

**Human Rights Commission  
Panel of Adjudicators**

**Annual Report**

**2018-19**

## Message from the Chief Adjudicator

As Chief Adjudicator of the Human Rights Commission Panel of Adjudicators, I hereby submit the 2018-19 Annual Report of the Panel which details its activities from April 1, 2018 to March 31, 2019.

In accordance with the **Transparency and Accountability Act**, my signature below is on behalf of the Panel, which is accountable for the results reported.

Sincerely,



Kimberley Horwood  
Chief Adjudicator

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## 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 2018-19 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; and
- Brodie Gallant.

## Activities

### 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 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, parties and witnesses, when applicable; together with the normal requirements of a hearing process including physical limitations of the panel's resources. 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.

<b>Objective 1:</b>	By March 31, each year, the Human Rights Commission Panel of Adjudicators will hear complaints 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	During the fiscal year, 10 matters were referred to hearings. Of the 10 matters, three were assigned to adjudicators during the fiscal year, while the remaining seven hearings were assigned once adjudicators were appointed/re-appointed.
	Number of referrals for which assigned dates were presented to all parties within one month of appointment of an adjudicator	For the three matters that were referred to a Board of Inquiry in the fiscal year, the dates offered by the adjudicator were offered to all parties within 30 days. For the seven other matters, dates were provided upon assignment of the adjudicator.

Unlike some other tribunals, the **Human Rights Act, 2010** does not permit adjudicators to continue beyond the expiry of their term. As a result, for several months in the 2018-2019 fiscal year, a number of matters could not be assigned pending the appointment/re-

appointment of adjudicators. However, any matters that were initiated prior to the expiry of the adjudicator's term continued to conclusion.

Of the three matters the Human Rights Commission referred for hearings, two hearings were commenced in the 2018-19 fiscal year. One hearing was concluded in February 2019, one is scheduled to be completed early in the 2019-2020 fiscal year, and the third will be commenced in the 2019-20 fiscal year. The time between the adjudicator being assigned and the hearing taking place varied between 8 to 11 months. As of March 31, 2019, decisions on the hearings were not yet rendered. The average time, since 2016, for a decision to be rendered by the adjudicator was 9 to 10 months. Data was taken from 2016 to 2019 given the small sample of decisions during the 2018-2019 fiscal year.

In respect to the objective of hearing matters without undue delay, it is noteworthy that the Human Rights Commission has developed and implemented alternate dispute resolution mechanisms, and more recently, the Human Rights Commission has developed new procedural models for hearings, which should facilitate matters moving through the process in the most efficient and appropriate way possible.

## **Financial Statements**

In 2018-19 the expenditure for the Human Rights Commission Panel of Adjudicators' was \$21,050.75. Those expenditures are captured within that of the Human Rights Commission. Such financial information, as is available, is contained in the Human Rights Commission Annual Report for 2018-19