



**Alberta Human Rights  
and Citizenship Commission**

# **The Human Rights Complaint Process:**

## *A guide for complainants*

A complaint must be made to the Alberta Human Rights and Citizenship Commission within one year after the alleged incident of discrimination.

The one-year period starts the day after the date on which the incident occurred. For help calculating the one-year period, contact the Commission.

Upon request, the Commission will make this publication available in accessible multiple formats. Multiple formats provide access for people with disabilities who do not read conventional print.

August 2005

## **Contact us**

For more information about human rights law and the complaint process, please contact the Alberta Human Rights and Citizenship Commission. We are an independent commission of the Government of Alberta, reporting through the Ministry of Community Development. Our mandate is to foster equality and reduce discrimination. We provide public information and education programs, and help Albertans resolve human rights complaints.

### **Northern Regional Office**

800 Standard Life Centre  
10405 Jasper Avenue  
Edmonton, Alberta T5J 4R7

**Confidential Inquiry Line** (780) 427-7661

Fax (780) 427-6013

### **Southern Regional Office**

Suite 310, 525 – 11 Avenue SW  
Calgary, Alberta T2R 0C9

**Confidential Inquiry Line** (403) 297-6571

Fax (403) 297-6567

To call toll-free within Alberta, dial 310-0000 and then enter the area code and phone number.

For province-wide free access from a cellular phone, enter \*310 (for Rogers-AT&T) or #310 (for Telus).

### **TTY service for persons who are deaf or hard of hearing**

Edmonton (780) 427-1597

Calgary (403) 297-5639

Toll-free within Alberta 1-800-232-7215

**E-mail** [humanrights@gov.ab.ca](mailto:humanrights@gov.ab.ca)

**Website** [www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

*The Human Rights, Citizenship and Multiculturalism Education Fund* has provided funding for this publication. To learn more about the Fund, visit the Funding and Partnerships section at [www.cd.gov.ab.ca](http://www.cd.gov.ab.ca), or contact one of the Commission offices listed in this guide.

## Alberta human rights law protects you

The *Human Rights, Citizenship and Multiculturalism Act* is the legislation that protects Albertans from discrimination. The Alberta Human Rights and Citizenship Commission is an independent commission of the Government of Alberta. Our mandate is to foster equality and reduce discrimination. We provide public information and education programs, and help Albertans resolve human rights complaints.

A **complainant** is a person who believes they have experienced discrimination and chooses to complain to the Commission.

A complainant may also be a person who makes a complaint on behalf of someone else.

The **respondent** is the business, service provider, landlord, organization or individual you are complaining about.

The *Act* does not allow a person to make a frivolous or vexatious complaint with malicious intent. This means that people should not make human rights complaints that are not serious. They should not make complaints just to cause trouble for someone. If people make such complaints, a complaint can be made against them.

The Commission does not take sides. It works with both the **complainant** and the **respondent** in a dispute to settle a complaint.

Making a complaint to the Commission is an orderly process—one step follows another. This helps to make sure the process is fair for everyone.

Resolving a complaint takes time. At every step, the parties are encouraged to find a resolution that is fair and in keeping with the law.

This handout is for the complainant. It explains the complaint process and tells you about your rights and responsibilities. The Commission also has a handout for respondents.

## What kinds of discrimination does Alberta human rights law cover?

**Areas of activity** are the places and situations in which discrimination is prohibited.

These descriptions are not legal definitions. For more information about areas, contact the Commission.

The *Act* prohibits discrimination in these **areas of activity**:

- employment practices such as hiring, firing, conditions of work, and equal pay
- employment applications, job advertisements and job interviews
- residential and commercial tenancy
- goods, services, accommodation or facilities customarily available to the public (for example, restaurants, stores, hotels, provincial government services)
- publishing, issuing or displaying (or causing to publish, issue or display) materials that could encourage discrimination or hatred
- membership in trade unions, employers' organizations or occupational associations

In Alberta, people may not be discriminated against because of their race, gender or other **grounds**.

These descriptions are not legal definitions. For more information about grounds, contact the Commission.

The *Act* prohibits discrimination based on the following **grounds**, whether the grounds are real or perceived:

- **Race:** belonging to a group of people related by common heritage.
- **Colour:** colour of a person's skin. This includes, but is not limited to, racial slurs, jokes and stereotyping.
- **Ancestry:** belonging to a group of people related by a common heritage.
- **Place of origin:** country or province where a person was born.
- **Religious belief:** system of belief, worship and conduct (includes native spirituality).
- **Gender:** being male, female or transgendered. Pregnancy, breastfeeding and sexual harassment are also included in the ground of gender.
- **Age:** Age is defined in the *Act* as "18 years or older." Persons who are 18 years or older can make complaints on the ground of age in these four areas:
  - employment practices
  - employment applications or advertisements
  - statements, publications, notices, signs, symbols, emblems or other representations that are published, issued or displayed before the public
  - membership in trade unions, employers' organizations or occupational associations

However, age is not protected in these two areas:

- tenancy: For example, a landlord advertises that an apartment building is for adults only and specifies that all tenants must be over 21 years old. Because age is not protected in the area of tenancy, a 19-year-old could not make a complaint of discrimination based on age.
- goods, services, accommodation or facilities that are customarily available to the public: For example, a movie theatre offers lower ticket prices to seniors (people over 65 years old) only. Because age is not protected in the area of services, a 55-year-old could not make a complaint of discrimination based on age.

Persons under the age of 18 can make complaints on all grounds except the ground of age. For example, a 16-year-old can make a complaint of discrimination in the areas of employment practices, tenancy, etc. based on the grounds of physical disability, race, gender, etc. but not on the ground of age.

- **Physical disability:** any degree of physical disability, deformity, malformation or disfigurement that is caused by injury, birth defect or illness. This includes, but is not limited to, epilepsy; paralysis; amputation; lack of physical coordination; visual, hearing and speech impediments; and physical reliance on a guide dog, wheelchair or other remedial appliance or device.

- **Mental disability:** any mental disorder, developmental disorder or learning disorder regardless of the cause or duration of the disorder.
- **Marital status:** the state of being married, single, widowed, divorced, separated, or living with a person in a conjugal relationship outside marriage.
- **Family status:** being related to another person by blood, marriage or adoption.
- **Source of income:** Source of income is defined in the *Act* as “lawful source of income.” The intent behind protecting source of income is to cover income that may attract a social stigma to its recipients, for example, social assistance, disability pension, and income supplements for seniors.
- **Sexual orientation:** Although it is not stated explicitly in the *Act*, the Government of Alberta has agreed to “read in” sexual orientation as a protected ground, effective April 2, 1998. This ground includes protection from differential treatment based on a person’s actual or perceived sexual orientation, whether homosexual, heterosexual or bisexual.

### **How much time do I have to make a complaint?**

You have one year to make your complaint to the Commission, counting from the first day after the date of the alleged incident of discrimination. For help calculating the one-year period, contact the Commission.

### **Can a person be fired or evicted for making a complaint?**

It is illegal for anyone to do anything to get even with you for making a complaint. It is also illegal to retaliate against someone who provides information about a complaint or helps in the investigation of a complaint made under the *Act*.

If anyone tries to persuade you to drop your complaint, or threatens you, contact the Commission.

**If you feel your safety or the safety of anyone you name during the complaint process is at risk, please call your local police service first, and then let the Commission know.**

## **How do I make a human rights complaint?**

When you call or come into the Commission's offices, you will likely speak to a human rights staff member about your problem. If the staff member believes the situation may have involved discrimination that falls under the Commission's mandate and jurisdiction, they will talk to you about the complaint process.

The Commission must have a written record of your complaint. To make sure that you include all the details, we ask you to fill out a *Human Rights Complaint Form*, or write a letter that answers all the questions asked in the form.

If you are not able to write your complaint yourself, and someone else writes it for you, you still must sign the complaint.

## **Who can help me make a complaint?**

You can get someone to help you write your complaint or to write the complaint for you. Someone else may make a complaint on your behalf. You may also make a complaint on behalf of another person, if that person wants.

When necessary, Commission staff will help a person write their complaint if they need help because of barriers such as language or literacy difficulties, or disability.

You do not have to hire a lawyer to make a human rights complaint. However, if you choose to hire someone to give you legal advice or represent you, you are responsible for the costs. The Commission does not pay legal costs for you or for the respondent.

## **I have made my complaint to the Commission. What happens now?**

The Commission reviews all the information to decide if it can accept your complaint. Commission staff may ask you for additional information. The Commission will accept your complaint if:

- the complaint falls under the Commission's mandate and jurisdiction;
- you can show there is reason to believe that discrimination **may** have occurred under the *Human Rights, Citizenship and Multiculturalism Act*; and

- you have made the complaint within the timelines outlined in the *Act*. A complaint must be made within one year after the alleged incident of discrimination.

We will notify you if we cannot accept your complaint or if we need more information.

If the Commission accepts your complaint, we send a copy of your complaint to the respondent. The respondent may have a lawyer or someone else advising them about your complaint. These people may also see your complaint.

When you fill out a complaint form, remember to provide complete **contact information**. The Commission will keep this information confidential. You are required to keep the Commission up to date on your address. A phone number is also helpful. If we cannot reach you, your complaint will be closed.

Please remember to include the separate sheet giving your **contact information**, so we can reach you. We do not share your contact information with anyone outside the Commission.

We ask the respondent to explain their side of the story to us. We do not tell the respondent to contact you directly. We also ask the respondent to suggest how the matter might be resolved. We send you a copy of the response made by the respondent.

## What happens after I receive the respondent's response?

**Conciliation** is a voluntary, non-adversarial way to resolve disputes quickly. The success rate of conciliation is high: more than half of complaints are resolved at the conciliation stage.

Human rights staff are experienced in helping people resolve conflict. They are neutral, meaning they do not take your side or the respondent's side.

Human rights staff often have legal, business or social services backgrounds. They also receive specialized training in investigation and conciliation.

You should carefully review the response. After you read the response, one of three things may happen:

1. You may choose to withdraw your complaint for various reasons. The respondent's explanation may be all you want. Or you may simply not want to continue with the complaint for your own personal reasons.
2. You may want to try to work out your differences with the respondent with the help of a conciliator assigned by the Commission. This is called **conciliation**, and it is a voluntary step, that is, it is your choice whether to try conciliation.
3. If the respondent or you do not want to participate in conciliation, your complaint will proceed to the investigation stage.

## How does conciliation work?

If you choose conciliation, the Commission will assign a conciliator to work with you and the respondent. The conciliator is knowledgeable about human rights law and the Commission's complaint process. The conciliator will help you understand the human rights issues in the complaint, and what types of solutions are common in such complaints.

The success rate of conciliation is high: more than half of complaints are resolved through conciliation.

The conciliation process is not adversarial; it is an exchange of information about how each party sees the situation. You and the respondent may meet together with the conciliator, or each of you may meet with the conciliator separately or on the phone. The conciliator's job is to make the respondent's position clear to you and your position clear to the respondent, in a search for common ground.

The conciliator does not take sides or investigate the complaint. If you and the respondent cannot resolve the complaint, you will be asked if you want your complaint to be investigated. If you do, the complaint will be placed in a queue to be assigned to an investigator. Any information that you or the respondent provided during the conciliation is kept confidential. The investigator is not allowed to know what was discussed during conciliation.

## **How does investigation work?**

Once an investigator is assigned, the investigator is immediately available to work on your complaint. You tell the investigator what you believe is important to the investigation and you name any people who may have useful information about your complaint. The respondent has this same opportunity.

The investigator considers the facts of the complaint thoroughly and impartially, assesses the information, and considers related law. The investigator assesses whether there is a reasonable basis to proceed to the next step in the complaint process—in other words, the investigator assesses whether your complaint has merit.

Throughout the process, the investigator will be in touch with both you and the respondent. If the respondent or you want to try to resolve your differences at any point in the investigation process, the investigator can help you. You may also withdraw your complaint at any time.

After the investigation is complete, you can expect to receive a report of the results of the investigation. The results will either support your complaint and show that it has **merit**, or they will show that the complaint has no merit.

Your complaint is said to have **merit** if an investigation into the facts confirms that there is a reasonable basis in the available information to proceed with your complaint.



## What happens if my complaint has merit?

If your complaint has merit, the investigator will work with you and the respondent to try to find a reasonable settlement.

A **remedy** is compensation for losses that you experienced. It can be financial or non-financial.

A **remedy** can be financial or non-financial compensation for losses that you experienced. A remedy is intended to restore you to the position you would have been in if discrimination had not occurred. It is not intended to punish the respondent. Examples of remedies include money, an apology, or a change in policy. Remedy may also include the respondent agreeing to participate in a human rights education activity. For more information about remedy, please see the Commission's *Remedy* information sheet.

When the respondent makes an offer to settle the complaint, you and the respondent can agree to the settlement by signing a binding release. This says that you agree to end the complaint in exchange for the terms that you and the respondent agree upon.

If you reject what the director of the Commission thinks is a fair and reasonable offer from the respondent to settle the complaint, the director can **discontinue** the complaint, and your complaint will be closed unless you appeal.

If the respondent does not offer a remedy that the director considers fair and reasonable, the director reports to the chief commissioner that you and the respondent are unable to settle the complaint. The chief commissioner then appoints a human rights panel to hear your complaint.

## What if my complaint does not have merit?

The information collected by the investigator may show that your complaint does not have merit. You can withdraw the complaint, and the complaint will be closed. The complaint is still confidential.

If you do not withdraw the complaint, the investigator will make a formal report explaining why your complaint does not have merit, and your complaint will be **dismissed**.

## What if I disagree with the decision to dismiss or discontinue my complaint?

An **appeal** is an action that only you as the complainant can take.

If you disagree with the director's dismissal or discontinuance of your complaint, you have 30 days after you receive notice of the dismissal or discontinuance to **appeal** the decision to the chief commissioner.

The chief commissioner reviews certain information, including:

- selected documents, including the original complaint, the respondent's response, and the investigation report;
- the information you provide in your appeal; and
- any response the respondent makes to the appeal.

If the chief commissioner decides that the complaint should have been dismissed or that the proposed settlement was fair and reasonable, the chief commissioner denies your appeal.

If the chief commissioner decides that the complaint should not have been dismissed or discontinued, or that the proposed settlement was not fair and reasonable, the chief commissioner asks you if you want to take your complaint to a human rights panel. If you do, then the chief commissioner appoints a human rights panel. If you do not, then the complaint is closed.

A **human rights panel** is made up of one or three human rights commissioners, who are appointed members of the Alberta Human Rights and Citizenship Commission. The panel acts as a quasi-judicial body—that is, they have the power to hear sworn evidence and decide a case, but their hearings are less formal than a court hearing. Panel hearings are open to the public.

If your complaint is to be heard by a panel, the panel coordinator will send you a guide that describes the panel process.