18th Legislative Assembly of the Northwest Territories

Standing Committee on Government Operations


Chair: Mr. Kieron Testart
MEMBERS OF THE STANDING COMMITTEE ON
GOVERNMENT OPERATIONS

Kieron Testart
MLA Kam Lake
Chair

R.J. Simpson
MLA Hay River North
Deputy Chair

Daniel McNeely
MLA Sahtu

Michael M. Nadli
MLA Deh Cho

Herbert Nakimayak
MLA Nunakput

COMMITTEE STAFF

Jennifer Franki-Smith
Committee Clerk

April Taylor
Committee Advisor
February 20, 2019

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:


Kieron Testart
Chairperson
STANDING COMMITTEE ON GOVERNMENT OPERATIONS

REPORT ON THE REVIEW OF THE 2015-2016 AND 2016-2017
NORTHWEST TERRITORIES HUMAN RIGHTS COMMISSION
ANNUAL REPORTS

TABLE OF CONTENTS

INTRODUCTION .................................................................................................. 1
   About the Human Rights Commission ........................................................... 1
   Letter from the Chair ...................................................................................... 2
   Comprehensive Review of the Human Rights Act ......................................... 3
   Three Agency Working Group ................................................................. 4
   Community Outreach .............................................................................. 4
   Areas and Grounds for Complaint ........................................................... 6
   Inquiries, Complaints and Adjudication ..................................................... 7
CONCLUSION ...................................................................................................... 7
STANDING COMMITTEE ON GOVERNMENT OPERATIONS

REPORT ON THE REVIEW OF THE 2015-2016 AND 2016-2017
NORTHWEST TERRITORIES HUMAN RIGHTS COMMISSION
ANNUAL REPORTS

INTRODUCTION

The Standing Committee on Government Operations (“the Committee”) completed its review of the 2015-2016 and 2016-2017 Annual Reports of Northwest Territories Human Rights Commission (“the Commission”). The Standing Committee would like to thank Mr. Charles Dent, Chair of the Northwest Territories Human Rights Commission, and Ms. Deborah McLeod, Director of Human Rights, for their appearance before the Committee on February 14, 2018.

About the Human Rights Commission


The Human Rights Commission is made up of three to five members of the public, each for a term of four years. They are appointed by and responsible to the Legislative Assembly for the general administration of the Act. For both 2015-2016 and 2016-2017, Mr. Charles Dent served as Chair of the Human Rights Commission and Mr. Yacub Adam as Deputy Chair. Other Members of the Commission serving during the fiscal years in question were Ms. Marion Berls, Ms. Gerri Sharpe and Ms. Bronwyn Watters.

The Director of Human Rights position is also appointed by the Legislative Assembly. The Director is responsible for the administration of the complaint process and for overseeing administrative support for the Commission’s outreach and education efforts. The Office of the Director of Human Rights includes the Director, Ms. Deborah McLeod, and Commission staff members who are members of the public service.

The Adjudication Panel hears complaints referred by the Director, as well as appeals of the Director’s decisions to dismiss complaints. The Adjudication Panel is composed of at least three lawyers appointed by the Legislative Assembly, each for a term of two to four years. In 2015-2016 and 2016-2017, the Adjudication Panel was Chaired by Mr. Sheldon Toner, with Mr. Adrian Wright, Mr. Louis Sebert, Mr. Colin Baile, and Ms. Kerry Penney serving as adjudicators during that time period.
The Committee wishes to thank all members of the Commission and the Adjudication Panel for their service.

**Letter from the Chair**

In 2015-2016, Mr. Dent noted that the Human Rights Commission had received the report of the Comprehensive Review Team on how the *NWT Human Rights Act* and system performed in its first 10 years\(^1\). The report confirmed the Commission’s observations that the system had become too complex, too legalistic and very hard for people to use unless they had a lawyer. The report’s key recommendation was to move to a restorative approach.

The report also recommended that the Commission put more focus on broad systemic issues and find a way to work with Northern residents and community groups to foster a culture of inclusion. Mr. Dent noted that not all of the changes to the system require amendments to the Act and that the Commission was already making efforts to change processes to improve the system.

In 2016-2017, Mr. Dent’s letter opens by acknowledging that the Commission works in the traditional territories of the Dene, Inuvialuit and Metis peoples and acknowledges its obligations under Treaties 8 and 11.

In July 2016, the Director, Commission members, adjudicators and human rights staff participated in a 3-day workshop with Dr. Shaheen Azmi, the Director of Policy, Education, Monitoring and Outreach with the Ontario Human Rights Commission. Dr. Azmi introduced the Commission to ways of diagnosing institutional system discrimination and discussed how Ontario approaches systemic advocacy and identifies issues of public interest.

In September, the Commission met with Dr. Marie Wilson to discuss how the Commission, as one element in a system of human rights and social justice, can support the work of the Truth and Reconciliation Commission. The Commission also met with a number of individuals and community groups involved in social justice work.

---

Comprehensive Review of the Human Rights Act

In 2014, the Human Rights Commission contracted an independent review of the Northwest Territories’ Human Rights Act and supporting programs, to mark the 10th anniversary of the Act’s 2004 implementation. The independent review found that:

- The complaint process is over-legalized which creates barriers to citizens accessing justice;
- The organizational structure of the three-agency Commission is unnecessarily complex;
- The threshold for the referral of complaints is too low to allow the Director to properly screen complaints;
- Outreach and services to communities outside of Yellowknife are limited; and
- The current focus on individual complaints makes it difficult to effect systemic and institutional changes.

Based on these findings, the review recommended that changes to the human rights system be made to:

- Integrate a restorative approach into all human rights work;
- Unify and simplify the structure of the Commission and increase its responsibility in the complaints process;
- Increase public access to the human rights system through stronger individual and community relationships; and
- Identify and address systemic discrimination.

Working with the recommendations of the independent review, the three agencies that currently make up the Human Rights Commission developed an implementation plan titled Moving Forward: Implementing the Recommendations of the 2015 Comprehensive Review of Human Rights in the NWT,2 which was tabled in the Legislative Assembly on October 7, 2015.

The Standing Committee commends the Human Rights Commission, the Government of the Northwest Territories and the Legislative Assembly for their collaboration in implementing the findings of the independent review. Committee is pleased to note that this work has culminated in proposed amendments to the Human Rights Act, contained in Bill 30, which presently stands referred by the House to the Committee for review. Committee looks forward to reporting to the Assembly on this work later in the current sitting.

---

2Tabled Document 356-17(5).
Three Agency Working Group

As previously noted, Human Rights Commission is presently composed of three separate but related agencies. They have a Three Agency Working Group in place to facilitate collaboration.

The Three Agency Working Group met quarterly in 2016-2017. A key focus of their work was preparing for and implementing changes to the human rights system recommended by the independent review. The working group participated in meetings with Justice on the proposal to amend the Human Rights Act. They also focused on increasing the understanding of restorative justice and systemic discrimination by those involved in the NWT’s human rights system.

In June 2016, the working group hosted a workshop, attended by the Director of Policy, Education, Monitoring and Outreach with the Ontario Human Rights Commission. In the same month, the working group made a presentation on restorative justice to the NWT Bar Association.

In September 2016, the working group participated in sessions with Mr. Kerry Palmer, a trained restorative facilitator and instructor for the Justice Institute of British Columbia. In March 2017, Mr. Palmer returned to facilitate a 3-day workshop on systemic discrimination.

Community Outreach

Community outreach makes up a large component of the Commission’s work. In 2015-2016, the Commission:

- Provided information to a Yellowknife group sponsoring Syrian refugees to assist them in accessing multilingual legal help;
- Provided Sport North Federation with information to assist with program development to promote the inclusion of LGBTQ players in sport;
- Participated in tradeshows in Fort Smith and Yellowknife;
- Awarded the 4th annual Accessibility Award to Ptarmigan Inn of Hay River for their work to make their ATM vestibule wheelchair accessible;
- Held a presentation by the Director to the Northwest Territories and Nunavut Association of Professional Engineers and Geoscientists on “Human Rights Principles and Cold Climate Experience” and participated in their Diversity and Inclusion Committee;
- Delivered four workshops to Clark Builders on human rights and workplace harassment;
• Met with the Road Licensing and Safety Division of the Department of Transportation to discuss policies and best practices related to human rights;
• Gave a February 2016 presentation to the Ontario Legislature Internship Programme participants at the Legislative Assembly; and
• Made community visits, including stops at local schools, in Inuvik, Fort McPherson and Tsiigehtchic.

In 2016-17, the Commission’s varied outreach work continued across the Northwest Territories. Member Gerri Sharpe hosted a bannock table in Yellowknife during both National Aboriginal Day and Canada Day celebrations and encouraged people to write down their thoughts on reconciliation. Commission Member Marion Berls hosted the bannock table on Canada Day in Fort Smith. The Commission also visited Norman Wells and Tulita, but unfortunately had to cancel a planned trip to Délı̨nę due to a death in the community.

In addition, the Human Rights Commission:
• Donated $750 and bottled water to Yellowknife’s Rainbows in the Park event supporting NWT Pride;
• Partnered with the Canadian Race Relations Foundation and the City of Yellowknife, during the Living Together Symposium, to host a community discussion about citizenship, inclusion and multiculturalism;
• Met with the Canadian Human Rights Commission in September to explore ways to improve client services;
• Awarded the 5th annual Accessibility Award to the Yellowknife Elks Lodge 314 for the renovations made to their building to improve accessibility; and
• Celebrated International Human Rights Day, on December 10th in Yellowknife, by holding a luncheon for community groups and members of the public at which Ms. Rita Mueller, Assistant Deputy Minister with the Department of Education, Culture and Employment gave a presentation on how the GNWT has incorporated the history of residential schools into the NWT Kindergarten to Grade 12 curriculum.

As well, presentations were provided by the Commission to the Yellowknife Rotary Club on proposed changes to the Commission; the GNWT’s Joint Senior Management Committee on gender identity; the Ontario Legislative Interns on the Commission’s move to a more restorative process; and, through Municipal and Community Affairs’ School of Community Government, to a Human
Resources Management Course on discrimination, harassment and accommodation in the workplace.

During the public review, Committee thanked Mr. Dent and Ms. McLeod for the Commission’s outreach work and for the efforts of the Commission to be approachable for those NWT with low literacy skills and those residents living outside of Yellowknife, where the Commission’s offices are located.

**Areas and Grounds for Complaint**

The *NWT Human Rights Act* protects all people in the Northwest Territories from discrimination in the areas of: employment; access to public services such as hospitals, schools and stores; tenancy, including business leases; membership in a trade union or professional association; and in published materials such as signs, newspapers or other advertising.

The Act also protects people against harassment based on a protected ground or retaliation for participating in a complaint. A ground is a specific characteristic of an individual. There are 21 protected grounds under the Act, including age, disability, race, ancestry, sex, sexual orientation, gender identity, family and marital status, religion, social condition and political association, to name just some. A complaint may allege discrimination on the basis of more than one ground.

In 2015-2016, employment was the most commonly cited area of complaint, making up 52% of all areas cited. As the Human Rights Commission’s Annual Report points out, “employers have a responsibility to provide an inclusive workplace so that everyone can feel safe and respected.”³ Harassment was the second most common area of complaint in 2015-2016 at 26%.

Fifty-eight percent of all complaints handled by the Commission in 2015-16 alleged discrimination on the grounds of disability as compared with 32% in the previous year. Sex and family status were the next most common grounds for complaint.

In 2016-2017, employment and harassment were again the first and second most oft-cited areas of complaint at 46% and 25%, respectively, of all areas cited.

Disability was again the most commonly cited ground for complaint, making up 39% of all grounds cited. Sex was the next most oft-cited ground for complaint at 15%.

Inquiries, Complaints and Adjudication

The Director's Office received 375 inquiries in 2015-2016, and 361 in 2016-2017. Inquiries made at trade shows, community visits and other public events are not included in these statistics.

Not all inquiries received by the office are related to equality human rights. Wherever possible, Human Rights officers will direct a person to the agency or organization best equipped to help them. In past public hearings, the Commission has advised the Committee that an Office of the Ombudsperson would be a welcome counterpart, to which complaints could be referred where those complaints relate to government services and are not based on the areas and grounds for complaint set out in the Human Rights Act.

Nineteen new complaint files were opened in 2015-16. These were added to 34 in process, for a total of 53 files. Of these 53 complaints, 30 files were closed: 10 were settled, 11 were referred to adjudication, 4 were dismissed and 5 were withdrawn.

Forty-one new complaint files were opened in 2016-2017. These were added to 23 in process, for a total of 64 files. Of these 64 complaints, 11 files were closed: 5 were settled, 1 was referred to adjudication, 2 were dismissed and 3 were withdrawn or not pursued.

Complaints that cannot be dismissed at an early stage, or resolved through mediation are referred to the Human Rights Adjudication Panel for a hearing. The Adjudication Panel is a quasi-judicial body with the power under the Act to hear complaints, render findings and, where warranted, impose penalties or restitution. In 2015-2016, the Panel dealt with 11 new files and 18 in progress and issued 2 final decisions – one on a complaint file and one on an appeal of the Director's decision. In 2016-17, the Panel dealt with 1 new file and 26 files in progress and closed 11 files: 3 were withdrawn; 1 was settled and 7 decisions were made.

All hearings of the Human Rights Adjudication Panel are public and can be reviewed on the Panel’s website at hrap.nt.ca.

CONCLUSION

The Standing Committee on Government Operations thanks the Human Rights Commission of the Northwest Territories for its tireless efforts to promote and uphold human rights in the Northwest Territories and to bring us closer to achieving its vision of “a Territory that is diverse, fair, safe and inclusive, where everyone is equal.”