#69 HRPA has the lowest rate of complaints of all professional regulatory bodies in Ontario: Is that good or bad?

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In 2017\(^1\), HRPA received six professional complaints\(^2\). This corresponds to a *per 1000 registrant* rate of .26\(^3\). This means that in 2016 HRPA received .26 complaints for every 1000 registrants\(^4\). This rate of complaints has been consistent over the last three years.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Complaints</th>
<th>Complaint Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>5</td>
<td>.23 per 1000 registrants</td>
</tr>
<tr>
<td>2016</td>
<td>9</td>
<td>.39 per 1000 registrants</td>
</tr>
<tr>
<td>2017</td>
<td>6</td>
<td>.26 per 1000 registrants</td>
</tr>
</tbody>
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\(^1\) Actually, the year here is HRPA’s fiscal year which starts December 1. So, 2017, goes from December 1, 2016, to November 30, 2017.

\(^2\) A ‘complaint’ is any performance or conduct issue that is brought to the attention of the Complaints Committee. There are two main mechanisms by means of which complaints are initiated: *external complaints* and *internal complaints*. External complaints are those which are initiated by a recipient of the professional service (the public); internal complaints are those which are initiated by an inspector, auditor, or the Registrar as a result of a quality assurance process, a practice inspection, an audit process, or some other compliance verification process, or initiated by some mandatory self-reporting process.

\(^3\) The numerator is the number of complaints, the denominator is the average of the number of registrants at the beginning of the year and the number of registrants at the end of the year.

This rate of complaints is, by far, the lowest complaint rate among all thirty-nine professional regulatory bodies governed by public statute in Ontario\(^5\). In each of these previous years, the rate of complaints at HRPA was the lowest complaint rate among all professional regulatory bodies governed by public statute in Ontario.

In 2016, the median rate of complaints per 1000 registrants for all professional regulatory bodies in Ontario was 5.36 for health professions, and 2.49 for non-health professions.

<table>
<thead>
<tr>
<th>Comparator group (excluding HRPA)</th>
<th>n</th>
<th>Mean</th>
<th>Median</th>
</tr>
</thead>
<tbody>
<tr>
<td>All professions regulated by public act in Ontario</td>
<td>37</td>
<td>11.82</td>
<td>5.36</td>
</tr>
<tr>
<td>Non-health professions</td>
<td>11</td>
<td>14.29</td>
<td>2.49</td>
</tr>
</tbody>
</table>

To put it in perspective, at a rate of 2.49 complaints per 1000 registrants, instead of receiving 6 complaints in 2017 HRPA would have received 58 complaints and at a rate of 5.36 per 1000 registrants, HRPA would have received 124 complaints in 2017.

So it is not that HRPA’s rate of complaints is low, it is extremely low. But what should we make of it? Is this a good thing, or is this a bad thing?

What we make of this low rate of complaints depends on what we think the reasons are for such a low rate of complaints. There are two lines of explanation here:

1. The actual incidence of professional misconduct or incompetence amongst registered Human Resources professionals is very low. In other words, the low rate of complaints is an accurate reflection of the actual rate of incompetence and misconduct amongst registered Human Resources professionals.
2. The incidence of professional misconduct or incompetence is actually significantly higher than the number of complaints received by HRPA but that such professional misconduct or incompetence is under-reported for any of a number of reasons.

The implications of these two explanations are quite different.

In regards to the first explanation, one could argue that registered Human Resources professionals are, as a group, more ethical and/or competent than members of other professions. Again, there is no evidence to support or dispute this statement; although it does seem unlikely that Human Resources professionals are, as a group, inherently more competent or ethical than members of other professions. Alternately, one could argue that there is something about Human Resources work that makes it more unlikely that Human Resources professionals could or would exhibit misconduct or incompetence. In other words, that the practice of Human Resources poses little risk to the public because of the nature of the work itself.

Either of the above is problematic. First, it would mean that Human Resources professionals are in no need of regulation. This would imply that the Ontario Legislature made a big mistake in passing the Registered Human Resources Professionals Act, 2013 since the only reason to enact professional

\(^5\) The information needed to calculate the complaint rate is found in the publically available annual reports of the professional regulatory bodies.
regulation legislation is to manage the risks to the public stemming from the practice of the profession. HRPA’s primary mandate is to promote and protect the public interest by governing and regulating the conduct/practice of students, members and firms. If the conduct/practice of students, members and firms doesn’t warrant being governed and regulated, what reason does HRPA have for being? It is not as if HRPA can turn its energies to other matters—there is no other mandate provided for in our enabling legislation. If the risks posed to the public are truly so low that there are only a handful of complaints per year, the burdens imposed by statutory self-regulation on the members of the profession would be difficult to justify.

The other possibility is that the incidence of professional misconduct or incompetence is actually significantly higher but that such professional misconduct or incompetence is under-reported for any of a number of reasons. There are, many reasons why there would be a significant under-reporting of professional misconduct or incompetence on the part of human resources professionals:

a. The public is not aware that Human Resources professionals registered with HRPA are regulated and that HRPA is the professional regulatory body that will hear their complaints,
b. The public doesn’t understand what constitutes misconduct or incompetence on the part of registered Human Resources professionals,
c. The public doesn’t think of HRPA as a statutory regulatory body but wouldn’t think that HRPA would even handle professional complaints,
d. The public doesn’t know how to file a complaint against a member of the profession, or that the process appears to be difficult,
e. Potential complainants feel that filing a complaint is just not worth the hassle,
f. The fear that the Human Resources professional against whom the complaint was made would retaliate against the complainant,
g. The public has little or no confidence that the HRPA take the complaint seriously or that the HRPA will act to ‘protect its own,’
h. As many human resources professionals work in an organizational context, misconduct or incompetence may be dealt with by management rather than the professional regulatory body,
i. Complainants prefer to complain in another venue (e.g., complain to management, civil suit, Ontario Human Rights Tribunal, Ministry of Labour),
j. In many instances, human resources professionals do not deliver their service in a ‘one-to-one’ context, the parties harmed by the actions of a Human Resources professional may not know who was responsible or in some cases the parties harmed by the actions of a Human Resources professional may not even know that they have been harmed.

Any or all of the above could explain why rates of complaints at HRPA could be expected to be low. A key idea here is that the rate of complaints may be a poor indicator of the rate of misconduct and incompetence amongst registered human resources professionals. In other words, the low rate of complaints at HRPA does not mean that there is a low rate of misconduct and incompetence among registered Human Resources professionals. Although there may be good reasons why the rate of complaints for human resources professionals may be on the low side, it quite likely that the current rate of complaints is lower than it could or should be. Unfortunately, there is no existing data that would allow us to estimate the actual rate of misconduct and incompetence among registered Human Resources professionals.
A complaint rate this low is definitely not a good thing

Just because there may be barriers to the filing of complaints does not absolve HRPA of the duty to protect the public from potential harms stemming from the practice of the profession. Under these conditions, waiting passively for complaints to happen would be tantamount to a dereliction of our statutory duties. HRPA cannot remain passive. HRPA needs to make an extra effort to understand why the rate of complaints is low and make every effort to minimize such barriers.