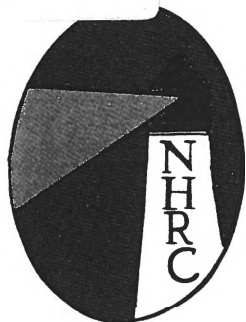


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# **NEWFOUNDLAND HUMAN RIGHTS COMMISSION**

# *December 10<sup>TH</sup>*

## **INTERNATIONAL HUMAN RIGHTS DAY**

### **UNIVERSAL DECLARATION OF HUMAN RIGHTS**

*Proclaimed* **BY UNITED NATIONS  
DECEMBER 10<sup>TH</sup> 1948**



## **1988 Annual Report**

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## COMMISSION MEMBERS

The Newfoundland Human Rights Commission presently consists of six members. Our Chairperson, Gillian Butler, resigned in November to take the position as Chief Adjudicator of the adjudication panel. The Chairperson position remains vacant. Anne Hart also resigned as a member of the Commission. Ms. Hart has been replaced by Wendy Williams of St. John's.

### CHAIRPERSON

(vacant)

### COMMISSIONERS

#### WENDY WILLIAMS

Wendy Williams graduated with a Bachelor of Nursing degree from Memorial University in 1971. In 1974 she returned to MUN to expand her skills and obtained her Diploma in Family Practice Nursing. As Clinic Co-ordinator at Planned Parenthood's Birth Control and Counselling Center in St. John's, Ms. Williams demonstrated her expertise in sexuality and women's health. She now divides her time between a clinical practice, with a focus on sexuality, and a consulting business.

Ms. Williams is a feminist who has been active in the Women's Movement since the early seventies. Her volunteer activities have included being Chair of The Women's Health Education Project and Chair of the Time Capsule Project of Newfoundland Historic Trust. At the national level she was Vice President of the National Action Committee on the Status of Women. She is on the founding board of the Newfoundland & Labrador AIDS Committee Inc.

Ms. Williams was chosen as a member of the Governor General's Canadian Study Conference in 1987.

She is married to Dr. Gordon Higgins and they have two sons, Christopher and Billy.



## **IRENE McGINN**

Irene McGinn was first appointed to the Human Rights Commission in 1982. She was reappointed in 1985. Mrs. McGinn is a resident of Glovertown where she served on the Town Council for eight years, three of those years as Mayor of that community.

Mrs. McGinn has been involved with a number of organizations including the Consumer Organization of Disabled People in Newfoundland and Labrador; the Gander District Hospital Board; the Newfoundland Arthritis Society; the Canadian Organizational Committee for International Year of Disabled People; the Advisory Board for C.N. Marine.

*Picture  
Not  
Available*

## **JOHN MOORE**

John Moore, a graduate of the American Institute of Baking, Chicago, received his high school education in New Brunswick and Newfoundland. He is presently President of family-owned Cabot Bakery Limited in Grand Falls.

Mr. Moore has been involved in several voluntary organizations in Grand Falls. He is presently serving as President of the Grand Falls Chamber of Commerce and past activities include member and Vice-Chairman of Central Newfoundland Regional Health Centre; Treasurer of Memorial United Church; Vice-President of the Atlantic Provinces Bakers Association; the Cancer Society; the Red Cross and a member of the Board of Directors of Environment Resources Management Association.

Mr. Moore spends his time sailing and skiing.



## **YVONNE T. POWER**

Yvonne Power was born and raised in Trepassey, Newfoundland, where she now resides with her husband, Don and two children, Tina, age 15, and Christopher, age 13. Mrs. Power has completed a Certificate Program in Municipal Administration from Memorial University of Newfoundland and has been actively involved in professional and community organizations. She has served as President of Trepassey Women's Institute; as Founding Commissioner, Trepassey District Girl Guides; as Eastern Director and Vice-President of the Newfoundland and Labrador Association of Municipal Administrators; as a member of Trepassey Recreation Commission and Trepassey Lioness Club. Since 1978, Mrs. Power has been employed as Town Manager in the Town of Trepassey.



### **HUBERT O'REILLY**

Hubert O'Reilly was born and educated in Corner Brook, on the west coast of Newfoundland. He has been employed with the Canadian National Railways since 1952. Mr. O'Reilly is actively involved with the union and has served as President of local # 1350 of the United Transportation Union since 1976. Mr. O'Reilly served as legislative representative for the United Transportation Union from 1979 to 1984.

Mr. O'Reilly's interests include politics and sports. He is married to the former Shirley Clarke of Springdale and they have five children.



### **ROBERT G. JOERGENSEN**

Robert G. Joergensen, an Engineer and Journalist, was educated in the United States. He immigrated and settled in Newfoundland in 1975. In addition to his position as Commissioner of Human Rights, he has been involved in the rights of veterans and children's programs on a local and national level for many years. He is retired from a thirty year military career in the navy.

Mr. Joergensen has been in the insurance industry for the past nine years and operates a retail store in Mount Pearl. He and his wife Hazel, live in Mount Pearl and have six grown children and six grandchildren.





## FROM THE DESK OF

**GLADYS VIVIAN  
EXECUTIVE DIRECTOR**

### THE FUNCTION OF THE NEWFOUNDLAND HUMAN RIGHTS COMMISSION

The Newfoundland Human Rights Commission is an agency responsible for enforcing **The Human Rights Code, 1988**. This new code was proclaimed law on October 1, 1988, replacing **The Newfoundland Human Rights Code** which was repealed. The Commission is authorized by the Code to administer the enforcement provisions, to carry out educational activities, and to consider and approve special programs designed to eliminate or reduce disadvantages suffered by a protected group. Through these activities, the Human Rights Commission attempts to reduce discrimination and to encourage equal opportunity for all. The services of the Human Rights Commission are available to the Public without charge.

### CHANGES UNDER THE NEW CODE

**The Human Rights Code, 1988** offers the same protections to the people of Newfoundland and Labrador as **The Newfoundland Human Rights Code**. However, there are some significant changes under the new legislation. **The Human Rights Code, 1988** now takes precedence over other legislation where other legislation conflicts with the Code. There is also a time limit to file a complaint which is six months after the last incidence of the alleged contravention.

Other significant changes are in the areas of procedure. In addition to Commissioners, the Human Rights Commission now has an Adjudication Panel with a Chief Adjudicator, Gillian Butler. The Human Rights Commissioners will decide which complaints shall go to a Board of Inquiry. The Chief Adjudicator is obligated to appoint the Board once the Human Rights Commission has notified her of its decision. The order of such Boards of Inquiry is legally binding on all parties, subject to appeal to the court. A chart setting out the usual steps followed in processing a complaint is set out in this report.

In addition to restoring denied opportunities and compensation, etc., the Board of Inquiry may make whatever order as to costs that it considers appropriate. The Human Rights Commission shall have carriage of a complaint before a Board of Inquiry. If other parties to the complaint wish to be represented by independent legal counsel, they must do so at their own expense. Most complaints are either settled or dismissed by the Commission before they get to this stage. Examples of these complaints are given later in this report.



**GILLIAN BUTLER  
CHIEF ADJUDICATOR**

## SPECIAL PROGRAMS

The Government of Newfoundland and Labrador realizes that protection against discrimination is not enough. Historically, minority groups have sometimes had limited opportunity to employment, accommodation and services. To overcome some of these long-standing inequalities, the Government of Newfoundland and Labrador made provision in the human rights legislation for corrective measures. Section 20 of **The Human Rights Code, 1988** permits the Commission to approve programs designed to prevent, reduce or eliminate disadvantages suffered by a protected group.

If an employer, service agency or rental agency wishes to implement a special program, the Human Rights Commission should be advised and provided with information about the target group and any other information which would demonstrate the manner in which the program would reduce disadvantages. Once the program has been approved by the Human Rights Commission, the preferential treatment for the specified target group, does not constitute a contravention of **The Human Rights Code, 1988**. The Commission has the authority to withdraw approval of the program if it thinks it is not being carried out in the manner for which it was approved.

Examples of programs approved by the Human Rights Commission are :

- Job re-entry program for women at the Cabot Institute;
- Hickman Motors Limited Employment Equity agreement with CEIC aimed at increasing the representation of women in non-traditional areas;
- Community Development projects sponsored by the Department of Social Services with the target groups to be single parents, single disabled persons and childless couples over 50 years of age;
- Management Accelerated Development Program for Women sponsored by the Public Service Commission;
- Career Development Program for Persons with Disabilities sponsored by the Public Service Commission;
- Job Re-Entry Program for Women, "Small Business Administration", sponsored by St. John's Board of Trade.

## EDUCATION

The Newfoundland Human Rights Commission, in addition to investigating complaints, has the responsibility of conducting educational programs designed to create an awareness of the legislation and to reduce discrimination.

### Examples of Activities :

- Mall Displays;
- Media Contact including TV and radio interviews; press releases; publications in recognition of special occasions - Human Rights Day, Equality Day, National Awareness Week;
- Seminars on "Employment and Disabilities" and "Sexual Harassment";
- Presentations at Beaconsfield High School; Seafood Management Education Association in Gander; Keyin Technical College, St. John's; Atlantic Consulting Limited; Marystown Shipyard; Burin Peninsula Health Care Centre; Burin Campus, Eastern Community College; Cabot Institute; Avalon Community College; General Hospital Nursing Students; Carbonear Community College; YM/YWCA; Southern Avalon Development Association in Trepassey; John Howard Society; Central Community College; Janeway Hospital; Lower Trinity South Development Association; Purchasing Managers Association; Newfoundland and Labrador Human Rights Association (Advocacy Workers); Skills Accessment and Training Centre;
- Distribution of 1500 copies of our 1987 Annual Report, 1000 copies of **The Human Rights Code, 1988** and several thousand copies of each of our three pamphlets. In addition, lapel pins featuring the logo of the Human Rights Commission and Human Rights Posters have been distributed throughout the province.



## **ACTIVITIES FOR DECEMBER 10, 1988 INTERNATIONAL HUMAN RIGHTS DAY**

December 10, 1988 marked the 40th anniversary of the signing of The Universal Declaration of Human Rights and once again the staff of the Human Rights Commission were actively involved in activities to celebrate this significant historical event.

The Honourable Lynn Verge, Minister of Justice, held a reception in St. John's to commemorate Human Rights Day. At this reception, the Lieutenant Governor of Newfoundland, the Honourable James McGrath, presented a plaque to Walter Davis for his contributions in the area of human rights. Mr. Davis was selected by a panel of judges as the first winner of the Human Rights Award which was introduced by the Human Rights Commission on December 10, 1988.



The Honourable James McGrath shown presenting plaque to Mr. Walter Davis as Mr. Davis' grandchildren look on.

(Photo courtesy of The Evening Telegram)

The Honourable A. Brian Peckford, Premier of Newfoundland, issued a Proclamation declaring the week of December 4 to December 10, as Human Rights Week in Newfoundland. This Proclamation was printed, by the Human Rights Commission, in all major papers throughout the province.



**THE PREMIER  
THE GOVERNMENT OF THE PROVINCE  
OF NEWFOUNDLAND AND LABRADOR**



## **PROCLAMATION**

WHEREAS December 10th, 1988 is the 40th Anniversary of the signing of the Universal Declaration of Human Rights by the United Nations; and

WHEREAS the Government of Newfoundland and Labrador supports the aims of the United Nations, and believes implicitly in the principles embodied in the Universal Declaration of Human Rights, and recognizes that the inherent dignity and inalienable rights of every individual member of society is the foundation of freedom, peace and justice; and

WHEREAS the Government of Newfoundland and Labrador promulgates the dignity and worth of every person, and has adopted effective measures designed to protect the rights of its citizens and to eliminate discrimination by having enacted The Human Rights Code, 1988.

NOW, THEREFORE, I, A. Brian Peckford, Premier of Newfoundland and Labrador, do hereby proclaim December 4th to December 10th, 1988 to be HUMAN RIGHTS WEEK in our Province; and I urge all our citizens to promote the observance of human rights as a shared responsibility and to reaffirm our commitment to eliminate discrimination in all its forms.

DATED this 10th day of November, 1988.

A handwritten signature of A. Brian Peckford in cursive script.

A. BRIAN PECKFORD, P. C. , M.H.A.,  
Premier

Letters were sent to all school principals and municipalities in the province noting the significance of Human Rights Day and encouraging them to plan some activity for the week. Press releases were sent to local newspapers and a selection of short messages were forwarded to all Cable Television Stations, in the province, for inclusion on the Community Channel throughout the week.

All outgoing government mail throughout the week was stamped with the 40th anniversary logo. Government cheques carried the message, "December 10, 1988 marks the 40th anniversary of the signing of The Universal Declaration of Human Rights". Officers of the Human Rights Commission held mall displays in various regions of the province and distributed copies of our annual report, legislation and pamphlets.



Human Rights Officer, Bruce Fillier, shown speaking with a lady at his display at the Valley Mall in Corner Brook.

(Photo courtesy of The Western Star)

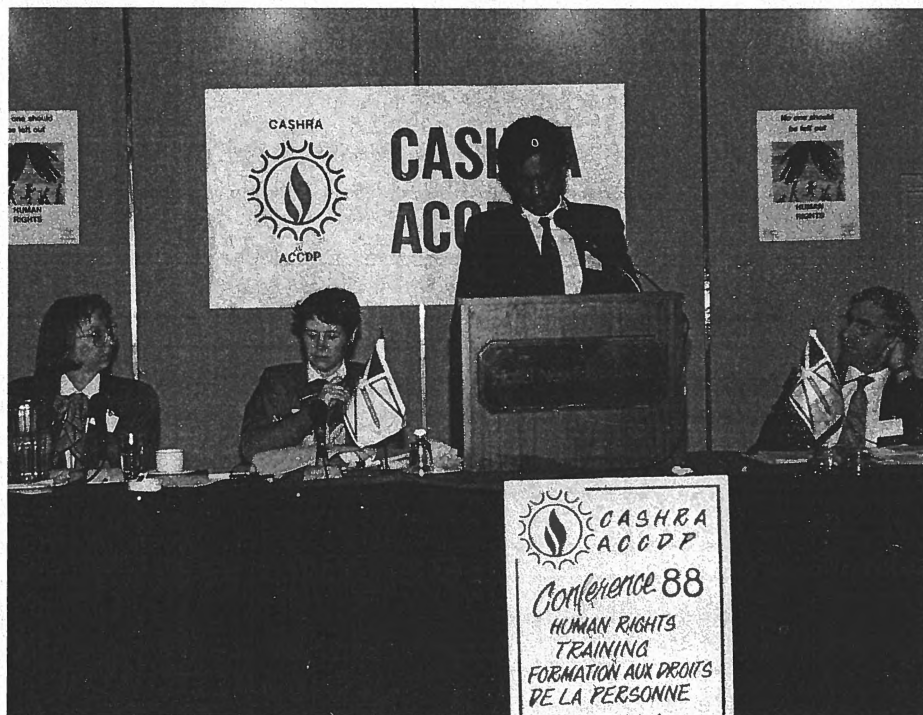
## CASHRA / ACCDP CONFERENCE

The Newfoundland Human Rights Commission was pleased to host the 1988 Conference of the Canadian Association of Statutory Human Rights Agencies. Through membership in organizations such as this, our Commissioners and staff are able to participate in training opportunities and keep informed about developments in the area of human rights.

This was the first time for our Commission to host this Conference which has been held annually since 1972. The Conference was held at Hotel Newfoundland in St. John's from Sunday, May 1 - Wednesday, May 4, 1988.

The theme for the 1988 Conference was Human Rights Training: Learning, Sharing, Participating. Topics covered included Employee Testing and Human Rights; Aids: Medical, Moral and Legal Issues; and Human Rights Training and Affirmative Action. The sessions on Aids were open to the public and the news media.

The Conference provided a valuable opportunity for the sixty-five participants representing all Human Rights Commissions and Councils in Canada, as well as other countries, to share their experiences and acquire additional skills and knowledge.



Left to right: Sylvia Neschokat, Gillian Butler, Raj Anand and Jacques Lachapelle.

## COMPLAINT FORM

(Please print clearly)

YOUR NAME _____		TELEPHONE NUMBERS
ADDRESS _____		Home _____
_____	Postal Code _____	Work _____
_____		Other _____

Name of person, company or organization against whom you are complaining.

NAME OF PERSON _____	ADDRESS _____
NAME OF COMPANY _____	_____
ORGANIZATION _____	TELEPHONE _____

PARTICULARS: Give detailed account of complaint, IN DATE ORDER.

Do you have witnesses, support documents, or know of someone who has received similar treatment? If yes, please specify.

Has other action been taken? (e.g., union grievance filed, complaint filed with any other government agency, lawyer contacted?)

### For employment complaints only:

When did you commence employment? _____	Are you still employed there? Yes _____ No _____
What was your position? _____	If no, when was your last day? _____
Was it Full-time _____ ? Part-time _____ ?	How did your termination take place ? (i.e., fired, quit by phone/letter, etc.) _____

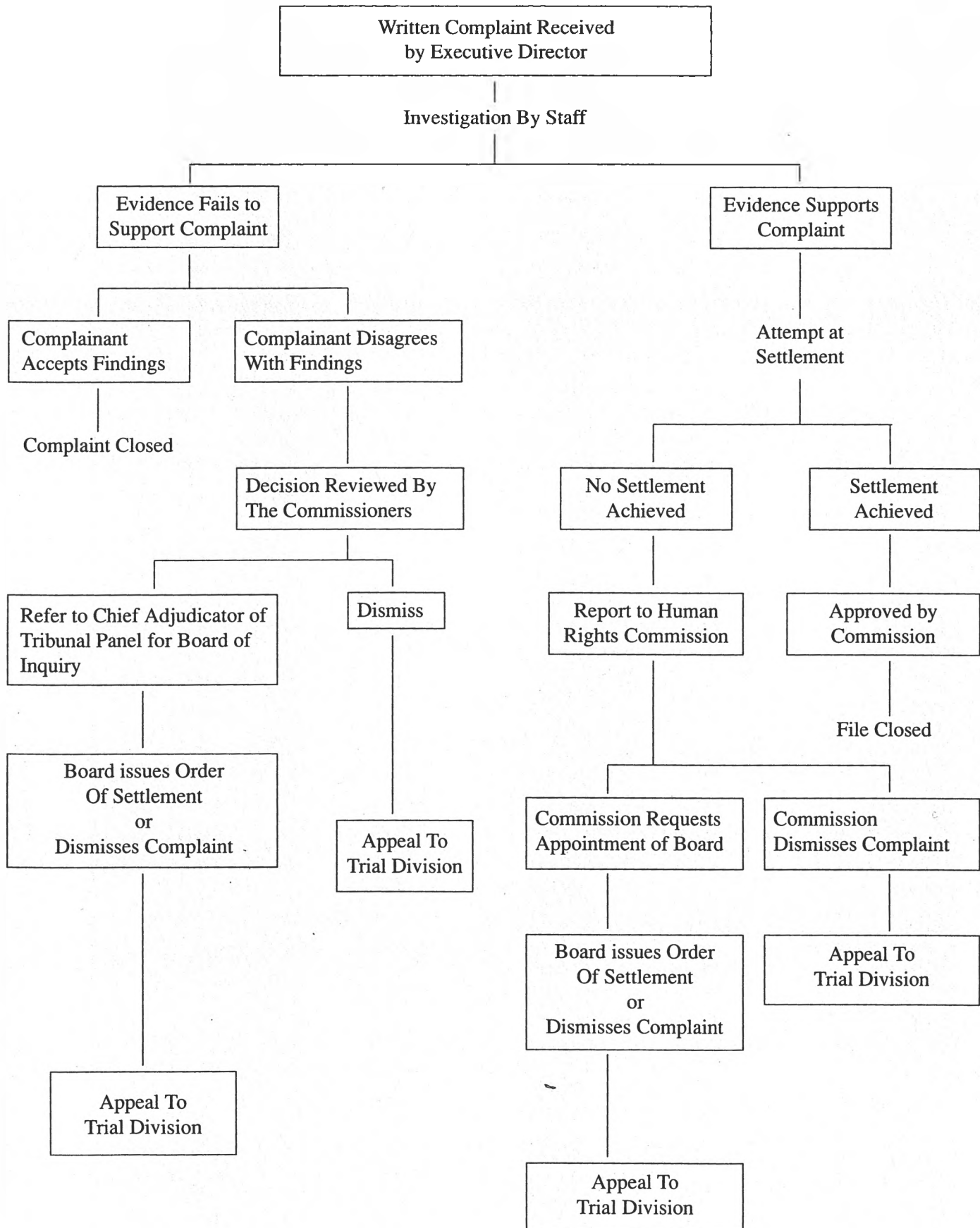
YOUR SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

**RETURN THIS FORM TO:**

Gladys Vivian, Executive Director  
Newfoundland Human Rights Commission  
P. O. Box 4750, 345-47 Duckworth St.  
St. John's, Newfoundland, A1C 5T7

## THE COMPLAINT PROCEDURE





## Discretionary retirement upheld

**By LANA PAYNE**  
**of The Evening Telegram**

The issue of mandatory retirement under the Uniformed Pensions Act has been challenged by Human Rights Commission lawyer Mercer.

In a preliminary ruling, he said the act is not overridden by the foundland Human Rights Co provides that no employ fuse to employ or conf: a person because of

15 of the charter says every individual is equal before the law without discrimination based on race, national or ethnic origin, color, religion, race, age or mental or physical ability.)

However, he  
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provincial government says  
not being discriminated  
the pension's act su-

relation, which covers  
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# Hospital worker's rights violated

...conducted a hearing last summer and determined that Mr. Warford had been discriminated on the basis of his religious beliefs. An order was issued to the hospital to reimburse Mr. Warford for his lost wages during the period when he was unable to work. He will also be reimbursed for his medical expenses and his attorney's fees. The hospital will not be reimbursed for the cost of the hearing.

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...arter.

# Visually impaired man is optimistic tribunal will find Wildlife Act unfair

**By NANCY WALSH**  
**of The Evening Telegram**

**GAMBO** — A visually impaired man who believes the provincial Wildlife Act discriminates against him says he thinks he has a good chance of winning his case through the Human Rights Commission.

Russell Rogers of Gambo has lost 10 per cent of his vision and is therefore considered legally blind.

Several months ago he  
ing inquiries to the  
Culture, Recreation  
If it would be po  
tain a moose by

Mr. Rogers  
to actual  
get a  
car

He was told by an official of the department that it was his duty to apply, so he did not discriminate.

ored licences would be granted to the visually-impaired or the disabled.

"That way a warden would know that person is shooting on behalf of me," Mr. Rogers said.

...said he brought that idea to the present minister of Culture, Education and Youth, John Butt, as predecessor, Bill Mat... was told it would be too... with a system in place.

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ored licences would be granted to the visually-impaired or the disabled.

"That way a warden would know that person is shooting on behalf of me," Mr. Rogers said.

He said he brought that idea to the present minister of Culture, Recreation and Youth, John Butt, as well as his predecessor, Bill Matthei. He was told it would be too expensive to have a system in place.

He is entitled to do the same thing in Newfound-

or a part-chance hunt.

**Scheduled hearings**

An Inquiry Commissioner appointed by Justice Minister Lyng Verge will begin hearing complaints of discrimination against several Tuesday morning in Confederation Building's labor relations board room.

John Wayne Thistle will investigate three complaints based on marital status and one complaint from a man of discrimination on the basis of sex.

This is the first time ever that a provincial justice minister in New Brunswick has ordered such an inquiry and the province's decision could be precedent-setting.

The Canadian Charter of Rights and Freedoms states that no one will be appearing before a Human Rights Tribunal on a complaint based on race or religion unless he was married, and if he was married, his wife will be heard along with him.

The practices of the insurance companies cannot be discriminated against on the basis of sex or marital status.

Mr. Thistle will be deciding whether the practices are in violation of the Newfoundlander rights.

Gladys Vivyan, executive director of the Newfoundland Women's Bureau, said she has been receiving many complaints from women about discrimination.

Rights Commissioner Lyng Verge has been at the head of the new commission since its inception.

The commission will be holding public hearings in St. John's, Miramichi, Moncton, Fredericton, and other parts of the province.

The commission will also be holding private hearings for individuals who wish to file a complaint.

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The commission will also be holding private hearings for individuals who wish to file a complaint.

# Insurance complaints commence Tuesday

## FROM OUR FILES

### CASE SUMMARIES

When the Human Rights Commission receives a complaint alleging a violation of the Human Rights Code, it is assigned to a Human Rights Officer for investigation. The officer will investigate and attempt to settle the matter. In many cases, complaints which are found to have merit are satisfactorily settled between the complainant and respondent. Some examples of these complaints settled in 1988 are given here, as are some examples of dismissed complaints.

### EXAMPLES OF SETTLED COMPLAINTS

#### Area of Employment

##### (1) Ground: Sex

A lady taxi-driver filed a complaint with the Commission alleging discrimination on the basis of sex after the taxi-stand operator ordered that all female drivers were to stop driving at 10:00 p.m. The taxi-stand operator indicated that this was done out of concern for the personal safety of the female drivers, since they might be more susceptible to robbery and mugging late at night. After consulting legal counsel, the taxi-stand operator agreed to allow females to work the same shifts as male drivers. This was, from the viewpoint of the complainant, a satisfactory conclusion to her complaint. The settlement has not yet been approved by the Commission..

##### (2) Ground: Physical Disability

A gentleman submitted a complaint to the Commission after his employment was terminated because of his physical condition. At the time, he was undergoing physiotherapy for a medical condition, however, independent medical opinion indicated that he could resume the duties of the job. The medical opinion of the physician retained by the employer held that, at some time in the future, the problem might recur, thus, his employment was terminated. The employee was reinstated in the job, he received six months back pay for the time lost, and he retained seniority and other benefits for the time lost.

##### (3) Ground: Age

A gentleman complained to the Commission alleging he was denied membership into a union local because of his age. Without a membership in the union, this gentleman could not obtain a job in his trade. When the matter was brought before the Human Rights Commission, the union changed its policy allowing the man membership. The complainant immediately obtained employment and asked to discontinue the complaint.

##### (4) Ground: Physical Disability

Having a back injury made it difficult for a woman to get rehired because the company thought she was a high risk, despite a letter from a medical doctor stating that the woman was medically fit to do the job. The Commission investigated the matter and secured a job for the complainant at the company as a satisfactory settlement.

##### (5) Ground: Mental Disability

After four days on the job, suffering from anxiety attacks, a man stated he could no longer work because he felt he was a safety risk to his co-workers. The man told management that he could not go back to work for a little while because of a mental disability. The man's employment was then terminated by the company. By the time the complaint was filed with the Commission the complainant had sought psychiatric help and was cured of the illness. The Doctor assessed the complainant as being fully fit for work. The matter was settled when the company reinstated the complainant with full back pay and benefits.



(6) Ground: Sexual Harassment

Working for a small business became a problem for a 19 year old girl who started her first job. During the first few weeks, her employer would grab her around the leg and waist and on one occasion took her hand and tried to force it between his legs. On several occasions the employer would ask if she was cold and if so he could warm her up. The complainant repeatedly refused these advances and made the problem known to her mother and a few friends. Within a month the girl lost her job. The matter was investigated by the Commission and the girl settled for \$1,500.00.

**Area of Accommodations**

(1) Ground: Marital Status

After becoming separated from her spouse, a woman approached a rental agency to find suitable accommodations. The woman found a suitable place but was told by the agency that the owner wanted a married couple. A complaint was then filed with the Human Rights Commission. The matter was investigated and the agency was informed that human rights legislation prohibits this type of discrimination. They agreed to find the complainant suitable accommodations. The matter was thereby settled.

(2) Ground: Physical Disability

The mother of a physically disabled child filed a complaint with the Human Rights Commission when she received an eviction notice from her landlord. The complainant was having difficulty with another tenant who repeatedly blocked a driveway they shared, which interfered with her child's ability to get around. The mother made several complaints to the manager of the rental agency. He dealt with the matter by giving the woman an eviction notice. During the investigation the manager said that he had no problems with the other tenant until the complainant moved into the house. Also, he had checked around and found the previous landlord had problems with the complainant. The complaint was settled when the downstairs tenant moved and the eviction notice was withdrawn.

## EXAMPLES OF DISMISSED COMPLAINTS

### Area of Employment

#### (1) Discrimination in pay on the basis of sex

A lady employed as a teacher/instructor filed a complaint with the Human Rights Commission because she thought her male co-workers were being paid a higher rate for similar work. The investigation into the matter could find no evidence to substantiate the complaint. The complainant was satisfied with the results of the investigation and withdrew the complaint.

#### (2) Ground: Sex

A lady filed a complaint with the Commission after she was told that she would not be hired because the employer wanted a man in the position since part of the job entailed physical labour. The investigation showed that the employee who told her this was the person who was leaving and that, in reality, the employer had rearranged work schedules and increased the salaries of existing employees to eliminate one position. This new arrangement proved somewhat unworkable, consequently, a part-time position was created. The complainant was offered this position. This complaint was dismissed.

#### (3) Ground: Physical Disability

A lady filed a complaint with the Commission after she was terminated by her employer. She alleged that she was terminated after she advised the employer of a physical condition (illness) that she had. The complaint was dismissed after the investigation showed that the employer was actually accommodating some employees with various physical conditions and that the reason for the complainant's termination was attitudinal and behaviour problems.

#### (4) Ground: Sexual Harassment

A young lady filed a complaint with the Human Rights Commission after she complained of being sexually harassed on the job by her supervisor. The investigation into the matter discovered that the two parties were having a mutually agreed to relationship which had recently turned sour. The alleged harasser had been a co-worker of the complainant but had been temporarily assigned to a position of foreman. The employer responded by transferring the gentleman to a different area of the building and the two were to work on separate shifts. Initially, the complainant agreed with this as a suitable resolution but then demanded that the gentleman be fired. The Commission refused to recommend the complaint for a Board of Inquiry as it was thought that an appropriate settlement was available. The complaint was dismissed.

#### (5) Ground: Marital Status

A man filed a complaint with the Commission stating that his employment was terminated because he had become separated from his wife. According to the complainant, his boss told him that he had to move back with his wife if he wanted to keep his job. An investigation into the matter failed to produce sufficient evidence to support the allegations. The complaint was withdrawn by the complainant.

#### (6) Ground: Sex

A lady alleged that she was discriminated against on the basis of sex when she wasn't considered for a job opening in a firm where she had previously worked on a seasonal basis. Comments made to her by other employees suggested that she would not be hired because the work involved some outdoor work in inclement weather, and that, as a result, it was not suitable for a female. On investigation, it was found that the employer had not advertised the position but rather attracted someone whom he had wanted to hire for a few years. The seasonal employee had not been considered for this management level position because of problems with her performance in a lower level position. The complaint was dismissed.

## **EXAMPLES OF ONGOING COMPLAINTS**

### **Area of Employment**

#### **(1) Ground: Religion**

- ~ A man living in Alberta was seeking employment with a School Board in Newfoundland. Prior to leaving Alberta for a job interview in Newfoundland he had a Canadian Employment and Immigration Canada (CEIC) Counsellor check with the School Board to see if the fact that he was a non-practising member of his faith would be a problem. The complainant was assured that this would not be a problem. Interviews were held with the man upon his arrival in Newfoundland and he says that he was led to believe he would get the job subject to obtaining Newfoundland Teacher Certification. The individual alleges that he was unable to obtain a Newfoundland Teaching Certificate to teach for this Board because he was a non-practising member of the religious denomination concerned, and therefore no job offer was made. The investigation continues into this matter.

### **Area of Services**

#### **(1) Ground: Religion**

A complaint was received from a young man alleging discrimination on the basis of Religion when he was unsuccessful in his attempt to be admitted to a nursing program. During his pre-screening interview he was asked what religious denomination he belonged to. After discovering he was a member of the Jehovah's Witness faith he was further questioned as to his position on blood transfusions. The complainant stated to the school that, as a matter of conscience, he could not perform blood transfusions on patients, but did want to be trained in the technique of transfusions using other substances. The complainant states that during subsequent interviews the blood transfusion issue continually came up and he felt that he was denied admission to the school because he was a Jehovah's Witness. The investigation Continues.

#### **(2) Ground: Physical / Mental Disability**

The mother of a multi-handicapped child in a community in rural Newfoundland felt her son was being denied a proper education. In the school year 1987-88, the boy was only able to obtain instruction at the school for half a day per day. An investigation into the matter continues.

#### **(3) Ground: Physical / Mental Disability**

A man, subject to sleeping epileptic seizures, lost his drivers license after a doctor reported to Motor Registration Division, Department of Transportation, that he had a waking seizure. Motor Registration Division revoked the complainant's drivers license. The complainant insisted he had a sleeping seizure and therefore should not have lost his license. The matter has been investigated and is awaiting the decision of the Commissioners before proceeding further.

## **DECISIONS FROM BOARDS OF INQUIRY**

### **1. Charles Warford v Carbonear General Hospital**

Ad Hoc Commissioner: Edward Noonan

Charles Warford, who is of the Pentecostal faith, refused to sell tickets for a social event to be held at the Carbonear General Hospital. Mr. Warford alleged that it would be against the teachings of his religion for him to contribute, in any way, to the consumption of alcohol. Alcohol was to be served at the social. When Mr. Warford refused the direct order of his supervisor to sell the tickets, he was suspended for insubordination.

Edward Noonan, the Ad Hoc Commissioner, upheld Mr. Warford's complaint. The order of settlement required the hospital to compensate Mr. Warford for lost wages and to remove the letters of discipline from his file.

### **2. Janet Sacrey and June Norman v The United Food and Commercial Workers Union**

Ad Hoc Commissioner: Barrie Heywood

Janet Sacrey and June Norman were denied any opportunity to sell caplin to the local fish plant because their names did not appear on a bona fide list of fishermen given to the plant by the Fishermen's Committee. Both women hold full-time fishing licenses. Norman and Sacrey filed separate complaints with the Human Rights Commission when they learned that the names of young males who did not hold any fishing licenses were on the list and that they had been permitted to sell caplin.

Barrie Heywood upheld the complaints of Norman and Sacrey and agreed that they had been discriminated against on the basis of sex. The order of settlement required the United Food and Commercial Workers Union to compensate the two women for financial losses.

### **3. Russell Rogers v Her Majesty the Queen In Right of Newfoundland (Department of Culture, Recreation and Youth - Wildlife Division)**

Ad Hoc Commissioner: William Finn

Mr. Rogers, who is legally blind and is therefore prevented from completing the hunter capability (Shooting) test, filed a complaint with the Human Rights Commission, seeking to have his name included in the big game hunting license draw, so that he could designate a qualified hunter to hunt on his behalf. Presently, the Wildlife Division of the Department of Culture, Recreation and Youth requires individuals to pass the shooting test before their names can be included in the draw. Mr. Rogers says this policy discriminates against the people with physical disabilities. He maintains that, with a minor modification to the "party" license concept, he could qualify for a license.

The Respondent department argued before the Board of Inquiry that the big game hunting licensing procedure is not a service within the meaning of The Newfoundland Human Rights Code.

Mr. Finn, the Ad Hoc Commissioner, determined that the licensing procedure is a service within the meaning of the Code. However, he further determined the requirement that a person pass the hunter capability test is a bona fide requirement and, consequently, the respondent did not have to make reasonable accommodation for Mr. Rogers' disability.

This decision has been appealed by both parties.

4. **Margaret Smith v Lewisporte Wholesalers**

Ad Hoc Commissioner: Kendra Goulding

Margaret Smith, who worked as a meat wrapper with Lewisporte Wholesalers, filed a complaint with the Human Rights Commission when she learned that males who performed duties similar to hers were being paid a higher wage. While Margaret Smith was away from work because of an injury, Lewisporte Wholesalers hired two male employees. These employees were placed in the meat room during Mrs. Smith's absence but were paid the same higher wages as a warehouse worker. They had not been told, upon hiring, that they were hired as warehouse workers. Upon Mrs. Smith's return, the two men were assigned to the warehouse.

Kendra Goulding, Ad Hoc Commissioner, ruled that the gentlemen had initially been hired as warehouse workers and were temporarily assigned to the meat room. She noted that the collective agreement required that there not be a reduction in salary on a temporary assignment. She dismissed the complaint.

## **BOARDS OF INQUIRY (ONGOING)**

### **1. Douglas Pendergast, James Battcock and Vincent Stapleton v Her Majesty The Queen In Right Of Newfoundland (Department of Justice)**

Ad Hoc Commissioner: Keith Mercer

Pendergast, Battcock and Stapleton filed complaints with the Human Rights Commission alleging discrimination on the basis of age.

### **2. Barbara LeDrew v Newfoundland Council for Nursing Assistants and Canadian Nurses Association**

Ad Hoc Commissioner: Glenda Best

Barbara LeDrew, a deaf woman, graduated from a post secondary institution as a nursing assistant. In order to be employed as a nursing assistant, one must be registered. Registration is the responsibility of the Newfoundland Council for Nursing Assistants who has accepted the examinations as offered by the Canadian Nursing Association. Ms. LeDrew was refused full interpreting services to write her examinations for registration. She wrote the examination using partial interpreting services and failed. When she was again refused full interpreting services, Barbara LeDrew filed a complaint with the Human Rights Commission.

### **3. Deanna Stokes Sullivan v T. P. Hickey Insurance Ltd. and Merit Insurance Agency**

Ad Hoc Commissioner: W. Wayne Thistle

Ms. Stokes Sullivan filed a complaint alleging discrimination on the basis of sex and marital status with the Human Rights Commission when named the insurance agencies increased her automobile insurance premium because of her husband's driving record. The proceedings of this Board of Inquiry are stalled pending the outcome of an insurance industry challenge in the Supreme Court of Newfoundland into the Commission's jurisdiction to hear the complaint.

### **4. Trixie Mitchell v Munn Insurance Ltd.**

Ad Hoc Commissioner: W. Wayne Thistle

Ms. Mitchell filed a complaint with the Human Rights Commission, alleging discrimination on the basis of marital status, after the named insurance agency cancelled her automobile insurance policy. The policy was cancelled because of her husband's driving record. The proceedings of this Board of Inquiry are stalled pending the outcome of a Supreme Court challenge into the Commission's jurisdiction to hear the complaint.

### **5. Grant Vivian v Baine Johnston Insurance Ltd. and Anthony Insurance Ltd.**

Ad Hoc Commissioner: W. Wayne Thistle

Mr. Vivian filed a complaint with the Human Rights Commission, alleging discrimination on the basis of sex and marital status, after the named insurance agencies quoted him, an unmarried male under twenty-five years of age, a higher automobile insurance premium than would have been charged to a married male or married or unmarried female in his age category. The Board of Inquiry is awaiting a Supreme Court decision in an industry challenge to its jurisdiction to hear the complaint before proceedings resume.

**6. Daphne M. Ryan v Munn Insurance Ltd.**

Ad Hoc Commissioner: W. Wayne Thistle

Ms. Ryan filed a complaint with the Human Rights Commission, alleging discrimination on the basis of sex and marital status, against the named insurance agency after her automobile policy was amended to exclude all casual drivers. This amendment was made after she refused to divulge information about her husband, who had insurance on his own vehicle. The jurisdiction of the Commission to hear this complaint is being challenged in the Supreme Court of Newfoundland, thus, proceedings are stalled pending the outcome of this challenge.

**7. Sexual Harassment Complaint**

Ad Hoc Commissioner: Kendra Goulding

A lady filed a complaint with the Commission alleging sexual solicitation and harassment on the basis of sex against her employer. She alleged that her employer offered a promise of job security if she agreed to a sexual relationship with him. She further alleged that, during the course of several conversations between them, he recounted some of his previous sexual exploits.

**8. Maria Laguna v Newfoundland Soccer Association**

Ad Hoc Commissioner: Brian Casey

Ms. Laguna filed a complaint with the Human Rights Commission alleging discriminations on the basis of sex when she was terminated as a volunteer during an International Soccer meet.

## SECTION 7

— Race

— Religion

— Religious Creed

— Sex

### — Marital Status

### — Physical Disability

### — Mental Disability

— Political Opinion

— Color or Ethnic

— National or Social Origin

## SECTION 8

— Race

— Religion

— Religious Creed

— Sex

### — Marital Status

### — Physical Disability

### — Mental Disability

— Political Opinion

— Color or Ethnic

— National or Social Origin

## SECTION 8.1/9

— Race

## — Religion

— Religious Creed

— Sex

### — Marital Status

### — Physical Disability

### — Mental Disability

— Political Opinion

— Color or Ethnic

— National or Social Origin

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**SECTION 9/10**

(Employment)

- Race
- Religion
- Religious Creed
- Sex
- Marital Status
- Physical Disability
- Mental Disability
- Political Opinion
- Color or Ethnic
- National or Social Origin
- Age

**SECTION 9A/11**

(Attachment of Wages)

**SECTION 10/12**

(Equal opportunity in Pay and Promotion)

**SECTION 10.1/13**

(Harassment in Employment)

- Race
- Religion
- Religious Creed
- Sex
- Marital Status
- Physical Disability
- Mental Disability
- Political Opinion
- Color or Ethnic
- National or Social Origin

**SECTION 10.2/14**

(Sexual Solicitation)

Brought Forward 1987	New Cases 1988	Settled	Withdrawn or Dismissed	Referred to Canadian Commission or other	Did not meet time limitation	Recommended for Board of Inquiry	Undisposed
2	1		1				2
	2		1	1			
4	4	5				1	2
	5		4				1
1	10	4		1	1		5
	2	1					1
	1						1
1	3	1	1				2
1	3		1			1	2
	1						1
	1						1
	1						1
2	6	2	2			2	2

**SECTION 11/15**  
(Discriminatory  
Publications)

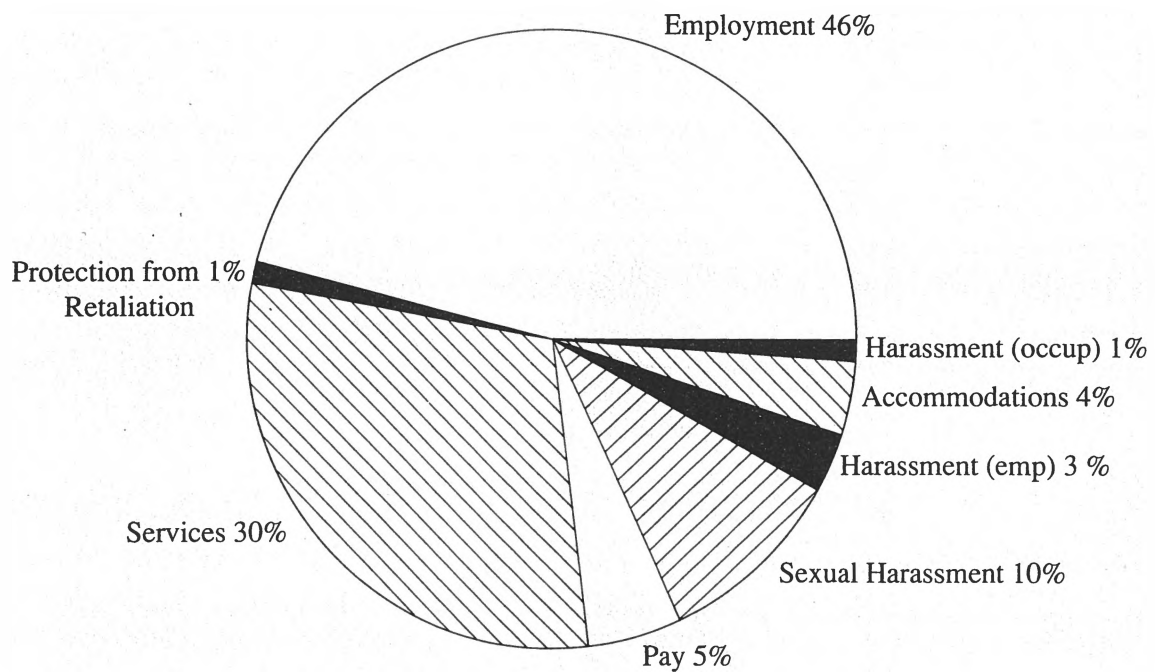
**SECTION 12/16**  
(Protection of Complainant  
and others)

		Brought Forward 1987
22	1	
		New Cases 1988
65		
		Settled
14		
		Withdrawn or Dismissed
17	1	
		Referred to Canadian Commission or other
3		
		Did not meet time limitation
1		
		Recommended for Board of Inquiry
13		
		Undisposed
32		

NOTE: A complaint may include one or more alleged grounds of discrimination.

**TOTAL FILES FOR 1988**  
(Including Transfers from 1987)

	Transfers from 1987	New cases 1988	Total files in Section	Percentage of total complaint
Section 7 (Services)	6	17	23	30
Section 8 (Accommodations)	0	3	3	4
Section 8.1/9 (Harassment of occupant)	0	1	1	1
Section 9/10 (Employment)	8	28	36	46
Section 10/12 (Equal opportunity for pay and promotion)	1	3	4	5
Section 10.1/13 (Harassment in employment)	0	2	2	3
Section 10.2/14 (Sexual Solicitation)	2	6	8	10
Section 12/16 (Protection of complainants and others)	1	0	1	1
	18	60	78	100%



### **List of Publications Distributed by The Commission**

1. Office Consolidated copies of **The Human Rights Code, 1988**
2. **Human Rights: A Guideline for Employers and Job Applicants.**
3. **The Human Rights Code - Questions and Answers.**
4. **Sexual Harassment in the Workplace.**
5. Poster - "No one should be left out - Human Rights."
6. 1987 Annual Report (The Newfoundland Human Rights Commission.)
7. Lapel pins of The Commission's logo.

The following VHS tape is available on loan:

1. The Charter and You: The Canadian Charter of Rights and Freedoms, VHS tape along with booklets. Produced by Confederation College. Time: 59 Minutes.



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