

Panel Procedures PEI Human Right Commission



**PEI HUMAN RIGHTS
COMMISSION**
COMMISSION DES
DROITS DE LA PERSONNE Î.-P.-É.

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DEFINITIONS

1. The following definitions apply to these Panel Procedures:
 - a. **Act:** the *Human Rights Act*, R.S.P.E.I. 1988, Cap. H-12, as amended.
 - b. **Affidavit:** a written statement made by an individual who knows it to be true and made under oath or affirmation.
 - c. **Chair:** an individual appointed as Chairperson of the Human Rights Commission, including that individual's delegate.¹
 - d. **Commission:** the PEI Human Rights Commission.
 - e. **Commissioner:** an individual appointed to be a member of the Commission.²
 - f. **Commission Counsel:** a lawyer who represents the Commission and is responsible for making arguments based on public interests and the interest of the Commission. They do not represent the complainant or the respondent.
 - g. **Complainant:** the person who makes a Complaint.
 - h. **Complaint:** an allegation, made under the *Act*, that the Complainant's rights have been contravened.
 - i. **Delegate:** an individual authorised to make decisions on behalf of the Executive Director or the Chair.
 - j. **Executive Director:** the Executive Director of the Commission or their delegate.³
 - k. **Panel:** The Commissioner(s) appointed by the Chair to preside over the Panel Hearing.
 - l. **Panel Chair:** The person appointed to lead the Panel when there is more than one person appointed to the Panel.
 - m. **Panel Clerk:** an employee of the Commission who is responsible for the administration of the Panel.
 - n. **Panel Counsel:** the lawyer who is responsible for providing legal support to the Panel.
 - o. **Panel Hearing:** an opportunity for the parties to bring their evidence and arguments before a person(s) who will make a final decision about whether a complaint has been proven, and/or whether there is a defence to the Complaint. The Panel Hearing will also determine what, if any, order will be made under paragraph 113.

¹ Section 16(2)(b) and 16 (2.2) (all footnotes refer to sections of the *Act*)

² Section 16(2)(a)

³ Section 1(h.1)

- p. **Person:** includes employer, employers' organization, employees' organization, business, professional or trade association, whether acting directly or indirectly, alone or with another. ⁴
- q. **Respondent:** any person, group or organisation identified in the Complaint who is alleged to have contravened this *Act*.
- r. **Seized:** The point in time where the Panel can not be changed, usually once a Panel begins to hear evidence.
- s. **Submission:** a verbal or written statement made by the Parties at various stages of the Panel Hearing process.

SCOPE AND PURPOSE

2. The purpose of this document is to assist the parties in understanding the Panel process.
3. A principle of administrative law is that tribunals may govern their own procedure. These Procedures define the authority of the Commission and Panel within the framework of the *Human Rights Act*, R.S.P.E.I. 1988, Cap. H-12 ("*the Act*") and the *Public Inquiries Act*, R.S.P.E.I. 1988, Cap. P-31, as amended.
4. No proceeding under the *Act* or these Panel Procedures shall be deemed invalid by reason of any defect in form or any technical irregularity. ⁵
5. A Panel may dispense with, amend, vary, or supplement all or part of the Panel Procedures, if it is satisfied that:
 - a. special circumstances exist; or
 - b. it is in the public interest to do so.
6. The Panel Procedures must always be consistent with the *Act*, as well as other relevant statutes. In instances where a conflict exists, the provisions of the *Act* take precedence.
7. The Panel Procedures apply from the time a complaint is referred to the Chair by the Executive Director or following a Chair Review, until the matter is completed according to the Panel Procedures.⁶

⁴ Section 1(1)(k)

⁵ Section 30 (1)

⁶ Sections 22(4)(d) and 25

8. The fundamental duty of fairness and natural justice shall always underscore, inform, and direct the application and interpretation of the Panel Procedures.
9. The Panel Procedures are intended to ensure:
 - a. that all parties involved in a Panel Hearing are afforded a reasonable opportunity to be heard;
 - b. that arguments and evidence are disclosed and presented in a timely and efficient manner; and
 - c. that hearings before the Panel are conducted in a less formal manner than the Courts, and as expeditiously as circumstances permit.
10. The Panel Procedures shall be liberally applied to advance their scope and purpose.
11. A Panel retains the authority to decide any matter not provided for by the Panel Procedures.
12. The Panel Procedures may be amended from time to time by the Commission, without notice.
13. A Panel has all the powers of a commissioner under the Public Inquiries Act.⁷
14. The Panel will determine how to address a matter before it and may use procedures other than traditional adjudicative or adversarial procedures, including restorative processes, in which case the Panel Procedures will be adapted accordingly.
15. Proceedings, including a restorative process, pre-hearing, or Panel hearing, may be held in-person, in writing, virtually, or via any other means for the fair, just, and expeditious resolution of the matter, as agreed upon by the parties or as determined by the Panel.
16. Decisions of the Panel regarding the Panel Process are final.

APPOINTMENT OF A PANEL

17. Where the Executive Director reports to the Chair that the parties have been unable to settle the Complaint⁸, the Chair shall appoint a Panel.

⁷ Section 26 (5)

⁸ Section 26(1)(a)

18. Where the Executive Director dismisses a Complaint, the Complainant may request the Chair to review the complaint (“Chair Review”). If, following the Chair Review, the Chair decides that the complaint should not have been dismissed or that the proposed settlement was not fair and reasonable⁹ the Complainant shall file a written notice with the Commission within thirty (30) days of receipt of the Chair’s Decision, stating that they intend to proceed with the hearing and take carriage of the Hearing.
19. Following the receipt of the documents referred to in paragraph 18, or upon the expiration of the 30 days, whichever is sooner, the Chair shall appoint a Panel.
20. The Panel will consist of one Commissioner¹⁰ unless special circumstances exist, in which case, the panel will consist of three Commissioners. When three Commissioners are appointed, the Chair shall appoint one of the Commissioners to be the Panel Chair.
21. The Panel Clerk shall notify the parties of the appointment of a Panel.
22. If the Complainant fails to produce the notice required by paragraph 18, the Panel may consider the Complaint to be withdrawn or abandoned and may dismiss the complaint with no further hearing of evidence.
23. The Panel is not seized with a matter until evidence begins to be heard. At any point before that, if a Commissioner is no longer available or able to act as a Panel, another Commissioner can be appointed.
24. The Commissioner who conducted a Chair review under section 25 of the *Human Rights Act* in relation to this complaint shall not be a member of the Panel.¹¹

PARTIES TO A PANEL HEARING

General

25. The following persons are parties to a proceeding before a Human Rights Panel¹²:
 - a. the Executive Director;
 - b. the complainant;

⁹ Section 26(1)(b)

¹⁰ Section 26(2)

¹¹ Section 26(4)

¹² Section 27

- c. any person named in the complaint who is alleged to have been dealt with in a manner contrary to this Act;
 - d. any person named in the complaint who is alleged to have contravened this Act;
 - e. any other person specified by the Panel, including an Intervener pursuant to paragraphs 28-31 of these Panel Procedures.
26. If the Panel intends to specify a person as a party, the Panel shall give notice to the prospective and existing parties. The prospective and existing parties shall be given the opportunity to be heard by the Panel if the prospective party or any of the existing parties objects to the person being made a party.¹³
27. The parties to a proceeding before a Human Rights Panel are entitled to attend and represent themselves or to be represented by counsel.¹⁴

Intervener

28. The Panel may grant intervener status to
- a. Any person who establishes that they have a substantial and direct interest in the subject matter of the Panel because their rights may directly and/or adversely be affected by a decision of the Panel; or
 - b. Any person who has information that may be helpful to the Panel.
29. A person who wishes to intervene at a Panel Hearing shall file an Application for Intervener Status with the Panel Clerk within thirty (30) days after a Notice of Hearing is posted on the Commission website. The Application must contain a concise statement (no more than 5 pages) setting out the following:
- a. the manner in which the potential Intervener's rights may directly and/or adversely be affected by a decision of the Panel;
 - b. the interest or information the potential Intervener has which may be helpful to the Panel;
 - c. the nature and scope of the potential Intervener's intended participation;
 - d. the facts the potential Intervener proposes to show in evidence; and
 - e. if the potential Intervener is represented, the name, address, telephone number and e-mail address of the representative.
30. Upon receiving a request for intervener status, the Panel, upon consideration of the factors above may:

¹³ Section 27

¹⁴ Section 28.2(1)

- a. Dismiss the Application, or
 - b. Direct the Panel Clerk to forward the Application to the parties and request submissions on the Application.
 - i. Submissions are to be filed with the Panel Clerk within 30 days or as otherwise directed by the Panel.
 - ii. Submissions will be shared by the Panel Clerk with all parties and the potential intervener for response within 15 days.
 - c. Applications for Intervener status will be dealt with in writing unless the Panel directs otherwise.
31. The Panel Clerk will advise the parties and the Applicant whether the Panel has ordered that:
- a. The Intervener application be dismissed;
 - b. The Intervener application be granted with the status of a full party; OR
 - c. The Intervener application be granted with limited involvement as directed by the Panel.

Role of the Executive Director

32. Once a complaint has been referred to a Panel, the Executive Director becomes a party to the complaint. The Executive Director or their delegate act as Commission Counsel and, in so doing, represent the public interest and the interest of the PEI Human Rights Commission.
33. The Commission Counsel does not represent or take direction from any of the other parties; however, they may assist the other parties with procedural questions and explanations of the process. The Commission Counsel cannot provide legal advice to the parties but is responsible to ensure the Panel has all of the relevant legal and factual information before them to make a decision.
34. If a Panel is appointed as the result of a report of the Executive Director, the Executive Director, has carriage of the Panel Hearing and the Executive Director may determine the nature and extent of their participation in the Panel Hearing.
35. If a Panel is appointed following a Chair Review, the Complainant has carriage of the Panel Hearing; however, the Executive Director remains a party.
36. The party who has carriage of the Panel Hearing will call their evidence first unless otherwise agreed during Case Management.

CASE MANAGEMENT

37. Following the appointment of the Panel, the Panel Clerk shall arrange a Case Management Conference with the counsel for the Parties, and if unrepresented the party shall participate.
38. The Case Management Conference is designed to assist in the planning and preparation for the Panel Hearing and may include questions such as:
 - a. Are there any preliminary or procedural matters to be dealt with, and if so, should they be determined orally, in writing, or by other means.
 - b. What are the issues to be decided by the Panel?
 - c. What documents will be filed by the parties, who will file them and by when?
 - d. Are there any facts that are not in dispute that could be contained in an Agreed Statement of Facts?
 - e. What are the names and number of witnesses and expert witnesses the party proposes to call?
 - f. Are the witnesses able to appear in person and will they need any accommodation?
 - g. The number of days the party estimates it will take to present their case.
 - h. Possible dates for preliminary matters, filing of documents and hearing dates and any related logistical questions.
 - i. Deadlines for exchange of relevant documents between the parties.
 - j. Any additional matters which are relevant to the Panel.
 - k. The Parties will be required to complete a witness information sheet (to be provided by the Panel Clerk) relating to each potential witness at the hearing.
39. Following the Case Management Conference, the Panel Clerk may schedule a follow up case management conference, a pre-hearing conference or hearing on a preliminary matter and/or the Panel Hearing.
40. Case Management conferences may be conducted by telephone, videoconference or in person.
41. Unless otherwise decided at a Case Management Conference the Panel Hearing will proceed according to the Panel Procedure set out in this document. If an alternative dispute resolution process, including a restorative process, is deemed appropriate during the Case Management Conference, the details of the process will be agreed upon during the Case Management process.

42. The Panel clerk shall post a Notice of Appointment of a Panel on the Commission website following the first Case Management Conference unless otherwise agreed.
43. Posting of the appointment of a Panel on the Commission website may be delayed if:
 - a. The parties agree to postpone it because they are engaged in settlement discussions and public notice of the hearing may interfere with that process; or
 - b. The complainant has made an Application for Anonymization under paragraph 93 of the Panel Procedures and a decision has not yet been given.

PREHEARING SUBMISSIONS AND DOCUMENTS

44. The parties shall file hearing submissions and documents with the Panel Clerk in the form and at dates agreed to by the parties at the Case Management Conference or as determined by the Panel.
45. Any documents to be exchanged between the parties will be done through the Panel Clerk. The parties will provide the Panel Clerk with sufficient copies to deliver to each of the parties.
46. Documents will be circulated to the parties using the means agreed upon during Case Management Conference or by delivery (post, courier, fax or email) to the last known address on file with the Commission.
47. It is the responsibility of the Parties to ensure the Panel Clerk has current contact information for them. Delivering documents to the last known address, email or fax number of the Party is deemed to be sufficient delivery.
48. A document or notice sent by regular mail, shall be deemed to be received by the party on the fifth day after the document or notice is mailed. If a person informs a Panel in writing that a notice or document did not come to their attention, and provides supporting evidence to that effect, the Panel may extend the time for a return communication.
49. The Panel may finally determine a complaint without further notice to any party who cannot be contacted, using the contact information provided to the Panel or Commission.
50. Commission Counsel will prepare a Book of Documents for use at the Panel Hearing. The Book of Documents will contain the Complaint, as amended, and any documents the parties agree will be used as evidence at the hearing, including any Agreed Statement of Facts. The Book of Documents will be used as a composite exhibit at the Panel Hearing.

51. Additional hearing submissions shall include:
 - a. a brief statement of facts that the party intends to prove, if not included in the Agreed Statement of Facts;
 - b. a copy of documents the party intends to rely upon at the hearing;
 - c. a list of legal authorities the party intends to use to support their case;
 - d. a witness information sheet for each witness to be called at the Panel Hearing;
 - e. such other material as may be determined during Case Management.
52. The parties must include the following legible information when filing documents:
 - a. complaint number;
 - b. name of the complainant and respondent;
 - c. name of the person filing the document and, if applicable, the name of their authorized representative or legal counsel.

PRELIMINARY HEARINGS

53. The Panel may, on its own initiative or at the request of any party, hold a preliminary hearing to deal with any matter that may aid in the disposition of the hearing, including but not limited to:
 - a. determining any relevant question as to the Commission's jurisdiction to hear the application;
 - b. determining any question as to the admissibility of any evidence;
 - c. clarifying or simplifying the issues;
 - d. considering the necessity or desirability of an amendment to the application;
 - e. considering the participation of Interveners, pursuant to paragraphs 28 to 31;
 - f. considering a request for access to information in the custody or control of any party;
 - g. making any directions for the pre-filing of witness lists or expert witness statements and reports, or direct further disclosure where necessary;
 - h. determining issues of confidentiality and anonymization;
 - i. any other matters which the Panel considers appropriate.
54. A Panel Member who is appointed to hear a preliminary matter is not seized in the matter, unless otherwise indicated. The Panel member will determine if the preliminary matter will be made in person or in writing and before or at the beginning of the Panel Hearing.
55. Applications for Judicial Review on preliminary matters, including those related to any Chair Review Decision, are considered premature. Unless otherwise ordered by the

Court, the Panel shall determine whether or not to proceed or delay the continuation of the hearing on the merits of the case, pending the outcome of any Judicial Review.

56. On request of a party or on its own motion, the Panel may make an order or direction to:
- a. lengthen or shorten any time limit in these procedures;
 - b. add or remove a party;
 - c. allow any filing to be amended;
 - d. hear complaints together or separately;
 - e. direct that notice of a proceeding be given to any person or organization;
 - f. schedule hearing dates or other dates in a proceeding;
 - g. determine the format, including written or electronic format, in which documents are provided;
 - h. direct the parties to disclose any relevant documents to the parties and direct the dates for providing the documents;
 - i. require a party or person to provide a report, statement, oral or affidavit evidence;
 - j. make an examination of records or make other inquiries;
 - k. direct the order in which issues in a proceeding, including preliminary issues, will be considered;
 - l. define and narrow the issues in order to decide a complaint.

WITNESSES

Attendance of Witnesses

57. At the request of any party or on their own motion, prior to or during a hearing, the Panel may issue a subpoena pursuant to the *Public Inquiries Act* to compel the production of documents or attendance of witnesses.
58. Subpoenas issued for Panel Hearings shall be served personally. The party calling the witness is responsible to arrange the personal service and provide the Panel Clerk with an Affidavit of Service. The subpoena should not be delivered directly by the party who intends to call the witness.
59. Where a subpoena is issued at the request of any party to a hearing or preliminary proceeding, the cost of service, and mileage fees if any, shall be paid by the party who requested the subpoena.

60. Where a subpoena is issued at the request of the Panel, the cost of service and attendance fees, if any, shall be paid as a Panel expense.
61. Witnesses subpoenaed to appear before the Panel, or preliminary hearing of the Panel, must attend at the place, time, date and in the manner indicated in the subpoena.
62. The Panel, may at its discretion permit a witness to appear by teleconference, videoconference, or by other electronic live streaming means.

Experts

63. Where a party intends to call an expert witness the party shall file a copy of the expert witness' resume and written report or a summary of their proposed evidence 60 days prior to the hearing, or as determined by the Panel.
64. Experts' reports shall include the following:
 - a. the expert's acknowledgement that the duty of the expert is to advise the Panel impartially on matters within the expert's area of expertise, and that duty overrides any duty to the party that has called this expert;
 - b. the expert's resume including information about their training, education and experience that qualifies them to produce the report;
 - c. an account of the nature of the request or direction received from the party to prepare the report;
 - d. the Facts and assumptions on which the report's conclusion is based;
 - e. disclosure of any matters that fall outside the expert's area of expertise; and
 - f. identification of any literature or other materials specifically relied upon in support of the opinions.
65. At the commencement of their testimony, the expert shall be formally qualified as an expert witness in the following manner:
 - a. the expert witness' curriculum vitae is made an exhibit;
 - b. the party who has called the expert witness will ask questions intended to establish the witness' credentials as an expert in a particular field;
 - c. other parties may oppose the qualifying of the witness as an expert; and
 - d. the Panel makes a ruling either to not qualify the expert witness or to qualify the expert witness, stating with precision the areas in which the expert witness has been qualified as an expert.

66. At the hearing, the expert shall provide a concise summary of the key points of their report but shall not read the report into the record.
67. The expert shall be subject to cross-examination by the other parties and to questions from the Panel.
68. At any time, the Panel may call as a witness, and have qualified, an independent expert to inquire on any relevant question of fact or opinion contained in an expert's report.

PROCEDURE AT HEARING

General

69. The Panel shall have authority to control the procedure of a hearing, to admit or exclude testimony or other evidence, whether or not admissible in a court, and to rule upon motions and objections.
70. Evidence may be given before a Panel in any manner that the Panel considers appropriate, and the Panel is not bound by the rules of law respecting evidence in civil proceedings. The Panel may receive all evidence it deems relevant.¹⁵

Absence of Party

71. If the Complainant does not appear at the hearing, the Panel may:
 - a. consider the Complaint withdrawn and dismiss the Complaint, with or without an order of Costs made against the complainant.
 - b. proceed with hearing.
72. If a Respondent does not appear at the hearing, the Panel may proceed with the hearing in the absence of a Respondent.¹⁶
73. In either case the Panel may decide to adjourn to a future date.
74. The Panel may, at its discretion, exclude from the hearing room any witness(es), other than a party, who has not yet testified.

¹⁵ Section 28.2(2)

¹⁶ Section Act 28.2(3)

Order of Panel Hearing

75. The Panel Hearing will proceed in the following manner:
- a. The Panel will give opening remarks at the beginning of the hearing that will state the manner in which the hearing will proceed;
 - b. All witnesses appearing before the Panel are required to give their testimony by solemn affirmation or oath.
 - c. Each party may make opening remarks to the Panel at the outset of the hearing, with the order to be determined at the Case Management Conference;
 - d. Each party will then present their case in the order determined at the Case Management Conference. In general, Commission Counsel will call evidence first, followed by the Complainant and then the Respondent;
 - e. Each party may present their position by providing oral and written evidence, calling witnesses, and if available, presenting expert evidence. All parties involved are given the opportunity to respond to evidence and cross-examine witnesses.
 - f. The Panel is permitted to question witnesses.
 - g. After the Panel hears all the evidence, each party will be given the opportunity to make closing oral submissions, or file written submissions, at the discretion of the Panel.
76. Without the permission of the Panel no party may present:
- a. a witness at a hearing, including an expert witness, whose name and summary of expected evidence was not included in a witness list filed with the Panel, and
 - b. documents at a hearing that were not filed with the Panel as provided in 44.
77. In the event the Panel allows any additional documents to be filed during the hearing, the Party producing the documents shall provide sufficient copies for each of the Panel members, the Panel Clerk, and the other parties.
78. The Panel, on its own initiative, or on the request of one of the parties may, on such terms and conditions as it may determine, take or cause to be taken affidavits of witnesses residing within or outside the Province. The Panel may, at its discretion, admit an affidavit into evidence at the hearing in lieu of the personal appearance and testimony of the person giving the affidavit. The Panel may also direct the person to give evidence by video link.

Panel examining witnesses

79. The Panel, on request of a party or on its own motion, may call and examine witnesses, direct the production of documentary or other evidence, and introduce documentary or other evidence.
80. If the Panel calls witnesses, the Panel, Panel Chair, or Panel Counsel may conduct direct examination and all parties will be entitled to cross examine the witnesses.

Unacceptable Conduct

81. All persons in attendance at a hearing are expected to conduct themselves in an appropriate and respectful manner.
82. No party, witness or other participant at a hearing except the Panel Counsel or the Panel Clerk shall communicate with the Panel outside of the hearing with respect to the subject matter of the hearing except:
 - a. in the presence of all other parties or their representatives, or
 - b. in writing by sending the written communication to the Panel Clerk who will provide a copy of the written communication to all parties who are participating in the hearing.
83. The Panel may regard the following as unacceptable conduct:
 - a. failure to attend or re-attend a hearing;
 - b. refusing to take an oath or affirmation;
 - c. refusing to answer a question;
 - d. failure to produce a document or other required material;
 - e. failure to comply with an order or direction of the Panel; and
 - f. behaviour shown toward the Panel, other parties and witnesses that is disrespectful, intimidating or otherwise inappropriate.
84. If a party or witness is found to have conducted themselves unacceptably, or has failed to comply with these rules or a direction of the Panel, the Panel may:
 - a. order the person to attend or re-attend, as the case may be, at his or her own expense;
 - b. order the person to answer a question;
 - c. disregard all or part of the person's evidence;
 - d. order a person to remove themselves from the hearing;
 - e. dismiss the proceeding;

- f. order the person, or the party on whose behalf the person is being examined, to pay the costs for them to return;
- g. adjourn the hearing until such time as these rules, or the direction of the Panel, has been complied with;
- h. proceed with the Hearing without them being present;
- i. find the person in contempt and make application to a Justice of the Supreme Court of Prince Edward Island to compel obedience in the same manner as for contempt of court; or
- j. make such other order that the Panel considers appropriate in the circumstances.

Adjournments

85. The Panel may continue a hearing from day to day or adjourn it to a later date by announcement at the hearing or by notice to all parties.
86. Prior to the date of the Panel Hearing, if a party wishes to postpone the hearing to another date, the party shall contact the Panel Clerk to make the request. A hearing may be postponed if the Panel believes it is fair and reasonable to do so. When considering a request for a postponement or a motion for an adjournment, the Panel may consider:
 - a. prejudice to a person or party;
 - b. the timing of the request or motion;
 - c. the number of postponements or adjournments already granted;
 - d. the public interest;
 - e. the availability of witnesses;
 - f. the efforts made to avoid the postponement or adjournment;
 - g. the principles of fairness and natural justice; and
 - h. any other relevant factors.

Withdrawal of a complaint

87. Prior to a Panel Hearing commencing or after there has been some evidence at the Panel Hearing, a complainant wishing to withdraw a complaint, must file with the Panel Clerk a Notice of Withdrawal. The Panel Clerk will provide the Notice of Withdrawal to the other parties.
88. A respondent may respond or object to a Notice of Withdrawal no later than ten (10) days after it is delivered to them.

89. Where there is no objection to the withdrawal from another party, the Panel will accept the withdrawal and the complaint will be closed on such terms the Panel deems appropriate.
90. Where there is an objection to the withdrawal from another party, a complaint may only be withdrawn upon such terms as the Panel determines.

PUBLIC HEARINGS, ANONYMIZATION AND RECORDINGS

91. Subject to paragraph 99 names of parties and witnesses may be publicized.
92. A hearing before a Panel shall be open to the public unless, on the application of any party, the Panel decides that it would be advisable to hold the hearing in private:
 - a. because of the confidential nature of the matter to be heard; or
 - b. because of the potential adverse effect on any of the parties, other than the person against whom the complaint was made.¹⁷
93. A party may make a request to hold all or part of a hearing in private and/or may request certain information be kept confidential. A Complainant may also request that their identity be confidential and anonymized.
94. A request for an order in paragraph 93 should:
 - a. include a summary of the nature of the information for which confidentiality or anonymization is sought;
 - b. state the reasons for the request, including the details of the nature and extent of the specific harm that would result if the matter were publicly disclosed.
95. The Panel will allow the parties to make submissions regarding the application before ruling on the matter. Any party objecting to the request for confidentiality/anonymization shall file a Notice of Objection stating the reasons:
 - a. why the party requires disclosure of the matter; and
 - b. why disclosure would be in the public interest.
96. The party requesting confidentiality/anonymization will have an opportunity to reply to any objection.

¹⁷ Section 28.2(4)

97. An application for confidentiality/anonymization may be held in writing, at a preliminary hearing or during the Panel Hearing.
98. In making an Order respecting a request for confidentiality/anonymization, the Panel shall consider:
 - a. whether disclosure of the matter may raise issues of public security;
 - b. whether the matter may disclose sensitive financial, commercial or personal matters in relation to which the desirability of avoiding disclosure in the interest of any person affected outweighs the desirability of adhering to the principle that the hearing is public; or
 - c. such other matters the Commission deems appropriate.
99. The Panel may order:
 - a. that publication of the name or other information subject to the application be anonymized.
 - b. the hearing be closed in whole or in part to the public;
 - c. the relevant document or other information be placed on the record with or without a restriction on publication;
 - d. an abridged version of the relevant document, or other information, be placed on the public record;
 - e. the information be disclosed to a party to the hearing, who has a good faith interest in accessing the confidential information and who would not otherwise be in conflict of interest, on such terms as the Panel considers appropriate, including the signing of a confidentiality agreement approved by the Panel;
 - f. deny the application or
 - g. make any other order the Panel may deem to be in the public interest.
100. Written decisions of the Panel are posted in the public domain. The Panel may make an order to protect the confidentiality of personal or sensitive information in a written decision.
101. In addition to any order under paragraph 99, Panel decisions will use initials to identify children under age 18. Panel decisions may use initials to identify other parties and participants in a hearing, where it is necessary to protect the identity of minors or of an individual's health or other sensitive information.
102. The Panel may record a hearing to fulfill the requirements under the *Act*. No other person or party may record a hearing, without the advance permission of the Panel.

103. During a closed hearing, no person, other than someone authorized by the Panel, shall be given access to evidence, documents, or exhibits submitted during any closed hearing. An individual may be granted access only if they undertake to respect any conditions imposed by the Panel.

Record of Hearing

104. The Commission shall compile a Record of every hearing. The Commission is not required to transcribe the audio recording of a Panel Hearing.
105. The Record shall contain the following:
- a. every document filed with the Panel under the Panel Procedures in respect of the hearing or a step in the hearing;
 - b. the notice of hearing;
 - c. Orders made throughout the hearing;
 - d. the final Decision including reasons and final Order rendered by the Panel; and
 - e. audio recording or transcript of the hearing, if one is made.
106. The Record of a hearing is a public record, subject to the procedures pertaining to confidentiality of documents, closed testimony, and the requirements of paragraph 99.
107. All parties and witnesses are required to speak into a microphone to ensure an accurate Record.

Media

108. Panel hearings are open to the media unless designated as closed by the Panel.
109. Cameras in recording mode, both video and still, are not permitted beyond the front row of the public area. Close up shots of notes and documents are prohibited.
110. The Panel shall advise members of the public including the media that audio or video recording the hearing is prohibited and photographs are not to be taken during the hearing.
111. Media interviews cannot be conducted in the hearing room during the hearing, including any recess or break during the hearing.

PANEL DECISION

Written Decision with reasons¹⁸

112. A Human Rights Panel shall, if it finds that a complaint is without merit, order that the complaint be dismissed.
113. If the Panel finds that a complaint has merit in whole or in part, the Panel may order the person against whom the finding was made to do any or all of the following:
 - a. to cease the contravention complained of;
 - b. to refrain in future from committing the same or any similar contravention;
 - c. to make available to the complainant or other person dealt with contrary to this Act, the rights, opportunities or privileges that the person was denied contrary to this Act;
 - d. to compensate the complainant or other person dealt with contrary to this Act for all or any part of wages or income lost or expenses incurred by reason of the contravention of this Act;
 - e. to take any other action the Panel considers proper to place the complainant or other person dealt with contrary to this Act in the position the person would have been in, but for the contravention.
114. The Panel shall render its final Decision in writing, including the findings of fact upon which the decision was based and the reasons for its Decision¹⁹, within sixty (60) days after the Parties have delivered their final submissions.
115. If the Panel requires additional time to make a Decision, it shall make a statement advising of a thirty (30) day extension for the Decision to be rendered. An additional extension may be required in exceptional circumstances.
116. If a Panel consists of more than one person, the decision of the majority is the decision of the Panel.²⁰
117. When the Panel has issued the Decision, the Panel Clerk shall serve the Parties by providing a copy of the Panel's Decision.
118. The Decision shall then be made public, and posted on the Commission's website, forty-eight (48) hours after the release of the Decision to the Parties.

¹⁸ Section 28.4

¹⁹ Section 28.4 (7)

²⁰ Section 26(6)

119. The Panel may, at any time, correct a typographical error, an error of calculation or similar minor error made in a Decision or Order.

Costs

120. A Human Rights Panel may make any order as to costs that it considers appropriate.

Orders

121. No order made by a Human Rights Panel may compensate a person for wages or income lost or expenses incurred prior to one year before the date of the discriminatory act on which the person's complaint is based.²¹
122. An order made by a Human Rights Panel may be filed with the Registrar of the Supreme Court, and upon being so entered, it is enforceable in the same manner as an order of the Supreme Court.²²
123. A decision of a Human Rights Panel is final and binding upon the parties.²³

Reconsideration²⁴

124. On its own motion or at the request of a party, the Panel may reconsider any decision where there is evidence that:
- a. is new and was not available at the initial Panel Hearing; or
 - b. for good reason, was not presented before the Panel.
125. The Panel will only reconsider its decision where the proposed new evidence is likely to be determinative of the outcome of the complaint.
126. A reconsideration is an extraordinary remedy, and is not an appeal of a Panel decision, nor can it be used to repair the deficiencies of a party's case.
127. A party may request a reconsideration of a Panel decision no later than 30 days after the decision was made.

²¹ Section 28.6

²² Section 28.7

²³ Section 28.8

²⁴ Section 28.5

128. The Panel will determine whether the circumstances warrant reconsideration and may ask for submissions from the parties. The other parties need not provide a response to a request for reconsideration unless directed to do so by the Panel.
129. A reconsideration may be assigned to the Panel who made the original decision or to another Panel.

Stated Case²⁵

130. The Panel may refer a question of law arising in the course of the proceedings, for the opinion of the Supreme Court, at any stage in the proceedings.
131. Upon deciding to refer a case, the Panel will provide the Court with the stated question of law according to the Supreme Court Rules of Civil Procedure, Rule 75.2.
132. The Panel may also provide the Court with:
 - a. the record of the complaint;
 - b. factual findings based on the hearing of the complaint;
 - c. a determination of the legal and human rights issues that the complaint engages;
and
 - d. any legal findings of the Panel regarding the complaint, including the issues outlined and the evidence heard.
133. The Panel may adjourn a hearing for the purpose of making the stated case to the Court.

These Panel Procedures have been approved by the PEI Human Rights Commission effective August 25th, 2022 and apply to all matters currently before the Commission or Panel.

²⁵ Section 28.3