy, Section 1, and *Code*; see also, *British Columbia (Public Service Employee Relations Commission) v. British Columbia Government and Service Employees' Union (B.C.G.S.E.U.)*, [1999] 3 S.C.R. 3 (“Meiorin”))
whom serves a one-year term). The Human Rights Policy Board provides policy advice to the University Secretary who has the ultimate authority for the administration of the policy. The Board also performs other functions, such as authorizing External Investigations and hearing appeals if and when the Board Chair has refused to authorize an External Investigation. As well, the Board comments on this Annual Report.
2. The Year in Review

As mentioned previously, the HRO dealt with 213 cases of discrimination and/or harassment in 2017, which is a decrease of 28% from 2016, when there were 295 cases.

Notes to readers regarding data and graphs/charts:

- Where figures do not add up precisely, it is because of multiple complainants or respondents.
- Where “the University” appears in the data, this generally refers to University policies and/or practices.

![Total Cases](image)

Figure 1: Total cases from 2008 - 2017
Figure 2: Cases seen by the Human Rights Office: 2008 - 2017
3. The Policy in Practice

3.1 The Cases

This calendar year, the HRO dealt with 148 consultation files, 65 mediation/investigation/accommodation cases and 0 external investigations.

3.2 The Consultation Process

Consultations involve direct intervention with the Complainant only. If intervention beyond that stage (e.g., mediation) is requested, the case is classified as “Mediation/Investigation/-Accommodation.” There are three categories of consultations as follows:

Type One: The person seeking advice believes that they are the target of harassment or discrimination and the person alleged to be engaging in the behaviour is also a member of the University community.

Type Two: The person seeking advice is a member of the University community but the person alleged to be engaging in the behaviour is not a member of this community, or vice versa.

Type Three / Management Consultations: A manager, supervisor or an entity such as an employee group or union (or someone who is handling discrimination cases) seeks advice on how to manage and resolve harassment or discrimination that is alleged to be taking place in their department, faculty or program.

3.3 Consultation Data

In the 2017 calendar year, the HRO conducted 148 consultations. This represents a decrease of 67 cases when compared with last year’s total consultation caseload of 215. With respect to this year’s consultations:

- 46 Type One Consultations in which both parties were members of the University community (compared with 31 last year);
- 9 Type Two consultations in which the Respondent was not a member of the University community (compared to 7 last year);
- 93 Type Three Management Consultations (compared to 177 last year).

Clearly, the most significant decline was in management consultations.
### 3.4 Type One Consultations - Harassment N=34

<table>
<thead>
<tr>
<th>Type of Complaint</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>personal harassment</td>
<td>14</td>
</tr>
<tr>
<td>sexual harassment</td>
<td>16</td>
</tr>
<tr>
<td>human rights-based harassment</td>
<td>3</td>
</tr>
<tr>
<td>criminal harassment</td>
<td>1</td>
</tr>
</tbody>
</table>

### 3.5 Type One Consultations - Discrimination N=12

<table>
<thead>
<tr>
<th>Type of Complaint</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>discrimination: mental &amp; physical disability, including duty to accommodate</td>
<td>1</td>
</tr>
<tr>
<td>discrimination: pregnancy</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: gender</td>
<td>2</td>
</tr>
<tr>
<td>discrimination: place of origin</td>
<td>3</td>
</tr>
<tr>
<td>discrimination: no enumerated ground</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: religion</td>
<td>3</td>
</tr>
<tr>
<td>discrimination: family status</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: political belief</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: criminal conviction</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: race</td>
<td>3</td>
</tr>
<tr>
<td>discrimination: age</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: sexual orientation</td>
<td>0</td>
</tr>
</tbody>
</table>
3.6 Type One Consultations - Combined N=46

Figure 3: Type One Consultations 2008 - 2017
3.7 Type Two Consultations (no jurisdiction) N=9

Includes complaints by the public, complaints in which the policy has no jurisdiction, and complaints against outside agencies.

Figure 4: Type Two Consultations 2008 - 2017
3.8 Type Three Management Consultations N=93

The HRO dealt with 93 management consultations in 2017, 54 of which pertained to discrimination and a further 39 to harassment. The following is the breakdown with regard to discrimination cases:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>discrimination: physical/mental disability, including duty to accommodate</td>
<td>33</td>
</tr>
<tr>
<td>discrimination: pregnancy</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: gender</td>
<td>6</td>
</tr>
<tr>
<td>discrimination: religion</td>
<td>3</td>
</tr>
<tr>
<td>discrimination: nationality/place of origin</td>
<td>7</td>
</tr>
<tr>
<td>discrimination: criminal conviction</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: based on family status</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: race</td>
<td>1</td>
</tr>
<tr>
<td>discrimination: age</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: marital status</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: mental illness</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: political affiliation</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: sexual orientation</td>
<td>1</td>
</tr>
<tr>
<td>discrimination: multiple grounds</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: no enumerated ground</td>
<td>2</td>
</tr>
<tr>
<td>discrimination: gender transitioning</td>
<td>1</td>
</tr>
</tbody>
</table>
Figure 5: Type Three Management Consultations 2008 - 2017
4. Mediation/Investigation/Accommodation Cases

This past calendar year the HRO dealt with 65 Mediation/Investigation/Accommodation cases. This number has increased over the past few years, as the chart shows, but decreased by 15 cases in 2017. A Mediation/Investigation/Accommodation case is one in which there is extensive HRO involvement in matters such as conflict resolution, but the case does not proceed to external investigation. For most of these files, many of which are carried over from year to year, the time spent in mediation, investigation, referral, meetings, interviews and administration exceeds 40 hours per case.

![Figure 6: Mediation/Investigation/Accommodation Cases 2008 - 2017](chart)
<table>
<thead>
<tr>
<th>Type of Complaint</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>discrimination: physical disability, including duty to accommodate</td>
<td>20</td>
</tr>
<tr>
<td>discrimination: mental illness</td>
<td>9</td>
</tr>
<tr>
<td>human rights-based harassment</td>
<td>1</td>
</tr>
<tr>
<td>sexual harassment</td>
<td>15</td>
</tr>
<tr>
<td>discrimination: gender</td>
<td>5</td>
</tr>
<tr>
<td>discrimination: race</td>
<td>1</td>
</tr>
<tr>
<td>discrimination: age</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: family status</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: marital status</td>
<td>6</td>
</tr>
<tr>
<td>discrimination: nationality</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: political affiliation</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: criminal conviction</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: pregnancy</td>
<td>1</td>
</tr>
<tr>
<td>discrimination: religion</td>
<td>0</td>
</tr>
<tr>
<td>discrimination: sexual orientation</td>
<td>0</td>
</tr>
<tr>
<td>personal harassment</td>
<td>7</td>
</tr>
</tbody>
</table>

**Case Status**

The results of these Mediation/Investigation/Accommodation cases are as follows: (N= 65)

<table>
<thead>
<tr>
<th>Case Status</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>resolved</td>
<td>22</td>
</tr>
<tr>
<td>on-going</td>
<td>23</td>
</tr>
<tr>
<td>unable to accommodate</td>
<td>1</td>
</tr>
<tr>
<td>rejected following investigation</td>
<td>7</td>
</tr>
<tr>
<td>criminal charges laid</td>
<td>1</td>
</tr>
<tr>
<td>referred to another process</td>
<td>6</td>
</tr>
<tr>
<td>withdrawn by the complainant</td>
<td>5</td>
</tr>
</tbody>
</table>
Figure 7: Mediation/Investigation/Accommodation Cases by Type 2008 - 2017
5. External Investigations

No files were sent for external investigation during 2017.

6. Concluding Comments

The Director of Human Rights is in her 20th and final year in that capacity at SFU. The working environment has been vibrant and challenging. I am pleased to hand the torch to Ms. Marie Brunelle, the new Director of Human Rights at SFU. I wish Marie the very best as she assumes this role on behalf of the University. Good-bye, and thanks to all.

Brenda E. Taylor
Director of Human Rights