

Canadian Human Rights Commission

Complaint Management and Resolution Process Results-based Management Accountability Framework (RMAF)

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Canadian Human Rights Commission Complaint Management and Resolution Process

Results-based Management Accountability Framework (RMAF)

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Canadian Human Rights Commission Complaint Management and Resolution Process

Results-based Management Accountability Framework (RMAF)

1.0 Background

In the winter of 2003, the Canadian Human Rights Commission (CHRC or "the Commission") developed this Results-based Management Accountability Framework for its Complaint Management and Resolution process - one of the Commission's four strategic activities.

2.0 Overview of the Canadian Human Rights Commission

The mission of the Commission is to:

- 1. Protect and advance Human Rights by providing a forceful, independent and credible voice for promoting equality in Canada;
- 2. Discourage discrimination and disadvantage and ensure compliance with the Canadian Human Rights Act and the Employment Equity Act; and
- 3. Share its experience and cooperate with Human Rights institutions in Canada and in other countries.

The authority of the CHRC is derived from the *Canadian Human Rights Act* ("the *Act*"). Section 2 of the *Act* states that:

"the purpose of this Act is to extend the laws in Canada to give effect, within the purview of matters coming within the legislative authority of Parliament, to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted."

3.0 Profile of the Complaint Management and Resolution Process

The Complaint Management and Resolution process (the Complaint Process) is one of four mechanisms through which the CHRC delivers its strategic outcomes in support of its mandate. The other three are Employment Equity, Human Rights Promotion, and Corporate Services.

3.1 Stages of the Complaint Process

A complaint of discrimination may move through several stages of the Complaint Process, described below:

Inquiry:

An inquiry is any initial contact with the Commission by an individual, a group, or organization seeking information or wishing to bring an issue or concern to the Commission's attention. Each year, the Commission receives and responds to up to 50,000 inquiries received by mail, e-mail, telephone or personal visit to headquarters or to one of six regional offices across Canada.

Intake:

As a matter of practice, complaints need to be managed effectively, not only in the spirit of good public service, but also to meet the requests for justice.

At the Intake stage, the potential complainant's concerns are assessed by an intake officer. If it is determined that the complaint is one that might be dealt with under the Canadian Human Rights Act, then the incoming complaint is logged and the complainant is sent the Complaint Form Kit to fill out their complaint. Matters falling outside the jurisdiction of the Commission are referred, where possible, to other organizations for resolution.

Once received, completed complaint forms are reviewed by intake officers who determine if the complaint allegations constitute a basis for a complaint of discrimination under the *Act*. If the complaint is accepted, a file number is assigned, the involved parties are notified, and the case is referred to either mediation or investigations. Then the process of gathering information begins.

Cases may be discontinued at this stage for a number of reasons, including:

- retraction by the complainant;
- the complaint is outside the CHRC's jurisdiction;

- a referral under *Act* Section 41 to alternative avenues/organizations for resolution; and
- out of time

This decision to discontinue or redirect is made by the Commissioners.

Alternative Dispute Resolution (ADR):

Alternative dispute resolution refers to a range of approaches and techniques for resolving disputes other than through litigation. ADR is available to the affected parties involved at all stages of the Complaint Process. It has been the Commission's experience that dispute resolution is most effective at two critical points:

- as a mediation prior to investigation immediately after a complaint has been filed; or
- following an investigation, based on an investigator's findings, the Commissioners decide to refer the complaint to conciliation.

Two complaint resolution options are available and offered to the affected parties within ADR: **mediation** and **conciliation**.

Mediation is a voluntary process and primarily facilitative. Complaints are sent to mediation immediately following the filing of the complaint (i.e., once a complaint has been reviewed and accepted by the Commission). Offered at all stages of the Complaint Process, mediation is without prejudice. If mediation is accepted by the complainant and respondent, a mediator assists the parties to identify their interests, with the goal of reaching a mutually acceptable resolution that also addresses the public interest aspects if the complaint.

Conciliation is similar to mediation, but more evaluative in nature. Appointed by Commissioners, conciliators are responsible for ensuring that settlements address the public interest as well as individual interests of the parties. Conciliation differs from mediation in that it is a mandatory process, which is normally held after an investigation has been carried out.

The mediation and conciliation processes are confidential and subject to the Privacy Act and Access to Information Act. The objective is to help the parties identify their interests in the matter, and the public interest, and to arrive at a resolution that is reasonable and mutually acceptable.

Examples of agreements can include non-monetary components (such as apologies) and monetary components (such as compensation for lost wages and pain and suffering).

Investigation:

Complaints that are not settled in mediation are referred to investigation, where the Commission investigates complaints based on the eleven grounds listed in the *Act*. At the investigation stage, information and evidence related to the complaint is gathered and analyzed by Human Rights officers who are responsible for undertaking research, reviewing documentation, conducting interviews, and preparing reports for the consideration of Commissioners.

Decision by Commissioners:

After reviewing the investigation report and recommendation by investigators, the Commissioners can either refer the complaint to the Tribunal, or dismiss the complaint on the grounds of insufficient evidence to support the complaint allegations.

In 2002-03, the Commission developed a new client-centred and results-oriented approach to Complaint Management and Resolution focussing on three areas:

- Expanding the use of Alternative Dispute Resolution to significantly enhance earlier resolution of complaints of discrimination in a non-adversarial manner;
- Making the complaint handling process more efficient, timely and effective and thereby eliminating the backlog and issues that cause it; and
- Developing tools and processes to identify and focus on those Human Rights issues that raise systematic or serious Human Rights issues and have the greatest impact.

The final, or ultimate outcome of the Complaint Process is to have contributed to:

"An improved understanding of and compliance with the *Canadian Human Rights Act.*

3.2 Governance Structure of the Complaint Process

The Commission reports annually on its performance to Parliament through the Minister of Justice. The Commission's Complaint Process involves the following organizations:

- the Chief Commissioner,
- Commissioners,

- the Secretary General,
- Legal Services Branch,
- the Executive Secretariat,
- the Operations Sector,
- the Alternative Dispute Resolution Services Branch (ADRS), and
- the Policy and International Program Branch.

The Chief Commissioner is appointed for a term of up to seven years, and is responsible for the operations of the Commission. The Chief Commissioner is supported by a group of Commissioners, who themselves are appointed to terms of up to three years.

The Secretary General is the Chief Operating Officer of the Commission, and is responsible for the operations at headquarters and in the regions.

The Legal Services Branch provides legal services to the Commission and represents the Commission before the Canadian Human Rights Tribunal, acting as an impartial defender of the public interest. The General Counsel reports to the Chief Commissioner.

The *inquiry*, *intake*, and *investigation* activities of the Complaint Process fall under the responsibility of the Deputy Secretary General of the Operations Sector, who reports directly to the Secretary General.

The mediation and conciliation activities report to the Director General, ADRS Branch, who reports directly to the Secretary General.

The Policy and International Program Branch assists in the Complaint Process by providing advice to both the ADRS Branch and to the Operations Sector. The Director reports to the Secretary General.

The Executive Secretariat provides support to the Commissioners and to the decision-making process.

3.3 Resources

In the 2003-2004 reporting period, the Commission's budget will be \$20.7M and approximately \$11.14M (54%) will be allocated to Complaint Management and Resolution. Of the Commission's total staff of 195, about 96 persons are involved directly in the Complaint Process. Additional people are involved through team and other processes.

4.0 Methodology

The analysis carried out throughout the development of this document was based on the following research methods:

- A review of selected internal CHRC documentation,
- Interviews with senior CHRC personnel,
- A working session of senior individuals involved in the Complaint Process, to discuss the intended results of the Process,
- Interviews with representatives from a selection of stakeholder organizations and other Human Rights commissions in Canada,
- A review of selected print and electronic media concerning the Commission.

The information compiled through the above activities led to the development of structured analyses, which were in turn used to develop this document. The planning and development phases of the project also included consultations with senior Commission personnel.

5.0 Logic Model and Performance Measures

5.1 Logic Model

A logic model identifies the linkages between the activities, outputs, and the immediate, intermediate, and ultimate outcomes of a policy, program, or initiative. It illustrates the set of related activities and shows the chain of results connecting these activities to ultimate outcomes.

A logic model also serves important organizational management and accountability functions. It sets out the activities and results for which management is responsible. Additionally, a logic model can assist organizational performance reporting by facilitating the assessment of planned results versus achieved outcomes, which in turn, allows Parliamentarians and Canadians to be informed in a transparent and timely manner.

The approach used to develop logic models is based on the longstanding practices of program evaluation, and reflects the current approach suggested by the Treasury Board of Canada Secretariat (TBS). The Treasury Board Secretariat provides a useful lexicon of terms for performance measurement. This lexicon is attached in Appendix A. Some key definitions for understanding logic models provided below:

- Activities What are the key activities that staff are engaged in under the Complaint Process? What are the key activities intended to contribute to the achievement of the outcomes.
- **Outputs** What are the outputs of the key activities? That is, what demonstrates that the activities have been undertaken? Outputs are the products or services generated by the activities and they provide evidence that the activity did occur.
- Immediate Outcomes What are the short-term outcomes that stem from the activities and outputs? Outcomes in a logic model are typically associated with "action words" such as "increased", "improved", etc and they represent the consequences of the activities and outputs.
- Intermediate Outcomes What are the next links in the chain of outcomes that occur, flowing from the activities and occurring after the immediate outcomes have been achieved? These outcomes could be considered to be medium-term.
- Ultimate Outcomes What are the ultimate outcomes of the Complaint Process, or why are these activities being engaged in? These are generally outcomes that take a longer time period to be realized.

When reviewing logic models, readers should start from the left and examine one activity group at a time, following the activity's outputs and logical results chain. This sequence explains how individual activities contribute to an organization's immediate, intermediate and ultimate results. At the immediate outcome level, results can occur within the short-term, about a year; intermediate results can occur within the medium term, about 3-5 years; and final results, which the organization is striving to ultimately achieve, occur over the longer-term.

Receive Inquiry/Complaint

Analysis of Complaints

D

Activities	 Receive inquiry and information requests Determine the person's right to file a complaint: check for timeliness, jurisdiction, and grounds for discrimination Send out documentation: Complaint Form Kit Refer to other Commission branches, internal specialists, and other organizations as appropriate Log information Gather preliminary information Conduct preliminary assessment of inquiry /complaint 	Initial - Examine preliminary information - Review against CHRC criteria In-depth - Provide policy, legal and other advice as required - Review documents - Conduct interviews - Conduct research - Develop recommendations for Commissioners - Produce (case file) reports Manage caseload Analyze trends Attempt early resolution Conducts neutral evaluation Negotiate Facilitate discussion between parties	- Recor complai - Recon complai conduct - Decide - Decide - Comm
Outputs	 Logged inquiries and requests Signed complaint forms Referrals Resolutions Information and advice 	 Notified parties Caseload of complaints Appropriate approach selected for each complaint Information from analysis Reports Recommendations for Commissioners Knowledge, understanding of issues Negotiated settlements 	- Final a - Closec - Settler - Alterna complai - Knowle
lmmediate Outcomes	 Parties have received explanations on the Complaint Process Parties have been provided with information necessary to understand the Complaint Process Effective and efficient quality controls are applied Service standards have been adhered to 	 Timely communication with parties Complaints are processed in a timely, transparent and fair manner Effective and efficient quality controls are applied Service standards are adhered to All involved have a better understanding of the issues 	- Target met - Compl within a - Decisio transpa - Knowlo - Servic
Intermediate Outcomes		 Complainants, respondents and stakeholders understand their rights management process. Complaints have been resolved/settled consistent with private and p Service standards that are acceptable to Canadians have been met Key government organizations have recognized the importance and The CHRC Complaint Process has become recognized by Canadiar The Complaint Process has focused on broad based public interest The CHRC has continued to adapt how it responds to Human Rights The CHRC has taken a flexible and tailored approach to inquiries, complete the complete the statement of the complete the complet	ublic intere the value o is as timely issues complaint
Ultimate Outcomes		The Complaint Process has contributed to an improved understand	ding of and

5.2 Performance Measures

To measure the performance of an organization, performance indicators must first be determined. Identifying the performance indicators involves first determining how to identify "whether the result was achieved", then identifying the type and source of the information necessary to make the determination.

The purpose of this document is to develop an RMAF for the Complaint Process. Therefore, the focus is on measuring the achievement of *intermediate* outcomes, which, in turn, contribute to the achievement of the *ultimate* outcomes of the Complaint Process. (Measuring the achievement of *immediate* outcomes occurs as part of annual business planning and reporting)

Therefore, the following table sets out, for the *intermediate* outcomes, the following information:

- Potential evaluation issues/questions;
- Performance indicators;
- Sources of information/data;
- Frequency of information/data collection; and
- Timing/frequency of analysis

Intermediate Outcomes	Potential Evaluation issues / questions	Performance Indicators (how to tell whether the results has been achieved)	Source of Information / Data (where to find the information/data)
Complainants, respondents, and stakeholders understand their rights, responsibilities and the role of the CHRC	 To what extent do complainants, respondent and other stakeholders understand their rights and responsibilities? 	 Opinions and knowledge of complainants and respondents 	– surveys, interviews
	 To what extent do they understand the role of the CHRC? 	 Trend analysis of types of complaints 	 documentation on complaints and inquiries
Complaints have been resolved/settled consistent with private and public interest	 To what extent do parties feel that the settlements have been satisfactory? Are the resolved/settled complaints resulting in a suitable outcome for all parties? Is the public interest being protected? 	 Changes in volumes Analysis of remedies Consistency between mediation/conciliation settlements and Tribunal decisions Trend analysis changes in participation rate changes in settlement rate 	 closed case files documents on complaints and inquiries
Service standards that are acceptable to Canadians have been met	 To what extent are complaints being processed and settled/resolved within defined service standards? To what extent are service standards acceptable to Canadians? 	 Data related to complaints processing time, etc. Views of Canadians, including complainants and respondents 	 CHRC Complaint Process surveys, interviews, documentation, publications, etc.

Intermediate Outcomes	Potential Evaluation issues / questions	Performance Indicators (how to tell whether the results has been achieved)	Source of Information / Data (where to find the information/data)
Key government organizations have recognized the importance and the value of the Complaint Process.	 To what extent do government central agencies and other federal organizations recognize the role and value of the CHRC's Complaint Process? 	 Views of interested individuals in selected federal organizations Analysis of correspondence and interactions between CHRC and other organizations. Changes in the mediation participation rate 	 surveys, interviews with organizations including, Justice Canada, Treasury Board Secretariat, Privy Council Office, Office of the Auditor General, the CHR Tribunal, Parliamentary Committees CHRC files
The Complaint Process has become recognized by Canadians as timely, effective, efficient, and transparent.	 To what extent do Canadians believe that the CHRC's Complaint Process isefficient, transparent and timely? To what extent do they believe that it contributes to resolving their Human Rights issues? 	 Views of Canadians who have been or are involved in the Complaint Process. Views of Canadians at large Analysis of judicial reviews 	 Surveys Public opinion polls CHRC case files
The Complaint Process has focused on broad based public interest issues.	 To what extent have complaints been used to further public interest Human Rights issues? 	 Retrospective analysis of the cases chosen compared to the criteria for value added. Changes in Canadians' altitudes related to priority Human Rights issues. 	 CHRC case files Public opinion polls Analysis of media, jurisprudence, etc.
The CHRC has continued to adapt how it responds to Human Rights complaints in a flexible way (new ways are found)	 To what extent has the CHRC developed new tools to address Human Rights complaints? 	 Increase in the number of tools available to address complaints 	 Interviews Documentation, publications, etc. Analysis of CHRC processes

Intermediate Outcomes	Potential Evaluation issues / questions	Performance Indicators (how to tell whether the results has been achieved)	Source of Information / Data (where to find the information/data)
The CHRC has taken a flexible and tailored approach to inquiries, complaints and issues (new ways are used)	 To what extent have new tools and approaches been used to address complaints? How well have these tools contributed to successful and fair resolutions that reflect the public interest? 	 Increase in the use of new tools and approaches Increase in the proportion of successful outcomes using new tools and approaches 	 Analysis of CHRC processes Analysis of cases Views of participants in the Complaint Process Views of CHRC management and staff

6.0 Evaluation Strategy

A key component of this RMAF is the evaluation strategy for the Complaint Process. Evaluation provides an opportunity for an in-depth analysis of how well the Complaint Process is performing toward the achievement of its stated outcomes.

Evaluations typically occur at two stages in the lifecycle of a program or process: near the beginning to see if adjustment is needed (formative evaluation), and after the program or process has been in place long enough to measure outcome achievement (summative evaluation). The Complaint Process has been in place for many years, therefore a formative evaluation would more properly examine:

- Whether there are any design and delivery issues related to the Process, and
- Whether the Process is likely to meet its objectives.

The Treasury Board Guidelines on Evaluation state that a *summative* evaluation should examine three primary issue areas:

- **Relevance** Does the Process continue to be consistent with departmental and governmentwide priorities, and does it realistically address an actual need? (This question of "need" is not relevant to the Complaint Process since it is mandated by the *Act*)
- **Success** Is the Process effective in meeting its intended outcomes, within budget and without unwanted negative outcomes? Is the Process making progress toward the achievement of final outcomes?
- **Cost-Effectiveness** Are the most appropriate and efficient means being used to achieve outcomes, relative to alternative design and delivery approaches?

The evaluation strategy for the Complain Process set out below analyzes what should be examined during an evaluation.

A Formative Evaluation

A formative evaluation could be conducted at any time to obtain a "quick reading" on whether the Complaint Process is progressing toward achieving its intended results. The main results statements and evaluation questions related to a formative evaluation would be the following:

Formative Evaluation Results	Evaluation Questions
Complainants, respondents, and stakeholders understand their rights, responsibilities and the role of the CHRC	 To what extent do complainants, respondent and other stakeholders understand their rights and responsibilities?
	 To what extent do they understand the role of the CHRC?
Service standards that are acceptable to Canadians have been met	 To what extent are complaints being processed and settled/resolved within defined service standards?
	 To what extent are service standards acceptable to Canadians?
The CHRC has continued to adapt how it responds to Human Rights complaints in a flexible way (new ways are found)	 To what extent has the CHRC developed new tools to address Human Rights complaints?
The CHRC has taken a flexible and tailored approach to inquiries, complaints and issues (new ways are used)	 To what extent have new tools and approaches been used to address complaints?

A Summative Evaluation

In principle, a summative evaluation of the Complaint Process would examine the three areas set out in Treasury Board's Evaluation Policy: Relevance, Success and Cost-effectiveness. However, it would not be practical to evaluate the relevance of the Complaint Process, since it is an integral part of the CHRC's mandate. The main results statements and evaluation questions related to a summative evaluation would be the following:

Summative Evaluation Results	Evaluation Questions
Complaints have been resolved/settled consistent with private and public interest.	 To what extent do parties feel that the settlements have been satisfactory?
	 Are the resolved/settled complaints resulting in a suitable outcome for all parties?
	– Is the public interest being protected?
Key government organizations have recognized the importance and value of the Complaint Process.	 To what extent do government central agencies and other federal organizations recognize the role and value of the CHRC's Complaint Process?
The Complaint Process has become recognized by Canadians as timely, effective, efficient, and transparent.	– To what extent do Canadians believe that the CHRC's Complaint Process is efficient, transparent and timely?
	– To what extent do they believe that it contributes to resolving Human Rights issues?
The Complaint Process has focused on broad based public interest issues.	– To what extent have complaints been used to further public interest Human Rights issues?
The CHRC has taken a flexible and tailored approach to inquiries, complaints and issues (new ways are used)	– How well have these tools contributed to successful and fair resolutions that reflect the public interest?

7.0 Reporting Options

A discussion of the reporting options is the final component of an RMAF. It provides options for systematically reporting on the results of ongoing performance measurement and evaluation, and for meeting an organization's reporting commitments.

The CHRC could report on the performance of the Complaint Process through the following documents:

- The Departmental Performance Report / Annual Report; and
- Program Evaluation reports.

The reporting strategy can be developed using the following table. It provides a framework for determining what information on the activities, outputs, and outcomes could be reported in each document.

Result to Report	DPR / Annual Report	Evaluations
Complainants, respondents, and stakeholders understand their rights, responsibilities and the role of the CHRC	V	V
Complaints have been resolved/settled appropriately	\checkmark	\checkmark
Service standards that are acceptable to Canadians have been met		V
Key government organizations have recognized the importance and value of the Complaint Process.		V
The Complaint Process has become recognized by Canadians as timely, effective, efficient, and transparent.		V
The Complaint Process has focused on high public interest cases.		
The CHRC has continued to adapt how it responds to Human Rights complaints in a flexible way (new ways are found)		

The CHRC has taken a flexible and tailored approach to inquiries, complaints and issues (new	v	V
ways are used)		

Appendices

Appendix A - Lexicon of Terms for Performance Measurement

Accountability — The obligation to demonstrate and take responsibility for performance in light of agreed expectations. There is a difference between responsibility and accountability – responsibility is the obligation to act whereas accountability is the obligation to answer for an action.

Activity — An operation or work process internal to an organization, intended to produce specific outputs (e.g. products or services). Activities are the primary link in the chain through which outcomes are achieved.

Evaluation — The systematic collection and analysis of information on the performance of a policy, program or initiative to make judgments about relevance, progress or success and cost-effectiveness and/or to inform future programming decisions about design and implementation.

Final Outcome — These are generally outcomes that take a longer period to be realized, are subject to influences beyond the policy, program or initiative, and can also be at a more strategic level.

Governance – A high level definition of responsibilities and delegation (i.e. reporting to Parliament, board of directors, etc.)

Input — Resources (human, material, financial, etc.) used to carry out activities, produce outputs and/or accomplish results.

Logic Model — (also referred to as Results-based Logic Model) An illustration of the results chain or how the activities of a policy, program or initiative are expected to lead to the achievement of the final outcomes. Usually displayed as a flow chart diagram. See *Results Chain*.

Objective — The high-level, enduring benefit towards which effort is directed. The term is roughly equivalent to *Strategic Outcome*. For technical precision, Treasury Board Secretariat recommends that *Strategic Outcome* be used.

Outcome — An external consequence attributed to an organization, policy, program or initiative that is considered significant in relation to its commitments. Outcomes may be described as: immediate, intermediate or final, direct or indirect, intended or unintended.

Output — Direct products or services stemming from the activities of a policy, program or initiative, and delivered to a target group or population.

Planned Results (Targets) — A clear and concrete statement of results (including outputs and outcomes) to be achieved within the time frame of parliamentary and departmental planning and reporting (1-3 years), against which actual results can be compared.

Result — The consequence attributed to the activities of an organization, policy, program or initiative. Results is a general term that often are both outputs produced and outcomes achieved by a given organization, policy, program or initiative. In the government's agenda for results-based management and in *Results for Canadians*, the term *result* refers exclusively to *outcomes*.

Results Chain (synonyms: results-based logic model, results sequence) — The causal or logical relationship between activities and outputs and the outcomes of a given policy, program or initiative, that they are intended to produce. Usually displayed as a flow chart diagram.

Results-based Management — A comprehensive, life cycle, approach to management that integrates business strategy, people, processes and measurements to improve decision-making and drive change. The approach focuses on getting the right design early in a process, implementing performance measurement, learning and changing, and reporting performance.

Results-based Management and Accountability Framework (RMAF) — A document which serves as a blueprint for managers to help them focus on measuring and reporting on outcomes throughout the lifecycle of a policy, program or initiative.