

# **Whitehorse Chamber of Commerce**

**October 14, 2008**

## **Submission to the Select Committee**

### **Reviewing the**

### **Yukon Human Rights Act**

#### **Making Human Rights Balanced and Fair in Yukon**

All Yukon residents deserve a fair and equitable Human Rights Act that is current and reflects the needs of Yukon. The Act should be strong enough and user friendly for those who need it, have a detailed filtering process to eliminate claims without merit, and balanced enough to allow for a timely and cost effective completion of a case.

There are several points the Whitehorse Chamber of Commerce would like to address:

1. As with other reviews of specific legislation in Yukon the Yukon Human Rights Commission should be involved in the updating of the Yukon Human Rights Act. Without the front line expertise and input of the Yukon Human Rights Commission it is difficult to understand how the Act could change in a meaningful way.
2. All redundant and outdated language has to be made current and reflect the state of linguistic referencing used in society today. Language referring to people with disabilities, references to First Nations, to those with mental and physical handicaps should be current.
3. A document with all of the recommended changes should be prepared and made available to stakeholders to make comments and responses before the Act is finalized with a minimum comment period of 30 days.
4. Complaints must be handled in a timely, efficient, and judicious manner. Six months from the time and event may have happened is enough time for making a complaint and

the time limit should NOT be extended to two years. If there are abuses to Human Rights they are happening now and should be dealt with in a timely manner. Trying to deal with a complaint two years after the occurrence will be lengthy, costly and most important rely on people's memory of an incident that may not have been documented fully and could lead to a less accurate portrayal of the facts.

5. There must be a component of "reasonableness test" and further definition of how to lodge a complaint making the process available to those who truly need it and eliminating superfluous and meaningless complaints before they go too far.
6. The Commission should be able to dismiss a complaint without prejudice if they find there is no merit to the case during their initial investigation.
7. The process must change to be more balanced so that the employer is not in the defensive position at all times. A business owner feels attacked when presented with a letter of complaint and inevitably must defend his/her workplace. There should be an employer's advocate at the Human Rights Commission to ensure that the process is balanced to the needs of all parties involved.
8. Responsibility and accountability in terms of Human Rights needs to be more in the public domain and therefore a component of training and product knowledge in the public school system must be implemented at all levels. Teachers should get sensitivity training to be made more aware about the signs of Human Rights violations and things like bullying, prejudicial language, race and harassment to name a few. Human Rights should be a curriculum item at all levels in the education system and part of our training and development of our youth to learn responsibility and have a sense of belonging and commitment to our community.
9. The Human Rights commission should have stronger powers when there is clear evidence of a Human Rights violation. Action should be taken quickly and if a case has been decided and the partners are not co-operating the commission should have the power to enforce its legislation.
10. The language in the Human Rights Act should be sexually neutral, referring to both men and women.
11. The section on Duty to Accommodate can cause considerable hardship for a small business person and limits should be placed on the liability of the employer to accommodate.

12. The bullying, harassment, and causing physical or mental harm to an individual of different sexual orientation should be considered a Human Rights violation.
13. Pre-existing conditions such as addictions should not be included in the Human Rights Act. There are several Social safety nets for people suffering from disabilities such as addictions.
14. There may occur circumstances outside of the workplace (retaliation) when one employee harasses another and a manager has limited capacity to handle such a complaint from an employee. The Human Rights Act should be able to protect people from each other without the threat of retaliation. Retaliation in all its forms is a significant barrier to implementing Human Rights.
15. The Human Rights Commission should have reasonable powers to terminate an investigation that it deems to have been brought forward in a frivolous manner, that the complaint is being dealt with by another agency, that one or both parties have declined what the Commission has determined to be a fair and reasonable settlement, and if the complainant fails to co-operate in the investigation.
16. Although we agree with section 24 changes the Board should not set a limit to the damages of "...not less than \$5,000.00...". There may be times when re-instatement, an apology and changes in policy will be sufficient and no monetary amount is required for damages. There should be discretion in the Act to be able to award a reasonable monetary fine, but naming a specific amount should be avoided.

If the Select Committee would like to discuss any of the points mentioned above please do not hesitate to contact our offices.

Muriel Chalifoux

Chair

Rick Karp

President.