

# Know Your Rights

## Human Rights in Nova Scotia



A project of the Legal Information Society of Nova Scotia (LISNS) in partnership with the Canadian National Institute for the Blind (CNIB) Foundation

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# Human Rights in Nova Scotia

The **Nova Scotia Human Rights Commission** is a key resource when experiencing discrimination based on physical disability (i.e. sight loss).

This section has two main purposes:

1. To explain discrimination in Nova Scotia; and,
2. To explain the process of filing a complaint with the Nova Scotia Human Rights Commission.

## Discrimination in Nova Scotia

Most human rights complaints will fall under provincial legislation. Nova Scotia's **Human Rights Act** provides protection from discrimination based on a protected characteristic in protected areas. Not all negative treatment will amount to discrimination under the law. It must be negative treatment in a protected area and because of a protected characteristic. What does this mean?

## What is discrimination?

Discrimination is simply different treatment, causing harm. Discrimination may:

- Impose a burden, obligation, or disadvantage, which is not imposed on other people;
- Result from the failure to consider the true needs and capacity of a person, or from negative stereotypes or assumptions about a person's abilities;
- Result from a single individual, or as a result of a system of policies and practices within an organization or government; or,
- Result in limits on access to opportunities, benefits or advantages available to other members of society.

## What are protected characteristics?

Discrimination must have occurred because of a protected characteristic, to come under the Nova Scotia [Human Rights Act](#). There are 17 protected characteristics listed in the Nova Scotia Human Rights Act. Some of the protected characteristics include race, religion, physical disability or mental disability. “Blindness or visual impediment” is protected under the category of “physical disability”.

## Where do people experience discrimination?

Discrimination must happen in a protected area to come under the Nova Scotia Human Rights Act. The protected areas outlined in the Nova Scotia Human Rights Act include:

- Employment and volunteer situations;
- Access to services (i.e., shopping at a store or attending school, electricity, haircut, and others);
- The purchase and sale of property;
- Provision of accommodation (i.e., renting an apartment); and,
- Membership in professional organizations.

### Examples of discrimination based on a protected characteristic in a protected area:

- **Rental Accommodations:** An owner refuses your application to rent an apartment after finding out you have sight loss (i.e., cancelling viewings, refusing to schedule a viewing)
- **Transportation:** You are unable to access scheduling and bus route information, a bus driver fails to announce stops, etc.
- **Education:** You were unable to attend a particular school because you have a physical disability for which the school is not accessible or fails to attempt to accommodate you.
- **Healthcare:** You were unable to access a service because you needed to complete a written application
- **Employment:** You were denied a promotion because you have a physical disability.

If you are unsure whether your complaint falls under the Nova Scotia Human Rights Act or if what you are experiencing is discrimination, you can [contact](#) the [Nova Scotia Human Rights Commission](#).

## What is the Duty to Accommodate?

The duty to accommodate is a concept in human rights law that refers to an obligation to provide specific adaptations or accommodations to people with disabilities or other characteristics covered by the [Human Rights Act](#). This duty most commonly arises in the protected area of employment, but it can arise in other protected areas as well.

The duty to accommodate means that sometimes it is necessary to treat people differently to prevent discrimination. For example, it may be unfair to a person with sight loss to require all job applicants to pass a written test. In this case, the duty to accommodate may require providing other options to ensure that the person can fully participate.

## What are the limits on the Duty to Accommodate?

There is a duty to accommodate in human rights law, but only to the point of what is referred to as ‘undue hardship’. While undue hardship is assessed on a case-by-case basis, it generally refers to times when it would be logistically impossible or overly difficult to accommodate the needs of the person.

For example, imagine that someone has a job which regularly involves operating a motor vehicle and they develop a condition which significantly impacts their eyesight. There are no other positions at the organization for which the employee would be qualified. In this situation, it is unlikely that the employer would need to accommodate the employee because the employee is no longer able to perform the core functions of their job safely and there are no other appropriate positions available.

There are several factors that would be considered in assessing undue hardship, including:

- Employee and customer safety;
- Financial cost;
- Interchangeability of the workforce and facilities;
- Disruption of a collective agreement;
- Disruption of services to the public;
- The morale of other employees; and,
- The size of the employer’s operation.

For more information on the duty to accommodate and undue hardship, or if you feel like you have been denied an accommodation, you may want to [contact](#) the [Nova Scotia Human Rights Commission](#) to discuss your situation. You can also complete the Nova

Scotia Human Rights Commission's [Complaint Self-Assessment](#) page to get a better sense of whether your experience falls within the purview of the [Human Rights Act](#).

## How do I file a complaint with the Nova Scotia Human Rights Commission?

Anyone who is legally present in Canada can file a complaint with the [Nova Scotia Human Rights Commission](#) about something that has happened in Nova Scotia. You can be a Canadian citizen, permanent resident, or someone on a visa. You do not need to have a lawyer to file a complaint, but you can be represented by a lawyer. If you are younger than 19, then a parent or guardian has to file a complaint on your behalf.

The deadline to file a complaint is 12 months from the last date of alleged discrimination, or 24 months in exceptional circumstances.

**Note:** If you have been discriminated against by a federally regulated industry such as banking or airlines, you may need to contact the [Canadian Human Rights Commission](#).

### Step 1: Self-assessment

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Before contacting the Nova Scotia Human Rights Commission, consider using the Commission's [self-assessment](#) tool. This will give you a better sense of whether you likely have a complaint the Commission can address.

**Remember:** To make a complaint, you will have to show that you (1) faced negative treatment (2) in a protected area (3) because of a protected characteristic.

### Step 2: Contacting a Human Rights Officer

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The [Nova Scotia Human Rights Commission](#) has offices in Halifax, Sydney and Digby. To make a complaint, you will have to [contact](#) a Human Rights Officer at the Nova Scotia Human Rights Commission. They will hear the details of your complaint and ask questions to decide whether you should file a formal complaint.

Before you speak to a Human Rights Officer, it may be helpful to have:

- A detailed timeline of events;
- Names of individuals involved;
- Relevant documentation;
- A clear, concise presentation of events; and,
- Any other information you feel is helpful to understand the situation.

**Note:** Before contacting the Nova Scotia Human Rights Commission, it may also be helpful to consult with a lawyer who practices human rights law to discuss your options.

### **Step 3: Drafting your complaint**

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If the Human Rights Officer believes your complaint falls within the protection of the Nova Scotia Human Rights Act, they will help you fill out a formal complaint form. The complaint form will describe the incident(s) which have occurred and explain why you feel there was discrimination. The form must be completed together with a Commission staff member.

### **Step 4: Evaluating and next steps**

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After you fill out the complaint form, it will be evaluated by the Commission. They will decide whether to go forward with your complaint and whether to share it with the organization or person named in the complaint.

After a formal complaint is filed, the Commission will decide what the best plan is to address the complaint. One approach is to conduct an **investigation** and have a staff member gather information from everyone involved to write a report. Another approach is to use restorative justice and have parties come together for a **Resolution Conference**. At a Resolution Conference, everyone affected by the incident will have a chance to share their views and work together to find a meaningful solution. Regardless of what approach is used, the Commission is responsible for seeing the complaint through to its end.

If the issue is not resolved at a Resolution Conference, complaints are referred to a **Board of Inquiry**. The Chair of the Board will work with the parties to reach a negotiated settlement, but if that is not possible, they can make a ruling, just like a judge in a court case. To look at some past decisions please go to the Commission's webpage, titled **Board of Inquiry Decisions**.