

BC Human Rights Tribunal

1270 - 605 Robson Street
Vancouver BC V6B 5J3
Phone: 604-775-2000
Toll Free: 1-888-440-8844

Fax: 604-775-2020
TTY: 604-775-2021

GENERAL INSTRUCTIONS

- See the Tribunal's website for further information – www.bchrt.bc.ca
- Your information will NOT be automatically saved by the Tribunal
- Click on **Save** at any time to save your form to your computer
- **Print Part I** and provide the necessary signature(s) before sending your information to us
- **Email** us your form by attaching a saved copy along with the scanned Part I with signature(s) and sending it to BCHumanRightsTribunal@gov.bc.ca
- OR click on **Print** and **fax, mail** or **hand deliver** a copy of your form to us
- Keep a copy of this Complaint Form and all the documents

For assistance with filing your complaint contact

BC Human Rights Clinic
Tel: 604-622-1100
Toll Free: 1-855-685-6222
www.bchrc.net

The Law Centre
Tel: 250-385-1221

www.thelawcentre.ca

PART I: YOUR AUTHORITY TO FILE A COMPLAINT FOR ANOTHER PERSON

The Tribunal may accept your complaint filed for another person if the person has legal capacity and consents, or you have legal authority to file the complaint for someone without legal capacity, such as a child. Complete one of the Options 1 to 4.

OPTION 1: Consent of a Person with Legal Capacity

If the person consents to you filing the complaint and has legal capacity to do so, they must sign the authorization in Option 1.

OPTION 2: Complaint for a Child with More Than One Parent or Guardian

One parent or legal guardian may represent a child. However, the other parent or legal guardian must consent to the complaint being filed and must authorize the other legal guardian to act on the child's behalf in Option 2.

OPTION 3: Complaint for a Child with One Parent or Guardian

Use Option 3 if you are the sole legal guardian. Attach supporting documentation. For example, a court order or the relevant part of a separation agreement.

OPTION 4: Complaint for an Adult Without Legal Capacity

Use Option 4 if you have the legal authority to represent an adult without legal capacity.

Attach supporting documentation. For example, the document showing that you have a power of attorney. Sign the declaration.

PART II: COMPLAINT

STEP 1: NAME THE RESPONDENT(S)

Name each individual person, business or organization you believe is responsible for the discrimination.

An individual Respondent might be a co-worker, boss, building manager, landlord, restaurant server, employee at a recreation facility, health care provider or government official.

A business or organizational Respondent might be the company the person worked for, a newspaper, a school district, a trade union, a society or a strata corporation.

COMPLAINTS IN THE WORKPLACE

The employer is generally responsible for what happens at work and is usually the Respondent in a work-related complaint.

You may also name individuals you believe are personally responsible for what happened. For example, if the person was fired, you may name the person who decided to fire them, but you should not name the person who only delivered the termination letter as part of their job.

COMPLAINTS ABOUT A UNION OR ASSOCIATION

If the complaint is about what happened at work, you can name a union or association as a Respondent only if it is responsible for what happened at work. For example, if the collective agreement is discriminatory or a union interfered with the employer's efforts to accommodate a person's disability.

If the complaint is about a person's membership in a union (or other association representing them in the workplace), you can only name the union or association. You cannot name an individual as a Respondent.

FIND PROPER NAMES, ADDRESSES AND PHONE NUMBERS FOR BUSINESSES OR ORGANIZATIONS

The name and address might be:

- on a record of employment, a pay stub, a T-4 slip
- on a business card or letterhead
- in the phone book
- on their internet website under "contact us"
- in an advertisement
- available from the local government office (business licensing department) in the community where the business operates (see the Blue Pages in your local phone book or look on the internet)

STATE THE PERSON YOU REPRESENT'S RELATIONSHIP WITH EACH RESPONDENT

For example:

- The person was an employee at ABC Company.
- The person was a customer at XYZ Sporting Goods Ltd.
- The person is a tenant in a building owned by RST Ltd. and managed by GHI Inc.

STEP 2: AREA(S) & GROUND(S) OF DISCRIMINATION

A complaint must show that the Respondent's conduct took place in an area of daily life protected under the BC *Human Rights Code*. These are called "**areas of discrimination**". It must also show that the person has a personal characteristic(s) protected under the *Code*. These are called "**grounds of discrimination**". These protected personal characteristics may be:

- actual (for example, a person’s ancestry or age), or
- perceived (for example, someone thinks that a person has or may develop a disability in the future, or makes homophobic comments regardless of the person’s sexual orientation).

Not all grounds of discrimination apply to all areas of discrimination.

The following information will help you choose the **area(s)** that apply to this complaint.

“Accommodation, service or facility” means an accommodation, service or facility that is customarily available to the public. Examples are hotels, stores, restaurants, schools, government programs, community recreation programs, and stratas.

“Employment” is about work at a job.

- Volunteer jobs can be included.
- Work as a contractor can be included depending on a contractor’s relationship with the company they work for, including the amount of control the company has over the work.
- Employment covers all parts of work, including hiring, firing, wages, benefits, and work environment.

“Employment advertisement” is an ad for a job.

“Publication” includes something made public, such as a newspaper article or a sign or a symbol in a public place. It must show discrimination or an intention to discriminate, or be likely to expose a person or group or class of persons to hatred or contempt.

“Purchase of property” refers to buying property, such as land, a building or a condo.

“Tenancy” refers to renting an apartment, office or other space. It includes an application to rent a space, terms of a tenancy agreement, how a tenant is treated by a landlord, and eviction.

“Unions and occupational associations” are organizations or associations that represent workers or employers in the workplace. It covers applying for membership, being suspended or expelled, and how a member is treated by their union or occupational association.

“Wages” means lower pay for men or women for similar or substantially similar work. Complaints about discrimination in wages on grounds other than sex may be filed in the area of employment.

Give details of the actual or perceived ground(s) of discrimination that apply to this complaint:

Examples: Age – The person is 66 years old; Physical Disability – The person has asthma; Sex – The person is a woman; Race – The person is Indo-Canadian; Sexual Orientation – The Respondent thinks the person is gay.

The following definitions will help you choose the **ground(s)** that apply to the complaint.

“Age” means 19 years or more. It *does not apply* to purchase of property.

“Ancestry” is defined broadly and includes where a person’s family is from.

“Colour” refers to a person’s colour.

“Criminal Conviction” includes being charged with or convicted of an offence under the *Criminal Code* or another law. It *only applies* to employment or membership in a union or occupational association.

“Family Status” includes being related to another person by blood, marriage or adoption. It includes family type (for example, a single parent family) and who is in a family (for example, someone is fired because of who their father is). It *does not apply* to purchase of property.

“Gender identity” is a person’s sense of themselves as male, female, both, in between or neither. It includes people who identify as transgender. Gender identity may be different or the same as the sex a person is assigned at birth.

“Gender expression” is how a person presents their gender. This can include behaviour and appearance, including dress, hair, make-up, body language and voice. This can also include name and pronoun, such as he, she or they. How a person presents their gender may not necessarily reflect their gender identity.

“Marital Status” includes being married, single, widowed, divorced, separated or living common-law. It includes who someone’s spouse is (for example, they are refused a service because of who their wife is).

“Mental Disability” includes a mental condition such as a learning disorder, developmental disability, or mental illness, that affects or is seen as affecting a person’s abilities.

“Physical Disability” includes a physical condition that affects or is seen as affecting a person’s abilities.

“Place of Origin” is defined broadly and includes where a person is from.

“Political Belief” includes support of a political party or group that advocates political change, and beliefs about the organization and governance of communities. It *only applies* to employment, employment advertisements, and membership in a union or occupational association.

“Race” is defined broadly to include groups such as First Nations, Métis, Chinese or South Asian.

“Religion” includes adherence to the practices of a particular faith or genuinely held religious beliefs, and not having religious beliefs.

“Sex” includes being a man, woman, inter-sexed or transgender. It also includes pregnancy, breast-feeding and sexual harassment.

“Sexual Orientation” includes being heterosexual, gay, lesbian or bisexual.

“Source of Income” refers to legal sources of income. For example, it includes income assistance, disability pension benefits, or rent subsidies. It *only applies* in the area of tenancy.

STEP 3: RESPONDENT(S) CONDUCT

Answer these questions to show that the Respondent’s conduct could be discrimination under the *Human Rights Code*.

1. What did the Respondent do?

Describe what the Respondent said, did or failed to do that violates the *Code*. Be specific about dates and what happened. For example:

- If the Respondent used homophobic words, set out the words that were used and when.
- If the person you represent needed the Respondent to take steps so they could work with a disability (“accommodation”), explain:
 - what the Respondent knew about their need for accommodation, and
 - what the Respondent did or failed to do.

2. What is the adverse impact on the person you represent?

Explain what effect the Respondent’s conduct has had on the person you represent. For example:

- Their dignity, feelings or self-respect were damaged.
- They lost an opportunity for a promotion.
- They were denied the opportunity to rent an apartment.
- They were denied access to a service.

3. How was each ground of discrimination a factor in the adverse impact?

Give enough information to show how each ground was at least a factor in the adverse impact.

For example:

- If the person you represent could not access a service because of their disability, explain:
 - what accommodation the person your represent needed (but did not get) to access the service
 - anything else that shows how the person’s disability was a factor
- If the person you represent was fired because they were pregnant, explain:
 - how and when the Respondent knew you were pregnant
 - when the person was fired
 - whether others were fired
 - whether the person was replaced
 - anything else that shows how pregnancy was a factor

STEP 4: Part A – TIME LIMIT TO FILE COMPLAINT

To file the complaint on time, you must file it within one year of each Respondent’s conduct (acts or omissions). If only some of the conduct happened in the last one year, the complaint may be filed in time if all of that Respondent’s conduct is related or similar and close enough in time.

Answer the questions in **STEP 4: Part A** to show whether the complaint is filed in time. If some or all of the complaint may be filed late, you will also complete **STEP 4: Part B**.

1. Did all the conduct you say is discrimination happen in the last one year?

Review the conduct described in **STEP 3**. If all the conduct you say is discrimination happened in the last one year, the complaint is filed in time. Check yes, and go to **STEP 5**. Otherwise check no, and continue with **STEP 4**.

2. For each Respondent, is all the conduct related or similar and, if so, how?

For each Respondent, if this is a complaint about related or similar conduct, you must file the complaint within one year of the most recent conduct.

Conduct may be related or similar if it is the same as or like other conduct, or is about the same issue or problem. For example:

- January 15: a person’s manager sent them unwanted emails of a sexual nature
- January 20: the person complained to their employer about their manager, but it did nothing
- February 10: the manager touched the person inappropriately

For the manager, the January 15 and February 10 conduct is related or similar because both events involve sexual harassment.

For the employer, all three events are related or similar because they each involve the employer’s responsibility for a workplace without sexual harassment.

3. For each Respondent, if there are gaps between the conduct, can you explain them?

If there are gaps between similar or related conduct, the older conduct may be filed late. For each Respondent, explain the reason for any gaps. For example:

- If an employer denied the person you represent a promotion on three occasions, but these events were three months apart, you might explain that the job postings were three months apart.
- If a supervisor used racial slurs, but there is a four-month gap, you might explain that the supervisor was on a leave of absence.

STEP 4: Part B – TRIBUNAL MAY ACCEPT LATE COMPLAINTS

If **ANY** of the conduct you say is discrimination happened more than one year ago, part or all of the complaint **MAY** be filed late.

Answer the questions in **STEP 4: Part B**, even if you believe that all of the complaint is filed on time because it is about similar or related events with at least one event in the last one year.

The Tribunal may accept a late complaint if it decides that accepting the late-filed complaint:

- is in the public interest; and
- no one would be substantially prejudiced (harmed) by the delay.

1. Why did you or the person you represent wait to file the complaint?

The reasons you or the person you represent waited to file this complaint may be an important factor in deciding if it is in the public interest to accept the complaint. Explain the reasons here.

Attach any documents that support the reasons. For example, if you were unable to file the complaint earlier for medical reasons, attach a doctor's note explaining how a medical condition affected their or your ability to file the complaint.

2. Why should the Tribunal accept the complaint?

Other factors the Tribunal will consider in deciding if it is in the public interest to accept the complaint include:

- the length of the delay; and
- whether the complaint raises a novel or unusual issue.

Explain here any other reason the Tribunal should accept the complaint.

3. Why would the delay in filing not cause substantial prejudice to any other person?

Substantial prejudice includes, for example, where the Respondent:

- no longer has evidence; or
- has lost contact with witnesses.

Explain here why the delay has not caused substantial prejudice to anyone.

STEP 5: OTHER RELATED PROCEEDINGS

The Tribunal may defer the complaint (put the complaint on hold) until another proceeding capable of dealing with the human rights complaint, such as a grievance, has been completed. If the complaint is deferred, the Tribunal will take no further steps until the deferral ends.

STEP 6: REMEDIES

1. List the remedies that you want for the person. Remedies can include:

- an order to stop the discrimination
- a statement that the conduct is discriminatory
- compensation for:
 - lost wages, benefits or expenses
 - injury to the person's dignity, feelings or self-respect.
- specific steps, such as:
 - getting their job back
 - a change to a policy or collective agreement
 - making a service or housing accessible.

2. List any other person or organization affected by these remedies. For example:

- if a person is a union member, and the remedy they want might affect other union members' rights or might breach the collective agreement
- if a person wants to rent an apartment, but the respondent has rented it to someone else.

STEP 7: SETTLEMENT MEETING

The Tribunal can provide a mediator to resolve the complaint informally and voluntarily. This is called a “**settlement meeting**”. This is a free service. What is said during the settlement meeting is confidential and cannot be used against either party later.

STEP 8: COMPLETE THE COMPLAINT FORM

After you have filled out the complaint form:

- check the box to confirm that the information is true and accurate
- keep a copy of this complaint form and the documents
- send the complaint form to the Tribunal

WHAT HAPPENS NEXT?

After the Tribunal has reviewed the complaint, it will tell you one of the following:

- the complaint form is complete, the Tribunal will accept it for filing, and a copy will be sent to the Respondent(s)
- the complaint form is incomplete and the Tribunal will ask you for further information by a certain date
- the complaint is deferred pending the outcome of other proceedings
- the complaint cannot be accepted for filing because:
 - the complaint is not covered by the *BC Human Rights Code* (it may be covered by the *Canadian Human Rights Act*)
 - the complaint does not set out enough information to support a complaint of discrimination under the *BC Human Rights Code*
 - the complaint was filed late and the Tribunal has decided not to accept it.

PROTECTION FROM RETALIATION

After a complaint is filed, a complainant, anyone named in a complaint, a witness or anyone who assists in a complaint is protected from retaliation for their involvement in the complaint. You must show:

- a complaint must have been filed with the Tribunal;
- the person who retaliated knew about the complaint; and
- it is reasonable to conclude that the person intended to retaliate against someone because of their involvement in the complaint.

As of May 14, 2015, the *Code* also protects you from retaliation because someone thought you might make a complaint, be named in a complaint, or give evidence or assist in a complaint.

If the person you represent or someone else has been retaliated against, complete a Retaliation Complaint Form available on our website under Forms. File it with Part I of this form (Form 1.2).

HELP FILING YOUR COMPLAINT

For assistance with filing the complaint contact:

BC Human Rights Clinic
300 - 1140 W Pender Street
Vancouver BC V6E 4G1
Tel: 604-622-1100
Fax: 604-685-7611
Toll Free: 1-855-685-6222
www.bchrc.net

The Law Centre – University of Victoria Faculty of Law
225 - 850 Burdett Avenue
Victoria BC V8W 0C7
Tel: 250-385-1221
Fax: 250-385-1226
www.thelawcentre.ca

PRIVACY NOTICE

The Tribunal collects personal information to process complaints filed under the *Human Rights Code* and to conduct surveys to evaluate and improve its services under s. 59.1 of the *Administrative Tribunals Act*.

The personal information in this form may be disclosed to members of the public. This is because the Tribunal's process is public:

- The Tribunal publishes most decisions on its website.
- The Tribunal publishes a hearing schedule (list of upcoming hearings) with the parties' names and the area(s) and ground(s) of a complaint.
- After a complaint is on the hearing schedule, the public has access to information, including the complaint and response forms (except contact information).
- Hearings are open to the public.

You can ask the Tribunal to limit the information it makes public. However, the Tribunal will only do so if it decides that the privacy interests of the person you represent outweigh the public interest in access to the Tribunal's proceedings.

For more information, contact the Tribunal Registrar at the address or phone number at the top of this form.



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