



17th Legislative Assembly of the Northwest Territories

Standing Committee on Government Operations

Report on the Review of the
2012-2013 Northwest Territories
Human Rights Commission
Annual Report

Chair: Mr. Michael M. Nadli

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March 13, 2014

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Government Operations is pleased to provide its Report on the Review of the 2012-2013 Northwest Territories Human Rights Commission Annual Report and commends it to the House.

A handwritten signature in black ink, appearing to read "Michael M. Nadli".

Michael M. Nadli
Chairperson

**STANDING COMMITTEE ON
GOVERNMENT OPERATIONS**

**REPORT ON THE REVIEW OF THE
2012-2013 NORTHWEST TERRITORIES
HUMAN RIGHTS COMMISSION ANNUAL REPORT**

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STANDING COMMITTEE ON GOVERNMENT OPERATIONS

REPORT ON THE REVIEW OF THE 2012-2013 NORTHWEST TERRITORIES HUMAN RIGHTS COMMISSION ANNUAL REPORT

INTRODUCTION

The Standing Committee on Government Operations (“the Committee”) has completed its review of the 2012-2013 Northwest Territories Human Rights Commission (“the Commission”) Annual Report. The Standing Committee would like to thank Mr. Charles Dent, Chair of the NWT Human Rights Commission, and Ms. Deborah McLeod, Director of Human Rights, for their appearance before the Committee on February 20, 2014.

2012-2013 ANNUAL REPORT

About the Human Rights Commission

The NWT *Human Rights Act* sets up three independent but interrelated branches: the Commission, the Office of the Director of Human Rights, and the Adjudication Panel.

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*. In addition to Mr. Charles Dent, Chair, of Yellowknife, Marion Berls of Fort Smith, and Bronwyn Watters, Roger Wah-Shee, and Yacub Adam, all of Yellowknife, were members of the Commission during the 2012-2013 fiscal year.

The Office of the Director of Human Rights includes the Director and Commission staff who are members of the public service.

The Adjudication Panel is composed of at least three lawyers appointed by the Legislative Assembly, each for a term of two to four years. Adrian Wright of Yellowknife served as the Chair of the Adjudication Panel in 2012-2013, along with Joan Mercredi and Louis Siebert of Fort Smith, and Sheldon Toner of Yellowknife who served as Adjudicators. James Posynick and Karen Snowshoe concluded terms as Adjudicators with the Panel in 2012-2013. The Committee wishes to thank all members of the Commission and the Adjudication Panel for their service in 2012-2013.

Complaints and Inquiries

In 2012-2013, the Director of Human Rights received 309 inquiries, 157 (51%) of which originated in Yellowknife. Inquiries dropped by 16% from last year, which is the first year the number of inquiries has dropped since 2008. In his opening remarks to the Committee, Mr. Dent was careful to note that this drop does not appear to have signified a trend, as the number of complaints for the current fiscal year is back up to par.

In 2012-2013, there were 15 new complaints of discrimination on grounds prohibited under the NWT *Human Rights Act*. These complaints covered areas such as housing, employment, harassment and services to the public. Complaints were down by 61% from the previous year, which is the lowest number of complaints in eight years. Again this year, disability was the ground with the highest number of complaints (totalling 11), as it has been for the past eight years. The Standing Committee remains deeply concerned by the high number of complaints of discrimination on grounds of disability.

Of the 15 complaints, 10 alleged that the discrimination took place in Yellowknife, two in the Beaufort Delta, one in the *Tẖcẖo* region and two at remote camps. Twenty-two complaint files were closed in 2012-2013. Of these, eight were settled through mediation and nine referred to hearings.

Hearings and Decisions

The NWT Human Rights Adjudication Panel is separate and independent from the Commission and hears complaints, referred by the Director, and appeals of the Director's decision to dismiss complaints. The Adjudication Panel received nine complaints this year. During the course of the year: one complaint was resolved by mediation; one was resolved by a process other than mediation; two were concluded by decisions; and seven remained outstanding. There were a total of four appeals on-going as at March 31, 2013, while one appeal was concluded by decision during the year.

Public Education and Outreach

The NWT Human Rights Commission has done excellent promotional work to inform citizens of their rights and responsibilities. This work includes attending tradeshow and conferences, conducting presentations and workshops for employers and outreach to schools. Workshops for employers were delivered in five communities and audio conferences were offered on topics such as workplace bullying and accommodating employees with addictions or family obligations. The Standing Committee was impressed by the scope of public education and outreach undertaken by the Commission in 2012-2013.

The Standing Committee is pleased that Commission representatives visited nine communities during the year. The Committee acknowledges that travelling to the smaller communities can be costly and logistically challenging. However, the Committee feels that the presence of the NWT Human Rights Commission in these communities is instrumental in informing NWT citizens of their human rights, and in putting a “face” on the Offices of the NWT Human Rights Commission, so that individuals may feel more comfortable in disclosing their personal concerns.

Last year, the Committee recommended that the Government of the Northwest Territories (GNWT) provide the Offices of the NWT Human Rights Commission with access to social media, so that the Commission could use this popular form of communication to maintain and expand its presence in social media. The Committee was pleased to hear that the Commission has expanded its Facebook presence, from a Facebook advertisement in 2011-2012 to a new Facebook page, which was launched in October 2013. Mr. Dent informed the Committee that the Commission’s Facebook page has replaced the electronic newsletter “Human Rights Matters,” and is gaining popularity.

Workplace Bullying

Bullying is an issue of concern for Members, who were interested in hearing more about the prevalence of workplace bullying and the Commission’s work in this area. Ms. McLeod advised the Committee that the subject of bullying in the workplace is viewed as important by the Commission. The work of the Director’s Office often involves a complex sorting process to help people determine whether they have grounds for a human rights complaint. Bullying is not a separate category under the *Human Rights Act*, so when someone contacts the Director’s Office seeking assistance because they have been bullied in the workplace, it must be determined whether the bullying involves a prohibited ground of discrimination as described in the legislation. The unfortunate reality is that, even if the complainant’s situation is severe, the NWT Human Rights Commission cannot offer assistance to someone who has been subjected to workplace bullying if that bullying does not also involve a prohibited ground of discrimination. In such instances, noted Ms. McLeod, there are not many places to refer people who are seeking assistance with workplace bullying.

Pilot Project

There is currently no legal aid available for individuals whose human rights complaint proceeds to a hearing. The Northwest Territories does not have community legal clinics and Legal Aid does not provide assistance for human rights complaints. As indicated in its Annual Report, the “Commission believes that the lack of legal assistance for parties participating in hearings compromises

the effectiveness of the NWT *Human Rights Act*.” For this reason, the Commission initiated a pilot project in 2010-2011 in which it became a party to all complaints referred for hearings to the NWT Human Rights Adjudication Panel. The purpose of the pilot project was to ease the burden on self-represented parties by having the Commission, acting as a “friend of the process,” participate in hearings to clarify human rights issues and ensure that all relevant information was placed before the adjudicator.

The Commission evaluated the project this year and found that that legal costs in the early stage of the adjudication process were responsible for consuming a large proportion of the legal expenses budget, leaving little funding available for the Commission to participate in the most important part of the process, which is the hearings.

In response to Committee questions about the current status of the pilot project, Mr. Dent advised the Committee that, for all intents and purposes, the Commission considers the pilot project completed. Based on its findings, the Commission adjusted its process in 2012-2013. In order to more effectively use its legal expenses budget, the Commission now has members attend any initial pre-hearing conferences in order to provide information for the Commission to determine its level of involvement in the adjudication process. The Commission takes the position that it will be a party to each hearing going forward. In 2013-2014, the extent of the Commission’s participation in individual hearings is being determined on a case-by-case basis.

The Standing Committee continues to feel strongly that the public interest is served by ensuring there is a balance between parties to a complaint. The Committee supports the Commission’s revised approach, and shares the Commission’s concern that supporting a fair process may require an increase in resources. The Committee also acknowledges the Chair’s caution that the Commission’s revised approach works for the time being, because the composition of the Commission lends itself to having members attend hearings, but that this approach may not be conducive as the composition of the Commission changes over time. The Committee notes Mr. Dent’s observation that the Commission anticipates that their legal expenses budget for 2013-2014 will be exceeded.

Members believe the Commission should continue to have the opportunity to assist in creating balance between the parties to a complaint by participating in hearings as a “friend of the process” and that it should be appropriately funded for this purpose. The Committee notes Mr. Dent’s observation that the Commission will be in a position to make recommendations on this matter after undertaking a comprehensive review.

Review of the *NWT Human Rights Act*

When the *NWT Human Rights Act* came into force in 2004, it was considered to be the most modern and up-to-date legislation of its kind in Canada. During the hearing, the Commission Chair again expressed the view that a review at the Act's ten-year anniversary would be appropriate. The Standing Committee continues to support this initiative and looks forward to hearing the Commission's recommendations with respect to amending the legislation as this work proceeds.

Financial Summary

The budget for the Commission is reviewed and approved by the Legislative Assembly's Board of Management. The Legislative Assembly pays the salary for the Director and Deputy Director, honoraria for the Human Rights Adjudication Panel, and rent expenses for the Commission. These items are not included in the Commission's financial statements.

Statement of General Operations for the year ended March 31, 2012 shows:

- The majority of the Commission's revenue comes from the GNWT via an operating grant of \$250,000. This funding remains unchanged from the previous year.
- Total revenues less expense reimbursement = \$222,230, a drop of 6.4% from the previous year.
- Expenses also decreased, dropping from \$259,442 to \$206,966, a decrease of 20% from the previous year.
- Significant drops in expenses for advertising and promotion, down 35%, and legal expenses, down 17%. Travel for the Commission Chair and Members also dropped by a total of 63%, from \$31,860 in 2011-2012 to \$11,791 in 2012-2013.
- Revenue over expenses totaled \$15,264, leaving the Commission with a surplus in 2012-2013, as compared with the previous year's deficit of \$21,992.

2013-2014 WORK PLAN

The Standing Committee strongly supports the NWT Human Rights Commission's plans for continuing community visits and employer outreach in the 2013-2014 year. The Committee is enthusiastic to note that the Commission intends, in the coming year, to reach the milestone of having visited all 33 communities in the Northwest Territories within the first ten years of its mandate.

and strongly encourages the Commission to achieve this objective. Visits to Fort Simpson, Fort Smith, Hay River, Inuvik, Nahanni Butte, Sachs Harbour and Trout Lake are planned for 2013-2014.

In fall 2012, the Commission launched its online social studies curriculum guide, the Teacher's Toolkit. The Commission intends to add further resources to this website in the coming year.

In June 2012, during "Disability Awareness Week" the Commission, in partnership with the NWT Disabilities Council, awarded the 2012 Accessibility Award to the Yellowknife Branch of the CIBC for installing a wheelchair ramp. The Committee commends both the recipient and the Human Rights Commission for this important initiative. The Committee is pleased to hear that the Commission again intends to offer an award to a public service provider in the NWT for improved accessibility to physical premises in the 2013-2014 fiscal year.

CONCLUSION

The Standing Committee on Government Operations congratulates the NWT Human Rights Commission for a successful year and for the hard work of its members and staff in fulfilling their Vision of "a North at peace with its diversity, where everyone is safe, confident and respected on their journey".