

Please Note

The information in this guide is an overview of the process for responding to a complaint under the Human Rights Code and to assist in completing a Response to 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 3).

Responding to a Complaint

If someone makes a human rights complaint against you, you become a **respondent** in a human rights matter, and you have an opportunity to respond.

This guide will assist you in filling out the Response to Complaint Form and filing it with the BC Human Rights Tribunal (the **tribunal**).

The Response to Complaint Form

If someone makes a human rights complaint against you, they are saying that you have discriminated against them in a way that violates the BC Human Rights Code (the **Code**).

The **Response to Complaint Form** is your first opportunity to respond to the complaint against you. In it, you tell the tribunal and the person who made the complaint (called the **complainant**):

- what you agree with or disagree with in the Complaint Form
- your version of what happened
- whether you have a defence to the complaint

Response Time Limits

You have **35 days** from the date on the tribunal's letter to respond. To respond you must:

- complete the Response to Complaint Form (see page 2)

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- deliver a copy of the completed form to the complainant (see page 3)
- file the completed form with the tribunal (see page 3)

The time will be extended if you take part in an early settlement meeting. If the complainant has said in section M of the Complaint Form that they are interested in an early settlement meeting with you, the tribunal's letter will ask you whether you are interested. If you tell the tribunal that you are interested in an early settlement meeting within the time set out in the letter, you do not have to complete, deliver and file a Response to Complaint Form until after the settlement meeting.

The chances of agreeing to a solution can be much better if you meet early, before the process gets more formal. You and the complainant may want to address the 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 Do Not Respond

If you do not respond, the tribunal will schedule a hearing into the complaint. This means that you may lose the benefits of the pre-hearing process, including:

- settlement meetings
- receiving relevant documents from the complainant
- learning what witnesses the complainant will call to testify at the hearing

Completing a Response to Complaint Form

Each lettered section in this guide corresponds with a lettered section on the Response to 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 Fill in the name of the complainant(s) from question A on the Complaint Form.

Fill in the number(s) the tribunal has given to the complaint — the **tribunal case number** — from the tribunal's letter enclosing the Complaint Form.

B Fill in the name of the person, company, organization or association named in section B of the Complaint Form that is responding. Fill in the **correct** name, even if the Complaint Form sets out the name incorrectly.

C Check off whether the respondent named in section B is a company, organization or association.

If you check off 'yes', fill in your name and check off whether you have authority to respond on behalf of the company, organization or association. If you do, identify your position.

An individual respondent must complete and sign the completed form themselves.

D In this section, you provide your response to the facts alleged in sections C, D, E and F of the Complaint Form.

Answer each question set out in section C. If you agree with any of the facts set out by the complainant, say which ones.

For example, a complainant may say that you are her boss or employer. If that is right, say so, even if you disagree with other things the complainant says.

If you disagree with what the complainant says, set out your version of the facts.

You may also claim that you have a defence.

For example, you may have a defence if you took every reasonable step to avoid discriminating against the complainant.

The defences that apply depend on the area of alleged discrimination set out in section C of the Complaint Form.

Publication — it is a defence under section 7 of the Code if the communication was private or intended to be private.

Accommodation, service or facility — you may have a "bona fide and reasonable justification" under section 8 of the Code if you took all reasonable steps to avoid discriminating against the complainant.

Section 8 of the Code also sets out defences relating to the "maintenance of public decency", and to life and health insurance premiums or benefits.

Tenancy — section 10 of the Code does not apply to:

- space where any sleeping, bathroom or cooking facilities are shared
- certain premises reserved for adults over 55 on the grounds of age or family status
- certain premises reserved for persons with a disability

Employment advertisements and Employment — you may have a "bona fide and occupational requirement" under sections 12 or 13 of the Code if you took every reasonable step to avoid discriminating against the complainant.

Section 13 of the Code also sets out defences relating to seniority schemes, retirement, superannuation or pension plans, and insurance plans.

Non-profit exemption — If the respondent is a non-profit organization with a primary purpose of promoting the interests and welfare of an identifiable group, the exemption under section 41 may apply.

For example, you may have a defence if you refuse to employ an individual in a religious organisation if they are not a member of that religious organization.

E Section 25 of the Code allows the tribunal to wait before dealing with the complaint if another proceeding could resolve the dispute between you and the complainant.

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

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

You may check off 'yes' even if the complainant has not done so. If you check off 'yes', you must answer questions 1 and 2 in section E.

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 the complaint. Check off 'yes' or 'no', and explain why. If you aren't sure, check off 'I don't know'.

F By signing and dating your Response to Complaint Form, you are stating that you believe that the information you are providing in this form is true.

G Before you file this Response to Complaint Form, you must deliver a copy of this form to the complainant(s). See page 8 - “Delivering the Form to the Complainant.”

H You may want the tribunal to dismiss the complaint for one of the reasons set out in section 27 of the Code, including that you believe:

- the tribunal does not have jurisdiction over the complaint
- the details set out in sections C, D, and E of the Complaint Form do not conflict with the Code
- there is no reasonable prospect the complaint will succeed
- proceeding with the complaint would not benefit the complainant or further the purposes of the Code
- the complaint was filed for improper purposes or in bad faith
- the substance of the complaint has been appropriately dealt with in another proceeding

If you believe that one of these circumstances applies, **you must file a Form 8 - Application Form at the same time that you file your Response to Complaint Form.** (See contact information at the end of this guide for where to get copy of a form.)

I You must provide an address in British Columbia called your **address for delivery.** This is where the tribunal, the complainant(s) and any other respondent can 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 complainant and any other respondents, or you can call the tribunal to provide your phone number.

You may also provide a fax address for delivery.

Delivering the Form to the Complainant

You can deliver this form to the complainant(s) at the address for delivery set out in section O of Complaint Form by:

- mailing it by regular or registered mail
- delivering it by hand, courier or process server
- faxing it (if they provided a fax address for delivery)

Filing the Form with the Tribunal

You can file your Response to Complaint Form by mail, fax, hand, courier, or process server. The tribunal must receive your form within the 35 day time limit set out on page 2 of this guide.

The Process After Filing

After you file your Response to 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 Response to Complaint Form. You must complete your form within the time set by the tribunal.

If you have filed an application with your response, the tribunal will deal with that first. The tribunal may ask you to provide more details in support of your application, and will give the complainant(s) a chance to respond before making a decision.

Otherwise, the tribunal will review the Complaint Form and Response to Complaint Form and will advise you of the next step.

Where to Get More Help

If you need help filling out your form or advice about responding to a complaint, you should contact a lawyer or other expert advisor. 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

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

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

BC Human Rights Tribunal
including links on the Web site
www.bchrt.bc.ca

B.C. government Web site
www.ag.gov.bc.ca/programs/hrc/index.htm

Canadian Human Rights Reporter
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

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