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Inquiry Form Guide

1.0 Background

The Nova Scotia Human Rights Commission (“the Commission”) and the Nova Scotia Human Rights Act (“the Act”), RSNS 1989, c. 214, were established in 1967 in response to calls from the African Nova Scotian community for an end to discriminatory treatment they were subjected to in the province.

The Commission was the first of its kind in Canada to apply a restorative dispute resolution process for complaints of discrimination. The Dispute Resolution unit of the Commission is responsible for assessing and investigating allegations of discrimination under the Act.

The Commission is committed to actively engaging and working with all Nova Scotians to address issues of discrimination (individual and/or systemic) by effectively advancing equity, fostering positive and respectful relationships, protecting human rights, and recognizing the inherent dignity of all Nova Scotians.

2.0 Purpose

This document will assist you with completing the inquiry form. For an inquiry to be accepted as a complaint by the Commission, you will need to demonstrate the following criteria:

- There was an alleged act of discrimination (differential treatment, failure to accommodate, etc.).
- The situation happened in a [prohibited area](#) (employment, accessing a service, etc.).
- The treatment was based on a [protected characteristic](#) (disability, race, sex, etc.).
- The last action of discrimination occurred in the last 12 months.
- There is a reasonable connection or link between the alleged act of discrimination and the protected characteristic.
- The potential Respondent is within provincial jurisdiction.

Example: A customer, who identifies as African Nova Scotian, enters a retail store, and is racially profiled by staff of the store. They were stopped and searched for no apparent reason.

In this example, the act of discrimination is racial profiling. The prohibited area is access to services, and the protected characteristics are race and colour.

To help apply the criteria to your own situation, you can use this [self-assessment tool](#). If you have not shown that your situation meets the criteria above, the Commission cannot accept your complaint.

3.0 General Information

A **Complainant** is the term used to describe the person who makes a complaint of discrimination under the Nova Scotia *Human Rights Act*.

The **Respondent** is the term used to describe the legal entity who is accused in, or is responding to, a human rights complaint.

An inquiry cannot be accepted as a complaint if the last date of discrimination is beyond the statutory 12-month filing period pursuant to the *Human Rights Act*. If your allegation is beyond the 12-month period, you may file a Request for an Extension to the Director and CEO. The Director and CEO has the authority to grant up to an additional 12-month extension. These extensions may only be granted to an individual in what the Act calls, “exceptional circumstances”. For more information on the Request for Extension process, please email hrcinquiries@novascotia.ca or call (902) 424-4111.

To assist with identifying and defining your inquiry, you can refer to the non-exhaustive descriptions and examples of the prohibited areas and protected characteristics below. Please also refer to the Nova Scotia [Human Rights Act](#) for interpretation.

4.0 Prohibited Areas

The provision of or access to services or facilities: using public transportation, dining at a restaurant, attending school or accessing a provincial government service.

Accommodation: housing, campsite, or hotel rentals. This is different than medical accommodation.

The purchase or sale of property: buying or selling a home or land.

Employment: applying for a job, working on the job, being dismissed from a job, or attending work-related social activities.

Volunteer public service: applying to volunteer, volunteering, or being asked to step down from a volunteer position.

A publication, broadcast, or advertisement: broadcasting hate propaganda or printing discriminatory ads. This includes all media formats like newspapers, prints, radio, TV, etc.

Membership in a professional association, business or trade association, employers' organization, or employees' organization: denial of membership in any of these groups including unions.

5.0 Protected Characteristics

The alleged discrimination you experienced must be based on one of the *Act's* protected characteristics. The protected characteristics are:

Age: Age discrimination involves treating persons in an unequal fashion due to age or perceived age. While there are no particular age criteria, this discrimination is most prevalent based on the perception on being young, middle aged or old. For example, this could take the form of refusing to rent to someone because of a perception they are young and therefore irresponsible or refusing to hire someone because of a perception they are old and are likely to retire soon.

Race: Racial discrimination is the wrongful treatment of an individual because of skin color, race, or national origin. In some cases, people do not intentionally mean to discriminate and it is an unconscious reaction that has an impact, whereas at other times people intentionally discriminate. This can also refer to racial discrimination that may be prevalent in systemic infrastructures.

Colour: Wrongful and prejudicial treatment of a person on grounds of skin colour or pigmentation, complexion, shade, or tone. This could occur regardless of race.

Religion: Religious discrimination is treating a person or group differently because of the practices, beliefs and observances that are part of a faith or religion. Religion provides followers with a set of chronicled religious rules to live by. It does not include personal, moral, ethical, or political views. An example would be, not allowing a Muslim person time to pray each day. Another would be not allowing a Jewish person time off for the observance of holy days.

Creed: May include religious or non-religious belief systems that substantially influence a person's identity, worldview, and day to day way of life. This may not cover personal, moral, ethical, or political views. Creed would include Indigenous Spirituality.

Sex (including gender and pregnancy): A person's biological sex, as well as gender. Gender is a broader term that includes the social characteristics associated with each sex. This would also include society's expectations of how women or men "should" act, behave or dress. Pregnancy includes the pre- and post-delivery period, pregnancy related illness, as well as the possibility of becoming pregnant.

Sexual Orientation: Who you are attracted to sexually, physically, and emotionally and want to have relationships with. Sexual orientations include 2SLGBTQIA+ (Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex, Asexual, and additional sexual orientations).

The concept of Two-Spirit identity existed well before the arrival of European settlers on Turtle Island. Indigenous individuals who identified as Two-Spirit were seen as gifted and honoured in their community because they carried two spirits with them, both male and female. Two-Spirit people were often the healers, medicine people, and visionaries within their given community and they were foundational members of their culture. Much of this can be attributed to the "double vision" Two-Spirit people are gifted with, being able to see through both a masculine and feminine lens.

Gender Identity: Refers to what you know yourself to be along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex. Gender identity is fundamentally different from a person's sexual orientation.

Gender Expression: This is how you present or show your gender to the world and how your gender is understood by the world, even when it does not align with how you see yourself.

Disability: Physical disability or mental disability refers to an actual or perceived:

- (i) loss or abnormality of psychological, physiological, or anatomical structure or function,
- (ii) restriction or lack of ability to perform an activity,
- (iii) physical disability, infirmity, malformation, or disfigurement, including, but not limited to, epilepsy and any degree of paralysis, amputation, lack of physical co-ordination, deafness, hardness of hearing or hearing impediment, blindness or visual impediment, speech impairment or impediment or reliance on a service

dog as defined in the Service Dog Act, a guide dog, a wheelchair or a remedial appliance or device,

- (iv) learning disability or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- (v) condition of being mentally impaired,
- (vi) mental disorder, or
- (vii) dependency on drugs or alcohol;

Common, temporary illnesses such as cold or flu are generally not covered. If a temporary condition, such as pain, recurs as a part of an ongoing medical condition, it may be considered a disability. Documentation demonstrating what your disability is may be requested during the process.

Irrational fear of contracting an illness or disease: Refers to situations in which someone with an illness or disease faces unjustifiable negative treatment due to their illness or disease in their workplace or any other protected area. It was added to the Act as a protected characteristic to extend protection for those living with HIV/AIDS but could be applied to any kind of transmittable illness for which someone experiences discrimination.

Ethnic or National Origin: Refers to a common ancestry that is often characterized by a common language, culture, and country of origin. Provincial or territorial origin is not protected.

Aboriginal Origin: Refers to being of Aboriginal ancestry which includes First Nations, Metis, Inuit, Mi'kmaw, and L'nu. L'nu (ull-new) is an ancient, pre-contact Mi'kmaw term that comes from the root word Nilnu (nil-new) meaning my tongue. L'nu in short refers to, "the people". Together they translate to, the people who speak the same language.

Family Status: Refers to the status of being in a parent-child relationship.

Marital Status: means the status of being single, engaged to be married, married, separated, divorced, widowed or two people living in the same household as if they were married.

Source of Income: Refers to the source or perceived source of income and usually applies to people receiving income from sources other than employment, such as social assistance benefits, Canada Pension or Employment Insurance. For example, a landlord could contravene the Act if they refuse to rent an apartment to someone who receives social assistance, a

disability pension, or an income supplement provided to low-income seniors by government. The Act does not prevent landlords from making business-related inquiries about a person's credit or rental history, or asking for references, and then deciding whether to accept the person as a tenant based on the information.

Political Belief, affiliation or activity: Refers to a belief in a political party. If this is your protected characteristic, you must attach evidence of your affiliation or support for a political party, to your Inquiry Form. This would include such things as membership cards, financial contribution receipts, pay statements, thank you or congratulatory letters or list of positions held within party association(s).

Association: Refers to discrimination based on an association with an individual or group that identifies with one of the other protected characteristics listed here, such as race, religion, etc. If this is your protected characteristic, you must identify another protected characteristic(s) pertaining to you. The Act does not cover a difference in treatment based solely on a personality conflict or long held dispute between two people.

Sexual harassment: Refers to:

- (i) any unwanted conduct, comment, gesture or contact of a sexual nature that is reasonably known to cause offence,
- (ii) vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome,
- (iii) a sexual solicitation or advance made to an individual by another individual where the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome,
- (iv) a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance.

Harassment: Refers either to direct or indirect behaviour and includes comments, remarks, gestures, or other conduct that is unwelcome to the recipient. Harassment must be based on another protected characteristic.

Retaliation: Having Filed a Complaint or Given Evidence/Assistance under the Nova Scotia Human Rights Act: This ground offers protection to individuals who have filed complaints, given evidence, or assisted anyone else in making a complaint to the Nova Scotia Human Rights Commission.

6.0 Resolution Conferences

Disputes can often be resolved when Commission staff help all parties involved work through the issues that created the dispute. One such process is a resolution conference. A resolution conference allows all parties involved to focus on restoring and repairing relationships and build understanding to reduce the harm and help everyone move forward in a positive way. It is important to know that Commission staff do not take sides. They may ask some difficult questions of both parties to help find a solution in everyone's best interests.

There are several reasons why a resolution conference is a good way to solve a dispute: it assists people directly involved in the issue to help create the solution and find a way forward; it provides an opportunity for all parties to participate; people learn about each other, which can help prevent future problems; and the process promotes respect, compromise, and meaningful outcomes.

Each resolution conference is different because the people affected, the circumstances and the types of possible harm are different in every case. If you think your problem is hurting more than just you or if you are open to learning more, feel free to talk about this with Commission staff.

7.0 Northern Regional Health Authority v Horrocks Decision implications.

There was a recent decision in a Nova Scotia Board of Inquiry which upheld the Supreme Court of Canada's decision for *Northern Regional Health Authority v. Horrocks*, 2021 SCC 42. You can learn more about the decision at <https://canlii.ca/t/jitkc>. This decision supports that the Nova Scotia Human Rights Commission would not have jurisdiction to investigate employment complaints in which the complainant is part of a Union and bound by their collective agreement. The Commission has appealed this decision but understands that this process will take time.

As a result of this, all signed complaint forms involving employment complaints in which the complainant is part of a Union, cannot proceed until the Commission receives a decision on the Commission's appeal. If your inquiry is accepted and a complaint form is signed, it will be placed on a waiting list, until the Commission receives further direction from the Court. The Commission will provide a copy of the complaint to the Respondent for their information in the meantime.