

2019 2020

ANNUAL REPORT



NEW BRUNSWICK
HUMAN RIGHTS
COMMISSION

Annual Report 2019-2020
New Brunswick Human Rights Commission
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TRANSMITTAL LETTERS

From the Minister to the Lieutenant-Governor

The Honourable Brenda Murphy
Lieutenant-Governor of New Brunswick

May it please your Honour:

It is my privilege to submit the Annual Report of the
New Brunswick Human Rights Commission for the
fiscal year April 1, 2019, to March 31, 2020.



Respectfully submitted,
Trevor A. Holder
Minister Responsible for the Human Rights
Commission

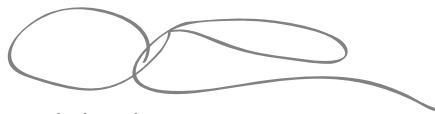
From the Chair to the Minister Responsible

Trevor A. Holder
Minister Responsible for the New Brunswick Human
Rights Commission

Sir:

I am pleased to be able to present the Annual Report
describing the operations of the New Brunswick
Human Rights Commission for the fiscal year April 1,
2019, to March 31, 2020.

Respectfully submitted,



Nathalie Chiasson
Chair
New Brunswick Human Rights Commission

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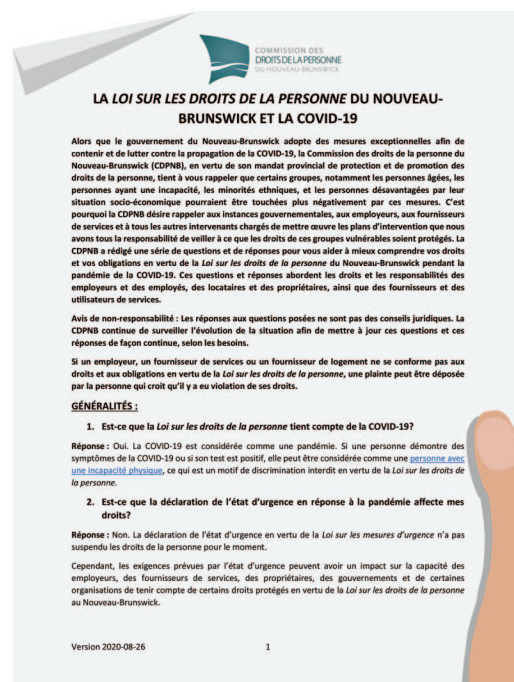
MESSAGE FROM THE CHAIRPERSON

The global crisis generated by the COVID-19 pandemic this year reminded us once again of the importance of human rights in society and the need for a framework and legislative structure to protect the right of all individuals to be treated equally. Some more vulnerable groups, such as seniors, people living alone, single-parent families, ethnic minorities, and those disadvantaged by their socio-economic status were most severely affected by the restrictive measures imposed by the government. This shows the importance of institutions such as the Human Rights Commission in protecting and responding to the public's concerns.

Many of us were confined at home for several weeks, or even months, and others whose jobs were deemed essential were required to report to work. In the face of such unequal and unusual circumstances, during these difficult times, several human rights issues arose. Thus, we understand that there are exceptional circumstances in which human rights may be set aside for the public interest when public health and safety require, but these situations also have their limits.

The Commission's mission being to enforce the *Human Rights Act* and to educate the public, it was important for it to issue a reminder of the limits imposed by these exceptional situations and the obligation, among other things, of employers and service providers to accommodate their staff and service recipients to the limit of the excessive restriction. Thus, the Commission responded directly to questions directed to it by the general public and posted a document on its website addressing the various possible circumstances produced by the restrictive measures adopted by the government, employers, and service providers because of the COVID-19 pandemic.

Operationally speaking, and out of concern for more efficient complaint management, the Commission has made numerous changes in the past year, such as doubling the number of meetings of Commission members from 5 to 10 per year during which complaint investigation results are heard. Also, in order to improve accessibility and efficiency in filing complaints, the Commission is in the final phase of its project to implement an online filing procedure that should be operational early in the new fiscal year.



To satisfy its education and prevention mandate, the Commission made 42 presentations to over 1,430 people, including high school, college, and university students, and members of multicultural, municipal, government, and commercial organizations on a variety of topics, such as discrimination in the workplace, best practices in problem solving and mediation, and the requirement to accommodate employees and students with disabilities.

The Commission also published new guidelines on discrimination based on pregnancy in December 2019, to enable women who are pregnant, of child-bearing age, or on maternity leave to better determine their rights in the context of employment, training, promotions, and accommodations.

In an effort to help combat sexual harassment of a vulnerable population in the workplace, the Commission participated in a five-year large-scale project (\$1.5m) in partnership with the Public Legal Education and Information Service of New Brunswick to develop educational material and information kits.

The massive immigration of newcomers projected by the provincial and federal governments to fill gaps in the workforce and to help war-torn countries makes it even more important to introduce various education and awareness programs to combat discrimination based on racism and establish a social culture promoting diversity and inclusion in our

province. The Commission certainly has an important role to play in contributing to the necessary efforts to stop racism in all its forms, whether systemic or not.

This year, to encourage young New Brunswickers to promote the values associated with Human Rights in their respective communities, the Commission was innovative in establishing the Youth Human Rights Award. The award is designed to highlight the ability of youth to engage in the promotion of values associated with human rights, such as respect, appreciation for diversity, and non-discrimination.

I would like to commend all the people and interest groups in the province that work to promote human rights in their communities.

I want to close by thanking the Commission's director, members, and staff for their dedication and commitment to upholding human rights in our province and also for the support and confidence they had in me during my term, which ended in February 2020.

Nathalie Chiasson
Chair (April 1, 2019 to March 1, 2020)
New Brunswick Human Rights Commission



MESSAGE FROM THE DIRECTOR

If the year began with great optimism it certainly ended on a note of uncertainty. Yet, while the initial shock and paralyzing effects of the pandemic continue to be felt in many parts of our society, it is only through a combination of planning, dedicated staff and resourcefulness that the Commission was able to continue serving New Brunswickers.

Throughout this last year, we followed-up on our commitment to improve the design and delivery of our complaint process and implemented several new measures. People contacting the Commission are now dealing with more senior staff resulting in faster assessment times. We also streamlined our process for notifying parties to a complaint hence reducing steps. We will continue to review how we operate with a focus to better serve all New Brunswickers.

Education and awareness are vital activities of the Commission. In June, the Canadian Association of Statutory Human Rights Commission held its Annual Conference and General Meeting in Charlottetown. The Commission participated actively by organizing two panel sessions “L’impact des personnalités difficiles sur l’équité procédurale” moderated by Paméla Schiavoni and “Balancing Access to Justice with Procedural Fairness” hosted by Amelie Aikman.

We launched the project “Preventing Sexual Harassment of Vulnerable Populations in the Workplace” over the summer after our partner Public Legal Education and Information Service of New Brunswick confirmed that our joint proposal to the Department of Justice Canada had been approved. This \$1.5M five-year project is a significant initiative for the Commission.

Our society changes rapidly, and it is important that human rights legislation remains relevant. We maintained our commitment to research new developments related to human rights and will be making recommendations to government for further considerations over the coming months.

The purpose of the Commission is unique and to fulfill its mandate depends on the experience and commitment of both Commission staff and appointed members. On this note I want to acknowledge our outgoing Chair for her leadership these last five years, and I look forward to begin a new chapter with her successor once an appointment has been made.



Marc-Alain Mallet
Director and Secretary to the Commission

MEMBERS OF THE COMMISSION

On March 31, 2020, the Commission was composed of:

- Kimberley Douglass
- Jean-Claude Pelletier
- Dorothy Thériault
- Charles Ferris
- Patricia Thomas-Arsenault
- Annie Guitard
- Shelley Roach Dumouchel

Additional information on our commission members is available on the Commission's website:

www.gnb.ca/hrc-cdp.

Members of the Commission attending the 2019 Human Rights awards ceremony. From left: Kimberley Douglass, Jean-Claude Pelletier, Dorothy Thériault, Marc-Alain Mallet (Director), Nathalie Chiasson, (Chair) Murray Driscoll and Charles Ferris.



COMPLIANCE

Complaint process

Individuals who believe they have been discriminated against on the basis of race, colour, national origin, ancestry, place of origin, creed or religion, age, physical disability, mental disability, marital status, family status, sex, sexual orientation, gender identity or expression, social condition or political belief or activity may file a complaint of discrimination under section 17 of the New Brunswick *Human Rights Act*. The *Act* also prohibits sexual harassment and reprisal for making or being involved with a complaint filed with the Commission. The person filing the complaint must ensure that there is sufficient information in their complaint to establish a connection between the protected ground and the alleged discriminatory conduct.

All complaints filed with the Commission are confidential and are discussed only with the parties involved.

If someone believes they have been discriminated against or harassed based on these grounds, they can contact the Human Rights Commission for more information.

Employees of the Commission may suggest early intervention to reach a resolution. If that is not possible, the staff will send a complaint kit to the caller asking them to describe the alleged discrimination. This complaint kit will contain a blank complaint form that must be completed by the complainant (the person who is alleging that discrimination has occurred).

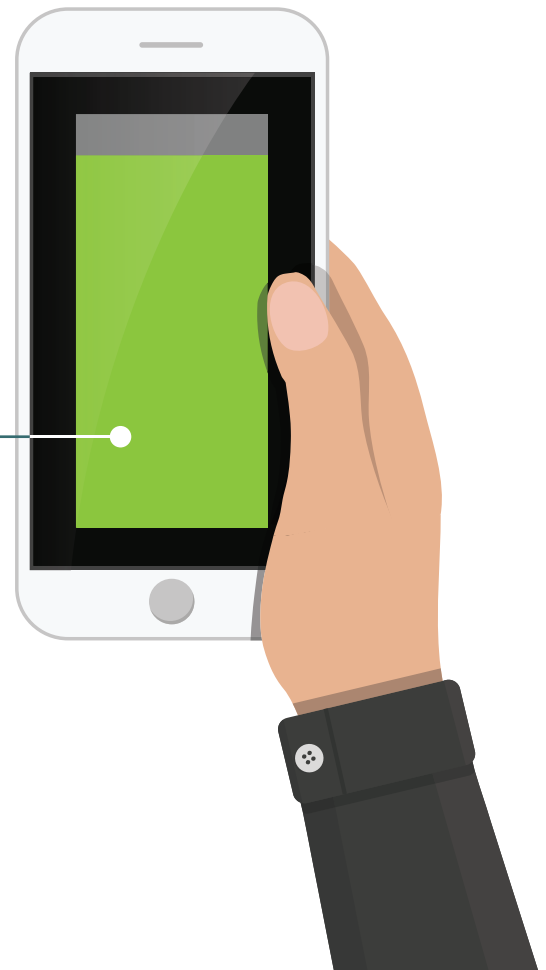
A flow chart of the complaint process is found in **Appendix B**.

90%
The majority of New Brunswickers are contacting the Commission by phone.

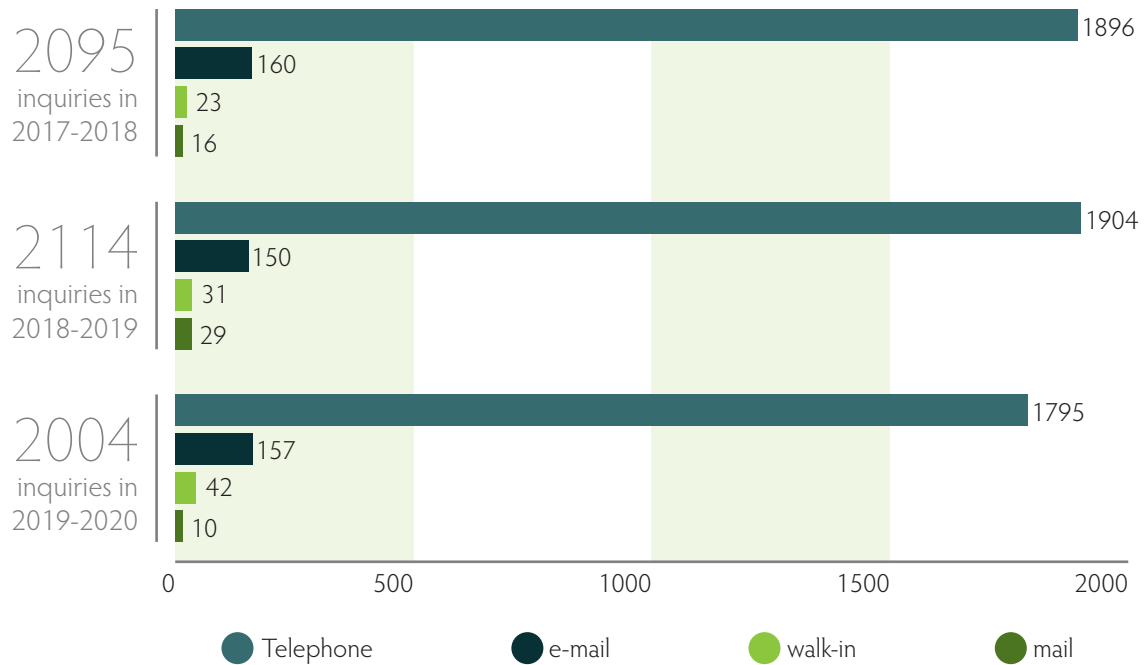
Operations

The Commission continues to introduce measures to improve the processing of complaints. Historically, the Commission would hold five in-person meetings annually. This meant some complaints would not be heard for several weeks. The Commission has updated its schedule to host two in-person meetings and eight conference call meetings per year. This allows files to be processed faster; less files for members to review per meetings and less travel-related expenses and delays.

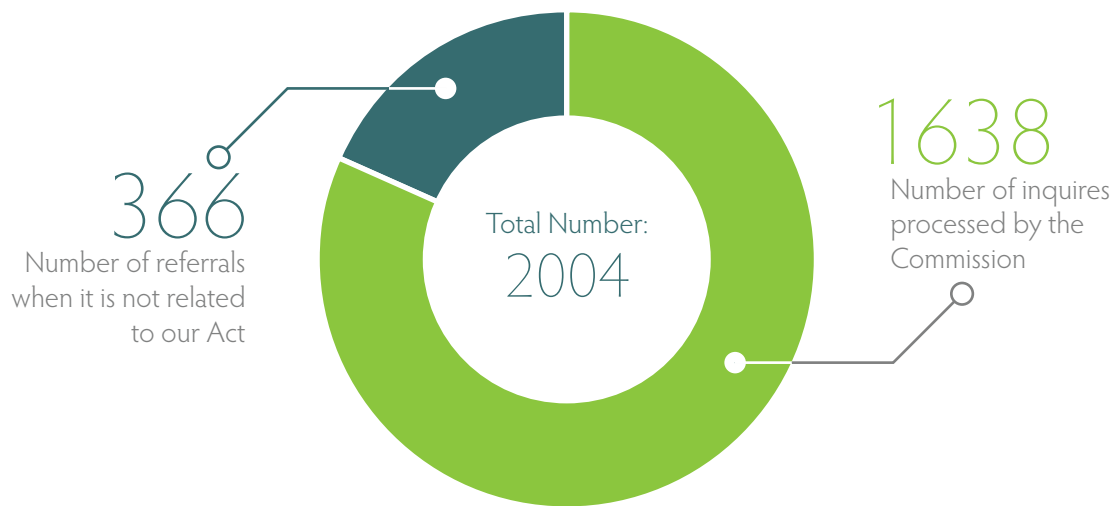
Efforts are underway to move the Commission's complaint form online. By the end of March, the Education branch working closely with SNB Web design, was able to enter in its testing phase for the online-form project. The benefits of the online-form, a PDF version of our actual forms, will provide a simple, interactive experience for the client and will make a seamless streamlined process for the Commission staff.



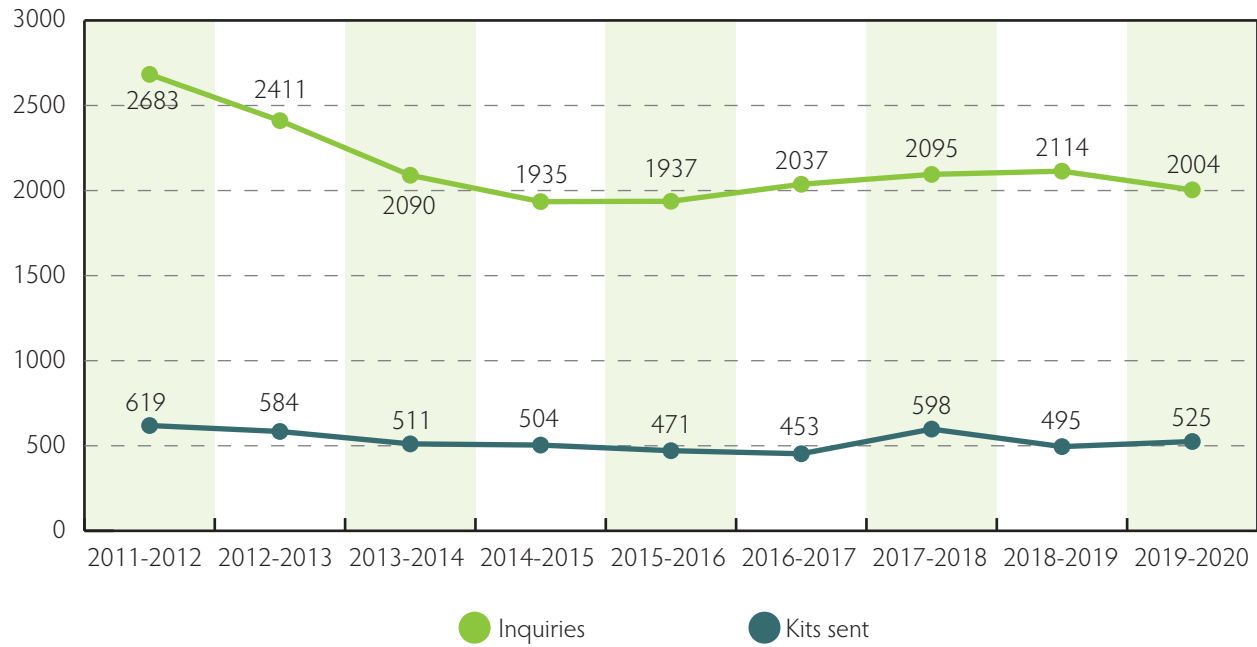
Proportion of inquires by channel per year



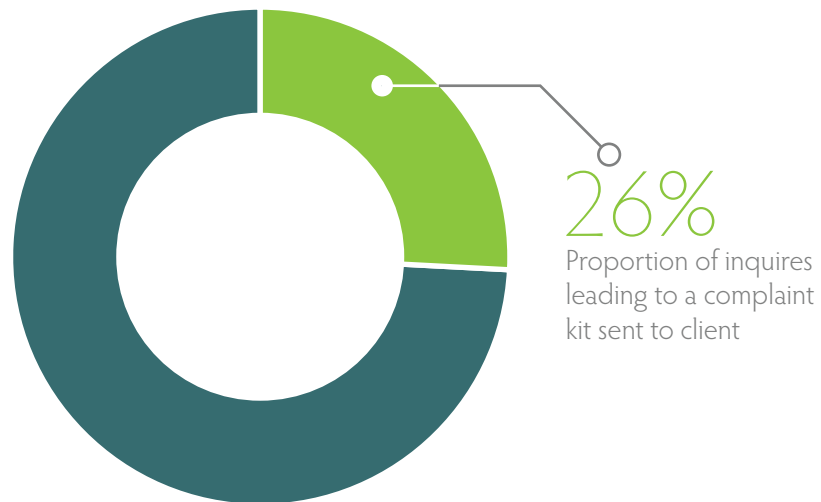
When a call does not involve discrimination contrary to the Human Rights Act, the person is referred to the appropriate agency. This proactive approach will allow concerns to be resolved in a timely fashion and results in a better service.



Number of Complaint kits sent by year



Proportion of inquiries leading to a complaint kit sent to client



Complaint Statistics

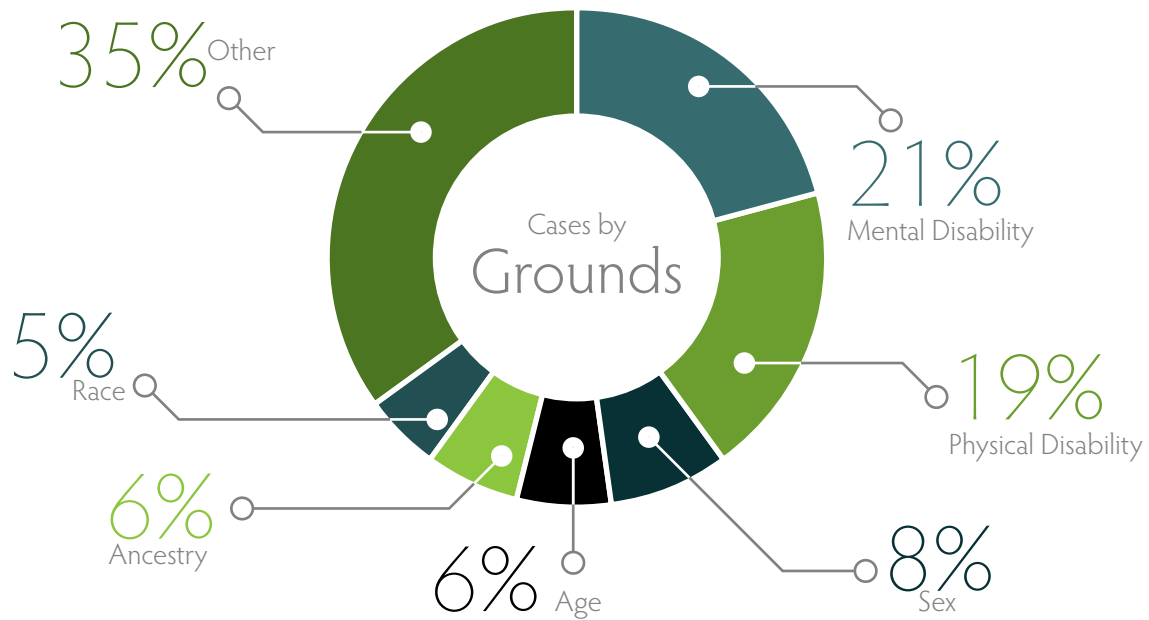
148
new complaints

243
active complaints

310
allegations of discrimination

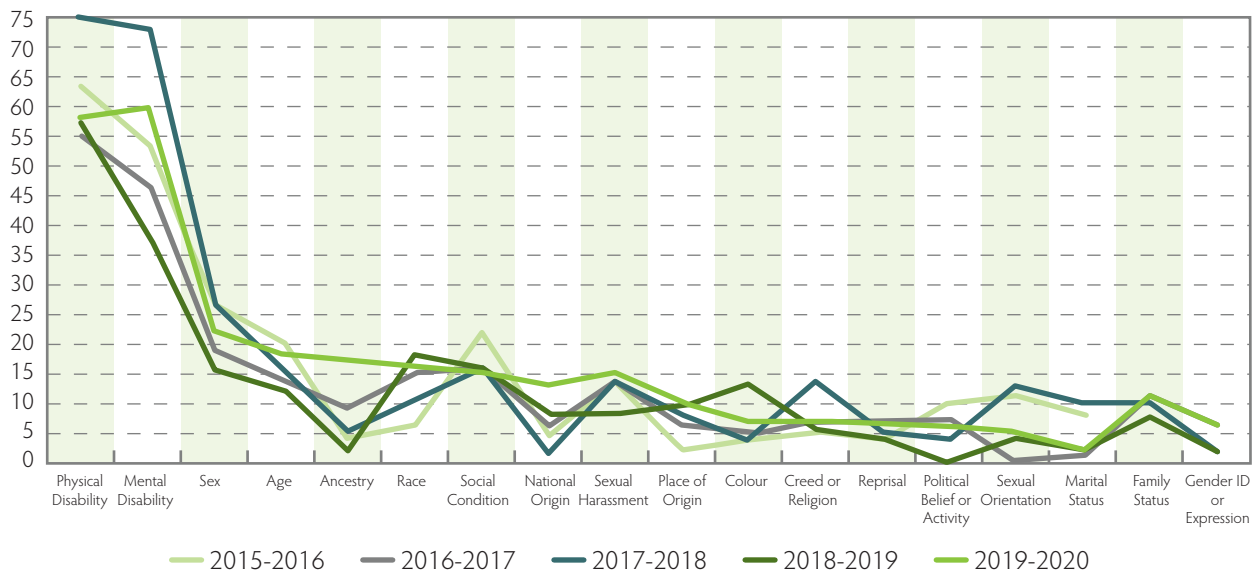
Grounds of discrimination

The 148 distinct complaints filed included 310 allegations of discrimination as some complaints alleged discrimination in more than one activity or ground.

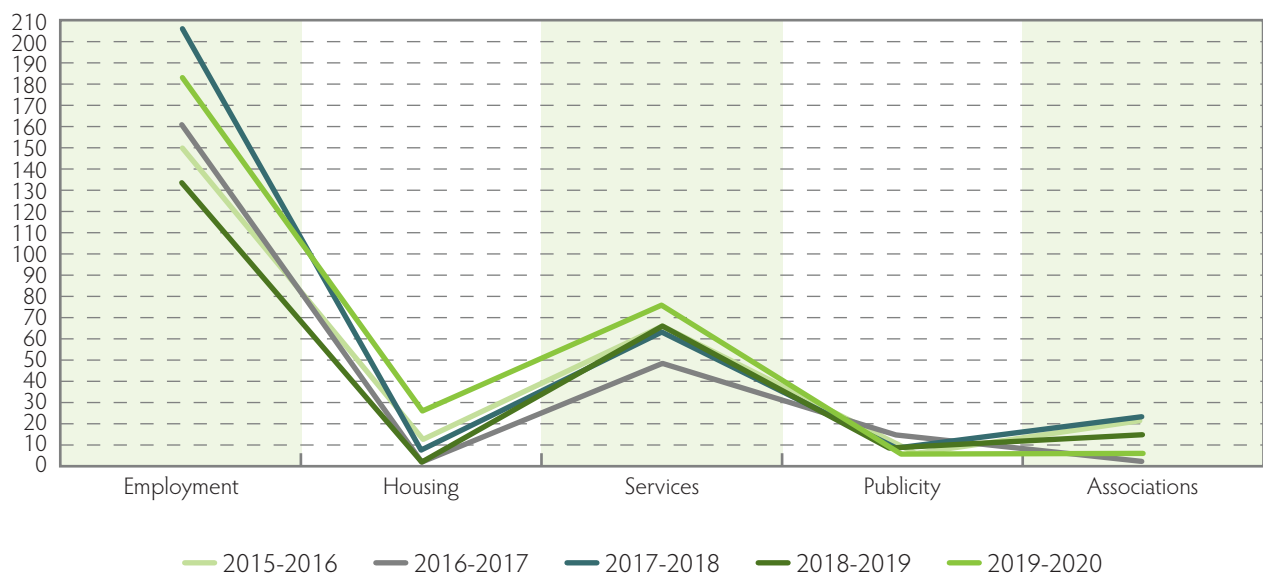


As in previous years, most allegations were employment 62% (183/295) and services related 26% (76/295). Of the employment complaints, 14% (86/183) dealt with discrimination based on physical or mental disability. Of the services complaints, 33% (25/76) were related to physical or mental disability.





Prevalence of specific ground types varied significantly by activities and for the first time in 2019-2020 we saw cases related to mental disability surpassing the physical disability ground. Provincial education on the importance of providing a good mental health environment could have led to an increase of complaints based on mental disability discrimination.



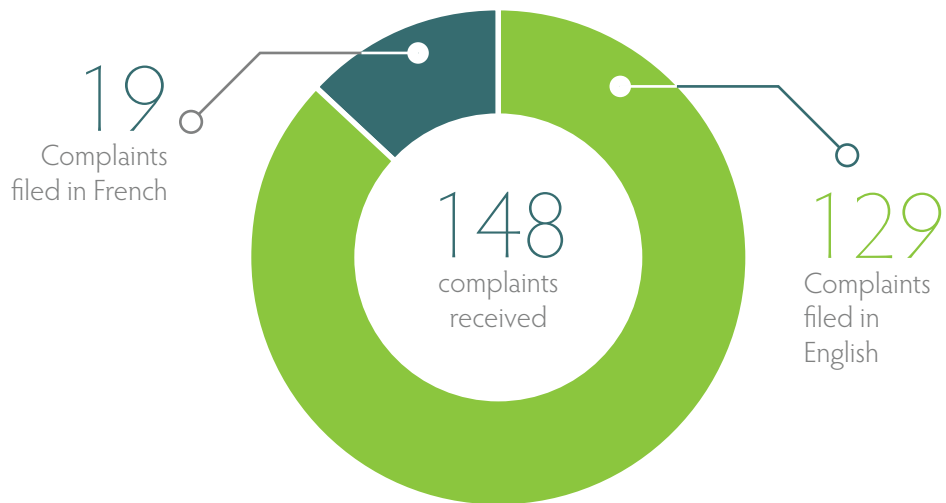
The incidence of alleged place of origin, national origin, ancestry and race discrimination have increased significantly. Between 2015 and 2020, their numbers increased from 63% to 80%.

This situation could be explained by the increase of the number of newcomers and refugees in New Brunswick and as result of the Commission partnership with the regional settlement agencies to educate their clients on their rights and obligations under the Act.

The number of complaints related to Housing have also increased by 56% since 2015, from 11 allegations to a total 25 in 2020. The Commission is receiving more inquiries about the Service animals guidelines and the recent addition of Family Status as a ground protected by the Act could have contributed to these results.

More details on ground and activities can be found in **Appendix C**.

Language of Complaint File



Closed complaints

In total, 146 formal complaints were closed in 2019-2020 compared to 96 in 2018-2019. The cases were closed for various reasons: after mediation, dismissed (mainly due to lack of evidence or being filed out of time), withdrawn, abandoned, found to be outside the Commission's jurisdiction or closed for other reasons, or closed at board of inquiry or court levels.

148
opened complaints during the year

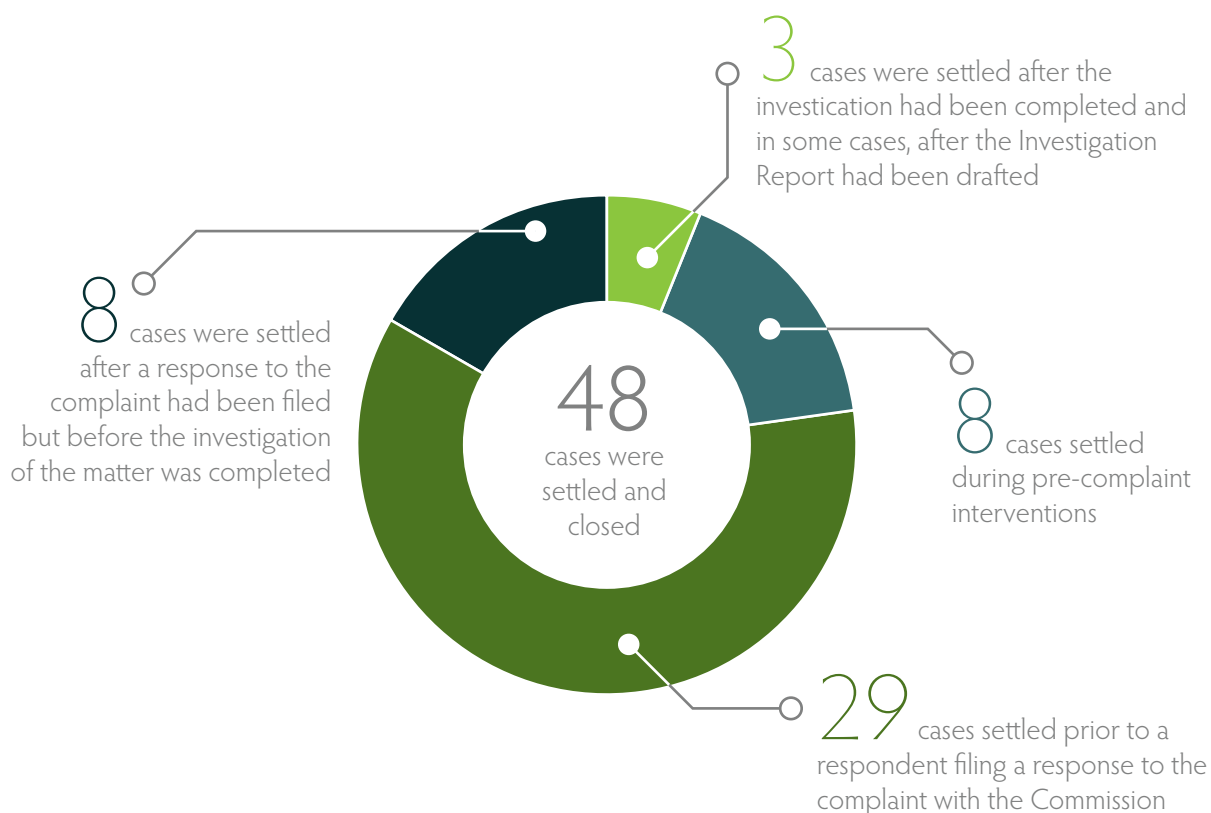
146
closed complaints during the year



Settlements for 2019-2020

A total of 48 cases were settled and closed, compared to 40 in 2018-2019.

The 48 cases involved 40 formal complaints and 8 pre-complaint interventions. Pre-complaint interventions are attempts by the Commission to mediate a dispute before a formal complaint is filed; such interventions are used in especially urgent situations or situations when there is an opportunity for a limited time to quickly resolve a dispute or to prevent a potentially discriminatory action from occurring. These 48 cases were settled at different stages.



Terms of settlement

When a case is settled, the mediation process can lead to many different desired outcomes, including the following:

- Over \$179,855 in total cumulative monetary settlements including \$160,600 in general damages;
- letter of recommendation;
- employees reinstated with letter of apology;
- accommodation through modification of work environment and creation of a welcoming workplace
- training provided by the Commission for the employees;

LEGAL MATTERS AND POLICY REVIEW

During the 2019-2020 fiscal year, the Commission referred three complaint files to the Board of Inquiry level after the Commission completed its investigations.

The first complaint involved alleged discrimination on the basis of sex and sexual harassment with respect to employment. The complainant alleged that her employer discriminated against her when they did not take her complaints of sexual harassment by a patron seriously and when they failed to address her concerns when they failed to provide her with a safe and harassment-free work environment. The complainant alleged that her employer did not have adequate workplace policies in place to properly address her allegations of sexual harassment by the patron. The matter proceeded to the Labour and Employment Board to sit as a Board of Inquiry as the Commission had found that an arguable case of discrimination had been established. Via the Board of Inquiry's mediation process, the parties came to a resolution of the matter with the assistance of the Chairperson of the Labour and Employment Board. As the Commission represents the public interest, a component of the resolution included a Commission review of the employer's anti-harassment policies, including harassment from patrons. Other terms of settlement included human rights training for the employer regarding their rights and responsibilities under the *Act*.

The second complaint involved alleged discrimination on the basis of ancestry, colour, race, national origin, place of origin, and creed or religion with respect to the provision of services. The complainant alleged that his service provider (the respondent) failed to address harassment and discrimination that he was being subjected to by other service recipients of the respondent. The Commission investigated the matter and found that the information for some of the complainant's allegations established an arguable case of discrimination. This matter is still before the Board of Inquiry.

The third and last complaint involved alleged discrimination on the basis of mental disability with respect to the provision of services. The complainant alleged that the respondents failed to properly accommodate her child's mental disabilities. The Commission investigated the matter and found that the information gathered established an arguable case of discrimination. This matter is still before the Board of Inquiry.

EDUCATION AND COMMUNICATION

Awareness

Educational services are provided to prevent discrimination before it happens. This includes for example making presentations and issuing guidelines. Information and training seminars are given across the province to educational institutions, businesses and community groups. The Commission partners with numerous organizations, groups, service providers and with the business sector to support this mandate.

On December 10, The Commission issued a new Guideline on Pregnancy Discrimination to commemorate International Human Rights Day.

This guideline is an educational resource that looks specifically, with the help of examples, at pregnancy discrimination in housing, services, and employment. It is being issued to remind employers, landlords, and service providers that, under the law, conduct,

practices, or policies that discriminate against women because of pregnancy or pregnancy-related circumstances are in violation of human rights legislation.

The list of Guidelines can be found in **Appendix E**

Recognition

In September, the New Brunswick Multicultural Council (NBMC) invited the Commission Chair Nathalie Chiasson to participate in the event to honour their founding president Dr. Constantine Passaris at their first Legacy Award Ceremony in Fredericton. Dr. Passaris was also the Human Rights Commission Chair from 1989 to 2000.

From left to right, Nathalie Chiasson and Dr. Constantine Passaris

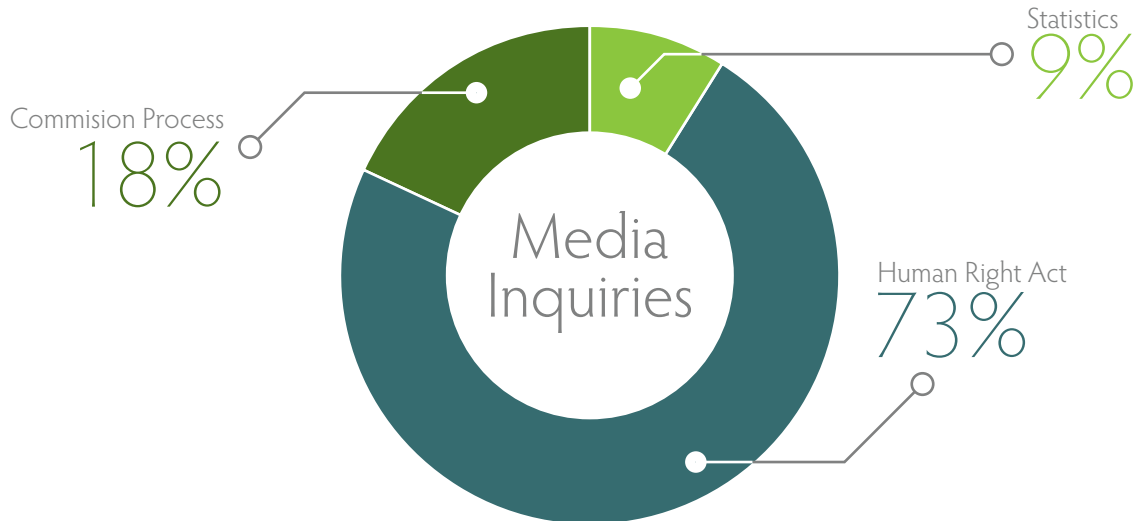


Media relations

Medias are now more focused on having their stories published on their social media channels and updating the content on their web platforms in a faster way, the Commission is often asked to comment on matters impacting the human rights of New Brunswickers.

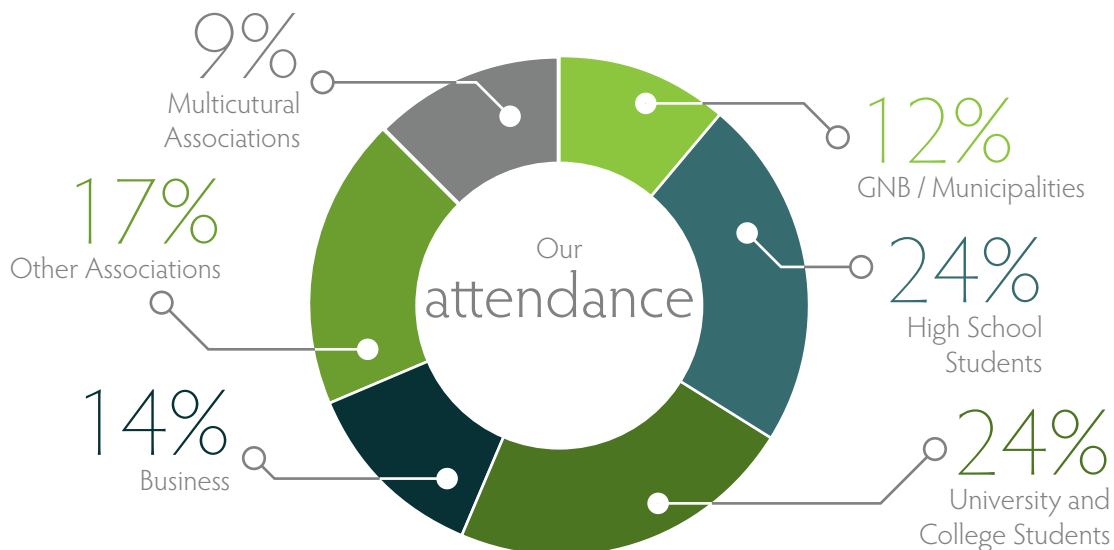
The Commission publishes news releases or statements to inform New Brunswickers of their human rights and responsibilities. They are published on the GNB media feed, the Commission's website and shared with the Commission social media channels .

Four releases or statements were published during the 2019-2020 fiscal year. They mainly focused on promoting the publication of guidelines published by the commission, the 2019 Human Rights Awards and human rights days.



Presentations and workshops

As part of its education mandate, the Commission is regularly making presentations to various groups such as professional associations and educational institutions. The commission also took part in a virtual and interactive conference and joined the New Brunswick Community College Job Fair to connect with employers and future employees. The Commission delivered 42 presentations or workshops in 2019-2020. Seven of the sessions were agreed to as a term of settlement of a human rights complaint.



Who we CONNECT with

Twenty of the awareness presentations were delivered to students at universities, community colleges, business colleges, public schools and Workplace Essential Skills classes. In addition, six presentations were delivered to business employers and employees. Nine information sessions were delivered to GNB employees, municipalities, multicultural groups and other associations.

The most requested presentations focused on a general introduction to the *Human Rights Act* (30 presentations). The other topics were: the duty to accommodate at work (9 presentations), the duty to accommodate students with disabilities (2 presentations), and one presentation on Human rights and Gender Identity or Expression.

Human Rights Award

The New Brunswick Human Rights Award is an annual award established in 1988 to recognize individuals and organizations that have shown outstanding effort, achievement and/or leadership on a volunteer basis in the promotion of human rights and equality, and as such serve as examples to all New Brunswickers.



From left: Chris Wheaton, vice-principal and music teacher at École Abbey-Landry with students Cassandra Wheaton (left) and Élodie LeBlanc; Nathalie Chiasson and Paul M. McDonnell.

The award is represented by an elegant sculpture of walnut and maple. The names of the recipients are engraved on the base of the award, which is on permanent display at Government House in Fredericton, where it may be viewed by the public.

A news release seeking nominations for the 2019 Human Rights Award was published in March 2019.

Nominations were also solicited from a wide variety of groups by email and social media channels. The nomination form is posted on the Commission's website.

The chair Nathalie Chiasson presented the 2019 New Brunswick Human Rights Award to Paul M. McDonnell, of Fredericton, as well as the Youth Human Rights Award to students of École Abbey-Landry, in Memramcook, during a ceremony held on September 13 in Fredericton.

Mr. McDonnell received this award for his outstanding, decades-long work with children living in the autism spectrum to promote their inclusion and respect for their diversity. He was instrumental in creating autism intervention training programs for front line staff and for health and education specialists who guide each child's individual program.

The commission presented the first Youth Human Rights Award which highlights the ability of young people to engage in promoting the values associated with human rights, such as respect, appreciation for diversity and the absence of discrimination. The award was presented to the Grade 4 to 6 of École Abbey-Landry for their project called L'espoir d'avenir.

Provincial activities

As part of the 2019 Disability Awareness Week, the Commission's Director was a keynote speaker at the Disability Stakeholder Summit. Following the conference's theme "Better Together!", the director talked about the role of the Commission and the importance of promoting diversity and to act daily to promote a more inclusive and diverse New Brunswick.

Project on preventing sexual harassment in the workplace

As part of a nationwide call for proposals launched by the federal Department of Justice Canada, the Commission has partnered with the Public Legal Education & Information Service of New Brunswick (PLEIS-NB) in a \$1.5M five-year project to prevent sexual harassment of vulnerable populations in the workplace. Stakeholder consultations across the province began in September to gather insight and information to support the development of resources and training materials. At the end of February, the project team published the project's learning framework and the learning materials will be finalized by the end of March.



St Thomas University Human Rights Internship program

Between September and November 2019, the Commission took part in the STU Human Rights Internship program as a Community Partner. The Commission provided a fourth-year student with a supervised internship at the Commission's main office in Fredericton.



STU HR Internship program Community Partners representatives: from left to right: Angela Bosse and Clara Santacruz, STU Office of Experiential and Community-Based Learning, Dr Gül Calışkan, No One Is Illegal Fredericton, Bronwen Cunningham, PETL, Warren Maddox, Fredericton Homeless Shelters, Emily Williams, PETL, Dr Shannonbrooke Murphy, STU Human Rights Internship Course Director, and Marc-Alain Mallet, NB Human Rights Commission

From left to right: Marc-Alain Mallet, Director (Commission); Khurram Khurshid, Advisor (Commission); Amber Chisholm, Family Law Information Coordinator (PLEIS-NB); Shannon Benjamin, pro bono law student; Deborah Doherty, Executive Director (PLEIS-NB); Lucas Roche, pro bono law student.



National activities

The Commission is a founding member of the Canadian Association of Statutory Human Rights Agencies (CASHRA) and continues to play an active role within this organization. CASHRA was established in 1972 to foster cooperation and information-sharing between human rights agencies across Canada.

During the last year, the Commission continued to leverage its membership to CASHRA through its participation on several working groups.

CASHRA regular meetings are also an effective forum for Commissions to address operational matters, discuss statutory interpretation, and share leading practices among practitioners across the country.



Commission employees, Amelie Aikman and Pamela Schiavoni moderated the “L’impact des personnalités difficiles sur l’équité procédurale” and “Balancing Access to Justice with Procedural Fairness” sessions at the 2019 CASHRA National Human Rights conference held in Charlottetown in July where over 100 representatives attended from across Canada.

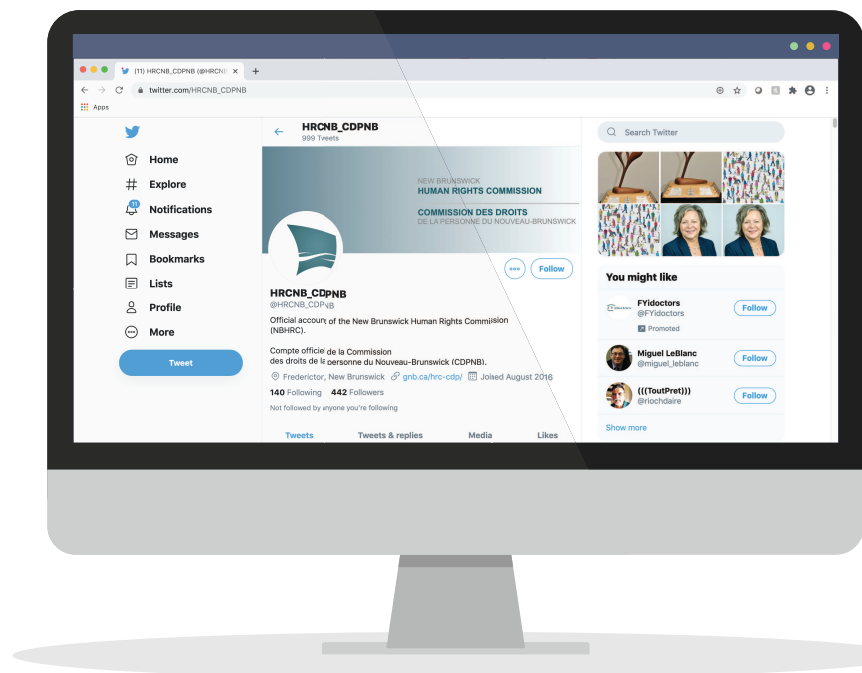
Social media and other activities

Worldwide, people are using social media increasingly to access timely information. New Brunswickers are customizing their news and information discovery experiences by choosing to follow exactly what they want and this why social media is an expanding component of the Commission’s communication strategy.

It is now part of our communication process to promote the publication of our Guidelines, Q&As and other publications using our social media channels. Those posts can also lead to a better understanding on who our followers are and the topics that need to be developed to improve outreach.

With **390** followers, our twitter account, @HRCNB_CDPNB, has published **43** tweets generating **90,800** tweet impressions that generated interaction from others on Twitter.

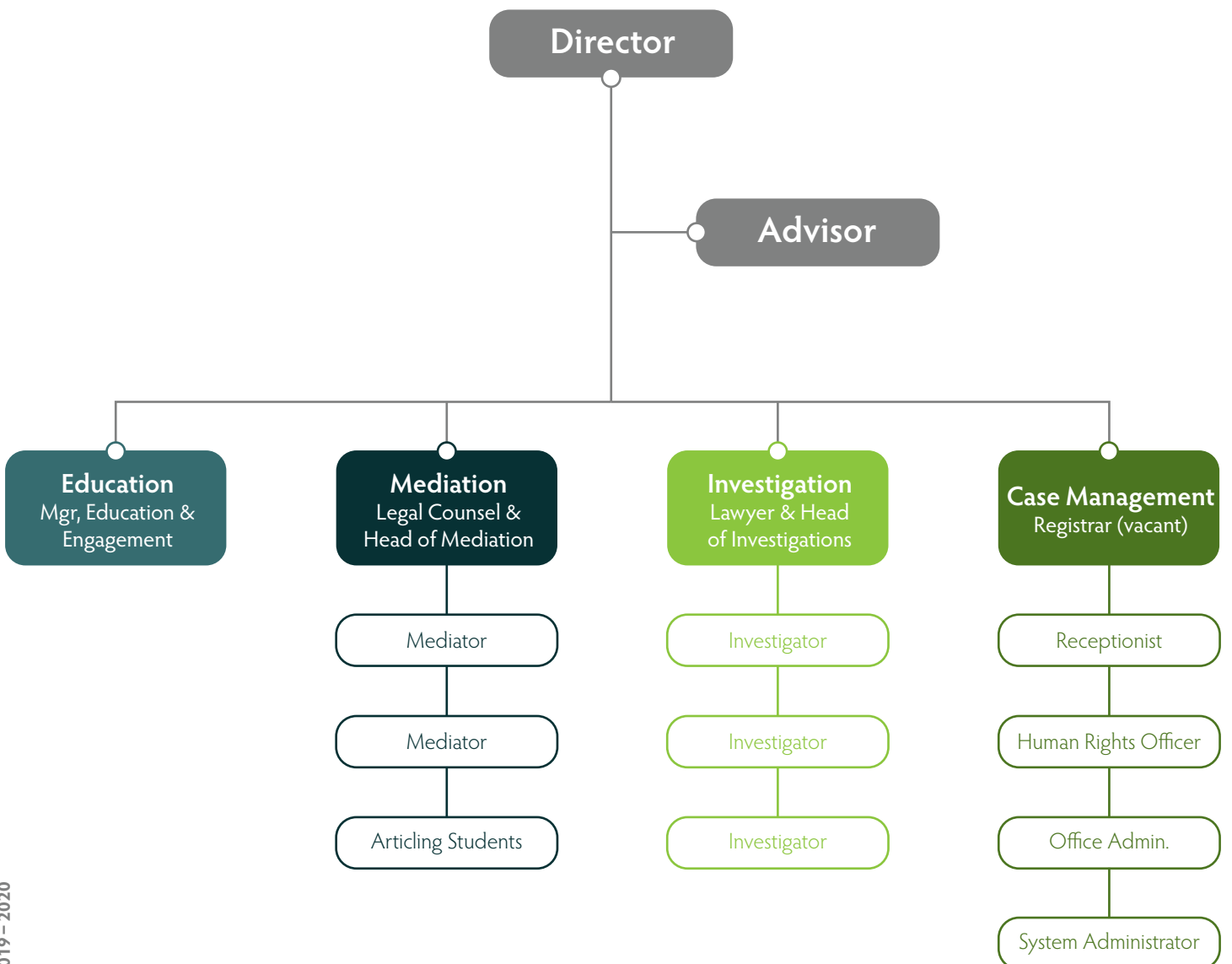
Our Facebook account, @HRCNB.CDPNB, generated **251** likes with **35** publications and **7,580** impressions.



APPENDICES

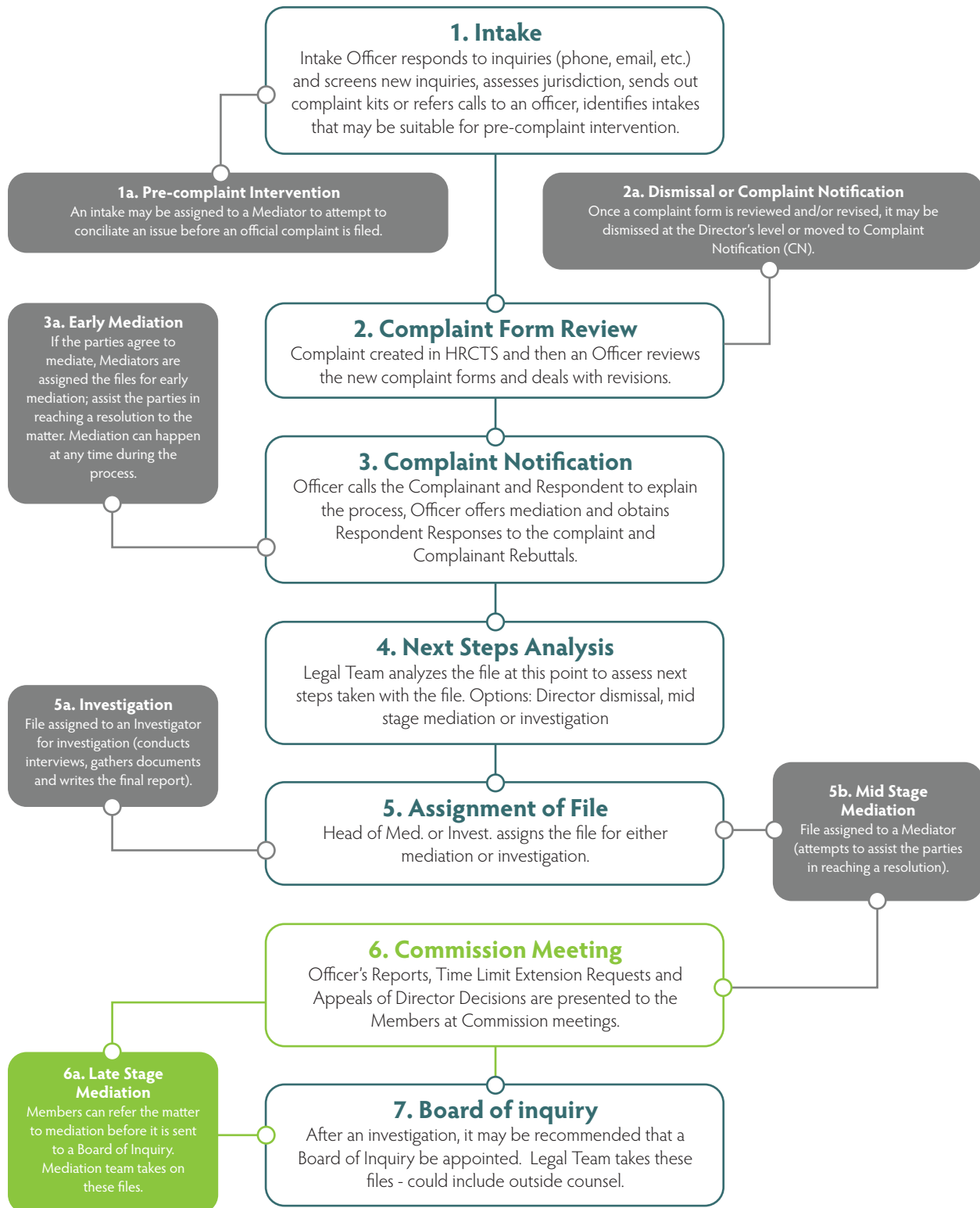
Appendix A

Organizational chart



Appendix B

Complaint process



Appendix C

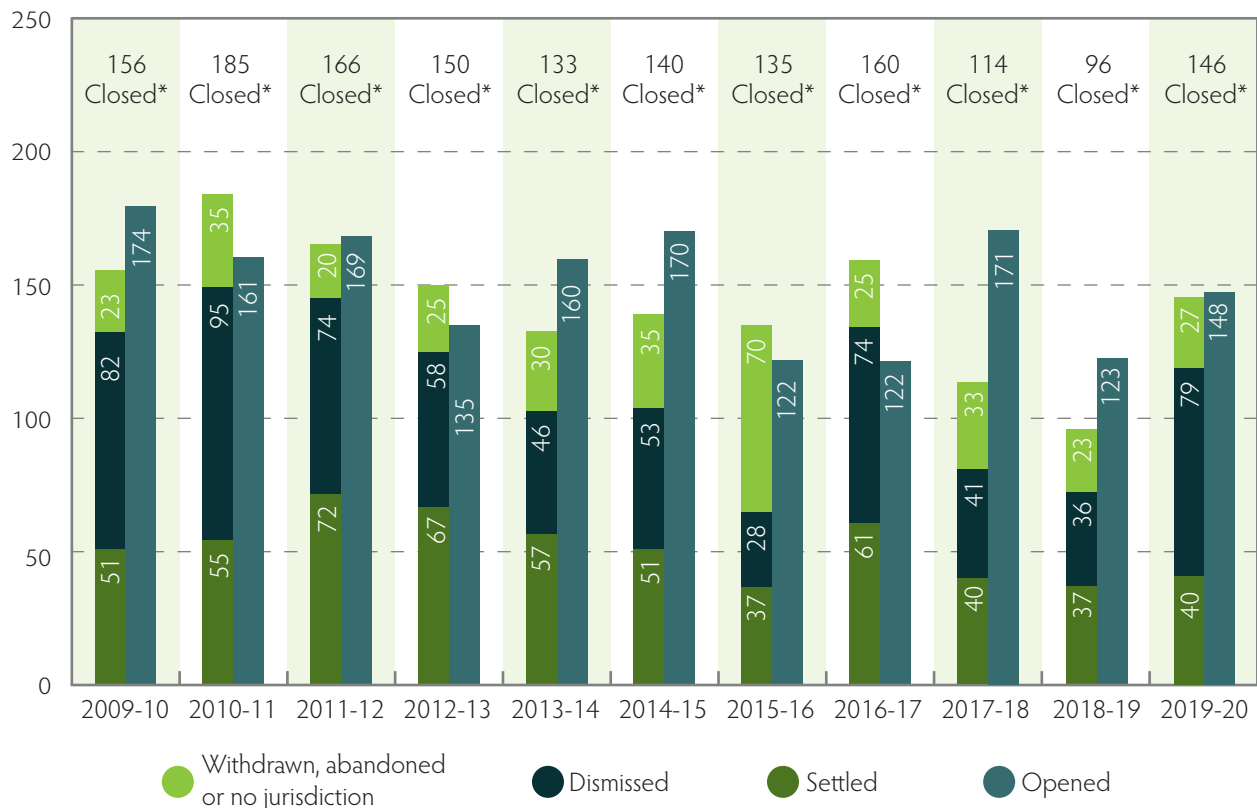
New Formal Complaints* by Ground and Activity April 1, 2019, to March 31, 2020

	Employment	Housing	Services	Publicity	Associations	Total
Mental Disability	41	5	14	0	0	60
Physical Disability	45	2	11	0	0	58
Sex	21	0	1	0	0	22
Age	15	0	3	0	0	18
Ancestry	8	2	5	1	1	17
Race	7	2	5	1	1	16
Social Condition	4	2	9	0	0	15
Sexual Harassment	13	1	1	0	0	15
National Origin	4	2	6	0	1	13
Family Status	5	3	2	0	1	11
Place of Origin	2	1	6	1	0	10
Colour	3	2	1	1	0	7
Creed or Religion	2	1	3	0	1	7
Reprisal	4	1	2	0	0	7
Gender ID or Expression	2	0	3	0	1	6
Political Belief or Activity	3	1	2	0	0	6
Sexual Orientation	2	0	2	0	1	5
Marital Status	2	0	0	0	0	2
Total	183	25	76	5	6	295

* Note that this table shows **allegations** of discrimination, which **exceed the number of distinct formal complaints** since a single complaint may allege discrimination on more than one ground (e.g., race and colour) or in more than one activity (e.g., employment and service). When each new formal complaint alleging discrimination on multiple grounds or in multiple activities is counted as a single complaint, there were 148 distinct, new, formal complaints.

Formal complaints opened and closed* 2009-2020

* NOTE: Statistics for closed complaints are for formal complaints closed by the Commission only, not cases settled during pre-complaint interventions, nor formal complaints closed at the board of inquiry or court levels.



Appendix D

Summary of expenditures

	2019-2020 Main Estimates	2019-2020 Budget	2019-2020 Actual
Compliance and Prevention	\$ 1,220,560	\$ 1,220,560	\$1,189,628
Office of the Commission	\$58,440	\$58,440	\$37,734
Total	\$1,279,000	\$1,279,000	\$1,227,362

For detailed figures, please consult the supplementary information relating to the Department of Post-Secondary Education, Training and Labour in Volume 2 of the 2019-2020 Public Accounts.

Appendix E

Publications of the New Brunswick Human Rights Commission

Guidelines available on the Commission's website

- Guideline on the Section 19(2)(f) Process (2017, 30 pages)
- Accommodating Disability at Work (2017, 25 pages)
- Accommodating People with Service Animals (2017, 20 pages)
- Accommodating Students with a Disability (K-12) (2017, 32 pages)
- Accommodating Students with Disabilities in Post-Secondary Institutions (2017, 13 pages)
- Delegation of Compliance Functions (2017, 4 pages)
- Guideline on Family Status (2017, 12 pages)
- Guideline on Gender Identity or Expression (2017, 9 pages)
- Time limit Extension for Filing a Complaint (2017, 4 pages)
- Guideline on Sexual Harassment (2018, 39 pages)
- Guideline on Cannabis, Alcohol, and Drug Addictions (2018, 42 pages)
- Guideline on Social Condition (2019, 22 pages)
- Guideline on Pregnancy Discrimination (2019, 39 pages)

Other publications

- Annual reports
- Accommodation at Work (reference manual) (2012)
- Additional publications are available on the Commission's website: www.gnb.ca/hrc-cdp