



Canadian  
human rights  
commission

Commission  
canadienne des  
droits de la personne

# **COMPLAINT FREQUENTLY ASKED QUESTIONS**

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If you cannot find the answer to your question, please [email us](#) or call us toll-free at 1-888-214-1090 or TTY at 1-800-465-7735.

## **1. General Information about the Canadian Human Rights Commission**

### **What is the Canadian Human Rights Commission?**

The Commission is independent from the federal government and has the authority to conduct research, raise awareness and speak out on any matter related to human rights in Canada.

The Commission is also responsible for administering the Canadian Human Rights Act. This law protects people in Canada from discrimination by a federally regulated employer or service provider when based on one or more of the following grounds:

- Race
- National or ethnic origin
- Colour
- Religion
- Age
- Sex
- Sexual orientation
- Gender identity or expression
- Marital status
- Family status
- Disability
- Genetic characteristics
- A conviction for which a pardon has been granted or a record suspended

To find out how to file a complaint if you have experienced discrimination related to one of these grounds, please go to [the Commission's website](#).

### **What is the role of the Canadian Human Rights Commission?**

Under the Canadian Human Rights Act (the Act), the Commission is responsible for screening discrimination complaints against federally regulated employers and service providers. Individuals or groups of individuals who believe they have experienced discrimination or harassment as defined in the Act may submit a complaint to the Commission.

The Commission also has research, educational and policy roles.

## **Who are the Commissioners?**

Commissioners are responsible for making decisions on human rights complaints. The Governor in Council is responsible for appointing all of our Commissioners. You can find more information about the current Commissioners on our [website](#).

## **What is the difference between the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act?**

Both the Canadian Charter of Rights and Freedoms (the Charter) and the Canadian Human Rights Act (the Act) are laws that deal with rights and/or freedoms in Canada.

The Charter only applies to government actions, such as laws and policies. It also covers a larger range of issues than the Act. The Charter is **not** within the Commission's jurisdiction. This means that the Commission does not have the legal authority to enforce the Charter. You must apply to the courts to have a Charter case heard.

The Act only deals with the right to be free from discrimination in employment or when receiving a service from a federally regulated organization. The Commission is responsible for assessing discrimination complaints and deciding whether the Canadian Human Rights Tribunal should do a full inquiry.

## **What does “federally regulated” mean?**

Federally regulated means the employer, employee organization, or service provider is under federal jurisdiction (the government of Canada) instead of provincial.

An organization that has “Canada” or “Canadian” in the title is not necessarily federally regulated. Most employers and service providers are under provincial or territorial jurisdiction, even though they may have stores across the country. For example, fast food chains and hardware stores are provincially regulated, so complaints of discrimination against them would be made to the provincial human rights body where the discrimination happened, not to the Canadian Human Rights Commission.

## **Where can I find legal decisions on cases like mine?**

The Commission's complaints process is confidential. However, the Commission can refer discrimination complaints to the Canadian Human Rights Tribunal (Tribunal). When this happens, they become public. Most Tribunal decisions name the person making the complaint and the organization or individual that the complaint is filed against. The Tribunal posts all of its decisions on its website. You can search them on [the Tribunal's website](#). You can also search [CanLII](#) for decisions on human rights cases from the Tribunal, the federal courts and provincial human rights bodies.

## **What role does the Commission have in international human rights issues?**

The Commission has a limited role at the international level. It generally focuses on providing submissions to United Nations bodies. These submissions focus on the

Government of Canada's performance in meeting its human rights obligations under various international declarations, covenants and conventions.

**How do I find work with the Commission?**

The Commission posts opportunities for employment on the [Government of Canada job search webpage](#).

## 2. The Complaints Process: before a Formal Complaint is filed

### What is discrimination under the Canadian Human Rights Act?

Discrimination is treating someone unfairly by imposing a burden or disadvantage on them or by denying them a privilege, a benefit or an opportunity for reasons related to one or more of their personal characteristics that are protected from discrimination by the Canadian Human Rights Act (Act).

The kinds of treatment that the Act says are unfair or create disadvantages are called “discriminatory practices”. The treatment only becomes a discriminatory practice when the unfairness or disadvantage is linked to one or more of the prohibited grounds of discrimination.

The Act applies to federally regulated employers and service providers (ex. cell phone companies, banks, airlines).

Discrimination can affect one individual. It can also affect many individuals that share the same protected characteristics.

Discrimination can happen even when there is no intent to discriminate. For a complaint to succeed, discrimination only needs to be part of what happened.

Discrimination is often subtle, and may be the result of biases that individuals may not even be aware they have. Biases, preferences and stereotypes related to prohibited grounds of discrimination can influence decisions, including the development and implementation of policies, practices and standards that adversely impact individuals or a group of individuals.

### In what kinds of situations can I file a discrimination complaint?

Not all unfair situations are valid discrimination complaints under the Canadian Human Rights Act (the Act). A complaint must allege a **discriminatory practice** by a federally regulated employer, employee organization or service provider and be related to a **prohibited ground of discrimination**. This requires you to describe the adverse (or unfair) treatment you have experienced and how that treatment is connected to a prohibited ground of discrimination under the Act.

The discriminatory practices that are covered under the Act mainly relate to employment and the provision of services and are listed in sections 5 to 14.1 of the Act. Some of these are listed below:

- Denying someone goods, services, facilities, or accommodation (section 5)
- Refusing to hire someone or treating them unfairly in the workplace (section 7)
- Following policies or practices that limit someone's employment opportunities (section 10)
- Paying men and women differently for work of equal value (section 11)
- Harassing someone for reasons related to a prohibited ground (section 14)
- Retaliating against someone for filing a complaint with the Commission (section 14.1)

The prohibited grounds of discrimination, or personal characteristics protected under section 3 of the Act are:

- race
- national or ethnic origin
- colour
- religion
- age
- sex
- sexual orientation
- gender identity or expression
- marital status
- family status
- genetic characteristics
- disability; or
- a conviction for which a pardon has been granted or a record suspended.

Here are some examples of acts that could be discriminatory (or discriminatory practices) if the unfairness is linked to one or more prohibited grounds of discrimination:

- You are denied goods, services, facilities, or accommodation by a federally regulated organization.
- You are provided with goods, services, facilities, or accommodation in a way that treats you differently and adversely.
- You are refused employment or you are fired from your job, or are being treated unfairly in the workplace.

- If the company or organization is following policies or practices that deprive people of employment opportunities.
- You are a woman that is being paid less than men when you are doing the same work.
- If you experience retaliation because you have filed a complaint with the Commission or because you have helped someone else file a complaint.
- If you are harassed at your workplace Harassment can be a form of discrimination. It includes comments or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning or unwelcome. Generally, harassment is a behaviour that persists or continues over time. However, serious, one-time incidents could also be considered harassment.

The Commission does not have authority to accept complaints of unfair treatment without a connection to a prohibited ground of discrimination and a discriminatory practice.

### **Whom can I file a complaint against?**

Complaints under the Canadian Human Rights Act (the Act) can only be made against federally regulated employers, employee organizations, and service providers. Sometimes harassment complaints can be made against an individual.

The Act only applies to federally regulated organizations, including:

- Federal government departments, Crown corporations and agencies,
- air transportation, including airlines, airports, aerodromes and aircraft operations
- banks, including authorized foreign banks
- grain elevators, feed and seed mills, feed warehouses and grain-seed cleaning plants
- First Nation governments (including certain community services on reserve)
- most federal Crown corporations, for example, Canada Post Corporation
- port services, marine shipping, ferries, tunnels, canals, bridges and pipelines (oil and gas) that cross international or provincial borders
- radio and television broadcasting
- railways that cross provincial or international borders and some short-line railways
- road transportation services, including trucks and buses, that cross provincial or international borders
- telecommunications, such as, telephone, Internet, telegraph and cable systems
- uranium mining and processing and atomic energy
- any business that is “vital, essential or integral to the operation” of one of the above activities



If you are not sure if the organization you want to complain about is federally regulated, please use our [online Complaint Form](#). You can also [contact the Commission](#) to get more information.

### **What kind of situations is the Commission not able to deal with?**

The Commission cannot deal with:

- Complaints related to the Canadian Charter of Rights and Freedoms
- Court decisions
- Decisions made by other administrative bodies
- Decisions made by the provinces
- Decisions made by provincial or territorial human rights agencies
- Complaints related to issues that are criminal in nature
- Discrimination by provincially regulated bodies

### **What is harassment under the Canadian Human Rights Act?**

Harassment is a form of discrimination. It includes any unwanted physical or verbal behaviour that offends or humiliates. Generally, harassment is a behaviour that persists or continues over time. However, serious, one-time incidents may also be considered harassment. Under the Canadian Human Rights Act (the Act), a complaint of harassment can only be successful if it is related to one or more prohibited grounds of discrimination.

Harassment is the kind of behaviour that demeans, humiliates, insults, intimidates or embarrasses someone based on one or more grounds of discrimination. Harassment can involve actions (e.g. touching, pushing), inappropriate comments, jokes, insults, name-calling, or displays (e.g. posters, cartoons). Harassment may come in the form of "good-natured" teasing or jokes but make a person feel embarrassed, hurt or angry.

Things like performance appraisals will not usually be considered harassment. One rude comment may not be harassment. The Commission does not have the mandate to accept complaints of bullying, psychological harassment or abuse of power unless they are linked to a prohibited ground of discrimination. The Commission does not have the mandate to accept complaints that an individual or organization caused a disability.

If you have a harassment complaint, it is very important to tell the Commission exactly what happened and how often. Provide as much detail as possible. For example, instead of just saying that you were called racist or sexist names, tell the Commission exactly what words were used, how often they were used and any other details you can remember from each incident.

## **What should I do if my situation is not included in the examples of discrimination?**

When you fill out your Complaint Form, write about what happened to you and explain why you believe what happened is connected to one or more of your protected characteristics. Providing examples and details are very helpful. For example, “I was not given training and other people were. I am the only one in my office who is Muslim.”

## **When can the Commission accept a complaint against an individual person?**

The Commission can accept complaints against an individual for allegations related to harassment, as defined in section 14 of the Canadian Human Rights Act. In limited circumstances, the Commission can also accept retaliation complaints against an individual that you have previously filed a harassment complaint against.

## **Who can file a complaint?**

Under the Canadian Human Rights Act (the Act) individuals and groups of individuals can file a complaint. Complaints can also be filed on behalf of these individuals by someone other than a victim of the alleged discrimination, but the Commission may require proof of the victims consent to file the complaint. The Commission cannot accept complaints from corporations or businesses.

Anyone who is legally present in Canada can file a complaint about events that happened in Canada that they reasonably believe amount to discrimination. Legally present in Canada includes Canadian citizens, permanent residents, people in Canada on a visa, and individuals lawfully detained by Canadian authorities.

You can ask a friend or family member or hire a lawyer to help you file your complaint. You do not need a lawyer to file a complaint.

If the event you want to complain about happened outside Canada, you can file your complaint as long as you were a Canadian citizen or a permanent resident of Canada at the time of the event and the employer, employee organization, service provider or individual harasser that the complaint is against is regulated by the government of Canada.

## **Can I file a complaint if I am outside of Canada?**

Yes, but you must meet the criteria. Either,

- the alleged discrimination occurred in Canada and you were legally allowed to be in Canada at that time, or
- the alleged discrimination occurred outside Canada and you were a Canadian citizen or permanent resident at that time.

### **Can I file a complaint for another person?**

Yes, you can file a complaint on behalf of another person. The other person must give you permission to file a complaint, or you must have a power of attorney to act on their behalf. You will need to provide proof of the consent; either the other person's written agreement, or the power of attorney document, in order for the Commission to accept the complaint. In the event that the person cannot provide their written consent, you may speak with someone at the Commission to discuss the situation.

### **Can a person under 18 file a complaint without their parent's consent?**

No. You have to be at least 18 years of age in order to submit a complaint on your own behalf. However, a parent or legal guardian can file a complaint on behalf of a child.

### **Can I file a complaint for someone who has died?**

No. However, if the person dies after the Commission accepted their complaint, the individual who is representing the estate may [contact the Commission](#) about the existing complaint.

### **Can I file a complaint for someone who is in prison?**

Yes. You may file a complaint on behalf of a person who is in prison with their written consent. When filing for someone else, you must be able to provide the person's written agreement or have a power of attorney.

### **Can I file a complaint for a group?**

Yes. You may need to provide written consent of the persons named in the complaint. If you are the group's formal representative, you will need to provide information about the basis for your authority to act as the group's representative and the scope of your mandate (e.g., authority to request information, to resolve the dispute, to file a complaint, etc.).

If you are not the group's formal representative, the Commission may require written consent from everyone in the group saying that you can represent them.

### **How long do I have to submit a complaint?**

You should file your complaint within **one year** of the last act of discrimination you want complain about. The Commission may not accept your complaint if it is filed after the 1 year deadline. If your complaint is late, you will need to explain why you believe the Commission should still accept your complaint. For example: a prolonged illness that prevented the individual from making their complaint by the deadline.

### **Will complaint information be made public?**

No. The information will not be made public at any point during the Commission's process. However, the information will become public if the Commission sends the complaint to the Canadian Human Rights Tribunal, or if the Commission decision is sent to a judge for review.

**Are complaints confidential?**

Yes. All complaints are confidential. This means that your information and complaint will not be public, unless it is referred to the Canadian Human Rights Tribunal or the Federal Court.

Your information will be shared with anyone who is involved in the complaint during the Commission process, for example the organization or person that you are complaining about, or Commission employees and members working on the complaint.

**Do I need a lawyer to participate in the complaints process?**

No. You do not need to hire a lawyer to participate in the complaints process. There is no cost to you to file a complaint. Whether or not you have a lawyer makes no difference to how the Commission handles your complaint.

**Does the Commission provide a lawyer or legal advice?**

No. Commission lawyers represent the Commission. The Commission members and staff, including lawyers, are not able to give you legal advice.

**Who will pay for my lawyer?**

If you decide to hire a lawyer, you are responsible for paying them.

**Can the Commission represent or defend me?**

No.

**Can I contact the Chief Commissioner of the Canadian Human Rights Commission directly to submit a complaint?**

No. As decision-makers in the complaints process, the Chief Commissioner and other Commissioners must remain neutral. For this reason, they cannot communicate with parties to a complaint.

**What happens if I want to submit a complaint anonymously or do not want to participate in the process?**

The Commission cannot accept anonymous complaints. If you do not participate, the Commission is unable to process your complaint.

**Can my employer retaliate against me if I file a complaint?**

No. It is illegal for the employer, employee organization, service provider or individual, or any person acting on their behalf, to retaliate against the person making the complaint, their representative or a witness. This includes losing your job. It is also discriminatory for them to threaten retaliation against the person making the complaint or their representative.

Under the Canadian Human Rights Act retaliation can only happen after the employer, employee organization, service provider or individual that the complaint is against has received your complaint from the Commission. Retaliation can include any negative

treatment that the individual making the complaint reasonably believes is related to the fact they filed a complaint against it and is meant to punish them in some way. For example, if your employer reduces your hours or fires you after it was notified that you filed a complaint. Retaliation can also be more subtle, like assigning you less interesting work, or denying you leave.

If you believe that you were retaliated against, you need to file another complaint. Please use our [online Complaint Form](#).

### **Can I lose my job for complaining?**

No. Please refer to the previous question.

### **What kind of evidence do I need to support my complaint?**

Evidence can be information or witnesses that support your version of events. Documentary evidence might include things like emails, text messages, letters, contracts (e.g. employment contract), internal complaints, policies, etc.

If possible, witnesses should be able to independently confirm your version of events. For example, a co-worker that was present during alleged harassment.

It is important to limit your evidence only to those documents that are relevant to your complaint and to explain the importance of each piece of evidence you list.

### **If I have filed a grievance or a complaint with another process about the situation, do I also need to submit a complaint to the Commission?**

It is important to contact the Commission as soon as you believe that you have a human rights complaint **whether or not you are using another process**. Using our [online Complaint Form](#) can help you determine your best next steps.

### **Can I choose to use the Commission's process instead of another process?**

If you have access to another process, you should try to deal with your complaint through that process. If you refuse to participate in a process that is reasonably available to you, the Commission can decide not to deal with your complaint. When you fill out your Complaint Form, you must explain why you do not want to use the other process that is available to you. The Commission will usually require you to exhaust the other process available to you before you can return to the Commission.

## **Can I use both the Commission process and another process at the same time?**

It depends. Normally, the Commission will require individuals filing a complaint to exhaust other processes that are available that could deal with the human rights issues raised in their complaint. However, in rare cases, the Commission may decide to deal with the complaint even though the individual has already filed a complaint in another process that is not yet complete. These decisions are made on a case-by-case basis by the Commissioners based on the available information at the time they make their decision.

## **Will the Commission deal with my complaint if I ask to cancel my grievance process?**

[Section 42\(2\)](#) of the Canadian Human Rights Act allows the Commission to refuse to deal with a complaint, by declaring it ineligible if the Complainant is the only party responsible for the situation that led to not using the grievance process.

## **Once I have submitted my complaint, can I make changes to it?**

You are responsible for making sure that your Complaint Form is as complete as possible, before you submit it.

In exceptional circumstances, the person making the complaint may be allowed to amend their accepted complaint. Complaints may be amended to add new allegations only in situations where the facts of the new allegations are related to the original complaint and were not known, or could not reasonably have been known to the person making the complaint when they filed their original complaint. If this describes your situation, [contact us](#) as soon as possible.

## **How do I file a complaint?**

The best way to file your complaint is to use our [online Complaint Form](#).

You can also file a complaint with us by:

- emailing the .pdf form
- faxing the completed form to us at: 613-996-9661
- sending the .pdf or word form by courier or regular mail to the following address:

Canadian Human Rights Commission  
344 Slater Street, 8th Floor  
Ottawa, Ontario K1A 1E1

If you need to request a Complaint Form in an alternate format please [email us](#).

## **Why should I use the online Complaint Form?**

Using our [online Complaint Form](#) will save you time and may help us get to your complaint faster.

## **How do I get to the online Complaint Form?**

[Go to the online Complaint Form.](#)

## **What is the difference between the Wizard and the online Complaint Form?**

The “[Wizard](#)” is strictly a tool to help you determine if you are in the right place to file your complaint.

The initial questions in the Wizard may look the same as the online Complaint Form, and your responses will be automatically uploaded to the online form to make things faster for you. However, if your complaint needs to be handled by another human rights organization (provincial or territorial) or by another agency, the Wizard will let you know so that you don't waste time filling out the entire Complaint Form.

If your case does appear to be something that the Commission would accept as a complaint, you will be prompted to continue to the Complaint Form. Before submitting your completed Complaint Form, you will be asked if you agree to some questions that will allow the Commission to process your complaint. At any time before giving your consent and submitting your complaint, you can change your mind and leave the Complaint Form. None of the information you have entered will be kept. This is to protect your security and privacy.

### **3. The Complaints Process: Filling out a Complaint Form**

#### **Who [What] is a Complainant?**

In the Commission's complaints process, the Complainant is the person making the complaint.

#### **Who [What] is a Respondent?**

In the Commission's complaints process, the Respondent is the employer, employee organization, service provider or individual harasser that the complaint is against.

#### **Why can't I save my online Complaint Form and complete it later?**

We cannot save any of your private information until we have your consent.

#### **What do you mean by "ground of discrimination"?**

The Canadian Human Rights Act (the Act) has a list of "grounds of discrimination." These are personal characteristics. The Act says you can't be treated unfairly because of them. The grounds of discrimination are:

- your race
- your national or ethnic origin
- your colour
- your religion
- your age
- your sex
- your sexual orientation
- your gender identity or expression
- your marital status
- your family status
- your genetic characteristics
- your disability; or
- a conviction for which a pardon has been granted or a record suspended.

For the Commission to accept a complaint, you must show that you have a reasonable basis for believing that there is a connection between the unfair, negative treatment you want to complain about and one or more of these grounds of discrimination.

#### **What do you mean when you ask if I have any individual needs that require accommodation? What is the Duty to Accommodate?**

We are asking if there is any reason related to one or more grounds of discrimination that might limit your ability to participate in the complaints process unless the Commission makes adjustments to its process to meet your needs. For example, if you have limited vision, the Commission can make all its documents a font size you can read. The Commission may ask for documentation to support your need for accommodation and to understand how best to accommodate you.



Refer to our [Accommodation Policy](#) if you need more information about accommodation in the complaints process.

**What happens if the incident occurred in many places? Which location should I indicate on the Complaint Form?**

You will have to indicate a main location. Then later, when you give the details of your complaint, you can list all of the places where you believe the discrimination happened.

**What should I do if I don't remember the exact date of the incident?**

Include the month and year, and an approximate date.

**What does the Commission mean by "ongoing"?**

Discrimination may be "ongoing" if it is related to a policy or practice that is always in place. It may also be "ongoing" if it appears that the issue affects a group of people sharing similar protected personal characteristics.

**What date should I use if the incident(s) are ongoing?**

Please use the date of the most recent incident.

**I have moved recently. Do I use my address at the time of the discrimination or my new address?**

In the section of the form called "Your contact information," you should use an email address you can share with the Commission and the Respondent for processing your complaint. If you do not wish to share your email address, you may want to set up an email to use specifically for your complaint.

The location address is where the alleged discrimination occurred.

**Can I attach documents to prove my story?**

No. A complete Complaint Form is all we need to start. Keep all documents that relate to your complaint. We may request them later in the process.

**Does the Canadian Human Rights Act protect witnesses?**

Yes. It is illegal for a Respondent, or any person acting on their behalf, to retaliate against a witness.

**How long can my complaint be?**

The online Complaint Form gives you 10,000 characters to explain what happened to you and why you believe it is discrimination. This is your "narrative".

If you use a paper version of the Complaint Form, your narrative can be up to three (3) pages, single-sided, using letter size paper. Use no less than size 12 font and regular borders. If you hand write your complaint, please use a dark pen and your best handwriting or printing.

### **What is an alternate contact?**

The alternate contact is someone who we will contact only if we can't reach you for an extended period of time. For example, an alternate contact could be your parent, spouse or friend. We will not discuss your complaint with the alternate contact.

### **What is a representative?**

A representative is someone who will represent your interests and that you give the Commission permission to speak to about your complaint. This person may be a union representative, a lawyer, a friend or a family member.

### **Will you contact my lawyer?**

We will only contact your lawyer if you indicated it as your preference in your Complaint Form. However, a lawyer is not required to participate in the Commission's complaints process. If you choose to hire a lawyer, their fees are your responsibility.

### **Will you contact my Union?**

We only contact your union representative if your complaint is against your employer and you indicated it as your preference in your Complaint Form. If your complaint is against your employer and you work for Air Canada or Canada Post Corporation, the Commission will send a copy of the referral letter to your union leadership.

### **Why do you need my union information?**

It is helpful to have the contact information of your local union representative to request the status of any related grievances or other alternate redress processes you may have available to you.

### **If my complaint is against my union, does that affect the information I give you?**

If your complaint is about your union, the union is the Respondent. This means we do not need your local union information because we will notify the President of the union if your complaint is accepted.

### **Why do I have to file a grievance?**

It is important to try to resolve disputes locally, at the lowest possible level, in as efficient a manner as possible. Your grievance process may be able to address the human rights issues you want to raise with the Commission.

The Canadian Human Rights Act allows the Commission to require that Complainants use other complaint or grievance processes to deal with their complaints. The Supreme Court of Canada has also said that grievance arbitrators have the power and responsibility to apply and enforce the rights and responsibilities that flow from the Canadian Human Rights Act.

**My union is not helping me or is not responding to me when I ask for support to file a grievance. What can I do?**

You may wish to contact the representatives at the next level up to see if they can get the local working for you. This is usually the Regional representative followed by the National representative.

If you are a still do not receive help after escalating, you can file a ‘duty of fair representation’ complaint with the [Canada Industrial Relations Board](#).

You may raise these concerns with the Commission as this information may help us in processing your complaint. Be sure to save your emails, and to record the dates, who you spoke to, and what you talked about if you use phone to communicate with the union.

In some situations, you may be able to file a grievance without your union’s support.

**The Commission says it wants to use my information for research. What kind of research do you do?**

We will use your information for statistical analysis. We use the information to help us know the number of complaints we receive on various issues. The Commission also collects disaggregated demographic data from users of our complaints services. The purpose of this research is to better understand who is using our complaints process. We want to ensure we are serving everyone in our diverse group of clients fairly. We also develop policies and guides, and prepare reports and other statistical information for the public. We do this for educational and awareness raising purposes. In all cases, we do not use any information that identifies you specifically.

**Can I still file a complaint if I do not agree for you to use my information for research?**

Yes.

**Will the Commission share my personal contact information with the Respondent?**

Yes. In most cases, we will share your email address with the Respondent. We do this so that they can share information with you when they respond to your complaint.

**Will you keep my information in a database?**

Yes. The Commission will store your personal complaint information in a Personal Information Bank until it sends it to the Library and Archives Canada or destroys it.

If you want to access your personal information, you may ask to see it under the [Privacy Act](#).

## **4. The Complaints Process: After a Complaint is filed**

### **What happens once I have submitted my complaint using the online Complaint Form?**

The Commission will send you a confirmation email, telling you that we have received your Complaint Form. This does not mean your complaint is “accepted”.

Once we review the information in your Complaint Form, you will receive another email explaining your next steps. Depending on the volume of complaints, it may take several weeks before we get back to you.

### **How will I know if the Commission has received my complaint?**

After you submit your complaint online, the confirmation page will provide a reference number. Shortly after that, you will receive an email telling you that we have received your Complaint Form.

If you send us your complaint via [email](#), you will receive an automated email confirming that we have received your email.

When you submit your complaint by [mail or fax](#), and include your email address, you will receive an email telling you that we have received your Complaint Form. If you do not provide us with an email address, we will mail you a letter telling you that we have received your Complaint Form.

### **Will someone contact me after I submit my complaint?**

We aim to contact you within 20 days of when you filed your complaint. However, depending on the volume of complaints, it may take longer for us to contact you. Providing your email address in your [Complaint Form](#) can help speed up this process.

### **How long does the complaints process take?**

The length of the complaints process varies, depending on the specific circumstances of a complaint.

### **When will you contact the Respondent?**

The Commission will contact you and the Respondent at the same time when your complaint is accepted.

### **What do I do if the Respondent retaliates against me for filing my complaint?**

Under the Canadian Human Rights Act **retaliation can only happen after the Respondent has received your complaint** from the Commission. Retaliation can include any negative treatment against you by the Respondent because you filed a complaint. Losing your job after your employer is notified that you filed a complaint with the Commission could be retaliation if the decision was linked to your complaint.

If you believe that you were retaliated against, you need to file another complaint. Please use our [online Complaint Form](#).

### **How can I speed up the processing of my complaint?**

Providing all of the information we ask you for within the timeframe given is helpful. Providing your email address in your [Complaint Form](#) can also help speed up this process.

### **My grievance is taking a long time; can I reactivate my human rights complaint?**

If your grievance is taking an unreasonable amount of time (i.e. several years), you may contact the Commission about the possibility of reactivating your complaint on the basis that the grievance process is not reasonably available to you. This does not guarantee that the Commission will reactivate your complaint. Every situation is different and the Commission will assess your request individually.

In most cases you should exhaust the grievance process before returning to the Commission. You may wish to ask your union representative how long the grievance process could take. If your grievance process is taking a long time, you may let the Commission know how long you have been waiting to receive a final decision on your grievance(s).

### **What is the difference between mediation, an assessment and a hearing?**

Mediation is a voluntary, confidential and informal process led by a trained, impartial mediator. All parties must agree to mediation for it to happen. The goal of mediation is to try to reach a settlement agreement between the Complainant and the Respondent.

An assessment is a review of the information provided by the parties to determine the next steps for a complaint. Depending on the individual circumstances, an assessment could lead the Commission to decide:

- To dismiss the complaint. This usually happens if the complaint does not meet the requirements of the Canadian Human Rights Act.
- To deal with the complaint. This usually happens if there was a preliminary issue(s) and then the Commission decides to examine the allegations in the complaint.
- Not to deal with the complaint at this time. This usually happens if a person has access to another grievance or dispute resolution process.
- To refer the complaint to the Canadian Human Rights Tribunal. This usually happens when a complaint raises new legal issues or requires further examination.

A hearing is a public proceeding by the Canadian Human Rights Tribunal. The Tribunal is separate and independent from the Commission. This means that the Commission no longer has control of the complaint. During a hearing, the Respondent and the

Complainant present evidence, witnesses and arguments to a Tribunal member. The Tribunal member will decide whether the allegations of discrimination in the Complaint Form occurred and if so, what the appropriate solution (remedy) is.

### **When will my case go to a hearing?**

Not all complaints will go to a hearing at the Canadian Human Rights Tribunal (Tribunal). It depends on the individual circumstances of each complaint. The Commission will decide whether to refer a complaint to the Tribunal. It **may** be appropriate to send a complaint to the Tribunal, when:

- In all of the circumstances there is sufficient evidence to warrant further inquiry by the Tribunal
- How the law applies to the facts of the complaint is in dispute, or is unclear.
- There are other complaints against the Respondent that are before the Tribunal on essentially the same facts.
- Credibility is the central issue in the complaint.
- The complaint raises new legal issues that the Tribunal must decide on.
- Expert evidence is central to the outcome of the complaint.
- An assessment by Commission staff will not assist the Commission in making a decision.

### **Is there any short-term action the Commission can take to help me (e.g. financially, get me back to work in the meantime, etc.)?**

The Commission is a neutral party in the complaints process. The Commission does not have the ability or legal authority to provide financial assistance or order people back to work.

### **How will any follow-up on my complaint be handled?**

The Commission's complaint process is conducted primarily by email and telephone conversations with very limited exceptions.

### **Will I have to travel to Ottawa at any point during the complaints process?**

No. Most of the stages in the complaints process involve written correspondence exchanged through email and telephone conversations. If a complaint goes to mediation, it can take place virtually over Zoom or Microsoft Teams.

### **Will I have to face the Respondent? I don't want to be in the same room as them.**

If you agree to the mediation or are referred to conciliation you will not have to be in the same room as the Respondent (the person you are complaining about). Mediation and conciliations may also take place over Zoom or Microsoft Teams. Please ensure that the Commission is aware of any concerns you have about being in the same room as the Respondent.

**What happens if I move or my contact information changes after I submit my complaint?**

Notify the Commission as soon as possible if your contact information changes. You can do this by sending us an [email](#), or calling us toll-free at 1-888-214-1090 or TTY 1-800-465-7735. It is your obligation to ensure that the Commission has up-to-date contact information and that you regularly check your email, including your spam and junk mail folders for email correspondence from the Commission and other parties. If the Commission is unable to reach you, it may close your file.

## **5. The Complaints Process: The Response Form**

### **What is the complaint file number?**

The complaint file number is an 8-digit number that helps the Commission identify and track a complaint as it goes through our process.

You can find the complaint file number on the email or letter we sent notifying you of the complaint.

Save time! Always include the complaint file number when you contact the Commission.

### **How does the Commission calculate the 30-day deadline for submitting the Response Form?**

The Commission counts 30 days as 30 calendar days. This includes weekends and holidays.

Refer to [section 10 of the Commission's Complaint Rules](#) for more information.

### **What happens if the 30-day deadline falls on a weekend or holiday?**

If the 30-day deadline falls on a weekend or holiday, you have until the next business day to submit your Response Form.

### **Where can I find more information about deadlines in the complaints process?**

Refer to [section 10 of the Commission's Complaint Rules](#) for more information about deadlines in the complaints process.

### **Where do I find the Complainant's name?**

The Complainant's name is included in the Complaint Form. The email or letter we sent you notifying you of the complaint included a copy of the Complaint Form.

### **What name do I list in Part 2 of the Response Form?**

You should put the name of the company or organization that the complaint is against.

If the complaint is against one individual, you should put that person's name.

### **What name do I list in Part 3 of the Response Form?**

You should put the name of the individual who is completing the Response Form in Part 3. Usually this person will also be the main point of contact throughout the complaints process.

If you have a lawyer managing the complaint, put the lawyer's name.

If you have a working contact managing the complaint, put the working contact's name.

In all cases, please make sure that the individual has the authority to respond to the complaint on behalf of the Respondent.



### **Have my address, phone number and other contact information been shared with the Complainant?**

The Commission will share the email address you have authorized us to disclose to the Complainant or their representative for the purpose of processing the complaint.

### **What does it mean when it says that the individual named in Part 3 of the Response Form must have the “authority to file the Response on behalf of the Respondent”?**

This means that the person listed in Part 3 of the Response Form must have permission from the Respondent to represent them, make decisions for them, and to speak on their behalf.

### **What does “it is your responsibility to ensure that all contact information remains up to date” mean?**

This means that you must notify the Commission as soon as possible if your contact information changes. You can do this by sending us an [email](#), or calling us toll-free at 1-888-214-1090 or TTY 1-800-465-7735.

### **Who will my email address be shared with?**

The Commission will share the email address provided in Part 3 of the Response Form with the Complainant, the Complainant’s representative (if applicable), and Commission employees processing the complaint.

### **Will my email address be shared with anyone else?**

No.

### **What is section 41 of the Canadian Human Rights Act?**

[Section 41 of the Canadian Human Rights Act](#) (the Act) gives the Commission the option not to deal with a complaint in certain circumstances. Either the Commission or a Respondent can raise these “preliminary issues”.

The preliminary issues that may apply to a complaint include:

- Should the Commission deal with the complaint or is there another, more appropriate avenue to address the issues raised? For example a grievance process [section 41(1)(a)] or a process under another Act of Parliament [section 41(1)(b)].
- Is the complaint beyond the Commission’s jurisdiction (legal authority) [section 41(1)(c)]? For example, a Respondent that is provincially or territorially regulated. In cases like these, a Complainant would need to file their complaint with the appropriate provincial or territorial human rights agency instead.
- Is the complaint “trivial, frivolous, vexatious, or in bad faith”? [section 41(1)(d)]

- Was the complaint filed more than 1 year after the last alleged discriminatory incident and is “out of time”? Should the Commission exercise its discretion to deal with the complaint anyway? [section 41(1)(e)]

### **Where can I find more information about preliminary issues?**

[Refer to the Preliminary Issues Information Sheet](#) for more information.

### **What is covered in the 20-page limit in the Response Form?**

This limit includes all written information you share relating to both Part 4 and Part 6 of the Response Form. If you are submitting your Response Form electronically, all of your written information should be included in the body of the form.

If you are submitting your Response Form in a paper format, all of your written information for Part 4 and Part 6 can be no more than 20 pages total. For example, if you use seven pages to answer Part 4, your information for Part 6 can be up to 13 pages.

In both cases, supporting documents **do not** count as part of the 20-page limit.

### **What if I need more than 20 pages to complete Part 4 and Part 6 of the Response Form?**

You can request permission to provide more pages by sending us an [email](#), or calling us toll-free at 1-888-214-1090 or TTY 1-800-465-7735 **BEFORE** the due date.

If you send an email, you must clearly explain why you need more than 20 pages to respond. General statements that a complaint is “complex” are not sufficient.

Also, include “Page Limit” and the complaint file number in the subject line of the email.

### **What happens if I submit more than 20 pages for Part 4 and Part 6 of the Response Form?**

The Commission will only accept the first 20 pages of your Response Form if you do not have permission to submit more.

### **What kind of documents should I list in Part 5 of the Response Form?**

You should list all of the documents that support any preliminary issue(s) you are raising. Attach all of these documents when you submit your completed Response Form.

You can find examples of the kinds of documents that can support a preliminary issue in the [Preliminary Issues Information Sheet](#).

### **The other side is lying, what can I do?**

First, determine if the false information is relevant to the outcome of the complaint. If it is, provide the information to support your position or to disprove the other party’s position in Part 6 of the Response Form.

## What are the possible responses to a discrimination complaint?

A Respondent may respond to a discrimination complaint by asserting that it did not discriminate against the Complainant.

- a. **The conduct alleged in the complaint did not occur.** You can disagree with facts alleged by the Complainant. In this case, you should explain your version of events. You should also provide evidence to show that the facts alleged did not occur.

For example: The Complainant alleges that they did not receive a service and their religion was a factor in not receiving the service. However, the evidence shows that they received the service.

- b. **There is a reasonable explanation for what happened.** Sometimes, people believe they experienced discrimination, but there is a reasonable explanation for what happened.

You can disagree with some or all facts alleged by the Complainant. In particular, you disagree with the Complainant's interpretation or understanding of the facts. You can provide an alternative explanation for why the ground(s) identified by the Complainant was not a factor in your conduct. You should also include evidence to support your explanation.

Your explanation must be reasonable, rational, consistent, and credible in order to support a dismissal of the complaint.

For example: The Complainant alleges that they were not hired because of their disability. However, the facts show that the Complainant was not hired because they did not apply for the position by the deadline.

A Respondent may agree that some or all of the facts alleged in the complaint happened, but that it has a defence under the Canadian Human Rights Act (the Act).

For example:

- a. **Although some or all of conduct alleged happened, it does not amount to the discriminatory practice of harassment.** For conduct to amount to harassment it has to be:

- unwelcome,
- persistent or repetitious,
- linked to one or more grounds of discrimination, and
- have a negative impact on the Complainant.

In some circumstances, a single serious incident may be enough.

You may agree that some or all of the alleged conduct happened, but was either not based on a prohibited ground, or not sufficiently serious or repetitious enough to amount to harassment.

A Respondent may be liable for the conduct of its employees. This can happen if a Respondent:

- did not do enough to provide a harassment free workplace, or
- did not respond appropriately when told about the harassment, or
- ought to have noticed the harassment and acted on it.

The defense may be to show that you have a comprehensive anti-harassment policy, which you complied with in the Complainant's situation. Another option could be to show that you are not liable for any harassment that may have happened because the Complainant did not tell you about it and you could not have known it was happening.

- b. **There is a justification for what happened.** You may admit to some or all of the allegations in the complaint, and argue that your conduct was not discriminatory because there is a justification.

If the complaint is employment-related, this defence is a **bona fide occupational requirement (BFOR)**.

If the complaint is about a service or occupancy of commercial or residential premises, this defence is a **bona fide justification (BFJ)**.

Both BFOR and BFJ defences are in the Act [s. 15 of the Act]. They involve a policy, practice, rule, or standard that is connected to the job or the service, and is essential.

Some standards are informal; others are set out in writing. You should describe or provide the name of the standard at issue and identify the relevant sections. If available, include the standard in your list of supporting documents in Part 7 of your Response Form.

The Supreme Court of Canada has established a 3-part test for these defences. Include your responses to Supreme Court of Canada's BFOR/BFJ test in Part 6 of your Response Form.

1. Was the standard adopted for a purpose rationally connected to the performance of the job? Provide evidence to support your response and consider the following to help you respond:
  - a. What is the general purpose of the standard?
  - b. What aspect of the job or service does it specifically relate to?

2. Was the standard adopted in an honest and good faith belief that it was necessary to the fulfilment of that legitimate work-related purpose? Provide evidence to support your response and consider the following to help you respond.
  - a. How was the policy, rule, practice or standard developed?
  - b. Did you consider other less stringent standards? If so, explain why they were not adopted.
3. Is the standard reasonably necessary to achieve the purpose or goal? To show that the standard is reasonably necessary, you must demonstrate that it is impossible to accommodate individuals sharing the characteristics of the Complainant without imposing **undue hardship** on the Respondent based on health and safety or cost.

For a BFOR or a BFJ defence to be successful, you must provide evidence that accommodating the needs of the Complainant would impose an “undue hardship”.

Undue hardship is the limit of an employer or service provider’s duty to accommodate. There is no set definition of undue hardship, as each situation must be individually assessed on the basis of health and safety, or cost. There must be evidence as to the extent of the hardship. Mere impressions or speculation about possible costs or potential risks to health and safety are not enough to establish undue hardship.

Answering the following questions may help you to demonstrate undue hardship:

- When / how did you become aware of the Complainant’s need for accommodation?
- What accommodation did the Complainant request?
- Do you have an accommodation policy? If so, please include it in the list of supporting documents in Part 7 of your Response Form.
- Who was involved in the accommodation process?
- What steps did you take to explore the accommodation?
- Did you ask the Complainant for information to support their accommodation request? If so, did the Complainant provide the information you requested?
- Did you need any information clarified? If so, what steps did you take and what was the response/outcome?
- Did you identify any accommodation options? If so, what was the Complainant’s response? What happened next?
- If you were unable to identify any accommodation options, or the Complainant did not receive accommodation, explain why not.

Provide concrete evidence to support your claim of undue hardship based on health and safety or cost. You can learn more about BFOR and BFJ defences in [section 15 of the Act](#)

- c. **The alleged discrimination relates to a special program.** A special program is any plan, arrangement, rule, or policy designed to prevent, reduce or eliminate a disadvantage or representation gap, experienced by any group of individuals related to one or more grounds of discrimination, as defined in the Act. Special programs give benefits to disadvantaged groups as a proactive, systemic response to eliminate or reduce historic or ongoing barriers like racism or sexism.

You can learn more about special programs in [section 16 of the Act](#)

### **What is documentary evidence?**

Documentary evidence can include things like letters, emails, text messages, contracts (e.g. employment contract), internal complaints, policies, etc.

### **Why can't I provide the supporting documents for my response now?**

The Commission does not need the supporting documents listed in Part 7 of the Response Form at this stage of the process. Please keep all of your supporting documents. We may ask you for them later. We may also ask for different documents, not listed on the form.

### **Can I agree to mediation if I have raised a preliminary issue(s)?**

Yes.

### **Can I agree to mediation if I do not agree with the allegations in the complaint?**

Yes.

### **Do I need to submit my completed Response Form if I agree to mediation?**

Yes.

### **Why shouldn't I share my witness information with the Complainant?**

Not sharing witness information with other participants protects witnesses' personal information (privacy). The Commission will decide whether to share the names of witnesses.

### **What happens after I submit my Response Form?**

The Complainant will have 30 calendar days to submit a Reply Form. You will usually get a copy of this from the Complainant. In complaints involving sexual harassment, and in rare other circumstances, the Commission will provide the Complainant's Reply Form to you. Once the Commission has received both your Response Form and the

Complainant's Reply Form, we will let you know what the next stage in the process will be.

### **Can I add more information to my Response Form after I have submitted it to the Commission?**

It depends. There are stages in the process where you may be able to provide more information. However, this is usually only allowed if the information is **new** or is in response to new information not included in the Complaint Form (e.g. witness information).

### **How do I submit my Response Form to the Commission?**

You can [email us](#) your completed Response Form. Also, attach any documents you listed in Part 5 of your form.

If you do not have access to email, please fax us at 613-996-9661 or mail the completed Response Form to us at:

Canadian Human Rights Commission  
344 Slater Street, 8<sup>th</sup> Floor  
Ottawa, Ontario K1A 1E1

### **What information do I need to share with the Complainant?**

You must share your completed Response Form with the Complainant, including copies of all supporting documents you listed in Part 5 of your form.

### **How do I send my Response Form to the Complainant?**

Email your completed Response Form and copies of all documents you listed in Part 5 of the form to the Complainant. You can copy the Complainant on the email that you send to the Commission.

The Complainant's email address is usually included in the notification email or letter sent by the Commission.

### **What should I do if the Complainant's email address is not in the notification email or letter from the Commission?**

If you were not given the Complainant's email address, tell us that when you submit your Response Form to us. In these cases, the Commission will send your Response Form to the Complainant.

**How do I prove that I shared the information with the Complainant?**

You can copy the Complainant on the email to the Commission. If you send a separate email, save a copy of the email you send to the Complainant. This will be your record confirming that you shared your full response. You should save a copy of all emails showing that you provided information to either the Commission, or the Complainant.

If you send your Response Form by fax or mail, you should send a copy of the confirmation page or postal receipt to the Commission showing that you submitted your form to the Complainant.

**What happens if I do not submit the Response Form by the deadline?**

If you do not submit your Response Form by the deadline, the Commission will continue to process the complaint and may make a decision on the complaint without your input. This could include referring the complaint to the Canadian Human Rights Tribunal.



## **6. The Complaints Process: The Reply Form**

### **What is the complaint file number?**

The complaint file number is an 8-digit number that helps the Commission identify and track a complaint as it goes through our process.

You can find the complaint file number in the email or letter we sent to you notifying you that the Commission has accepted the complaint.

Save time! Always include the complaint file number when you contact the Commission.

### **How does the Commission calculate the 30-day deadline for submitting the Reply Form?**

The Commission counts 30 days as 30 calendar days. This includes weekends and holidays.

Refer to [section 10 of the Commission's Complaint Rules](#) for more information.

### **What happens if the 30-day deadline falls on a weekend or holiday?**

If the 30-day deadline falls on a weekend or holiday, you have until the next business day to submit your Reply Form.

### **Where can I find more information about deadlines in the complaints process?**

Refer to [section 10 of the Commission's Complaint Rules](#) for more information about deadlines in the complaints process.

### **Where do I find the Respondent's name?**

The Respondent's name should be in the email or letter we sent you notifying you that we accepted your complaint.

### **What does "it is your responsibility to ensure that all contact information remains up to date" mean?**

This means that you must notify the Commission as soon as possible if your contact information changes. You can do this by sending us an [email](#), or calling us toll-free at 1-888-214-1090 or TTY 1-800-465-7735.

### **Have my address, phone number and other contact information been shared with the Respondent?**

The Commission will share the email address that you have authorized us to disclose to the Respondent or their representative for the purpose of processing the complaint. The Commission will only share other contact information if it is relevant to the complaint.

In rare cases, the Commission will not share your email with the Respondent or their representative.

### **Who will my email address be shared with?**

The Commission will only share your email address with the Respondent, including any representatives or working-level contacts responsible for responding to the complaint. Commission employees processing your complaint will also have access to your email address.

### **Will my email address be shared with anyone else?**

No.

[Refer to the Commission's Privacy Notice](#) for information about how we protect your personal information.

### **What is section 41 of the Canadian Human Rights Act?**

[Section 41 of the Canadian Human Rights Act](#) (the Act) gives the Commission the option not to deal with a complaint in certain circumstances. Either the Commission or a Respondent can raise these “preliminary issues”.

The preliminary issues that may apply to a complaint include:

- Should the Commission deal with the complaint or is there another, more appropriate avenue to address the issues raised? For example a grievance process [section 41(1)(a)] or a process under another Act of Parliament [section 41(1)(b)].
- Is the complaint beyond the Commission's jurisdiction (legal authority) [section 41(1)(c)]? For example, a Respondent that is provincially or territorially regulated. In cases like these, a Complainant would need to file their complaint with the appropriate provincial or territorial human rights agency instead.
- Is the complaint “trivial, frivolous, vexatious, or in bad faith”? [section 41(1)(d)]
- Was the complaint filed more than 1 year after the last alleged discriminatory incident and is “out of time”? Should the Commission exercise its discretion to deal with the complaint anyway? [section 41(1)(e)]

### **Where can I find more information about the preliminary issues?**

[Refer to the Preliminary Issues Information Sheet](#) for more information.

### **Where do I put my answer to Part 3 of the Reply Form?**

If you are submitting your Reply Form electronically, you should type your answer to Part 3 directly into the form.

If you are using a paper copy of the Reply Form, use a separate sheet of paper to write or type your answer.

### **What is covered in the 20-page limit in the Reply Form?**

This limit includes all written information you share relating to both Part 3 and Part 5 of the Reply Form. If you are submitting your Reply Form electronically, all of your written information should be included in the body of the form.

If you are submitting your Reply Form in a paper format, all of your written information for Part 3 and Part 5 can be no more than 20 pages total. For example, if you use seven pages to answer Part 3, your information for Part 5 can be up to 13 pages.

In both cases, supporting documents do not count as part of the 20-page limit.

### **What if I need more than the 20 pages to complete Part 3 and Part 5 of my Reply Form?**

You can request permission to provide more pages by sending us an [email](#), or calling us toll-free at 1-888-214-1090 or TTY 1-800-465-7735 **BEFORE** the due date.

If you send an email, you must clearly explain why you need more than 20 pages to respond. General statements that a complaint is “complex” are not sufficient.

Also, include “Page Limit” and the complaint file number in the subject line of the email.

### **What happens if I submit more than 20 pages for Part 3 and Part 5 of the Reply Form?**

The Commission will only accept the first 20 pages of your Reply Form if you do not have permission to submit more.

### **What kind of documents should I list in Part 4 of the Reply Form?**

You should list all of the documents that support your position on whether the preliminary issue applies to the complaint.

You can find examples of the kinds of documents that you should submit in the [Preliminary Issues Information Sheet](#).

### **Should I submit a Reply Form even if Part 3 does not apply to my situation?**

Yes. The information that you provide in the other parts of the Reply Form will help the Commission make a decision faster.

### **The other side is lying, what can I do?**

First, determine if the false information is relevant to the outcome of the complaint. If it is, provide any **new information** to support your position or to disprove the other party’s position in Part 5 of the Reply Form.

## **What do I do if the Respondent retaliates against me for filing my complaint?**

It is illegal for a Respondent, or any person acting on their behalf, to retaliate against a Complainant, their representative or a witness. It is also discriminatory for them to threaten retaliation against a Complainant, their representative or a witness.

If you believe that you experienced retaliation after you filed your complaint, you will need to file another complaint. Please [use our online Complaint Form](#).

## **What are the possible responses to a discrimination complaint?**

A Respondent may respond to a discrimination complaint in a number of ways, including by asserting that it did not discriminate against you. For example the Respondent can explain that:

- a. the conduct alleged in the complaint did not occur, or
- b. that some or all of the alleged conduct happened but that there is a reasonable explanation for what happened that is not discriminatory.

A Respondent could also assert that it has a defence under the Canadian Human Rights Act (the Act). Some examples include that,

- a. Although some or all of conduct alleged happened, it does not amount to harassment.
- b. There is a justification for what happened [[section 15 of the Act](#)].
- c. The Respondent is administering a “special program” [[section 16 of the Act](#)].

The respondent’s response can be found in Part 6 of the Response Form.

## **What is documentary evidence?**

Documentary evidence can include things like letters, emails, text messages, contracts (e.g. employment contract), internal complaints, policies, etc.

## **Why can’t I provide the supporting documents to support Part 6 of my Reply now?**

We do not need your supporting documents listed in Part 6 at this stage in the process. Keeping them with you will help us process your complaint faster. Please keep all of your supporting documents. We may ask you for them later in the process. We may also ask for different documents, not listed on the form.

## **What is a remedy?**

Remedies are actions or measures to fix the situation you complained about. The goal of some remedies is to restore your dignity or compensate you for the harm caused by the discrimination. These are personal remedies. Some remedies also aim to prevent a situation from happening again. These are public interest remedies. Remedies are not meant to punish the Respondent.

## **What are the remedies available to me?**

The Canadian Human Rights Tribunal (Tribunal) is responsible for making findings of discrimination. This means that it decides if discrimination occurred in your situation. The Tribunal is also responsible for deciding what remedies to award. There are rules about the kinds of remedies that the Tribunal can order.

- The Tribunal **can** order a Respondent to:
- Provide the rights, opportunities or privileges that you did not receive because of the discrimination (e.g., promotion).
- Pay you some or all of your lost wages, or expenses that you had, because of the discrimination. This does not include legal fees.
- Pay you for pain and suffering up to a maximum of \$20,000.
- Pay you up to a maximum of \$20,000 if the Respondent behaved in a willful or reckless way.
- Pay interest on any financial awards.
- Consult with the Commission to make changes to their policies or practices.
- Take actions to end a discriminatory practice.
- Take actions to prevent a discriminatory practice in the future.

The Tribunal **cannot** order a Respondent to:

- Pay for your legal fees.
- Apologize.
- Fire another person.

If the Commission offers mediation, you and the Respondent may be able to agree on remedies that are not available from the Tribunal.

## **How many remedies can I request?**

You can request as many remedies as you think would help restore your dignity. Remember you can also request systemic remedies, such as the creation of a policy or a change to an existing one.

## **What if I do not know what remedy I want?**

That is okay. If you do not know what remedy you want at this time, write “not known at this time.” in Part 7 of your Reply Form.

### **If I forget to list a remedy, can I add it later?**

Yes, there will be other opportunities to add remedies. For example, if your complaint goes to mediation or is referred to the Canadian Human Rights Tribunal.

### **Who determines what I get as a remedy?**

It depends. You and the Respondent may decide what remedies you receive if you are able to settle your complaint through mediation or conciliation. However, if the Commission refers your complaint to the Canadian Human Rights Tribunal, a Tribunal member will decide what remedies, if any, you receive.

### **Can the Commission order remedies?**

No. The Commission does not have the authority to order remedies. However, a Commission mediator may be able to help you and the Respondent determine what remedies are appropriate if your complaint goes to mediation.

### **What is a witness?**

A witness is a person who has knowledge that supports your version of events. The other party usually has witnesses that will support their version of events.

### **Why shouldn't I share my witness information with the Respondent?**

Not sharing witness information with other participants protects witnesses. The Commission will decide whether to share the names of witnesses.

### **What happens after I submit my Reply Form?**

We will review the information you provided and then let you know the next stage in the process.

### **Can I add more to my Reply Form after I submit it?**

It depends. There are stages in the process where you may be able to provide more information. However, this is usually only allowed if the information is **new** or is in response to new information received after you submit your Reply (e.g. information provided by a witness).

### **How do I submit my Reply to the Commission?**

You can [email us](#) your completed Reply Form. Also, attach any documents you listed in Part 4 of your form.

If you do not have access to email, please fax us at 613-996-9661 or mail the completed Response Form to us at:

Canadian Human Rights Commission  
344 Slater Street, 8<sup>th</sup> Floor  
Ottawa, Ontario K1A 1E1

### **What information do I need to share with the Respondent?**

You must share your completed Reply Form with the Respondent, including copies of all supporting documents you listed in Part 4 of your form.

### **How do I send my Reply Form to the Respondent?**

Email your completed Reply Form and any documents you listed in Part 4 of your form to the Respondent. You can copy the Respondent on the email you send to the Commission.

The Respondent's email address is in Part 3 of the Response Form they sent to you. If you did not receive a Response Form from the Respondent or the Commission, tell us when you submit your Reply Form to us.

### **What should I do if the Respondent's email address was not provided?**

If you were not given the Respondent's email address, tell us that when you submit your Reply Form to us.

### **How do I prove that I shared the information with the Respondent?**

You can copy the Respondent on the email to the Commission. If you send a separate email, save a copy of the email you send to the Respondent. This will be your record confirming that you shared your full response. You should save a copy of all emails showing that you provided information to either the Commission, or the Respondent.

If you send your Reply Form by fax or mail, you should send a copy of the confirmation page or postal receipt to the Commission showing that you submitted your form to the Respondent.

### **What happens if I do not provide my Reply Form by the deadline?**

The Commission will continue to process your complaint without the rest of your information. This could include dismissing your complaint.

## 7. The Complaints Process: Mediation

### What is mediation?

Mediation is a voluntary, confidential and informal process led by a trained, impartial mediator. All parties must agree to mediation for it to happen. The goal of mediation is to try to reach a settlement agreement between the Complainant and the Respondent.

### What are the benefits to mediation?

There are many benefits to participating in mediation:

- **Comfortable.** You don't have to be in the same room as the Complainant to participate.
- **Confidential.** What is said during mediation is not shared with anyone.
- **Efficient.** The process is much faster if you and the Complainant can settle the complaint.
- **Flexible.** Mediation may offer solutions that are not available from the Canadian Human Rights Tribunal (Tribunal). You have some control over the results and remedies. You can never be certain what the Tribunal will decide.
- **Fair.** You can bring your representative or a support person.
- **Free.** It does not cost you anything to participate in mediation.

Mediation helps parties better understand each other's point of view. It can improve communication and future relations between the parties. Mediating a dispute as soon as possible can help parties solve the problem quickly and keep it from getting worse.

### Who will be conducting the mediation?

Mediators who work for the Commission. They have training and experience in mediation and human rights. They know the Canadian Human Rights Act (the Act), Commission policies and procedures and legal precedents. They create a safe environment, encourage discussion and help the parties find solutions. They cannot make decisions about the dispute.

### What do mediators do?

The mediators discuss the ground rules for mediation. They guide discussions impartially and give the parties feedback on their ideas. They provide information on the Canadian Human Rights Act, Commission policies and procedures, and legal precedents. They evaluate the strengths and weaknesses of a complaint and encourage parties to look at the pros and cons of the different options for resolving the issues in a complaint.

They tell the parties about the "public interest" – that is, they point out what is appropriate from a human rights perspective. For example, if one party claims that a



discriminatory practice or policy affects other people, mediators will ensure that any settlement also corrects the practice or policy.

If the parties reach a settlement, mediators help them prepare an agreement to sign.

### **How does mediation work?**

A mediation date is booked. The mediator speaks to the parties individually about the situation and possible solutions. The mediator also explains how they will run the mediation session. Finally, the parties participate in the mediation session with the mediator. Parties are expected to negotiate quickly and in good faith, to treat each other with respect, and to keep discussions confidential.

### **What about the information that is disclosed at the mediation?**

Any new information shared at the mediation is confidential, unless specifically agreed to by both parties. This means the information cannot be shared at other steps of the Commission process and cannot be used later in a court case.

Discussions in mediation are “without prejudice.” This means that the parties don’t give up their right to start or continue other proceedings if the complaint does not resolve at mediation.

### **What will happen to the case if I do not want to participate in mediation?**

Mediation is voluntary. We encourage you to participate in this process because it will provide you the opportunity to resolve your complaint faster. If you do not agree to mediation then the complaint will move on to the next stage in the process.

### **How long will mediation last?**

Half a day will be available for mediation. In order to prepare for the mediation, additional time will be scheduled for a pre-mediation conversation between the mediator and each party to the complaint. Mediations are normally conducted within 4 months.

### **Do I need a lawyer to represent me at the mediation?**

No. You don’t need a lawyer to participate in mediation. If parties do bring a lawyer, legal costs associated with mediation will be the responsibility of each party unless the parties negotiate otherwise.

### **Can I bring a support person with me to the mediation?**

Yes. You can bring someone who can provide support to you during the mediation. However, that person will have to sign the mediation agreement (Agreement to Mediate) and accept the terms of the mediation agreement (e.g. to keep the information confidential).

### **How do I prepare for the mediation?**

You and everyone else attending the mediation must sign an Agreement to Mediate.

Both parties are encouraged to review the Complaint Form, the response to the complaint, the Complainant's reply (where one has been filed) and come prepared to consider the strengths and weaknesses of their case. The mediator will assist with that.

Also, both parties should come to the mediation prepared to negotiate in good faith. Individuals with the authority to negotiate and agree to terms of settlement on behalf of the Respondent should attend the mediation. Complainants should have information in support of their settlement requests (e.g., details regarding lost wages).

### **How and where will mediation be conducted?**

Mediations are normally conducted by Zoom or by Microsoft Teams and in some cases by teleconference, shuttle, or in person. Videoconferencing instructions will be provided to you.

### **What will happen to the case if the matter settles at mediation?**

Minutes of Settlement signed by both parties are presented to the Commission for approval and the file is closed.

### **What can a settlement include?**

If parties reach a settlement, they can agree to whatever solutions seem appropriate to them. This can include apologies, training, replacement of lost wages, reinstatement in a position, financial compensation, etc. If the case involves a discriminatory policy, the terms of the settlement could include changing the policy or putting new procedures in place.

The goal of the Act is not to punish people, it is to resolve human rights disputes and prevent them from happening again.

### **What happens when the parties reach a settlement?**

If the parties reach a settlement, the mediator helps them prepare a written settlement. The Commission reviews the settlement to ensure it is fair and in the public interest. Normally, the Commission approves settlements in a few weeks. It can monitor settlements to ensure the parties meet the terms agreed to.

## **8. The Complaints Process: Assessment**

### **What happens at the Assessment stage of the complaints process?**

At Assessment, a Human Rights Officer will review and assess all of the information you and the other side have provided. In most cases, the Human Rights Officer will then make a recommendation to decision-makers (i.e., members of the Commission) about what decision they should make on the complaint.

### **Will I be interviewed for the assessment?**

It depends. After reviewing all of the information provided, the Human Rights Officer will determine whether any interviews are necessary to complete the assessment.

### **Will my witnesses be interviewed for the assessment?**

It depends. After reviewing the information provided, the Human Rights Officer, will determine whether any interviews are necessary to complete the assessment.

### **When will you request the documents I listed in my Response Form /Reply Form?**

After reviewing the information provided, the Human Rights Officer, with legal advice as needed, will determine which documents they require to complete the assessment and ask you to provide copies of these documents.

In some cases, if the Human Rights Officer believes it is necessary to complete the assessment, they may ask you for documents that were not included in your list of documents.

### **Do I continue to go to work while my complaint is being assessed?**

Yes. The Canadian Human Rights Act does not require Complainants to stop working or to stop reporting for work while their complaint is being assessed.

### **Will I receive a copy of the Complainant's supporting documents?**

Yes, you will receive a copy of the Complainant's supporting documents except:

- Witness Identification Form(s).
- Any documents or parts of documents that are not shared for privacy or security reasons, or that the Complainant claims solicitor-client privilege over.

### **Will I receive a copy of the Respondent's supporting documents?**

Yes, you will receive a copy of the Respondent's supporting documents except:

- Witness Identification Form(s).
- Any documents or parts of documents that are not shared for privacy or security reasons, or that the Respondent claims solicitor-client privilege over.

## **How long do I have to provide comments to the Report for Decision after it has been disclosed?**

It depends on the type of report you receive. You can find the deadline to provide your comments in the email or letter that accompanied the Report.

If you want more information about deadlines in the complaints process, [refer to the Commission's Complaint Rules](#).

## **What happens after the assessment is complete?**

You will receive a copy of the Report for Decision prepared by the Human Rights Officer and you will be invited to provide comments on the Report, if you want to. This is called "disclosure."

## **What is included in the Report for Decision?**

The Report for Decision is prepared by a Human Rights Officer and it summarizes the information related to the complaint that the Officer determined was relevant to the recommendation. This means that the Officer might not have included all of the information that you provided.

## **What happens during the disclosure process?**

In the Commission's complaints process, the disclosure process is when Commission staff provide you and the other party, with a copy of a Report for Decision and invite you to provide comments.

## **What kind of comments should I provide during the disclosure process?**

The purpose of the disclosure process is so that the Complainant and Respondent can explain why they agree or disagree with the information in the Report for Decision, the Human Right Officer's analysis of the information, and the recommendation.

Disclosure is **not** intended for parties to re-submit their information or their evidence.

## **What is the cross disclosure process?**

In the Commission's complaints process, the cross disclosure process is when Commission staff provide you with any comments they received on a Report for Decision during the disclosure process.

In rare cases, Commission staff will invite you to respond to comments received during the disclosure process.

**Why do I get a copy of the Complainant’s comments on the Report for Decision, but I am not allowed to comment on them?**

Commission staff provide a copy of the Complainant’s comments so that you know what information will be presented to the Commission member(s) when they make a decision on the complaint.

The complaint screening process must end at some point. Commission staff have determined that it is not necessary to request additional information from parties during the cross disclosure process.

**Why do I get a copy of the Respondent’s comments to the Report but I am not allowed to comment on them?**

Commission staff provide a copy of the Respondent’s comments so that you know what information will be presented to the Commission member(s) when they make a decision on the complaint.

The complaint screening process must end at some point. Commission staff have determined that it is not necessary to request additional information from parties during the cross disclosure process.

**Both parties have provided comments on the Report for Decision, how long will it take for the Commission to make its decision?**

A Commission member(s) will usually make a decision within two weeks of receiving the package of information. You will receive a copy of the decision within approximately six weeks of the last deadline due to administrative processing requirements.

## 9. The Complaints Process: the Commission's Decision

### What kinds of decisions can the Commission make?

Commission member(s) may make the following decisions:

- to dismiss the complaint
- to deal with the complaint (if there was a preliminary issue that was assessed first)
- to approve a settlement that was reached during mediation
- to not deal with a complaint at this time (if there was a preliminary issues that was assessed first)
- to send the complaint to conciliation
- to defer their decision and request more information and further analysis
- to refer the complaint to the [Canadian Human Rights Tribunal](#).

### What does it mean if I get a referral letter?

A referral letter allows a potential Complainant to first exhaust a grievance process or another process while preserving the timelines of the complaint with the Commission.

A referral letter does not mean that we have or will accept your complaint. It only preserves your timeline should you wish to return to the Commission to file a complaint, if the grievance process does not address your human rights issues.

### What details about my complaint are put in the referral letter?

A referral letter can include the following details about your complaint:

- Your name
- Your complaint file number
- The date you contacted the Commission
- The ground(s) of discrimination and section(s) of the Canadian Human Rights Act related to your complaint

### What is the Federal Public Sector Labour Relations and Employment Board (FPSLREB)?

The Federal Public Sector Labour Relations and Employment (FPSLREB) is an independent quasi-judicial statutory tribunal established by the Federal Public Sector Labour Relations and Employment Board Act (FPSLREA). It is separate from the Commission. Its responsibilities include:

- Administering the collective bargaining and grievance adjudication systems in the federal public service and in Parliament
- Resolving staffing complaints related to internal appointments and layoffs in the federal public service

- Dealing with pay equity complaints filed by, or on behalf of, groups of employees pursuant to the Canadian Human Rights Act

The FBSLREB offers two main services:

- Adjudication: hearing and deciding grievances, labour relations complaints and other labour relations matters as well as dealing with staffing complaints related to internal appointments, layoffs, the implementation of corrective measures ordered by the Board and revocations of appointments
- Mediation: helping parties reach collective agreements, manage their relations under collective agreements, and resolve disputes and complaints without resorting to a hearing

[Go to the FPSLREB website](#) for more information.

### **What happens if the Commission decides to deal with my complaint after the preliminary issues?**

If the Commission decides to deal with your complaint, the Commission will consider the allegation(s) of discrimination in the Complaint Form including the information gathered from the Respondent related to the allegation(s).

Commission staff may need to request additional information from the parties in order to assess the allegation(s) of discrimination.

## **10. The Complaints Process: after the Commission's Decision**

### **Can I ask the Commission member(s) for more information about the decision that was made on my complaint?**

If you do not understand the information included in the decision, please [email us](#) or call us at 1-888-214-1090 or TTY 1-800-465-7735. Commission staff will explain the information that was used to make the decision and answer any questions you have. However, Commission staff cannot return to the Commission member(s) for additional information about why they made their decision.

Any inquiries made directly to the Commission member(s) will be forwarded to the Complaints Services Branch for processing.

### **What can I do if I disagree with the Commission's decision?**

If you disagree with the Commission's decision, you can ask the [Federal Court](#) to review the decision. You should submit this request within 30 calendar days of receiving the Commission's decision.

### **The complaint has been referred to the Canadian Human Rights Tribunal, what can I expect?**

Commission staff will forward your complaint to the Canadian Human Rights Tribunal (Tribunal) along with a letter requesting the Tribunal hear the complaint. If the Commission has decided not to deal with certain allegations, it will tell the Tribunal that in its letter. Tribunal staff will be in contact with you about the next steps in its process.

[Go to the Tribunal's website](#) for more information.

### **What is the Canadian Human Rights Tribunal?**

The Canadian Human Rights Tribunal (Tribunal) is separate and independent from the Commission. The Tribunal is similar to a court of law, but is less formal and only hears discrimination complaints. If the Commission refers a discrimination complaint to the Tribunal, it is responsible for deciding whether there has been discrimination. [Go to the Tribunal's website](#) to learn more.

### **What is the difference between the Canadian Human Rights Tribunal and the Canadian Human Rights Commission?**

The Commission is a screening body. It is our job to screen discrimination complaints against federally regulated employers and service providers. The Commission may decide to send a complaint to the Tribunal for a more in-depth inquiry. The Commission does not decide whether there has been discrimination.

It is the Canadian Human Rights Tribunal's job to decide if there has been discrimination. The Commission is separate and independent from the Tribunal. [Go to the Tribunal's website](#).



## **Where can I get more information about the Canadian Human Rights Tribunal?**

You can learn more about the Canadian Human Rights Tribunal on its [website](#).

## **Will the Commission provide legal representation for me or give me legal advice at the Canadian Human Rights Tribunal?**

No. If the Commission decides to participate in a hearing at the Tribunal, the Commission's lawyer(s) will represent the public interest in the complaint as a separate party.

## **What roles can the Commission play at the Canadian Human Rights Tribunal?**

When a complaint is referred to the Canadian Human Rights Tribunal (Tribunal), the Commission may appear before the Tribunal as an independent party to the proceedings. When the Commission appears before the Tribunal, the Commission represents the public interest in order to advance human rights for all Canadians. The Commission is not the legal representative of the Complainant, however the Commission often provides support and assistance to the Complainant. In many cases, the Commission is actively engaged in mediation proceedings before the Tribunal and assists parties in reaching a settlement.