



Human Rights Commission

Annual Activity Report

2010-11

Message from the Chair

On behalf of the Human Rights Commission I am pleased to present the 2010 – 2011 Annual Activity Report for the period April 1, 2010 to March 31, 2011. The Human Rights Commission accepts accountability for the preparation of this report and the actual results reported.



Stephanie Newell, Q.C.
Vice-Chairperson
Human Rights Commission

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Human Rights Commission

Introduction

The Human Rights Commission was established by legislation in 1971. The Commission is responsible for promoting an understanding of, acceptance of and compliance with the provisions of the *Human Rights Act, 2010* SNL2010 c. H-13.1. The Lieutenant Governor in Council appoints commissioners, one who serves as Chairperson and another who serves as Vice-Chairperson. The Commission has been without a Chair since February 2010. Currently, the Commission members are:

Vacant	Chairperson
Stephanie Newell, Q.C.	Vice-Chairperson
Deborah Armstrong	Commissioner
Fred J. Framp	Commissioner
Jorge Villanueva	Commissioner
Mary Ennis	Commissioner
Ruth Noel	Commissioner

A person who has reasonable grounds for believing that a person has contravened the *Human Rights Act, 2010* may file a complaint with the Commission. The Commission is then charged with investigating those complaints and, where appropriate, attempts to effect a settlement between the complainant and the subject of the allegations. Settlements are approved by the Executive Director prior to implementation. Where no settlement is effected, a report is made to the Commissioners who then decide whether to refer the complaint to a Panel of Adjudicators (Board of Inquiry) or dismiss the complaint.

In June 2010, the Human Rights Code was repealed and replaced in its entirety with the *Human Rights Act, 2010*. The new legislation provides a wide range of new protections, while also increasing the efficiency of the complaints process of the Human Rights Commission. The *Human Rights Act, 2010* builds upon submissions from an extensive public consultation process conducted by the Department of Justice, including submissions from municipalities, labour groups, various associations, individuals and the legal community.

Highlights of the *Human Rights Act, 2010* include: an expanded definition of disability which is consistent with other jurisdictions in Canada; reinsertion of a modernized



preamble which gives a statement of the fundamental principles of the legislation; the establishment of disfigurement as prohibited in its own right; the prohibition of discrimination in the making of a contract; the removal of the age of 19 years for employees to file complaints; the clarification that discrimination on the basis of pregnancy is prohibited; the prohibition of discrimination on the basis of criminal conviction by an employer when it is unrelated to the employment; the broadening of the definition of marital status; providing the Supreme Court of Newfoundland and Labrador, Trial Division with the ability to review a dismissal of a complaint(s) by Executive Director of Human Rights Commission; and, providing a new appointment process for commissioners and adjudicators.

Other changes to the new *Human Rights Act, 2010* include promoting efficiency within the human rights process. In order to move complaints through the system more expeditiously, the *Human Rights Act, 2010* enables regulations specifying timelines for filing of documentation related to the complaints process. In addition, the Executive Director of the Human Rights Commission has expanded powers, including the authority, subject to appeal, to dismiss complaints which are frivolous or do not fall within the jurisdiction of the *Human Rights Act, 2010*.

Overview

During the 2010-11 reporting period, the Human Rights Commission was staffed by an Executive Director, four Human Rights Specialists, three lawyers, and three administrative personnel. The Commission is located on the second Floor of the Beothuck Building, 20 Crosbie Place, St. John's, NL.

During the fiscal year, April 1, 2010 – March 31, 2011, the Commission received 999 Human Rights inquiries from members of the public, up from 627 inquiries the previous fiscal year. A preliminary review of the matter is first done to ensure that the alleged complaint falls within our legislative mandate and meets the “reasonable grounds” threshold requirement as set out in Section 25 of the *Human Rights Act, 2010*. In almost all cases, this requires further research from the Human Rights Specialist and a legal analysis performed by the Executive Director and/or lawyers. If it is determined that “reasonable grounds” exist, a complaint form is drafted and



reviewed by the Executive Director. The complaint form is then mailed to the complainant for their signature. It is only when a signed complaint form is returned to the Human Rights Commission that it becomes an official complaint.

“Information only” inquiries made up 185 of the 999 inquiries and were related to human rights law or human rights issues in general. In this case, Commission staff can provide general information about human rights law or issues to members of the public without giving legal advice.

Of the 999 human rights inquiries made, the Commission accepted 70 official complaints of discrimination, up from 52 official complaints the previous fiscal year. These complaints can be broken down by the following enumerated grounds:

Ground:	Number:
Sexual Orientation	1
Disability	32
Retaliation (for filing a complaint)	4
Nationality	1
Age	10
Perceived Disability	2
Sex	3
Colour	2
Conviction	3
Family Status	2
Pregnancy	5
Marital Status	3
Ethnic Origin	1
Source of Income	1
	70

For Further Information Please contact us.

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Fax: (709)729-0790

Vision

An environment where people understand their human rights and responsibilities and have access to established processes which support human rights.

Mandate

The mandate of the Human Rights Commission is contained in Section 23 of the *Human Rights Act, 2010* which states:

23. The commission shall
- (a) forward the principle that every person is equal in dignity and rights without regard to a prohibited ground of discrimination;
 - (b) promote an understanding of, acceptance of and compliance with this Act;
 - (c) distribute information and develop and conduct educational programs and research designed to eliminate discriminatory practices related to a prohibited ground of discrimination;
 - (d) advise and assist government departments and agencies of the government and co-ordinate their activities where these activities concern human rights;
 - (e) advise the government on suggestions, recommendations and requests made by private organizations, groups and individuals where these suggestions, recommendations and requests concern human rights;
 - (f) co-operate with and help a person, an organization or a group concerned with human rights, whether within or outside the province;
 - (g) report as required by the minister on the business and activities of the commission; and
 - (h) consider, investigate or administer a matter or activity referred to the commission by the Lieutenant-Governor in Council or the minister.

Given this, the Commission considers its lines of business to be:

- Receiving, recording and investigating individuals' written complaints that allege violations of the *Human Rights Act, 2010*;
- Promotion of the *Human Rights Act, 2010*;
- Education and research designed to eliminate discriminatory conduct; and
- Advising and helping individuals, group, organizations and governments on matters related to human rights.

Activities

Issue 1: Operational Enhancements

The Human Rights Commission has enhanced its internal mechanisms to address caseload issues. As of March 31, 2011 the Commission had 196 official complaints. The Commission closed 49 official complaints in the 2010-11 fiscal year. The Commissioners dismissed 19 complaints after an investigation. Complainants withdrew five whereas 16 were settled, by mediation or other appropriate means, by Commission staff and three were dismissed at a Board of Inquiry. The aforementioned complaints were dismissed for the following reasons: in one case the complainant did not appear to present evidence and in the two other cases, the respondent companies both went bankrupt and therefore there was no legal entity in which to pursue a remedy. The Commission was successful in one Board of Inquiry and the complainant was awarded damages. Five complaints were dismissed by the Executive Director pursuant to section 32 and two were reviewed pursuant to the section 31 deferral power of the Executive Director. However, only one of the complaints under review was formally deferred until the outcome of the other proceeding is finalized.

During the 2010-2011 fiscal year, five official complaints were referred by Commissioners to a Board of Inquiry. Of these, one was settled by Commission staff before the actual hearing commenced, one is currently in settlement negotiations and the remaining three are awaiting confirmation of hearing dates. Four Board of

Inquiry decisions were released during the fiscal year. One decision of the Trial Division (an appeal from a Board of Inquiry) was also released. Copies of these decisions can be found on our website. Commission counsel appeared at the Trial Division on an appeal from a Board of Inquiry decision.

Goal 1:	By March 31, 2011 the Human Rights Commission will enhance mechanisms to address caseload issues.	
Measure		
Enhanced mechanisms to address caseload issues		
Indicators	Actual Results	
Statistical record keeping enhanced	A computerized database system (TRIM) was fully operational as of May 1, 2009. TRIM allows staff to log all calls from the public, track complaints filed and their status, record the final disposition of each complaint, among other things, and to provide statistical information. The Human Rights Commission has discovered, however, that there are certain deficiencies inherent in TRIM which affect the efficiency with which statistical information can be accessed. The ability to retrieve data from TRIM is important for identifying and measuring human rights trends/issues so that we can best address the needs of our client base. In order to address this issue, the Commission will analyze the information contained in the current database, review the current database fields and explore alternatives to provide all required reports, as appropriate.	
Number of outstanding cases reduced	The Commission closed 49 files in the fiscal year.	
Number of complaints investigated within 90 days	Due to technical difficulties with our new computerized tracking system (TRIM), these particular pieces of information were not readily available at the end of the fiscal year.	



Human Rights Commission

	<p>Steps have begun to rectify this problem. As part of the Commission's 2011-2014 three-year Activity Plan, we will analyze the current database; review, re-evaluate and update the fields, if necessary; and update the database to provide all of the required reports. Once this information is available, we will conduct an analysis and report on the time frames as indicated.</p>
<p>Number of decisions of the Commission issued within 60 days of case referral</p>	<p>Due to technical difficulties with our new computerized tracking system (TRIM), these particular pieces of information were not readily available at the end of the fiscal year. Steps have begun to rectify this problem. As part of the Commission's 2011-2014 three-year Activity Plan, we will analyze the current database; review, re-evaluate and update the fields, if necessary; and update the database to provide all of the required reports. Once this information is available, we will conduct an analysis and report on the time frames as indicated.</p>
<p>System for prioritizing complaints established</p>	<p>The Executive Director and Human Rights Specialists meet monthly to prioritize and assign new files, to develop investigation plans and to identify existing files for settlement/mediation.</p>

Objective 3:	By March 31, 2011 the Human Rights Commission will have reviewed systems of prioritizing complaints in other jurisdictions.
Measure	
Jurisdictional Review Completed	
Indicators	Actual Results
Contacted other jurisdictions	The Commission has contacted most of the other provincial/territorial Commissions and the federal Commission either by telephone or in person to discuss systems of prioritizing complaints.
Compiled information respecting type of prioritization systems	A file was established to compare the prioritization systems in other jurisdictions and to identify best practices.
Identified options for Newfoundland and Labrador	Best practices were identified and have been implemented in Newfoundland and Labrador. For example, monthly triage meetings are now held to prioritize and assign new files, to develop investigation plans and to identify existing files for settlement/mediation. As well, files are being identified for a Section 31 of the <i>Human Rights Act, 2010</i> deferral or a Section 32 of the <i>Human Rights Act, 2010</i> dismissal by the Executive Director.

Issue 2: Provincial Public Awareness/Education

The Human Rights Commission is committed to promoting an understanding of and acceptance of human rights as outlined in the *Human Rights Act, 2010*.

The Newfoundland and Labrador Human Rights Commission was honored to host the annual conference for the Canadian Association of Statutory Human Rights Agencies (CASHRA) in St. John's, Newfoundland and Labrador from June 20-23, 2010. Conference attendees included members of human rights agencies from the provinces, territories and the federal commission, as well as members of the legal



community and the general public with an interest in human rights issues. The conference, titled, "The Edge of Rights Awareness: Compliance and Adherence in the 21st Century" provided delegates the opportunity to discuss and reflect upon contemporary human rights issues with an emphasis on issues impacting human rights on an international scale. In addition to plenary sessions, the delegates were also able to choose from a number of small group sessions covering a wide variety of topics including accommodation of disabilities in the workplace, discrimination on the basis of race and religion, drug and alcohol testing, and inclusive education.

In October 2010, the Newfoundland and Labrador Human Rights Commission launched its new website. It includes information on how to make a complaint to the Commission, information on the new *Human Rights Act, 2010* and information and resources on issues of interest pertaining to human rights in Newfoundland and Labrador. Please visit our website to learn more: <http://www.justice.gov.nl.ca/hrc>

In Fall 2010 and Spring 2011, the Newfoundland and Labrador Human Rights Commission also ran several radio, television, and print ads to raise awareness of the Commission and human rights issues in general. This constituted a major undertaking by the Commission and was featured on radio stations, newspapers, and television stations across the Province of Newfoundland and Labrador. The Commission also developed posters that will be distributed across the province. This is part of the Commission's mandate to provide education and awareness of human rights issues in the province.



Human Rights Commission

**I'M NOT
HANGING OUT
WITH HER
SHE'S** *A LESBIAN, BLACK, ASIAN, MUSLIM, DEAF, DISABLED*

Don't think of the excuses before you think of the person. Thinking it is as bad as saying it.
thinkhumanrights.ca



Marketing Specialist

A security company is seeking applicants to the position of Marketing Manager. 10 years of experience is a must, with a relevant degree. Women who are pregnant or plan to become pregnant in the next year need not apply, as this would be too much of an inconvenience. Competitive benefits package. We look forward to your application. Please send all resumes to our head office.

Qualifications:

- A Bachelor's Degree in marketing and/or equivalent experience
- 10+ years in a marketing management role
- Experience in marketing high-tech products
- Demonstrated ability to increase inbound marketing leads and work with online/social media

PREGNANT WOMEN NEED NOT APPLY

Thinking it is as bad as saying it.
Think Human Rights. Act Human Rights.
A message from the Newfoundland and
Labrador Human Rights Commission.



thinkhumanrights.ca

Objective:	By March 31, 2011 the Human Rights Commission will have completed public awareness/education sessions throughout the province of Newfoundland and Labrador.
Measure	
Public awareness/education sessions held through the Province	
Indicators	Actual Results
Presentations developed	The Human Rights Commission continues to ensure that its presentations are up-to-date. New presentations were also developed based on the needs of groups requesting public awareness/education sessions.
Number of information sessions held	Twenty-five information sessions were held throughout the fiscal year. Fewer public education sessions were held in this fiscal year as staff focused primarily on hosting the CASHRA conference in June 2010.
Locations of sessions	St. John's and Whitbourne, NL

Opportunities and Challenges Ahead

A computerized database system (TRIM) was fully operational as of May 1, 2009. TRIM allows staff to log all calls from the public, track complaints filed and their status, record the final disposition of each complaint, among other things, and to provide statistical information. The Human Rights Commission has discovered, however, that there are certain deficiencies inherent in TRIM which affect the efficiency with which statistical information can be accessed. The ability to retrieve data from TRIM is important for identifying and measuring human rights trends/issues so that we can best address the needs of our client base. In order to address this issue, the Commission will analyze the information contained in the current database, review the current database fields and explore alternatives to provide all required reports, as appropriate.

Additionally, the Commission will work towards enhancing efficiencies in the human rights process through the use of mediation services. Mediation, and other forms of alternative dispute resolution, are proven methods of achieving effective and timely resolution to complaints. Currently, mediation is offered to clients on an ad hoc basis. The process is informal and does not occur at any set stage of the process. Using lessons learned from this informal process and from other jurisdictions, the Human Rights Commission commits to implementing a formal mediation program by 2013. The Commission will also complete an internal review of its formal mediation program by March 2014 in order to inform future direction in this regard.

Financial Statements

Expenditure and revenue figures included in this document are un-audited and based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for the Year Ended 31 March 2011. The Human Rights Commission is not required to provide a separate audited financial statement.

2.3.04. HUMAN RIGHTS

	Actual \$	Estimates	
		Amended \$	Original \$
01. Salaries	791,084	801,900	888,900
02. Employee Benefits	8,708	8,800	8,000
03. Transportation and Communications	14,114	21,000	84,000
04 Supplies	13,360	15,000	17,000
05. Professional Services	20,541	38,900	60,000
06. Purchased Services	265,005	272,100	177,200
07. Property, Furnishings and equipment	2,448	3,000	-
02. Revenue - Provincial	(65,783)	(72,000)	(72,000)
Total: Human Rights	1,049,477	1,088,700	1,163,100



Further information or assistance may be obtained by contacting:

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