

Can I File a Human Rights Complaint for Workplace Sexual Harassment? (FEDERAL)*

*This guide consists of legal information ONLY; information shared in this guide is NOT considered legal advice.



What is the *Canadian Human Rights Act* (*Human Rights Act*)?

The *Human Rights Act* is a federal law that protects all people legally in Canada from harassment and discrimination by federally regulated service providers and employers. Federally regulated service providers and employers defined under the *Human Rights Act* include:



**Federal Government
Departments, Crown
Corporations and Agencies**



Banks



Airlines



**Trucking
Companies**



**First Nations
Governments**



**Telecommunication
Companies**



**Interprovincial
Transportation
Companies**



**Marine Shipping,
Ferry, and
Port Services**



**Radio and
Television
Broadcasting**

Under the *Human Rights Act*, you can file a human rights complaint at the Canadian Human Rights Commission if you have experienced harassment, discrimination, and/or retaliation by any of the above-mentioned service providers and/or employers.

The *Human Rights Act* defines illegal **discriminatory practices** as:

- Denying someone goods, services, facilities, or accommodation
- Refusing to employ or continue to employ someone and treating them unfairly in the workplace
- Paying men and women differently when they are doing work of the same value
- Following policies or practices that deprive people of employment opportunities
- Harassing someone
- Retaliating against a person who has filed a discrimination complaint with the Commission, acted as a witness or represented the complainant

The *Human Rights Act* does not protect against all types of harassment and discrimination. The **discriminatory practice** must be connected to **prohibited grounds of discrimination** covered under the *Human Rights Act*. They are:

- race
- national/ethnic origin
- colour
- disability
- religion
- age
- **sex**
- **sexual orientation**
- **gender identity or expression**
- marital or family status
- genetic characteristics
- conviction for an offence for which a pardon has been granted OR for which a record suspension has been ordered

The *Human Rights Act* does not apply to situations of harassment and discrimination that occur in provincially regulated social areas. Read the **What is the Human Rights Code under Ontario's Human Rights System** guide for Ontario residents.



How Can I File a Workplace Sexual Harassment Complaint Against Federal Employer?

In Canada, two organizations make up the federal human rights system and administer the Canadian *Human Rights Act*. These organizations are:



Canadian Human Rights Commission (Commission):

The Commission is an independent agency responsible for administering the Canadian *Human Rights Act*. You must file your complaint to the Commission for review and assessment. The Commission reviews and assesses complaints to ensure the violation is covered by the *Act*. If the complaint cannot be resolved by the Commission, it may be dismissed or referred to the Canadian Human Rights Tribunal.



Canadian Human Rights Tribunal (CHRT):

The CHRT is the second level of the Federal Human Rights system. The CHRT is an independent tribunal that is less formal than a court of law. The CHRT only hears cases relating to discrimination based on evidence presented by complainants and respondents to make decisions about whether the discrimination occurred and award appropriate remedies.

Common Examples of Workplace Sexual Harassment under the *Human Rights Act*:

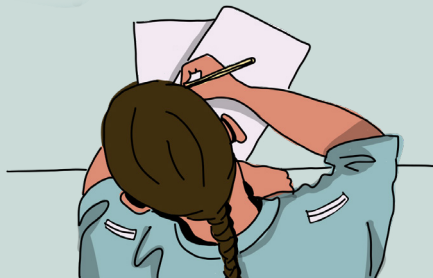
Example 1: A female worker at a telecommunications company is being sexually harassed by a co-worker with sexualized comments and repeated requests to go on a date. She refuses every time. She files a workplace complaint with her employer about the sexual harassment, but an investigation is not conducted; her employer reduces her duties and work hours. She submits a letter to her employer requesting to work in a different building away from the harasser. The employer gets angry and confronts her in front of other co-workers after receiving the letter.

After the confrontation, she receives a record of employment from her employer indicating she quit her job, which she did not. The female worker files a human rights complaint at the CHRC under the prohibited ground of sex.

Example 2: An Indigenous worker at a federal correctional facility is prevented from smudging and practicing other spiritual customs by his supervisor. His colleagues also harass him during mealtimes and assigned tasks. He asked the correctional facility management to provide accommodations for his spiritual practices and reported the harassment from the correctional officers as well. His accommodation requests and reports of harassment were ignored.



After reading a poster about the Commission, he files a human rights complaint under the prohibited grounds of race, national or ethnic origin, and religion. The discriminatory practices included in his application are denial of accommodations and harassment.



How Much Time Do I Have to File a Human Rights Complaint at the Canadian Human Rights Commission?



The deadline to file a human rights complaint to the Canadian Human Rights Commission is 12 months from the last discriminatory incident. If there are multiple incidents of discrimination, you should file your complaint based on the earliest incident. Contact the Canadian Human Rights Commission for specific legal advice about deadlines to file a complaint.

Things I Should Remember Before Filing a Federal Human Rights Complaint?



- The purpose of the *Human Rights Act* is to resolve the harm caused by the discrimination, not punish.



- The CHRT cannot punish federally regulated organizations or people working in federally regulated workplaces with jail time or costs.



- The CHRT can award compensation or corrective measures to resolve the harm caused by the discrimination.



- There are no fees to file a human rights complaint to the Commission.

- You are not required to have a lawyer represent you at the Canadian Human Rights Tribunal, however it is a good idea to speak a human rights lawyer for specific legal advice about the *Human Rights Act* and the Tribunal process.

- Contact both the Canadian Human Rights Commission and Ontario Human Rights Legal Support Centre if you are unsure if the harassment and/or discrimination falls under either the *Human Rights Act* or the Ontario *Human Rights Code* and need support about where to file your complaint.



Awards and Remedies I May Receive in a Federal Human Rights Case:*

**Remedies and awards are determined on a case-by-case basis at the Canadian Human Rights Tribunal.*



Potential remedies and awards available for federal human rights cases include:

- Orders to stop the discriminatory practices and introduce systemic measures to prevent future incidents of discrimination.
- Orders for the employer to provide the rights, opportunities, or privileges that were or are being denied.
- Compensation for lost wages or expenses incurred because of the discrimination (see the definition for special damages in the **What is the *Human Rights Code* under Ontario's Human Rights System Guide**).
- Compensation for buying alternative goods, services, facilities, or accommodations and for any expenses.
- Financial compensation, up to \$20,000, for pain and suffering
- Financial compensation, up to \$20,000, if the discriminatory practice was committed “wilfully or recklessly”

What Resources Can I Use to File a Human Rights Complaint at the CHRC?

1. Contact the **Canadian Human Rights Commission** to file a federal human rights complaint

National Call Centre:

Toll Free: 1-888-214-1090

TTY: 1-800-465-7735

Fax: 613-996-9661

Hours of operation: Monday to Friday, 8:00 a.m. to 8:00 p.m. (Eastern Time)

<https://www.chrc-ccdp.gc.ca/en/contact-us>

2. Find your community legal clinic for further support on the **Legal Aid Ontario** website: <https://www.legalaid.on.ca/legal-clinics>

3. Contact the Human Rights Legal Support Centre for free, confidential legal human rights legal services related to provincially regulated service providers and the Ontario *Human Rights Code*

Human Rights Legal Support Centre

Tel: (416) 597-4900

Toll Free: 1-866-625-5179 (Press "4" for Indigenous Services)

TTY: (416) 597-4903

TTY Toll Free: 1-866 612-8627

<https://hrlsc.on.ca/contact-hrlsc/>



Read more about other legal options you can use to address workplace sexual harassment with these helpful info sheets:

**Can I File a Human Rights
Complaint for Workplace
Sexual Harassment?**

**Can I File a Complaint
of Workplace Sexual
Harassment under
the Occupational Health
& Safety Act?**

**Can I Report Workplace
Sexual Harassment to Police?**

HRLSC | Human Rights Legal Support Centre

CAJDP | Centre d'assistance juridique
en matière de droits de la personne