

THE HUMAN RIGHTS COMMISSION
PANEL OF ADJUDICATORS

ACTIVITY PLAN

2011-2014

Message from the Chief Adjudicator:

I am pleased to present the Activity Plan for the Human Rights Commission Panel of Adjudicators which outlines the goals for the 2011-2014 fiscal years. This plan was prepared under my direction and in accordance with the provisions of the *Transparency and Accountability Act*.

The role of the panel of adjudicators is to hear complaints that have been referred to them by the Human Rights Commission. The Human Rights Commission refers complaints to the chief adjudicator who may hear such complaints or refer them to another adjudicator. A single adjudicator hears each complaint, exercising the powers of a commissioner appointed under the *Public Inquiries Act* S.N.L. 2006 chapter P-38.1.

Adjudicators appointed in accordance with the *Human Rights Act, 2010* are classified as a Category 3 Government Entity and, as such, must prepare an activity plan taking into consideration the strategic directions of the Minister of Justice. I have taken those strategic directions into account and have determined that while there is no direct role for the Panel of Adjudicators, the Panel does, by its mandate, support access to justice and public trust and confidence.

As the Chief Adjudicator I accept accountability on behalf of the entire panel for the preparation of this plan and the achievement of its objective.



Jamie Merrigan
Chief Adjudicator

Introduction/Overview

In accordance with the *Human Rights Act, 2010*, the Lieutenant Governor in Council shall appoint at least six persons, one of whom is named chief adjudicator, to act as members of a panel of inquiry into matters referred to them by the Commissioners of the Human Rights Commission. Appointments are for a term of three years and adjudicators may be reappointed.

The panel of adjudicators as of March 1, 2011 are:

James Merrigan, chief adjudicator
Glenda Best, Q.C.
Keri-Lynn Power
Aiden Beresford, Q.C.
Cillian Sheahan
Jennifer Newbury

Mandate

The mandate of the panel of adjudicators is contained in the *Human Rights Act, 2010*. It is the responsibility of the Commissioners of the Human Rights Commission to determine which matters are referred to the chief adjudicator for hearing. The chief adjudicator may hear the matter or refer the matter to another adjudicator. Once a matter is referred, the adjudicator shall inquire into the matter referred to him/her and give full opportunity to all parties to present their evidence and make representations through counsel or otherwise. The complaint referred shall be heard without undue delay. In performing his or her duties an adjudicator has the powers of a commissioner under the *Public Enquiries Act, 2006*.

Values

Accountability:

Each adjudicator is responsible to ensure the provisions of the *Act* are upheld.

Fairness & Impartiality:

Each adjudicator performs their duties in a thorough and unbiased manner.

Timeliness:

An adjudicator shall hear complaints without undue delay.

Vision

An environment where the public has access to and belief in established mechanisms of review for Human Rights Complaints.

Mission Statement

A mission statement is a result oriented statement which answers the who, what and why questions related to the organization and informs the reader of how the work of the entity supports or contributes to that of a larger supporting entity, such as a board or department or benefits the public or society at large.

The Human Rights Commission panel of adjudicators, as a category 3 government entity, has the options of adopting the Department of Justice mission, indicating how it contributes to that mission or developing its own mission. The panel of adjudicators must remain neutral and unbiased in their relationship with the Department of Justice and those that they serve, and it is not appropriate to adopt the mission statement of the Department of Justice. The Department of Justice mission is focused on the work of the Department of Justice, in which the panel of adjudicators has no role.

As an administrative tribunal, the powers and duties of the adjudicators are set for them by statute, in this case the *Human Rights Act, 2010*. A mission statement would be repetitive of fulfilling these duties to the appropriate standard. Therefore, no mission statement will be developed by the panel of adjudicators in this Activity Plan.

Issue

In consideration of Government's strategic directions and those of the Department of Justice, the timely hearing of complaints is an area of concern. Ensuring matters are heard without undue delay is identified as the key priority of the panel of adjudicators over the next three years.

Issue 1: Ensuring Complaints are Heard Without Undue Delay

A number of factors play into setting the hearing date. First, the chief adjudicator must either hear the complaint or refer the matter to another adjudicator. According to the *Human Rights Act, 2010* the adjudicator must hear the matter without undue delay. What constitutes undue delay can not be determined by a single standard. The reasonable time for a hearing to commence and be completed will depend on the complexity of the matter, the amount of evidence the parties wish to call and the availability of counsel, the parties and witnesses when applicable, together with the normal exigencies of a hearing process including physical limitations of the panel's resources. Currently the panel has only one set of recording equipment and one clerical staff member so only one hearing can proceed at a time. For this reason what constitutes undue delay will vary depending upon the circumstances of the case. In order to provide objective indicators the panel must focus on setting dates for the hearings to commence. Once an adjudicator is seized with a matter that adjudicator is the only person with authority to control the process of the hearing, absent any applications for judicial review.

The focus of the Panel of Adjudicators is consistent over three years of the plan. Each year the Panel will report on the results of the 2011-12, 2012-13 and 2013-14 objectives.

Objective: By March 31 each year, the Human Rights Commission Panel of Adjudicators will hear complaints without undue delay

Measure: Complaints heard without undue delay

Indicators:

Number of matters referred to the Panel that are assigned to an adjudicator within two weeks of the receipt of the referral

Number of referrals for which assigned dates were presented to all parties within one month of appointment of an adjudicator