

Standing Committee on
Government Operations



Report on the Review of the 2018-2019 Northwest Territories Human Rights Commission Annual Report

19th Northwest Territories Legislative Assembly

Chair: Mrs. Frieda Martselos

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**STANDING COMMITTEE ON
GOVERNMENT OPERATIONS**

**REPORT ON THE REVIEW OF THE
2018-2019 NORTHWEST TERRITORIES
HUMAN RIGHTS COMMISSION ANNUAL REPORT**

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STANDING COMMITTEE ON GOVERNMENT OPERATIONS

REPORT ON THE REVIEW OF THE 2018-2019 NORTHWEST TERRITORIES HUMAN RIGHTS COMMISSION ANNUAL REPORT

INTRODUCTION

The Standing Committee on Government Operations (Committee) has reviewed the 2018-2019 Annual Report of the Northwest Territories Human Rights Commission (Commission). The Committee thanks Mr. Charles Dent, Chair of the Northwest Territories Human Rights Commission, Ms. Deborah McLeod, Director of Human Rights, and Mr. Sheldon Toner, Chair of the Adjudication Panel for their appearance before the Committee on June 1, 2020.

The *Human Rights Act* requires the Commission to prepare annual reports. These reports include information on the numbers and grounds of complaints filed. The Speaker tables the report in the Legislative Assembly. Once tabled, Committee reviews the report.

The Commission's 2018-2019 report highlighted its focus on accessibility and outreach. It also addressed recent changes made to the *Human Rights Act*. The Commission's work and recommendations are reflected in Committee's observations. In our report, Committee makes recommendations to increase accessibility for persons with disabilities to government buildings and information on the internet.

The Committee acknowledges the unique circumstances of this year's review of the Commission's report. The COVID-19 global pandemic created challenges for everyone and particularly those living in vulnerable circumstances. The Committee noted that inclusiveness and accessibility are critically important in Government responses to the pandemic.

ABOUT THE HUMAN RIGHTS COMMISSION

The NWT Human Rights Commission is separate from the Government of the Northwest Territories (GNWT). It is part of the human rights system set up under the *Human Rights Act* (“the Act”). Most legislation in the Northwest Territories (NWT) has a Cabinet Minister responsible for the Act. This is different for the *Human Rights Act*. It says the Commission is responsible to the Legislative Assembly for the administration of the Act. The Assembly’s Office of the Clerk is responsible for the oversight of the territory’s statutory officers, including the Human Rights Commission.

The Commission’s role is to protect people from discrimination. They promote equality through education, research, and advocacy. The Act makes it illegal to discriminate or harass anyone based on age, disability, race, colour, ancestry, place of origin, sexual orientation, gender identity, family status, social condition, religion, political belief, or pardoned criminal conviction. The Commission promotes the compliance with the Act. They also monitor and assess how well the Act is working.

Transitioning to a Restorative Approach

The Committee has followed the transition of the Human Rights Commission to a restorative practice approach with interest. It began in 2014, with the comprehensive review¹ of the *Human Rights Act*. This was followed by the three independent agencies of the NWT human rights system, the Commission, the Adjudication Panel and the Director accepting the review’s recommendations. In 2015, the three agencies published an implementation plan² for the Commission’s transition to a restorative approach to human rights work.

The restorative process moves away from the existing legal and confrontational court-like process. Instead, the process focuses on the relationship between the parties and on resolving the dispute. The goal is to ‘manage conflict and tension by repairing harm and building relationships’³.

¹ [Northwest Territories Human rights Act comprehensive Review](#). Tabled document 355-17((5), October 7, 2015.

² [Moving forward: Implementing the Recommendations of the 2015 Comprehensive Review of Human Rights in the NWT](#). Tabled document 356-17(5), October 7, 2015.

³ [Northwest Territories Human Rights Commission Annual Report 2017-2018](#). Page 4.

The Committee supports the Commission's offering opportunities for settling complaints voluntarily through a dispute resolution process. During the public hearing, Director McLeod stated that the Commission started with the restorative approach early in 2017, and immediately saw a large number of parties participating.

The Commission reports that 40 percent of all files closed in 2018-2019 were settled through restorative dispute resolution. This is similar to 2017-2018, where almost half of the complaints settled this way.

Committee learned that in 2018-2019, 60 percent of complaints went into the restorative dispute resolution process. This is a positive sign. It shows more people are sitting down together to work out their human rights issues.

Organizational Structure of the Human Rights Commission

When preparing the 2018-2019 Annual Report, the Commission was composed of three agencies: the appointed members of the Commission (five individuals), the Director, and the Adjudication Panel (five individuals). Both, the Office of the Director and the Adjudication Panel, have support staff. Commission members are members of the public appointed by the Legislative Assembly. The Director's Office administers the complaint process, refers complaints to the Adjudication Panel and acts as Secretary to the Commission.

The number of parties navigating the system without support or representation was a key concern in the comprehensive review of the Act. The change to the structure of the Commission by combining the Commission and the Director's Office into one agency, is part of addressing this concern.

In March 2019, an amended *Human Rights Act* consolidated the office of the Human Rights Commission and the Office of the Director into a single agency: the Human Rights Commission. With the amendments, the Commission gains a role in the complaints process by looking after complaints, and preparing to bring them before the adjudicator. This is referred to as 'carriage of complaints'. Complaints that cannot be resolved through the Director's dispute resolution process go to the Adjudication Panel for hearing.

Committee welcomes that the Commission now has a Legal Counsel who can provide advice in the later part of the complaint process.

During 2018-2019, Commission members and staff took a course on fairness as a principle of restorative practice. The Commission also held sessions for members of the Adjudication panel. They also offered educational sessions and workshops on restorative practices to interest groups.

The Committee welcomes the Commission's pro-activeness and preparatory work toward implementing the changes made to the *Human Rights Act*. The amendments will come into force annually over a three year period, from 2019 to 2021.

FOCUS ON ACCESSIBILITY

During 2018-2019, the Commission focussed on accessibility. The Commission's key achievement of 2018-2019 was developing an Accessibility Checklist to help make public events more accessible to persons with disabilities. Committee notes that the Commission's goal is to create inclusive hamlets, villages, towns, and cities by ensuring people are feeling "welcomed in a way that respects each person's dignity".

Accessibility includes physical access, web access, and access to services. It also includes social inclusion, equality, respect and equity in opportunity. The checklist helps businesses and groups to identify if their services and products are accessible to all people. It also talks about how to accommodate people with specific needs.

The Commission's website now offers a separate tab for accessibility. The webpage provides resources and links for improving accessibility to all services, including how to improve web experiences for users with disabilities, how to use plain language and other ways to improve accessibility. It also provides information on legal rights for people who use service animals.

Complaints on the Grounds of Disability

Disability is the basis for the majority of complaints filed. This is not just in the NWT, but across all Canada. Disability includes mental and physical disabilities, and can relate to hearing, vision, mobility, memory or something else.

During 2018-2019, two thirds of all new complaints alleged discrimination based on disability. The rate was almost the same for the previous two years.

According to the 2017 Canadian Survey on Disability, 20 percent of adults 15 years and over in the NWT are limited in their daily activities due to a disability. This is a large increase compared to 2012, where 8.2 percent of adults were limited due to a disability. It is expected that the population with some sort of disability will increase, partly based on the aging of society.

According to the NWT Bureau of Statistics, the population of seniors, those aged 60 and older, grew by 68.5 percent over the past ten years. Nationwide, the territories experienced the second highest growth in seniors population; with only the Yukon having higher numbers. Seniors present nearly 15 percent of the NWT's total population. Ageing increases the risk of having disabilities, and many seniors experience moderate to severe disability.

Accessible Design for Buildings

The Committee heard the Commission's concern that many NWT businesses and service providers believe that the National Building Code sets the standard for accessibility and that "compliance with this Code allows them to meet their responsibilities under the *Human Rights Act*". The Commission says this is not always the case.⁴

The Commission held an International Human Rights Day event with the theme 'accessibility' in Yellowknife. Mr. Van Dyke presented on how the National Building Code affects him as a person with a disability. The Commission expressed much concern about limitations of full accessibility for all in the NWT.

The Commission believes accessibility is one of the most important parts of building a healthy community. The Commission is concerned about the barriers that prevent full accessibility including

- the lack of connection between the requirements set out in the *National Building Code* and what is actually considered an accessible space.
- that the ongoing update of the *National Building Code* will be completed soon; and
- that the National Building Code in the NWT include reference to Canadian Standards Association standard B651-18 "Accessible Design for the Built Environment".

⁴ [Northwest Territories Human Rights Commission Annual Report 2017-2018](#). Page 4.

For the coming year, the Commission will campaign on the relationship between the *National Building Code* and the Act to enable NWT businesses and service providers to better understand their rights and responsibilities under the Act.

The Committee recognizes the need for the GNWT to ensure that residents have equitable access to opportunities and services, and that standards and codes adopted in the NWT are consistent with legislation.

Other options under discussion are that the GNWT adopt the *National Building Code* to have legislation that includes rules for accessibility. One challenge is that the Code is part of the *Fire Prevention Regulations* by the Fire Marshall. This could mean accessibility is not a priority, as the Code sets a minimum requirement for buildings that may not meet the requirements under the human rights law.

Committee agrees that NWT residents, builders and building owners need to know what is required to make a building completely accessible. Committee also identified many points that are unclear regarding who is responsible for funding accessible building design, or renovations. It is not clear whether the Department for Municipal and Community Affairs would be responsible for retrofits, and if yes, whether this would apply to communities outside of Yellowknife, or not.

Finally, the Committee wondered whether the GNWT would consider incentives for builders to use building designs in projects such as small-scale construction, renovation or retrofit programming that would provide the accessibility requirements under the NWT *Human Rights Act*.

Consequently, the Committee recommends:

Recommendation 1

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories investigate and take the necessary steps to solve the issues, and remove the barriers, that prevent the alignment between building codes and standards and the *Human Rights Act*.

OUTREACH AND DIGITAL TRANSFORMATION

A key task of the Commission is to educate employers, businesses, community groups and residents about their rights and responsibilities under the Act. During 2018-2019, the Commission reported that fifteen communities were visited in person. Thirteen of these were visited as part of community wellness fairs organized by the Indigenous Health and Community Wellness Division of Health and Social Services. Due to the pandemic, the fairs have stopped and outreach will focus on online activities.

The Committee commends the Commission on improving their website. This includes enlarged buttons and increased colour contrasts to aid persons with visual disabilities. Other improvements include that documents and resources are made in an accessible format, such as MS Word documents.

Now is the time for government to update its web services, focusing on online communication and digital access. The Government response to the COVID-19 pandemic relied heavily on online service.

Committee encourages the GNWT to take this important step to open the doors to persons with disabilities. Examples of service standards for accessibility of electronic platforms exist in other Canadian jurisdictions. Regulations created in Ontario establish accessibility standards for customer service including training requirements of staff and service standards.

The GNWT can make concrete changes that will make a difference. This includes ensuring documents posted to government websites are accessible for users who do not have specific software for reading documents saved in portable document format.

Consequently, the Committee recommends:

Recommendation 2

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories enhance digital access and inclusion for people living with disabilities in the NWT, by reviewing current practices in serving the public, and identifying measures to improve the existing situation with the goal to reduce the number of complaints to the Human Rights Commission on the grounds of disabilities.

CONCLUSION

This concludes the *Standing Committee on Government Operations Report on NWT Human Rights Commission 2018-2019 Annual Report*.

Recommendation 3

The Standing Committee on Government Operations recommends that the GNWT provide a response to the recommendations contained in this report within 120 days.