



# Nova Scotia Human Rights Commission

## Dispute Resolution Procedures

December 2025

These procedures shall guide the work of Commission staff in accordance with the Dispute Resolution Policy (“the Policy”) and the restorative principles as defined in the Policy. For clarity, all terms used within these procedures shall be defined as they are in the Policy.

### 1.0 Making a Complaint

#### Responding to and Recording General Contact

**1.1** The HRO shall endeavour to respond to all general contact within three (3) business days. This includes, but may not be limited to telephone calls, emails, written correspondence sent through regular mail, text messages or in-person office visits.

**1.2** All general contact shall be documented in the Commission’s database (HRCTS) within one business day of the contact. Wherever possible, this documentation should include:

- a. The name and contact details of the individual
- b. The relevant information the individual(s) provided
- c. The request (if any) the individual is making
- d. The action taken by the HRO

#### Recording Conversations

**1.3** There may be times when a HRO will use recording devices (e.g. TEAMS live transcription, handheld audio recording devices, voice to text software, etc.) to assist with interviews during the investigation process. In such instances, any such recordings will only be used for transient note taking purposes and will be destroyed once the necessary information has been extracted and captured in permanent notes. No recording will form part of the investigation file.

**1.4** Prior to any conversation being recorded, the HRO will ensure that participating parties are:

- a. Given advance notice of any intent to record (ideally in writing via email at least 24 hours prior);
- b. Informed of how the recording will be used (e.g. note taking purposes);
- c. Informed of how the recording will be stored and disposed of; and
- d. Asked to consent or refuse to allow recording of an interview.

**1.5** HRO’s will use the templated email (to be promulgated) to ensure that parties are notified appropriately in advance.

## **Individuals Wishing to Make a Complaint**

**1.6** If an individual wishes to make a complaint on someone's behalf (example: a parent or legal guardian), an HRO will conduct an assessment to determine if the individual has legal authority to do so. If it is determined that the individual can make a complaint, the same procedures apply.

**1.7** Individuals wishing to make a complaint of discrimination or harassment under section 29(1)(a) of the *Act* must complete and submit an Inquiry Form ("Inquiry").

## **Limitation Period**

**1.8** The HRO shall assess the Inquiry to determine if the last date of discrimination is within the 12-month limitation period provided by section 29(2) of the *Act*.

**1.9** In situations where the 12-month limitation period expires shortly the HRO shall make every effort to facilitate the filing of the complaint by this deadline.

**1.10** If the last date of discrimination is within the 12-month limitation period, but it may be impossible to complete a complaint form within that 12-month limitation period, a request for an extension should be made to the Director under section 1.8.

**1.11** If more than 12 months but less than 24 months have passed from the last date of discrimination/harassment, then the process and information for applying to the Director for an extension under section 29(3) of the *Act*, must be provided. The process for applying to the Director for an extension shall be as follows:

- a.** An individual seeking an extension of the 12-month limitation period shall submit a written request to the Director using the form provided;
- b.** The Director will assess the request and inform the individual of their decision in writing.

## **Reasonable Grounds**

**1.12** If the limitation period is established, the HRO will then review the Inquiry to determine whether there are reasonable grounds to believe that a violation of the *Act* has occurred.

**1.13** The HRO may request sufficient information from the individual making the Inquiry to establish reasonable grounds including:

- a.** The presence of a prohibited area as defined in section 5(1)(a)-(g) of the *Act*;
- b.** The presence of a protected characteristic as defined in section 5(1)(h)-(v) of the *Act* and/or section 5(2) of the *Act*;
- c.** An act of discrimination as defined in section 4 of the *Act*;
- d.** The presence of a reasonable connection between the alleged act of discrimination and the protected characteristic(s).

**1.14** If the HRO determines that the information establishes reasonable grounds that a violation of the Act may have occurred, the HRO shall:

- a.** Inform the individual their Inquiry has been accepted;
- b.** Explain the complaint process, including the materials and information that may be required in support of the complaint;
- c.** Attempt to verify the full or legal names of the potential respondents. If there is a question as to the inclusion of, or proper identification of, a potential respondents, the HRO should consult with Legal;
- d.** Explain how the Commission uses restorative principles and practices;
- e.** Format the information provided by the individual on the Commission's complaint form and review it with the individual;

**1.15** If the HRO determines that the information does not establish reasonable grounds that a violation of the Act may have occurred, they will inform the individual of this, explain the reasons for their assessment, and advise the individual that if they disagree with the HRO's assessment, they may request their Inquiry be reassessed by the Commission's Registrar.

**1.16** If the HRO is aware of another agency that may be able to assist the individual, the HRO shall provide the individual with the contact information for that agency, such as the Canadian Human Rights Commission, Nova Scotia Labour Standards Division, Workers' Compensation Board, or Residential Tenancies.

**1.17** If the individual requests that their Inquiry be reassessed, the HRO shall refer the Inquiry to the Commission's Registrar.

**1.18** The Registrar will either return the Inquiry to the HRO to gather more information or uphold the HRO's decision.

**1.19** If following reassessment from the Registrar, the individual continues to disagree with the determination, the Registrar shall provide them with the necessary information to make an appeal as follows:

- a.** individual/s must make appeals to the Director;
- b.** appeals must be submitted to the Director in writing;
- c.** the Director shall consider the appeal and may seek any further information from the parties to the appeal the Director considers appropriate to fairly consider the appeal;
- d.** the decision of the Director shall be issued in writing to the parties to the appeal;
- e.** the Director's decision is only reviewable upon an application to the Supreme Court of Nova Scotia for a judicial review.

### **Systemic Discrimination Considerations**

**1.20** During the review for reasonable grounds, the HRO may request sufficient information from the complainant to determine whether the allegation raises broad policy or systemic

issues and, if so, the HRO shall ensure this information is included in the draft complaint form.

### **Charter Values**

**1.21** During the review for reasonable grounds, the HRO may request sufficient information from the complainant to determine whether the allegation raises any Charter value issues.

### **Early Intervention**

**1.22** The HRO may offer to facilitate a resolution of the matter giving rise to the Inquiry before it is accepted as a complaint. The resolution may include reaching an understanding between the parties that resolves the complaint, the offer of policy information, education and/or training. In order for this to happen the HRO must:

- a.** Have reasonable grounds to believe that a violation of the Act may have occurred;
- b.** Receive consent from the complainant;
- c.** Receive approval from the Senior HRO or Manager of Dispute Resolution;
- d.** Explain to the parties that no final determination about the Inquiry has been made at this stage.

**1.23** The HRO shall record all relevant information in HRCTS.

## **2.0 Complaint Form**

**2.1** The HRO shall endeavor to review and assess each completed draft complaint form within ten (10) business days of receipt.

**2.2** The HRO shall apply the following criteria when reviewing each draft complaint form:

- a.** The information should be clear and understandable;
- b.** The information should be sufficient to establish the Commission's jurisdiction under the Act;
- c.** The information should be sufficient to allow potential respondents to understand and respond to the allegations.

**2.3** If the information provided in the draft compliant form does not meet these criteria, the HRO shall endeavour to contact the individual to discuss and clarify these issues within twenty (20) business days. The HRO shall record all contact and information provided and received in HRCTS within one business day of the contact.

**2.4** If the HRO determines that the draft complaint form does not meet the criteria in section 2.2, the HRO shall inform the individual in writing that the draft complaint cannot be processed and enter all relevant information in HRCTS. The individual may request a review of the HRO's assessment as set out in sections 1.14-1.16.

**2.5** If the criteria in section 2.2 are met, the HRO shall submit the completed draft complaint form to the Senior HRO for final review.

**2.6** The Senior HRO shall review the completed draft complaint form to confirm whether it contains sufficient information to establish that the complaint falls within the jurisdiction of the *Act*.

**2.7** The Senior HRO shall review the completed draft complaint form to assess whether any broad policy or systemic issues raised are sufficiently outlined in the complaint.

**2.8** The Senior HRO shall review the completed draft complaint form to assess whether any relevant Charter value issues have been identified and sufficiently outlined in the complaint.

**2.9** If the Senior HRO determines that additional information is required, the HRO who assisted with drafting the complaint form shall contact the individual to request the information. Upon receipt of the requested information, the HRO shall determine if the draft complaint form should be revised.

**2.10** The Senior HRO may determine that the matter is appropriate for early intervention before a decision is made by the Commission whether to accept the complaint. In this case, the HRO shall contact the individual to request their consent to attempt an early intervention. If consent is received, the HRO shall attempt to facilitate a resolution to the matter as described in section 1.19.

**2.11** If the Senior HRO determines that the complaint does not fall within the jurisdiction of the *Act*, they will advise the HRO with reasons for their conclusion. The HRO shall advise the individual in writing of the conclusion and reasons.

**2.12** The Senior HRO's conclusion that the Commission does not have jurisdiction to accept a complaint may be appealed to the Registrar under the process set out in sections 1.14-1.16.

**2.13** If the Senior HRO confirms the draft complaint form meets the criteria in section 2.2, the HRO who assisted in drafting the complaint form shall finalize the complaint form for review, comment, and signature by the individual making the complaint.

**2.14** Once the complaint form is signed, the complaint is accepted, and a file is created and then placed in the queue for assignment by the Manager of Dispute Resolution.

|            |                         |
|------------|-------------------------|
| <b>3.0</b> | <b>Early Resolution</b> |
|------------|-------------------------|

**Screening**

**3.1** The HRO will screen files to determine if an Early Resolution Sharing Circle is appropriate.

Screening is ongoing throughout the Early Resolution process. The following may be considered:

- a.** Nature of the harm alleged;
- b.** Complexity of the issues involved;
- c.** Parties' willingness to participate in good faith; and
- d.** Any indicator that the process may cause harm.

**3.2** If the file is determined to be appropriate for the Early Resolution process, the HRO will reach out to the complainant first to offer participation in the Early Resolution process and provide the following information:

- a.** Overview of the Early Resolution process;
- b.** Expectations for participation in the Early Resolution process including but not limited to: good faith, safe space, communication, etc.;
- c.** That the Early Resolution process is not mandatory, and participation can be withdrawn at any time;
- d.** Parties' ability to bring a support person or legal counsel and the limits of their participation within the Early Resolution process;
- e.** That there is no liability or fact-finding in the Early Resolution process;
- f.** Confidentiality expectations; and
- g.** That the respondent will be provided with a copy of the complaint form if both parties agree to participate in the Early Resolution process.

**3.3** The HRO will discuss with the complainant any need for accommodations including, but not limited to, the location and duration of the Sharing Circle. The HRO may offer reasonable modifications to the Early Resolution process as required.

**3.4** If the complainant consents to participate, the HRO will contact the respondent and provide the information in s.3.2(a)-(g).

**3.5** If both parties agree to participate, the HRO will send the parties a copy of the Early Resolution Participation Agreement (ERPA) to sign before initiating the process. The ERPA sets out behavioral expectations, confidentiality requirements, and other terms and conditions of the Early Resolution process.

**3.6** Once the ERPA is signed by both parties, the HRO will schedule a Sharing Circle with parties. The HRO will endeavor to schedule the Sharing Circle within 60 days of the ERPA being signed.

### **Preparatory Sessions**

**3.7** The HRO will then arrange for preparatory sessions with each party separately. The preparatory sessions are mandatory for all parties and support persons who will participate in the Sharing Circle.

**3.8** Support persons and legal counsel may attend the preparatory sessions; however, it is expected that the party to the proceeding will speak for themselves.

#### **Location and Format**

**3.9** Preparatory sessions will take place in person, or online via video conference.

**3.10** Early Resolution Sharing Circles will take place at the Commission, at another agreed upon location, or online via video conference.

#### **Early Resolution Sharing Circle**

**3.11** The HRO will facilitate the Sharing Circle and enforce behavioral expectations. All parties will be given the opportunity to speak and answer the restorative questions provided during the preparatory sessions. Breaks are available at any time during the Sharing Circle.

**3.12** Legal counsel are not permitted to attend the Sharing Circle, but they may attend on site for consultation during breaks.

**3.13** The HRO will guide a discussion and negotiation of the settlement terms. If either party needs time to reflect or seek legal advice, the Sharing Circle will end, and negotiations may continue via email.

**3.14** The HRO may offer modifications to the Sharing Circle format when appropriate. Examples include but are not limited to, geographical restraints, accommodation requests.

#### **Settlement Agreements**

**3.15** If a settlement is not reached during the Sharing Circle, the HRO will endeavor to conduct three rounds of settlement negotiations between the parties via email. Parties must respond to settlement negotiation emails within five (5) days. If these deadlines cannot be adhered to, parties may request an extension, in writing, with justification for the request. Any unreasonable delays could result in the termination of the Early Resolution process.

**3.16** If a settlement is reached, the Early Resolution HRO will draft a Settlement Agreement and send a copy to each party for review.

**3.17** Parties shall be provided ten (10) business days to obtain legal advice before signing a Settlement Agreement. If a party chooses not to consult a lawyer prior to signing a Settlement Agreement, they must sign a waiver of their right to independent legal advice provided by the Commission.

**3.18** Once both parties have signed the Agreement, it is sent to the Commissioners for approval pursuant to s.32(1) of the Act.

**3.19** If a Settlement Agreement is signed and approved by the Commissioners, the complaint will not be investigated, and the file will be closed.

**3.20** If a Settlement Agreement is not reached, the parties will be notified that the complaint will be returned to the queue for investigation following the normal process outlined below.

## **4.0 Investigations**

**4.1** Upon being assigned a complaint, parties will be contacted orally or in writing.

**4.2** In the initial contact with the complainant and respondents, the parties shall be provided the following information:

- a.** An explanation of the Commission's investigation process, including its use of restorative approaches; and
- b.** Details of what is expected of the parties.

**4.3** The respondents shall be provided with a copy of the complaint. The respondents must provide a written reply within thirty (30) business days.

**4.4** Upon receipt of the respondent's response to the complaint, a copy will be provided to the complainant for their rebuttal. The complainant must provide a written reply within thirty (30) business days.

**4.5** Upon receipt of the complainant's rebuttal, a copy will be provided to the respondent for information only.

**4.6** All contact with the parties and all information received and provided, shall be entered into HRCTS within one (1) business days of the contact.

### **Complaint Processing Options**

**4.7** After speaking with the parties to the complaint and reviewing the information provided, the HRO must determine the next steps to be taken with respect to the complaint. These steps may include one or more of the following options:

- a.** a recommendation to the Director that the complaint be dismissed pursuant to section 29(4) of the *Act*;
- b.** a recommendation of a Direct Referral to a Board of Inquiry;
- c.** deferring investigation pending completion of a related proceeding; and
- d.** investigation of the complaint.

### **Recommendation to Director to Dismiss Complaint**

**4.8** If the HRO determines that one or more subsections of section 29(4) of the *Act* are relevant to the complaint, and the matter should be dismissed by the Director, the HRO shall:

- a. advise the parties in writing that the HRO is recommending the complaint be dismissed and the reasons for the recommendation;
- b. invite the parties to make submissions with respect to the recommendation and advise the parties that submissions will be provided to the other parties;
- c. Submit a written recommendation to the Director that the complaint be dismissed pursuant to section 29(4) of the Act; and
- d. Advise the parties that the decision of the Director to dismiss the complaint is only reviewable upon application to the Supreme Court of Nova Scotia for a judicial review.

**4.9** Any submissions from the parties under section 4.6 must adhere to the following:

- a. must be made within fifteen (15) business days;
- b. must be in writing, typed or legibly hand-written; and
- c. must not exceed five (5) letter-sized, single sided pages.

**4.10** The HRO's recommendation and any submissions received from the parties shall be provided to the Director who shall make a final determination on the disposition of the complaint. The decision of the Director will be communicated to the parties and to the HRO in writing from the Office of the Director & CEO.

**4.11** The parties may appeal the decision of the Director by Judicial Review to the Supreme Court of Nova Scotia.

#### **Recommendation for Direct Referral to Board of Inquiry**

**4.12** If the HRO determines that any of the following factors are present, the HRO, with approval from the Manager of Dispute Resolution, may recommend to the Commissioners that the complaint be referred directly to a Board of Inquiry in accordance with section 32(A)(1) of the Act:

- a. complex legal issues that are beyond scope of an investigator;
- b. possible conflict of interest situations; or
- c. any other such situation where it would be appropriate to direct refer the complaint.

**4.13** The Manager of Dispute Resolution may approve the direct referral recommendation to a Board of Inquiry following consultation with Legal.

#### **Deferring Investigation Pending Completion of Related Proceeding**

**4.14** The HRO shall advise the Manager of Dispute Resolution if they become aware that the subject matter of the complaint, or any portion thereof, is the subject of an alternate proceeding in some other forum.

**4.15** The Manager of Dispute Resolution may make such inquiries as are necessary and consult with Legal to determine if it would be procedurally fair and not prejudicial to the investigation of the complaint for the Commission to defer investigation of the complaint

pending the disposition of the alternate proceeding.

**4.16** If the Manager of Dispute Resolution believes that investigation of the complaint should be deferred, and the parties are in agreement, the HRO shall advise the parties in writing of the terms and duration of the deferral.

### **Complaint Investigation**

**4.17** The Commission seeks to have all investigations completed within a reasonable timeframe. The Commission shall endeavour to conclude investigations within 200 calendar days of acceptance of the complaint.

**4.18** The HRO shall determine the steps necessary to investigate the complaint and shall consult with the parties with respect to the proposed investigation process. The process may incorporate any of the following:

- a.** one or more meetings between the parties, facilitated by the HRO or another agreed upon facilitator;
- b.** meetings between a single party and the HRO;
- c.** written submissions by one or more of the parties, with those submissions to be shared with the other party(ies);
- d.** submission and analysis of evidence (documents, video or audio recordings, digital media, etc.);
- e.** interviews of parties and/or witnesses and/or other involved or impacted individuals;
- f.** visits by the HRO to the sites of alleged discrimination;
- g.** email, telephone, and text exchanges when questions arise, or information is being transferred; and
- h.** any other process deemed appropriate by the HRO.

**4.19** The complaint investigation process shall be on the record.

**4.20** The HRO shall ensure that the parties receive any necessary accommodations.

**4.21** The HRO shall attempt to accommodate parties who request services in their first language using language interpreters.

**4.22** The HRO may at any time consult Legal during the investigation, where an issue arises that is appropriate to be consulted on.

**4.23** The HRO may agree to have off-the-record conversations with either or both parties if the HRO believes it may help facilitate a resolution of the matter, otherwise all discussions the HRO may have with the parties shall be on-the-record. The decision to have off-the-record conversations shall be made in consultation with Legal. The HRO shall not use information discussed during any off-the-record conversation in their investigation report.

## **Case Management**

**4.24** The Manager of Dispute Resolution shall convene regular case management meetings with HROs to review, in respect of each complaint, the investigation plan, and the status of the investigation process.

## **Settlement Conferences**

**4.25** At any point during an investigation, the HRO may facilitate a settlement conference between the parties if:

- a.** All parties are willing to participate voluntarily;
- b.** All parties understand that the settlement conference is “on the record”, meaning the information gathered during the conference can be used in the investigation and investigation report; and
- c.** The settlement conference is guided by restorative principles.

## **Settlement Agreements**

**4.26** If at any stage an agreement is reached between the parties, the HRO shall prepare a written Settlement Agreement to be signed by the parties.

**4.27** Parties who are unrepresented by legal counsel shall be provided ten (10) business days to obtain legal advice before signing a Settlement Agreement. If a party chooses not to consult a lawyer prior to signing a Settlement Agreement, they must sign a waiver of their right to independent legal advice provided by the Commission.

**4.28** If the parties wish to attach documents to a Settlement Agreement, such as letters of reference, letters of apology or waivers, they shall be attached to the Settlement Agreement as addendums.

**4.29** If the parties settle only a portion of the subject matter of the complaint, the HRO shall explain to the parties that the outstanding unresolved issues will be investigated in accordance with these procedures.

**4.30** All parties shall receive a copy of the signed Settlement Agreement.

**4.31** Pursuant to section 32(1) of the Act, any Settlement Agreement must be provided to the Commissioners for their approval or rejection at the next regularly scheduled Commission meeting. A Settlement Agreement is not finalized until it has been approved by the Commissioners.

## **Completion of Investigation**

**4.32** Complaints that are not resolved or dismissed by the Director and CEO earlier in the process are fully investigated by the HRO.

**4.33** When the investigation is complete, the HRO shall prepare an investigation report summarizing the complaint and evidence gathered during the investigation, including a review and comment of any Charter value issues, and systemic discrimination issues. The report shall include a recommendation to the Commissioners to either dismiss the complaint, or to refer it to a Board of Inquiry (BOI).

**4.34** The HRO shall provide all parties with a copy of the report and advise them that the recommendation to the Commissioners may or may not be accepted. The HRO shall advise the parties that they may make written submissions regarding the report and recommendations, which will be provided to the Commissioners.

**4.35** The HRO shall advise the parties that any submission:

- a.** must be made within fifteen (15) business days of the receipt of the report;
- b.** must be in writing or typed, legibly and may not exceed five (5) letter-sized, single sided pages; and
- c.** will be provided to the other parties.

**4.36** After the parties' written submissions are received, or after the 15 business days have passed, the HRO shall submit the complaint, the investigation report and submissions from the parties to the Commissioners at the next regularly scheduled Commission meeting for a determination pursuant to section 29(4) or 32A(1) of the *Act*. Notification of the decision of the Commissioners will be sent to the parties in writing from the Office of the Chairperson and signed by the Chair of the Commission.

### **Conflict of Interest**

**4.37** If an HRO identifies a potential conflict of interest, the HRO shall immediately notify the Manager of Dispute Resolution and shall refrain from further involvement with the parties and the complaint until otherwise directed.

**4.38** If the Manager of Dispute Resolution agrees that the HRO has an actual or perceived conflict of interest that makes their involvement in a complaint inappropriate, the Manager of Dispute Resolution may assign the file to another HRO. For certainty, the HRO or Manager of Dispute Resolution may consult with Legal.

**4.39** If the actual or perceived conflict of interest makes it impractical or inappropriate to have the complaint dealt with by any HRO, the Manager of Dispute Resolution, following consultation with Legal, may refer the complaint to an external investigator who shall investigate the complaint in accordance with the *Act*.

### **External Investigations**

**4.40** These procedures shall apply to an external investigator's handling of any complaint. The external investigator shall direct any questions concerning these procedures to Legal.

**4.41** All authority provided to HROs under these procedures shall apply with any necessary modifications, to an external investigator.

**4.42** Externally investigated complaint reports shall be submitted to the Commissioners in a manner consistent with these procedures. If the external investigator is not available, the investigation report shall be presented by legal counsel for the Commission.