The Human Rights Complaint Process:

*A guide for complainants*

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January 2018 (R)
Alberta human rights law protects you

The Alberta Human Rights Act (the Act) protects people from discrimination in Alberta under specific protected areas and grounds. See pages 1 to 3 of this guide for more information about protected areas and grounds. Under the Act, a person may make a complaint to the Alberta Human Rights Commission if they believe, on reasonable grounds, that someone has contravened the Act. A contravention of the Act can include discrimination based on one or more protected grounds in one or more protected areas.

The Act does not allow a person to make a human rights complaint to the Commission with malicious intent. If a person makes a complaint with malicious intent, and the complaint is also frivolous (having no merit whatsoever) or vexatious (made with the sole purpose of harassing another person), the respondent can make a human rights complaint against the complainant.

Once a complaint is accepted, the Commission keeps all parties to a complaint informed and welcomes questions at any time. The complainant is the person who makes a complaint to the Commission because they have a reasonable basis to believe that someone has discriminated against them or that the Act has been contravened. A complainant may also make a complaint on behalf of someone else. Completing the complaint form or making a complaint does not mean that your complaint has been accepted by the Commission.

The respondent is the employer, service provider, landlord, organization or individual you are complaining about.

What kinds of discrimination does Alberta human rights law cover?

The Act prohibits discrimination in the protected areas described below. Please note that the descriptions below are not legal definitions. They are guidelines to help you make your complaint.

Employment applications or advertisements applies to the use or circulation of any job application form or job advertisement that expresses any limitation, specification or preference based on a protected ground under the Act. It also applies to the written or oral questions asked of any applicants for employment.
**Employment practices** applies to refusals to employ or to continue to employ any person due to a protected ground under the Act. It also applies to discrimination related to any term or condition of employment.

**Equal pay** applies to situations where an individual receives a lower rate of pay than employees of a different gender even though they do similar or the same work for the same employer.

**Goods, services, accommodation or facilities** applies to goods, services, accommodation or facilities customarily available to the public, such as those provided by restaurants, retail stores, hotels, hospitals, schools, municipalities and many other businesses and organizations. Accommodation also applies to condominiums, co-operative housing units, and mobile home sites.

**Membership** in trade unions, employers’ organizations or occupational associations applies to situations where a person is excluded from becoming a member, is being expelled or suspended from membership, or is discriminated against as a member.

**Statements, publications, notices, signs, symbols, emblems or other representations** applies to the publication, issue or display before the public of any statement, publication, notice, sign, symbol, emblem or other representation that is discriminatory, shows an intent to discriminate, or is likely to expose anyone to hatred or contempt. Section 3 of the Act shall not be deemed to interfere with the free expression of opinion on any subject.

**Tenancy** applies to being denied occupancy of a self-contained residential dwelling unit or a commercial unit that is advertised or otherwise in any way represented as being available for occupancy by a tenant. It also applies to being discriminated against in any term or condition of the tenancy.

The Alberta Human Rights Act protects people from discrimination in Alberta based on the protected grounds listed below, whether the protected grounds are real or perceived. A complaint must be based on at least one of these protected grounds. Except where noted, the descriptions below are not legal definitions. They are guidelines to help you make your complaint.

**Age** – as defined in the Act, means 18 years of age or older, except for the purposes of providing a benefit to minors or a class of minors, and, in some cases, age restrictions regarding occupancy of rented accommodations or condominiums.

For more information about providing benefits to minors or age restrictions and occupancy, contact the Commission’s confidential inquiry line. See the back cover of this guide for contact information.

**Ancestry** – includes belonging to a group of people related by a common heritage.

**Colour** – includes the colour of a person’s skin.

In Alberta, people may not be discriminated against because of a protected ground listed in the Act. Except where noted, these descriptions are not legal definitions. For more information about protected grounds, contact the Commission.
Family status – as defined in the Act, means the state of being related to another person by blood, marriage or adoption.

Gender – includes the state of being female, male, transgender or two-spirited. The ground of gender also includes pregnancy and sexual harassment.

Gender expression – refers to the varied ways in which a person expresses their gender, which can include a combination of dress, demeanour, social behaviour and other factors.

Gender identity – refers to a person’s internal, individual experience of gender, which may not coincide with the sex assigned to them at birth. A person may have a sense of being a woman, a man, both, or neither. Gender identity is not the same as sexual orientation, which is also protected under the Act.

Marital status – as defined in the Act, means the state of being married, single, widowed, divorced, separated or living with a person in a conjugal relationship outside marriage.

Mental disability – as defined in the Act, means any mental disorder, developmental disorder or learning disorder, regardless of the cause or duration of the disorder.

Physical disability – as defined in the Act, means any degree of physical disability, infirmity, malformation or disfigurement that is caused by injury, birth defect or illness and, without limiting the generality of the foregoing, includes epilepsy, paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, and physical reliance on a guide dog, service dog, wheelchair or other remedial appliance or device.

Place of origin – includes place of birth and usually refers to a country or province.

Race – includes belonging to a group(s) of people, usually of a common descent, who may share common physical characteristics, such as skin colour.

Religious beliefs – as defined in the Act, includes native spirituality.

Sexual orientation – includes gay, lesbian, heterosexual, bi-sexual or asexual.

Source of income – as defined in the Act, means lawful source of income. This ground includes any income that attracts stigma to its recipients.

For more information about protected areas and grounds, see the Commission information sheet Protected areas and grounds under the Alberta Human Rights Act at albertahumanrights.ab.ca or contact the Commission. See the back cover of this guide for contact information.
How do I make a human rights complaint?

When you call or come into the Commission’s offices, you will speak to a human rights officer about your complaint. If the human rights officer believes the situation may have involved a contravention of the Act, they will talk to you about the complaint process.

The Commission must have a written record of your complaint. To make sure that you include all the details, we ask you to fill out a Human Rights Complaint Form, or write a letter that answers all the questions asked in the form. If you have any letters, memos, email messages or other documents that support your position, you should attach copies of them to your complaint form. The accepted written complaint will be shared with the respondent, along with any attachments.

The Act prohibits the making of a human rights complaint with malicious intent. If a person makes a human rights complaint with malicious intent, and the complaint is also frivolous (having no merit whatsoever) or vexatious (made with the sole purpose of harassing another person), the respondent to the complaint can make a human rights complaint against the complainant.

The Commission will not respond to general human rights inquiries sent by email. Please contact the Commission by phone or regular mail if you have a specific complaint. You may deliver your Complaint Form and Complainant Contact Information Form to the Commission in person, by mail or fax.

Please remember to include the Complainant Contact Information form so we can reach you. If you do not maintain current contact information with the Commission, your complaint may be closed or dismissed.

How much time do I have to make a complaint?

The Commission must receive your completed complaint form or letter within one year after the alleged contravention of the Act. The one-year period starts the day after the date on which the alleged contravention of the Act occurred. For help calculating the one-year period, contact the Commission. See the back cover of this guide for contact information.

We encourage you to submit your complaint form as soon as possible following the alleged contravention of the Act. Neither the Director of the Commission nor the Chief of the Commission and Tribunals has the discretion to extend the one-year limit defined in the Act.

Who can help me make a complaint?

You can get someone to help you write your complaint or to write the complaint for you. Someone else may also make a complaint on your behalf, or you may make a complaint on behalf of another person. Please note that you can have someone help or represent you, including being the contact person for your complaint, however, you are still the complainant.
When necessary, Commission staff will help a person prepare a complaint if they need help because of barriers such as literacy difficulties or a disability.

You do not need to hire a lawyer to make a human rights complaint. However, if you choose to have someone give you legal advice or represent you, you are responsible for any legal costs. The Commission does not pay legal costs for you or for the respondent.

The Commission will provide information about the human rights complaint process, but Commission staff do not provide any legal advice to either complainants or respondents. Information provided in this guide is not a legal opinion or legal advice on the Alberta Human Rights Act or your rights.

Can a person be fired or evicted for making a complaint?

It is unlawful for anyone to retaliate against you for making or attempting to make a human rights complaint under the Act. It is also unlawful for anyone to retaliate against someone who provides information about a complaint or helps in the investigation of a complaint made under the Act.

If anyone tries to pressure you to drop your complaint, or threatens you, contact the Commission.

If you feel your safety or the safety of anyone you name during the complaint process is at risk, please call your local police service first, and then let the Commission know.

The Commission has received my complaint. What happens now?

Any person who has reasonable grounds for believing the Act has been contravened can make a human rights complaint. When the Commission receives a complaint, it assesses the complaint to determine if it can be accepted. For a complaint to be accepted, it must meet the requirements set out in section 20(2) of the Act and in Commission bylaws 2(1) and 2(2), which may be accessed through the Commission’s website. Commission staff may ask you for additional information as part of the assessment process, if your submission is unclear or incomplete.

In order to be accepted, a complaint must be received by the Commission within one year of the alleged contravention of the Act. The Commission cannot accept complaints made outside of this one-year limitation period. If the alleged contravention is of an ongoing nature, then the complaint should specify the time period that applies to the alleged contravention as a whole, and should identify the date of the most recent alleged contravention. Any events or allegations in a complaint that fall outside of this one-year period can only be considered for context. Note that neither the Director of the Commission nor the Chief of the Commission and Tribunals has the discretion to extend the one-year limit defined in the Act.
A complaint must contain adequate detail in order to be in “a form acceptable to the Commission” under bylaw 2(2). While complainants should provide as much relevant information as possible about the allegations, the following information is required in order for a complaint to be accepted:

- the complainant’s name;
- if the complaint is brought on behalf of someone else, the name(s) of those individual(s);
- where the complainant is able to provide it, the name(s) of any person(s), company, and/or organization alleged to have contravened the Act; and
- the date, approximate location and nature of the alleged contravention(s).

In order to satisfy requirements contained in section 20(1) of the Act and bylaw 2(1)(a), you must provide reasonable grounds for believing that the Act has been contravened. This means you must provide sufficient detail about the nature of the alleged contravention of the Act (for example, specifically who said or did what to you, and when) and explain why you believe any alleged contraventions of the Act are linked to a protected ground. Complaint forms must be signed by complainants, their authorized representatives, or legal counsel.

The threshold is low for acceptance of a complaint by the Commission and at this stage you do not need to provide evidence or witnesses to prove your allegations, but you should attach copies of any supporting documentation or other records that are relevant to the allegations made in the complaint to their complaint form.

If the Commission refuses to accept your complaint, we will notify you in writing and provide our reason(s) why the Commission cannot accept your complaint. If you do not agree with the Commission’s decision to not accept your complaint, you can appeal this decision to the Regional Director and, in turn, to the Director of the Commission.

If your complaint is accepted, the Commission sends a copy of the complaint to the party or parties that you have made a complaint against (the respondent). The Commission will ask the respondent to provide a written response to the complaint and explain their point of view about the alleged contravention of the Act. We also ask the respondent to suggest how the matter might be resolved. We send you a copy of the written response provided by the respondent.

The respondent may have a lawyer or someone else advising them. These people may also see your complaint.
What happens after I receive the respondent’s written response?

You should carefully review the written response. At this point, one of four things may happen:

1. At any time, you may choose to withdraw your complaint in writing for any reason. The respondent’s explanation may be all you want. Or you may simply not want to continue with the complaint for your own personal reasons.

2. The Commission may offer conciliation, which is a voluntary step to try to resolve your differences with the respondent with the help of a conciliator assigned by the Commission. It is your choice whether to try conciliation.

3. The Commission may also begin investigation of your complaint. This normally happens if the respondent or you do not want to participate in conciliation, or if conciliation is unsuccessful.

4. At any stage of the complaint process, the complaint may be referred to the Director of the Commission for the Director’s review and decision. The Director may dismiss or discontinue the complaint or continue the complaint, including referring the complaint to a tribunal.

Can’t I just deal with the respondent myself?

Once the Commission has accepted the complaint, you may propose a resolution at any time by contacting the Commission for assistance.

You may choose to contact the respondent directly. It is prohibited for anyone, including respondents, to retaliate against you for making a complaint under the Act or to retaliate against anyone assisting you. Retaliation is a contravention of the Act and may become the basis for another human rights complaint against the respondent. The prohibition against retaliation also prevents anyone from retaliating against a person who gives evidence, makes a disclosure, or otherwise participates in a proceeding under the Act.

Conciliation

Conciliation is a voluntary, non-adversarial way of resolving differences. The Commission may assign a conciliator to try to help the parties resolve their differences. The success rate of conciliation is high; more than half of complaints are resolved at the conciliation stage. The conciliator will help you understand the human rights issues in the complaint, human rights law and what types of resolutions are common in such complaints.

The complainant and respondent may meet together with the conciliator, or each of you may meet with the conciliator separately or over the phone. The conciliator does not take sides or investigate the complaint. If the parties resolve their differences, the complaint is closed. If the parties cannot resolve
their differences, or if one or both of the parties decline conciliation, the complaint may go to the investigation step of the complaint process, or it may be referred to the Director for review. Under section 22 of the Act, the Director may, at any time, dismiss or discontinue the complaint or continue the complaint, including referring the complaint to a tribunal.

All offers of resolution made by the parties during conciliation are made on a “without prejudice” basis. The investigator will not know what offers of resolution were discussed during conciliation.

Investigation

The purpose of investigation is to gather information related to the complaint, share collected information with the parties, seek their comments, and assess whether there is a reasonable basis to proceed with the complaint. The Commission will inform the parties if an investigator is assigned. The investigator is neutral and will thoroughly assess all information and consider applicable law.

If the parties want to try to resolve their differences at any point in the investigation process, the complaint may be returned to conciliation. The complainant may also withdraw the complaint in writing at any time and for any reason.

If an investigation report is produced, it will be provided to both parties. The investigation report will either support the complaint and recommend to the Director of the Commission that there is a reasonable basis to proceed, or it will recommend to the Director that there is not a reasonable basis to proceed.

Alternatively, during the investigation, the complaint may be expedited to the Director of the Commission, who may decide at any time to dismiss or discontinue the complaint or continue with the complaint, including referring the complaint to a tribunal. The Commission will notify both parties if a complaint is expedited to the Director for a decision under section 22 of the Act.

What happens if there is a reasonable basis to proceed?

If the information provided by the parties during any stage of the complaint process shows that there is a reasonable basis to proceed with the complaint, the Commission will assist the parties in attempting settlement of the complaint (commonly referred to as resolution).

A remedy can be financial or non-financial compensation for losses that you experienced. A remedy is intended to restore you to the position you would have been in if a contravention of the Act had not occurred. It is not intended to punish the respondent. Examples of remedies include money, an apology or a change in policy. The respondent may also be
directed to participate in a human rights education activity. If a complaint is resolved, the Commission will have the parties sign an agreement. For more information about remedies, please see the Commission’s Remedy information sheet, which is available at albertahumanrights.ab.ca.

If the parties agree to resolve the complaint at any time, the parties should document and sign the agreement and provide a copy of the signed agreement to the Commission. Alternatively, you can choose to provide the Commission a signed withdrawal of your complaint. Once the Commission receives either of these documents, it will close your complaint.

If you refuse to accept an offer from the respondent to resolve the complaint that the Director thinks is fair and reasonable, the Director can discontinue your complaint and your complaint will be closed unless you request the Chief of the Commission and Tribunals to review the Director’s decision (commonly referred to as an appeal).

If the respondent does not offer a remedy that the Director of the Commission considers fair and reasonable, the Director may report to the Chief of the Commission and Tribunals that you and the respondent are unable to resolve the complaint. The Chief of the Commission and Tribunals then appoints a human rights tribunal to hear your complaint.

What if I disagree with the investigator’s recommendation to the Director of the Commission that there is no reasonable basis to proceed?

The investigator’s recommendation to the Director of Commission is not a final disposition of your complaint. Before the Director of the Commission decides there is or is not a reasonable basis to proceed with your complaint, the parties to the complaint will have the opportunity to provide comments to the Director about the investigator’s recommendation.

What if there is no reasonable basis to proceed with my complaint?

If the information provided by the parties during any stage of the complaint process does not show that there is a reasonable basis to proceed with the complaint, the Director of the Commission may dismiss the complaint under section 22 of the Act.

What if I disagree with the Director’s decision to dismiss or discontinue my complaint?

If you disagree with the Director’s decision to dismiss or discontinue your complaint, you have 30 days after you receive the Notice of Dismissal or Notice of Discontinuance to submit a written request for review (commonly
referred to as an appeal) of the Director’s decision to the Chief of the Commission and Tribunals. Only you as the complainant can request a review of the Director’s decision to dismiss or discontinue your complaint. This 30-day deadline cannot be extended by either the Director or the Chief of the Commission and Tribunals. For more information about how to request a review, see the Commission’s information sheet Complaint Process.

If the Chief of the Commission and Tribunals agrees that the complaint should have been dismissed or, in the case of a discontinuance, that a proposed resolution was fair and reasonable, then the Director’s decision will be upheld and the complaint will be closed.

If the Chief of the Commission and Tribunals decides that the complaint should not have been dismissed or, in the case of a discontinuance, that the proposed resolution was not fair and reasonable, then the Director’s decision will be overturned. The Chief of the Commission and Tribunals will then ask you if you want to take the complaint to a human rights tribunal. If you choose to take your complaint to a human rights tribunal, then the Chief of the Commission and Tribunals appoints a tribunal. If you do not choose to take your complaint to a tribunal, then the complaint is closed.

A decision by the Chief of the Commission and Tribunals to uphold or overturn the dismissal or discontinuance of the complaint is final and binding, subject only to judicial review by the Court of Queen’s Bench. A judicial review involves particular legal principles and is not simply an appeal of the decision. A complainant must bring an application for judicial review within six months of the decision of the Chief of the Commission and Tribunals.

**Referral to Tribunal**

A complaint may be referred for hearing to a human rights tribunal if the parties are unable to resolve a complaint and the Director has determined there is a reasonable basis in the evidence to proceed; if the Chief of the Commission and Tribunals overturns the Director’s decision to dismiss a complaint; or, in the case of discontinuance by the Director, if the Chief of the Commission and Tribunals believes that the proposed resolution was not fair and reasonable.

A human rights tribunal is made up of one or three Members of the Commission, who are appointed by the Lieutenant Governor in Council. The tribunal acts as a quasi-judicial body—that is, they have the power to hear sworn evidence and decide a complaint, but their hearings are less formal than a court hearing. Tribunal hearings are usually open to the public.

More information about the tribunal process can be found on the Commission website.
Contact the Alberta Human Rights Commission

**Northern Regional Office**
800 – 10405 Jasper Avenue NW
Edmonton, Alberta T5J 4R7

**Confidential Inquiry Line 780-427-7661**
Fax 780-427-6013

**Southern Regional Office**
200 J.J. Bowlen Building
620 – 7 Avenue SW
Calgary, Alberta T2P 0Y8

**Confidential Inquiry Line 403-297-6571**
Fax 403-297-6567

To call toll-free within Alberta, dial 310-0000 and then enter the area code and phone number.

**Email** humanrights@gov.ab.ca
**Website** albertahumanrights.ab.ca

The Alberta Human Commission is an independent commission of the Government of Alberta. Our mandate is to foster equality and reduce discrimination. We provide public information and education programs, and help Albertans resolve human rights complaints.

The Human Rights Education and Multiculturalism Fund has provided funding for this publication.