

# YUKON HUMAN RIGHTS COMMISSION

## 2014 - 2015 ANNUAL REPORT

### MESSAGE FROM THE CHAIR, AL HUBLEY



This past year has seen the Commission continue its important mandate of protecting the human rights of all Yukoners. This could not be accomplished without the hard work of our dedicated staff and Commission Members. The Commission is committed to being a trusted, impartial and impactful organization providing timely investigation and resolution of human rights complaints. We also provide public education to help prevent violations of the Yukon Human Rights Act and raise awareness of the importance of respecting the dignity of all persons.

One highlight of the last year was a disability rights workshop and summit held in December 2014 called "Keeping Track of our Rights". The event focussed on creating awareness of our obligations to monitor the rights of persons with disabilities as set out in the UN Convention on the Rights of Persons with Disabilities (UNCRPD). 23 participants with disabilities from across Yukon were trained on how to monitor their own rights in a three-day workshop; a one-day summit followed and drew in over 80 members of the wider community. It was considered a highly successful event by all.

In January 2015 we welcomed our new Director, Jessica Lott Thompson who brings with her a wealth of knowledge and experience. Jessica is taking over from Heather MacFadgen who retired after nearly 12 years as the Commission's Director. Our sincere thanks to

Heather for her passion and commitment to human rights in Yukon. We wish you success in whatever life holds for you.

The Commission also extends a sincere thank you to Fia Jampolsky who served as Chair of the Commission for four years, as well as Jolene Waugh who completed her term of office as Chair in early 2015. We thank you both for your service to the Commission and wish you all the best.

On behalf of the Commission and staff we present the 2014/15 Annual Report of the Yukon Human Rights Commission.

Al Hubley,

Chair, Yukon Human Rights Commission

### MESSAGE FROM THE DIRECTOR, JESSICA LOTT THOMPSON



Since joining the Commission as the new Director in January 2015, I've been proud to join the dedicated and capable team of staff and Commission members who work to promote equality and diversity here in the Yukon. I believe in the importance of a fair and effective complaints process for dealing with alleged human rights violations, and I am passionate about the power of public education and awareness-building as ways to achieve proactive change.

Over the past year, the Commission has invested in improvements in communication, efficiency, and transparency. We've taken concrete steps to maximize the effectiveness of our limited resources as an organization, by modernizing internal procedures, going paperless for our Commission meetings, and improving our web presence. We have more public information available online and our new, user-friendly, multi-platform website is reaching more Yukoners than ever. Even this document, our Annual Report, has a new format and a wider circulation, including distribution in the Yukon News. We want to hear from you!

Moving forward, the Commission members and staff have developed a comprehensive Strategic Plan for 2015-2018 that will guide our work and help us achieve more as an organization. It's a core tool for management planning and accountability. Working in a targeted and effective way towards priority goals will help us to establish and monitor how we spend both time and money. Our new Strategic Plan is

available online – let us know what you think.

This past year has seen an increase in public awareness of gender identity issues. Here in Yukon, and around the world, individual trans people are speaking out and asserting their rights to equality and dignity. The Commission will continue to respect the rights of trans-gendered persons and help to foster increased understanding and acceptance of diversity.

The world around us has an impact on our priorities as well. The historic work of the Truth and Reconciliation Commission and their vital calls to action provide a renewed focus for each of us to work on reconciliation between all peoples in the Yukon. We all share the opportunity to be leaders and to work towards reconciliation between Aboriginal and non-Aboriginal citizens. This year, celebrate International Human Rights Day with us on December 10th. Look for more details coming soon about events focusing on reconciliation and the United Nations Declaration on the Rights of Indigenous Peoples planned in partnership with community groups.

I look forward to working with you on the challenges and opportunities ahead.

Jessica Lott Thompson,

Director, Yukon Human Rights Commission  
director@yhrc.yk.ca





National Aboriginal Day 2014  
~ Kwanlin Dün Cultural Centre

## OUR MISSION

The Yukon Human Rights Commission promotes equality and diversity through research, education and enforcement of the Yukon Human Rights Act.

## OUR VISION

The YHRC is respected as a trusted, impartial and impactful organization

- providing accessible public information and education about human rights throughout the Yukon
- partnering proactively with individuals and institutions to improve understanding of and respect for human rights in Yukon
- providing a fair and effective process for dealing with human rights complaints
- modeling best practices as an employer and organization

## OUR GOALS

Priority 1: Meeting our mandate through consistent high quality service

Priority 2: Improving transparency and accountability

Priority 3: Improving our relationship with the Yukon Government

### PROVIDING INFORMATION AND EDUCATION

#### YUKON SUPPORTS THE RIGHTS OF INDIGENOUS PEOPLES

The Yukon Legislative Assembly voted **unanimously** in favour of a motion to endorse the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in May 2014. The Commission worked with Yukon First Nations chiefs before calling on the legislature to endorse the Declaration. Apart from the Northwest Territories and Canada itself, the Yukon is one of the first jurisdictions in our country to stand behind such a fundamentally important document.

#### WEBSITE LAUNCH

Explore our new interactive website at [www.yhrc.yk.ca](http://www.yhrc.yk.ca). Designed with easier navigation and accessibility, the new site provides the latest human rights information for everyone from employers, service providers and landlords to educators. We have included a variety of user friendly tools including links to current events, videos and sample human rights policies.

### PARTNERING WITH INDIVIDUALS & INSTITUTIONS

#### DISABILITY RIGHTS WORKSHOP AND SUMMIT

The Commission partnered with the Yukon Council on Disabilities (YCOD) to host a week-long Disability Rights Workshop and Summit called Keeping Track of our Rights in December 2015. One participant declared, “the workshop and summit gave us a collective voice and unity across all disabilities.” The event culminated in the formation of a Yukon Disability Rights Committee - the first of its kind in Yukon.

“Yukon is leading the country when it comes to [disability rights]. I don’t know of any other jurisdiction that is undertaking this kind of work.”

~ Rebecca Gowan, Canadian Human Rights Commission

### PROVIDING A FAIR AND EFFECTIVE PROCESS

#### INFORMALLY SETTLING A COMPLAINT

On average, 53% of all complaints were resolved informally over the past three years. If both parties agree, the Director will try to settle a complaint. This can be done through a formal mediation meeting, or “shuttle diplomacy” with the Director acting as an intermediary and communicating with each of the parties until a negotiated settlement is reached. **The Director is neutral and acts as a facilitator.**

#### DID YOU KNOW?

Over the past 3 years the Commission has settled more than half of all complaints.

#### HOW COMPLAINTS WERE CLOSED

A total of 28 complaints closed in 2014/2015:

- **5 Complaints**  
Stopped by Director.
- ▲ **14 Complaints**  
Informally resolved by Director.
- ▲ **6 Complaints**  
Withdrawn by complainant.
- ▼ **1 Complaint**  
Dismissed by Commissioners.
- ▲ **1 Complaint**  
Settled after disposition.
- **2 Complaints**  
Upheld by Yukon Supreme Court.

In the above graphic, arrows indicate an increase or decrease from the previous year and circles indicate no change.

Section 20(1)(g) of the Yukon Human Rights Act gives the Commission the power to stop the investigation of a complaint if a complainant has declined a fair and reasonable settlement offer.

**This means that employers are not “held to ransom”, but in fact, have the support of the Director once they have put forward a reasonable settlement offer.** What is “reasonable” is based on case law decisions in similar fact situations. A negotiated settlement is designed by the parties, and can be a “win win”. It can be more suited to the parties’ needs than a judgement imposed by a Board of Adjudication.

#### UNDERSTANDING THE COMPLAINT PROCESS

Once a complaint is drafted, it is reviewed by the Director to ensure that the complainant has reasonable grounds for believing that there has been a contravention of the Human Rights Act. The complaint is then sent to the Respondent, who can ask the Director to try to settle the complaint, or file a formal Response. If settlement discussions fail, the Respondent then files its Response, and has not been prejudiced by the confidential settlement attempt.

An investigation is then conducted, and the Investigation Report, plus any comments from the parties, go to a meeting of the Commission members, who can dismiss the complaint, refer it to a Board of Adjudication for a hearing, or send it back for a further attempt at settlement. The Commission members cannot make a finding of discrimination, but perform a screening function, to ensure that there is a reasonable basis in the facts and the law before something goes to a Board hearing.

In 2014/15, 7 complaints were considered by the Commission members. 6 were referred to a Board of Adjudication hearing, and one was dismissed. Most of these complaints are still pending before the Board, as there were no Board hearings held in 2014/15.

# INQUIRIES & COMPLAINTS

## SAMPLE INQUIRY: RELIGIOUS BELIEFS AND ACCOMMODATION

An inquirer called our Help Line to ask if he could put a request in to his employer to take Saturdays off because he is required to go to his church on Saturdays and what he should do if the employer refuses. We explained that it was within his rights to ask for the day off for his religious observance and that he should frame his request as an accommodation.

We explained the concept of undue hardship and said that if his employer is large, then it should be able to accommodate him, for example, by juggling the schedules of other employees. However, this may not be possible for a small employer. **The employer must provide facts, figures and scientific data or opinion to support a claim that the proposed accommodation in fact causes undue hardship.** A mere statement, without supporting evidence, that the cost or risk is “too high” based on impressionistic views or stereotypes is not sufficient.

The employee said he works for a large company and would make his request for accommodation. We also told him to contact us again if his employer refuses his request.

### DID YOU KNOW?

Of the 29 complaints made to the Commission in 2014 - 2015, close to 1/3 of the complaints were based on physical or mental disability.

## EXAMPLE OF SETTLING A COMPLAINT: EMPLOYMENT AND ACCOMMODATION

An employee approached her employer for accommodation due to her pregnancy. The employee was working in an environment that was potentially harmful to her pregnancy, and under her doctor’s advice, made a request to her employer that she temporarily move to a more suitable position.

The employer stated they could not readily find another position and subsequently dismissed the employee. **After the Commission received the complaint both parties agreed to the informal resolution process.** The employer was apologetic, and from the beginning was willing to do whatever it took to resolve the matter promptly and in a positive way. The employee was quickly re-instated to a new position within the company and the employer provided a written apology as well as compensation for lost wages.

## APPEAL OF A BOARD OF ADJUDICATION DECISION TO YUKON SUPREME COURT

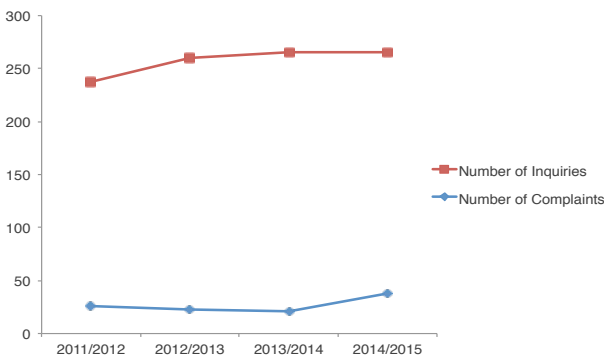
An appeal was made to the Supreme Court of Yukon in the case of Hanson v. Hureau. The court issued its decision on April 1, 2014 dismissing Mr. Hureau’s and Intersport’s appeal and upheld the Yukon Board of Adjudication finding of sexual harassment. The Court granted the Commission and Complainant’s appeals and set aside the Board’s decisions with respect to employer liability and damages for injury to dignity. The Court concluded that the Board was wrong not to order damages for injury to dignity.

The Court decided to vary the Board’s decision rather than having the parties expend more money and time by going back to the Board for a new decision. The Court made the important statement that, “there is a danger in trivializing awards for injury to dignity, feelings and self-respect for sexual harassment. Psychological injuries are just as serious as physical injuries and are often more difficult to remedy and make the subject whole again.” The Court concluded that the injury in this case was not trivial and awarded \$5,000 for injury to Ms. Hanson’s dignity. Go to [www.yhrc.yk.ca](http://www.yhrc.yk.ca) for detailed information.



## COMPARISON OF COMPLAINTS TO INQUIRIES 2011 - 2015

Inquiries refer to the number of individuals or groups who have phoned, emailed or come in to the Commission office to discuss a complaint, or the complaint process. Few inquiries become complaints, as indicated in the chart below. For example, in 2014/2015 there were 228 inquiries and 38 went on to become complaints.



## SAMPLE INQUIRY: EMPLOYMENT AND LINGUISTIC BACKGROUND

The owner of a store has two employees whose first language is Tagalog. He called our Help Line after receiving complaints from customers worried that the employees are speaking about them in Tagalog. We advised the employer that they can ask the employees to only speak English when there are customers around but that on breaks or when they are alone they are free to speak their own language.

### DID YOU KNOW?

Complaints against First Nations or federally regulated enterprises, such as banks, broadcasters and airlines, go to the Canadian Human Rights Commission.

## EMPLOYERS & LANDLORDS

Tell your employees, clients and community that your organization respects human rights by displaying a Yukon Human Rights Poster. Call us, email or visit our website to receive a copy.

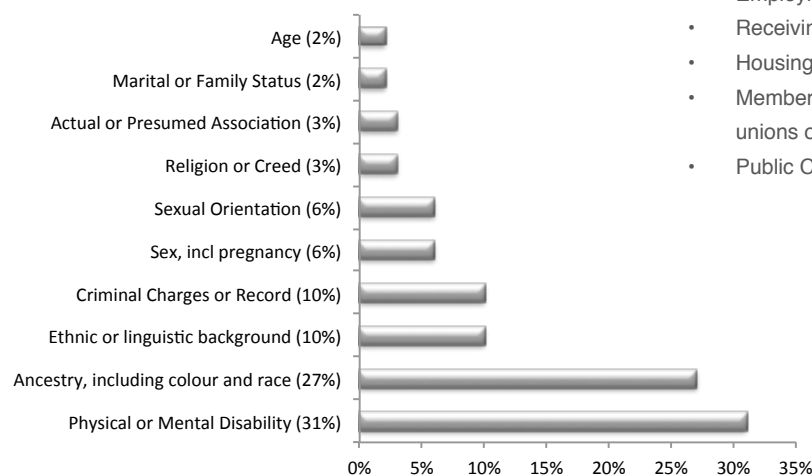




# PROHIBITED GROUNDS AND PROTECTED AREAS 2014 - 2015

## NEW COMPLAINTS BY GROUND 2014 - 2015

New complaints by prohibited ground refer to complaints based on personal characteristics as set out in the Yukon Human Rights Act.



## WHAT ARE THE PROTECTED AREAS?

A complaint must fall within one or more of the protected areas covered by the Yukon Human Rights Act:

- Employment
- Receiving goods and services
- Housing, leasing or renting
- Membership in or representation by trade unions or professional associations
- Public Contracts

## WHAT ARE THE PROHIBITED GROUNDS?

It is illegal to discriminate against people on the basis of their:

- Ancestry, including colour or race
- National origin
- Ethnic or linguistic background/origin
- Religion or creed
- Age
- Sex, including pregnancy
- Sexual orientation
- Disability
- Criminal charges or criminal record
- Political belief, association, or activity
- Marital or family status
- Source of income
- Actual or presumed association with any of the grounds listed above

## MEMBERS of the COMMISSION

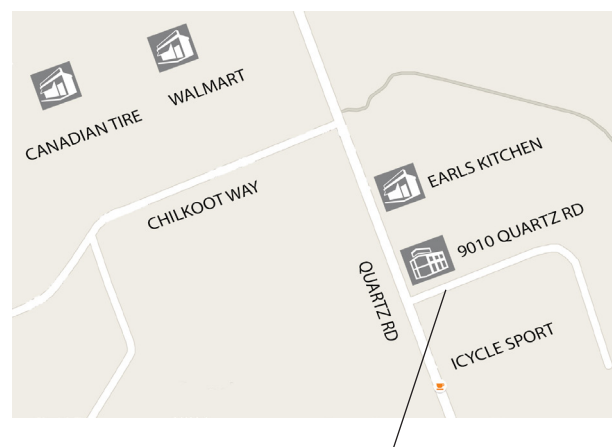
Members of the Commission are appointed by the Yukon Legislature for a term of three years. They meet regularly for business meetings, dispositions and other special meetings of the Commission.



Members of the Commission: Russ Knutson, Marius Curteanu, Barb Joe, Janet Wood, and Al Hubley.

## LET'S TALK

We are located at 101-9010 Quartz Road in the same building as the Whitehorse Health Centre (between Earl's Restaurant and the Feed Store).



### Yukon Human Rights Commission

Visit us between 8:30 am and 4:30 pm Monday to Friday, except Tuesday, when we are closed from 8:30 am to noon.

## WHAT IS THE YUKON HUMAN RIGHTS COMMISSION?

The Commission is an independent agency that works to promote equality and protect individuals and groups from discrimination under the Act.

## YUKON HUMAN RIGHTS COMMISSION

Helpline: 867.667.6226  
Toll free: 1.800.661.0535

Email  
humanrights@yhrc.yk.ca

Write  
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Whitehorse, Yukon  
Y1A 2Z5



This report, as well as the Commission's financial statements, are available on our website at <http://yhrc.yk.ca>  
Ce rapport est également disponible en français sur notre site web – voir <http://yhrc.yk.ca>