

PURPOSE

The Nova Scotia Human Rights Commission (the Commission) is mandated by the *Human Rights Act* (the Act) to assist in the creation and maintenance of just, equitable and inclusive communities, and the protection of human rights in Nova Scotia by fostering positive, productive, and respectful relationships. This vision of a just and inclusive society is undermined when Nova Scotians experience harassment or discrimination.

The Commission seeks to attain the vision of a just and equitable society by responding to and addressing harassment and discrimination. The Commission addresses harassment and discrimination, in part, through its dispute resolution process. The Commission's dispute resolution process provides a means by which complaints of harassment and discrimination may be brought forward and addressed. The goals of the Commission's dispute resolution process are the advancement of equity and dignity; the fostering of positive and respectful relations; and the protection and upholding of human rights.

The dispute resolution process achieves these goals by ensuring that all aspects of the process are guided by restorative principles. This means that the Commission will ensure that all stages of its dispute resolution process are responsive, collaborative, relational, comprehensive, inclusive, and forward focused. These attributes will collectively be referred to as restorative principles, and include:

- a. **Responsive** – which means that all processes and practices will be attentive to and reflective of the contexts and circumstances of the situation and the parties. Responsive processes and practices are flexible and adaptable and are able to accommodate changes in the circumstances, needs, perspectives, and positions of the parties during the process;
- b. **Collaborative** – which means that all processes and practices will be collaborative rather than adversarial. The Commission will support the parties in working collaboratively to find a shared understanding of the issues and effects where possible;
- c. **Relational** – which means that dispute resolution is fundamentally concerned with relationships and securing conditions and treatment necessary to ensure equal respect and human dignity. The Commission accepts that a relational perspective with respect to the issues and the parties to a complaint is core to a restorative approach and essential for human rights protection;

- d. **Comprehensive** – which means that dispute resolution must pay attention to the context, circumstances, and causes of human rights disputes to fully understand and respond to the complaints and the needs of the parties affected;
- e. **Inclusive** – which means that all those involved in a situation (including for example: those affected, responsible, and able to support or contribute to a positive outcome) should be meaningfully involved in the complaint process. An inclusive approach requires that the Commission pay attention to the needs of parties to enable participation, including being culturally appropriate and responsive and trauma informed;
- f. **Forward Focused** – which means that dispute resolution will be educative, problem-solving, focused on solutions, and not punitive in nature. The dispute resolution process is aimed at helping parties gain a better understanding of issues, find ways to address harms, and move forward with respect for human rights.

To that end, the purposes of this policy are:

- To promote standards of conduct within the Province which are in keeping with a just and equitable society;
- To ensure that the Commission's dispute resolution process, wherever possible and to the greatest extent possible, fosters positive and respectful relations between all the parties;
- To ensure that the Commission's dispute resolution work achieves the objective of protecting, affirming, and upholding human rights in the Province;
- To ensure that the Commission's dispute resolution work provides a safe and effective means by which the rights and dignity of Nova Scotians who have been subjected to discrimination and harassment may be protected and affirmed; and
- To provide guidance as to the form and content of processes and mechanisms by which the Commission will respond to, support, and address complaints of harassment and discrimination.

STATEMENT OF POLICY/SCOPE

This policy applies to all elements of the dispute resolution process, including: inquiry, intake, investigation, resolution, education, and recommendations to the Commission and/or Director.

This policy applies to all employees of the Commission and to anyone who is a party to or a participant in a complaint process under the Act.

DEFINITIONS

“**Complaint**” means a complaint accepted by the Commission in accordance with section 29 (1) (a) or (b) of the Nova Scotia *Human Rights Act*.

“**HRO/s**” means a Human Rights Officer appointed pursuant to section 27 of the Nova Scotia *Human Rights Act*.

“**Legal**” means Legal Counsel employed by the Commission.

“**Inquiry**” means a contact someone makes with the Commission by telephone, visit or email to seek information or advice on a human rights issue, including to inquire about whether or not they have a complaint.

POLICY

The Commission will create procedures for each stage of the dispute resolution process as required in each of the following sections and will ensure that all procedures created are in accordance with restorative principles.

Inquiry Stage

1. HRO/s shall receive and respond to inquiries from the public.
2. When an individual/s inquires about making a complaint under section 29(1)(a) or (b) of the Act, HRO/s shall:
 - a. assist the individual/s with understanding the requirements of the complaint process and the jurisdiction of the Act;
 - b. advise the individual/s that in order for the Commission to take action in respect of a complaint of discrimination that section 29(2) of the Act requires that the complaint must be made (which means the complaint form must be completed, signed and accepted by the Commission) within 12 months of the last alleged date of discrimination;
 - c. where appropriate and with the consent of the individual/s making the inquiry, contact the other party(ies) to discuss the situation and to examine and support options and responses that could potentially address an issue and thereby eliminate the need for a complaint;
 - d. solicit such further information as HRO/s determines is required and by such means as the Commission considers appropriate to enable HRO/s to

determine whether there are reasonable grounds to believe that a violation of the Act has occurred; and

- i. if it appears that reasonable grounds exist, obtain further information from the individual/s to assist HRO/s in understanding the full nature of the complaint; or
 - ii. if it appears that reasonable grounds do not exist, explain the reason/s for the assessment and provide the individual/s with the opportunity to appeal that determination;
 - e. if it is determined that the last alleged date of discrimination is beyond the 12-month limitation period pursuant to section 29(2) and (3) of the Act, inform the individual/s that they may request an extension of the time to file a complaint if the last alleged date of discrimination is determined to be greater than 12 months, but less than 24 months; and
 - f. refer the individual/s to another resource; for example, when the inquiry may fall within the scope of another organization.
3. When an individual/s makes an inquiry to the Commission for education materials or information relating to human rights, HRO/s will endeavor to provide relevant information and may refer the individual/s to the Commission's Race Relations, Equity and Inclusion (RREI) unit for additional training and support.
 4. The Commission shall prescribe the form on which complaints are to be drafted and the nature of the information which must be submitted to the Commission by an individual/s who wishes to advance a complaint of harassment or discrimination. The Commission shall also stipulate the procedures which must be followed prior to a complaint being accepted by the Commission.
 5. HRO/s shall treat all complainant/s and all respondent/s with respect and ensure that all complaints are processed in accordance with the principles of natural justice.

Investigation Stage

6. HRO/s shall provide the Complaint to the respondent/s and seek from the respondent/s such information and in such form as the Commission determines appropriate.
7. The Commission shall develop and document, with the input and cooperation of the parties, where possible, an appropriate process for investigating each complaint. The process shall be guided by restorative principles. The investigative process shall ensure that all information relevant to a complaint is disclosed to the Commission.

8. During the investigation, HRO/s shall provide all parties to the Complaint opportunities to present relevant information and their perspectives on the Complaint.
9. All investigations must be conducted in a timely manner having regard to the parties and situations. The Commission shall endeavour to complete all investigations within 200 days of acceptance.
10. HRO/s may assist the parties to resolve the Complaint, in whole or in part, by mutual agreement. Any agreement shall be documented in a manner prescribed by the Commission and must be approved by the Commissioners.
11. The Commission may utilize such processes or procedures and at such times in the complaint process as the Commission determines appropriate to attempt to resolve a complaint.
12. The Commission shall also establish a process by which HRO/s shall make recommendations to the Commissioners and/or the Director with respect to the disposition of a complaint.

Conflict of Interest

13. HRO/s shall not be engaged in any matter in which the HRO/s has a personal interest or matter where they or the Commission may be perceived as being biased in favour of one party to a complaint over another party.