

# **Human Rights Commission Panel of Adjudicators**

## **Annual Report**

**2023-24**

## **Message from the Human Rights Commission Panel of Adjudicators**

As the chief adjudicator of the Human Rights Commission Panel of Adjudicators (the Panel), I hereby submit the 2023-24 Annual Report of the Panel which details activities from April 1, 2023, to March 31, 2024.

The role of the Panel is to hear complaints that have been referred to them by the Human Rights Commission. The Human Rights Commission refers complaints to the chief adjudicator who may hear such complaints or refer them to another adjudicator. A single adjudicator hears each complaint, exercising the powers of a commissioner appointed under the **Public Inquiries Act, 2006**. The Panel is a category three entity under the **Transparency and Accountability Act**.

In accordance with the **Transparency and Accountability Act**, my signature below is on behalf of the Panel, which is accountable for the results reported.



**Brodie Gallant**  
Chief Adjudicator

# Table of Contents

<b>Message from the Human Rights Commission Panel of Adjudicators .....</b>	i
<b>Table of Contents .....</b>	ii
<b>Overview .....</b>	1
<b>Mandate.....</b>	1
<b>Vision .....</b>	1
<b>Highlights and Partnerships .....</b>	1
<b>Activities .....</b>	2
<b>Opportunities and Challenges .....</b>	5
<b>Financial Statements .....</b>	5

## **Overview**

In accordance with the **Human Rights Act, 2010** (Act), the Lieutenant Governor in Council shall appoint at least six persons, one of whom is named chief adjudicator, to act as members of a panel of inquiry into matters referred to them by the commissioners of the Human Rights Commission. Appointments are for a term of three years and adjudicators may be reappointed. As of March 31, 2024, the following individuals served on the Panel:

- Brodie Gallant, Chief Adjudicator;
- Justin Caines, Adjudicator;
- Allison Conway, Adjudicator;
- Michael Duffy, Adjudicator;
- Daniel Glover, Adjudicator;
- Melissa May, Adjudicator;
- Anastasia Wadden, Adjudicator; and,
- Rodney Zdebiak, Adjudicator.

In 2023-24, the Panel worked with the Department of Justice and Public Safety (JPS) and the Public Service Commission to recruit new members and ensure the Panel has a chief adjudicator and adjudicators available to hear human rights matters. In 2023-24, two members resigned from the Panel, and two members were appointed to the Panel.

## **Mandate**

Where the Human Rights Commission determines that a complaint should be sent to a Board of Inquiry for a hearing, the complaint is referred to the chief adjudicator of the Panel. The chief adjudicator may hear the matter or refer the matter to another adjudicator.

The adjudicator shall inquire into the matters referred to them and give full opportunity to all parties to present their evidence and make representations through counsel, or otherwise. Where an adjudicator finds a complaint to be justified, they may grant a remedy under Section 39 of the Act.

## **Vision**

An environment where the public has access to, and belief in, established mechanisms of review for Human Rights Complaints.

## **Highlights and Partnerships**

The Panel works in tandem with the Human Rights Commission to ensure that the requirements of the Act are fulfilled. Both the Human Rights Commission and the Panel are keenly mindful of the users of the system in regard to promoting human rights, and the Commission and the Panel must work in coordination to ensure access to justice.

The Panel also works with the Department of Justice and Public Safety on certain matters such as the reporting requirements under the **Transparency and Accountability Act** and appointment of adjudicators.

## Activities

### Issue 1: Ensuring Complaints are Heard Without Undue Delay

Pursuant to Section 35 of the Act, where the Commission refers a matter to a Board of Inquiry, the matter is referred to the chief adjudicator who shall hear the matter or refer it to another adjudicator. The adjudicator assigned to the matter must then hear the matter “without undue delay” in accordance Section 36 of the Act. With this mandate in mind, the Panel strives to ensure all matters are heard in a timely manner.

What constitutes undue delay cannot be determined by a single standard. The reasonable time for a hearing to commence and be completed will depend on the complexity of the matter; the amount of evidence the parties wish to present; the availability of counsel, parties, and witnesses; together with the normal requirements of a hearing process including physical limitations of the Panel’s resources. Therefore, what constitutes undue delay will vary depending upon the circumstances of the case.

The Human Rights Commission continuously monitors the progress of matters referred to the Panel and consults with the chief Adjudicator with respect to the Panel’s procedures. In keeping with the objective of hearing matters without undue delay, written guidelines and rules of procedure have been adopted by the chief adjudicator in consultation with the members of the Panel of Adjudicators, and the Human Rights Commission. However, once an adjudicator is seized with a particular matter, that adjudicator is the only person with authority to control the process of their inquiry and ensure a fair and efficient adjudication of that matter without undue delay, absent of any applications for judicial review.

In light of these considerations, and in order to provide objective indicators, the Panel must focus on setting dates for the hearing process to commence.

The objective for the Panel is consistent for the 2023-26 planning period and the associated indicators are reported below for fiscal year 2023-24.

<b>Objective 1:</b> By March 31, each year, the Panel will hear complaints without undue delay.	
<b>Indicators</b>	<b>Actual Results</b>
Number of matters referred to the Panel that are assigned to an adjudicator within two weeks of the receipt of the referral.	<p>During the fiscal year, eight matters were referred by the Commission for adjudication by a Board of Inquiry.</p> <p>Of the eight matters referred for adjudication by a Board of Inquiry, all eight matters were assigned to an adjudicator within two weeks of referral.</p>
Number of referrals for which assigned dates were presented to all parties within one month of appointment of an adjudicator.	Of the eight matters assigned to an Adjudicator during the fiscal year, all eight matters were offered hearing or pre-hearing conference dates by the adjudicator within 30 days of the Adjudicator being assigned.

The Panel is pleased to provide the following summary of the current status of the eight matters referred for adjudication by a board of inquiry during the 2023-24 fiscal year:

- Eight matters were referred for adjudication by a board of inquiry during the fiscal year;
- Three of those matters remained engaged in pre-hearing processes and had not yet proceeded to a hearing;
- Three of those matters concluded by settlement and/or withdrawal of the complaint without proceeding to a hearing;
- One of those matters concluded with a written decision rendered after proceeding to a hearing; and,
- One of those matters is awaiting a written decision to be rendered after proceeding to a hearing.

The Panel is pleased to provide the following breakdown of total activity during fiscal year 2023-24, including matters referred for adjudication by a board of inquiry during the 2023-24 fiscal year and during a prior fiscal year:

#### Total Matters in Pre-Hearing Processes at year end 2023-24

At the end of the fiscal year, there were four matters which were engaged in pre-hearing processes and have not yet proceeded to a hearing.

#### Total Matters Concluded by Settlements during 2023-24

During the fiscal year, there were six matters settled or withdrawn during the 2022-23 fiscal year, without proceeding to a hearing.

Total Matters Concluded by Decisions Rendered during 2023-24

During the fiscal year, there were five matters concluded with written decisions rendered after proceeding to a hearing.

Total Matters Awaiting Decision at year end 2023-24

At the end of the fiscal year, there were two matters awaiting a written decisions to be rendered after proceeding to a hearing.

Total DecisionsAppealed during 2023-24

During the fiscal year, there were two decisions which were appealed to the Supreme Court of Newfoundland and Labrador. One of the two appeals was subsequently abandoned by the appellant.

## **Opportunities and Challenges**

Both the Human Rights Commission and the Panel are keenly mindful of the users of the system, and how they must work in coordination to ensure access to justice. One of the challenges identified by the Panel is workload and number adjudicators available for hearings. This is important as access to the complaints process and justice depends on delivery in a timely manner. In 2023-24, two members of the Panel resigned, and the JPS appointed two members to the Panel, maintaining the number of possibly available adjudicators at seven. This complies with the minimum six-member Panel size prescribed by section 36(2) of the Act.

The Panel will continue to work with its partners, the Department of Justice and Public Safety and the Public Service Commission through the merit-based process, to ensure adjudicator positions are appointed in a timely manner. The Panel membership does remain diminished when compared to previous years when a full roster of ten members were appointed to the Panel. The new members do represent an opportunity to bring new perspectives and practises to the work of the Panel. The chief adjudicator, with the assistance of the Human Rights Commission is actively engaged in efforts to provide guidance and support to the new Panel members in order to ensure the consistent application of procedures and hearing processes. The objective of the Panel of adjudicators is at all times to achieve the fair, efficient, and timely adjudication of all matters referred to the Panel, consistent with the Act and relevant jurisprudence.

## **Financial Statements**

The Panel's budget is contained within that of the Human Rights Commission. Such financial information, as is available, is contained in the Human Rights Commission Annual Report for 2023-24. The Report does not break down the expenditures between the Commission and the Panel.

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