

# BC Human Rights Tribunal

Annual Report 2015-2016





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June 9, 2016

Honourable Suzanne Anton  
 Minister of Justice  
 Room 232  
 Parliament Buildings  
 Victoria, BC V8V 1X4

Dear Minister:

Please accept the Annual Report of the BC Human Rights Tribunal for the fiscal year April 1, 2015 to March 31, 2016, submitted in accordance with s. 39.1 of the *Human Rights Code*.

By way of introductory overview to the Tribunal's work, I once again provide a comparative summary of key activity indicators for the past fiscal year.

ACTIVITY INDICATORS	FY 2015-16	FY 2014-15	Variance %
<b>Active Complaints at April 2015</b>	<b>868</b>	<b>820</b>	<b>↑6%</b>
<b>New Complaints Filed</b>	<b>1,227</b>	<b>1,184</b>	<b>↑4%</b>
• Accepted for Processing	<b>810</b>	<b>881</b>	<b>↓9%</b>
• Rejected at Screening	<b>417</b>	<b>303</b>	<b>↑38%</b>
(Includes Timeliness)			
<b>Complaints Settled</b>	<b>557</b>	<b>564</b>	<b>↓1%</b>
<b>Preliminary Decisions</b>	<b>428</b>	<b>449</b>	<b>↓5%</b>
<b>Hearings Held</b>	<b>23</b>	<b>36</b>	<b>↓36%</b>
<b>Final Decisions After Hearing</b>	<b>20</b>	<b>28</b>	<b>↓29%</b>
<b>Complaints Closed</b>	<b>1,180</b>	<b>1,136</b>	<b>↑4%</b>
<b>Total Complaints Handled</b>	<b>2,095</b>	<b>2,004</b>	<b>↑5%</b>
<b>Active Complaints at March 2016</b>	<b>915</b>	<b>868</b>	<b>↑5%</b>

Fiscal year 2015-16 has again seen a historic number of new complaints filed. We believe the higher volume of complaints may be due to increased public awareness and the enhanced accessibility of the Tribunal's website. Visits to the website increased from 146,548 in FY 2014-15 to 234,399 (+60%) in this reporting period.

**The Tribunal's objective of continuous implementation of responsive and relevant process and procedural improvements to better serve British Columbians, remains its core strategy.**

### **Responsiveness, Relevance, Accessibility**

In anticipation of new accountability expectations imposed by amendments to the *Administrative Tribunals Act*, the Tribunal engaged a professional market analysis firm to design and implement a **Voice of the Participant Research Program**. Tribunal participants will be provided with electronic surveys whenever a file is closed, at any stage of the Tribunal's process. This will enable us to incorporate their experience to quickly change and improve those processes which are within our control and, over time, to gauge their overall satisfaction with such changes. Survey questions are shown at pages 24-25 of this Annual Report.

Since implementing our redesigned forms in 2014, electronic filing and e-correspondence has become the dominant, indeed almost exclusive, form of communication with the Tribunal. This year the Tribunal handled 6,281 e-mail inquiries, a 125% increase over the previous year. The Tribunal's public and participants have come to expect, in fact they demand, the capacity to communicate electronically.

Continuing in this vein, between December 2015 and March 2016, the Tribunal, with the excellent assistance of the Ministry, undertook intensive "Usability Testing" of its website. The process involved testing by volunteer users attending the Tribunal's offices to obtain assistance from the Human Rights Clinic. We also consulted with stakeholders and Tribunal staff. The application of the information gathered will result in significant and substantive re-organization and changes to the Tribunal's website, emphasizing plain language, accessibility for self-represented participants and streamlined search functionality. The new, improved website will be rolled out early in the new fiscal year.

### **Settlement Success Continues**

In furtherance of the Tribunal's established emphasis on early, voluntary settlement and resolution, case managers have been mentored to the point where some may be poised to mediate selected complaints by the summer of 2016. Case managers are also tasked with contacting parties just days after a complaint is served to encourage a mediation session as early as one month of a complaint being filed.

The success of the Tribunal's assertive pursuit of opportunities to help parties resolve their complaints is reflected in a further year-over-year reduction in final decisions issued, from 28 to just 20 in this fiscal year. This represents just 1.6% of complaints filed.



In FY 2015-16, the Tribunal convened just 23 final hearings on the merits of a complaint, down 36% from the previous year. A further testament to the effectiveness of our settlement services.

The average duration of final hearings was two days, down from three the year before. Two hearings lasted more than five days.

The Tribunal takes pride in the fact that (subject only to editing) there were no final decisions outstanding at the close of the fiscal year.

## **Resource Challenges and Performance Impacts**

In contrast to final decisions, the number of outstanding preliminary decisions, involving for example, applications to dismiss a complaint without a hearing, appear to be inching upward. There are a number of explanations for this trend. One reason is that the Tribunal has been operating for several months at 2.4 members below capacity or complement. A Request for Appointment has been filed. I am hopeful that the Tribunal will be staffed and functioning at capacity very soon.

Another factor contributing to the same workload pressure may be an unintended consequence of revisions to the Tribunal's Rules of Practice and Procedure which, in an effort to safeguard fairness, require earlier document disclosure. This may be contributing to more lengthy and legally complex preliminary applications, as counsel attempt to put their best arguments forward at the interlocutory stage of a complaint.

These circumstances, in combination, are making it difficult to adhere to the performance expectation that members produce such decisions within no more than 90 days of them being assigned.

The situation is being closely monitored to avoid unacceptable decision backlogs. Members are encouraged to write shorter, more succinct decisions and to render them in letter form where appropriate to the circumstances. We are also considering a process to deal with preliminary applications on the basis of oral submissions. To that end, we have planned an exciting two-day workshop in June 2016, to be presented by the **National Judicial Institute**, on delivering legally sound oral judgments.

## **Judicial Reviews and Appeals**

The Tribunal's decisions continue to enjoy the deference of the courts. The number of petitions for judicial review (14) and appeals to the British Columbia Court of Appeal (5) remains consistent with previous years. In FY 2015-16, the courts issued nine judgments on judicial review. The Tribunal's initial decision was upheld in seven cases. In one case, the British Columbia Supreme Court decided that the Tribunal had erred in finding *prima facie* discrimination. In another, the court upheld the Tribunal's finding of *prima facie* discrimination, but set aside the compensation awarded for injury to dignity. Both decisions will be before the British Columbia Court of Appeal in the coming year.

## **Legal Representation Before the Tribunal**

This year's report provides, for the first time, a detailed analysis of legal representation at the Tribunal (see pages 7-8). Our numbers show that, for complainants, access to legal representation may be a determining factor in the success of their complaint. Complaints were dismissed or rejected far more frequently where complainants were self-represented. The picture is less stark for respondents, who generally had greater levels of legal representation. For them, legal representation did not appear to correlate with any particular outcome.

Pursuing a human rights complaint is both procedurally and substantively complex. Legal advice and representation is critical to achieving the *Code's* purposes of allowing individuals to fully participate in life in British Columbia and to have access to a means of redress for discrimination.

The Tribunal will continue to track legal representation and its impact on the outcome of complaints.

## **Budget Pressures**

The Tribunal's budget delegation for FY 2015-16 was \$3,036,000. Early in the fiscal year we were directed to reduce expenditures by \$150,000 as a working target. The Tribunal is reporting a \$58,189 surplus against its delegation of \$3,036,000. We were unable to fully achieve the target reduction of \$150,000 due to costs associated with a number of staffing issues.

In order to enable the Tribunal to maintain its trajectory of responsiveness and to avoid the risk of establishing a permanent structural budget deficit, I strongly recommend that the \$150,000 expenditure reduction target be rescinded.

## **Member Compensation**

In previous annual reports, I have commented on the recruitment, morale and retention impacts due to member compensation having gone unaddressed for nine years now. Human rights decision-making is highly legally complex; likely more complex than most matters decided by the Provincial Court, for example. The *Code*, and the decisions members are expected to render, have been characterized by the Supreme Court of Canada as "quasi-constitutional". They touch on the human rights and obligations of all British Columbians. I see no principled justification why the remuneration of the Tribunal's administrative law judges should not be indexed to that of Provincial Court Judges, as is the case with government legal counsel. This could go a long way to ensuring that the tribunal is able to attract, motivate and inspire administrative law judges at a level of competence which is commensurate with the importance of their work.

## Retrospective Evaluation

Some time ago I expressed my abiding belief that any program or area of public activity can, with the passage of time, benefit from retrospective, experienced-based evaluative review and reconsideration.

In June 2002, Deborah Lovett, Q.C., and Angel R. Westmacott, Q.C., submitted **The Administrative Justice Project Human Rights Review**. Their terms of reference included ensuring that administrative agencies possess the procedural authority to respond flexibly, effectively and efficiently to resolving disputes. These researchers identified structural issues with the scheme in place at the time, including issues regarding parallel or multiple proceedings, concerns about unreasonable delay, and potential improvements in program and service delivery. They also set out alternative structural models for consideration, but were asked to refrain from making recommendations.

In keeping within my above-expressed sentiment, and with the added benefit of direct experience, I am of the view that there remain a number of areas in which the Tribunal's processes established by the *Code* could be modernized and rendered more relevant, responsive, efficient and proportionate. A further review process, including stakeholder input leading to *Code* amendments, may be timely.

## A Short Goodbye

I add, in closing, that this will be my last Annual Report on behalf of the Tribunal. I have stayed longer than originally anticipated. I have done my best, with the support of Tribunal staff and members, to inculcate a culture of fairness, respect, responsiveness and innovation. It has been a most exciting, stimulating and challenging role. I will miss the job and the people involved. It is also my honour to be permitted the unusual, but gratifying task, along with those mandated by government, to initiate and participate in the process of recruiting a new Tribunal Chair. I could not ask for more.

A handwritten signature in black ink, reading "Bernd Walter". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Bernd Walter,  
Chair



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# TRIBUNAL MANDATE AND PURPOSE

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The **British Columbia Human Rights Tribunal** is an independent, judicial body, established under the *Human Rights Code*, to resolve and adjudicate human rights complaints in a manner that is consistent with the purposes set out in section 3:

- a) **to foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia;**
- b) **to promote a climate of understanding and mutual respect where all are equal in dignity and rights;**
- c) **to prevent discrimination prohibited by this Code;**
- d) **to identify and eliminate persistent patterns of inequality associated with discrimination prohibited by this Code;**
- e) **to provide a means of redress for those persons who are discriminated against contrary to this Code.**

On March 31, 2003, British Columbia instituted a **direct access** model for human rights complaints.

The direct access Tribunal is complainant driven. The Tribunal does not have investigative powers. Complaints are filed directly with the Tribunal which is responsible for all steps in the resolution and adjudication of human rights complaints.

New complaints are assessed to ensure that the information provided is adequate, that the Tribunal has jurisdiction over the matters set out, and that they are filed within the six-month time period set out in the *Code*. If a complaint is accepted for filing, the Tribunal notifies the respondents who then file a response to the allegations.

Unless the parties settle the issues, or a respondent successfully applies to have the complaint dismissed, a hearing is held and a decision about whether the complaint is justified, and how it should be remedied, is rendered.

The Tribunal conducts hearings and settlement meetings throughout the Province. The Tribunal's process is governed by its Rules of Practice and Procedure.

***“Any program or area of public activity can, with the passage of time, benefit from retrospective, experienced-based evaluative review and reconsideration.***

***I am of the view that there remain a number of areas in which the Tribunal's mandate and processes, as established by the Code, could be modernized and rendered more relevant, responsive, efficient and proportionate. A further review process, including stakeholder input, may be timely.”***

***(Bernd Walter, Chair)***

# INQUIRY AND COMPLAINT ACTIVITY STATISTICS

## INQUIRY STATISTICS

Inquiries about the Tribunal's complaint process are answered by Inquiry Officers. They provide information about the *Code* and also make referrals to other relevant community and government resources. The Tribunal is accessible from anywhere in the province by toll-free number or email.

In 2015/16, the Tribunal responded to thousands of telephone inquiries. Our current telephone system is no longer supported by Shared Services BC for the purpose of keeping telephone inquiry statistics. The Tribunal responded to 6,281 email inquiries (an increase of 125%). This dramatic increase is likely associated with the public's move to electronic correspondence from more traditional regular mail and faxes.

## COMPLAINT CASELOAD STATISTICS

Cases Handled April 1, 2015 - March 31, 2016		
		Variance (2014-2015)
Active Cases - Start of Year	868	↑6%
New Cases Screened 810 Accepted (66%) / 417 Rejected (34%)	1227	↑4%
Total Cases Handled	2095	↑5%
Cases Closed	1180	↑4%
Active Cases - End of Year	915	↑5%

## WEBSITE VISITS

Public use of the Tribunal's website has also dramatically increased, with 234,399 visits (an average of 642 visits per day; an increase of 60%). Recent increases in the amount of information found on the website, coupled with staff incorporating the website as an essential part of sharing information with the

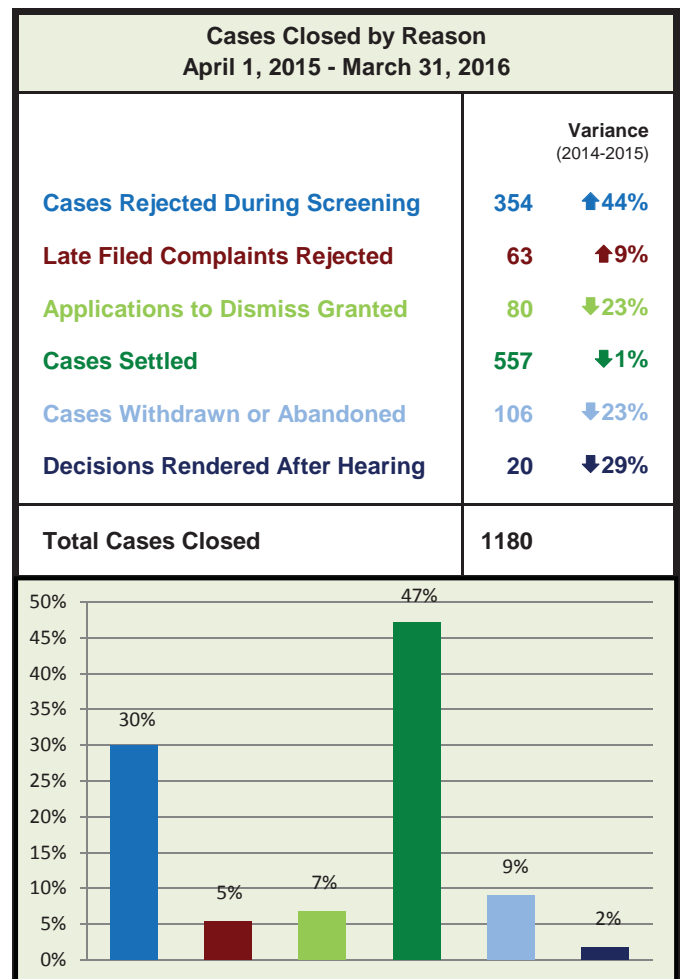
public, is likely the cause of this dramatic increase in traffic.

## NEW CASES SCREENED

This year, the Tribunal screened a historic high of 1,227 filed complaints to ensure that they were within its jurisdiction, and to determine whether they set out a contravention of the *Code*.

## CLOSED CASES

This year, 1,180 cases were closed because they were not accepted for filing at the initial screening stage, withdrawn because they have settled or were abandoned, dismissed on application or when a decision was rendered after a hearing.



# COMPLAINTS BY AREAS AND GROUNDS

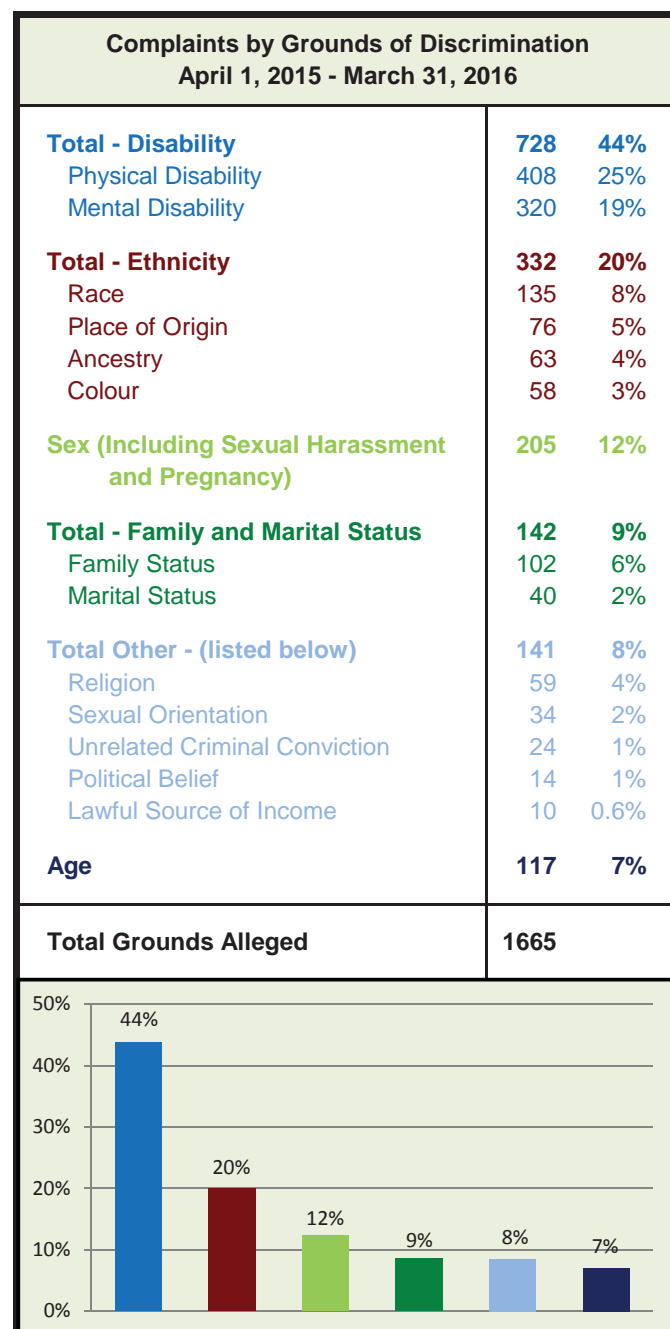
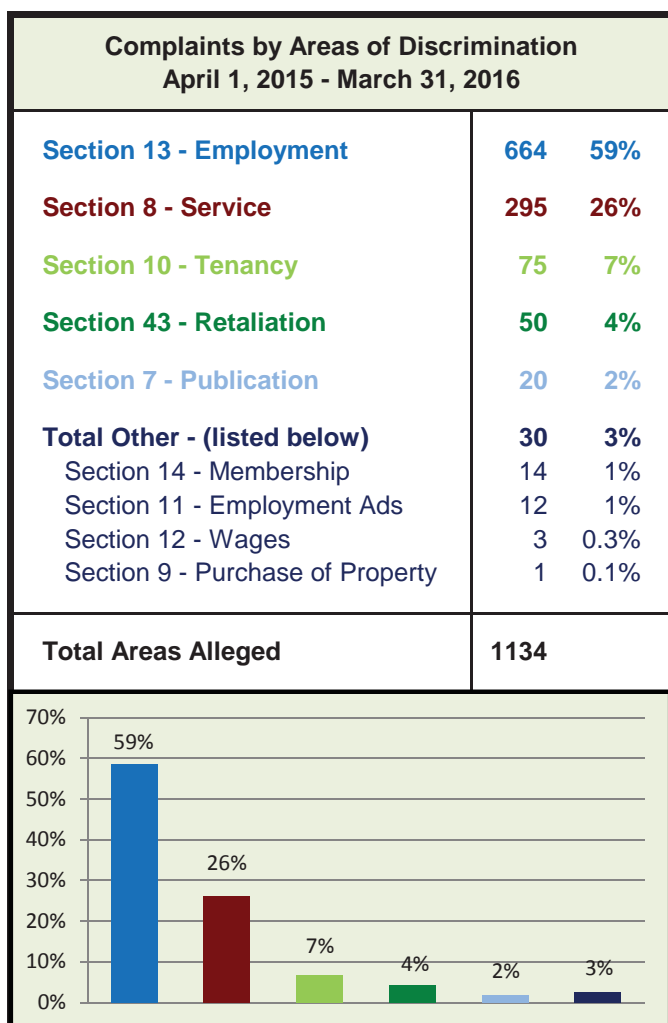
## AREAS AND GROUNDS OF DISCRIMINATION

The *Code* prohibits discrimination in the **areas** of employment, service, publication, tenancy, membership in unions and associations, employment advertisements, wages, and purchase of property. It also prohibits retaliation against a person who has made or might make a complaint under the *Code*.

There are 15 prohibited **grounds** of discrimination: physical disability, mental disability, sex (including sexual harassment and pregnancy), race, place of origin, colour, ancestry, age (19 and over), family status, marital status, religion, sexual orientation, political belief, unrelated criminal conviction and lawful source of income.

Not all grounds apply to all areas.

A complaint may include more than one **area** or **ground** of discrimination. For instance, an employment-based complaint may also include the **area** of wages; a race-based complaint may also include **grounds** of ancestry, colour and place of origin.



# SETTLEMENT SERVICES

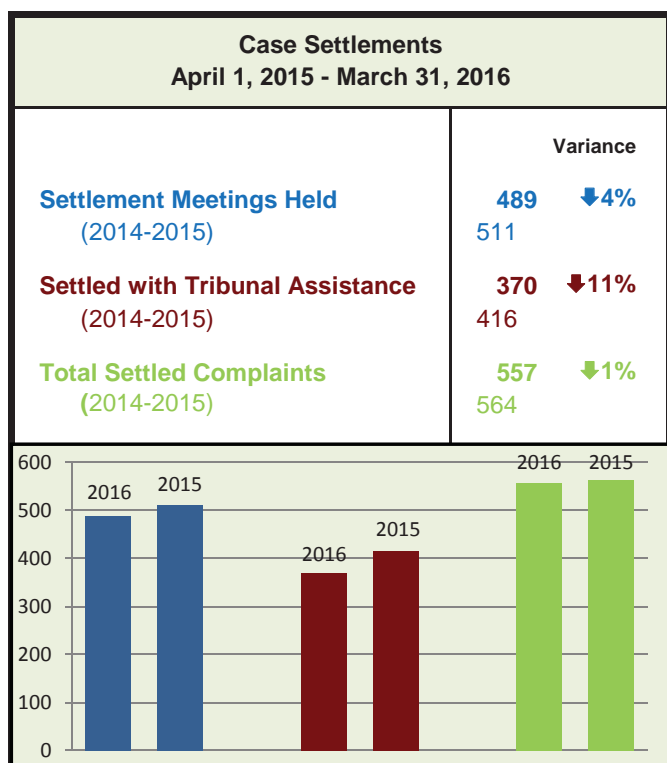
The Tribunal encourages parties to engage in settlement discussions at every stage of the complaint process. Settlement meetings are confidential. The Tribunal does not publish the results.

Tribunal-assisted settlement services may be initiated even before the respondent files a response to the complaint, and at any later stage in the progress of a complaint. Many complaints settle as a result of these efforts, and may include solutions which could not be ordered after a hearing.

This year, the Tribunal conducted 489 settlement meetings, including 394 early settlement meetings, before a response to a complaint was filed.

The parties were able to resolve their disputes in 370 (76%) cases in which the Tribunal provided assistance. Some cases settle without the Tribunal's involvement. In all, a total of 557 cases settled without proceeding to a hearing.

*“This matter was very complex and sensitive... I was convinced to try mediation by the case manager who was very helpful... My main reason for writing to you is to let you know the exceptional work that the member accomplished during this very difficult mediation... gaining trust was a monumental accomplishment managed through patience and kindness... she was quietly and kindly relentless with both parties and refused to give up... You likely don’t need me to let you know that she is a valuable asset in your organization. We were all very impressed with her professionalism” (participant)*



*“A quick note to thank you for your honesty, support and quick action during our recent mediation... We are extremely grateful... You likely aren’t thanked enough for the work you do...” (participant)*

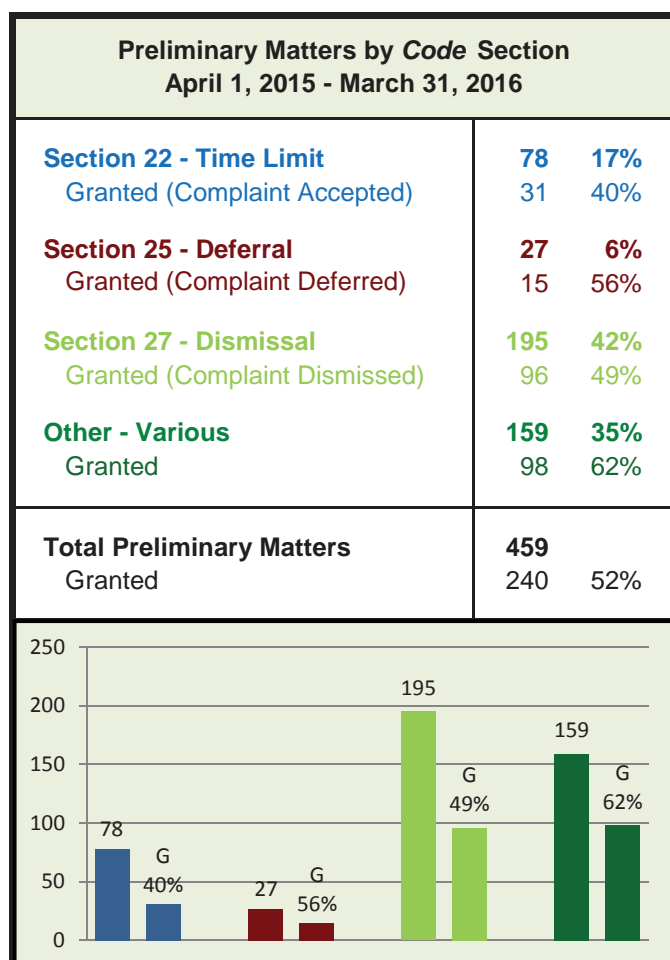
# PRELIMINARY DECISIONS

## PRELIMINARY DECISIONS

The Tribunal rendered a total of 428 preliminary decisions this year. It published 187 preliminary decisions and issued 241 decisions in letter form. Letter decisions are used when the matter is not legally complex and considered to be of interest mainly to the parties to the complaint.

Preliminary decisions deal with matters such as the time limit for filing a complaint, deferral, dismissal of a complaint without a hearing, and other matters such as disclosure.

Some decisions deal with more than one matter. The total number of preliminary matters decided this year is 459.



## TYPES OF PRELIMINARY APPLICATIONS

### TIME LIMIT

Section 22 of the *Code* provides a six-month time limit for filing complaints.

A complaint about events which occurred more than six months before the complaint was filed may be accepted if it alleges a “continuing contravention”, where at least one incident of similar character occurred within six months of filing.

The Tribunal may accept a complaint or part of a complaint filed after the six-month time limit if it is in the public interest to do so and no substantial prejudice would result to anyone because of the delay.

This year, the Tribunal considered 112 time limit applications, representing 24% of preliminary matters. This number includes 78 applications under s. 22 of the *Code* and 34 applications to dismiss a complaint made under s. 27(1)(g) of the *Code*, which also involves consideration of the complaint’s timeliness.

The Tribunal found that 39 complaints were filed in time or accepted as late-filed, at least in part (including 8 under s. 27(1)(g)); 60 complaints were not accepted or were dismissed as untimely (including 16 under s. 27(1)(g)).

### DEFERRAL OF COMPLAINT

The Tribunal may defer processing a complaint under s. 25 of the *Code* where the substance of the complaint can be appropriately dealt with by another proceeding. Deferral is intended to avoid duplication and unnecessary expenditure of resources.

If the other proceeding cannot appropriately deal with the substance of the complaint, or if the Tribunal process will be faster, the Tribunal may refuse to defer the complaint.



# PRELIMINARY DECISIONS

This year, the Tribunal considered 27 applications to defer a complaint. The Tribunal deferred the complaint in 15 cases.

## DISMISSAL

Section 27(1) of the *Code* allows complaints that do not warrant the time or expense of a hearing, to be dismissed without a hearing on the merits.

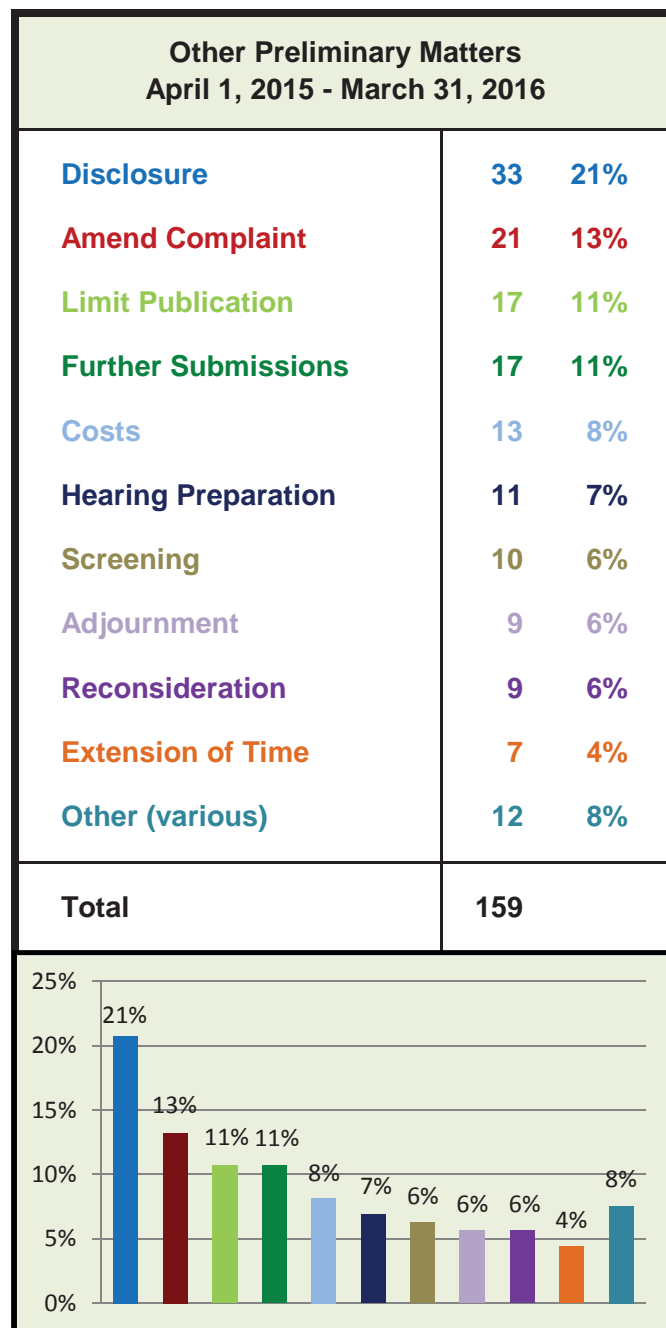
Applications to dismiss accounted for 42% of all preliminary matters dealt with this year. Of 195 such decisions, 96 (49%) complaints were dismissed and 22 (11%) were partially dismissed.

The Tribunal denied 77 (40%) applications to dismiss and allowed the complaint to proceed.

## OTHER PRELIMINARY DECISIONS

The Tribunal makes oral and written decisions on other matters, such as awarding costs, limiting publication, ordering disclosure, amending complaints, reconsideration, filing further submissions, adjournment, and extensions of time.

The Tribunal issued 159 decisions on such other matters, representing 35% of preliminary matters this year.



# REPRESENTATION OF PARTIES BEFORE THE TRIBUNAL

Parties in the Tribunal process may be represented by lawyers or agents (including human rights advocates) or may represent themselves. Overall this year, there was a higher rate of representation of respondents than complainants. Clearly, whether or not a party is represented can affect the outcome of the complaint.

A minority (30%) of complainants were represented by counsel at the stage of filing their initial complaint. Complaints which were rejected during screening were almost entirely submitted by self-represented complainants (95%).

Complaints which were withdrawn or abandoned by the complainant were also predominantly in circumstances where the complainant was self-represented (81%). Whether or not a respondent was represented in those circumstances appears not to have been a determining factor; respondents were represented by counsel in only 53% of withdrawn or abandoned complaints.

Cases that settled predominantly involved parties represented by counsel or an agent. 63% of complainants who settled their cases were represented by counsel or an agent. This number rose to 88% for respondents.

Of cases that were dismissed for being untimely, 86% of complainants were self-represented while 44% of respondents were. In complaints which were not found untimely, the number of self-represented complainants dropped to 59%, and self-represented respondents dropped to 6%.

Self-represented complainants were more likely to have their complaint dismissed on a preliminary basis under s. 27 of the *Code*, while representation of respondents appears to have made little difference in the result. Where the Tribunal dismissed a complaint on a preliminary basis under s. 27 of the *Code*, only 27% of complainants were represented by counsel or an agent, while 87% of respondents were. Where an application to dismiss was denied, 61% of complainants were represented by counsel or an agent and 96% of respondents.

In complaints that were justified after a final hearing, 60% of both complainants and respondents had legal representation. This is a much higher rate than in complaints dismissed after a final hearing, where only 30% of complainants had legal representation and 70% of respondents did.

Representation of Parties by Outcome April 1, 2015 - March 31, 2016		
	Complainant	Respondent
<b>Withdrawn / Abandoned by Complainant</b>		
Represented by Counsel	13%	53%
Represented by Agent	6%	13%
Self-represented	81%	34%
<b>Settled</b>		
Represented by Counsel	42%	74%
Represented by Agent	21%	14%
Self-represented	37%	12%
<b>Overall Representation</b>	<b>41%</b>	<b>77%</b>

Representation of Parties by Outcome April 1, 2015 - March 31, 2016		
	Proceeding / Justified	Rejected / Dismissed
<b>Complaint Screening</b>		
<b>Complainant</b> - Represented by Counsel	30%	3%
Represented by Agent	0%	2%
Self-Represented	70%	95%
<b>Section 22 (Timeliness of Complaint)</b>		
<b>Complainant</b> - Represented by Counsel	21%	11%
Represented by Agent	20%	3%
Self-Represented	59%	86%
<b>Respondent</b> - Represented by Counsel	82%	44%
Represented by Agent	12%	12%
Self-Represented	6%	44%
<b>Section 27 (Application to Dismiss)</b>		
<b>Complainant</b> - Represented by Counsel	52%	17%
Represented by Agent	9%	10%
Self-Represented	39%	73%
<b>Respondent</b> - Represented by Counsel	82%	74%
Represented by Agent	14%	13%
Self-Represented	4%	13%
<b>Section 37 (Hearing)</b>		
<b>Complainant</b> - Represented by Counsel	60%	30%
Represented by Agent	10%	0%
Self-Represented	30%	60%
No-one Appeared	0%	10%
<b>Respondent</b> - Represented by Counsel	60%	70%
Represented by Agent	10%	10%
Self-Represented	10%	20%
No-one Appeared	20%	0%
<b>Overall Representation - Complainant</b>	<b>51%</b>	<b>19%</b>
<b>Respondent</b>	<b>87%</b>	<b>74%</b>

# FINAL DECISIONS

This year, the Tribunal rendered 20 final decisions after a hearing, compared to 28 and 36 in the previous two years. 50% of the complaints (10 out of 20) were found justified in whole or in part, compared to 25% and 42% in the previous two years.

## AREAS OF DISCRIMINATION

Employment continues to be the most litigated area of discrimination (46%), followed by services (29%).

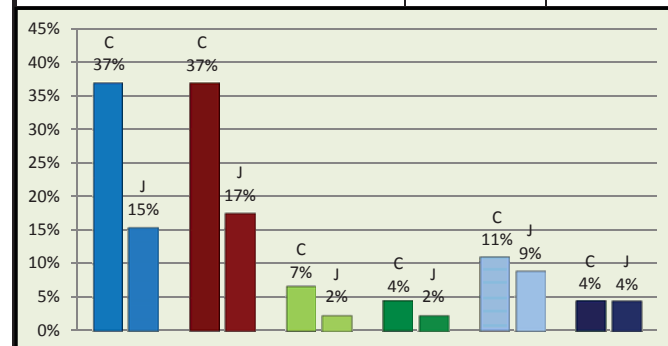
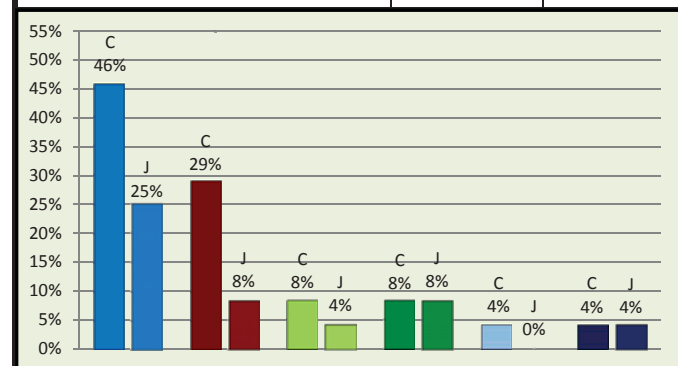
## GROUND OFS OF DISCRIMINATION

Disability and ethnicity, combined, represented 72% of the grounds of discrimination at issue in final decisions.

Three complaints were found to be justified based on multiple and intersecting grounds of discrimination.

Final Decisions by Areas of Discrimination April 1, 2015 - March 31, 2016				
	Considered		Justified	
<b>Section 13 - Employment</b>	<b>11</b>	<b>46%</b>	<b>6</b>	<b>25%</b>
<b>Section 8 - Service</b>	<b>7</b>	<b>29%</b>	<b>2</b>	<b>8%</b>
<b>Section 10 - Tenancy</b>	<b>2</b>	<b>8%</b>	<b>1</b>	<b>4%</b>
<b>Section 43 - Retaliation</b>	<b>2</b>	<b>8%</b>	<b>2</b>	<b>8%</b>
<b>Section 7 - Publication</b>	<b>1</b>	<b>4%</b>	<b>0</b>	<b>0%</b>
<b>Total Other - (listed below)</b>	<b>1</b>	<b>4%</b>	<b>1</b>	<b>4%</b>
Section 14 - Membership	1	4%	1	4%
Section 11 - Employment Ads	0	0%	0	0%
Section 12 - Wages	0	0%	0	0%
Section 9 - Purchase of Property	0	0%	0	0%
<b>Total Areas Alleged</b>	<b>24</b>	<b>100%</b>	<b>12</b>	<b>50%</b>

Final Decisions by Grounds of Discrimination April 1, 2015 - March 31, 2016				
	Considered		Justified	
<b>Total - Disability</b>	<b>17</b>	<b>37%</b>	<b>7</b>	<b>15%</b>
Physical Disability	7	15%	2	4%
Mental Disability	10	22%	5	11%
<b>Total - Ethnicity</b>	<b>17</b>	<b>37%</b>	<b>8</b>	<b>17%</b>
Race	5	11%	2	4%
Place of Origin	2	4%	2	4%
Ancestry	5	11%	2	4%
Colour	5	11%	2	4%
<b>Sex (Including Sexual Harassment and Pregnancy)</b>	<b>3</b>	<b>7%</b>	<b>1</b>	<b>2%</b>
<b>Total - Family and Marital Status</b>	<b>2</b>	<b>4%</b>	<b>1</b>	<b>2%</b>
Family Status	2	4%	1	2%
Marital Status	0	0%	0	0%
<b>Total Other - (listed below)</b>	<b>5</b>	<b>11%</b>	<b>4</b>	<b>9%</b>
Religion	1	2%	1	2%
Sexual Orientation	1	2%	1	2%
Unrelated Criminal Conviction	2	4%	1	2%
Political Belief	1	2%	1	2%
Lawful Source of Income	0	0%	0	0%
<b>Age</b>	<b>2</b>	<b>4%</b>	<b>2</b>	<b>4%</b>
<b>Total Grounds Alleged</b>	<b>46</b>	<b>100%</b>	<b>23</b>	<b>50%</b>



# FINAL DECISIONS

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## FINAL DECISIONS OF INTEREST

### SECTIONS 8 AND 13: SERVICES AND EMPLOYMENT

*Dunkley v. UBC and another*, 2015 BCHRT 100, concerned Dr. Jessica Dunkley's medical residency. Dr. Dunkley is Métis and has been Deaf since birth. She was the recipient of the "Extraordinary Woman" award at her medical school. She was assigned to a dermatology residency at UBC, which was to be undertaken at St. Paul's Hospital (operated by Providence Health Care, "PHC"). She sought sign language interpreters for her residency, which was ultimately denied by the respondents on the basis that the interpreters were prohibitively expensive and, as such, amounted to an undue hardship. As a result of this denial, Dr. Dunkley was unable to complete her residency.

*"... the norm of oral communication is oriented to persons who can hear and imposes a burden on persons who are Deaf that is not imposed on others"*

*(Dunkley, para. 398)*

The Tribunal found that Dr. Dunkley had been discriminated against in the areas of service (against UBC) and employment (against PHC). It found that the respondents failed to educate themselves about accommodating Deaf medical professionals and relied on unreliable inflated cost estimates. The respondents also failed to consider alternative means of paying for the interpreters. Neither respondent proved that accommodating Dr. Dunkley would amount to undue hardship. Dr. Dunkley testified that the respondents' actions made her feel dehumanized and threatened her dream of becoming a doctor. The Tribunal ordered that Dr. Dunkley be reinstated to

her residency and paid \$35,000 as compensation for injury to her dignity, feelings and self-respect. The respondents have each filed petitions for judicial review.

*"It is a reasonable expectation when the service provider or employer does not have experience in the provision of accommodation for a particular disability that they do some basic research and look to the obvious experts"* *(Dunkley, para. 427)*

### SECTIONS 8 AND 14: SERVICES AND MEMBERSHIP IN AN OCCUPATIONAL ASSOCIATION

In *Brar and others v. B.C. Veterinary Medical Association and Osborne* (No. 22), 2015 BCHRT 151, the Tribunal found that the BC Veterinary Medical Association ("BCVMA") engaged in systemic discrimination against Indo-Canadian veterinarians on the basis of their race, colour and place of origin. It found that race-based stereotypes played a role in BCVMA's dealings with the 13 complainants and that the BCVMA facilitated and accepted the promulgation of race-based rumours and commentary, including references to Indo-Canadian veterinarians as incompetent and engaging in unlicensed practice, and as having a propensity to act unethically in relation to their practice standards, medical records and general truthfulness. Further, the BCVMA set a standard for English proficiency that was discriminatory and placed Indo-Canadians at a disadvantage. Indo-Canadian veterinarian clinics were unfairly targeted for unscheduled inspections, and the BCVMA processed disciplinary complaints against the complainants in a manner that revealed a pattern of race-based adverse treatment. Key per-



# FINAL DECISIONS

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sons in the BCVMA held, condoned and acted on discriminatory attitudes about the complainants, and were quick to believe any suggestion that their veterinary practices were substandard or that the veterinarians themselves were dishonest. Generally, there was greater scrutiny of the complainants in the BCVMA's processes and there were instances of differential standards and treatment.

***“Racism is not generally expressed overtly but is subtle; often a person is unaware that he or she has engaged in racist behaviour as racism is embedded in our society.” (Brar, para. 709)***

The Tribunal issued a number of orders against the BCVMA, including that it develop an anti-discrimination policy and that its staff undergo human rights training. It also awarded individual damage awards to each of the 13 complainants to compensate them for injury to their dignity, feelings and self-respect. Those awards ranged from \$2,000 to \$35,000. The respondents have filed a petition for judicial review.

***“Employers and service providers have a duty to ensure that their institutions are free from discrimination and that, when there is an allegation of discrimination, they take the necessary steps to investigate the alleged discriminatory conduct; failure to do so leaves the Code’s provisions meaningless”***  
(Brar, para. 743)

## SECTION 10: TENANCY

In *Flak v. Andersen*, 2015 BCHRT 87, the Tribunal found that the respondent landlord had discriminated against the complainant on the basis of a perceived mental disability when she refused to rent her a suite. The landlord had represented to the complainant that she had a suite that would be available. The complainant viewed the suite, and felt it would be suitable. When she advised the landlord that she was receiving benefits for her disability, which she described as depression, the landlord was silent and hustled the complainant out of the apartment. The landlord subsequently emailed the complainant to explain that the suite would no longer be ready. The complainant said she would still be interested in the suite when it became available, but later discovered that a different tenant moved into the suite. The Tribunal was satisfied that the timing of events, and the landlord's behaviour, established that the complainant's statement that she suffered from depression was at least a factor, if not the sole cause, of the refusal to allow the complainant to rent her suite. The Tribunal awarded the complainant \$2,000 for injury to her dignity, feelings and self-respect.

## SECTION 13: EMPLOYMENT

In *Davis v. Sandringham Care Centre and another*, 2015 BCHRT 148, the Tribunal found that Mrs. Davis had been discriminated against by her employer based on stereotypical assumptions about her mental health. Mrs. Davis was employed by the Sandringham Care Centre as a care aid and was performing well. She had disclosed to a co-worker that she had post-traumatic stress disorder (PTSD) due to a traumatic childhood. That co-worker in turn informed Mrs. Davis' supervisor, who called her in for questioning. Under her supervisor's intrusive and repetitive questioning, Mrs. Davis felt upset and compelled to disclose personal details of her mental health history. Her supervisor then sent her to the emergency room, which was a humiliating experience that was com-

## FINAL DECISIONS

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pletely unnecessary. Following this, Mrs. Davis was put on medical leave and ultimately lost her job.

The Tribunal found that the supervisor's treatment of Mrs. Davis was guided by a wrong perception that Mrs. Davis had dissociative personality disorder, and posed a danger to herself and others. This perception was based on stereotyping of mental illness and there was no credible basis for concern in the face of Mrs. Davis' positive employment record.

The Tribunal found that the respondents' treatment of Mrs. Davis amounted to discrimination on the basis of mental disability. The treatment had an extremely destructive impact on Mrs. Davis' self-confidence and employment. It was her first job, which she had worked hard for and considered a dream come true. Mrs. Davis was humiliated and shamed by her treatment, and her efforts to get well were undermined. She suffered financial hardship. Overall, the stereotypical and wrong perception that Mrs. Davis was a safety risk was highly damaging. The Tribunal awarded Mrs. Davis \$35,000 for injury to her dignity, feelings and self-respect.

In *PN v. FR and another (No. 2)*, 2015 BCHRT 60, the Tribunal found that a Filipino domestic worker had been discriminated against by her employers when they exploited and isolated her, and when the male employer sexually assaulted her. At the time of the events in question, PN was 28 years old. She had two children in the Philippines, but had left them to work for the respondents as a domestic helper in Hong Kong. She worked long hours with little opportunities to take breaks or eat. Beginning in Hong Kong, the male respondent would approach PN when she was alone and force her to touch his penis. This happened two or three times per week.

***“While working for the respondents, PN was exploited. She had to perform sexual acts at the whim and insistence of her employer, she was humiliated and degraded by her other employer, and she was even made fun of by the children who were in her care. She was isolated, underfed and treated like she was sub-human; all because she was a young Filipino mother who needed the job to take care of her own children. I would like to think that this behaviour does not occur in BC. However, where it comes to the attention of the Tribunal, damages will be awarded to attempt to put the complainant in a position that she would have been in without the discrimination.”***

***(PN, para. 133)***

In 2013, the family moved to Richmond and PN moved with them. PN lived with the family in a hotel suite, sleeping on a couch in the living room. The female employer called her names and was frequently angry with and threatening to PN. The male employer continued to sexually assault PN about two times per week in the hotel room. She received no wages for her work in Canada.

## FINAL DECISIONS

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After about six weeks in Canada, PN escaped from the hotel room. The Tribunal found that her experience of escaping would “become one of the most traumatic aspects of her relationship with the respondents”. After a few days, she found housing at a specialized program for victims of sexual and labour trafficking. When she arrived, the staff noted that she was malnourished, sleep deprived and traumatized. She was provided with counselling and gradually showed signs of recovery.

The Tribunal concluded that PN’s intersecting characteristics of sex, race, colour, place of origin, age and family status were factors in her exploitation by the respondents. Further, PN’s sex was a factor in her sexual abuse by the male employer. It awarded PN lost wages based on the minimum wage set out in the *Employment Standards Act* for the period she worked for the respondents but was not paid. The Tribunal also awarded PN \$50,000 for injury to her dignity, feelings and self-respect arising from both the main complaint and the complaint of retaliation (described below). In reaching this figure, the Tribunal noted that PN was treated by the respondents as if she was “sub-human” and suffered symptoms which her counsellor testified were consistent with post-traumatic stress disorder.

In *Garneau v. Buy-Rite Foods and others*, 2015 BCHRT 77, the Tribunal found that Mr. Garneau had been discriminated against on the basis of his physical and mental disabilities, and his sexual orientation. Mr. Garneau had a condition known as dysgenesis of the corpus callosum, which causes mild mental impairment and manifests in his physical appearance and weight. In addition, he was gay and the respondents perceived him as such. The Tribunal found that, in the course of his employment at Buy-Rite Foods, Mr. Garneau was bullied, harassed, assaulted and discriminated against by the respondents. They referred to Mr. Garneau by slurs like “faggot”, “idiot”, “retard”, “f\*\*\*ing stupid” and “fatty”. The Tribunal found that they viewed Mr.

Garneau as someone who could be mistreated with impunity, in large part because of his disabilities and sexual orientation. The effect of that mistreatment was profound, causing Mr. Garneau to feel depressed and suicidal, and eventually to leave his job after one of the respondents threatened him with assault. The Tribunal ordered the respondents to compensate Mr. Garneau for one month of lost wages. It further awarded Mr. Garneau \$15,000 for injury to his dignity, feelings and self-respect. In so doing, the Tribunal described the nature of the physical and verbal harassment as egregious. Mr. Garneau was in a particularly vulnerable position, given the significant barriers his disability posed to finding alternative employment. He had worked at Buy-Rite for 13 years and found employment to be fulfilling and empowering. Since he was forced to leave that job, he was unable to find alternative employment, lost his house and car, and was forced to sustain himself on social assistance.

*“The role and value of employment, from the tangible to intangible, in a person’s life is perhaps immeasurable. It is simply sufficient to say that it facilitates the full and free participation in the economic, social, and cultural life of society, a key objective of the Code.” (Garneau, para. 46)*

In *McNair v. International House*, 2015 BCHRT 123, the Tribunal found that a 64-year old complainant was discriminated against when his teaching contract was ended. The Tribunal discussed age stereotyping, which usually results from subtle unconscious beliefs, biases and prejudices. Such discrimination will usually need to be proven by cir-

## FINAL DECISIONS

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cumstantial evidence and inference, which were used in this case to determine that age was a factor in the complainant's termination. The Tribunal awarded the complainant compensation for wage loss as well as \$6,000 as compensation for injury to his dignity, feelings and self-respect.

In *Paquette v. Amaruk Wilderness and another* (No. 4), 2016 BCHRT 35, Ms. Paquette was denied an internship as an Assistant Guide with Amaruk Wilderness Corp. One of the reasons the respondents refused to hire her was because Ms. Paquette was Christian and a graduate of Trinity Western University, an evangelical Christian school. Over the course of four days, the respondents and Ms. Paquette exchanged a number of emails, in which the Tribunal found that Ms. Paquette was religiously harassed. The Tribunal held that this harassment, and the rejection of Ms. Paquette's internship application based in part on her religious identity, amounted to a denial of her equal worth. It awarded Ms. Paquette \$8,500 as compensation for injury to her dignity, feelings and self-respect.

***“The Respondents’ harassment of Ms. Paquette on the basis of her religious beliefs and their rejection of her application for an internship, based in part on her religious identity, amounted to a denial of her equal worth.”***  
(*Paquette*, para. 95)

### SECTION 43: RETALIATION

In *PN v. FR and another* (No. 2), 2015 BCHRT 60, described above, the respondents' Hong Kong lawyer wrote to PN to demand repayment of approximately four months' wages for breaching her employment contract. The demand letter directly referenced

PN's complaint to the Tribunal and accused her of making false accusations against the respondents. Copies of the letter were provided to authorities in both Canada and Hong Kong. The Tribunal concluded that the threats contained in the letter were intentional, and that the decision to provide copies to third party authorities was an attempt to undermine PN in Canada because she filed the human rights complaint. The Tribunal found that this amounted to retaliation for filing her complaint.

In *Beckett and Kuan v. The Owners, Strata Plan NW 2603*, 2016 BCHRT 27, the complainants alleged that second-hand smoke infiltrated their living unit, adversely affecting their disabilities, and that the Strata Council did not respond appropriately to their concerns. The Tribunal found that the complainants did not establish that Ms. Kuan had any disability protected by the *Code*, or that Mr. Beckett experienced an adverse impact that was linked to his physical disability. As such, they failed to prove *prima facie* discrimination.

However, the complainants also filed a retaliation complaint against the Strata Council. The Tribunal found that the Strata Council imposed over \$20,000 in fines on the complainants for bylaw and rule violations that were not enforced against any other owners in the Strata. It found that the timing of those fines supported the inference that they were related to the complainants filing a human rights complaint against the Strata. The Tribunal held that, because the fines were retaliatory, they could not be enforced by the Strata. It ordered that the Strata Council undergo one day of human rights training. The complainants sought \$20,000 in damages for injury to their dignity, which the Tribunal rejected, finding that they had contributed to the escalation of the conflict and that their suffering related primarily to their inability to win their conflict with the Strata. It awarded \$1,000 to each complainant.



# JUDICIAL REVIEWS AND APPEALS

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The *Code* does not provide for appeals of Tribunal decisions. Instead, a party may apply for judicial review in BC Supreme Court, under the *Judicial Review Procedure Act*. There is a 60-day time limit for judicial review of final decisions set out in the *Administrative Tribunals Act* (“ATA”).

Judicial review is a limited type of review. Generally, the Court considers the information that the Tribunal had before it and decides if the Tribunal made a decision within its power. The Court applies standards of review in s. 59 of the ATA to determine whether the Tribunal’s decision should be set aside. If the Tribunal’s decision is set aside, the usual remedy is to send it back to the Tribunal for reconsideration.

A decision on judicial review may be appealed to the BC Court of Appeal. There is a further appeal to the Supreme Court of Canada if that Court agrees to hear it.

This year, 14 petitions for judicial review were filed in the Supreme Court, as compared to 14 last year, and 13 the year before that. Five appeals were filed with the BC Court of Appeal, as compared to three last year and seven the year before that. There were no applications for leave to appeal to the Supreme Court of Canada.

## JUDICIAL REVIEW

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This year, the BC Supreme Court issued nine judgments on judicial review applications. In seven cases, the Court dismissed the petition in its entirety. In one case, the Court upheld the finding of discrimination, but set aside part of the remedial order. In one case, the Court set aside the Tribunal’s finding of discrimination.

The BC Court of Appeal issued one judgment, which upheld the Tribunal’s decision.

There were no judgments from the Supreme Court of Canada this year.

## TIME LIMIT DECISIONS

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In *Brewers’ Distributor Ltd. v. Kenworthy*, 2015 BCSC 1670, the Court found the Tribunal’s time limit decision was not patently unreasonable. The Tribunal found a continuing contravention under s. 22(2) of the *Code*, involving allegations of discrimination in employment on the grounds of sex and family status. The Court said that separate acts can be of the same character where different grounds of discrimination are alleged. An appeal has been filed.

## SECTION 27 DECISIONS

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### JURISDICTION

In *Schrenk v. British Columbia (Human Rights Tribunal)*, 2015 BCSC 1342, the Court agreed that there does not need to be an employment relationship between the complainant and respondent for the Tribunal to have jurisdiction. It held that the Tribunal has jurisdiction to proceed with a complaint alleging discrimination in employment, where the complainant and respondent worked at the same construction site, but for different employers. An appeal was allowed on April 5, 2016, reversing the Tribunal’s decision.

### NO REASONABLE PROSPECT OF SUCCESS

In *Yaremy v. British Columbia (Human Rights Tribunal)*, 2015 BCCA 228, the Court dismissed an appeal, with the result that the Tribunal decision dismissing a complaint under s. 27(1)(c) was upheld. The Court said that the Tribunal is presumed to know the test for a prima facie case of discrimination, and it is apparent from the member’s reasons that he did know it. The Court found that the Tribunal did not base the decision on disputed facts. The patent unreasonableness standard is highly deferential. The



# JUDICIAL REVIEWS AND APPEALS

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appellant did not show the decision is “clearly irrational” or “evidently not in accordance with reason”. Rather, he was trying to re-litigate the application, but it is not the court’s function to reach its own view on the merits of the application before the Tribunal.

The BC Supreme Court also dismissed three petitions regarding Tribunal decisions to dismiss a complaint under s. 27(1)(c):

- *Bartuk v. Vancouver Coastal Health Authority*, 2016 BCSC 74 (an appeal has been filed);
- *Singh and Singh v. Workers’ Compensation Board of British Columbia*, (29 January 2016), unreported decision, Van. Reg. No. S150011; and
- An unpublished decision in respect of *XS v. YP*, 2015 BCHRT 97.

## JUSTIFIED FINAL DECISIONS AFTER A HEARING

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In *Vancouver Area Network of Drug Users v. British Columbia Human Rights Tribunal*, 2015 BCSC 534, the Court allowed a petition. The Tribunal had found that Aboriginal persons and persons with disabilities were disproportionately represented among the street homeless population and that some of the conduct of the Downtown Ambassadors had an adverse impact on the complainant group. The Tribunal found that the complainants had not established, on a balance of probabilities, that there was a connection between the adverse impact and grounds of discrimination. The Court found that, among other things, the Tribunal misstated the legal test for discrimination. It found a *prima facie* case of discrimination, and remitted the matter to the Tribunal to determine the issue of a bona fide and reasonable justification. An appeal is scheduled.

In *University of British Columbia v. Kelly*, 2015 BCSC 1731, the Court dismissed a petition alleging the Tribunal erred in its finding of discrimination and award of wage loss, but allowed the petition relating to the award for injury to dignity, feelings and self-respect. The Tribunal had found that UBC discriminated against Dr. Kelly when it removed him from a medical residency program based on his disability. The Court found:

- The Tribunal was correct when it held that modifications UBC made to the program were properly considered as part of UBC’s justification and not in determining whether a *prima facie* test was established.
- The Tribunal was correct to consider a procedural component to the duty to accommodate.
- The Tribunal’s award of wage loss was not patently unreasonable.
- The Tribunal’s award of \$75,000 for injury to dignity, feelings and self-respect was patently unreasonable because there was no evidence or reason supporting an award that was more than double the amount of the previous highest award (\$35,000).

An appeal and cross-appeal have been scheduled.

## OTHER

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The Court dismissed one petition on the basis of delay in filing: *Ntibarimungu v. MacDonald Dettwiler & Associates Ltd. et al*, (22 April 2016), unreported, Van. Reg. No. S143273.

The Court dismissed one petition as moot: *Sloane-Seale v. British Columbia (Human Rights Tribunal)*, 2015 BCSC 2149.

# SPECIAL PROGRAMS AND POLICY

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## SPECIAL PROGRAMS AND POLICY

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The *Code* recognizes that treating everyone equally does not always promote true equality and the elimination of discrimination. Section 42(3) allows approval of special programs which treat disadvantaged individuals or groups differently to recognize their diverse characteristics and unique needs and thus improve their circumstances.

The Tribunal has issued a Special Programs Policy which outlines the requirements for obtaining approval for a special program. All special program approvals are time-limited, generally between six months to five years in duration, with employment equity programs usually being several years long. Periodic reporting may be a condition of approval. On expiry of an approval, a program provider may apply for renewal of the approval.

A special program approved by the Chair of the Tribunal is deemed not to be discriminatory under the *Code* for the duration of the approval. The Policy and a list of approved special programs are posted on the Tribunal's website.

In the last year, the Chair approved six new special programs and seven renewals:

- **Battered Women's Support Services Association:** Hiring of a law student through the Public Interest Work Placement Program is restricted to women.
- **BC Women's Hospital and Health Centre, Aboriginal Health Program:** Hiring restricted to persons of Aboriginal ancestry for three positions within the Aboriginal Health Program: Nurse Co-ordinator, Aboriginal Family Care Co-ordinator and Operations Lead/Manager.
- **Industry Training Authority:** Enrollment in the Enhanced Construction Craft Workers training program restricted to First Nations participants.
- **Legal Services Society:** Preferential hiring of Aboriginal lawyers for the position of Haida Gwaii Circuit Court Family Duty Counsel.
- **Office of the Representative for Children and Youth:** Hiring for the positions of Director of Aboriginal Initiatives and Deputy Representative restricted to people of Aboriginal ancestry.
- **School District 23 (Central Okanagan):** Hiring for Aboriginal Youth and Family Support Workers and Aboriginal Youth and Family Support Manager restricted to persons of Aboriginal ancestry.
- **School District 41 (Burnaby):** Preferential hiring of persons of Aboriginal ancestry for positions attached to Ministry-targeted funding in support of Aboriginal programs.
- **School District 42 (Maple Ridge – Pitt Meadows):** Preferential hiring of a person of Aboriginal ancestry for the position of Aboriginal Resource teacher.
- **School District 52 (Prince Rupert):** Hiring for positions available under Aboriginal-education targeted funds restricted to First Nations candidates.
- **School District 71 (Comox Valley):** Preferential hiring of persons of Aboriginal ancestry for: teaching positions in Aboriginal Education; CUPE positions in Aboriginal Education; and Principal and Vice-Principal in Aboriginal Education.

## SPECIAL PROGRAMS AND POLICY

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- **School District 83 (North Okanagan/ Shuswap):** Preferential hiring of persons of Aboriginal ancestry as Aboriginal Education Workers.
- **Thompson Rivers University:** Hiring for the position of Aboriginal Life Skills Coach restricted to a person of Aboriginal ancestry.
- **Thompson Rivers University:** Hiring for the position of Aboriginal Student Recruiter and Enrolment Representative restricted to a person of Aboriginal ancestry.
- **Women's Information Safe House (WISH) Drop In Centre Society:** Hiring restricted to women, including transgendered women, for all staff positions.
- **Vancouver Island University:** Preferential hiring to persons of Aboriginal ancestry for a second Education Counsellor position within Services for Aboriginal Students.
- **Vancouver Island University:** Hiring for the Nanaimo Campus Counsellor position restricted to persons of Aboriginal ancestry.
- **University of Victoria:** Approval of an Employment Equity Program.

# TRIBUNAL MEMBERS

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Tribunal members are administrative law judges who conduct mediations, decide applications to dismiss a complaint without a hearing, preside on pre-hearing conferences, conduct hearings and render final decisions on the merits of a complaint.

## JACQUELINE BELTGENS, MEMBER

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Jacqueline Beltgens was appointed as a full-time Member of the Tribunal on August 15, 2014. She attended the University of British Columbia for undergraduate studies in international relations, and obtained a Juris Doctor in 1990. She also has a Diploma of Building Technology (Engineering) from the BC Institute of Technology.

Prior to joining the Tribunal, Ms. Beltgens was a Law Professor at the Beijing Foreign Students University, and has been in-house counsel and in private practice in Vancouver and Victoria with a broad background in civil and administrative law.

## ROBERT B. BLASINA, MEMBER

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Robert Blasina was appointed a full-time Member of the Tribunal on August 2, 2011. Mr. Blasina graduated from the University of Toronto in 1971, with a Bachelor of Arts in Economics and from Queen's University in 1974, with a Bachelor of Laws. He was called to the Bar of British Columbia in 1977, and he obtained a Chartered Arbitrator designation in 1999 through the British Columbia Arbitration and Mediation Institute.

Mr. Blasina first practiced labour law, representing a number of trade-unions, and then as an arbitrator and mediator with respect to collective agreement and employment issues. Prior to coming to the Tribunal, Mr. Blasina had twenty-four years of experience as a consensual arbitrator and mediator, and has served on the Boards of the Arbitrators' Association of British Columbia and the British Columbia Arbitration and Mediation Institute.

## DIANA JURICEVIC, MEMBER

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Diana Juricevic was appointed a full-time Member of the Tribunal on February 16, 2012 for a five-year term. She holds a Juris Doctor and Master of Economics degree from the University of Toronto (2004). She also holds an Honours Bachelor of Arts degree from the University of Toronto (2001).

Prior to joining the Tribunal, Ms. Juricevic practised international criminal law before tribunals in The Hague and Cambodia. She was also the Acting Director of the International Human Rights program at the University of Toronto Faculty of Law where she taught courses on international criminal law and human rights advocacy.

Early in her career, Ms. Juricevic was an associate at a national law firm practising civil litigation, administrative, and human rights law.

## CATHERINE MCCREARY, MEMBER

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Catherine McCreary was appointed a full-time Member of the Tribunal on April 2, 2012 for a temporary one-year term. In May 2012, she was appointed on a five-year term expiring in May 2017. A graduate of the University of Calgary Faculty of Law, she worked in British Columbia and Alberta as an arbitrator, mediator and investigator. She was a Vice-Chair of the BC Labour Relations Board from 2000 to 2006. Ms. McCreary worked as in-house counsel to Teamsters Local 213 after moving to BC from Alberta in 1997. In Alberta, she worked with the law firm McGown Johnson and acted as counsel, usually to unions and employees.

Ms. McCreary served on the boards of directors of Vancity and Central 1 Credit Union and recently was appointed by FICOM to serve on the Task Force on Credit Union Governance. She sometimes works as a Governance Coach to member-based organizations.

# TRIBUNAL MEMBERS

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## WALTER RILKOFF, MEMBER

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Walter Rilkoff was appointed a full-time Member of the Tribunal on February 28, 2014 for a five-year term. He graduated from the University of British Columbia in 1970 with a B.A. (Hons.) in Political Science; from York University with an MA in 1972 and a Law Degree from Osgoode Hall Law School in 1975.

Mr. Rilkoff commenced his legal career as a Legal Assistant to the then Chair of the B.C. Labour Relations Board. Prior to joining the Tribunal, Mr. Rilkoff was engaged in private practice for over 37 years representing individuals, employers and trade unions in all aspects of employment-related law including labour relations, employment, human rights and privacy.

## NORMAN TRERISE, MEMBER

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Norman Trerise was appointed a full-time Member of the Tribunal on December 2, 2010 and was appointed for a second five-year term on December 3, 2015.

Mr. Trerise holds a law degree from the University of British Columbia (1973) and a Bachelor of Arts degree from the University of Oregon (1969).

Prior to his appointment, Mr. Trerise practised labour, employment, human rights and administrative law as a partner with a national law firm.

## MARLENE TYSHYNSKI, MEMBER

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Marlene Tyshynski became a full-time Member of the Tribunal on December 1, 2005 for a temporary six-month term and for a second term in October 2007.

In April 2008 and February 2014, Ms. Tyshynski was appointed to five-year terms, the latter expiring in 2019.

Ms. Tyshynski holds a law degree from the University of Victoria (1988), a Master of Social Work degree from Wilfred Laurier University (1978) and an Honours Bachelor of Applied Science degree from the University of Guelph (1976).

At the outset of her career, Ms. Tyshynski was an associate with two law firms in Victoria. She was in private practice for several years specializing in, among other areas, Administrative Law, then she worked as a staff lawyer for the Legal Services Society.

Prior to her appointment as Member, Ms. Tyshynski served as legal counsel to the Tribunal for three years.

## BERND WALTER, CHAIR

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Bernd Walter was appointed Chair of the Tribunal on August 1, 2011 for a five-year term. He also chairs the British Columbia Review Board.

Mr. Walter has chaired a number of BC Tribunals. He has also served as an ADM in the BC Public Service, as well as in Alberta and Ontario. He served as Alberta's First Children's Advocate.

Mr. Walter's background includes program, policy development and law reform, in particular in child protection, adoption, Aboriginal child and family services, child, youth and adult mental health and children's rights. He has also participated in Indian Residential Schools reconciliation and healing work.

## EXPIRED APPOINTMENTS

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### PARNESH SHARMA

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Parnesh Sharma was appointed a full-time Member of the Tribunal for a six-month period, from January to July 2015, and a second term to January 2016, under s. 6 of the *Administrative Tribunals Act*.

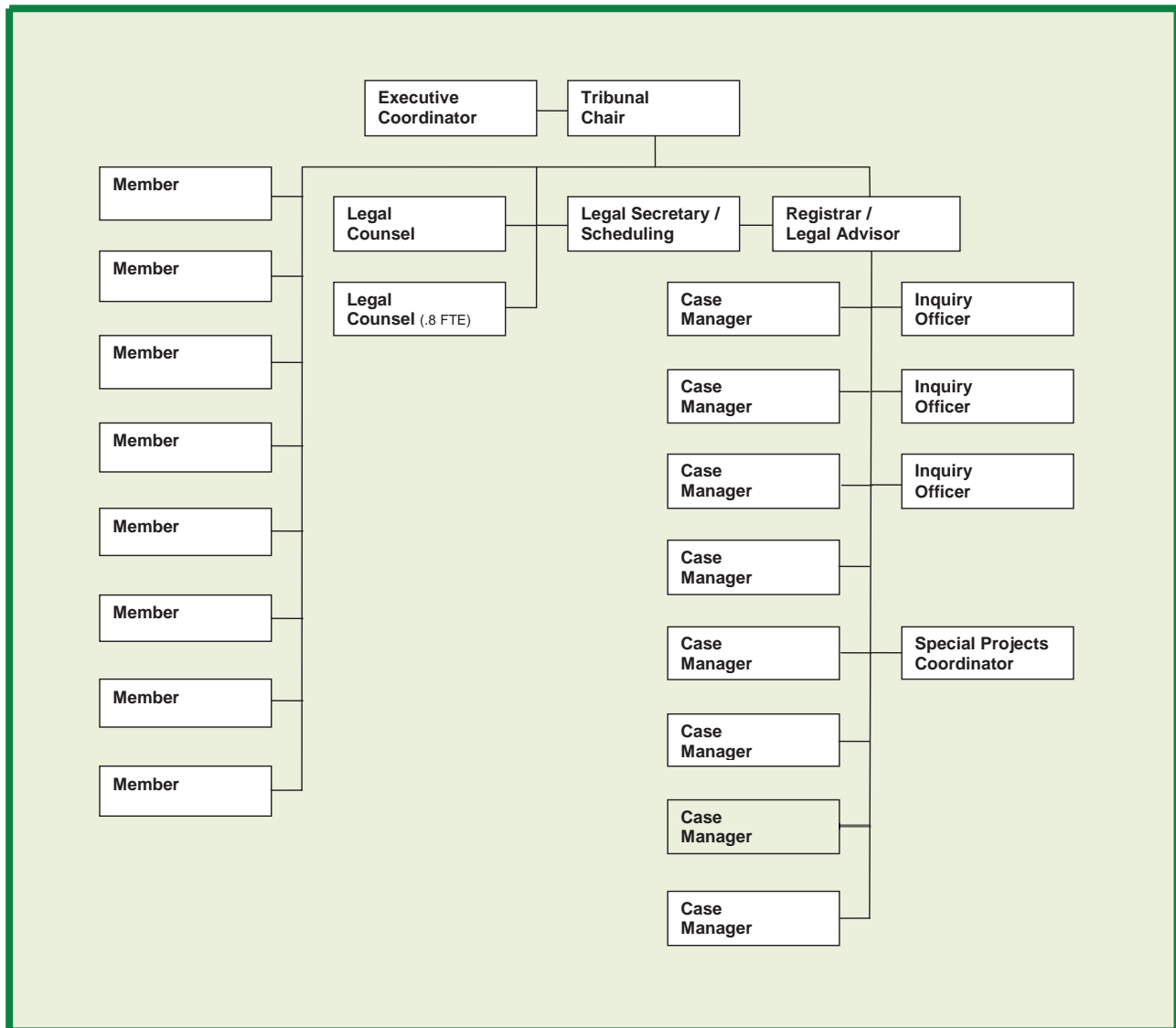


# COST OF OPERATION

## BC Human Rights Tribunal Operating Cost Fiscal Year 2015-2016

Category	Expenditure	Delegated Budget	Variance
Salaries (Chair, Members, Registry and Administration)	\$ 2,020,951	\$ 2,178,000	\$ 157,049
Employee Benefits	\$ 491,532	\$ 540,000	\$ 48,468
Expired-Term Members – Fees for Completing Outstanding Decisions	\$ 62,475	\$ 20,000	\$ (42,475)
Travel	\$ 38,392	\$ 53,000	\$ 14,608
Centralized Management Support Services	\$ 0	\$ 0	\$ 0
Professional Services	\$ 273,100	\$ 170,000	\$ (103,100)
Information Services, Data and Communication Services	\$ 162	\$ 4,000	\$ 3,838
Office and Business Expenses	\$ 89,583	\$ 65,500	\$ (24,083)
Statutory Advertising and Publications	\$ 1,617	\$ 1,500	\$ (117)
Other Expenses	\$ 0	\$ 4,000	\$ 4,000
<b>Total Cost</b>	<b>\$ 2,977,812</b>	<b>\$ 3,036,000</b>	<b>\$ 58,188</b>

# ORGANIZATION CHART



## ADMINISTRATIVE STAFF

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### *Executive Coordinator*

Andrea Nash

### *Legal Counsel*

Katherine Hardie

Jessica Connell (partial year)

Devyn Cousineau (partial year)

Walter Pylypchuk (partial year) (part-time)

### *Registrar / Legal Advisor*

Steven Adamson

### *Registry Staff*

Anne-Marie Kloss (partial year)

Carla Kennedy

Cheryl Seguin

Daniel Varnals

Diana P. Popa

Laura Hill (partial year)

Lorne MacDonald

Luke LaRue

Matthew Damario (partial year)

Mattie Kalicharan

Nikki Mann

Paul Rondeau

Rose Andries

Rozina Rahim

Sandy Tse

# VOICE OF THE PARTICIPANT

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In anticipation of new accountability expectations imposed by the amendments to the *Administrative Tribunals Act*, the Tribunal engaged a professional market analysis firm to design and implement a **Voice of the Participant Research Program**. Tribunal participants will be provided with electronic surveys whenever a file is closed, at any stage of the Tribunal's process.

This will enable us to incorporate their experience to quickly change and improve those processes which are within our control and, over time, to gauge their overall satisfaction with such changes.

Questions related to Tribunal ("BCHRT") processes are as follows:

## OVERALL EXPERIENCE

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Please rate your overall experience with the BCHRT.

Why do you say that your overall experience with the BCHRT was [rating provided by survey participant]?

How would you rate the usefulness of the BCHRT's website in helping you through the complaint process?

And how would you rate the BCHRT support staff you dealt with on being courteous and helpful?

To what extent do you agree or disagree with the following statements:

- a. I was treated fairly by the BCHRT
- b. It was easy to access the BCHRT's services
- c. I am satisfied with the outcome of my case

## COMPLAINT FILING PROCESS

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Please rate the BCHRT complaint filing process.

How easy was it to fill out the complaint form?  
How could the form be improved?

## COMPLAINT REJECTED

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Did you understand BCHRT's reasons why your complaint could not proceed?

## SETTLEMENT MEETING PROCESS

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Please rate the BCHRT settlement meeting process.

And how would you rate the BCHRT settlement meeting process on the following?

- a) Providing you with a chance to give your views
- b) Being fair
- c) Providing you enough information about the process
- d) The mediator being respectful
- e) The mediator being helpful

How could the settlement meeting process be improved?

## APPLICATION TO DISMISS PROCESS

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Please rate the BCHRT dismissal application process.

And how would you rate the BCHRT dismissal application process on the following:

- a) Being fair
- b) Being easy to understand
- c) Getting you a decision in a reasonable amount of time
- d) Providing you with enough information about this process
- e) Providing you with a chance to present your case

How could the dismissal application process be improved?

# VOICE OF THE PARTICIPANT

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Did you understand the BCHRT's reasons for dismissing the complaint or denying the dismissal application?

## HEARING PROCESS

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Please rate the BCHRT hearing process.

And how would you rate the BCHRT hearing process on:

- a) Being fair
- b) Being easy to understand
- c) Getting you a decision in a reasonable amount of time
- d) Providing you with enough information about the hearing process
- e) The Tribunal member being respectful
- f) The Tribunal member being competent and knowledgeable
- g) Providing you with a chance to present your case

How could the hearing process be improved?

And did you win or lose your case?

Did you understand the BCHRT's reasons for the decision?



The core mission of the  
British Columbia Human Rights Tribunal  
is the timely and fair resolution of disputes  
involving the human rights of all  
British Columbians



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