



Human Rights Commission

Annual Report 2015-16

Message from the Chair

In keeping with the requirements of a Category 3 entity under *the Transparency and Accountability Act*, I am pleased to present the Commission's 2015-16 Annual Activity Report. This report covers the period April 1, 2015 to March 31, 2016, and reports on the objectives, measures and indicators for the 2015-16 timeframe.

The Annual Report summarizes the work of the Human Rights Commission in the service of the people of Newfoundland and Labrador, as per the Newfoundland and Labrador *Human Rights Act, 2010*.

The Human Rights Commission accepts accountability for the preparation of this report and the actual results reported.



Remzi Cej
Chairperson
Human Rights Commission

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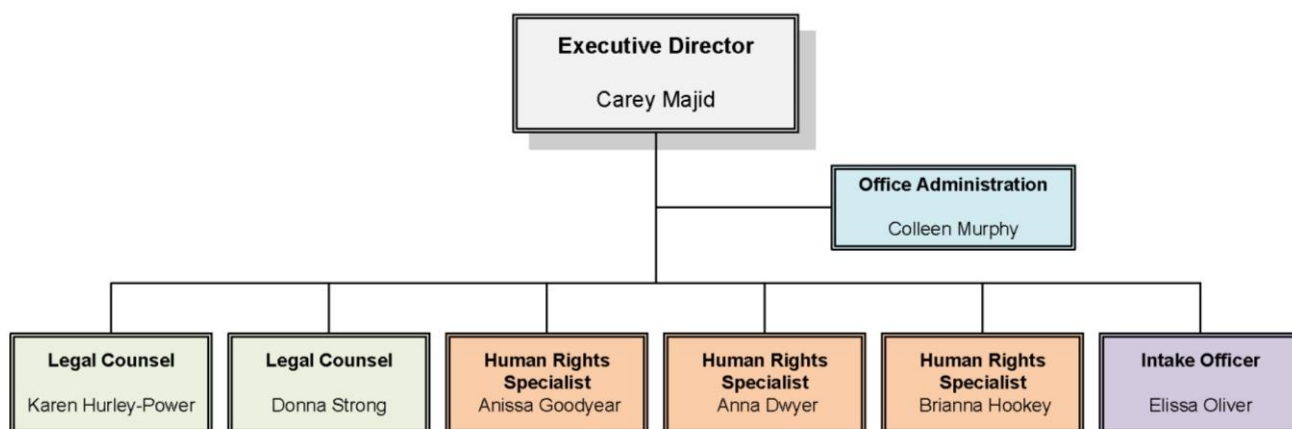
Introduction and Overview

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* (the “Act”). The Lieutenant Governor-in-Council appoints commissioners, one of whom serves as Chairperson, and another who serves as Vice-Chairperson. Commissioners are appointed for a term of 5 years and shall hold office until he or she is reappointed or his or her successor is appointed. At March 31, 2016, the Commission members were:

- Remzi Cej (Chairperson)
- Kim Mackay (Vice-Chairperson)
- Christopher Sheppard
- Ray Mclsaac
- Jorge Villanueva
- John Walsh
- Darlene Didham
- Paul Pike
- Smita Joshi

The Act makes the recognition of the inherent dignity and worth of all people, and the provision of equal rights and opportunities without discrimination, a matter of public policy in Newfoundland and Labrador. The Act aims to create a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community.

During the 2015-16 reporting period, the Human Rights Commission was staffed by an Executive Director, three Human Rights Specialists, two Lawyers, one Intake Officer and one Administrative Officer.



Contact Information for the Commission is as follows:

- Address: 2nd Floor, Beothuck Building,
20 Crosbie Place, St. John’s, NL A1B 3Y8.
- Phone: (709) 729-2709 or 1-888-563-5808
- Email: humanrights@gov.nl.ca.
- Website: www.thinkhumanrights.ca.
- Twitter: @nlhumanrights using the hashtag #nlrights.

Vision

Newfoundland and Labrador will be a province in which all people have respect for human dignity and rights, and where everyone will work to protect human dignity and 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's lines of business are:

- 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, groups, organizations and governments on matters related to human rights.

Information on how the Human Rights Commission carries out the complaint process can be found in *Appendix A*.

Who We Serve

As mandated in the *Human Rights Act, 2010*, the Human Rights Commission serves the interests of the people of Newfoundland and Labrador. The Human Rights Commission assists individuals, groups and organizations who are concerned with human rights, and provides advice to government concerning human rights.

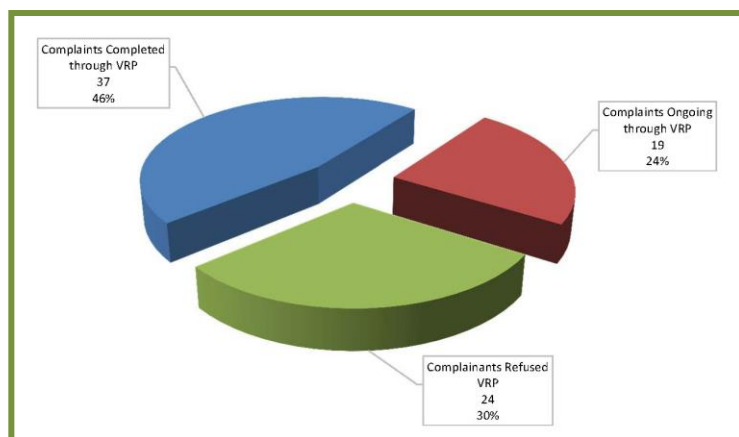
Highlights of Activities

Voluntary Resolution Path

In 2015-16, 56 of the 80 new complaints accepted by the Human Rights Commission chose to enter the Voluntary Resolution Path (VRP):

- 37 complaints completed the process;
 - 17 of these settled within an average of 2 months
 - 20 were assigned to a Human Rights Specialist after the parties were unable to reach a resolution
- 19 complaints are still in VRP.

The remaining 24 complaints were assigned directly to a Human Rights Specialist, after one or both of the parties declined to participate in VRP.



Details of the Commission’s evaluation of the Voluntary Resolution Path are found below in the Report on Performance section.

Commission-Directed Mediation

After an investigation is conducted and all the facts are known, the Commissioners have an opportunity to review the complaint in full. Section 34 of the *Human Rights Act, 2010* states that a complaint shall be referred for a board of inquiry hearing where (a) there is sufficient evidence to proceed, (b) the parties are unable to settle the complaint and (c) where it hasn’t been otherwise deferred or dismissed. If Commissioners decide that there is sufficient evidence to proceed to a hearing, but the parties have not fully considered settlement, they may now refer the matter to “Commission-Directed Mediation” (CDM), which is a final opportunity for the parties to try to resolve the complaint. CDM is a new process that was implemented in February 2016. The mediator’s services are provided free of charge.

One complaint has been referred to CDM since February 2016. It was still ongoing at the end of the fiscal year.

NL Human Rights Award and Public Education Efforts

The Human Rights Commission is mandated with promoting the *Human Rights Act, 2010* to citizens of Newfoundland and Labrador, as well as advising government on human rights matters.

The inaugural NL Human Rights Award was held on December 10, 2015 at Government House in St. John's.

“The motivation for the Human Rights Award was to recognize human rights pioneers and leaders who have worked tirelessly to promote and build the human rights agenda in Newfoundland and Labrador. These exemplary individuals live in our communities and rarely take credit for the amazing work they do in assisting individuals to live with dignity and rights. They are modest and humble, but also courageous and outspoken in standing up for the rights of those who are deprived of their voices. They give shelter to people in need, challenge our laws when they are behind the times, propose new policies, but also hold our society’s institutions and leaders to account.”

- Remzi Cej, Chair of the Human Rights Commission

The 2015 recipient was Sister Margie Taylor, a dedicated human rights advocate who has worked with female prison inmates to assist them in transitioning to permanent housing and employment. Sister Margie has also worked with newcomers, including refugees and immigrants, and has served on a number of committees, including the Newfoundland and Labrador Coalition Against Human Trafficking, and international organizations dedicated to human rights and social justice.



Remzi Cej, Chair of the Human Rights Commission, presents the Human Rights Award to Sister Margie Taylor.

Mr. Calvin White was named a “Human Rights Champion” at the December ceremony. This recognition is granted to someone who has made a meaningful, lifelong contribution to human rights in Newfoundland and Labrador, and the recipient is generally chosen by members of the Selection Committee. Mr. White has advocated for the rights of Mi’kmaq people of this province since the 1960s and has made a lifelong commitment to social justice causes. He is a recipient of the Order of Newfoundland and Labrador. Remzi Cej, Chair of the Commission, will attend the 10th Annual Bay St. George Mi’kmaq Powow with the Honourable Frank Fagan, Lieutenant Governor of Newfoundland and Labrador, to present Mr. White with the Champion Certificate on July 9, 2016.

Social Media Presence

As part of on-going public education efforts, the Commission established a social media presence on twitter. The @nlhumanrights Twitter account regularly tweets links to the Commission’s news releases, relevant news stories, articles, as well as tweets on human rights law in Newfoundland and Labrador, Canada and from around the world. The Commission has more than doubled its number of followers in 2015-16.

The Commission is in the process of updating its logo and web presence and anticipates a launch in the fall of 2016.



Public Presentations and Workshops

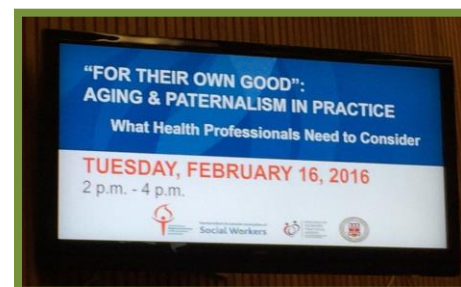
The Commission also participated in a number of public events and workshops. Some examples include:

Commission staff:

- responded to youth questions on human rights during the three-day Sharing Our Cultures educational event held during the province’s Multiculturalism Week; this was attended by 800 youth.

The Commission’s Executive Director:

- participated in a Newfoundland and Labrador Association of Social Workers health care panel on aging and paternalism; and
- met with newly arrived Syrian refugees and held a human rights orientation presentation.



The Commission Chair

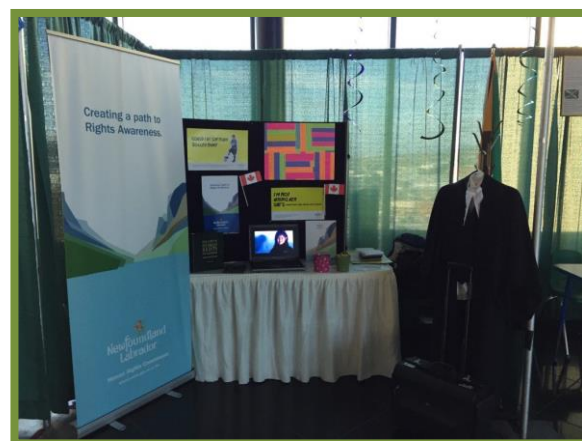
- addressed 80 members of the Rotary St. John’s club on human rights advances in the province;
- met with Memorial University’s Rotaract members to discuss human rights in education;
- addressed a gathering of 60 provincial public servants to give a keynote on Human Rights and Public Policy, organized by PolicyNL;
- addressed 130 attendees on Human Rights and Public Policy at the Institute of Public Administration of Canada (IPAC), Newfoundland and Labrador chapter meeting;
- addressed a gathering of 100 youth from throughout Newfoundland and Labrador at the annual RADHOC Social Justice Conference;
- met with 18 Bluedrop Inc. employees to discuss refugee rights; and
- met with Memorial University Pensioners’ Association members to discuss refugee rights.

The Commission Vice-Chair:

- presented on the Commission’s work at a public event organized by the African Network Association.

The Commission Chair and Executive Director also met with many community leaders in 2015-16, to foster partnerships with organizations that have a common commitment to the protection of human rights in Newfoundland and Labrador. The Commission focused on increasing its presence throughout the province by attending as many community events as possible.

The Human Rights Commission chairs a working group on human rights, comprised of representatives from the Disability Policy Office, Poverty Reduction Strategy, Women’s Policy Office, the Office of Immigration and Multiculturalism, Legal Aid Commission and the Provincial Advisory Council on the Status of Women. The Working Group meets to share information, collaborate and partner on events, and present a unified voice on human rights in the province. The working group also serves as the Selection Committee for the Human Rights Award.

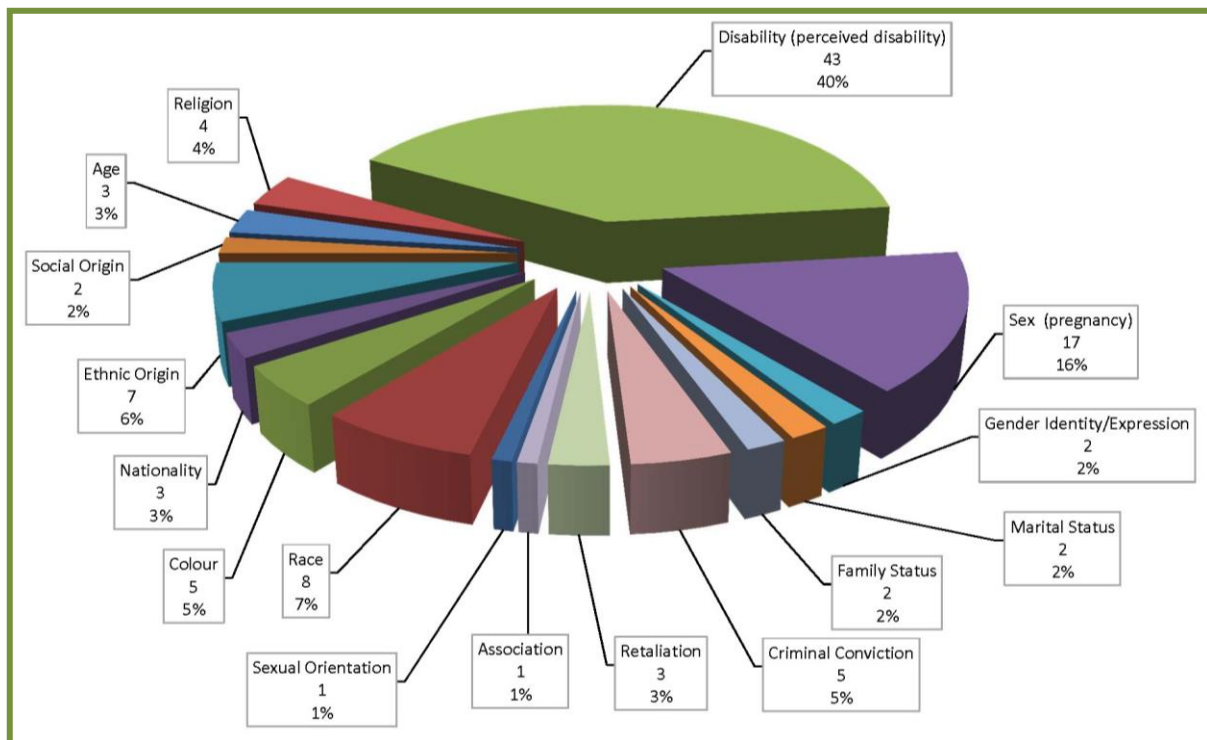


Statistical Overview

During the fiscal year 2015-16, the Commission received 814 human rights inquiries from members of the public. As of March 31, 2016 the Commission had 234 active official complaints.

The Commission accepted 80 new official complaints in 2015-16, up from 64 official complaints in the previous fiscal year. This represents a 27 per cent increase in the number of official complaints received over the last fiscal year. Complainants can identify more than one enumerated ground when submitting a complaint. The following table outlines the 108 grounds noted by the 80 complaints.

Enumerated Ground	#
Sexual Orientation	1
Race	8
Colour	5
Nationality	3
Ethnic Origin	7
Social Origin	2
Age	3
Religion	4
Disability (perceived disability)	43
Sex (pregnancy)	17
Gender Identity/Expression	2
Marital Status	2
Family Status	2
Criminal Conviction	5
Retaliation	3
Association	1
Total	108



Commissioners met four times during the fiscal year: August 27, 2015; October 15, 2015; December 3, 2015 and February 18, 2016 to discuss Commission business and consider 26 complaints. Of the 26 complaints considered, 10 were referred to a Board of Inquiry Hearing.

A sample of complaints referred to a Board of Inquiry for hearing during the 2015-16 fiscal year are as follows:

(1) *Steven Rogers v. Central United Church Pastoral Charge, Twillingate*

This hearing dealt with a claim of discrimination by the complainant, who was seeking to become ordained as a minister, based on his sexual orientation against the church leadership when they asked him to withdraw from his leadership duties in the church. The complaint raised the issue of whether or not the exception to discrimination as found in section 11 of the Act applies. The hearing lasted for 6 days and concluded in October 2015; a decision is pending.

(2) *Desiree Dichmont v. Newfoundland and Labrador (Department of Government Services and Lands)*

This was a court ordered hearing arising out of a judicial review application which has determined that the Commission's decision to dismiss the Complainant's Human Rights complaint was unreasonable. The complaint involved a claim of religious discrimination in employment arising from the government's refusal to permit the complainant to continue as a marriage commissioner based on her position that the performance of same sex marriages contravened her religious beliefs. The hearing lasted for 2 days and concluded in January 2016; a decision is pending.

(3) *Anne Malone v. Dave Gulliver's cabs Ltd. (o/a City Wide Taxi)*

This one day hearing dealt with a claim of discrimination based on refusal of taxi service because the visually impaired Complainant was accompanied by a guide dog. The hearing took place on January 25th and a decision was rendered in February 2016. Discrimination was found to have occurred and the decision has been fully implemented. This file was closed in March 2016. Additional information on the Board of Inquiry decision is available on the Commission's website:

http://www.justice.gov.nl.ca/hrc/publications/decisions/2016_Decision_Anne_Malone.pdf

(4) *S.B. and C.A. v. Minister of Service NL*

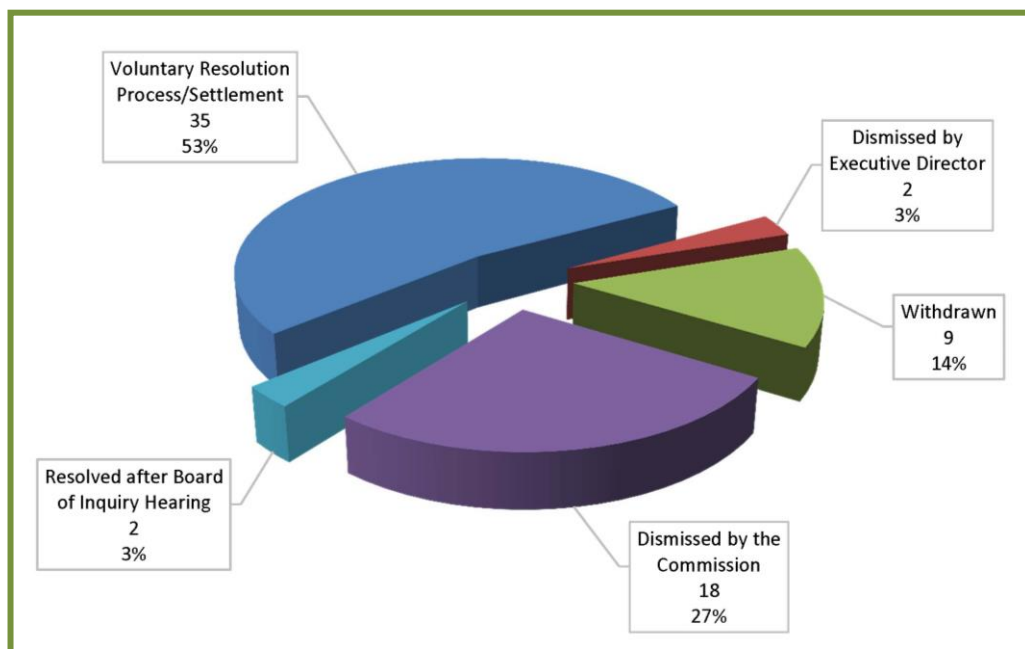
As a result of this decision, the NL government changed the requirement to have gender reaffirming surgery in order to obtain a change in sex designation on birth certificates. The Board of Inquiry order was a public interest remedy which did not set aside or strike down the legislation. Rather, the order directed Service NL not to follow the offending legislation, not only with respect to the two complainants in this case, but with respect to those similarly situated. Between December 2015 and April 2016, approximately 30 individuals availed of the interim changes to amend their gender markers. The *Vital Statistics Act* was officially amended in April 2016. Additional information on the Board of Inquiry decision is available on the Commission's website:

www.justice.gov.nl.ca/hrc/publications/decisions/2015_decision_ca_and_sb.pdf

In addition to the four matters that were heard by a Board of Inquiry, there were four other complaints where Pre-Hearing conferences were held in the 2015-16 fiscal year. In one case, the Pre-Hearing conference was to deal with a preliminary matter, however, the matter was postponed and the full hearing will now take place in the fall of 2016. In the second case, the complaint was settled following the Prehearing Conference. In the third case, the complaint was withdrawn by the complainant following the Pre-Hearing Conference. In the fourth case, the matter has been set for a two day hearing in early September 2016. There were 19 other complaints referred to hearings which were settled by Commission legal counsel.

In 2015-16, the Commission closed 66 official complaints as follows:

- 35 complaints were closed through VRP or settlement;
- Two complaints were dismissed by the Executive Director pursuant to section 32 of the *Human Rights Act, 2010*;
- Nine complaints were withdrawn pursuant to section 25(5) of the *Human Rights Act, 2010*;
- 18 complaints were dismissed by the Commission pursuant to section 34 of the *Human Rights Act, 2010*; and
- Two complaints were resolved after a Board of Inquiry hearing.



In 2014-15, the year before VRP was introduced, the Commission only closed 35 complaints. This is an indication that the VRP is resulting in faster resolution of matters.

Early Resolution of Complaints

The following is a sample of the various types of complaints which were either settled informally, or through VRP and mediation services, within the same fiscal year as when the complaint was filed.

Disability/Employment

- Complainant alleged he was terminated after the employer failed to accommodate his disability. The Respondent denied discrimination and alleged that the Complainant did not disclose the disability until after the termination. A settlement was reached in less than a week which saw general damages being paid to the Complainant, along with a revised termination letter and a reference letter.
- The Complainant alleged discrimination on the basis of disability and sex when his employer failed to accommodate his mental health issues and some of his duties were assigned to a female co-worker. The complainant resigned his employment because he felt the employer failed to address these issues. The Respondent denied any discrimination on the basis of disability or sex. Mediation resulted in a settlement of general damages, an apology and a reference letter. The complaint was resolved within three months.

Criminal Conviction /Employment

- The Complainant alleged he was terminated from his employment on the basis of his criminal conviction. The employer denied that the criminal conviction played a role and argued that the real issue was the dishonesty of the employee. Within 3 months of being referred to VRP, the parties reached an agreement that saw the Complainant reinstated to his position.
- The Complainant alleged that despite being granted an interview, he was not considered for a job opportunity once his Certificate of Conduct revealed prior criminal convictions. The Respondent argued the convictions were related to his employment. A settlement was reached within 2 weeks. The Respondent agreed to pay general damages to the Complainant and to participate in human rights training.

Sex/Harassment and Employment

- The Complainant alleged harassment and discrimination in the workplace as a result of a co-worker's inappropriate comments and behavior. Despite reporting the incident, the Complainant stated the employer failed to deal with the harassment which resulted in her resigning her position. A settlement, which took approximately 3 months, resulted in general damages being paid.

Gender Identity/Employment

- Complainant alleged she was discriminated against in the workplace on the basis of her gender identity. The Respondent denied there was any discrimination. A settlement was reached in 3 months with the employer paying general damages.

Report on Performance

Issue 1: Public Education and Awareness

The Human Rights Commission will enhance activities to promote the *Human Rights Act, 2010*.

The Commission recognizes that proactive education and awareness are key components to preventing and reducing discriminatory attitudes and behaviours. Presently, the Commission periodically publishes and makes available on its website, guideline documents and fact sheets outlining educational research and established legal precedents for several grounds of discrimination protected under the *Human Rights Act, 2010*. These documents outline basic information about the protected grounds, what constitutes discrimination, and where the burden of accommodation rests. The Human Rights Commission will endeavor to identify, develop, and make public additional educational materials.

Goal 1:	By March 31, 2017 the Human Rights Commission will have enhanced its public education and awareness activities.
Measure	Public education and awareness activities enhanced
Indicators	Education materials enhanced
	New education materials developed
	Human Rights Award implemented
	Additional presentations delivered
	Regional presence enhanced
	Community outreach enhanced

Objective 1.2:	By March 31, 2016 the Human Rights Commission will have implemented additional public education and awareness activities.
Measure	Additional public education and awareness activities implemented
Indicators	Actual Results
Development of new informational materials continued	<p>The development of new informational materials continued in 2015-16. The Commission updated a number of its presentations and developed new presentations. Updates and new presentations focused specifically on gender identity/gender expression and sexual harassment. These presentations are available to members of the public, free of charge.</p> <p>The Commission began a review of its website to improve functionality and accessibility. This work was ongoing at the end of the fiscal year and is anticipated to be completed by Fall 2016.</p> <p>Once the website review and update is completed, the Commission anticipates developing additional informational materials.</p>
Human Rights Award process implemented	A Human Rights Award process was implemented. The purpose is to recognize individuals who are human rights leaders and champions in the province. The call for nominations was announced in September 2015 and the inaugural Human Rights Award ceremony was held on December 10, 2015. Further details can be found on page 6 of this report.
Number of presentations delivered increased	The number of presentations delivered was increased. The Commission conducted 37 presentations in fiscal year 2015-16, up from 31 presentations conducted in 2014-15. For further information on presentation delivered in 2015-16 please see page five of this report.
Workshops on human rights related matters developed	Competing priorities pushed the timeframe for development of workshops into fiscal year 2016-17. The development of workshops on human rights related matters began in 2015-16. A Human Rights Education Working Group was formed to develop workshops on human rights. Community expertise will also be utilized as part of this process. Work was ongoing at the end of the fiscal year and workshops will be finalized in 2016-17.

Objective 1.3:	By March 31, 2017 the Human Rights Commission will have re-assessed public education and awareness activities.
Measure	Public education and awareness activities re-assessed
Indicators	
	Current educational materials reviewed and updated
	Gaps in educational materials identified
	New educational materials developed, as required

Issue 2: Enhance Intake and Case Resolution Process

The Human Rights Commission built on past efforts to improve the intake and case resolution processes. During fiscal year 2015-16, the Commission focused on the Voluntary Resolution Path (VRP) process. While the Commission was not able to undertake a complete evaluation of this process, an internal review indicated positive results.

In the upcoming fiscal year, the Human Rights Commission will continue to enhance awareness about the VRP and assess its investigative process to identify further efficiencies.

Goal 2:	By March 31, 2017 the Human Rights Commission will have enhanced the intake and case resolution process.
Measure	Intake and case resolution process enhanced.
Indicators	Current intake and case resolution processes reviewed
	Inefficiencies identified and addressed
	Progress towards addressing identified inefficiencies assessed
	Future enhancement priorities identified

Objective 2.2:	By March 31, 2016 the Human Rights Commission will have addressed identified inefficiencies.	
Measure	Identified inefficiencies addressed	
Indicators	Actual Results	
Evaluation of the Voluntary Resolution Path process completed	The evaluation of the Voluntary Resolution Path (VRP) process was delayed as there were limited evaluation forms completed and returned by participants. Given this, the Commission is considering options to increase the rate of return for evaluation purposes.	
Evaluation results analyzed		
Pending the results of the evaluation, a plan to address identified issues developed		
	An internal review of administrative files for the VRP was completed at the end of the fiscal year. Overall, the review showed that this option is resulting in faster resolution of matters. Identified issues included the need to enhance participation in VRP and ensuring the process moves faster.	

Objective 2.3:	By March 31, 2017 the Human Rights Commission will have assessed progress to identify future priorities.	
Measure	Progress to identify future priorities assessed	
Indicators		
Evaluation of the Voluntary Resolution Path process completed		
Evaluation results analyzed		
Pending the results of the evaluation, a plan to address identified issues developed		

Awareness activities related to VRP enhanced
Investigation process assessed to explore options for additional efficiencies
Commission Directed Mediation reviewed

Opportunities and Challenges Ahead

The Human Rights Commission recognizes the importance of being fiscally responsible. The Commission will reduce travel costs by utilizing technology to hold the majority of Commissioners' meetings, as well as delivering more public education online.

Technological advancements are also providing an opportunity for the Human Rights Commission to have more of a presence throughout Newfoundland and Labrador. The Commission is committed to using technology to promote human rights in all regions of the province, including enhancing its use of social media and updating its website. The Commission will also seek opportunities to collaborate with other human rights serving agencies and organizations in other regions of the province. This work will be undertaken with a client-centered focus in order to achieve continuous improvement.

In 2016-17, the Human Rights Commission will begin the development of its 2017-20 strategic plan. This is an opportunity to reflect on the past and set the direction for the future. The Commission is looking forward to this process.

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 2016*. 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		692,242	692,300	700,000
Operating Accounts:	<i>Employee Benefits</i>	11,172	6,400	6,400
	<i>Transportation and Communications</i>	19,494	20,100	20,100
	<i>Supplies</i>	11,512	11,500	11,500
	<i>Professional Services</i>	23,497	40,000	40,000
	<i>Purchased Services</i>	87,439	91,800	91,800
02. Operating Accounts		153,114	169,800	169,800
Total: Human Rights		845,356	862,100	869,800

Appendix A: Our Process

People contact the Human Rights Commission by telephone, email or in-person to speak to the Intake Worker. A preliminary review of their allegations is first done to ensure that the alleged complaint falls within the Commission’s legislative mandate and meets the “reasonable grounds” threshold requirement. Section 25 of the Act requires that a person have “reasonable grounds” for believing that another person has contravened the Act. 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. The official complaint is then served on the Respondent(s) and the human rights process starts.

Voluntary Resolution Path

The Human Rights Commission is mandated to try to help the parties resolve their complaint. As a first step, the parties are encouraged to attempt the Voluntary Resolution Path.

The goal of the Voluntary Resolution Path is to resolve the complaint in a way that is acceptable to the Complainant and the Respondent(s). The Commission’s mediator will discuss ways to try to find a settlement of the dispute. The mediator will not advocate or represent either party, but may suggest ways to settle and may offer information to both parties, such as general information about the types of awards that may be made.

The Human Rights Commission works with the parties to try to resolve the complaint in the early stages of the process.

During the Voluntary Resolution process, either party can make an offer or suggest an idea for settlement on a “without prejudice” basis. This means that the offer or idea cannot be used later in the investigation process if a complaint is not settled, unless the party making the offer wants it to become part of the file.

Voluntary Resolution Path: Formal Mediation Session

If the complaint is not resolved informally, and the parties agree, the Commission will schedule a formal mediation session with the mediator.

Although it is a formal process, unlike the traditional adjudicative process, mediation is not an adversarial process and it is much less formal than an adjudication hearing.

Prior to the mediation, both parties will prepare a very short summary of the story and provide ideas on how to resolve the complaint. This summary and anything said at the mediation are “without prejudice.” This means that if the complaint is not resolved at mediation, the discussions are not recorded by the Commission for use in the investigation stage.

The mediator's role is to foster open discussion to help the parties resolve the matter at this early stage. The mediator does not advocate for one party over the other, and does not decide if the *Human Rights Act* has been violated. Every effort will be made to hold the mediation within 30-60 days of the referral to formal mediation. All fees and services are paid by the Commission.

Mediation gives the parties control over the resolution of the complaint. It can be a quicker and more satisfying way to resolve the complaint.

The Investigation Process

If the parties do not agree to mediation and/or the complaint is not resolved, the file will be given to a Human Rights Specialist to investigate the complaint. The Specialist will not have had any previous involvement with the case.

The Human Rights Specialist will ask the Respondent(s) to file a formal Reply to the complaint, within thirty (30) days of the referral to investigation. The Complainant is given a chance to respond to the reply if they so choose. The Human Rights Specialist will also ask the parties for any other documents, the names of potential witnesses and signed statements.

The Human Rights Specialist involved in the investigation will not be part of the Voluntary Resolution process.

After the Human Rights Specialist has reviewed all documentation and interviewed witnesses, the Specialist will write a report for the parties' review. The investigation will be thorough, neutral and unbiased. Both the Complainant and the Respondent(s) can respond to the report before the Human Rights Commissioners review the complaint.

The Commission will try to conclude the investigation as soon as possible. The actual time will vary according to the complexities of the complaint, Commission caseloads, and other factors.

Next Step: Decision by Human Rights Commissioners

After all parties have responded to the investigation report, the complaint and all evidence will be reviewed by the Human Rights Commission.

Where the Commissioners decide that the evidence does not support the allegations:

- The Commissioners will dismiss the complaint. A Complainant can then file an application for judicial review in the Supreme Court, General Division if they disagree with the decision; or,

Where the Commissioners believe there is sufficient evidence:

- The Commissioners may decide that the complaint should be referred to "Commission-Directed Mediation" to enable the parties a final opportunity, with the assistance of a mediator, to try to resolve the complaint; and/or
- The Commissioners may decide that the complaint should be heard by a Board of Inquiry.

The Commission usually allows 60 days for the mediator to work with the parties to resolve their own dispute during the "Commission-Directed Mediation" phase of the complaint process.

Board of Inquiry Hearing Process

Each complaint is heard before one Adjudicator in a public hearing. The Commission takes the lead in presenting the complaint and both parties will have a chance to present their arguments by either choosing to be represented by legal counsel or to present their own evidence and make arguments to the Board of Inquiry on their own behalf. Legal Counsel for the Commission is not the lawyer for the Complainant or the Respondent(s). The role of Commission counsel is to present the complaint and represent the public interest.

Until a Board of Inquiry is appointed, the Commission's processes are confidential.

It is worth noting that very few matters proceed to an adjudication hearing. Most are resolved some other way.

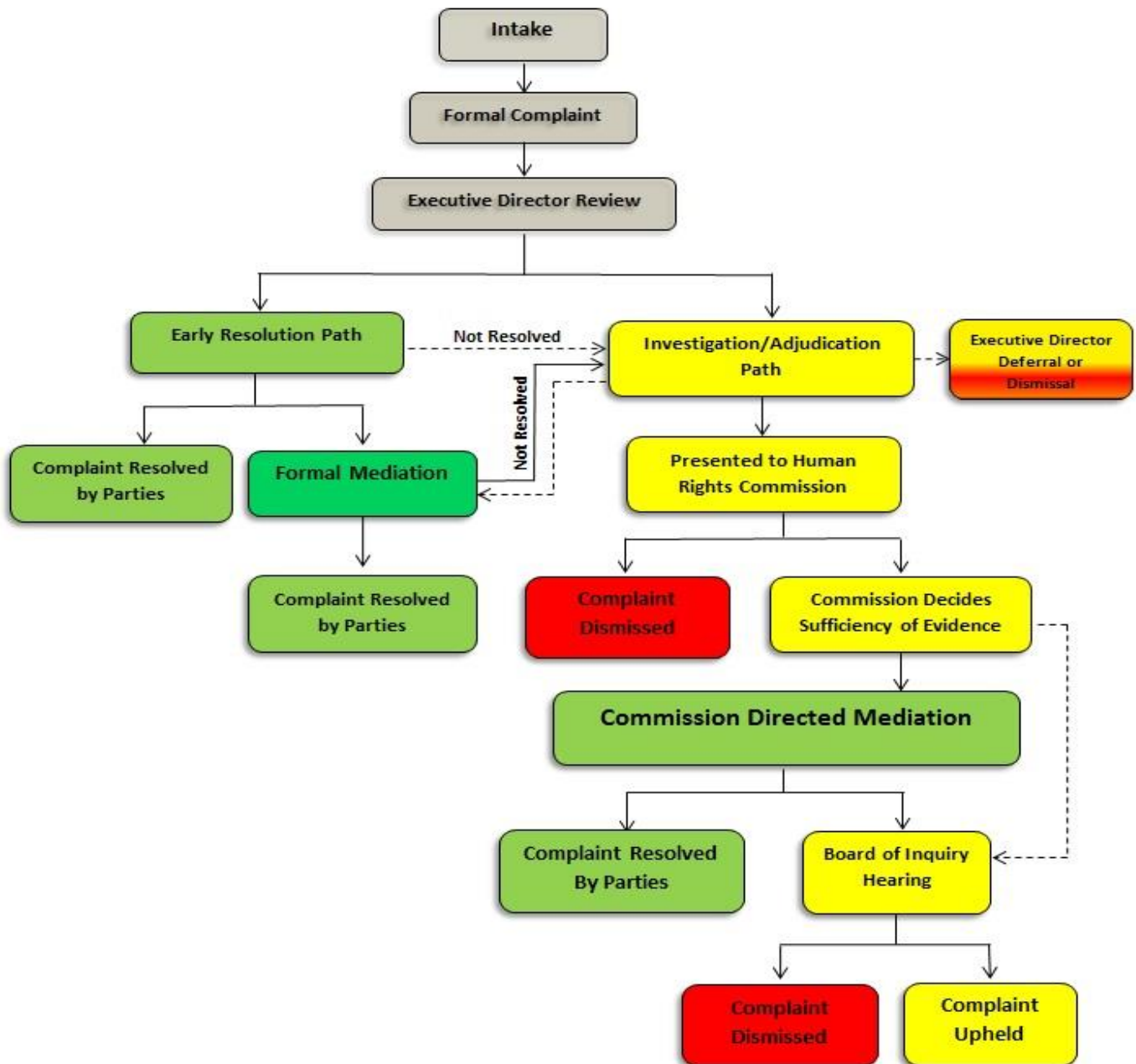
The Complainant and Respondent(s) have the right to appeal the decision of a Board of Inquiry to the Supreme Court of Newfoundland and Labrador, General Division within thirty days (30) from the date on which the person who wishes to appeal receives the order of the Board of Inquiry. The Supreme Court can confirm, reverse, or vary the decision and orders of the Board of Inquiry.

Deferral and Dismissal

If the Complainant has already started a grievance, court action, or other process that deals with the same issues contained in the complaint, it may be deferred or put "on hold" while awaiting the outcome of that other process. During the time of deferral, no further steps will be taken by the Commission on the complaint. The Commission may defer a complaint at your request or if it is otherwise appropriate under the *Human Rights Act*.

At any point during the investigation stage, a complaint or part of a complaint, may be dismissed if it is outside the jurisdiction of the *Human Rights Act, 2010*, if it is frivolous, trivial, vexatious or made in bad faith, or where the substance of the complaint has been dealt with in another proceeding. If this happens, a Complainant can seek judicial review of this decision in the Supreme Court, General Division.

Human Rights Complaint Process



Further information or assistance may be obtained by contacting:

Newfoundland and Labrador Human Rights Commission

P.O. Box 8700

St. John's, NL

A1B 4J6

Phone: (709) 729-2709

Fax: (709) 729-0790

Toll Free: 1-800-563-5808

E-mail: HumanRights@gov.nl.ca

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