

PRELIMINARY ASSESSMENT

PURPOSE

The Canadian Human Rights Commission is committed to providing members of the public with a fair, efficient, and timely complaints process. In this context, the Commission endeavours to help parties resolve complaints of discrimination in employment and in provision of services at the earliest opportunity. We know from experience that the sooner a dispute can be resolved, the better. A drawn-out dispute makes it more difficult to heal damaged relationships. Preliminary Assessment is a first step in the complaint process meant to assist the complainant and respondent in resolving the complaint more quickly and, if a settlement is not possible, in identifying issues that can help to speed up the investigation of the complaint.

OBJECTIVES

Preliminary assessment is an opportunity to engage both parties to a complaint in a frank, open discussion and assessment of the case. The preliminary assessment of the case occurs within 21 days of the parties being notified that a complaint has been accepted, and helps to clarify and narrow the issues. Assessments are conducted by experienced human rights specialists who have expertise in dealing with complaints of discrimination under the *Canadian Human Rights Act*, and in resolving disputes through alternative dispute resolution processes such as mediation, negotiation, arbitration or conciliation. Although the human rights specialist's observations and opinions are not binding, the assessment process provides both parties with critical information to help them establish realistic expectations about the case.

The objectives of preliminary assessment are to expedite the processing of the complaint, and provide an effective means for dispute resolution between the parties. The most likely outcomes of preliminary assessment include:

- a settlement;
- an agreement to participate in a confidential mediation process, and scheduling of the mediation session;
- a non-confidential report meant to guide and speed up the investigation;
- referral to a more appropriate grievance or review procedure;
- a report to the Commission with a recommendation on the disposition of the complaint;
- a decision by the parties that the issues raised in the complaint could be effectively addressed through a policy study by the Commission, through the Commission's work in discrimination prevention, or through another type of public interest initiative.

The Commission expects this approach will lead to appropriate, timely solutions by reducing investigation time, identifying broad public interest cases early, identifying those cases that could be referred to a confidential mediation process immediately, or even settling the case outright.

HOW PRELIMINARY ASSESSMENT WORKS

First Step

As a party to the complaint, you will first receive a phone call from the human rights specialist who is handling the complaint. The specialist will explain the process and what to expect, and set a date for a formal assessment meeting. He or she will help you prepare for the assessment by explaining the role of confidentiality, clarifying the facts of the case, letting you know what material to have available in order to participate effectively in the assessment, identifying any other parties who should participate, and discussing any concerns you might have about the process.

Second Step

An assessment meeting will take place via teleconference or in person. The human rights specialist will provide the parties to the complaint with an overview of the complaints process, as well as an objective assessment of the case and the approaches which the Commission may use to resolve the complaint. As part of the preliminary assessment meeting, the human rights specialist will:

- gather and exchange information and documents with both parties;
- identify potential witnesses;
- provide an assessment of possible options for resolution and potential outcomes if the case goes to a tribunal;
- identify public interest issues;
- discuss the form of investigation which would be most appropriate under the circumstances;
- consider whether another process other than a complaint could address the issues; and
- identify the potential for interim resolutions pending the outcome of an investigation.

At any time, the human rights specialist may offer a non-binding opinion as to settlement value, potential outcome, and the merits of the case, and discuss other available dispute resolution processes.

Third Step

If the outcome of the preliminary assessment is a settlement of the complaint, then the assessor will prepare minutes of settlement for the signature of the parties and approval by the Commission. If these efforts do not lead to a settlement of the dispute, then the assessor prepares a non-confidential report which should serve to guide and expedite the handling of the case, or which may also be presented to the Commission for a decision in some circumstances.

ADVANTAGES OF PRELIMINARY ASSESSMENT

Preliminary Assessment provides many advantages for parties to a complaint, the most important of which is time. Satisfactory solutions are more likely when the issues of a case are reviewed soon after the dispute occurs, before positions harden and discussion becomes more difficult. Ideally, situations are resolved as close to the workplace or service point as possible. Appropriate and timely resolutions help to foster productive, ongoing relationships between the parties.

The Commission's goal is to ensure that complaints are handled fairly and in a reasonable

amount of time. Solving complaints in a way that satisfies the complainants, the respondents and the public interest is key to promoting and protecting human rights in Canada.

FOR MORE INFORMATION

Please contact one of the Commission's regional offices in Halifax, Montréal, Toronto, Winnipeg, Edmonton or Vancouver or contact the national office in Ottawa.