



April 2026

# **REVIEW OF SECTIONS 47.01 TO 47.24 OF THE *HUMAN RIGHTS CODE***

Special Committee to Review Provisions  
of the Human Rights Code

Second Session, 43rd Parliament



LEGISLATIVE ASSEMBLY  
of BRITISH COLUMBIA



April 30, 2026

To the Honourable the  
Legislative Assembly of the  
Province of British Columbia

Honourable Members:

I have the honour to present herewith the Report of the Special Committee to Review Provisions of the Human Rights Code. This report covers the Committee's work in regard to its review of sections 47.01 to 47.24 of the *Human Rights Code* (R.S.B.C. 1996, c. 210).

Respectfully submitted on behalf of the Committee,

Mable Elmore, MLA  
Chair

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# Composition of the Committee

## Committee Members

### 43rd Parliament, 1st Session

Mable Elmore, MLA, [Chair](#)  
(Member from September 12, 2025; Chair from September 19, 2025)  
Vancouver-Kensington

Jennifer Blatherwick, MLA  
(Chair and Member to September 12, 2025)  
Coquitlam-Maillardville

Teresa Wat, MLA, [Deputy Chair](#)  
Richmond-Bridgeport

Rohini Arora, MLA  
Burnaby East

Dallas Brodie, MLA (Member from September 12, 2025)  
Vancouver-Quilchena

George Chow, MLA (Member from September 12, 2025)  
Vancouver-Fraserview

Dana Lajeunesse, MLA  
Juan de Fuca-Malahat

Scott McInnis, MLA  
Colombia River-Revelstoke

### 43rd Parliament, 2nd Session

Mable Elmore, MLA, [Chair](#)  
Vancouver-Kensington

Teresa Wat, MLA, [Deputy Chair](#)  
Richmond-Bridgeport

Rohini Arora, MLA  
Burnaby East

Susie Chant, MLA  
North Vancouver-Seymour

Scott McInnis, MLA  
Colombia River-Revelstoke

## Committee Staff

Jennifer Arril, Clerk of Committees

Katey Stickle, Senior Resesarch Analyst

Jonathon Hamilton and Hanna Kim, Committee Researchers

Alexa Neufeld, Parliamentary Committees Officer

Kayla Wilson, Committees Coordinator

# Terms of Reference

On February 19, 2026, the Legislative Assembly agreed that a Special Committee to Review Provisions of the Human Rights Code be appointed to review sections 47.01 to 47.24 of the *Human Rights Code* (R.S.B.C. 1996, c. 210), pursuant to section 50.1 of the Code.

That the Special Committee have the powers of a Select Standing Committee and in addition be empowered to:

- a. appoint of its number one or more subcommittees and to refer to such subcommittees any of the matters referred to the Special Committee and to delegate to the subcommittees all or any of its powers except the power to report directly to the House;
- b. sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- c. conduct consultations by any means the Special Committee considers appropriate;
- d. adjourn from place to place as may be convenient; and,
- e. retain personnel as required to assist the Special Committee.

That any information and materials previously under consideration by the

Special Committee appointed by order of the Legislative Assembly on May 26, 2025, for the same purpose be referred to the Special Committee.

That the Special Committee report to the House by May 25, 2026; and that during a period of adjournment, the Special Committee deposit its reports with the Clerk of the Legislative Assembly, and upon resumption of the sittings of the House, or in the next following Session, as the case may be, the Chair present all reports to the House.

# Executive Summary

Pursuant to section 50.1 (1) of the *Human Rights Code* (the “Code”), at least once every five years, a special committee of the Legislative Assembly must begin a comprehensive review of sections 47.01 to 47.24 of the Code. These sections pertain to the appointment and mandate of the Human Rights Commissioner (the “Commissioner”). The Legislative Assembly appointed the Special Committee to Review Provisions of the Human Rights Code to undertake this work on May 26, 2025, and February 19, 2026. Section 50.1 (1) of the Code was brought into force on September 1, 2020, making this the first review by a special committee. To inform its review, the Committee received briefings from the Ministry of Attorney General (the “Ministry”) and the Office of the Human Rights Commissioner. The Committee also held a public consultation, in which six organizations and individuals participated.

In undertaking its review, the Committee agreed that the mandate of the Commissioner is appropriate and that, in general, the provisions set out in the Code to support the Commissioner in carrying out this mandate are working well. As such, the Committee makes only a few recommendations for minor amendments. The Committee makes two recommendations with respect to inquiries by the Commissioner into matters that would promote or protect

human rights. First, recognizing the importance of access to information for the Commissioner to conduct an inquiry, the Committee recommends clarifying in the Code that the Commissioner’s right to information is limited only by solicitor-client privilege and certifications by the Attorney General with respect to Cabinet information, and not by any other claims of confidentiality or privilege. Second, the Committee recommends making it an offence to retaliate against an individual for participating in an inquiry. As the Commissioner has the authority to summon individuals to participate, Members observed that some participants have reported concerns about potential retaliation and believe it is vital that there be stronger protections for participants that extend beyond the current provisions in the Code. The Committee also makes a recommendation with respect to the Human Rights Advisory Council which may be appointed to provide support and advise the Commissioner on issues and topics that intersect with the Commissioner’s mandate. Committee Members recommend that, should members be appointed to the Council, they reflect the diversity of the province, including rural and Indigenous representation, to support inclusive decision-making and consideration of a broad range of lived experiences.

In reviewing input related to the appointment, reappointment, and compensation of the Commissioner, Members observed many inconsistencies across the enabling statutes of BC's statutory officers. While in some cases, these differences reflect the roles and responsibilities specific to each officer, in other circumstances, the reason for the differences were unclear. Members agreed that there would be significant value in undertaking a more comprehensive review of the enabling statutes for all statutory officers in BC, especially with respect to appointment mechanisms, term lengths and eligibility for reappointment, and processes for determining compensation. This work would expand beyond the mandate of the Committee, as such, Members made no recommendations regarding the appointment and compensation of the Commissioner despite fulsome discussion on the input they heard in these areas.

# The Work of the Committee

On May 26, 2025, and February 19, 2026, the Legislative Assembly appointed a special committee to review sections 47.01 to 47.24 of the *Human Rights Code* (R.S.B.C. 1996, c. 210), pursuant to section 50.1 of the Code.

To begin its examination, the Committee received briefings from the Ministry of Attorney General and the Office of the Human Rights Commissioner on July 18, 2025. These briefings provided background information on sections 47.01 to 47.24 of the Code and context regarding BC's human rights system.

To gather additional input, the Committee accepted written submissions from the public between July 28 and September 26, 2025. To encourage participation, the Committee issued a media release, shared information on Legislative Assembly social media accounts, advertised in online newspapers, and reached out directly to stakeholders via email.

In total, the Committee received input from six participants. Two participants, as well as the Office of the Human Rights Commissioner and the Ministry of Attorney General, were invited to appear at a public hearing on January 16, 2026. A list of the individuals and organizations that participated in the Committee's consultation is available in the appendix.

Following the public hearing, the Committee met to consider the input received and develop recommendations.

## Meeting Schedule

### 1st Session, 43rd Parliament

May 28, 2025

- Election of Chair and Deputy Chair
- Planning

July 18, 2025

- Briefings

September 19, 2025

- Election of Chair

November 26, 2025

- Deliberations

January 16, 2026

- Public Hearing (Victoria)

February 3, 2026

- Deliberations

### 2nd Session, 43rd Parliament

March 23, 2026

- Election of Chair and Deputy Chair
- Deliberations

April 1, 2026

- Deliberations

April 21, 2026

- Deliberations
- Adoption of Report

# Background

The Code prohibits discrimination in employment, housing, services available to the public, membership in unions or occupational associations, and publications, with protections based on personal characteristics including Indigenous identity, race, colour, ancestry, place of origin, religion, marital status, physical or mental disability, sex, sexual orientation, gender identity or expression, and age. The first independent Human Rights Commission in BC was established in 1973 with the introduction of the Code. The purpose of this first Commission was to promote human rights and eliminate discriminatory practices through public education and advocacy. In 1984, that Commission was replaced by the Human Rights Council, which was responsible only for processing and adjudicating human rights complaints. A Commission was established once again in 1997, along with the Human Rights Tribunal and a Human Rights Advisory Council. This second iteration of the Commission was responsible for screening and referring complaints to the Tribunal, in addition to public education and advocacy. In 2002, both the Commission and Council were eliminated. At that time there was a large backlog of complaints and the Commission's role in reviewing complaints before they were referred to the Tribunal was seen as slowing down the process.

In 2017, government announced that it intended to re-establish a Human Rights Commission and undertook a public engagement process about the state of human rights in BC. The report on this engagement, *A Human Rights Commission for the 21st Century: British Columbians talk about Human Rights*, recommended establishing an independent Commission, separate from the Tribunal, responsible for educating British Columbians on human rights to foster social change. The Code was subsequently amended in 2018 to provide for the establishment of the current iteration of the Commission and the appointment of an independent Human Rights Commissioner.

The Commissioner is a non-partisan, independent officer of the Legislature (also known as a statutory officer), with a mandate to promote and protect human rights in BC through education, advocacy, inquiries, and interventions in Tribunal cases and court proceedings. To fulfill this mandate, the Commissioner's powers include creating policies, guidelines, and public education to prevent discrimination; intervening in Tribunal cases and court proceedings related to human rights; conducting human rights inquiries; and issuing reports and recommendations. The Commissioner reports directly to the Legislative Assembly. The current, and first Commissioner, Kasari Govender, K.C., was appointed by the

Legislative Assembly on September 3, 2019, for a five-year term. In May 2024, Govender was appointed for one additional five-year term, beginning September 3, 2024.

BC's current human rights system includes the Office of the Human Rights Commissioner, the Human Rights Tribunal, and the Human Rights Clinic. The Commissioner addresses systemic issues, while the Tribunal functions as a quasi-judicial body that accepts, mediates, and adjudicates complaints under the Code. The Human Rights Clinic, operated by the Community Legal Assistance Society, provides free legal advice to eligible individuals pursuing complaints before the Tribunal. The Commissioner does not have an adjudicative role regarding human rights complaints.

# Appointment and Compensation

## Appointment of the Commissioner

Pursuant to section 47.01 of the Code, the Legislative Assembly may, by resolution, appoint a person to the position of Human Rights Commissioner who has been unanimously recommended for appointment by a special committee. In practice, a special committee appointed for this purpose, composed of both government and opposition Members, carries out a recruitment process and then presents a unanimous recommendation to the Legislative Assembly. A Commissioner may be reappointed by the Legislative Assembly, again following a unanimous recommendation from a special committee, for one additional term of up to five years. While some statutory officers, such as the Commissioner, are appointed directly by the Legislative Assembly, others are appointed on the recommendation of the Legislative Assembly by the Lieutenant Governor in Council through Order in Council, or by the Lieutenant Governor by way of Commission.

Regarding the appointment of the Commissioner, Disability Alliance BC stated that the work of the Commissioner has been valuable, citing examples of their leadership around protecting people with disabilities during pandemics as well as other work to champion marginalized communities. The organization recommended amending section 47.01 of the Code to indicate that

the Legislative Assembly “must” appoint a Commissioner rather than “may” appoint a Commissioner as currently stated in the Code. They stated that this change would enhance the security and stability of the Office, insulate it from government discretion, and emphasize the importance of the Commissioner’s work. In their presentation to the Committee, the organization noted that the enabling legislation of other statutory officers in BC has more prescriptive language requiring their appointment. The Commissioner fully supported this recommendation in their presentation to the Committee. Conversely, Ministry officials explained that requiring a special committee of the Legislative Assembly to recommend the appointment, or reappointment, of a Commissioner was designed to support the position’s independence from government. Officials indicated that, in the Ministry’s view, the decision to appoint a Commissioner should remain at the discretion of the Legislative Assembly, rather than being a statutory requirement.

With respect to term length and eligibility for reappointment, the Commissioner noted that the prospect of reappointment may create a risk, or perceptions, of pressure on the Commissioner to moderate or limit criticism of government actions in hopes of securing a second term. The Commissioner added that removing reappointment

provisions from the Code would minimize incentives that may compromise critical oversight functions or create the perception of such compromise, as well as bolster independence by removing concerns over job security linked to governmental approval. In response to Committee Members' questions, the Commissioner shared that members of the public have raised questions about whether the prospect of reappointment might influence their actions. As such, the Commissioner recommended that the Code be amended to provide for an eight-year fixed term with no possibility of reappointment. The Commissioner added that this would mirror the term of the Auditor General and noted that the Representative for Children and Youth made a similar recommendation about that position's term as part of a review of the *Representative for Children and Youth Act*. In response, Ministry officials stated that the Auditor General is currently the only statutory officer in BC appointed for a single, eight-year term, and emphasized that comparing term lengths across statutory officer positions is not necessarily useful given the distinct mandates of each role. Since current appointment terms allow a Commissioner to serve for up to ten years and extend beyond a single government's four-year mandate, the Ministry expressed the view that these terms are appropriate.

## Compensation

Section 47.04 of the Code entitles the Commissioner to be paid compensation that may be set by the Lieutenant Governor in Council, to benefit from the public service pension plan, and to be reimbursed for reasonable travel and out-of-pocket expenses personally incurred in exercising the powers and performing the duties of

the Office. Compensation mechanisms vary for BC's statutory officers. Six statutory officers have their compensation tied to the salary of the Chief Judge of the Provincial Court of BC, which for 2025-26 is approximately \$414,000. The Human Rights Commissioner and Conflict of Interest Commissioner are paid compensation as set by the Lieutenant Governor in Council. Per the Order in Council outlining the employment terms and conditions of the Human Rights Commissioner, their salary for 2025-26 is \$351,847. The Conflict of Interest Commissioner serves on a three-quarter time basis with a salary of approximately \$257,400 for 2025-26.

In their submission to the Committee, the Commissioner noted that the provision of the Code whereby the Commissioner's salary is set by the Lieutenant Governor in Council weakens the clear separation from the executive branch and the structural independence that is fundamental to public trust in the Commissioner's role. The Commissioner added that all other full-time statutory officers have salaries tied to the same external benchmark, which both protects their independence and creates parity between these officers. As such, the Commissioner recommended amending the Code to provide for a compensation mechanism that ties the Commissioner's salary to an external benchmark such as statutory indexing to a judicial comparator, stating that this would reinforce the Commissioner's separation from executive influence, preserving legitimacy and public trust.

In response, Ministry officials explained that aligning statutory officers' salaries to that of the Chief Judge of the Provincial Court of BC was based on previous

legislative practices. They shared that the decision to set the Commissioner's salary through Lieutenant Governor in Council is reflective of more recent practices to align a position's compensation with its specific responsibilities and functions, rather than being tied to an external benchmark. Officials stated that the Ministry considers the current compensation provisions for the position to be appropriate and that there is no risk to the position's independence, noting that BC has the most independent Commissioner in Canada with reporting to the Legislative Assembly rather than a minister.

## Committee Discussion

The Committee first discussed the proposed amendment to section 47.01 of the Code to change the wording from "may" to "must" with respect to the appointment of a Commissioner, noting that the intent of the proposed change is to ensure that the position is always filled.

Members noted that the enabling statutes of some other statutory officers use the term "must" in relation to appointments. The Committee observed, however, that this mandatory language reflects a different appointment mechanism, in which the Lieutenant Governor or the Lieutenant Governor in Council "must" appoint an individual recommended by the Legislative Assembly. By contrast, because the Commissioner is appointed directly by the Legislative Assembly, the Code uses "may" rather than "must." Members further noted that amending section 47.01 to replace "may" with "must" would not, in itself, guarantee the appointment of a Commissioner, as the Legislative Assembly

could still choose not to establish the special committee required to recommend a candidate for the position—an issue that similarly arises in statutes where "must" is already used.

The Committee also noted that requiring the Legislative Assembly to appoint a Commissioner through mandatory language would depart from established legislative practice under a Westminster system of parliamentary government, which rarely directs the Assembly to undertake specific actions in mandatory terms. This reflects both the separation of powers among the legislative, executive, and judicial branches and the Assembly's privilege to regulate its own proceedings and affairs.

Accordingly, the Committee decided not to recommend the proposed amendment. In doing so, however, the Committee acknowledged the recommendation from Disability Alliance BC, recognized the important work carried out by the Commissioner, and emphasized the necessity of ensuring that the position is consistently filled to support the protection and promotion of human rights in BC. The Committee also questioned the necessity and purpose of differing appointment mechanisms among statutory officers and suggested there may be opportunities to improve consistency across these enabling statutes.

The Committee engaged in thorough deliberations as it considered the Commissioner's term length and eligibility for reappointment, recognizing that these issues are closely interconnected. Members discussed whether the current provisions allowing for reappointment might give rise to real or perceived concerns about the

Commissioner's independence, particularly with respect to the willingness to be critical of the executive branch while seeking a second term.

The Committee discussed the importance of the appointment and reappointment process as a safeguard for independence. Members noted that both the initial appointment and any reappointment of a Commissioner requires a unanimous recommendation of a special committee composed of Members from both government and opposition. The Committee expressed confidence that this requirement provides a strong, cross-partisan accountability mechanism and mitigates concerns that a Commissioner's independence could be compromised by the prospect of reappointment.

In considering the Commissioner's term length and eligibility for reappointment, the Committee also considered issues including recruitment and retention of qualified candidates, transition and orientation requirements, continuity of leadership, and mechanisms for accountability and oversight.

Members also considered the term length and reappointment provisions applicable to other statutory officers, noting that there is a range of approaches across enabling statutes, including variation in term lengths and eligibility for reappointment. Members observed that only one other statutory officer is appointed for a single, non-renewable term. The Committee recognized that these differences may warrant further examination and identified a potential opportunity for a broader review of term length and reappointment provisions across statutory officers. Taking these considerations together, the Committee concluded that the current provisions in the

Code—providing for a five-year term with the possibility of one additional five-year term—are appropriate. Accordingly, the Committee decided not to recommend changes to the Commissioner's term length or eligibility for reappointment.

With respect to the Commissioner's compensation, Members noted that while several of BC's statutory officers' salaries are tied by statute to that of the Chief Judge of the Provincial Court of BC, the Commissioner's salary is set at a lower amount by the Lieutenant Governor in Council. Members recognized that, as the position was established in 2018, the Code is the newest enabling statute for a statutory officer, and there was a decision made at that time to move away from the previous practice of linking compensation to a judicial comparator to better reflect the responsibilities, mandate, and requirements of the position. Members emphasized that the role and responsibilities of the Commissioner require substantial commitment and specialized knowledge, and that competitive and equitable compensation is essential for attracting highly qualified candidates. They highlighted that linking the Commissioner's salary to that of the Chief Judge would improve consistency with other statutory officers and distance the position from the executive branch; however, they recognized that using a judicial comparator as the basis for setting the Commissioner's salary is not necessarily an effective approach as that would tie compensation to principles and processes specific to the judicial branch. As such, Members agreed that changing the process for determining compensation for the Commissioner would best be considered as part of a comprehensive

review of all statutory officer positions. Since such a review is beyond the mandate of the Committee, Members decided not to make a recommendation regarding the Commissioner's salary at this time but emphasized the importance of ensuring that compensation decisions and criteria set by the Lieutenant Governor in Council for the position are clear, transparent, and justified.

# Powers of the Human Rights Commissioner

## Inquiries and Access to Information

Pursuant to the Code, the Commissioner has the authority to initiate inquiries into matters that would promote or protect human rights. The Legislative Assembly or any of its committees can also refer a matter to the Commissioner for inquiry; the Commissioner is not required to accept such a referral but must provide written reasons to the Assembly for not accepting it. In their briefing to the Committee, Ministry officials noted that inquiries are intended to be in-depth reviews of specific incidents or issues, designed to promote accountability and transparency. Upon concluding an inquiry, the Commissioner may publish a report with recommendations. While the Commissioner cannot compel compliance with an inquiry's recommendations, the Commissioner may require a person to report back on actions taken. If the Commissioner considers that the person has not adequately addressed the recommendations within a specified period, the Commissioner may issue a written report about this to the Speaker of the Legislative Assembly. The Office has initiated inquiries on the topics of hate during the COVID-19 pandemic, detentions under the *Adult Guardianship Act*, media exclusion zones, and police use of force.

The Code protects participants in an inquiry from retaliation, intimidation, penalties,

and other repercussions. If such retaliation occurs, the person can file a complaint with the Human Rights Tribunal. The Commissioner shared that their Office has received questions from inquiry participants about what this protection means, with participants expressing fear of facing retaliation in their ongoing interactions with duty holders. The Commissioner noted that this protection should be strengthened to align with the enabling statutes of other statutory officers, including sections 27 and 28 of the *Representative for Children and Youth Act* and sections 16 and 32 of the *Ombudsperson Act*, which make it an offence to retaliate against a person for participating in an inquiry or investigation. In response, Ministry officials explained that making it an offence to retaliate against a person for participating in an inquiry would mean a person could be prosecuted in court; however, they clarified that prosecutors pursue charges only after other avenues to ensure compliance have been attempted. Ministry officials expressed the view that sufficient protections for inquiry participants are already in place and that seeking recourse through the Human Rights Tribunal is more accessible than pursuing criminal prosecution for an offence. Further, they noted that offence provisions related to retaliation for participating in an inquiry are not seen in the enabling statutes of other human rights commissions in Canada.

The Commissioner's order powers for inquiries are set out in section 47.16 of the Code. For the purposes of conducting an inquiry, the Commissioner can issue orders requiring individuals to attend and answer questions under oath or solemn affirmation, and demand the production of records, recordings, or photographs. The Code does not specify that a person is obligated to disclose information, but under section 47.19, a Commissioner's order to produce records can be enforced by filing it with the Supreme Court, and under section 47.22, it is an offence to mislead or obstruct the Commissioner. Per section 47.18 (1) of the Code, the Commissioner cannot compel the production of information if the Attorney General certifies it might result in or involve disclosure of Cabinet information.

Disability Alliance BC stated that the Commissioner's order powers are essential for their ability to uncover serious human rights violations and make recommendations for change. In particular, the organization referenced the Commissioner's inquiry into detentions under the *Adult Guardianship Act*. The organization noted that given the lack of transparency and oversight of these detentions, there is no way to get related information without the Commissioner's order powers. Conversely, the Committee heard from an individual that section 47.16 (1)(c) of the Code, related to the production of photographs, video or audio recordings, is broad and invasive as well as open to privacy abuse. The individual also noted a lack of explicit appeal rights for these orders beyond applying to vary the order. In a presentation to the Committee, the Commissioner noted that such materials must be held confidential, except in the proper exercise of their mandate, and that

orders are subject to a request to vary or rescind and ultimately subject to judicial review.

The Commissioner highlighted challenges with these order powers as they relate to accessing information to fulfil their mandate and making evidence-based recommendations. To mitigate these challenges, the Commissioner recommended more clearly outlining their rights to access information and the limits to those rights. This includes clarifying that the Commissioner has a right to information to fulfill their whole mandate, not just to conduct inquiries; that the Commissioner has a right to information in any format they request; and that the duty of public bodies and others to provide the requested information to the Commissioner is enforceable through the courts in the same way as the current inquiry orders. The Commissioner stated that these amendments would benefit the Office and would result in additional clarity for duty holders who receive requests for information and production orders from the Commissioner.

Regarding the first challenge, the Commissioner explained that except for their production powers during an inquiry, they do not have the power to compel information from public bodies or others to fulfil their mandate. The Commissioner shared that the Office has experienced some challenges in obtaining information needed to fulfil their mandate outside the context of inquiries, including delays, resistance to producing records, and confusion around disclosure obligations with respect to personal information. The Commissioner added that the *Representative for Children and Youth Act* and *Auditor General Act*

grant those statutory officers the power to compel the production of information to conduct investigations or audits as well as to fulfil other aspects of their mandates. In response, Ministry officials expressed the view that the Commissioner's authority to order information only in the context of an inquiry is appropriately aligned with their mandate. Similarly, they noted that the access to information provisions in the *Representative for Children and Youth Act* and *Auditor General Act* are carefully and appropriately aligned with each officer's role and mandate. Looking across Canada, Ministry officials added that Ontario is the only other human rights commission that has an enabling statute to initiate inquiries and the Ontario *Human Rights Code* restricts the powers to compel information to inquiries and not to the Commissioner's broader mandate.

The Commissioner also noted challenges regarding the format of information, explaining that they are limited to ordering the production of "records or other things" and have faced resistance to the production of demographic data in the format requested, where available records may not already be in that format. In particular, the Commissioner highlighted the value of disaggregated demographic data in advancing human rights, as it can reveal patterns obscured by aggregate data, including inequalities and differences between sub-groups. The Commissioner stated that they should have a right to access this information even if it does not currently exist in the form of a record and may need to be compiled from different information management systems. In response, Ministry officials noted that government staff strive to provide information in the requested

format, but that it would not be appropriate or feasible to compel in statute the provision of information in a particular format, particularly when it does not exist.

While the Commissioner can often access required information, they shared that the Office has faced assertions of privilege, including solicitor-client privilege, which is not addressed in the Code. The Commissioner recommended amending the Code to clarify that their right to information is limited only by solicitor-client privilege and certifications by the Attorney General under section 47.18 (1), and not by any other claims of confidentiality or privilege. The Commissioner noted that this is consistent with provisions in the statutes of other statutory officers such as section 10 of the *Representative for Children and Youth Act*, which provides that the Representative has the right to any information that is in the custody or control of a public body and that is necessary to enable the Representative to exercise their power and duties despite any claim of confidentiality or privilege, other than a claim based on solicitor-client privilege. In response, Ministry officials stated that solicitor-client privilege is a fundamental protection and there is no need to specify that it is exempt from the Commissioner's access to information. They noted that excluding other claims of privilege or confidentiality would require careful consideration of the specific claim, the impact on the Commissioner's inquiry, and any harm that could result from allowing the Commissioner to access the privileged or confidential information.

## Enforcement Measures

In addition to making recommendations following an inquiry, the Commissioner can also examine the human rights implications of policies, programs and legislation, and make recommendations regarding any inconsistencies with the Code. Further, the Commissioner can make recommendations to prevent or eliminate discriminatory practices, policies, and programs. As with recommendations made following an inquiry, the Commissioner does not have the power to enforce compliance with these recommendations.

The Committee heard from both BC Civil Liberties Association and Disability Alliance BC about the need to establish enforcement measures for the Commissioner's recommendations. Both organizations noted that the Code empowers the Commissioner to identify discriminatory practices, but that the Commissioner can only make non-binding recommendations when systemic discriminatory practices or policies are identified. BC Civil Liberties Association stated that this lack of ability to make binding remedies or impose administrative monetary penalties undermines public confidence and limits the Commissioner's effectiveness. Both organizations referenced the Commissioner's May 2025 report, *Where We Stand: Recommendations monitoring report, 2019-2024*, which noted that only 11 percent of the recommendations made between September 2019 and August 2024 were fully implemented, suggesting that this low implementation rate is in part due to voluntary compliance. As a specific example, Disability Alliance BC noted that the Commissioner has made several recommendations regarding the need to include social condition as an independent

prohibited ground of discrimination under the Code and that these recommendations have not been implemented.

To address this issue, Disability Alliance BC recommended expanding the Commissioner's powers to include additional mechanisms for holding duty holders accountable to make changes required to bring policies and legislation into accordance with the Code. They noted that there is a backlog at the Human Rights Tribunal, which includes many cases where people have experienced discrimination on the basis of their disability, and stated that expanding the powers of the Commissioner to create binding orders will likely reduce the number of cases for the Tribunal. Similarly, BC Civil Liberties Association stated that the use of binding orders to address systemic issues, such as in policing, could address discriminatory policies at an institutional level and reduce the number of individual complaints. They recommended empowering the Commissioner to impose binding orders following a formal inquiry or review that demonstrates systemic discrimination. Further, the organization recommended granting the Commissioner the power to impose administrative monetary penalties in cases where a large-scale or systemic violation of rights is found. They added that such powers should be subject to administrative review to preserve procedural fairness for those affected.

In response, Ministry officials noted that the Commissioner's recommendations to government are subject to policy deliberation and prioritization. As such, they noted that this type of enforcement measure would be inappropriate. The Commissioner stated that while they welcome efforts to improve the ability to

implement recommendations, they would be cautious about legislative changes that require the Commissioner to engage in an adversarial process rather than the process used for inquiries. They explained that the inquisitorial process allows for the identification of systemic issues rather than being limited by the facts of only one set of circumstances as seen in adversarial processes. The Commissioner added that strengthening the enforceability of recommendations would require detailed consideration and highlighted a couple of options including enforceable memoranda of understanding with duty holders, or the requirement to develop a monitoring body within core government with a mandate to implement recommendations.

## Initiating Complaints at the Human Rights Tribunal

Under section 47.12 (2) of the Code, the Commissioner may not file a complaint with the Human Rights Tribunal but may assist a person or group with any aspect of a complaint. As an alternative to granting the Commissioner direct sanctioning powers, BC Civil Liberties Association recommended empowering the Commissioner to initiate complaints at the Tribunal on systemic issues. They stated that in practice, some of the most serious and widespread human rights issues go unaddressed because potential complainants are unwilling or unable to initiate proceedings, whether due to lack of resources or lack of trust in the system. They clarified that with this approach, individuals would retain their right to bring forward their own complaints, while the Commissioner would act only where the public interest clearly demands it. They noted that this would allow the Commissioner

to proactively address entrenched discrimination, rather than waiting for an individual to step forward and file their own complaint. They added that such a change would ensure that the Code's protections are meaningful for the most marginalized people who may find it more difficult to navigate the complaint system themselves. Further, they stated the Commissioner is in a better position to put together fulsome evidence regarding the systemic nature of discrimination than individuals who are affected by it because their individual experience may not include all the related elements of that discrimination. They noted that this expansion of the Commissioner's powers should be accompanied by a corresponding expansion of the resources available to the Office to ensure that their existing duties are not negatively impacted.

In their presentation to the Committee, the Commissioner expressed support for this recommendation. Conversely, Ministry officials noted that while some human right commissions in Canada can initiate tribunal complaints considered to be in the public interest, when these provisions of the *BC Human Rights Code* were developed, a decision was made not to provide the Commissioner with this power. Instead, they noted that the Commissioner has other powers to address broader human rights issues, including inquiry and intervenor powers as well as powers to develop resources, policies and guidelines; publish reports and make recommendations; develop and deliver public information and education; and undertake research.

## Oversight of Human Rights Tribunal

The Committee heard from an individual who made recommendations related to the oversight of the Human Rights Tribunal including empowering the Commissioner to investigate Tribunal complaints and conduct audits of Tribunal rulings as well as requiring the Commissioner to publish statistics related to complainants. In response, the Commissioner noted that the jurisdiction of the Commissioner and the Tribunal should remain distinct, such that the Commissioner is not tasked with adjudicating human rights complaints or issuing binding decisions on specific cases. The Commissioner added that litigants can seek judicial review of Tribunal cases at the BC Supreme Court or challenge the fairness of the administrative processes and services of the Tribunal with the Office of the Ombudsperson. Further, the Tribunal is required to submit an annual report on its activities to the Attorney General. This report contains statistics related to complainants' demographic information.

## Authority to Intervene in Legal Proceedings

Under section 47.12 (1)(j) of the Code, the Commissioner can intervene in any Human Rights Tribunal or court proceedings. In their briefing to the Committee, Ministry officials explained that interventions allow the Commissioner to present legal arguments focused on the interpretation of the law, noting that intervenors do not advocate for one side to win or lose. The Commissioner can intervene in complaints before the Tribunal without leave or permission, but to intervene in cases before a court, the Commissioner must apply for leave and follow the procedures established by the

court. To date, the Commissioner has sought and been granted leave to intervene in nine cases before the BC Supreme Court or BC Court of Appeal.

In their submission to the Committee, the Commissioner noted that they can't intervene in other legal proceedings including proceedings heard by administrative tribunals, the coroner, or other statutory officers, even though these decision-makers and tribunals may determine human rights issues. The Commissioner noted that the Ontario Human Rights Commission has a broad mandate to intervene in legal proceedings, including administrative decision makers beyond their Human Rights Tribunal. To ensure the Commissioner can intervene in all types of cases to promote compliance with the Code and other human rights standards within their mandate, the Commissioner recommended amending the Code to add the authority to intervene in other legal proceedings. As an example, the Commissioner noted that the Coroner's Office and the Office of the Police Complaint Commissioner have proceedings related to the Office of the Human Rights Commissioner's inquiry into police use of force and that it may be useful for their Office provide a systemic perspective to the decision makers in those proceedings. In response, Ministry officials noted that expanding the Commissioner's authority to intervene in legal proceedings would require consultation with impacted tribunals and officers as there may be a risk of adding complexity and delay to these proceedings. They also noted that intervening in a matter is an expensive undertaking, so expanding the Commissioner's mandate in this way could have corresponding resource

implications. They concluded that a greater emphasis on public-facing initiatives may be more impactful than expanding the Commissioner's powers regarding legal proceedings.

## Education and Advocacy

As set out in section 47.12 of the Code, the Commissioner is empowered to identify and promote the elimination of discriminatory practices, undertake research, develop resources and guidelines, publish reports, deliver public information and education, and examine the human rights implications of government policies, programs, and legislation. In a briefing to the Committee, the Commissioner noted that the Office has conducted four public awareness campaigns on topics including ableism and racism, and produced four research publications, including *Disaggregated Demographic Data Collection in British Columbia: The Grandmother Perspective*. The Commissioner also highlighted that the Office has reached nearly 20,000 people through educational workshops, speaking engagements, and training sessions.

Ministry officials noted that while the recommendations provided during the consultation have focused on the Commissioner's access to information powers, inquiry function, and potential enforcement measures, the Commissioner's public education mandate is equally important in ensuring that human rights are promoted and protected in BC. They added that increasing these public-facing initiatives that improve awareness or understanding of human rights issues could contribute to the prevention of human rights violations, without necessitating more access to information, enforcement, or penalties.

## Committee Discussion

In their deliberations, the Committee discussed the importance of the Commissioner's ability to access information to enable them to conduct inquiries and make evidence-based recommendations. Members appreciated the value of disaggregated demographic data for the Commissioner, noting that this data may not exist in the form of a record for the Commissioner to request. They appreciated that government staff strive to provide information in the requested format but recognized that this may be prohibitively labour intensive or not feasible in all circumstances. Given these challenges, the Committee decided not to make a recommendation in this area but reflected on the benefits of facilitating information sharing across ministries in general, while ensuring appropriate safeguards for privacy and security. Regarding scope, Members agreed that the Commissioner's right to information in the context of conducting an inquiry is appropriately aligned with their mandate, noting that the Human Rights Commission in Ontario is similarly empowered to compel information only for the purpose of an inquiry. As such, they did not recommend expanding the Commissioner's order powers to other areas of their mandate beyond inquiries. With respect to confidentiality and privilege, Members agreed with the Commissioner's recommendation to clarify that their right to information is limited only by solicitor-client privilege and certifications by the Attorney General under s. 47.18(1), and not by any other claims of confidentiality or privilege.

Regarding protections for inquiry participants, Members agreed that since the Commissioner can summon individuals

to participate in an inquiry, it is important that there be sufficient protections for these participants in their ongoing interactions with duty holders. Members noted that the current protection in the Code is unclear, as it does not set out any enforcement mechanisms or penalties for retaliating against inquiry participants. Further, Members discussed how the current process to seek recourse through the Human Rights Tribunal is impacted by the significant backlog of cases. They noted that if it were an offence to retaliate against someone for participating in an inquiry, a person would be liable to a fine of not more than \$25,000 for a first offence and not more than \$100,000 for a second or subsequent offence. Members highlighted that this would create a stronger deterrent and provide better protections for inquiry participants, and therefore agreed with the Commissioner's recommendation in this area.

Committee Members highlighted the importance of the Commissioner's inquiry recommendations in preventing systemic discrimination. They appreciated the input from both BC Civil Liberties Association and Disability Alliance BC that additional enforcement measures would help to increase compliance with these recommendations while also recognizing that both the Commissioner and the Ministry expressed concerns about such measures. Noting that the Commissioner offered to provide further detail in this area, the Committee requested additional information from the Commissioner in writing. In the response, the Commissioner noted that while inquiries must uphold an appropriate level of procedural fairness, they are not bound by rules of evidence or procedure in the same way that

courts and tribunals are because they do not determine civil or criminal liability in relation to a specific set of facts or a specific circumstance. Since inquiries do not apply these same procedures and often involve broader investigation, a general feature of inquiries is that their findings and recommendations are not binding or enforceable. The Commissioner expressed concern that if their inquiry powers were to become more adversarial it would limit their systemic impact; for example, they may not be able to make recommendations that speak to systemic changes because they would be limited to looking only at cases put forward by the parties involved. The Commissioner put forward a few options to advance the implementation of inquiry recommendations while maintaining the benefits of the investigative nature of inquiries: enforceable agreements, an implementation monitoring committee, and the power to designate specific recommendations as binding. Committee Members reflected on this additional information, recognizing the need for the Commissioner to maintain an inquisitorial, rather than adversarial, process to make recommendations for systemic change. Members also noted that most statutory officers who make recommendations to government cannot enforce compliance with their recommendations but rather monitor implementation of their recommendations and report on progress publicly. As such, the Committee chose not to make a recommendation in this area but emphasized that the Commissioner's recommendations are of significant value and should be implemented wherever possible.

Turning to human rights complaints, Members appreciated the input from BC Civil Liberties Association who noted that many people are deterred from filing their own individual complaints for a variety of reasons. They discussed the organization's recommendation to empower the Commissioner to initiate Tribunal complaints on systemic issues as a way to address discrimination proactively rather than relying on an individual to file a complaint. While Members agreed that this would provide another avenue for the Commissioner to address broader human rights violations, they also acknowledged that there may be implications for the Tribunal to accept systemic complaints, especially given that it already faces a significant backlog. Committee Members noted that the Commissioner has other powers to promote and protect human rights at the systemic level and as such did not make a recommendation regarding initiating Tribunal complaints.

The Committee recognized that the Commissioner's interventions in Human Rights Tribunal and court proceedings can help to advance various aspects of human rights law. As such, Committee Members were generally in favour of expanding the Commissioner's powers to enable them to intervene in proceedings related to human rights issues heard by administrative tribunals or other statutory officers. They noted that this would help to promote compliance with the Code and other human rights standards within the Commissioner's mandate, and that the Ontario Human Rights Commission has similar authority. However, Members also recognized that enabling these interventions could add complexity and delay to these proceedings

and questioned how these interventions might work given the different processes and procedures involved. As such, Members agreed that consultation with these tribunals and statutory officers should be undertaken before considering an expansion of the Commissioner's authority to intervene.

Members highlighted the value of the Commissioner's public information and education mandate in promoting and protecting human rights, noting that this work also serves to help prevent human rights violations and to combat misinformation. The Committee appreciated that many of the resources provided by the Commissioner are available in multiple languages and discussed opportunities for in-person training delivered in other languages, particularly to ensure immigrants and low wage workers are informed of their rights. Members also reflected on the Commissioner's workshops for employers and other duty holders and discussed opportunities for additional in-person offerings, especially in rural areas and regions outside the Lower Mainland. They recognized that the Office has undertaken work in various regions of the province, as well as the commitment in the Office's 2025/26 to 2029/30 strategic plan to deepen engagement with Indigenous, rural and remote and other marginalized communities, and agreed that further initiatives to tailor training and workshops to the needs of specific communities would be valuable.

## Recommendations

*The Committee recommends to the Legislative Assembly that:*

1. The *Human Rights Code* be amended to clarify that the Commissioner's right to information for the purpose of conducting an inquiry is limited only by solicitor-client privilege or a certification from the Attorney General under section 47.18 (1) and not by any other claims of confidentiality or privilege.

2. Section 47.22 (1) the *Human Rights Code* be amended to add the bold text below:

(1) A person who wilfully does any of the following commits an offence:

(a) makes a false statement to, or misleads or attempts to mislead, the commissioner in the exercise of powers or performance of duties under this Code;

(b) obstructs the commissioner in the exercise of powers or performance of duties under this Code

**(c) contravenes section 47.21**

# Advice and Consultation

## Human Rights Advisory Council

Section 47.08 of the Code establishes the Human Rights Advisory Council to advise the Commissioner on issues respecting human rights. While a council is provided for in statute, no members have been appointed to date. BC Civil Liberties Association noted that while the Code provides a process for appointing Council Members, it does not clarify whether, or to what extent, diversity should be a factor in these appointments. The organization stated that it is essential that the Council's membership reflects the communities about which it advises the Commissioner and that diversity is critical to fostering inclusive decision-making, ensuring that all voices are heard, and that policies and practices truly represent the interests and concerns of the public in BC. They noted that having diverse membership brings a range of perspectives to the table, helping to address and mitigate potential biases that may arise from a homogenous group. The organization suggested that amending the Code to explicitly require a diverse Council would clarify and reinforce such a requirement. In a presentation to the Committee, Disability BC also supported revising the Code to include a requirement for diversity on the Council. The organization highlighted the *Accessible BC Act* as an example of similar legislation, which requires, to the extent possible, that at least

one member of any accessibility committee established under that Act is an Indigenous person.

## Consultation on Amendments to the *Human Rights Code*

In their submission, the Commissioner noted that early, meaningful engagement, rooted in the commitments set out in the *Declaration on the Rights of Indigenous Peoples Act* and guided by the principle of free, prior and informed consent, ensures that any changes to the Code reflect and respect the rights, priorities and perspectives of Indigenous communities. The Commissioner stated that embedding this practice into the Code's review process would strengthen the legitimacy and effectiveness of reforms while aligning them with reconciliation commitments.

## Committee Discussion

The Committee recognized the importance of ensuring diverse representation on the Human Rights Advisory Council to provide support and advise the Commissioner on the broad range of issues and topics that intersect with human rights and the Commissioner's mandate. Members acknowledged that to date no members have been appointed to the Council, as the Commissioner has opted to develop more targeted mechanisms for

community consultation and advice rather than establishing a general advisory committee. Should a Council be appointed, Committee Members emphasized that it must include representation from a wide range of stakeholder groups to ensure it can meaningfully reflect the nuances of marginalization and incorporate all relevant perspectives. The Committee highlighted the necessity of incorporating often overlooked perspectives, such as those from rural communities, individuals with invisible disabilities, people with diverse lived experiences, and varied voices within marginalized or underrepresented groups, such as First Nations living both on- and off-reserve, Métis, and Inuit peoples. The Committee also agreed that any substantive amendments to the Code should be accompanied by proactive, meaningful, and ongoing consultation with Indigenous peoples to respect and reflect the priorities of these communities. Given that the Committee's mandate does not include a broad review of the Code, but rather focuses only on specific sections, Members did not make a recommendation in this regard.

nuances of marginalization and a broad range of lived experiences.

## Recommendations

*The Committee recommends to the Legislative Assembly that:*

3. The *Human Rights Code* be amended to require that, to the extent possible, the Human Rights Advisory Council represents the full diversity of BC, including rural communities and Indigenous people living both on- and off-reserve, to support inclusive decision-making that accounts for the

# Appendix: Consultation Participants

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Office of the Human Rights Commissioner



LEGISLATIVE ASSEMBLY  
*of* BRITISH COLUMBIA