

## Process Review

The BC Human Rights Tribunal is seeking input about possible changes to improve its processes. We aim to make changes by the fall of 2023.

Please:

- Provide your feedback by **March 31, 2023** to [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca) and put **Process Review** in the subject line.
- Tell us how you know about the Tribunal's process. For example, have you been a complainant, respondent, lawyer, or are you an interested organization?
- Limit your feedback to 8 pages.
- Contact the Tribunal Registrar if you wish to provide feedback orally.

We know that delay is a problem. The BC government has provided increased funding to help us deal with the delay and improve the complaint process to work better for those who use it. We invite feedback on any part of the process. However, we have questions about seven areas. Some of these areas have contributed to delay.

### 1. Making a complaint

In June 2020, the Tribunal created new complaint forms and set a 5-page limit for additional information about a complaint.

**Questions:**

1. **Do you have feedback about the complaint form or the 5-page limit?**
2. **Do you have other feedback about the process for making a complaint?**

### 2. Screening

Currently, when a complaint is made and before a respondent is notified, the Tribunal reviews the complaint to see if:

- The Tribunal has the power to deal with it. For example, the Canadian Human Rights Commission has the power to deal with complaints about federal matters.
- The complaint was filed on time.
- The complaint sets out possible discrimination.

Most courts and tribunals do not do this kind of review.

**Questions:**

1. **Should the Tribunal continue to review complaints at the start of the process? Why or why not?**
2. **Do you have specific feedback about the "screening" process for group or class complaints?**
3. **Do you have other feedback on the "screening" process?**

### 3. Notice of complaint

Currently, the Tribunal notifies the respondent that it will proceed with a complaint, after it has "screened" the complaint. This is a source of some delay in the Tribunal's process.

Most courts and tribunals require the person making a claim to “serve” or deliver a copy to the respondents.

**Questions:**

1. **Should the Tribunal ask complainants to “serve” the complaint on respondents when they file the complaint? Why or why not?**
2. **If complainants serve the complaint on respondents when they file a complaint, should the Tribunal decide to proceed with the complaint before the respondent is required to respond?**
3. **Do you have other feedback about the process for notifying respondents about a complaint?**

#### 4. Mediation

Currently, the Tribunal sets a mediation date, without canvassing availability, when it notifies the parties that it will proceed with a complaint.

**Questions:**

1. Should the Tribunal continue this practice? Why or why not?
2. Do you have other feedback on the Tribunal’s mediation process?

#### 5. Response to Complaint

In March 2022, the Tribunal revised the form for responding to a complaint and set a new [deadline of 8 weeks](#) for the respondent to respond to a complaint. This deadline is often before the mediation date. Historically, the Tribunal delayed the deadline until after an early mediation.

**Questions:**

1. Do you have feedback about the Response Form?
2. Do you have feedback on the new deadline for filing a response to a complaint?
3. Does the response affect the mediation process? If so, how?
4. Do you have other feedback about when a respondent should respond to a complaint?

#### 6. Disclosure

The Tribunal requires parties to exchange information that may be relevant to the complaint or response to complaint.

Currently, the deadline to exchange information is 12 weeks after the early mediation or, if there is no mediation, after the respondent responds to a complaint. Both parties must comply with this deadline.

Historically, the Tribunal required:

- the complainant to give their information 35 days after the respondent responded to the complaint.
- the respondent to give their information 70 days after they responded to the complaint.

Before the hearing, the Tribunal also requires the parties to exchange information about the remedy the complainant is seeking.

**Questions:**

1. **Should the Tribunal limit the scope of the information parties must disclose? Why or why not?**
2. **Should the disclosure deadline change? Why or why not?**
3. **Should the parties have the same disclosure deadline?**
4. **Should disclosure regarding remedy be required later in the process or at the same time as other disclosure?**
5. **Do you have other feedback about the disclosure process?**

## 7. Applications to Dismiss

In January 2020, the Tribunal [limited the number of pages of argument](#) that parties could submit on an application to dismiss a complaint without a hearing.

In November 2021, the Tribunal temporarily stopped respondents from filing applications to dismiss a complaint without a hearing. Before then, respondents could file an application to dismiss any time before a deadline.

In May 2022, the Tribunal started a one-year pilot project called the [Case Path Pilot](#). After the parties exchange information, the Tribunal decides if:

- The complaint will proceed directly to a hearing.
- The parties will make submissions about whether the Tribunal should dismiss the complaint without a hearing under s. 27(1) of the *Human Rights Code*.

### Questions:

1. **Do you have feedback on the page limits for argument?**
2. **Do you have feedback on the deadline for filing an application to dismiss?**
3. **Do you have feedback on the Case Path Pilot?**
4. **Do you have other feedback on the process for applications to dismiss a complaint without a hearing?**

## 8. Pre-hearing steps and Hearings

### Questions:

1. **Do you have feedback on pre-hearing steps?**
2. **Do you have any feedback on the hearing process?**