

Please Note

The information in this guide is an overview of the settlement meeting process under the Human Rights Code. 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).

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The Settlement Meeting

As part of its pre-hearing process, the BC Human Rights Tribunal (the **tribunal**) offers parties to a complaint the opportunity to attend a settlement meeting.

In many human rights cases, the parties resolve the complaint through settlement discussions without the need for a hearing.

In a settlement meeting, the parties to a complaint meet with a neutral person whose role is to assist the parties to settle the complaint.

The procedure at a settlement meeting is flexible, and the parties can agree to the procedure that best suits their needs. Common procedures that might be used at a settlement meeting include:

- **Mediation**, where you meet with a mediator to discuss your interests and goals and try to resolve all or part of the complaint
- **Early evaluation**, where you meet with a neutral person who tells each party the strengths and weaknesses of their case to help the parties decide how best to resolve the complaint
- **Structured negotiations**, where you meet at the tribunal, and a neutral person gives you some assistance to negotiate your own settlement
- **Final determination of the merits** of all or part of the complaint by a tribunal member mediating the complaint, if settlement is not achieved and if the parties consent

Who Attends Settlement the Meeting

The complainant and respondent, and their lawyers or agents, if they are represented, attend the settlement meeting.

The settlement meeting may be conducted by a member of the tribunal, or by another neutral person.

If a member conducts a settlement meeting, that member will not hear or decide the complaint if it is not settled, unless the complainant and respondent both consent.

The meeting is private. Members of the public are not allowed. No one else may participate in the settlement meeting unless the parties consent.

If you want a friend, family member or other person to support you at the settlement meeting, you should arrange this in advance.

When is the Settlement Meeting

A settlement meeting can take place at any stage of the proceedings, but generally may arise in four situations:

- First, the parties may want to have an early settlement meeting, before the respondent files a Response to Complaint Form. If you are a complainant, and you are interested in an early settlement meeting, let the tribunal know by checking "yes" in box M of the Complaint Form. If you are a respondent and the complainant has noted an interest in an early settle-

ment meeting, the tribunal will contact you to see if you are also interested.

- Second, a case manager may propose a settlement meeting. After both the Complaint Form and the Response to Complaint Form have been filed, a case manager may send the parties a letter requesting their available dates for a settlement meeting.
- Third, a member may propose a settlement meeting.
- Fourth, the parties may request additional or alternate dates for a settlement meeting.

In all cases, a settlement meeting is only scheduled where both the complainant and respondent agree to attend.

Why Agree to a Settlement Meeting

You may be interested in a settlement meeting for a number of reasons. Settlement meetings are often the quickest and simplest method of resolving disputes, and they are confidential. If there is a settlement, there will not be a public hearing. Sometimes, parties can develop solutions to the problem that better suit their own needs. In this way, you and the other party get to decide how to resolve the complaint rather than a tribunal member.

Preparing for a Settlement Meeting

A settlement will only happen if a solution can be found that both parties agree to. When preparing, it is helpful to think about the issues you want to talk about and also to consider what issues the other party might want to talk about.

You should bring with you any documents that relate to the issues that will be discussed.

For example, if the complainant is claiming wage loss, the parties should bring documents that relate to that claim. Documents could include the complainant's efforts to find a new job, pay stubs, employer payroll records and records of other income received by the complainant.

Spend some time thinking about possible satisfactory solutions. Past settlements have included a respondent's policy initiative, reinstatement to employment, letters of apology, and letters of reference.

The tribunal does not require parties to be represented by a lawyer at a settlement meeting. **However, the tribunal strongly recommends that you get independent legal advice, or other expert advice, both before and after the settlement meeting.** (For further information, please see page 3 – “Where can I get help?”)

What Will Happen at a Settlement Meeting

About two weeks before the settlement meeting, the tribunal will send you a Settlement Meeting Agreement. You must sign this agreement to participate in the settlement meeting. The agreement states that:

- you will make an honest effort to settle the complaint
- the information exchanged during the settlement meeting will be kept confidential
- any representative of a party has the authority to settle the complaint

The settlement meeting will be held in an office or meeting room. The tribunal will send you a letter advising you of the time and place. You and your representative will sit down at a table with the person conducting the settlement meeting and the other party and their representative.

What happens at a settlement meeting depends on the type of procedure the parties have chosen (for example, mediation or structured negotiation), the style of the person conducting the settlement meeting, and the nature of the case. Generally speaking, however, there are some common elements in the process:

A. Introduction

First, the person conducting the settlement meeting will introduce themselves and the parties. They will describe the process and their role and will make sure that all parties have signed the Settlement Meeting Agreement before proceeding further. They will also discuss the Settlement Meeting Agreement, which states specifically that they will not give legal advice and that the process is confidential.

B. Information Gathering

Next, the person conducting the settlement meeting will ask each of the parties to describe their view of the dispute and what they may want out of any solution.

C. Issue Identification

The person conducting the settlement meeting will assist the parties in identifying the main issues in dispute.

D. Generating Solutions

The person conducting the settlement meeting will encourage the parties to identify possible solutions. The person conducting the settlement meeting may talk to parties separately or together throughout the process.

For the settlement meeting to be successful, all parties must feel able to speak freely to achieve a compromise. All discussions during a settlement meeting are “off the record.” That means that a party may put forward a position or state facts and opinions without fear that they will be referred to at the hearing or in public.

E. Agreement

If the parties are able to reach an agreement, the parties, their representatives, or the person conducting the meeting may write down the terms of the agreement.

When There Is a Settlement

If you settle all or part of a complaint, you must complete a Notice of Settlement Form. All parties must then sign the form (or a copy of the form), and file the signed form(s) with the tribunal. This may be done at the settlement meeting.

When you file a signed and completed Notice of Settlement Form, a tribunal member will order that the complaint (or the part of the complaint described in the form) be discontinued. That means that the complainant cannot proceed with all, or that part, of the complaint.

If there has been a breach of the terms of a settlement agreement, a party to the settlement agreement may apply to the B.C. Supreme Court to enforce the settlement agreement to the extent that the terms of the settlement agreement could have been ordered by the tribunal.

When There Is No Settlement

In some cases, even where no settlement is reached at the settlement meeting, the parties continue their discussions and reach a settlement sometime later. You may also ask the tribunal to set up another settlement meeting.

If the settlement process is not successful, there will be a hearing before a member of the tribunal. Three months before the dates set for the hearing, portions of the complaint file (but not the parties' addresses and phone numbers) will be made available to the public, who may be interested in intervening in or attending upcoming hearings.

At a hearing, the member will hear evidence and arguments, and will decide whether discrimination occurred and, if so, the appropriate remedy.

For more information about hearings, see the tribunal's [Guide 5: Getting Ready for a Hearing](#)

The discussions at the settlement meeting are confidential. The information exchanged at the settlement meeting cannot be used as evidence at the hearing unless the party who gave the information consents.

If a tribunal member conducted the settlement meeting, that member will not conduct the hearing unless all the parties consent.

Where to Get More Help

If you need help or legal advice 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 to the right.)

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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