

Policy

13.0 Restorative Board of Inquiry Policy

13.1 Policy Statement

Human rights aim to create fairness, dignity and respect in relationships. The restorative Board of Inquiry seeks to foster respectful, equitable, and fair relationships as it addresses complaints.

13.2 Policy Directives

Restorative justice is an approach or perspective. The approach is flexible as it adapts to the information gained throughout the process, and is done by using inquiry circles. The approach should be flexible in the number of circles it uses as it adapts to the information gained throughout the process. It is important, however, to keep the coherency of those involved in the rounds and the order of the rounds.

13.2.1 The Commission assigns a Restorative Facilitator (Facilitator) to a complaint at the time of referral to a Restorative Board of Inquiry. The Facilitator assists in preparing the parties for the Restorative Board of Inquiry. This process is called Stage One in the Restorative Board of Inquiry Framework and Procedures document.

At Stage Two, the Board Chair oversees and provides the questioning at the Restorative Board of Inquiry. The Facilitator assists the Board Chair with the procedures and setup of the inquiry circle.

Stage One

13.2.2 Contracting to engage Stage One: The Facilitator establishes (or confirms) whether the complainant and respondent (primary stakeholders) want to be involved with a restorative process.

13.2.2.1 Pre-Board Communications: After consent is obtained, the Facilitator and parties involved contact the Board Chair and ask for the Board Chair's consent to have a restorative Board of Inquiry and to use these procedures.

13.2.3 First Round of Circles: The Facilitator explores harms experienced by each primary stakeholder, separately.

- 13.2.4** Second Round of Circles: If deemed relevant and important by the Facilitator, he or she explores harms experienced by secondary stakeholders (which may or may not include the complainant or respondent). This may include members from groups such as unions or concerned community groups, not a party to the complaint, but still with an interest in or an ability to contribute to the outcome.
- 13.2.5** Third Round of Circles: The Facilitator explores solutions between all primary stakeholders, bringing the parties together for the first time. It may include community members who have a stake in the outcome.
- 13.2.5.1** Repair and Remedies: These may be discussed in this circle or another circle. The parties should agree that ideas, offers and suggestions presented by a party with the power to implement them should not be presented to the Board Chair by other parties unless it has been agreed by the primary parties and is part of the Plan. The Plan is then drafted and signed by the parties.
- 13.2.6** The Plan, including all agreed upon and unresolved issues, is submitted to the Restorative Board of Inquiry Board Chair at the conclusion of the Restorative Board of Inquiry. If further assistance is required, the Board Chair holds a restorative hearing. This begins Stage Two, below.

Stage Two

- 13.2.8** Pre-board Communications: The Facilitator and parties involved contact the Board Chair to advise of their progress in building a plan. The Plan, any documents the parties wish to bring forward, and prospective participants to the Restorative Board of Inquiry circle(s) are discussed with the Board Chair.
- 13.2.8.1** The Facilitator consults with the primary parties about which community members and/or interested parties should be invited to the Restorative Board, and how many circles this may require. The Facilitator provides this information to the Board Chair. The Facilitator assists the Board Chair with any procedures and with an explanation of the process.
- 13.2.9** The Facilitator sets up the Restorative Board of Inquiry room with the circular, no-table format, including the court reporter. The Restorative Board of Inquiry is public.
- 13.2.10** If the Plan resolves all the issues, the Board Chair asks the parties to comment on why the Plan works for them and asks if they will require assistance from the Board Chair to implement it. If implementation assistance is required, the Board Chair issues an order outlining the Plan (after finding jurisdiction). If no implementation assistance is needed, the Board Chair concludes the Restorative Board of Inquiry.

- 13.2.11** If the Plan contains unresolved issues, the Board Chair asks the parties and participants how they were affected, what circumstances contributed to the harms, and what solutions will prevent them from recurring.
- 13.2.12** If the parties cannot agree on solutions, the Board Chair can assist the parties by making a finding of fact or law. These findings, when ordered, must have authority under the Nova Scotia *Human Rights Act* (i.e., there must be a finding of a contravention of the Act). The parties are then asked if that finding assists in generating a solution.
- 13.2.12** The Board Chair concludes the Restorative Board of Inquiry with a written decision when all unresolved issues (as they relate to the Act) have been addressed. The decision outlines the agreed-upon plan and specifies which of the harms and solutions are determined under the Act.