



Discrimination & Human Rights **Human Rights Procedure**

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<http://www.dal.ca/faculty/law/dlas/public-legal-education.html>

Making a Complaint

If someone believes that they have been discriminated against contrary to the *Human Rights Act* the first step is to make a human rights complaint.

A complaint is made to the Human Rights Commission. The Human Rights Commission is an independent government agency responsible for administering the *Human Rights Act*. The Commission has staff members who investigate complaints, provide human rights education, etc...

There are also Human Rights Commissioners. The Commissioners are appointed by the Provincial Government, and are responsible for determining the strategic direction of the Commission and making decisions on whether to refer complaints to Boards of Inquiry.

A human rights complaint **must** be made **within one year** of the action or conduct giving rise to the complaint, or within **one year** of the last instance of the action or conduct if it is ongoing.

In order to make a human rights complaint a complainant must contact the Human Rights Commission.

The Commission can be reached at **1-877-269-7699**. A potential complainant will speak with a Human Rights Officer employed with the Commission.

The Human Rights Officer will advise the potential complainant whether the conduct or action complained of is covered by the *Human Rights Act*.

If the matter is covered by the *Human Rights Act* the Human Rights Officer will fill out a complaint form with the assistance of the complainant. A complaint form **must** be completed by Commission staff or it will not be accepted. A sample completed complaint form can be found here:

<http://humanrights.gov.ns.ca/sites/default/files/files/Complaint%20form.pdf>

Dispute Resolution

Once a complaint is filed staff from the Human Rights Commission will contact the Respondent (the person or organization alleged to have discriminated against the complainant) to review the complaint with them, ask them to think of ways the complaint could be resolved and to give them the opportunity to gather information and witnesses.

As of 2012 the Human Rights Commission has adopted a policy of offering restorative approaches as the first option to resolve complaints.

A restorative approach focuses on the possible harm done to relationships (i.e. employer/employee), and how to restore those relationships. Restorative approaches also recognize that people other than the complainant may have suffered harm from discrimination (i.e. family members, co-workers, other tenants, etc...).

Resolution Conference

The first attempt to resolve a human rights complaint is via what is called a resolution conference.

A resolution conference is an opportunity for the complainant(s), and the respondent(s) to meet face to face to discuss the complaint.

The resolution conference is facilitated by Commission staff. Resolution conferences are 'on the record'. Commission staff will record information provided, and that information may become part of the investigation.

Should the parties reach a settlement during the resolution conference it will be binding on both parties.

The solutions agreed to by the parties to resolve a dispute can take any form the parties are agreeable to. Settlement summaries can be found here:

<http://humanrights.gov.ns.ca/settlement-summaries>

Mediation

If a resolution conference is unsuccessful in resolving the complaint the next step is mediation.

Mediation is performed by an independent third party.

Mediation is 'off the record'. Just like with a resolution conference the parties may enter into a binding settlement agreement through the mediation process.

Investigation

Should a complaint be unresolved by either a resolution conference or mediation it will go to the investigation stage.

During an investigation a Human Rights Commission staff member will investigate the complaint with the ultimate goal of making a recommendation to the Human Rights Commissioners as to whether the complaint should be dismissed, or referred to a Board of Inquiry.

The factors taken into account when deciding whether to recommend referring a complaint to a Board of Inquiry are:

- The reasonableness of any solutions already offered to resolve the issues;
- Whether the Commission has the jurisdiction to assist the parties; and
- Whether there appears to be discrimination on a ground protected by the *Human Rights Act*.

During an investigation parties will be interviewed, and further evidence will be gathered. You can review a sample investigation report here:

<http://humanrights.gov.ns.ca/sites/default/files/files/Investigation-Report.pdf>

Once completed the investigation report is referred to the Human Rights Commissioners.

The Commissioners will review the report and decide whether to dismiss the complaint, or refer it to a Board of Inquiry.

Judicial Review

Should the Human Rights Commissioners decide not to refer a complaint to a Board of Inquiry that decision can be judicially reviewed.

Should someone wish to seek a judicial review of a decision of the Human Rights Commissioners they **should** consult with a lawyer as there are limited grounds upon which a decision can be judicially reviewed.

Acknowledgement

Dalhousie Legal Aid Service would like to gratefully acknowledge and thank the [Law Foundation of Ontario](#) for its financial support of LEAP.

Disclaimer

This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

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