



Human Rights Commission

Annual Report 2014-15

Message from the Chair

As Chairperson of the Human Rights Commission, I am pleased to present the 2014-15 Annual Activity Report of the Human Rights Commission. This report covers the period April 1, 2014 to March 31, 2015, and reports on the objectives, measures and indicators for the 2014-15 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.

A handwritten signature in blue ink, appearing to read "Remzi Cej".

Remzi Cej
Chairperson
Human Rights Commission

Table of Contents

Message from the Chair	i
Introduction.....	1
Vision.....	1
Mandate.....	2
Who We Serve	2
Highlights of Accomplishments and Activities	3
Report on Performance	12
Issue 1: Public Education and Awareness	12
Issue 2: Enhance Intake and Case Resolution Process	13
Opportunities and Challenges Ahead.....	14
Financial Statements	15

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*. The Lieutenant Governor-in-Council appoints commissioners, one of whom serves as Chairperson, and another who serves as Vice-Chairperson. At March 31, 2015, the Commission members were:

Remzi Cej (Chairperson)
Caroline Hackett Power
Jorge Villanueva
John Walsh
Darlene Didham
Paul Pike

The *Human Rights Act, 2010* (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.

A person who has reasonable grounds for believing that a person has contravened the Act may file a complaint with the Commission.

The Commission is located on the second floor of the Beothuck Building, 20 Crosbie Place, St. John’s, NL.

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.

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 also assists individuals, groups and organizations who are concerned with human rights, and provides advice to government concerning human rights.

Highlights of Accomplishments and Activities

New “Voluntary Resolution Path” Introduced

The Human Rights Commission has a statutory mandate to try to help the parties resolve their own complaint. The Commission dedicated resources to enhancing complaint resolution in 2014-15 in order to help parties resolve complaints in a more meaningful and efficient manner. The Commission is now offering this service based upon suitability of the case and resources.

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

The goal of the Voluntary Resolution Path is to find a resolution to the complaint acceptable to both the Complainant and the Respondent(s). Once the parties agree to attempt the Voluntary Resolution process, a Commission staff person will discuss ways to try to find a settlement of the dispute. The staff person will not advocate or represent either side of the dispute, but may make suggestions for a possible settlement and may offer information to both parties, such as general information about the types of awards that may be made in these cases.

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

Voluntary Resolution Path: Formal Mediation Session

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

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

Prior to the mediation, both parties will be asked by the mediator to prepare a very short summary of their side of the story and any ideas to resolve the complaint. This summary and anything said at the mediation are “without prejudice.” This means that should the complaint not resolve at mediation, the discussions between the parties are not recorded by the Commission for future use in the investigation stage.

Mediation gives the parties control over the resolution of the complaint.

It can be a quicker and more satisfying way to resolve the complaint.

Most mediations are conducted face-to-face, but this is not always necessary or appropriate.

The mediator's responsibility is to encourage an open discussion to take place and to help the parties resolve the matter at this early stage. The mediator does not advocate for one party over another, and does not make a decision as to whether the *Human Rights Act, 2010* has been violated.

Settlements can take many forms, such as an apology, compensation, an employer agreeing to an education session or the complaint being withdrawn by the complainant.

The Commission commits to holding a mediation of a complaint within **30-60** days of referral to formal mediation.

The Investigation Process

If the parties are not agreeable to mediation and/or the complaint is not resolved, the file will be assigned to a Human Rights Specialist who will investigate the complaint. The Investigator will not have had any previous involvement with the case.

The Human Rights Specialist involved in the investigation will not have had any involvement in the Voluntary Resolution process.

The Investigator will ask the parties to supply all documentation available, the names of potential witnesses, and signed statements. At this stage of the process, the Respondent(s), if he or she has not already done so, will also be asked 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.

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

The Commission will make every effort to conclude the investigation of the complaint as soon as possible from the assignment to an Investigator. 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 gathered relating to that complaint will be reviewed by the Human Rights Commission. Based on their review, the Commissioners may decide that the complaint should be dismissed (e.g. where the evidence gathered does not support the allegations of discrimination, or where there is insufficient

evidence supporting allegations of discrimination) or that the complaint should proceed to a hearing before a Board of Inquiry.

In cases where the complaint is referred to a Board of Inquiry, this means that the Commissioners believe there is sufficient evidence to warrant a Board of Inquiry.

A Complainant can seek judicial review in the Supreme Court, Trial Division if the Commissioners choose not to refer a complaint to the Board of Inquiry and dismiss the complaint instead.

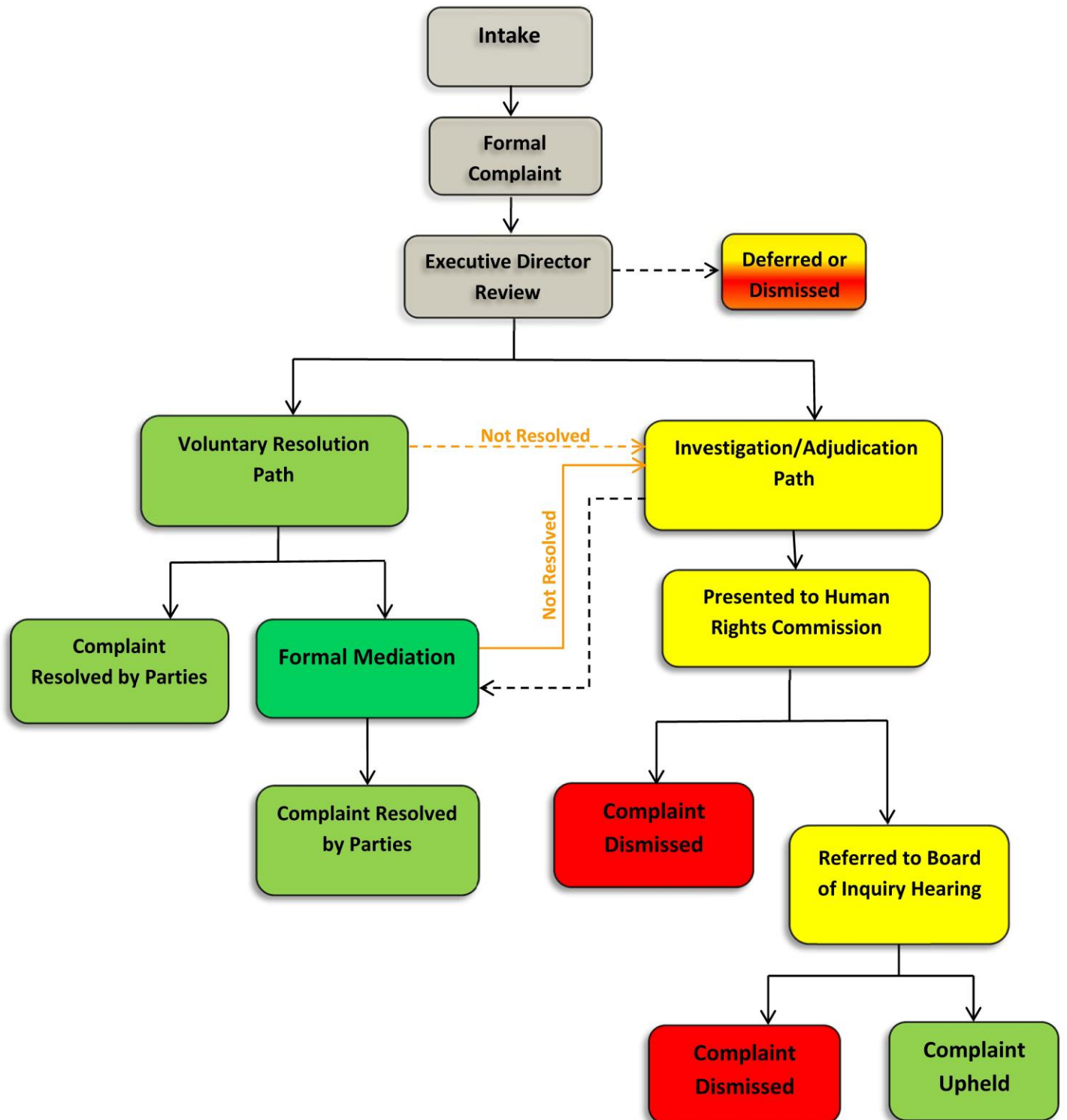
Board of Inquiry Hearing Process

Each complaint that reaches this stage is heard before an Adjudicator in a public hearing. The Complainant and Respondent(s) each have a chance to present their arguments. The Commission takes the lead in presenting the complaint, but all parties can choose to be represented by legal counsel or can choose to present their own evidence and make arguments to the Board of Inquiry on their own behalf. Commission legal counsel does not act as 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.

Very few matters proceed to an adjudication hearing. Most are resolved in some other way. Both 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, Trial Division, within 30 days 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.

Human Rights Complaint Process

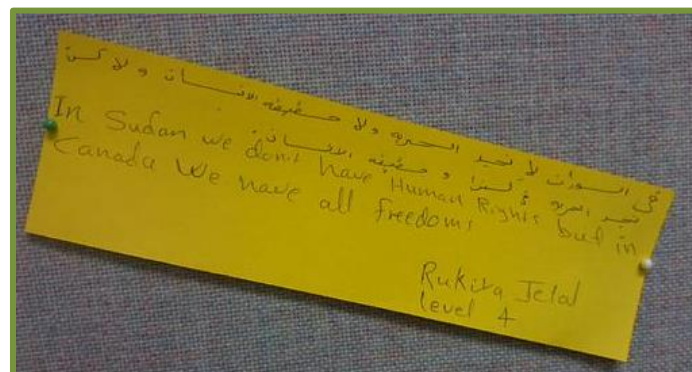
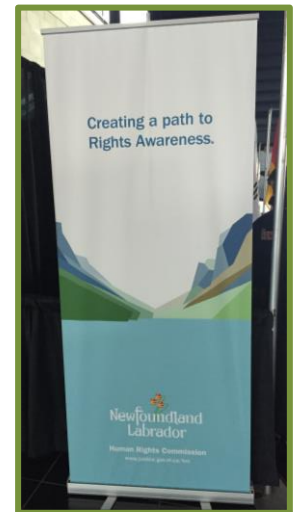


Public Education Efforts

The Commission is also mandated with promoting the Act to Newfoundlanders and Labradorians, as well as advising government on human rights matters.

The Commission has made it a priority to attend community events. For example, Commission staff and the Chair attended many community events including hosting a booth at the 2014-15 “Sharing our Cultures” event (a celebration marking the International Week of Anti-Discrimination) at the Rooms that involved the participation of over four hundred K-12 students.

The Commission is also a member of the Advisory Committee for the Sharing Our Cultures event, assisting in organizing the provincial event.

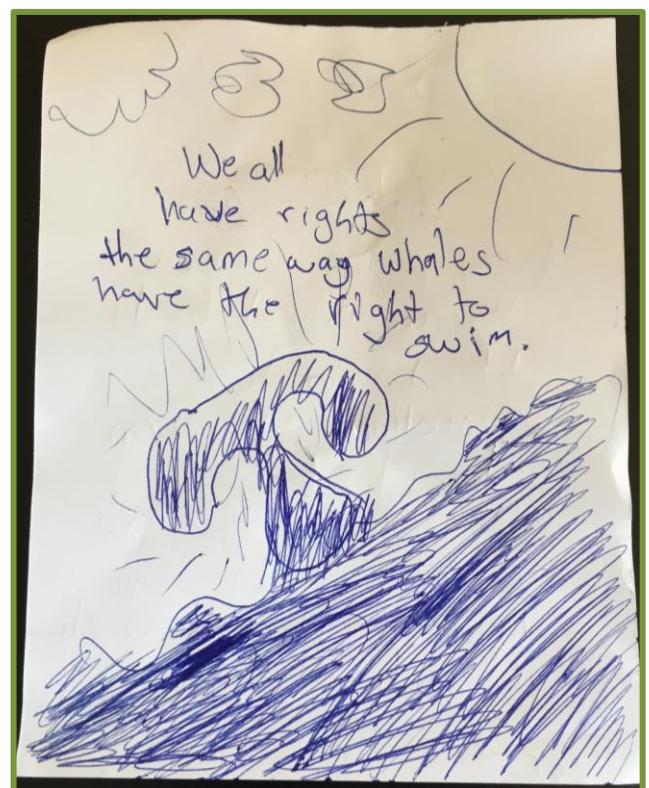
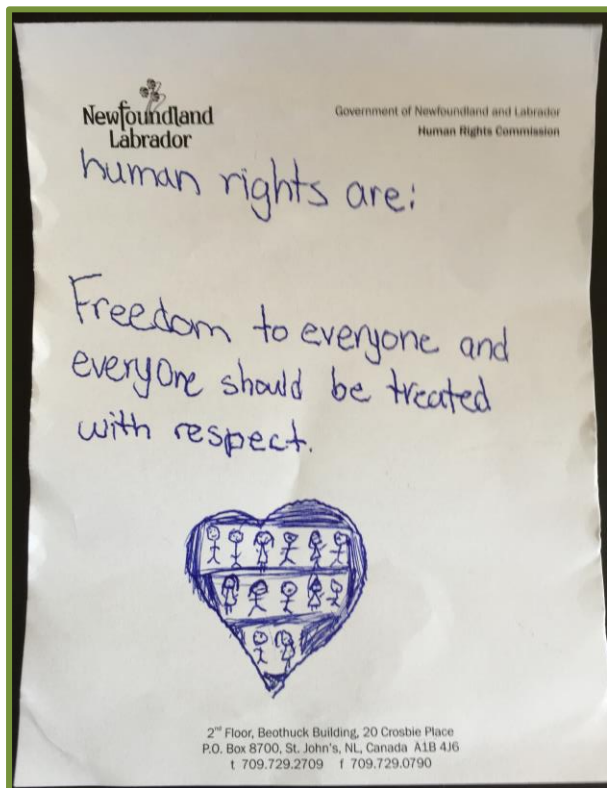


The Commission Chair and Executive Director also met with community leaders in 2014-15 in order to foster partnerships between organizations that have a common commitment to the protection of human rights in Newfoundland and Labrador. For example, the Commission met with the Provincial Advisory Council on Persons with Disabilities to discuss human rights complaints on prohibited grounds of disability and perceived disability.

Commission staff also presented at 31 educational seminars on the role of the Commission and the law of human rights, more generally. For International Human Rights Day in December 2014, Commission staff and the Chair spoke with students of the Association for New Canadians about the *Human Rights Act, 2010*.



Presenting at local primary schools was one of the most enjoyable activities for the Commission staff, who found the children to be quite interested in human rights issues. Presentations on human rights were held with students of Vanier Elementary, Rennie’s River Elementary and St. Bonaventure’s College. When asked to describe human rights or what they thought human rights were, children found creative ways to express their views:



Twitter

As part of the public education efforts, the Commission established a social media presence on Twitter. The @nlhumanrights Twitter account regularly tweets out links to the Commission's news releases, relevant news stories, articles, as well as tweets on human rights law in Newfoundland and Labrador and Canada.

Working Group on Human Rights

In 2014-15, the Commission Chair convened a Working Group on Human Rights in Newfoundland and Labrador. The Working Group members include representatives from the Women's Policy Office and the Disability Policy Office. Additional government entities working on various areas of human rights will be invited to join the Working Group in the future.

The objective of the group is to collaborate on intersectional human rights promotion and protection and to share information on ongoing initiatives. The group will serve as a Selection Committee for the inaugural Human Rights Award in 2015-16.

Statistical Overview

During the 2014-15 reporting period, the Human Rights Commission was staffed by an Executive Director, three Human Rights Specialists, one Lawyer, and one Administrative Officer.

A second Lawyer was hired in January 2015 and an Intake Worker is in the process of being hired.

During the fiscal year 2014-15, the Commission received 935 human rights inquiries from members of the public, compared to the 862 received during the previous fiscal year.

A significant amount of staff time is spent on public inquiries. A preliminary review of the matter is first done to ensure that the alleged complaint falls within the Commission's legislative mandate and meets the "reasonable grounds" threshold requirement as set out in section 25 of 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.

There were 64 official complaints which can be broken down by the following enumerated grounds:

Ground	#
Ethnic Origin	8
Social Origin	3
Religion	2
Age	3
Disability	22
Sex	13
Perceived Disability	8
Pregnancy	8
Total	67
(Note: some complaints included multiple grounds)	

Positive Settlement Reached

In an agreed public statement, it was stated that three Innu men attending a training session at a local hotel in July 2007 were made to feel unwelcome as Innu persons, and were instructed by the manager to vacate the premises. Commission staff investigated the incident and referred the matter to a Board of Inquiry. Ultimately the matter was resolved in November 2014 to the satisfaction of all parties involved, without the necessity of a hearing before a Board of Inquiry. The terms of the settlement agreement stipulated compensation payable to the three complainants of the matter, in addition to a donation to assist the construction of a new playground in Sheshatshiu. The settlement agreed upon also included a letter of apology, and is aimed at ensuring ongoing goodwill and positive working relations between the parties.

Of importance to this complaint was the need to promote awareness of discrimination towards Innu persons, and to encourage positive experiences for the next generation of Innu persons free from discrimination in the community. To view the joint statement from the parties please refer to the Human Rights Commission of Newfoundland and Labrador's webpage, or follow the link: <http://www.justice.gov.nl.ca/hrc/news/pdf/JointStatement-Nov26.pdf>

Recent Court Decision Released

In February 2015, the Supreme Court of Newfoundland and Labrador released a decision in the complaint of *Dichmont v. Newfoundland and Labrador (Government Services and Lands)* 2015 NLTD(G) 14. In this case, the Complainant brought an application for judicial review over the Commission's decision to dismiss her complaint. The Application was successful because of the Commission's failure to provide sufficient reasons for the dismissal. Mr. Justice Faour ordered the case to a Board of Inquiry.

To access the full decision see: <http://canlii.ca/t/gg7jm>

As a result of the Court's decision in *Dichmont*, the Commission has started to provide better and more fulsome reasons to Complainants if their complaint is dismissed. See: *Dichmont v. Newfoundland and Labrador (Government Services and Lands)* para 73.

Early Resolution of Complaints

During 2014-2015, the Commission made every effort to assist individuals in settling their complaints, including through the introduction of the Voluntary Resolution Path in early 2015. The following is a sample of the various types of complaints brought before the Commission which were settled informally, or through voluntary resolution and mediation services within the same fiscal year as when the complaint was filed.

Sex, Age, and Disability/ Employment:

The Complainant alleged she was terminated from her position on the basis of her disability. The Complainant also alleged differential treatment, based on age and sex, resulting in her termination. The Respondent employer maintained that they did not discriminate against the Complainant, and that her termination was not related to her sex, age, or disability; but, rather, was a result of corporate restructuring. Mediation services were offered to the parties, and Commission staff assisted the parties in reaching a satisfactory resolution to the matter.

Disability / Employment:

The Complainant alleged that he was discriminated against because of his disability. The Complainant contended that his employer failed to accommodate his medically-advised reduced work schedule, and terminated his employment as a result. The Respondent denied the allegation pertaining to discriminatory practices. The Respondent further maintained that the Complainant was terminated from the demanding position because of unsatisfactory work performance and insufficient manpower to accommodate the Complainant. The Commission staff assisted the parties in reaching a prompt resolution to the matter via mediation services.

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 the Commission 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.

Additionally, as part of its efforts to promote awareness, the Human Rights Commission will establish a Human Rights Award to acknowledge and recognize the efforts of individuals or groups promoting, protecting, or otherwise furthering human rights efforts in the province.

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 1.1:	By March 31, 2015 the Human Rights Commission will have assessed current public education and awareness activities.	
Measure	Current public education and awareness initiatives assessed	
Indicators	Actual Results	
Current education materials reviewed and updated	The Commission has reviewed current educational materials on its website and has started to update materials as needed.	
Gaps in information identified	The Commission has identified significant gaps in the educational material provided on the website and will continue to update and add new materials on a regular basis.	
New informational materials developed	The Commission has drafted the following new guidelines: Sexual Harassment in the Workplace; Age-Based Discrimination and the Use of Service Animals. They will be added to the	

	<p>website.</p> <p>As well, the Commission now has a presence on twitter. @NLhumanrights was launched in October 2014. The account has 142 followers.</p>
Cross jurisdictional scan of Human Rights Awards completed	A cross-jurisdictional scan of Human Rights Awards was completed in the summer of 2014.
Options for Human Rights Award in NL assessed based on information from the cross jurisdictional scan	Possible options for a Newfoundland and Labrador specific Human Rights Award were assessed and the Working Group on Human Rights was asked to serve as an Advisory and Selection Committee that will meet to determine a rollout plan for the Award. The inaugural date of the Human Rights Award is December 10, 2015, which is International Human Rights Day.

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	
Development of new informational materials continued	
Human Rights Award process implemented	
Number of presentations delivered increased	
Workshops on human rights related matters developed	

Issue 2: Enhance Intake and Case Resolution Process

During the last planning cycle, the Commission started work on enhancing information management practices. During that process, some limitations of the current database technology were identified. During this planning cycle, the Commission will continue to review the current database technology for functionality and seek solutions to meet the data needs of the Commission.

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 2.1:	By March 31, 2015 the Human Rights Commission will have reviewed current practices to identify inefficiencies.
Measure	Current practices reviewed to identify inefficiencies
Indicators	Actual Results
Intake worker hired	The Commission is in the process of hiring an Intake Worker. Some of the steps in this process took longer than originally anticipated.
Current database functionality reviewed	The Commission has worked closely with OCIO over the past fiscal year to review its current database functionality. The Commission and OCIO will continue to work together to find workable solutions to the data needs of the Commission.
Cross jurisdictional scan of intake and case resolution processes completed	The Commission completed a cross jurisdictional scan of intake and case resolution processes. It has introduced a new Voluntary Resolution Path. This new approach to complaint files was designed to achieve internal efficiencies in the cases resolution process.

Objective 2.2:	By March 31, 2016 the Human Rights Commission will have addressed identified inefficiencies.
Measure	
Identified inefficiencies addressed	
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	

Opportunities and Challenges Ahead

The Human Rights Commission sees opportunities to streamline and enhance its operations over the next year. In Budget 2014, the Government of Newfoundland and Labrador committed funding for two additional positions at the Human Rights Commission: a Lawyer and an Intake Worker. These positions will help to create efficiencies at the Commission. The Lawyer was hired in January 2015 and the Intake Worker is almost ready to start work.

The Commission is confident that the Voluntary Resolution Path approach to complaint files will lead to successful outcomes. Early in the rollout stage, both the Complainants and the Respondents have shown interest in the process. An evaluation form which is given to both parties after mediation is completed will provide the Commission with guidance on modifications that could be

made to the process. Voluntary Resolution can prove successful as the parties play a role in setting the process and deciding the outcome. It is also inexpensive and complaints can be resolved quickly so that both parties are happy with the result. Other Human Rights Commissions from across Canada have reported positive results with similarly designed processes.

The Commission will continue to take a client-centered approach in assessing its operations and will strive for continuous enhancement.

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 2015*. 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		554,701	557,300	689,800
Operating Accounts:	<i>Employee Benefits</i>	8,870	6,400	6,400
	<i>Transportation and Communications</i>	15,484	20,100	20,100
	<i>Supplies</i>	11,425	11,500	11,500
	<i>Professional Services</i>	15,409	40,000	40,000
	<i>Purchased Services</i>	78,333	91,800	91,800
	<i>Property, Furnishings and Equipment</i>	1,914	-	-
02. Operating Accounts		131,435	169,800	169,800
Total: Human Rights		686,136	727,100	859,600

Further information or assistance may be obtained by contacting:

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