

BC Human Rights Tribunal

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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
- **Email** us your form by attaching a saved copy 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 your Complaint Form and all of your 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: REPRESENTATION OF THE GROUP OR CLASS

NOTE: If the remedy you seek for the group or class is the same remedy you would seek in your own complaint, file only an individual complaint. For example, if the only remedy you want is for an organization to change its policy, you would file only your own individual complaint.

DESCRIBE THE GROUP OR CLASS OF PERSONS

A “**group**” of people is a number of individuals who are or easily could be identified by name. For example, people who work for the same employer, or people who are members of the same society or association.

A “**class**” of people is a number of individuals who can be identified by characteristics that they share. For example, residents of Vancouver who are visually impaired.

Describe the group or class so that its members can be identified.

- Set out the criteria that would be used to identify the members.
- Name the members of the group if you can.

The description of the group or class must relate to the conduct that the complaint is about. The Tribunal may not accept a complaint that is vague or overbroad.

For example, if the complaint alleges that a service provider discriminates because its program is not accessible to students with a certain disability, the description of the group or class should relate to those students with the specific disability who were or are adversely affected because of the problems with accessing the program.

YOUR ROLE AS A REPRESENTATIVE

The Tribunal may refuse to accept a complaint if it determines that proceeding with the complaint is not in the interest of the group or class.

You must provide information about your role as the representative that show whether you can represent the interests of the group or class. Answer the following questions.

1. Are you a member of the group or class?

You do not need to be a member of the group or class to file a complaint on their behalf.

2. Why are you filing the complaint?

Explain your reasons for filing the complaint.

3. Do your interests in the complaint differ from the members?

It is not necessary that your interests exactly match the members' interests. However, you must say if there are any ways your interests in pursuing the complaint might be different from the members' interests.

4. If yes, explain.

If your interests differ from the members' interests, explain:

- What are the differences?
- Could you have a conflict of interest with the members at some point in the complaint? Why or why not?

COMMUNICATIONS WITH THE GROUP

As the representative, you are responsible for communicating with the members of the group or class about all important steps in the Tribunal process.

1. Communications to date

You are not required to have communicated with the group or class before filing this complaint form.

If you have communicated with the group or class, describe:

- Your method for doing so
- What you communicated to the group or class
- What response you have had, if any

2. Do you have reason to believe that the group or class or its members may not want you to file the complaint on their behalf?

State whether you have any reason to believe that the group or class or some of its members may not want you to file the complaint on their behalf.

For example, if you have been advised that some members of the group are not interested in the complaint, you must answer yes.

Answering yes does not mean that the Tribunal will not accept your complaint. Rather, it is one thing the tribunal will consider when it decides whether to accept the complaint and the terms on which it may accept the complaint.

For example, the Tribunal may decide that you must notify members of the group or class of a right to "opt out" of this complaint and the process for doing so.

3. If yes, explain.

Explain what information you have that the group or class or its members do not want you to file the complaint on their behalf.

In what circumstances did you get this information? For example, did you ask members if they would want to opt out of the complaint?

Who did you hear concerns from? How many people? What concerns were expressed?

4. Describe your plan for communicating with the group or class in the future.

Do you have a proposed method for keeping the group or class members informed of the progress of the complaint? Explain your proposed plan.

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 group members 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 complaint is about harassment, you may name the person who you say harassed the group, but if the complaint is about a policy, you should not name the person who advised the group members that the policy applied.

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 an employee's disability.

If the complaint is about membership in a union (or other association representing the group or class 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 RELATIONSHIP OF THE GROUP OR CLASS WITH EACH RESPONDENT

For example:

- They are employees at ABC Company
- They are customers at XYZ Sporting Goods Ltd.
- They are students in a School District.
- They are tenants in a building owned by RST Ltd. and managed by GHI Inc.

STEP 2: Part A – AREAS 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**".

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.

Note: Not all grounds of discrimination apply to all areas of discrimination. (See information about grounds in STEP 2B)

STEP 2: Part B – GROUNDS OF DISCRIMINATION

A complaint must show that the group or class members have 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 definitions will help you choose the ground(s) that apply to your 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 had a policy or practice, describe it, and explain when it was in effect, and when and how it applied to members of the class.
- If the group members 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 group or class you represent?

Explain what effect the Respondent's conduct has had on the group or class 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.

- If the group or class you represent was denied a service because of their disability, explain:
 - how the service denial relates to the disability
 - what accommodation the group or class you represent needed (but did not get) to access the service
 - anything else that shows how the group or class' disability was a factor
- If the group members were paid less because of their race, explain:
 - what the others were paid
 - how the work was similar to others
 - anything else that shows how race 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 manager sent unwanted emails of a sexual nature
- January 20: the group members complained to their employer about their manager, but it did nothing
- February 10: the manager posted pictures of a sexual nature

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 a Respondent denied a service on three occasions, but these events were three months apart, you might explain that this was when the service was unavailable.
- 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 group or class you represent wait to file the complaint?

The reasons you or the group or class 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 your 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 types of remedies that you want for the group or class. 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 member'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 the complaint form and your documents
- send the complaint form to the Tribunal.

WHAT HAPPENS NEXT?

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

- your complaint form is complete, the Tribunal will accept it for filing, and a copy will be sent to the Respondent(s)
- your complaint form is incomplete and the Tribunal will ask you for further information by a certain date
- your complaint is deferred pending the outcome of other proceedings
- your complaint cannot be accepted for filing because:
 - your complaint is not covered by the *BC Human Rights Code* (it may be covered by the *Canadian Human Rights Act*)
 - your complaint does not set out enough information to support a complaint of discrimination under the *BC Human Rights Code*
 - your 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 you or someone else has been retaliated against, complete a Retaliation Complaint Form available on our website under Forms.

HELP FILING YOUR COMPLAINT

For assistance with filing your 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

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The Law Centre – University of Victoria Faculty of Law

225 - 850 Burdett Avenue

Victoria BC V8W 1B4

Tel: 250-385-1221

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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 your privacy interests 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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