



BRITISH COLUMBIA
HUMAN RIGHTS TRIBUNAL

2023/2024 ANNUAL REPORT

Covering the period April 1, 2023 through to March 31, 2024



The Tribunal's office is located on traditional unceded territories of the Coast Salish peoples, including the territories of the xʷməθkʷəy̓əm (Musqueam), Skwxú7mesh (Squamish), and səliłwətaɫ (Tseil-Waututh) Nations. The British Columbia Human Rights Tribunal gratefully acknowledges the traditional territories of the many diverse indigenous peoples in the geographic area that we serve.



Message from the Chair

On behalf of the Human Rights Tribunal Team, I present the Annual Report for fiscal year April 1, 2023 to March 31, 2024.

As demand again outstripped capacity this fiscal, the Tribunal faced continued challenges from its doubled annual case volume and the backlogs that accumulated from receiving roughly 8 years' worth of complaints over a 3-year period with a fraction of its current budget. As projected, the proportion of new complaints related to Covid-19 dropped again from roughly 10% of total new cases filed in the 2022-23 fiscal year to 1% in 2023-24. Meanwhile, the proportion of new complaints filed by people who self-identified as Indigenous fell slightly from 14% to 13%. The Tribunal closed the fiscal year with 5,930 active cases.

This year did mark a positive shift as increased funding allowed the Tribunal to take steps toward right-sizing its resources to meet its service demands. However, the funding increase was not enough to reduce delays or halt growth of the backlog. As the Tribunal works to tackle the still-growing backlog, moving older cases through its process, more cases continue to build behind. As a result, delays will persist across nearly every stage.

The Tribunal carefully triaged its resources between managing its backlog, the 2,500 new cases filed over the course of the year, work on process reforms, and carrying out the extraordinary work involved in restructuring while onboarding and training new resources. Notably, it took the first half of the year to complete the work of onboarding and training new staff with the increased budget. Even so, while not yet fully staffed and while temporarily diverting existing resources to hiring, onboarding and training new staff, the Tribunal managed to reduce the rate of growth of the backlog, adding roughly 500 cases this year versus the roughly 1,000 added to the active caseload last fiscal. The Tribunal also closed 700 more complaints this year than last fiscal. We also conducted about 150 more mediations than the previous year. With its increased capacity, the Tribunal launched a three-pronged backlog strategy halfway through the year. As a result of the considerable time and resources required to hire, onboard and train new resources, the Tribunal is once again posting an underspend this year. This is not expected to continue.

The first prong of the backlog strategy was a Covid case project to work through the Covid-related cases that had been paused for the previous year. That project commenced in August 2023. As at March 31, 2024, the Tribunal had closed 1,138 Covid cases leaving just 547 still active in the system. The second prong was a project to address the backlog of applications to dismiss complaints without a hearing. This saw the number of unassigned ATDs reduce from 314 at the start of the project in August 2023 to 52 at March 31, 2024. The third prong of the backlog strategy was a screening backlog project, which entailed the creation of a dedicated screening team, the development of screening templates, and a shift in screening thresholds to address a substantial backlog at the stage of screening where complaints are reviewed and provided an opportunity to file an amendment. Over the first 3 months of the screening backlog project, the Tribunal reduced the number of backlogged cases at that stage by about 400. The Tribunal is working to reform its screening process not only to address the backlog at that stage but also to ensure efficiency in the future.

I remain grateful to the dedicated Tribunal team, the Attorney General and Deputy Attorney General, and the staff at TASD for the ongoing support and hard work. We also appreciate the parties in our process who continue to extend us grace and understanding in the face of a stressful process. There has been meaningful, promising progress, but the work is slow. We remain steadfast in our commitment to continuously improve our service delivery within existing constraints. With the expanded, restructured Tribunal, we are hopeful that the momentum built over the last part of the fiscal year will continue into the next.

Emily Ohler, Chair
BC Human Rights Tribunal



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I. Introduction to the Human Rights Tribunal: Mandate and Process

For people experiencing discrimination in British Columbia, the Human Rights Tribunal is the main forum for recourse. Its mandate is the just and timely resolution of discrimination complaints under the *British Columbia Human Rights Code*. The *Code* is quasi-constitutional legislation. The protections it affords are fundamental to our society. The British Columbia Human Rights Tribunal is a direct-access model, where people can file complaints directly with the Tribunal when they believe they have experienced discrimination.

The first step once a complaint is filed is screening. The Tribunal screens complaints to determine whether it has jurisdiction over the matter, and whether the facts alleged could, if proven, constitute discrimination under the *Code*. Complaints that proceed past screening will then be sent to the Respondent, notifying them of the complaint against them and providing an opportunity to file a response to the complaint. Historically, roughly 75% of all complaints filed proceeded past screening. This number became less reliable as the Tribunal fell further behind in keeping up with the pace of new filings. As a result, to more accurately reflect the number of cases that proceed past screening, the Tribunal has changed the way it calculates its number. This year, we looked at the number of complaints screened that proceeded. This resulted in a decrease in the number of cases that proceeded past screening to 60%. The higher number of cases screened out may also be attributable to progress in clearing the backlog of mask-related Covid complaints.

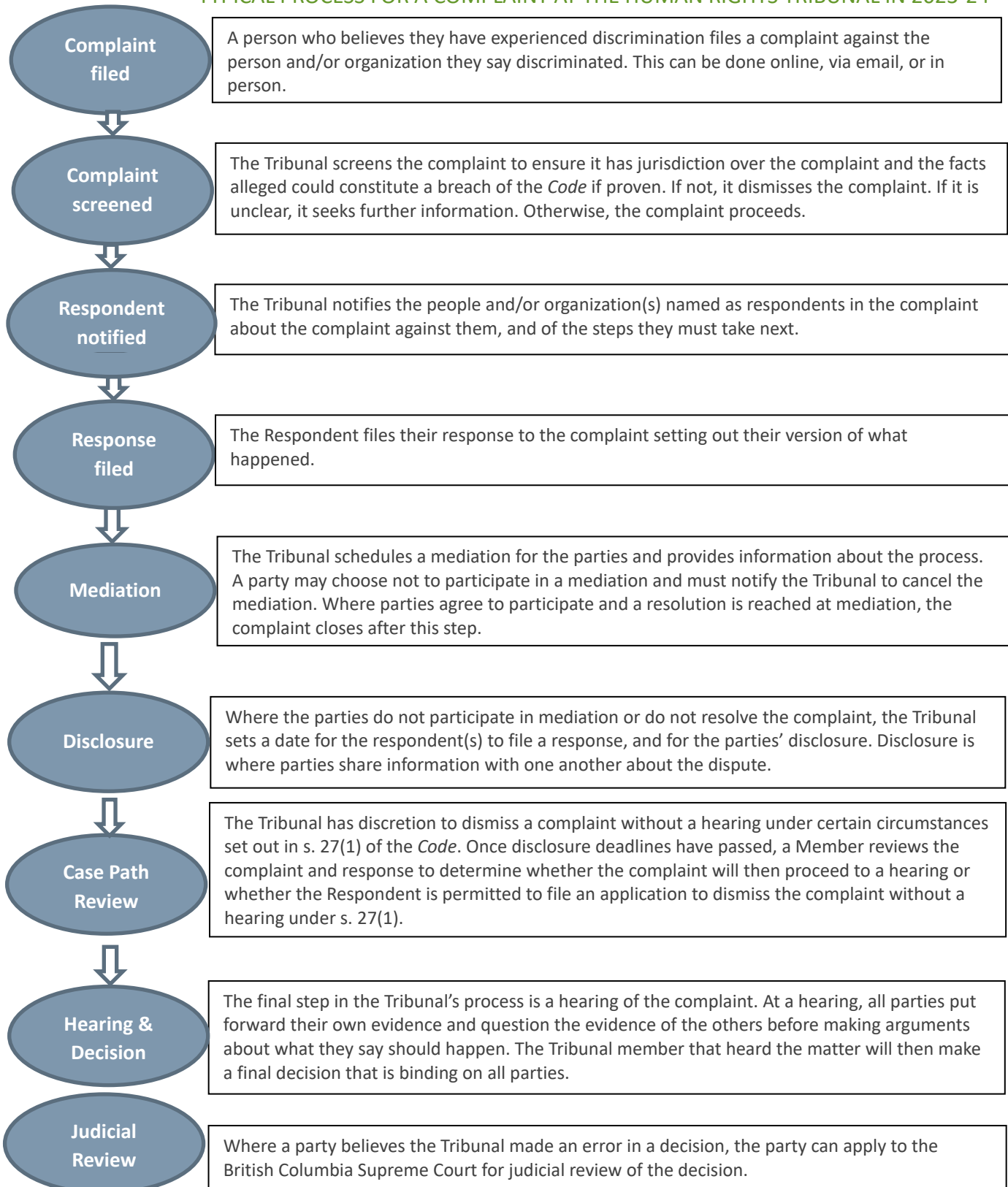
For cases that proceed past screening, the Tribunal then offers mediation services. Not all parties choose to use those services. The work done in previous years to build and strengthen the Tribunal's Mediation Program truly began yielding fruit this fiscal year. The Tribunal held 607 mediations, up from 452 last year. Of these, the resolution rate was 68%, up from last year's 58%.

Cases that do not resolve at mediation and continue through the process are assigned to Case Managers to guide through the system, and to Tribunal Members to make preliminary decisions, preside over hearings, and make final decisions after a hearing. Complex or high-conflict cases may require ongoing management by Members. This may take the form of regular telephone case conferences and/or issuing more detailed directions to parties as they move through the steps of the process.

A case leaves the Tribunal's system and is closed when parties withdraw it; parties resolve it (independently or through Tribunal mediation services); a Member dismisses it without a hearing on a summary process under s. 27 of the *Code*; or a Member hears it at a hearing and issues a final decision. Tribunal decisions are subject to applications for judicial review at the Supreme Court of British Columbia. This fiscal year, the Tribunal closed 2,063 cases, up significantly from last year's 1,357.



TYPICAL PROCESS FOR A COMPLAINT AT THE HUMAN RIGHTS TRIBUNAL IN 2023-24





II. Highlights & Challenges from the fiscal year 2023-24

GOVERNMENT SUPPORT AND INCREASED RESOURCES

The Government provided the Tribunal with its largest ever budget lift in the 2023/24 fiscal year in response to the Tribunal's consistent, transparent messaging about the volume-associated delays. The funding increase is welcome. While it addresses the Tribunal's doubled baseline case volume, it does not address the backlog accumulated over the 2020-2023 period where the Tribunal received 8,472 new cases.

The process of applying the new funding to hire, onboard and train new resources was lengthy, and required the Tribunal to divert resources to that effort over the course of the fiscal year. By October 2023, the Tribunal's increased Registry resources began to stabilize, and that month saw the Tribunal close more cases than it opened. November 2023 saw the expansion of the Tribunal's Member compliment, resulting in increased decision-making capacity and supporting the Tribunal's backlog strategy.

IMPROVING SERVICES FOR INDIGENOUS PEOPLE - EXPANDING OUR VISION

Testimony at the Canadian Senate in Ottawa

In April 2023, the Tribunal was invited to Ottawa to testify before the standing Senate Committee on Indigenous Peoples as part of their study on Indigenous Peoples and the Canadian Human Rights Framework. The subject was the federal government's role in the implementation of the National Inquiry into Missing and Murdered Indigenous Women and Girls' Call for Justice 1.7, which calls for the establishment of an independent National Indigenous and Human Rights Ombudsperson and a National Indigenous and Human Rights Tribunal.

There were two panels. The first consisted of Jennifer Khurana, Chairperson of the *Canadian Human Rights Tribunal*. The second consisted of Chair Ohler and Member Prince from the Tribunal; Patricia DeGuire, Chief Commissioner and Juliette Nicolet, Director, Policy, Education, Monitoring and Outreach from the Ontario Human Rights Commission; and Kathryn Oviatt, Chief of the Alberta Human Rights Commission.

Member Prince led the Tribunal's delegation, giving a powerful opening statement that centered Justice Walkem's Expanding Our Vision Report and the Expanding Our Vision Committee. The other Panelists gave similar remarks about the necessity of centering Indigenous People themselves in both the question and the answer. The floor then opened for questions.

There was general consensus that BC is doing work that is leading a way forward. It was an encouraging reminder that even though there is an enormous amount of work to do, we are making progress.

The Tribunal appreciated and learned from the opportunity to participate in the dialogue, and insofar as there may be continued dialogue in future, we hope the Senators will call on us again.



Indigenous Mediators

In the 2023-24 period, the Tribunal continued its work in refining the process for facilitating the. As with last year, Indigenous parties may request a mediation by a Mediator who is Indigenous. These requests have become relatively common. The Tribunal supports those Mediators in working with Indigenous parties to incorporate Indigenous cultural protocols and ensure cultural safety. This has included convening mediations in-person, on Territory, where requested by an Indigenous party; or modifying the typical adversarial-style of mediation process to incorporate other approaches.

INITIATIVES RELATED TO SPIKING CASE VOLUME & GROWING DELAYS

Covid-related complaints

On April 20, 2022, the Tribunal issued an emergency measure for mask-wearing complaints in order to prioritize the remainder of its backlog. It announced that it would not process these complaints until 2023-2024, at which time those cases would be resolved under a special project.

In the 2023-34 fiscal year, the Tribunal initiated a Covid case project as part of its backlog strategy that resulted in the resolution of 68% Covid-related cases. At March 31, 2024, 547 Covid-related cases remained open with the Tribunal having closed 1,138 since the first filing.

Screening Backlog Project

In January 2024, the Tribunal commenced its screening backlog project to address the large volume of complaints that had built up at the stage of seeking further information from complainants to determine if the case would proceed. The Tribunal piloted a revised screening process and added resources. As a result of the project, by March 31, 2024, the Tribunal saw the number of complaints in this stage of the screening backlog fell by roughly 400.

ATD Backlog Project

In June 2023, the Tribunal made the difficult decision to adjourn the majority of 2023 hearings of complaints filed in 2020 or later to dedicate Member resources to deciding outstanding applications. All hearings were scheduled, or re-scheduled, based on the date the complaint was filed, from oldest to newest. The Tribunal paused its review of complaints filed in 2020 or later, under its Case Path Pilot Project, which determines which will proceed to hearing and which may proceed through the application to dismiss process, in June 2023. In mid-December, 2023, the Tribunal lifted the pause and recommenced Case Path reviews. At the outset of the project, the Tribunal had 314 unassigned ATDs outstanding. By the end of the fiscal year, that number had dropped to 52.

Case-Path Pilot

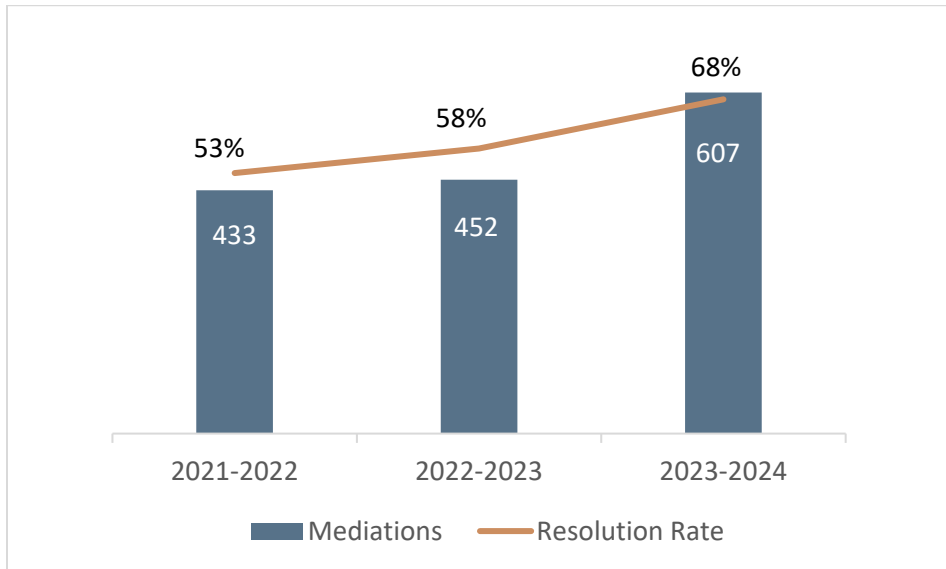
On May 6, 2022, the Tribunal issued a practice direction implementing a one-year pilot project regarding its process for allowing applications to dismiss complaints without a hearing. Under the pilot, the Tribunal more actively exercises its discretion in referring cases directly to a hearing or inviting applications to dismiss in certain circumstances. In May and November 2023, the Tribunal extended the Case Path Pilot pending completion of its process review.



Having made progress with the backlog that gave rise to the initial pause in ATDs issued in 2021, the Tribunal began deciding ATDs filed under its Case-Path Pilot in early 2024. In the next fiscal year, the Tribunal will be reviewing data associated with these ATDs to assess the efficacy of the pilot and inform its process review of how it administers its discretion under s. 27(1) of the *Code*.

Mediation Program

In May 2022, the Tribunal launched its internal Mediation Program, significantly increasing its mediation capacity through the expansion of its mediation team from 5 to 17 contract mediators and implementing a revised scheduling and assignment system. Settlement rates once again increased this fiscal year, to 68% from 58% last fiscal, and 53% the year before that.



Advisory Group on Group and Class Complaints

In April 2023, the Tribunal put out a call for volunteers to participate in an advisory group on group and class complaints. Recommendations will be considered within the ongoing process review, which the Tribunal expects to complete in 2025.

Restructuring

By the end of the fiscal year, the majority of the Tribunal's restructuring and hiring initiatives were complete. Between the increased capacity and the projects in the backlog strategy, the Tribunal closed over 700 more cases this fiscal than in the previous - nearly as many cases as were opened – and slowed the growth of the backlog. This shows that the Tribunal is nearly resourced to the level needed to manage its new increased regular case volume. It also highlights the challenges of keeping pace while also facing the backlogged cases that resulted from historic under-resourcing during the 3 years of case volume spikes.

The Tribunal's new organizational chart shows not only expanded resources, but a restructured organization that will provide sufficient administrative and operational infrastructure to support the complex, high-volume work of resolving complaints under the *Code*.



Multi-filer policy

In November 2023, the Tribunal began a special project to develop a strategy for the efficient management of multi-filers, noting that over 1,000 of the Tribunal's then-active cases were attributable to single individuals filing 5 or more complaints. The Tribunal expects to launch a pilot for the efficient management of multi-filer case groups early in the next fiscal year.

BUILDING COMMUNITIES OF PRACTICE

The Tribunal has worked to strengthen its relationships with human rights institutions across Canada, and to establish relationships with comparable institutions outside of Canada with a view to learning from others to improve its own processes while strengthening human rights infrastructure generally.

The Tribunal has also opened dialogues with comparable human rights dispute-resolution bodies in jurisdictions outside Canada to work toward ensuring best-practices in backlog management, alternative dispute resolution in human rights contexts, and other operational and process reform topics. In the 2023-24 year, these dialogues included the California Department of Civil Rights and the National Human Rights Commission of Taiwan.



III. Expanding our Vision: Improving Services for Indigenous People

Ensuring meaningful access and appropriate services for Indigenous people remains a central focus for the Tribunal. The Tribunal has continued to incorporate the recommendations identified in *Expanding Our Vision: Cultural Equality & Indigenous Peoples' Human Rights* (2020) [EOV Report] into its ongoing work to manage its backlogs and improve its process. In this section, we report on the Tribunal's ongoing progress: Recommendation 2.4.

ADVISORY COMMITTEE

The Tribunal's EOV Committee members over fiscal 2023-24 were:

- Laura Beaudry, Métis and Cree from the Kapawe'no First Nation, Policy Analyst with the Union of BC Indian Chiefs / articulated student
- Julie Birdstone, Ktunaxa Nation, Council Member for the Aqam Band, and the Governance Manager for Ktunaxa Kinbasket Child & Family Services
- Darrin Blain, First Nation lawyer, Darrin Blain Barristers
- Cynthia Callison, Callison & Hanna Indigenous Advocate, Tahltan Nation Member
- Debra Febril, member of the Nisga'a Nation, lawyer at CLAS's Human Rights Clinic
- Clint Kuzio, Member, Fish River Cree First Nation, Director of Indigenous Relations, and Program Development at the Cool Aid Society
- Niki Lindstrom, Sauteau First Nations, Director at the First Nations Housing and Infrastructure Council
- Tanya Lovrich, member of the Gitxaala Nation, Blackfish Clan and advocate with the Community Legal Assistance Society
- Elena Pennell, member of Alderville First Nation and Senior Policy Analyst with the Union of BC Indian Chiefs
- Tsee'tsee'watul'wit Sharon Thira, Executive Director, Education & Engagement, Office of the Human Rights Commissioner for British Columbia

Tribunal representatives on the Committee were:

- Devyn Cousineau, Vice Chair, Human Rights Tribunal
- Katherine Hardie, legal counsel, Human Rights Tribunal
- Shawnee Monchalin, citizen of the Métis Nation of Ontario, from the historic Métis community of Sault Ste Marie and legal counsel with the BC Human Rights Tribunal
- Amber Prince, Member, Sucker Creek (Cree) Nation, Member, Human Rights Tribunal

The Tribunal is grateful to Committee members who have so generously given of their time and acknowledges their work, expertise, and contributions.



EXPANDING OUR VISION: IMPLEMENTATION PROGRESS OVER FISCAL 2023-24

Indigenous Navigators

The Tribunal has now integrated the role of Indigenous Navigators into its case management processes in line with recommendation 9.2 in the EOV Report. Indigenous Navigators are specialized case managers. Working alongside other Case Managers, the Indigenous Navigators provide an added layer of safety and support for Indigenous parties accessing the Tribunal’s dispute resolution services. See: bchrt.bc.ca/indigenous-peoples-and-human-rights.

Process Review and Indigenous Case Stream

Recommendation 9 in the EOV Report is that the Tribunal “create an Indigenous specific stream within the BCHRT”. This fiscal year the Tribunal focused its resources on clearing its backlog and completing its overarching process review. In this regard, the Tribunal continued to consult the Committee about its processes, with a focus on its processes for group and class complaints and dismissal powers. Committee member Laura Beaudry joined the Advisory Group making recommendations about the process for resolving complaints on behalf of a class or group. The Tribunal has also focused on offering culturally appropriate services to Indigenous participants in its processes. Such services may include: the availability of an Indigenous Navigator, an Indigenous-based dispute resolution model, the participation of an Elder, or an Indigenous / community-based venue.

As with previous years, the Tribunal takes a distinct approach to screening complaints filed by Indigenous complainants. This approach is in response to the EOV Report finding that the screening process presents barriers to Indigenous complaints proceeding and being heard on their merits. These barriers serve to discourage Indigenous people from filing or continuing complaints at the Tribunal. This approach is also consistent with the EOV Committee’s feedback.

Training to develop cultural competency and safety

The Tribunal continued its ongoing learning to “reduce and eliminate procedural barriers that Indigenous Peoples face in accessing BCHRT services”: Recommendation 9.1; see also Recommendations 8.1 and 10.1. As with previous years, all staff and members met monthly in small groups to learn about topics including Indigenous Peoples and policing, and Indigenous Peoples and Health Care. Small groups also reflected on Indigenous Peoples Day and the National Day of Truth and Reconciliation. The Tribunal also conducted a survey of the learning done to date, and consulted with the EOV Committee, to inform its internal training plans going into the next fiscal year.

Training to organizations

This year, the Tribunal provided training to organizations providing advocacy for Indigenous people in human rights matters and public education about human rights, including: the Indigenous Community Legal Clinic, the Human Rights Clinic at CLAS, the Allard School of Law, the First Nations Education Steering Committee, and the Peoples Law School. See Recommendations 1.4, 1.6, 18.3.



Referrals to the BC Human Rights Clinic, AC Friends of Court, and other resources^[9]

The Tribunal has sought information from legal services providers and advocacy organizations about their services and resources available to Indigenous parties at the Tribunal. The Tribunal provides Indigenous parties with information about those resources and services, including the Human Rights Clinic and AC (Amici Curiae) Friends of Court. On request of a party, the Tribunal may directly refer them to a service provider. The Tribunal also provides other specialized referrals, based on its [updated list](#) of available resources across the province, and consultation with the EOJ Committee.

INDIGENOUS PARTIES AT THE TRIBUNAL

The EOJ Report identified the need to monitor the number of Indigenous people accessing the Tribunal to bring complaints. The Tribunal's complaint and response forms provide space for a party to self-identify as First Nations, Métis, or Inuit and request contact from an Indigenous Navigator to explain the process and talk about including Indigenous protocols or ways of resolving disputes in the process. See Recommendation 9.2.

In this fiscal year, 342 of new complainants requested contact from an Indigenous Navigator. This number represents about 13% of the Tribunal's new complaints.

TESTIMONY AT THE CANADIAN SENATE IN OTTAWA

As described earlier in this report, in April 2023, the Tribunal testified before the standing [Senate Committee on Indigenous Peoples](#) as part of their study on Indigenous Peoples and the Canadian Human Rights Framework, and in particular, [Call for Justice 1.7](#) to establish an independent National Indigenous and Human Rights Ombudsperson and a National Indigenous and Human Rights Tribunal.

Member Prince led the Tribunal's delegation with a powerful opening statement that centered Justice Walkem's Expanding Our Vision Report and the Expanding Our Vision Committee. The other Panelists gave similar remarks about the necessity of centering Indigenous People themselves in both the question and the answer.

There was general consensus that BC is doing work that is leading a way forward. It was an encouraging reminder that even though there is an enormous amount of work to do, we are making progress. Minutes and a transcript of that meeting can be found on the Senate website, [here](#).

^[9] EOJ Report recommendation 18.1



IV. Hearings and Final Decisions

After a hearing of a complaint on its merits, the Tribunal issues a final decision. In the 2023-24 fiscal year, the Tribunal held 47 hearings and issued 19 final decisions. Not all hearings that started this fiscal year concluded. Some continued into the next fiscal year. This number is similar to previous years:

- 2022-23 – 23
- 2021-22 – 21
- 2020-21 – 26
- 2019-20 – 29
- 2018-19 – 23
- 2017-18 – 14

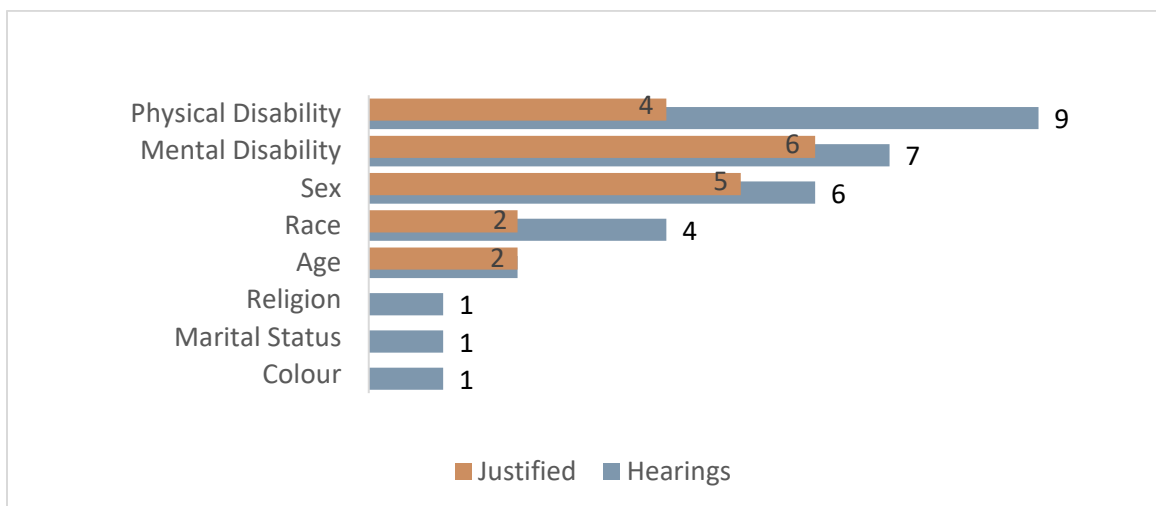
The average hearing was 5 days, with 5 hearings lasting 10 or more days and the longest hearing lasting 29 days. 4 hearings lasted 1 day.

In the 2023-24 fiscal year, complainants succeeded fully or in part in 12 of the 18 cases or 67% of the cases. This compares to previous years as follows:

- 2022-23 - 74%
- 2021-22 – 48%
- 2020-21 – 46%
- 2019-20 – 41%
- 2018-19 – 35%
- 2017-18 – 29%

GROUNDS AND AREAS OF DISCRIMINATION IN FINAL DECISIONS

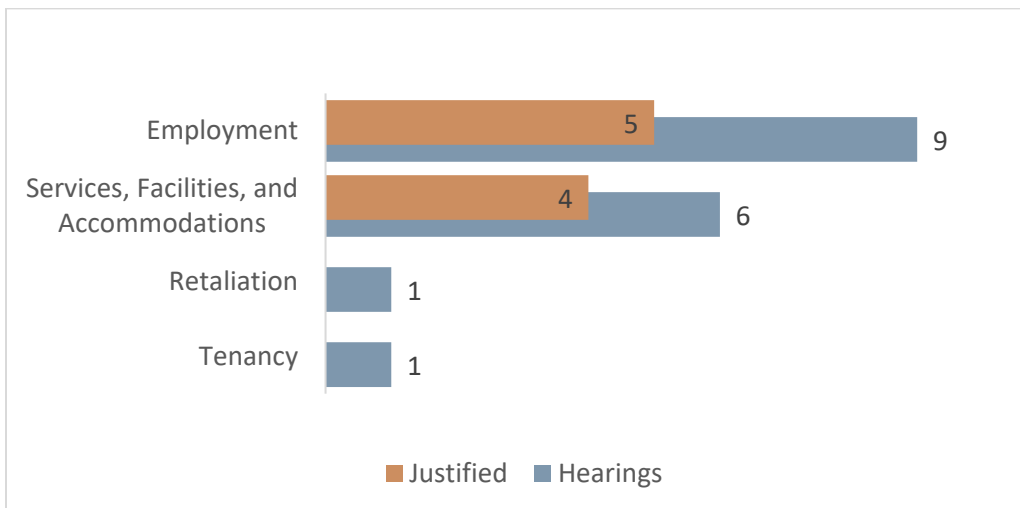
The final decisions dealt with the following grounds of discrimination:





Ground	Number of hearings	Number of complaints justified
Age	2	2
Ancestry	0	0
Colour	1	0
Criminal Conviction	0	0
Family Status	0	0
Gender Expression or Identity	0	0
Indigenous Identity	0	0
Marital Status	1	0
Mental Disability	7	6
Physical Disability	9	4
Place of Origin	0	0
Political Belief	0	0
Race	4	2
Religion	1	0
Sex	6	5
Sexual Orientation	0	0
Source of Income	0	0

The final decisions dealt with the following areas of daily life:





Area	Number of hearings	Number of complaints justified
Employment	9	5
Employment Advertisement	0	0
Wages based on sex	0	0
Membership in a Union, Employers' Organization, or Occupational Association	0	0
Services, Facilities, and Accommodations	6	4
Tenancy	1	0
Purchase of Property	0	0
Publication	0	0
Retaliation	1	0

CASE HIGHLIGHTS

Khabazian-Isfahani v. British Columbia (Ministry of Finance), 2023 BCHRT 94

Mr. Khabazian-Isfahani has disabilities that impact his ability to complete multi-step tasks and to meet deadlines. Mr. Khabazian-Isfahani qualified for the Fuel Tax Refund for Persons with Disabilities [**Program**] established under the *Motor Fuel Tax Act*. The *Act* sets out application for the refund. Mr. Khabazian-Isfahani applied for fuel tax refunds for 2011 to 2015 in 2018. The Respondent denied his applications for 2011, 2012, and 2013, because he submitted the claims after the deadline. He appealed. The Respondent said his appeal was received outside of the 90-day time limit established by the *Act* and so could not be considered.

Mr. Khabazian-Isfahani alleged that the strict application of the time limits to his refund application and his appeal was discrimination in a service on the basis of disability. The Respondents argued that the adverse impacts Mr. Khabazian-Isfahani complained of arose exclusively from the Legislature passing sections of the *Act* that established the time limits, not in a service customarily available to the public. Therefore, the Respondents said, the complaint could not be discrimination under the *Code*. The Tribunal agreed.

The Tribunal first defined the scope of the service in question. It found the Program was the service set up to administer refunds under the *Act* but did not encompass the section of the *Act* that set out the time limits. Therefore, administering refunds made outside the time limit was not a service ordinarily available to the public. Similarly, the Tribunal concluded there was no service that considered appeals of a decision made under the *Act* that were submitted outside the limitation date to appeal a refund decision. The Tribunal dismissed his complaint.



Kovacs v. Maple Ridge (City), 2023 BCHRT 158

Maria Kovacs lives in the City of Maple Ridge. She is blind and uses a guide dog. Ms. Kovacs alleged the City discriminated against her based on disability by creating barriers to her ability to get around when it reconstructed an intersection. Her complaint addressed three areas:

- Dewdney Trunk Road and 203 Avenue [DTR/203], including the pedestrian crossings at the intersection and a northbound bus stop on 203 Avenue immediately north of Dewdney Trunk Road [Bus Stop];
- Creston Avenue and 123 Street [Creston/123]; and
- Two roundabouts at 232 Street at 132 Avenue [232/132].

The City argued it had reasonably accommodated Ms. Kovacs. It said it went through extensive professional design and consultation processes, striving to meet the needs of people of all ages and abilities, while balancing complex and competing interests and technical issues. It said it followed guidelines and best practices for BC and Canada, and incorporated accommodation short of undue hardship into its practices.

The Tribunal found the City breached the *Code* in the DTR/203 area but did not agree it did so in relation to the other two areas. It found Ms. Kovacs was not able to cross safely and independently at the DTR/203 intersection because there was no non-visual information about where she should cross or at what angle. The City did not establish that it could not accommodate Ms. Kovacs by providing alignment and directional information at that intersection. There was no evidence that adding tactile alignment and directional information would have impeded its redesign goals and the City did not adduce evidence about cost.

The Tribunal also found the reconstruction of the DTR/203 created a barrier for Ms. Kovacs's Bus Stop use for two reasons: where the City placed uncontrolled bike lanes and the bus stop pole. The Tribunal was unpersuaded that the City had reached the point of undue hardship. For example, the City did not consider whether it should require cyclists to dismount by the Bus Stop and presented only impressionistic evidence that a bench or shelter could not be installed near the Bus Stop.

The Tribunal dismissed the complaint as it related to Creston/123 and 232/132. It found there were barriers for Ms. Kovacs in those areas. However, it concluded the City could not have reasonably accommodated Ms. Kovacs at Creston/123 and 232/122 because she did not make the City aware of her concerns.

L. v. Clear Pacific Holdings Ltd., 2024 BCHRT 14

Ms. L alleged the Respondents discriminated against her based on sex and disability. She worked as an executive assistant to the individual respondent for 21 months. The Tribunal found that, throughout the employment relationship, the individual respondent subjected her to sexual comments and innuendo, unwanted touching, and unwelcome flirtation. He sexually assaulted her by getting her intoxicated. In addition, the Tribunal found he leveraged his gendered and economic power over Ms. L and exploited her cocaine use disorder to control her. The Tribunal found none of this conduct could be extricated from Ms. L's sex and disability and concluded his conduct was discriminatory.



Though some of the discriminatory conduct occurred outside of BC, the Tribunal was satisfied it had jurisdiction because there was a sufficient connection between the province and the employment relationship. The Tribunal relied on the fact that the employment relationship formed in BC, the Respondent companies were registered in BC, and Ms. L's usual places of employment were the individual respondent's BC house and then his yacht. Ms. L only travelled outside BC to work as the individual respondent's personal assistant. Therefore, the Tribunal found it had jurisdiction over the entirety of the complaint.

The Tribunal awarded Ms. L \$100,000 in damages for injury to dignity, feelings, and self-respect. This is the highest amount that the Tribunal has awarded for sexual harassment and assault. The Tribunal found the increase was justified: (1) by the nature of the discrimination, which lasted longer than other cases, pervaded almost all aspects of Ms. L's employment, and included physical and sexual violence; (2) by the evidence Ms. L presented of the lifelong impact the discrimination had on all aspects of her life, and; (3) the award was consistent with the upward trend of the Tribunal's awards, and with awards made in Ontario.



V. Public Interest Disclosure Act

The Tribunal did not receive any disclosures as defined under the *Public Interest Disclosures Act* over the reporting period. The Tribunal is unaware about any disclosures of which it, its staff, or its members (past or present) is alleged to have committed any wrongdoing.



VI. Judicial Reviews and Appeals

The *Human Rights Code* does not provide for appeals of Tribunal decisions. Instead, a party may apply for judicial review in BC Supreme Court, under the *Judicial Review Procedure Act*.

Judicial review is a limited type of review. Generally, the court considers the information that the Tribunal had before it and decides if the Tribunal made a decision within its power. The court applies standards of review in s. 59 of the *Administrative Tribunals Act [ATA]* to determine if the Tribunal's decision should be set aside. If the Tribunal's decision is set aside, the usual remedy is to send it back to the Tribunal for reconsideration.

A decision on judicial review may be appealed to the BC Court of Appeal. There is a further appeal to the Supreme Court of Canada if that Court agrees to hear it.

There is a 60-day time limit for judicial review of final decisions set out in the *ATA*.

This year, the Tribunal received 10 petitions for judicial review filed in the BC Supreme Court and two notices of appeal filed with the BC Court of Appeal. There were two leave applications filed with the Supreme Court of Canada.

JUDGMENTS ON PETITIONS AND APPEALS

The BC Supreme Court issued seven judgments regarding petitions from Tribunal decisions. The Court:

- dismissed a petition raising an issue about the application of Rule 23.1,
- dismissed an application made by a vexatious litigant for leave to file a petition,
- upheld a decision dismissing a complaint at the screening stage under s. 27(1)(b) of the *Code*,
- dismissed a petition regarding a decision denying an application to dismiss a complaint under s. 27(1) of the *Code* as premature,
- remitted a decision denying an application to dismiss a complaint under s. 27(1)(g) of the *Code* for reconsideration,
- upheld one final decision made after a hearing on the merits and remitted another for reconsideration.

The BC Court of Appeal issued three judgments, each upholding the Tribunal's decision under review.

The Supreme Court of Canada denied one application for leave to appeal.

CLARIFYING THE LAW ON FAMILY STATUS

The BC Court of Appeal confirmed the legal test applied to prove family status discrimination in *British Columbia (Human Rights Tribunal) v. Gibraltar Mines Ltd.*, 2023 BCCA 168.

The facts of *Gibraltar* were discussed in the Tribunal's 2021-2022 annual report. The principal issue on appeal was whether family status discrimination required a two-part test: (i) there has been a change in



term or condition of employment; and (ii) such a change resulted in a “serious interference with a substantial parental or other family duty or obligation”.

The BC Court of Appeal confirmed the Tribunal was correct in holding family status discrimination does not require a change in term or condition of employment. The case has been remitted to the BC Supreme Court for consideration of remaining issues, including prematurity.

PREMATURITY ON JUDICIAL REVIEW

The Court heard two petitions that raised the “prematurity principle” this year. In both cases, the Court recognized that the petitioner must establish exceptional circumstances to warrant judicial review of a Tribunal decision before the complaint process has finished.

- *Fraser Health Authority v Rush*, 2023 BCSC 1101, allowed for exceptional circumstances related to an incorrect date that amounted to a material effect in the Tribunal’s analysis under s. 27(1)(g)
- *British Columbia Teachers’ Association v Neufeld*, 2023 BCSC 1460, dismissed as premature.

VEXATIOUS LITIGANTS

The courts considered an appeal and an application by a vexatious litigant for leave to file a petition for judicial review:

- *Gichuru v. Purewal*, 2023 BCCA 345 (*Gichuru*), appeal dismissed. The Court confirmed the test to be applied when a vexatious litigant seeks leave to file a new proceeding.
- *Tosen v Starbucks Coffee Company*, 2024 BCSC 253, application for leave dismissed. The Court considered and applied the principles set out in *Gichuru*, mainly, (i) the rationale for vexatious litigant orders is to prevent parties from wasting court resources and to protect prospective defendants from the frustration and expenditure required to mount a defence to a frivolous lawsuit, (ii) vexatious litigant orders are issued sparingly, (iii) the severity of the order is tempered by the ability of the litigant to apply for leave to bring proceedings, and (iv) a leave application involves an exercise of judicial discretion as to whether leave should be granted. The applicant must convince the court that the proposed claim “is of sufficient merit to justify bringing the responding party before the court, and to justify the expenditure of public resources to resolve the dispute”.

DISCRETION TO ORDER USE OF A DOCUMENT FOR ANOTHER PURPOSE: RULE 23.1(2)(B)

Highlighted Judgement: *Okanagan School District No. 23 v Noël*, 2023 BCSC 2408

This was a judicial review of a Tribunal decision under Rule 23.1(2)(b), dismissing an application to use documents disclosed in the Tribunal proceeding for another purpose: *Noël v. School District No. 23 and another*, 2023 BCHRT 4, reconsideration denied: 2023 BCHRT 51. Before the Tribunal, the School District sought leave to use surreptitious recordings made by the complainant for the purposes of investigating her conduct.

This is the first time a Tribunal decision under Rule 23.1(2)(b) has been judicially reviewed.



The Court dismissed the petition and found a Tribunal decision under Rule 23.1(2)(b) is “purely discretionary” and is “reviewed deferentially by the Court on the very high patently unreasonable standard of review”. The Court concluded that the petitioner had not established the Tribunal’s decision was patently unreasonable.

The Court noted that the Tribunal’s specialized knowledge underlies the Court’s deferential approach to the Tribunal’s decision. The Tribunal has specialized knowledge about the vulnerability of people making complaints to the Tribunal, particularly in the context of employment relationships, and this knowledge may be relevant when considering the potential consequences of granting leave under Rule 23.1(2)(b) to permit an employer to conduct a workplace investigation.

JUDGMENTS ON OTHER MATTERS

The courts made decisions on:

- An alleged breach of bias and procedural fairness: *Harun-ar-Rashid v. British Columbia (Human Rights Tribunal)*, 2023 BCCA 276
- Application for advanced or interim costs: *Harun-ar-Rashid v. British Columbia (Human Rights Tribunal)*, 2023 BCCA 275
- Petition to enforce an alleged settlement agreement: *Sayyari v. Provincial Health Services Authority*, 2023 BCCA 413
- Application of *ex turpi causa* doctrine: *Dodd's Furniture Ltd. v Singh et al.*, 2023 BCSC 2030

SUPREME COURT OF CANADA DECISION

The Supreme Court of Canada denied leave from the BC Court of Appeal’s decision in:

- *Akm Harun-ar-Rashid v. British Columbia Human Rights Tribunal and His Majesty the King in Right of the Province of British Columbia, et al.*, 2024 SCC 10152

JUDGMENTS UNDER APPEAL

There are two BC Supreme Court decisions under appeal:

- *Skerry v. British Columbia (Human Rights Tribunal)*, 2023 BCSC 1819, the BC Supreme Court dismissed the petition reviewing the Tribunal’s decision to not accept a complaint for filing.
- *Vancouver Aboriginal child and Family Services Society v. R.R.*, 2024 BCSC 97, discussed in last year’s annual report. The BC Supreme Court set the Tribunal’s decision aside and remitted it for reconsideration. The remittal order has been stayed until determination of the appeal.



VII. Financial Disclosure: Tribunal Operating Costs

Although Tribunal expenditures in fiscal year 2023-24 exceeded the delegated budget, approval was received from the Ministry of Attorney General to access up to \$1,500,000 in contingency funding. The Tribunal deployed the emergency funds by:

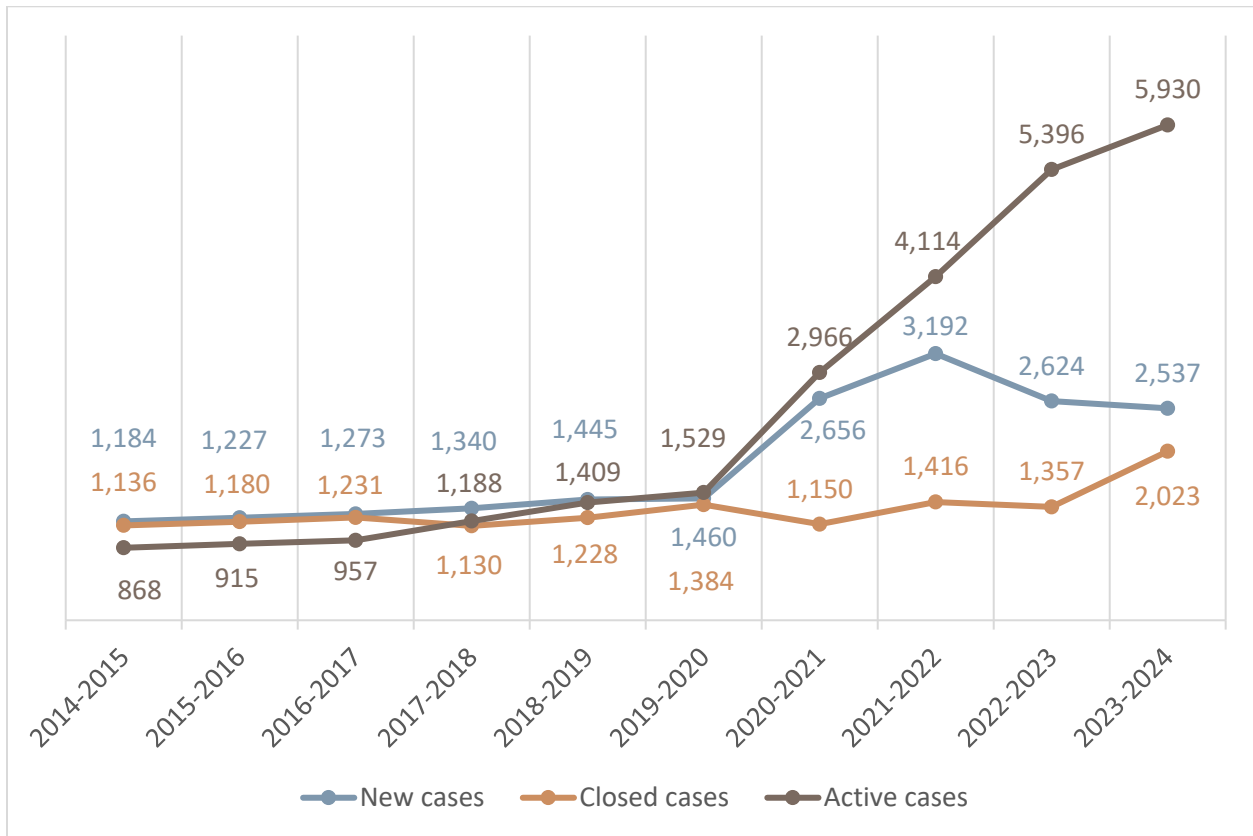
- Hiring staff and onboarding Tribunal members.
- Contracting with 17 mediators to provide mediation services at lower cost and free-up member resources for decision-making and adjudication.

The Tribunal did not use the full amount of the contingency funding because of delays in hiring processes.

Description	Expenditures	Delegated budget	Variance
Salaries	\$4,634,461	\$4,629,000	\$(5,461)
Supplementary Salary Costs	\$3,852	\$1,000	\$(2,852)
Employee Benefits	\$1,178,948	\$1,176,000	\$(2,948)
Fees for Temporary Members	\$350,011	\$125,000	\$(225,011)
Travel	\$7,499	\$20,000	\$12,501
Professional Services	\$596,786	\$600,000	\$3,214
Information Services	\$150,181	\$130,000	\$(20,181)
Office and Business Expenses	\$150,768	\$75,000	\$(75,768)
Other Expenses	\$10,373	\$-	\$(10,373)
Subtotal	\$7,082,880	\$6,756,000	\$(326,880)
CONTINGENCY FUNDING		\$1,500,000	
TOTAL	\$7,082,880	\$8,256,000	\$1,173,120



Appendix 1: Case Volume



Year	New cases	Closed cases	Active cases
2014-2015	1,184	1,136	868
2015-2016	1,227	1,180	915
2016-2017	1,273	1,231	957
2017-2018	1,340	1,130	1,188
2018-2019	1,445	1,228	1,409
2019-2020	1,460	1,384	1,529
2020-2021	2,656	1,150	2,966
2021-2022	3,192	1,416	4,114
2022-2023	2,624	1,357	5,396
2023-2024	2,537	2,023	5,930

NEW CASES FILED 2023-2024

The Tribunal is a direct-access Tribunal meaning that people who believe they have experienced discrimination can file a complaint directly with the Tribunal against the person or organization they say discriminated. The Tribunal does not investigate, but functions like a court, only less formal. It is responsible for setting and administering the steps in the human rights process.



People filed a total of 2,537 new cases with the Tribunal this fiscal year. Of these, 32 related to the Covid-19 Pandemic, a marked reduction in this category of cases. This suggests that the Tribunal has entered a post-Covid stage where its volume has become representative of its new baseline.

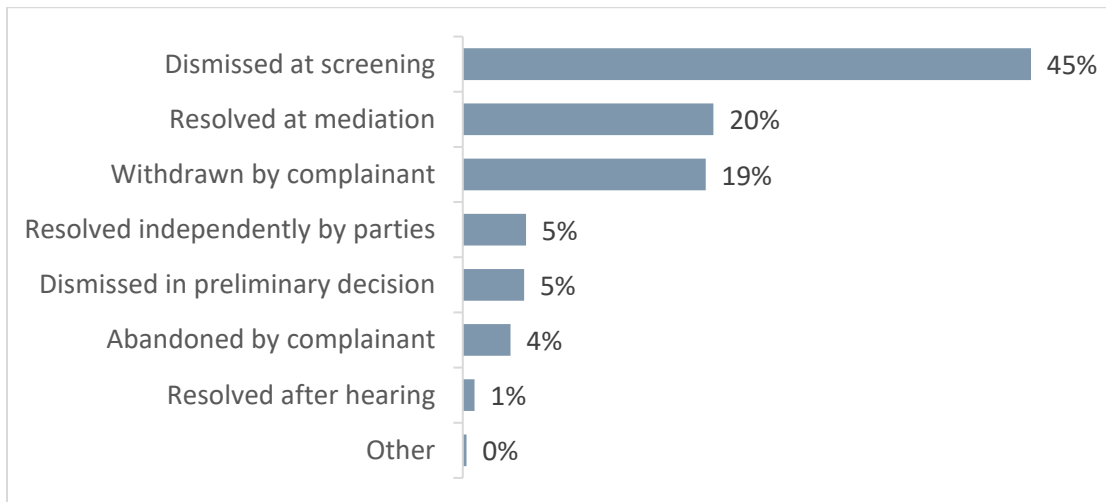
ACTIVE CASES

The fiscal year started with an all-time high number of active cases and ended with a greater number still, with 5,930 active cases at March 31, 2024.

The additional active cases this fiscal year are mainly in the early stages of our process with backlogs particularly acute at the screening stage. The existing inventory continues to present an enormous challenge for the coming fiscal year.

CASES CLOSED 2023-2024

Human rights cases close for a number of reasons. They may be dismissed at the screening stage; resolved by the parties independently or through a Tribunal-facilitated mediation; or resolved by a Tribunal decision. The Tribunal closed 2,023 complaints in the 2023-24 fiscal year. A summary of the cases closed is below.



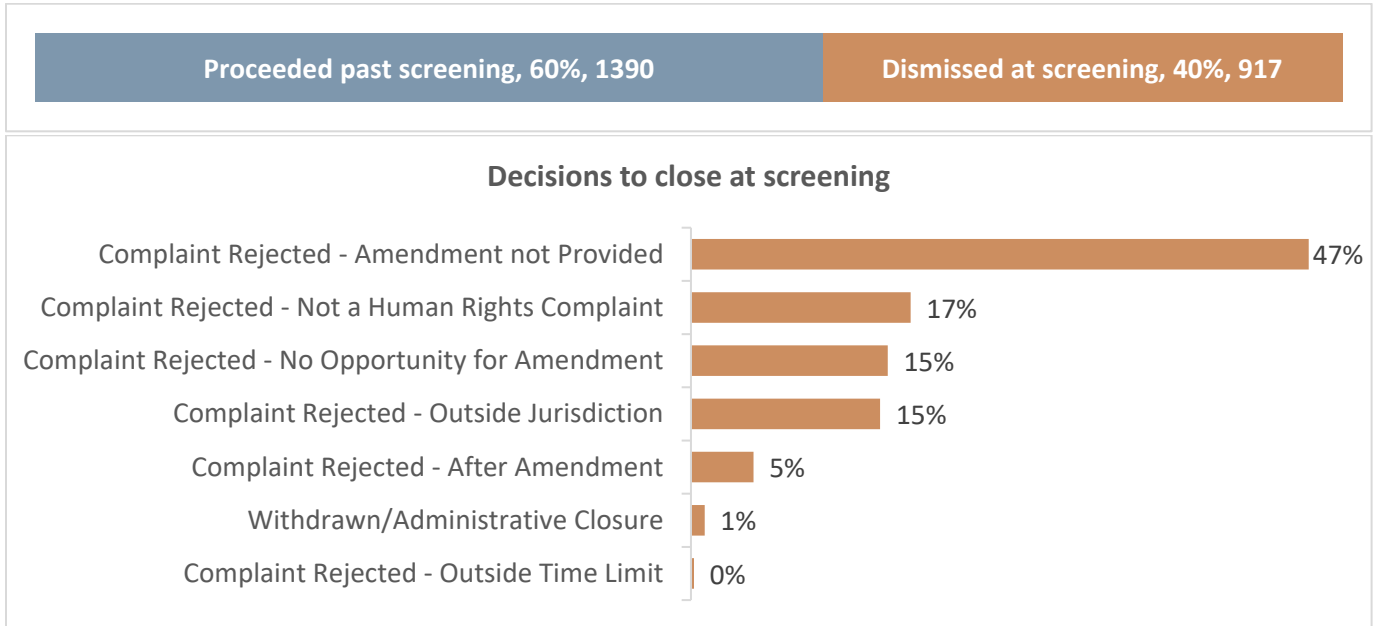
Reason to close	Cases closed	Percentage
Dismissed at screening	917	45%
Resolved at mediation	411	20%
Withdrawn by complainant	392	19%
Resolved independently by parties	102	5%
Dismissed in preliminary decision	99	5%



Abandoned by complainant	77	4%
Resolved after hearing	19	1%
Other	6	0%
Total	2023	100%

Dismissed at screening

Screening ensures complaints are within the Tribunal’s jurisdiction, are timely, and set out a possible contravention of the *Human Rights Code*. This fiscal year, roughly 60% of screened complaints proceeded past screening. 40% of complaints were dismissed at screening. As noted earlier in this report, this number appears higher than in past years. The Tribunal calculated this figure based on a different formula than previously, namely, the number of cases screened that did not proceed versus the number of cases filed that were dismissed at screening.



Resolved at mediation

Once a complaint proceeds past screening, many cases resolve through mediation, which remains a significant method of resolution by parties. The Tribunal offers free mediation services to parties, and works to make these services available at any stage of the proceeding with an emphasis on early resolution.

Mediations are confidential, and the Tribunal does not publish the results. In many cases, mediations resolve other aspects of the parties’ relationship and can have transformative impacts in the justice system. Mediated settlements may also result in systemic change that is beyond the scope of remedies available under the *Human Rights Code* after a hearing.



As noted earlier in this Report, the Tribunal conducted 607 mediations over the fiscal period, of which 411 resolved, representing 20% of the overall number of cases closed

Resolved independently by parties

Parties are encouraged to settle complaints on their own, especially where all are represented by a lawyer. This year, 5% of the cases closed resulted from settlement by the parties without Tribunal assistance.

Dismissed in preliminary decision

Over the course of the fiscal year, the Tribunal issued a total of 270 dismissal application decisions, of which 99 cases were dismissed, representing 5% of the overall number of cases closed.

Resolved after hearing

Cases that do not resolve through mediation, independently by the parties, or through a summary assessment such as an application to dismiss under s. 27(1) go to a hearing. Over the fiscal year 2023-24, the Tribunal issued a total of 19 final decisions, representing 0.93% of the overall number of cases closed. Of those decisions, 7 cases were dismissed, representing 0.35% of the overall number of cases closed.

Withdrawn or abandoned by complainant

There are many reasons why complainants withdraw their cases, including finding resolution in other proceedings, strategic or personal decisions related to the time and effort required to pursue a case, or simply due to delays in finding resolution. This year, 19% of complaints closed because the complainant withdrew their complaint, and 4% of complaints closed because the complainant abandoned their complaint.

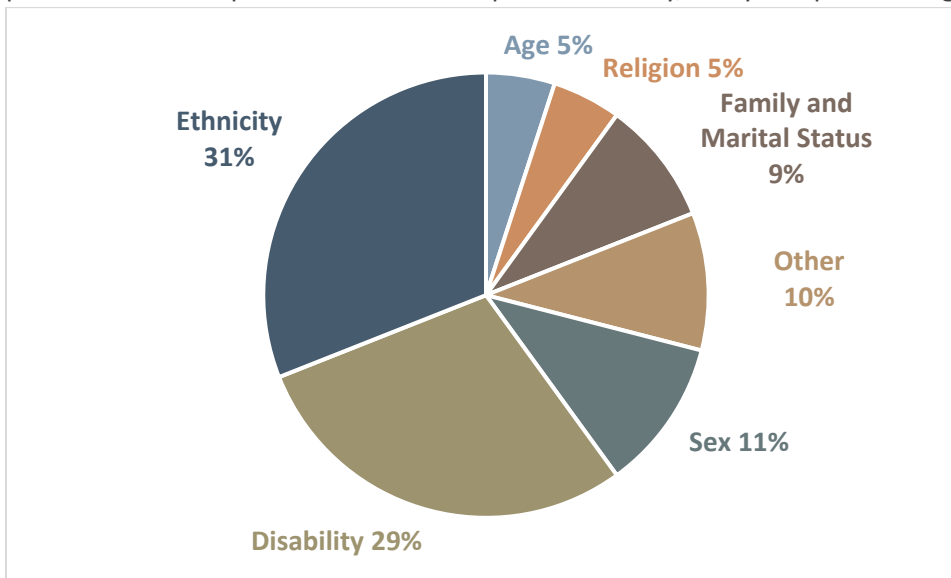


Appendix 2: Complaints by Areas and Grounds of Discrimination

The *Code* protects people from discrimination in eight specific areas of life on the basis of 16 specific protected characteristics, or “grounds”. The protected areas of life are employment, service, publication, tenancy, membership in unions and associations, employment advertisements, wages, and purchase of property. The *Code* also prohibits retaliation against a person who has or may have involvement in a complaint or inquiry by the Commissioner. The protected grounds are physical disability, mental disability, sex (including sexual harassment and pregnancy), race, place of origin, colour, ancestry, age (19 and over), family status, marital status, religion, sexual orientation, gender identity and expression, political belief, unrelated criminal conviction, and lawful source of income. Not all grounds apply to all areas. A complaint may also include more than one area or ground of discrimination. For instance, an employment-based complaint may also include the area of wages; a race-based complaint may also include grounds of ancestry, colour and place of origin.

COMPLAINTS BY GROUNDS OF DISCRIMINATION

In the 2023-24 fiscal year, ethnicity (which includes race, place of origin, ancestry, Indigenous Identity, and colour) was the most common ground of discrimination (31%); followed by disability (29%); sex (11%); family and marital status (9%), age (5%), and religion (5%). The grounds of sexual orientation and political belief composed 4% of new complaints. Notably, many complaints allege more than one ground.



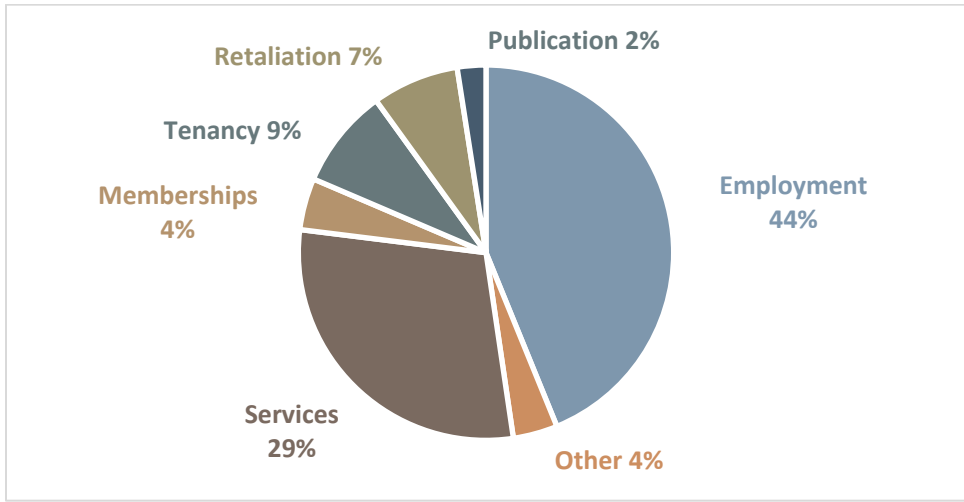
Ground of discrimination	Complaints filed in 2023-24 fiscal year	Percentage
Total – Disability	2178	29%
• Physical Disability	999	13%
• Mental Disability	1179	16%
Total – Ethnicity	2305	31%



• Race	771	10%
• Place of Origin	457	6%
• Ancestry	355	5%
• Indigenous Identity	274	4%
• Colour	448	6%
Total – Sex	850	11%
• Sex, Harassment, Pregnancy	619	8%
• Gender Identity or Expression	231	3%
Total – Family and Marital Status	695	9%
• Family Status	451	6%
• Marital Status	244	3%
Age	343	5%
Religion	337	5%
Total – Other	756	10%
• Sexual Orientation	211	3%
• Unrelated Criminal Conviction	37	0%
• Political Belief	102	1%
• Lawful Source of Income	37	0%
• Retaliation and Undetermined Grounds	369	5%

COMPLAINTS BY AREAS OF DISCRIMINATION

Employment cases have historically made up about 60% of the Tribunal’s overall caseload. This year that percentage was 44%, compared with last year’s 50%. Service complaints, which have historically been around 23%, were 29%, versus last year’s 27%. These changes are largely attributable to the decrease of pandemic-related services complaints related to mask wearing and proof of vaccination.



Area of discrimination	Complaints filed in 2023-24 fiscal year	Percentage
Employment	1475	44%
Services	986	29%
Tenancy	290	9%
Retaliation	252	7%
Membership in a Union, employer's organization, or occupational associations	150	4%
Other	112	3%
Publication	83	2%
Purchase of Property	14	0%
Employment Advertisement	3	0%



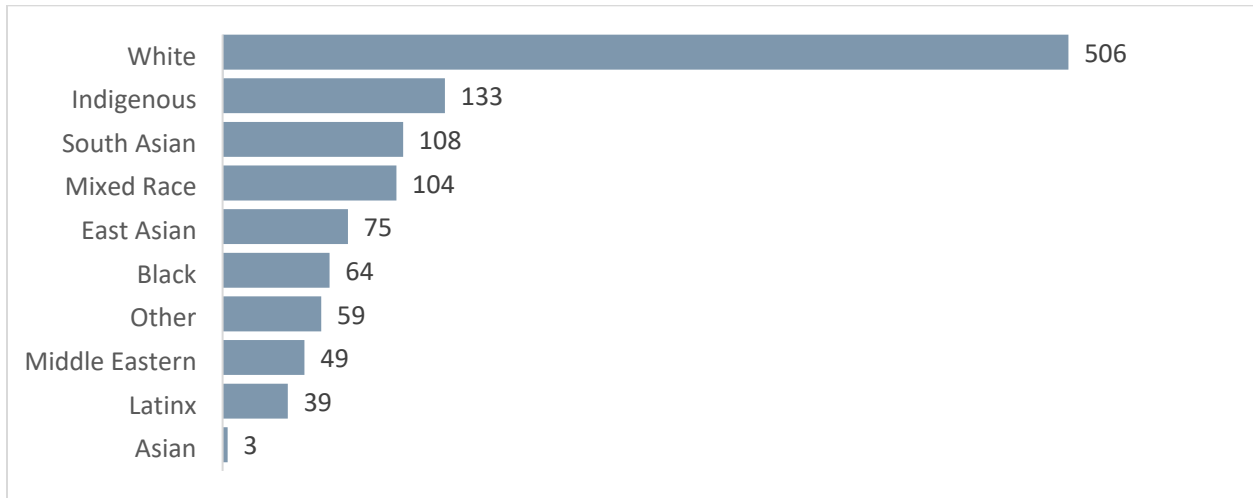
Appendix 3: Who is filing complaints?

COMPLAINANTS' DEMOGRAPHIC INFORMATION

At the end of June 2020, the Tribunal began collecting demographic information from complainants on a strictly volunteer and confidential basis. Approximately 55% of complainants opted to provide some demographic information. Based on this data, the Tribunal can report on who is accessing and using its process between April 2023 and March 2024 as set out below.

Racial Identity

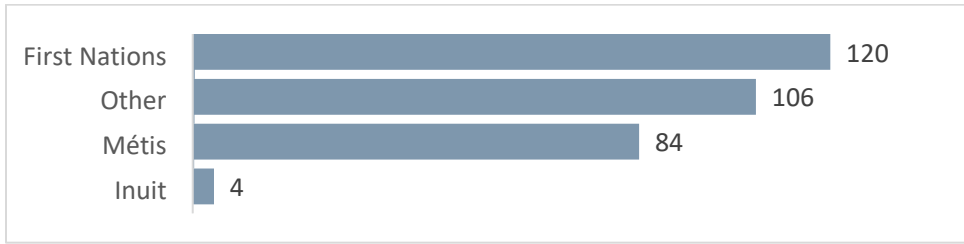
48% of complainants opted to provide racial identity information.



Racial Identity	Complainants	Percentage
White	506	44%
Indigenous	133	12%
South Asian	108	9%
Mixed Race	104	9%
East Asian	75	7%
Black	64	6%
Other	59	5%
Middle Eastern	49	4%
Latinx	39	3%
Asian	3	0%

Indigenous Identity

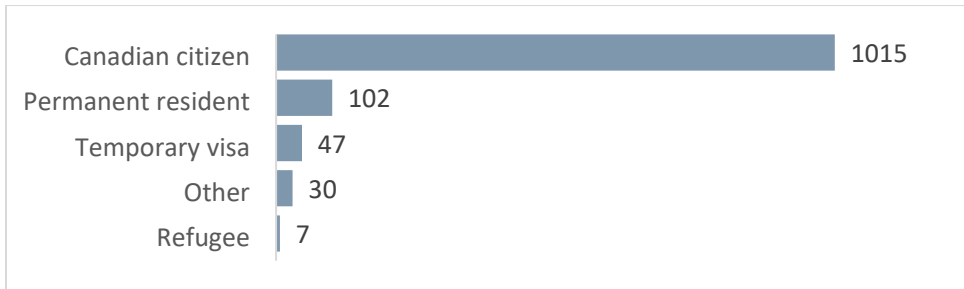
13% of complainants opted to provide indigenous identity information.



Indigenous Identity	Complainants	Percentage
First Nations	120	38%
Other	106	34%
Métis	84	27%
Inuit	4	1%

Immigration Status

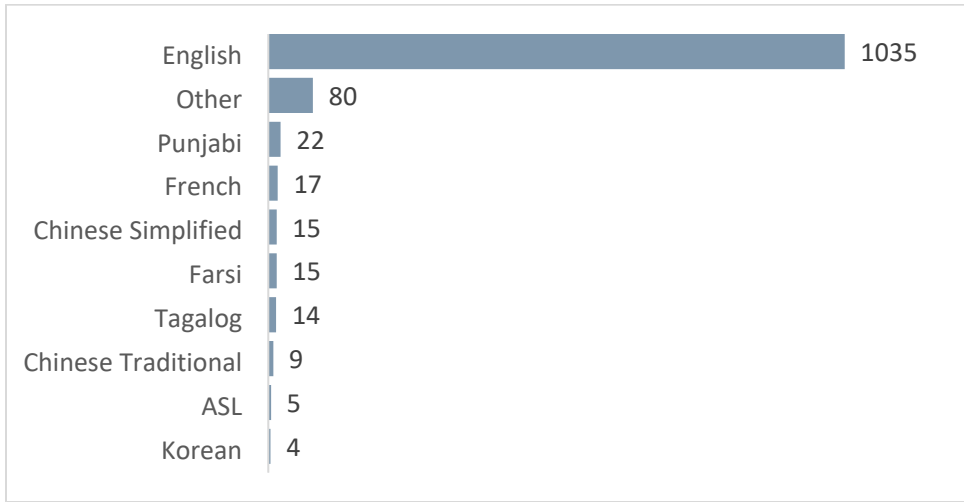
50% of complainants opted to provide immigration status information.



Immigration Status	Complainants	Percentage
Canadian citizen	1015	85%
Permanent resident	102	8%
Temporary visa	47	4%
Other	30	2%
Refugee	7	1%

Language

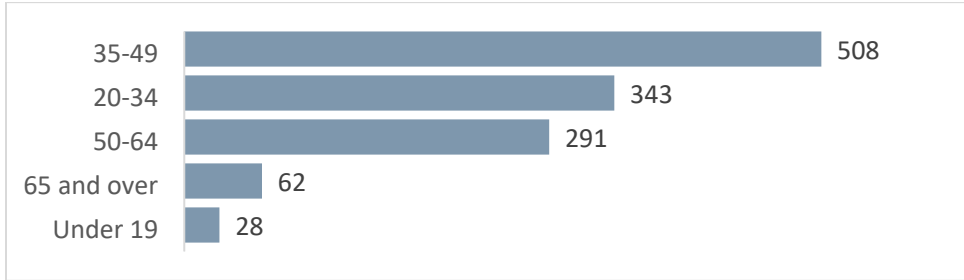
51% of complainants opted to provide language information.



Language	Complainants	Percentage
English	1035	85%
Other	80	7%
Punjabi	22	2%
French	17	1%
Chinese Simplified	15	1%
Farsi	15	1%
Tagalog	14	1%
Chinese Traditional	9	1%
ASL	5	0%
Korean	4	0%

Age

52% of complainants opted to provide age information.



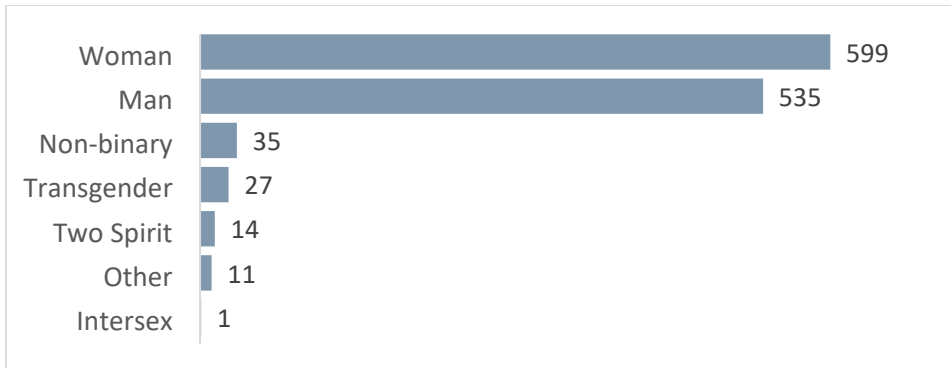
Age	Complainants	Percentage
35-49	508	41%
20-34	343	28%



50-64	291	24%
65 and over	62	5%
Under 19	28	2%

Gender Identity

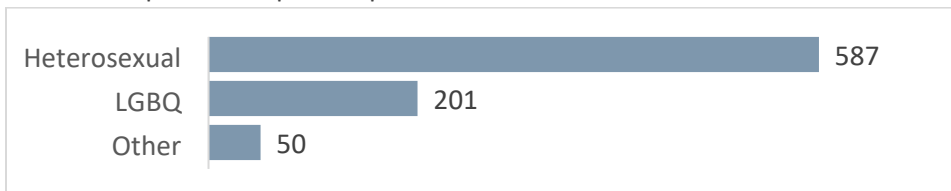
51% of complainants opted to provide gender identity information.



Gender Identity	Complainants	Percentage
Woman	599	49%
Man	535	44%
Non-binary	35	3%
Transgender	27	2%
Two Spirit	14	1%
Other	11	1%
Intersex	1	0%

Sexual Orientation

35% of complainants opted to provide sexual orientation information.

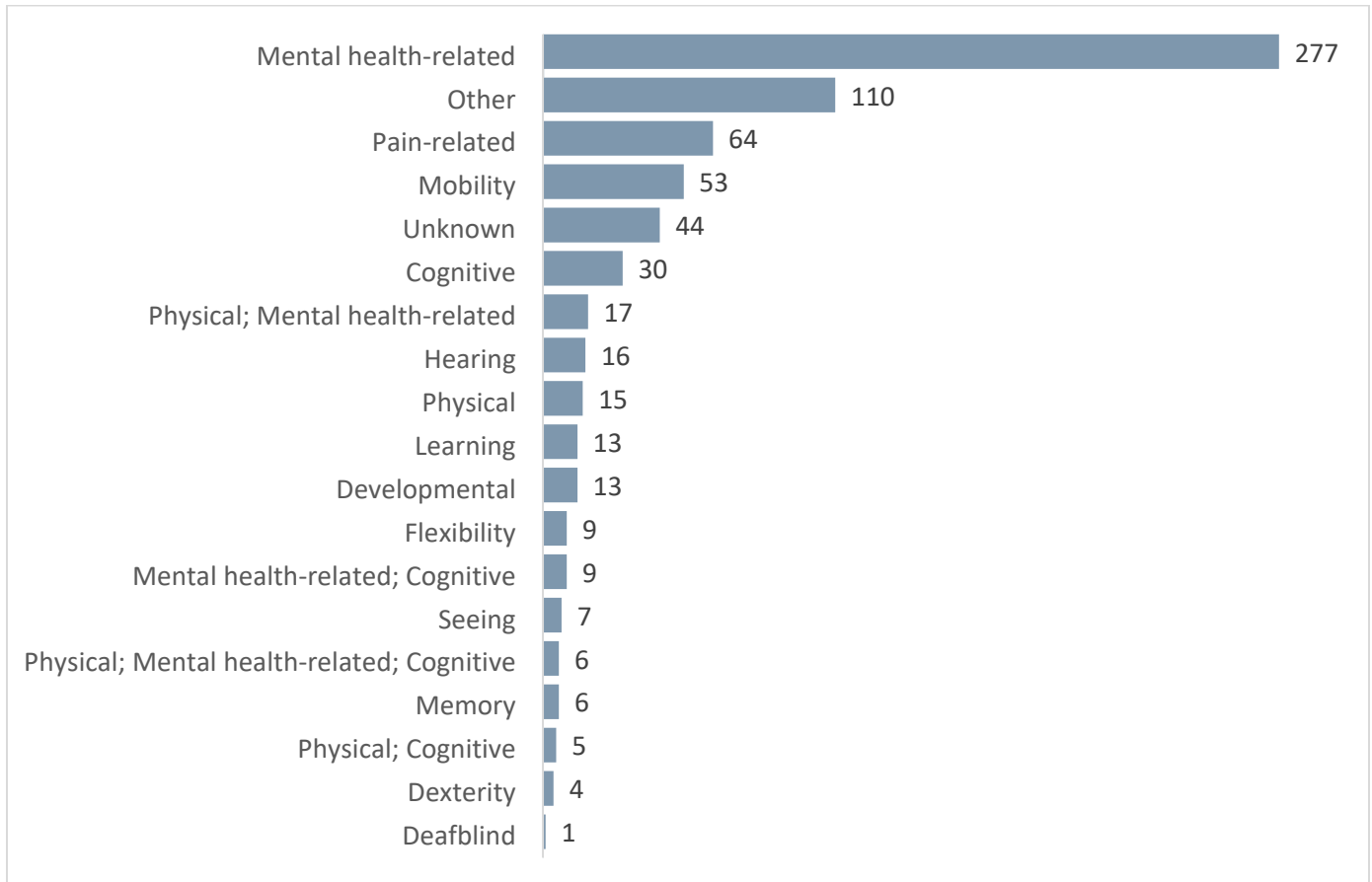


Sexual Orientation	Complainants	Percentage
Heterosexual	587	70%
LGBTQ	201	24%
Other	50	6%



Disability Requiring Accommodation

29% of complainants opted to provide disability requiring accommodation information.



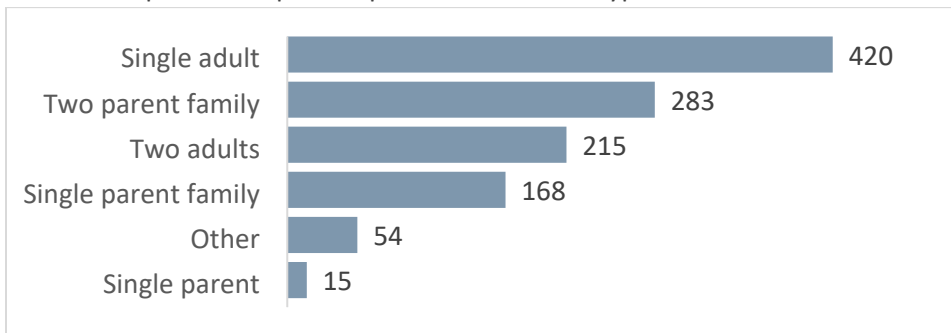
Disability Requiring Accommodation	Complainants	Percentage
Mental health-related	277	40%
Other	110	16%
Pain-related	64	9%
Mobility	53	8%
Unknown	44	6%
Cognitive	30	4%
Physical; Mental health-related	17	2%
Hearing	16	2%
Physical	15	2%
Developmental	13	2%
Learning	13	2%



Flexibility	9	1%
Mental health-related; Cognitive	9	1%
Seeing	7	1%
Memory	6	1%
Physical; Mental health-related; Cognitive	6	1%
Physical; Cognitive	5	1%
Dexterity	4	1%
Deafblind	1	0%

Household Type

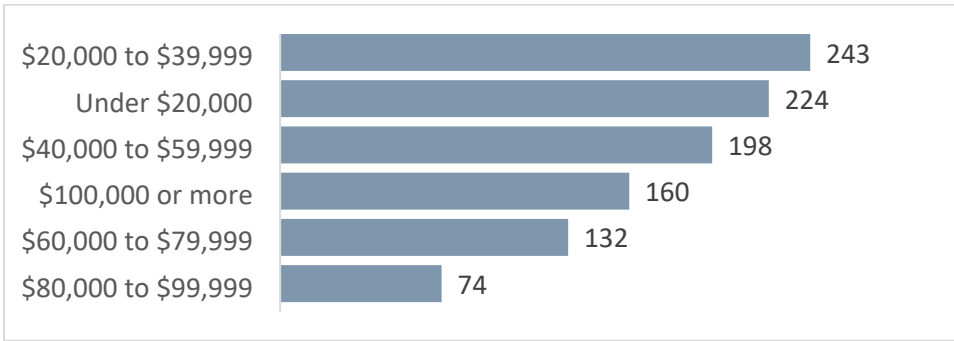
48% of complainants opted to provide household type information.



Household Type	Complainants	Percentage
Single adult	420	36%
Two parent family	283	25%
Two adults	215	19%
Single parent family	168	15%
Other	54	5%
Single parent	15	1%

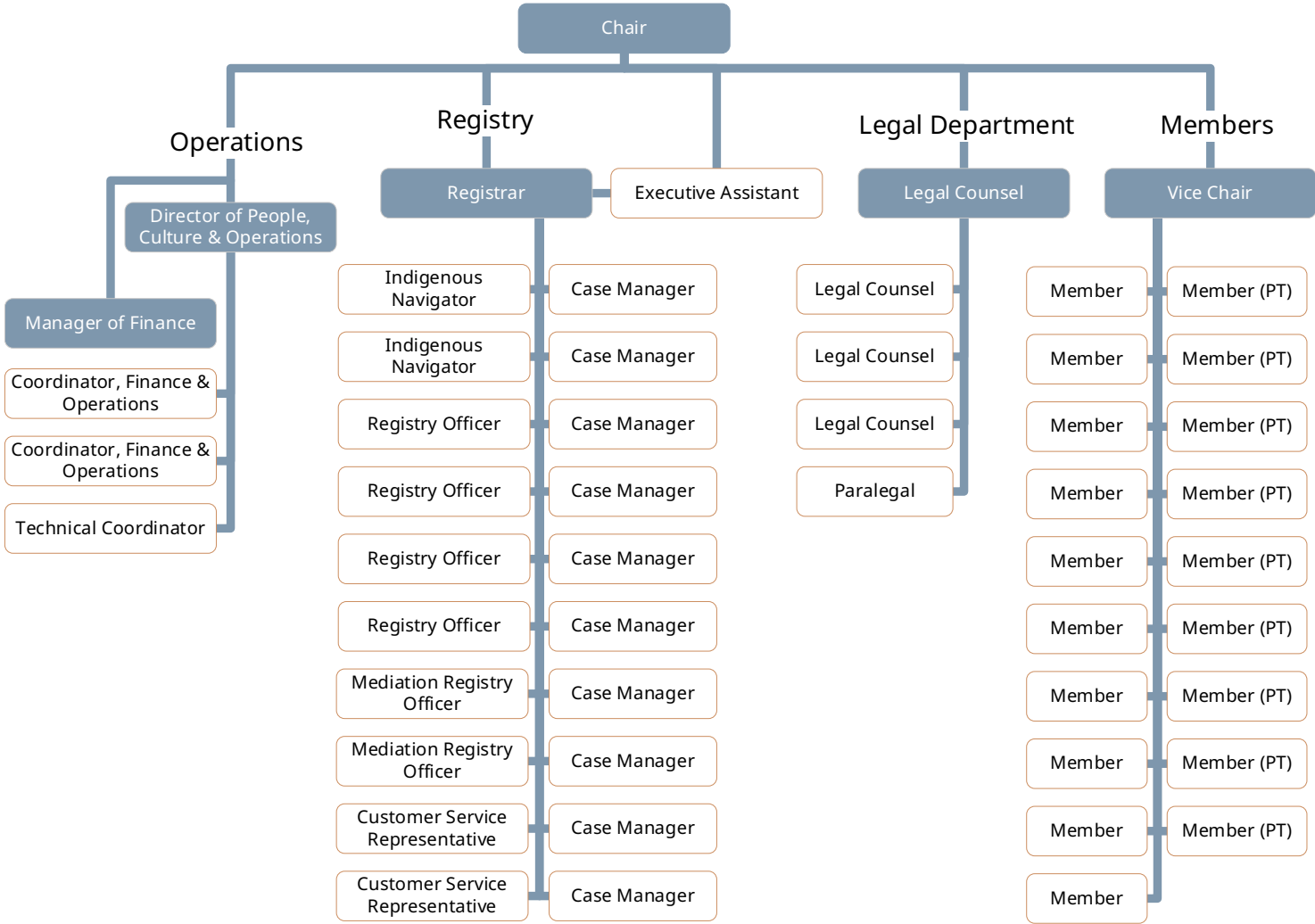
Household Income After Tax

43% of complainants opted to provide household income after tax information.



Household Income After Tax	Complainants	Percentage
\$20,000 to \$39,999	243	24%
Under \$20,000	224	22%
\$40,000 to \$59,999	198	19%
\$100,000 or more	160	16%
\$60,000 to \$79,999	132	13%
\$80,000 to \$99,999	74	7%

Appendix 4: Tribunal Organization Chart (current as at March 2024)



Appendix 5: Tribunal Team

Tribunal members are administrative law judges who mediate, case manage, adjudicate, and make decisions on human rights complaints. Our staff are an integral part of our professional team. They support our adjudicators and serve our public to the highest standards of integrity and professionalism. The 2023-24 fiscal year saw considerable growth due to the increase in Tribunal funding.

Chair

Emily Ohler (Chair & Member)

Vice Chair

Devyn Cousineau (Vice Chair & Member)

Tribunal Members

Steven Adamson
Ijeamaka Anika (partial year)
Shannon Beckett
Kylie Buday
Jonathan Chapnick (partial year)
Robin Dean (partial year)
Jessica Derynck
Andrea Duncan (partial year)
Theresa Etanski (partial year)
Christopher Foy (partial year)
Beverly Froese
Ryan Goldvine (partial year)
Steven Perks (partial year)
Sonya Pighin
Amber Prince
Andrea Robb (partial year)
Laila Said-Alam (partial year)
Kathleen Smith
Karen Snowshoe
Edward Takayanagi
Marlene Tyshinski (partial year)

Legal Counsel

Rose Chin (partial year)
Katherine Hardie
Heather Hoiness (partial year)
Shawnee Monchalin
Joana Thackeray

Legal Department Staff

Margarita B. (partial year)
B. Ho

Finance and Operations

Samantha D. (partial year)
Rene D. (partial year)
Gayle M. (partial year)
Andrea N. (partial year)
Kate O. (partial year)
Sofia R. (partial year)
Craig R. (partial year)
Alexander W. (partial year)
Youkang Y. (partial year)

Registrar-Legal Advisor

Rose Chin (Acting, partial year)
Steven Adamson (partial year)

Registry Staff

Cheryl B.
David C. (partial year)
Malu F. (partial year)
Genevieve G. (partial year)
Pedro G. (partial year)
Kerry J.
Maxine J. (partial year)
Mattie K.
Erin K. (partial year)
Carla K.
Anne-Marie K.
Lorne M.
Luana M.
Nikki M.
Chantelle M. (partial year)
Sarah M.
Natasha N. (partial year)
Naomi P. (partial year)
Nicole S. (partial year)
Meagan S.
Britt S.
Sandy T.
Daniel V.