

**Human Rights Commission  
Panel of Adjudicators**

**Annual Report**

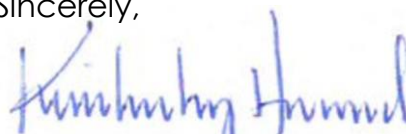
**2015-16**

## Message from the Chief Adjudicator

As Chief Adjudicator of the Human Rights Commission Panel of Adjudicators, I hereby submit the 2015-16 Annual Report of the Panel which details its activities from April 1, 2015 to March 31, 2016.

In keeping with the requirements of a Category 3 entity under the *Transparency and Accountability Act*, my signature below is on behalf of the Panel, which is accountable for the results reported.

Sincerely,



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Kimberley Horwood  
Chief Adjudicator

# Table of Contents

Message from the Chief Adjudicator ..... i

Introduction/Overview ..... 1

Vision ..... 1

Mandate ..... 1

Who We Serve ..... 2

Activities ..... 2

Financial Statements ..... 3

## **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. During the 2015-16 fiscal year, the following individuals served on the Panel of Adjudicators:

Kimberley Horwood, Chief Adjudicator  
Glenda Best, Q.C.  
Gladys Dunne  
Keri-Lynn Power  
Rob Ash  
Brodie Gallant

The Panel of Adjudicators does not have an office or any clerical staff. The clerical staff and recording equipment for hearings is provided by staff from the Human Rights Commission. Neither the Panel of Adjudicators nor the Human Rights Commission has hearing facilities, so panel hearings are held in various locations, including the facilities of the Labour Relations Board and facilities rented at hotels. Hearings are held generally in the region in which the complainant and respondent reside, although this is determined on a case-by-case basis.

## **Vision**

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

## **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. The adjudicator will determine if the complaint is justified, and either discuss the matter or grant a remedy under section 39 of the *Human Rights Act, 2010*. 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*.

## Who We Serve

The primary clients of an adjudicator are defined in Section 37(1) of the *Human Rights Act, 2010* as parties to a proceeding. They are:

- (a) the Commission, which shall have the carriage of the complaint;
- (b) the person named in the complaint and the complainant;
- (c) a person named in the complaint who is alleged to have been dealt with contrary to this Act;
- (d) a person named in the complaint who is alleged to have contravened this Act; and
- (e) a person specified by the board, upon notice, and after that person has been given an opportunity to be heard against his or her joinder as a party.

## Activities

### **Issue 1: Ensuring Complaints are Heard Without Undue Delay**

A number of factors come into play when 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 cannot 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;
- the availability of counsel, the parties and witnesses when applicable; and,
- the normal exigencies of a hearing process, including physical limitations of the Panel's resources.

For these reasons, 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.

In 2015-16, of the nine matters referred to a Board of Inquiry:

- two matters were heard and decisions rendered;
- one matter was settled;
- two matters are currently in settlement discussions; and,
- four matters are awaiting hearings.

The focus of the Panel of Adjudicators remains consistent over the next year. This objective and associated measure and indicators will be reported on again in 2016-17.

<b>Objective 1:</b>	By March 31, 2016, the Human Rights Commission Panel of Adjudicators will have heard complaints without undue delay.	
<b>Measure</b>		
Complaints heard without undue delay		
<b>Indicators</b>	<b>Actual Results</b>	
Number of matters referred to the Panel that are assigned to an adjudicator within two weeks of the receipt of the referral	<p>During the fiscal year, nine matters were referred to hearings. Of those nine matters:</p> <ul style="list-style-type: none"> <li>- in seven matters, they were assigned an adjudicator within two weeks of the referral; and</li> <li>- in two matters, competing work priorities resulted in these matters being assigned to an adjudicator within 30 days of the referral.</li> </ul>	
Number of referrals for which assigned dates were presented to all parties within one month of appointment of an adjudicator	<p>Of the nine matters referred to a Board of Inquiry in the fiscal year:</p> <ul style="list-style-type: none"> <li>- in two matters the dates offered by the adjudicator were offered to all parties within 30 days;</li> <li>- in three matters there were attempts to communicate these dates, but the complainant did not return contact from the Commission within the 30 day period;</li> <li>- in two matters the dates were not communicated within 30 days because the parties agreed instead to participate in mediation; and,</li> <li>- in two matters, competing work priorities resulted in dates being provided to all parties outside the 30-day timeframe.</li> </ul>	

## Financial Statements

The Panel of Adjudicators' budget is subsumed within that of the Human Rights Commission. Such financial information, as is available, is contained in the Human Rights Commission Annual Report. The Report does not break down the expenditures between the Commission and the Panel of Adjudicators.