



# BRITISH COLUMBIA HUMAN RIGHTS TRIBUNAL

## GUIDE 2 — Making a Complaint and guide to completing a Complaint Form

### Please Note

The information in this guide is an overview of the process for making a complaint under the Human Rights Code and to assist in completing a Complaint Form. This guide is not intended as a substitute for the Human Rights Code or the tribunal's Rules of Practice and Procedure. This guide is not legal advice. If you have legal questions, you should see a lawyer.

For further information, please see the section of this guide called “Where to Get More Help” (page 4).

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## Human Rights Complaints

A human rights complaint is a claim that someone discriminated against you in a way that is against human rights laws. The tribunal only deals with complaints under the British Columbia Human Rights Code (the **Code**).

To make a complaint to the BC Human Rights Tribunal (the **tribunal**) you will need to complete a Complaint Form and file it with the tribunal.

## The Complaint Form

The Complaint Form tells the tribunal and the person you are complaining about:

- who you are
- who you are complaining about
- what happened to cause your complaint
- what part of the Code you believe has been violated

## Where to Get a Complaint Form

To get a Complaint Form, contact the tribunal in person, by phone, or visit their Web site. The forms are also available at your local Government Agent’s office. If there is no Government Agent in your community there may be a Community Access Terminal (computer) available for public use in another government office. (All contact information is listed at the end of the guide.)

## Completing a Complaint Form

Each lettered section in this guide corresponds with a lettered section on the Complaint Form.

If you need more space for any answer, attach extra sheets. State, on each sheet, the letter of the question you are answering.

**A** If you are making a complaint for yourself or another person or group or class of persons, you are a **complainant**. Put your name here.

*For example, if you are making a complaint as someone’s parent or legal guardian, you are the complainant.*

You may be the only complainant. In some cases, more than one person complains about the same conduct. Each person may be a complainant, or you may make the complaint on behalf of the group.

*For example, if two people are making a complaint about the effect of a work policy, you are both complainants. But if you are making a complaint on behalf of a group of people who are all affected by the policy, you are the only complainant.*

**B** You must name one or more **respondents** — the people or organizations that you are complaining about.

*For example, if you claim that you were harassed by a co-worker, you can name your co-worker and your employer as respondents.*

If the respondent is a business or organization, you must provide the corporate name.

*To find the corporate name, you can look at a record of employment, pay stub, business card, letterhead, telephone book, income tax forms, etc.*

The respondent may also be an organization such as a union, or an employee or employer association.

**C** The Code prohibits discrimination only in the following areas of activity.

Check off the area(s) in which you believe the discrimination took place. Usually discrimination only happens in one area, but in some cases more than one area applies.

**Publication** means to make something known to the public by way of a statement, notice, sign, symbol, emblem or other representation that is discriminatory or is likely to expose anyone to hatred or contempt.

*For example, ✓ publication if you believe that something you saw in a newspaper or flyer is discriminatory.*

**Accommodation, service or facility** means accommodations, services or facilities customarily available to the public.

*For example, ✓ accommodation, service or facility if you believe a restaurant, hotel, store, municipal or provincial government, or other service provider discriminated against you.*

**Purchase of property** means land, or commercial or residential property that appears to be for sale, as well as terms and conditions of a purchase.

*For example, ✓ purchase of property if you believe a term of sale was changed because the person or company selling the property discriminated against you.*

**Tenancy** means space that appears to be available for rent, as well as terms and conditions of a rental.

*For example, ✓ tenancy if you believe that the respondent discriminated against you when they would not rent you an apartment.*

**Employment advertisements** means the publication of an advertisement relating to employment.

**Wages** means situations where men and women do work that is similar or substantially similar but receive different rates of pay.

**Employment** means employment-related activity and includes refusing to hire, firing, and the terms or conditions of employment.

*For example, ✓ employment if you believe that the respondent would not hire you, or fired you, or treated you in a discriminatory way at work.*

**Membership in a union or association** means situations such as becoming a member, being expelled from membership, or being discriminated against as a member of a trade union, employers' organization or occupational association.

**Retaliation** means a person discriminates against someone because that person makes a human rights complaint, is named in a human rights complaint, or gives evidence or assists in a human rights complaint.

*For example, ✓ retaliation if you believe that the respondent fired you because you helped someone file a human rights complaint.*

**D** The Code prohibits discrimination on the grounds listed in the Complaint Form.

Check off the ground(s) on which you believe you were discriminated.

The grounds of discrimination include characteristics related to those grounds.

*For example, if you believe that you were fired because you are pregnant, ✓ sex. Or, if you believe that you were denied a service because you have children, ✓ family status.*

The following grounds of discrimination apply only to some of the areas of discrimination listed in section C of the Complaint Form:

- **Age** means 19 to 64, and applies to all areas listed in section C, except wages, accommodations, services and facilities, or the purchase of property.
- **Political belief** only applies to membership in unions and associations, employment, and employment advertisements.
- **Criminal conviction** applies only to employment and membership in a union or association, and applies if a person has been convicted of a criminal or summary conviction offence that is unrelated to the employment, membership or intended employment or membership of that person.
- **Family status** applies to all areas listed in section C, except wages or the purchase of property.
- **Lawful source of income** applies only to tenancy.

**E** You must set out the details of your complaint of discrimination. You must describe each incident that you believe is discrimination and say how each incident relates to the areas and grounds selected in sections C and D.

Answer each of the questions set out in section E of the Complaint Form and include any other information you think is important to your complaint.

*For example, if you believe that a co-worker harassed you because of your race, you will have selected the area of 'employment' in section C and the ground 'race' in section D. You need to explain:*

- *what the person did that you believe is harassment*
- *when the conduct happened*
- *where it happened*
- *that the conduct happened in a place related to your work*
- *how the conduct relates to your race*

There are different ways that a person's conduct can relate to a ground of discrimination.

*For example, you may believe that the respondent discriminated against you on the ground of disability by treating you differently from others, or*

by making a rule that affected you in a negative way because of your disability.

**F** Section F of the Complaint Form helps you to determine if your complaint is filed in time.

Section 22 of the Code requires that you file your complaint within six months of the conduct you are complaining about.

If you say the conduct happened over time, your complaint is filed in time as long as you file it within six months of the most recent incident.

First, check off whether you say that the discrimination continued over a period of time. If you answer 'yes', you only need to answer question 2. If you answer 'no', you only need to answer question 3.

If you answer 'yes' to question 2 or 3, you are saying that your complaint is filed in time, and you can skip section G and go to section H.

If you answer 'no' to question 2 or 3, your complaint or part of your complaint is filed after the six-month time limit and you need to complete section G.

**G** If you want the tribunal to accept your complaint or the part of your complaint filed after the six-month time limit, you must complete section G.

Section 22 of the Code says that the tribunal may accept a complaint filed after the time limit if a member of the tribunal decides that accepting the complaint:

- is in the public interest
- will not cause substantial prejudice to any person because of the delay.

Explain here why the tribunal should accept your complaint or the part of your complaint filed after the time limit.

**H** Section 25 of the Code allows the tribunal to wait before dealing with your complaint if another proceeding could resolve your dispute with the respondent.

If there is another proceeding that deals with the same details you set out in section E, check off 'yes'.

*For example, ✓ yes if your union has started a grievance or if you have filed a complaint with the Employment Standards Branch or Employment Standards Tribunal that relates to the same details in section E of your complaint.*

If you check 'yes', you must answer questions 1 and 2 in section H.

**Question 1** asks about the kind of proceeding. Is there a lawsuit in court, a grievance filed by a union, or a matter before another tribunal such as the Employment Standards Tribunal?

**Question 2** asks whether you want the tribunal to wait until the other proceeding is finished before dealing with your complaint. Check off 'yes' or 'no', and explain why. If you aren't sure, check off 'I don't know'.

**I** Check off 'yes' if you are making this complaint on behalf of another person. If not, check off 'no'. If you check off 'yes', you must complete a **Representative Complaint Form**, and file it with your Complaint Form.

*For example, if you are making the complaint on behalf of your child, you must complete a Representative Complaint Form.*

Check off 'yes' if you are making this complaint on behalf of a group or class of persons. If not, check off 'no'. If you check off 'yes', you must complete a Representative Complaint Form, and file it with your Complaint Form.

*For example, if you are making the complaint for a group of people who were all affected by the same conduct, you must complete a Representative Complaint Form.*

**K** By signing and dating your Complaint Form, you are stating that you believe the information you are providing in the Complaint Form is true. Please note that the tribunal will provide a copy of your Complaint Form and any attached sheets to the respondent(s).

**L** Check off whether you are filing your Complaint Form by email, or by mail, fax, hand, courier or process server.

It is important that the tribunal have a signed Complaint Form in its file. This protects you from complaints being filed in your name without your knowledge. If you are unable to sign the Complaint Form, please contact the tribunal.

If you are filing by email, you must send a signed and dated copy of the completed Complaint Form to the tribunal by mail, fax, hand, courier or process server **within 21 days** or the tribunal may refuse to accept your complaint for filing.

If you are emailing your Complaint Form and you need the tribunal to send you a copy of your Complaint Form for your signature, check off the box at the end of section L.

**M** The tribunal offers you and the respondent(s) the opportunity to meet with a mediator or other neutral person to discuss resolving your complaint before the respondent files a formal response to your complaint.

The chances of agreeing to a solution can be much better if you meet early, before the process becomes more formal. You and the respondent(s) may want to address your claim quickly at a settlement meeting where your discussions are confidential.

If you want more information about settlement meetings, see the tribunal's [Guide 4: The Settlement Meeting](#)

If you are interested in an early meeting with the respondent to discuss resolving your complaint, check off 'yes'. Otherwise, check off 'no'.

**N** Provide the address, phone number and fax number of each respondent you have named in section B of the Complaint Form so that the tribunal can notify them about the complaint.

**O** You must provide an address in British Columbia called your **address for delivery**. This is where the tribunal and the respondent(s) will send you documents.

Be sure that the address is **correct** and that you notify the tribunal and other parties if your address for delivery changes.

If a lawyer or agent is representing you in your complaint, you must fill in their name, address, phone and fax numbers.

If you are representing yourself, you must provide an address for delivery in B.C., but it doesn't have to be your home address.

The tribunal also needs your telephone number. You may put it on this form, which is sent to the respondent(s), or you can call the tribunal to provide your phone number.

You may also provide a fax address for delivery.

## Filing the Completed Form

A Complaint Form must be filed with the tribunal. You can file your completed Complaint Form by mail, fax, hand, courier or process server to the address or fax number on the first page of the Complaint Form.

You can also file your Complaint Form by email to the address in section L of the Complaint Form. If you file by email, you must also file a signed and dated copy of the Complaint Form to the tribunal within 21 days.

## The Process After Filing

After you file your Complaint Form, the tribunal will review it to make sure that it is complete. If anything is missing, the tribunal will contact you and give you time to complete your complaint.

The tribunal will also review your Complaint Form to make sure that your complaint falls under the Code, so that the tribunal has the power to deal with it.

*For example, the Code does not cover federally-regulated companies like banks; so the tribunal has no authority to deal with a complaint against a bank.*

If the tribunal believes that it may not have the power to deal with your complaint, it will give you a chance to respond before deciding whether to proceed with your complaint.

If your Complaint Form is complete and it appears that the tribunal has the power to proceed, the tribunal will send your Complaint Form to the respondent(s) to:

- respond to sections F and G if your complaint is filed after the six-month time limit
- advise the tribunal whether they are interested in an early settlement meeting if you said in section M that you are interested in doing so
- respond to your complaint

## Where to Get More Help

If you need help filling out your form, or advice about whether you should file a complaint, you should contact a lawyer or seek other expert advice. Assistance may be available at:

### BC Human Rights Clinic

Vancouver Region  
Suite 1202-510 West Hastings St.  
Vancouver, BC V6B 1L8  
Phone: (604) 689-8474  
Fax: (604) 689-7511  
Toll Free: 1-877-689-8474

### BC Human Rights Coalition

Vancouver Island Region  
418-620 View St.  
Victoria, BC  
Phone: (250) 382-3012  
E-mail: [vihrc@telus.net](mailto:vihrc@telus.net)

### The Law Centre

Third Floor-1221 Broad St.  
Victoria, BC V8W 2A4  
Phone: (250) 385-1221  
Fax: (250) 385-1226

### UBC Law Students' Legal Advice Program

Room 158, 1822 East Mall  
Faculty of Law  
University of British Columbia  
Vancouver, BC V6T 1Z1  
Phone: (604) 822-5791

### Western Canada Society to Access Justice

Phone: (604) 878-7400  
Fax: (604) 324-1515  
Web site: [www.accessjustice.ca](http://www.accessjustice.ca)

You can also find legal information about human rights on the following Web sites:

[BC Human Rights Tribunal](http://www.bchrt.bc.ca)  
including links on the Web site  
[www.bchrt.bc.ca](http://www.bchrt.bc.ca)

[B.C. government Web site](http://www.ag.gov.bc.ca/programs/hrc/index.htm)  
[www.ag.gov.bc.ca/programs/hrc/index.htm](http://www.ag.gov.bc.ca/programs/hrc/index.htm)

[Canadian Human Rights Reporter](http://www.cdn-hr-reporter.ca)  
[www.cdn-hr-reporter.ca](http://www.cdn-hr-reporter.ca)

This guide is one in a series of guides available from the tribunal or your local Government Agent's office. The titles are:

- 1 The BC Human Rights Code and Tribunal
- 2 Making a Complaint
- 3 Responding to a Complaint
- 4 The Settlement Meeting
- 5 Getting Ready for a Hearing

The tribunal also has a series of information sheets available from the tribunal or your local Government Agent's office. (See contact information below)

## **BC Human Rights Tribunal**

**1170 – 605 Robson Street**

**Vancouver, BC, V6B 5J3**

**Phone: (604) 775-2000**

**Fax: (604) 775-2020**

**TTY: (604) 775-2021**

**Toll free: 1-888-440-8844**

**Web site: [www.bchrt.bc.ca](http://www.bchrt.bc.ca)**

To find the British Columbia Government Agent's office nearest you, call the tribunal at one of the numbers listed above, or contact Enquiry BC for assistance, toll free, at: 1-800-663-7867. You can also check the Government Agents' Web site at: [www.governmentagents.gov.bc.ca](http://www.governmentagents.gov.bc.ca)