

# HUMAN RIGHTS IN THE HOSPITALITY INDUSTRY



Alberta  
Human Rights Commission

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## INTERPRETIVE BULLETIN

### Table of Contents

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<b>Introduction</b>	<b>2</b>
<b>Rights and responsibilities under the <i>Alberta Human Rights Act</i></b>	<b>3</b>
<b>Determining if services or facilities are customarily available to the public</b>	<b>4</b>
<b>Accommodation aims to create equal access</b>	<b>4</b>
<b>Discrimination may be reasonable and justifiable</b>	<b>5</b>
<b>Examples of prohibited discrimination in the hospitality industry</b>	<b>6</b>
Lack of access for persons with physical disabilities in restaurants and hotels	6
Refusing to rent hotel rooms based on protected characteristics	7
Denying restaurant service based on mental or physical disability	7
Refusing services to, discriminating against, or harassing a person based on their sexual orientation or gender	8
Denying entrance to nightclubs and bars based on race, colour, ancestry, place of origin, or gender	9
<b>Case law examples</b>	<b>10</b>
<b>How hospitality industry service providers can deal with human rights issues</b>	<b>14</b>
Preventive strategies	14
Customer complaint strategy	14
<b>How customers can deal with human rights issues</b>	<b>15</b>
<b>Related resources</b>	<b>15</b>
<b>Contact us</b>	<b>16</b>
<b>Reader survey</b>	<b>17</b>

This publication discusses Alberta Human Rights Commission policies and guidelines. Commission policies and guidelines reflect the Commission's interpretation of certain sections of the *Alberta Human Rights Act (AHR Act)* as well as the Commission's interpretation of relevant case law. Case law includes legal decisions made by human rights tribunals and the courts. As the case law evolves, so do the Commission's policies and guidelines.

Commission policies and guidelines:

- ◆ help individuals, employers, service providers and policy makers understand their rights and responsibilities under Alberta's human rights law, and
- ◆ set standards for behaviour that complies with human rights law.

The information in this publication was current at the time of publication. If you have questions related to Commission policies and guidelines, please contact the Commission.

## Introduction

The hospitality industry—made up of hotels,<sup>1</sup> restaurants, bars, and nightclubs—serves Albertans and visitors from around the world. Under the *Alberta Human Rights Act*, hospitality service providers must treat customers, guests and clients fairly and equitably. Among their legal responsibilities, the province's hospitality-industry operators have a responsibility to ensure that the services they provide are free of discrimination. By providing a service free of discrimination, hospitality operators help to protect both the dignity of their customers and their own business interests.

The *Alberta Human Rights Act* prohibits discrimination in many areas of public life, including the provision of services, facilities, goods, and accommodation that are customarily available to the public in the hospitality industry. The *AHR Act*<sup>2</sup> prohibits discrimination in Alberta on the basis of any of the following characteristics: race, religious beliefs, colour, gender, physical disability, mental disability, ancestry, place of origin, marital status, source of income, family status, or sexual orientation.

Age is *not* a protected ground in the following areas:

- ◆ residential and commercial tenancy.
- ◆ goods, services, accommodation or facilities that are customarily available to the public. For example, a movie theatre offers lower ticket prices to seniors (people over 65 years of age) only. Because age is not protected in the area of services, a 55-year-old could not make a complaint of discrimination based on age in this case.

The *AHR Act* defines age as "18 years or older." Persons who are 18 years or older can make complaints on the ground of age in these areas:

- ◆ employment practices
- ◆ employment applications or advertisements
- ◆ statements, publications, notices, signs, symbols, emblems or other representations that are published, issued or displayed before the public
- ◆ membership in trade unions, employers' organizations or occupational associations

Persons *under* the age of 18 can make complaints on all grounds *except the ground of age*. For example, a 16-year-old can make a complaint of discrimination in the area of services customarily available to the public based on the grounds of physical disability, race, gender, etc. but not on the ground of age.

<sup>1</sup> Hotels provide temporary accommodation and include motels, inns, and bed and breakfast accommodation.

<sup>2</sup> The *AHR Act* is available online at <http://www.qp.alberta.ca/documents/Acts/A25P5.pdf>.

The *Act* also prohibits discrimination based on age, but not in the area of services, facilities, goods and accommodation customarily available to the public, or in the area of tenancy.

This interpretive bulletin gives hospitality industry operators and their customers and guests:

- ◆ an overview of their rights and responsibilities under the *AHR Act*,
- ◆ examples of discriminatory practices and non-discriminatory alternatives,
- ◆ summaries of leading human rights cases involving the hospitality industry,
- ◆ a list of resources for the hospitality industry, and
- ◆ options for dispute resolution.

## Rights and responsibilities under the *Alberta Human Rights Act*

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*A policy or practice may appear to treat everyone equally, but if it results in derogatory treatment based on any of the protected grounds, it is discriminatory.*

The rights and responsibilities described in this interpretive bulletin flow from the *AHR Act* and also from decisions of human rights tribunals and courts, including the Supreme Court of Canada. The *AHR Act* prohibits discrimination, that is, treating a person differently based on the person's characteristics such as race, gender, or physical disability, or any of the other protected grounds listed above.

The philosophy behind the law is that people should be considered on their individual strengths and shortcomings, not because they belong to a particular group of people.

In other words, it is unacceptable to discriminate against individuals on the basis of characteristics that are protected under the *AHR Act*. For example, to deny a person a hotel

room simply because he or she was born in a different country is discriminatory treatment, based on place of origin.

A policy or practice may appear to treat everyone equally, but if it results in derogatory treatment based on any of the protected grounds, it is discriminatory. For example, a restaurant that can only be reached by climbing a flight of stairs appears to treat all customers equally. But customers in wheelchairs won't be able to eat at the restaurant. The result is discriminatory treatment of people with physical disabilities. The Supreme Court of Canada has found that such a policy or practice, even if it appears to treat everyone equally, is discrimination under the law, unless the business can demonstrate that accommodating the person would be an undue hardship.

## Determining if services or facilities are customarily available to the public

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Some clubs and cultural organizations provide services to members only, or to members and their guests. The *AHR Act* applies to goods, services, accommodation and facilities, but only if they are “customarily available to the public.” These factors can help you determine if a service would be considered customarily available to the public, and therefore included as a protected area under the *Act*:<sup>3</sup>

1. How does the club or organization define its membership? The more specific the membership criteria, the more likely the club is not a service customarily available to the public.
2. Who receives services? A club that limits its services only to members, for example, by excluding public guests from club events, is not a service customarily available to the public.
3. Is the service a commercial venture? Clubs that are engaged in commercial services are usually services customarily available to the public. However, clubs that are involved in non-commercial activities are not always available to the public.

The *AHR Act* covers nightclubs and bars, including those that require customers to become members with payment of a fee as the only requirement for membership. Any attempt to deny a person membership to this type of club based on a person’s protected characteristics is discrimination under the *AHR Act*.

## Accommodation aims to create equal access

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The *AHR Act* recognizes that all persons are equal in dignity, rights, and responsibilities when it comes to the provision of public services. One aspect of the process of ensuring that all persons have equal access is **accommodation**. In accommodating customers or clients, the service provider may need to make adjustments or provide alternative arrangements to the service to ensure there is no negative effect on individuals based on their protected characteristics. For example, customers wearing a turban or other head covering for religious reasons should not be requested to remove these even if the restaurant has a dress code prohibiting the wearing of hats or other head coverings.

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<sup>3</sup> *Could v. Yukon Order of Pioneers*, (1996) 1 S.C.R. 571; *Singh v. Royal Canadian Legion, Jasper Place (Alb.)*, Branch No. 255 (1990), 11 D/357 C.H.R.R.

*In providing discrimination-free services, employers, business owners and franchisors need to remember that they bear the responsibility for the actions of their employees and contracted staff.*

Persons who require accommodation must also help, if they can, to facilitate the accommodation process. This might include:

- ◆ bringing the need for accommodation to the attention of the service provider,
- ◆ supporting a request for accommodation with medical or other related documentation if necessary,
- ◆ suggesting appropriate accommodation measures, and
- ◆ giving a service provider a reasonable amount of time to respond to the request for accommodation. For example, a person with an allergy to smoke is responsible for letting a hotel know that he or she needs a non-smoking room when making a reservation.

In providing discrimination-free services, employers, business owners and franchisors need to remember that they bear the responsibility for the actions of their employees and contracted staff. For example, if a desk clerk refuses to allow a guest with a visual impairment to bring a guide dog into a hotel room, the hotel owners, as a corporate entity or as individuals, are legally responsible. Or, if a bouncer refuses to allow a person to enter a nightclub based on the person's race, colour, ancestry, or place of origin, both the nightclub owner and the bouncer are legally responsible.

## Discrimination may be reasonable and justifiable

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The *AHR Act* recognizes that, in some circumstances, discrimination is reasonable and justifiable. A service provider, for instance, may refuse to offer services to some people based on one or more protected characteristics if that refusal is necessary for the provider to meet the objectives of its service. This could include a service provider's need to ensure a safe environment for employees and customers. For more information about reasonable and justifiable discrimination, see the Commission interpretive bulletin *When is discrimination not a contravention of the law?* or contact the Commission for more information.

# Examples of prohibited discrimination in the hospitality industry

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## Lack of access for persons with physical disabilities in restaurants and hotels

1. The most common form of discrimination in the hospitality industry is lack of physical access for persons with physical disabilities that restrict their mobility, for example, people who use wheelchairs. While Alberta's *Safety Codes Act* requires barrier-free design of new buildings and premises, many older businesses remain less accessible for persons with physical disabilities that restrict their mobility than for other customers. Some common obstacles for persons with restricted mobility are the absence of a ramp to the building entrance, entrances that are too narrow, doors that are hard to open, counters that are too high, seating that does not include room for a wheelchair, and washrooms that are located at the end of poorly lit, narrow hallways at the back of the premises.
2. Hearing impairment is also a disability that is often poorly accommodated in the hospitality business. Common issues include restaurant background music loud enough to interfere with hearing aids, cash registers that do not provide a visual display, and the absence of a printed menu or menu board.
3. Persons with a visual impairment often find their needs are not accommodated as well. Some of the obstacles to accessibility for people with visual impairments are poorly lit signage, printing in menus or brochures that is difficult to read, and the absence of Braille or raised lettering on washroom doors and elevators.
4. Persons who depend upon service animals (usually dogs) to help with everyday activities find that some restaurant and hotel operators are reluctant to provide them with service. Common examples include being told that there are no tables or rooms available when in fact some are available, and being placed in an inferior seat or room when better ones are available and are being offered to persons without service animals. A person who needs a service dog for assistance has the right to have their service dog with them at all times within the restaurant or hotel.

The human rights principle of accommodation requires service providers in the hospitality industry to ensure that their premises are accessible. Even though the Alberta *Safety Codes Act* might not require that a business make its premises accessible to persons in wheelchairs, the business may still have that duty under human rights law. For example, a hotel constructed before ramped entrances were required must still provide ramp access for persons in wheelchairs unless it can demonstrate that it would be undue hardship to do so.

Some buildings and establishments might not be fully accessible. This may be considered reasonable and justifiable discrimination if making the premises accessible would cause undue hardship for the business owner or operator. For example, it might be undue hardship for a small coffee bar to permanently remove stools to provide access for persons

in wheelchairs. For more information about undue hardship, see the Commission interpretive bulletin *Duty to Accommodate*.

There are a number of tools that hospitality service providers can use to assess the physical accessibility of their building or premises. The *Safety Codes Act*, the Canadian Standards Association (CSA) *Standard for Barrier Free Design*, and the Ontario Human Rights Commission checklist for identifying critical accessibility indicators (online at [http://www.ohrc.on.ca/en/resources/discussion\\_consultation/diningout/pdf](http://www.ohrc.on.ca/en/resources/discussion_consultation/diningout/pdf)) all provide helpful information for understanding and assessing physical accessibility of facilities.

## Refusing to rent hotel rooms based on protected characteristics

In the hotel industry, discrimination happens when a hotel operator refuses to rent a room based on a person's race, colour, ancestry, sexual orientation, family or marital status, disability or source of income. For example, a hotel operator might discriminate by:

- ◆ refusing to rent based on the pretext that the hotel is fully occupied;
- ◆ requiring hotel guests, based on their protected characteristics (such as race, colour, ancestry, or place of origin), to pay a higher deposit than other guests;
- ◆ quoting a higher room rate based on the guest's protected characteristics;
- ◆ refusing to rent to prospective guests, based on their sexual orientation— for example, a bed and breakfast operator refusing to rent to a same-sex couple;
- ◆ refusing to rent to a prospective guest, based on his or her source of income— for example, refusing to rent to persons who receive social assistance; and
- ◆ requiring a guest to vacate a hotel room on the assumption that he or she was responsible for a disturbance in the hotel, based on his or her protected characteristics.

Hotel operators can refuse to rent rooms to persons in order to maintain the safety of their customers and staff, as well as to protect hotel property from damage. But hotel operators may only do so based on their experience with the individual guest, and not on the basis of the guest's protected characteristics. For example, a hotel operator can refuse to provide service to a guest who previously damaged a hotel room, who previously left the hotel without paying for the room, who displays violent behaviour, or who harasses staff or other customers. Hotel operators may *not* refuse to rent a room based on a person's perceived relationship to another person or group, as defined by a protected characteristic. For example, it is illegal discrimination for a hotel operator to refuse to rent a room based on the violent reputation of the guest's brother, or based on the hotel operator's experience with other persons who come from the same part of the world as the guest comes from.

## Denying restaurant service based on mental or physical disability

Persons with disabilities are sometimes refused service, or receive an inferior level of service, in restaurants. The most common examples of such discriminatory treatment are:

- ◆ refusing to seat a customer with mental or physical disabilities during busy periods of the day;

- ◆ asking a customer with mental or physical disabilities to leave the restaurant after spending a set period of time in the restaurant, while not making the same demand of other customers;
- ◆ asking a customer with mental or physical disabilities to make a minimum purchase, while not making the same demand of other customers; and
- ◆ seating a customer with mental or physical disabilities at the back of the restaurant, next to the washrooms, when there is more desirable seating available.

In some circumstances, it may be reasonable and justifiable for a restaurant operator to provide a differential level of service to someone with a disability if that person is seriously disrupting the quiet enjoyment of the restaurant by other customers. But the restaurant operator will have to be able to demonstrate such a customer was accommodated to the point of undue hardship. For example, should a customer with a disability cause a serious disruption due to their disability, the customer could be seated in a manner that reduced the impact on other customers.

The preference of other customers, however, is not sufficient reason for a restaurant operator to discriminate against persons based on a mental disability or any other protected characteristic. For example, it is not reasonable and justifiable for a restaurant operator to provide a differential level of service to a person with a disability based simply on comments from other customers that they do not want to eat at the restaurant because of that person's presence.

## Refusing services to, discriminating against, or harassing a person based on their sexual orientation or gender

Some hotels, bars and restaurants deny services or give substandard service to customers because of their sexual orientation or because they are transgendered<sup>4</sup> (included under the protected ground of gender). The most common examples of this type of discrimination are:

- ◆ denying rental of a hotel, motel or bed and breakfast room to a same-sex couple;
- ◆ giving substandard service to a same-sex couple or a person who is presumed to be gay, lesbian, bisexual or transgendered;
- ◆ refusing entry to a bar for a same-sex couple because of their sexual orientation;
- ◆ allowing other customers to harass someone based on their sexual orientation or gender when the service provider would intervene in other cases of harassment;

<sup>4</sup> In this publication, the words "transgender" and "transgendered" are used to refer to people who identify as either transgender or transsexual. The Ontario Human Rights Commission offers a helpful definition of gender identity on its website: "Gender identity is linked to a person's sense of self, and particularly the sense of being male or female. A person's gender identity is different from their sexual orientation, which is also protected under the [Ontario *Human Rights*] Code. People's gender identity may be different from their birth-assigned sex, and may include:

- **Transgender:** People whose life experience includes existing in more than one gender. This may include people who identify as transsexual, and people who describe themselves as being on a gender spectrum or as living outside the gender categories of 'man' or 'woman.'
- **Transsexual:** People who were identified at birth as one sex, but who identify themselves differently. They may seek or undergo one or more medical treatments to align their bodies with their internally felt identity, such as hormone therapy, sex-reassignment surgery or other procedures."



- ◆ refusing to accommodate a transgendered person who uses a washroom onsite—this is an issue of accommodation that could be resolved by supporting the transgendered person’s decision to use a single stall washroom or to use the women’s or men’s washroom, depending on what gender they identify as.

## **Denying entrance to nightclubs and bars based on race, colour, ancestry, place of origin, or gender**

Some nightclub and bar operators deny entrance to customers based on race, colour, place of origin, or gender. The most common examples of this type of discrimination are:

- ◆ only admitting one group of clientele—for example, only admitting persons originally from specific countries;
- ◆ effectively excluding some customers by some indirect method—for example, asking only some customers, based on their race, for multiple pieces of identification;
- ◆ explicitly excluding particular groups—for example, refusing entry to women but not men, or to groups of persons from specific parts of the world; and
- ◆ enforcing a dress code based on membership in one group, while not enforcing the code for other customers—for example, applying a “no jeans” rule to customers of a specific cultural background, but not to others.

Nightclub and bar operators do have a responsibility to protect their staff and customers from harassment and violence. They also have the right to protect their premises and equipment from being damaged. In addition, nightclub and bar owners have a duty under the *Gaming and Liquor Act* not to serve persons who are overly intoxicated. In maintaining a safe environment and meeting such legal obligations, club owners must target the behaviour of individuals rather than personal characteristics that are protected under human rights legislation such as their race, ancestry, colour, place of origin, or gender. For example, club owners can deny entrance to their premises to persons who have shown by wearing gang colours or tattoos that they are gang members.

## Case law examples

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Human rights case law is constantly evolving based on cases that come before the courts and human rights tribunals. The following case law examples may help those working in the hospitality industry to provide discrimination-free services.

A URL is provided when the decisions are available on public websites. The decisions are also published in various publications such as the Canadian Human Rights Reporter (C.H.R.R.), which can be obtained at the Law Society Library, which has various locations throughout Alberta. To find the Law Society Library nearest you, visit <http://www.lawlibrary.ab.ca>.

**1. Discrimination will be found where hotel guests are treated differently than other guests are treated, and such differential treatment is based on a ground protected by human rights legislation.**

After six Aboriginal guests were evicted from the Highland Park Motor Lodge because they used hotel towels to mop up their wet motor vehicle, the owner engaged in a physical confrontation with some of the guests and spoke to them in a derogatory fashion. The Manitoba Court of Appeal held that derogatory language was not, in itself, discriminatory. Further, in the absence of evidence that the owner would have treated other guests differently in the same circumstances, no discrimination was established.

*Bewza, Kotyk and Highland Park Motor Lodge v. Dakota Ojibway Tribal Council* (1985), 7 C.H.R.R. D/3225 (Manitoba Court of Appeal) (Leave to Appeal to the Supreme Court of Canada refused June 12, 1986)

**2. Services offered by a club, where there is a private relationship between the club and its members, are not protected under the area of services customarily available to the public.**

The complainants were women who were members of the Marine Drive Golf Club or had attended the golf club as guests of members. These women filed a complaint that they had been denied access to the men's-only lounge at the golf club, known as the "Bullpen." The British Columbia Court of Appeal found:

The Golf Club and its members have come together as a result of a private selection process based on attributes personal to the members. Thus, the nature of the service-provider and the service-user indicate a private, not a public, relationship. The Golf Club is closer to the "purely social" rather than "purely economic" end of the organizational spectrum. It is entitled to discriminate at the initial stage of admission to its organization. Since the [B.C. *Human Rights Code*] does not apply at the initial stage of admission to membership, it does not apply within the private organization.

The court went on to say that members knew of the club rules that certain areas of the club were restricted by gender. The Marine Drive Golf Club was not a "service customarily available to the public" and therefore did not fall within the B.C. *Human Rights Code*.

*Marine Drive Golf Club v. Buntain* (2007), 58 C.H.R.R. D/471BC Court of Appeal, (Application for leave to appeal to Supreme Court of Canada dismissed without reasons [2007] S.C.C.A. No. 112); online at <http://www.courts.gov.bc.ca/jdb-txt/ca/07/00/2007bcc0017.htm>

**3. Dress code cannot be used to hide discrimination based on race, colour, and ancestry.**

Ms. Carpenter was a member of the Nuchanlet First Nation, and was refused entry to a nightclub in Victoria, B.C., because she did not meet the dress code. The British Columbia Human Rights Tribunal concluded that Ms. Carpenter's First Nations ancestry was a factor in the nightclub's refusal to allow her entry, and, therefore, the refusal was discriminatory.

*Carpenter v. Limelight Entertainment Ltd.* (1999), C.H.R.R. Doc. 99-197 B.C. Human Rights Tribunal; online at [http://www.bchrt.bc.ca/decisions/1999/pdf/carpenter\\_vs\\_limelight\\_entertainment\\_ltd\\_d.b.a.\\_limit\\_nigh.pdf](http://www.bchrt.bc.ca/decisions/1999/pdf/carpenter_vs_limelight_entertainment_ltd_d.b.a._limit_nigh.pdf)

**4. Differential treatment of persons with mental disabilities is discriminatory.**

Members of a group called People First gathered at the North Burnaby Inn for coffee before attending their regular meeting elsewhere. The group was served in a discriminatory way, and was told by the waitress several times that the manager did not want "retarded people" in his establishment. The British Columbia Human Rights Board of Inquiry found that the inn discriminated against persons with mental disabilities when staff did not serve them in the coffee shop or provided substandard service, and repeatedly indicated that they were not welcome.

*Cavallin v. North Burnaby Inn* (1984), 6 C.H.R.R. D/2496 B.C. Human Rights Board of Inquiry

**5. Refusal to serve a patron because of the patron's apparent intoxication must be based on reasonable evidence and belief.**

As a result of childhood polio, Harold Johnston was unsteady on his feet and required a leg brace. He also suffered from brain damage after childhood surgery, leaving him with slurred speech. Mr. Johnston was refused entry into a restaurant because the owner thought he was intoxicated. While the owner had a statutory duty to refuse service to an intoxicated person, he was found liable for discrimination because he failed to make reasonable efforts to determine whether Mr. Johnston was intoxicated. At the time of the refusal of service, Mr. Johnston's leg brace was readily visible and the reason for his slurred speech was explained to the restaurant owner.

*Johnston v. Levin and Midtown Hotel Limited* (1996), 25 C.H.R.R. D/82 (Ontario Board of Inquiry)

**6. Differential treatment based on sexual orientation is discriminatory.**

The manager of JMG Pub called C.L. an offensive name and told her that lesbians were not welcome in the pub. The tribunal found that while this did not constitute a denial of service, it did constitute discrimination regarding a service or facility.

*C.L. v. Badyal* (1998), 34 C.H.R.R. D/41 B.C. Human Rights Tribunal; online at [http://www.bchrt.bc.ca/decisions/1998/pdf/cl\\_vs\\_badyal\\_d.b.a.\\_amrit\\_investments\\_dec\\_11\\_98.pdf](http://www.bchrt.bc.ca/decisions/1998/pdf/cl_vs_badyal_d.b.a._amrit_investments_dec_11_98.pdf)

### **7. Differential treatment based on a physical disability is discriminatory.**

Ms. Leong is a diabetic who injects insulin into her abdomen before breakfast and dinner each day. She must eat within thirty minutes of taking her insulin or risk passing out or going into a coma. Ms. Leong and two friends went for dinner at the Knight and Day restaurant and were seated in a semi-private booth. Ms. Leong proceeded to inject herself discreetly but was observed by a server. The server came over to the table and said that Ms. Leong's actions were disgusting. The manager agreed with the server that injecting insulin at the table was disgusting. He would not confirm that the restaurant was going to serve Ms. Leong and her friends, so they left the restaurant. The restaurant did not participate in the hearing and as a result the tribunal did not hear any evidence that the respondent had a bona fide reasonable justification for its actions. The tribunal found that the restaurant discriminated against Ms. Leong based on her disability.

*Leong v. Knight & Day Restaurants Corp.* (2004), C.H.R.R. Doc 04-193 B.C. Human Rights Tribunal; online at [http://www.bchrt.bc.ca/decisions/2004/pdf/Leong\\_v\\_Knight\\_&\\_Day\\_Restaurants\\_and\\_another\\_2004\\_BCHRT\\_84.pdf](http://www.bchrt.bc.ca/decisions/2004/pdf/Leong_v_Knight_&_Day_Restaurants_and_another_2004_BCHRT_84.pdf)

### **8. Customer preference for services without the presence of children is not reasonable and justifiable discrimination.**

Mr. Micallef, his wife, and three children aged seven, two, and six months went for dinner in the main dining room of the Glacier Park Lodge. When they entered the dining room, they were directed by a server to the cafeteria and told that it was better suited to families with small children. They went to the cafeteria, but decided they did not want to eat there, and returned to the dining room. Once more they were told to leave, this time by the president of the Glacier Park Lodge. After a conversation they were seated in the dining room. Mr. Micallef made a human rights complaint, alleging that the lodge discriminated against his family by denying them a service customarily available to the public because of their family status. The tribunal found that the fact that some diners might be disturbed by the presence of young children was not a bona fide and reasonable justification for a policy of discouraging families from eating in the dining room.

*Micallef v. Glacier Park Lodge Ltd.* (1998), 33 C.H.R.R. D/249 B.C. Human Rights Tribunal; online at [http://www.bchrt.bc.ca/decisions/1998/pdf/micallef\\_vs.\\_glacier\\_park\\_lodge\\_ltd.\\_april\\_21\\_98.pdf](http://www.bchrt.bc.ca/decisions/1998/pdf/micallef_vs._glacier_park_lodge_ltd._april_21_98.pdf)

### **9. Business has a duty to accommodate transgendered customers.**

Ms. Sheridan was a pre-operative male-to-female transsexual who was denied the use of the women's washroom in B.J.'s Lounge in Victoria, B.C. The British Columbia Human Rights Tribunal found that the lounge's treatment of Ms. Sheridan was discriminatory on the basis of gender and disability.

*Sheridan v. Sanctuary Investments Ltd. (No.3)* (1999), 33 C.H.R.R. D/467 BC Human Rights Tribunal; online at [http://www.bchrt.bc.ca/decisions/1999/pdf/sheridan\\_vs\\_sanctuary\\_investments\\_ltd\\_dba\\_b.j.%27s\\_lounge\\_jan\\_8\\_99.pdf](http://www.bchrt.bc.ca/decisions/1999/pdf/sheridan_vs_sanctuary_investments_ltd_dba_b.j.%27s_lounge_jan_8_99.pdf)

#### **10. Differential treatment based on race is discriminatory.**

Mr. Randhawa made a human rights complaint alleging discrimination on the grounds of race, colour, ancestry, place of origin and religious beliefs when he was denied entry to the Tequila Nightclub. He alleged that when he and some friends tried to enter the nightclub, a doorman told them that the lineup was under surveillance by management, and that when they reached the entrance, another doorman would be instructed to ask them for several pieces of identification. Even though the complainant and his friends responded that they had appropriate identification, the doorman stated they would then ask for additional identification until Mr. Randhawa and his friends could not meet the requirement. The doorman stated that management had a certain image for the bar and did not want the clients to say that there were a lot of “brown people” inside. The respondent nightclub denied using racist policies to determine entrance to the club. The panel found merit to the complaint, ordering the respondent to implement a specific anti-racism policy and to participate in a commission human rights education workshop. The panel awarded \$5,000 in general damages for injury to dignity and self respect, as well as travel expenses and interest.

*Randhawa v. Tequilla Bar and Grill Ltd.* (2008), 62 C.H.R.R. D/350, online at <http://www.albertahumanrights.ab.ca/RandhawaJaspal031708.pdf>

#### **11. Private club is not exempt from human rights law; dress code is not reasonable and justifiable discrimination.**

Mr. Singh was a member of the Sikh faith and wore a turban as a requirement of his religion. Mr. Singh was to attend a Christmas party at the Jasper Place Legion in Edmonton, Alberta, but was informed ahead of time that the legion’s dress code prohibited him from wearing his turban. The Alberta Human Rights Board of Inquiry determined that the legion was not a limited social club, but rather a service customarily available to the public, because so many non-legion events were held there and because the legion didn’t enforce sign-in requirements for non-members. The Board of Inquiry also determined that upholding the legion’s dress code was not sufficient justification for discriminating against Mr. Singh based on his religion.

*Singh v. Royal Canadian Legion, Jasper Place (Alta.), Branch No. 255* (1990), 11 C.H.R.R. D/357 (Board of Inquiry)

# How hospitality industry service providers can deal with human rights issues

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Owners, managers, and employees in the hospitality industry have a responsibility to take steps to make their establishments discrimination-free and deal fairly with human rights concerns raised by customers, clients and guests. The following strategies are options to consider.

## Preventive strategies

- ◆ Educate all staff about how Alberta's human rights legislation prohibits discrimination, and make them aware of their obligations.
- ◆ Promote corporate pride in providing accessible services to a diverse clientele.
- ◆ Contact the Alberta Human Rights Commission to arrange for an educational workshop on rights and responsibilities related to human rights in the hospitality industry.
- ◆ Designate a manager or staff member to be the contact for issues related to human rights, and advise staff to direct human rights issues to that person.
- ◆ Audit your establishment's human rights performance by reviewing the physical accessibility of your facilities and identifying policies that restrict service.
- ◆ Put in place a policy on accommodating customers' special needs arising from protected characteristics such as physical or mental disability.
- ◆ Seek expert input about accessibility from community groups that represent persons with disabilities.
- ◆ Educate staff about the unique aspects of people with diverse backgrounds. You can find ideas on how to learn more about diversity in the *Help Make a Difference* tip sheet. Visit <http://www.helpmakeadifference.com> or contact the Commission to get a copy.
- ◆ Consider the benefits of hiring a qualified and diverse staff, particularly in positions that deal with the public.
- ◆ Provide staff with conflict resolution training.

## Customer complaint strategy

Even when preventive strategies are in place, problems may arise. The following strategies provide ideas for dealing with customer complaints.

- ◆ Designate a manager or staff person to deal with problems promptly. The designated person should be available to meet with the customer, in a private setting if possible.
- ◆ In the absence of an immediate verbal resolution, ask the customer to write a description of the issue and make an appointment to speak or meet with a manager as soon as possible.
- ◆ Investigate the customer's complaint.
- ◆ Attempt to resolve the complaint with the customer.

- ◆ Contact the Alberta Human Rights Commission to get a free confidential consultation regarding the human rights issue.
- ◆ Inform the customer that he or she may contact the Commission for a free confidential consultation.

## How customers can deal with human rights issues

Customers, clients and guests can look for constructive ways to deal with issues of discrimination and accommodation if they encounter them in hospitality-industry establishments. Here are some options:

- ◆ Take immediate action by seeking out a supervisor and explaining your human rights issue. If you need accommodation, clearly state what your needs are.
- ◆ If taking immediate action is not appropriate or possible, write a detailed description of the human rights issue and make an appointment to speak or meet with a manager as soon as possible.
- ◆ Contact the Alberta Human Rights Commission to get a free confidential consultation regarding your human rights issue.
- ◆ Make a human rights complaint to the Commission. (For more information, see the Commission's information sheet *Complaint process*.)

## Related resources

For more information about the *Alberta Human Rights Act*, contact the Alberta Human Rights Commission.

For suggestions on how to build more inclusive businesses, see “34 ways to build stronger, better relationships between people of all backgrounds” at <http://www.helpmakeadifference.com>.

For more information about the *Gaming and Liquor Act*, contact the Alberta Gaming and Liquor Commission. To find the office nearest you, call Service Alberta toll-free within Alberta at 310-0000. Visit the AGLC website at <http://www.aglc.ca>.

For more information about the *Safety Codes Act*, contact Safety Services at Alberta Municipal Affairs. Call 1-866-421-6929 toll-free within Alberta. (Note that all callers must dial 1-866.) Visit the Safety Services website at [http://www.municipalaffairs.alberta.ca/am\\_safety\\_services.cfm](http://www.municipalaffairs.alberta.ca/am_safety_services.cfm).

For more information about the *Personal Information Protection Act*, contact the Access and Privacy Branch of Alberta Government Services. Call 780-644-PIPA (7472) in Edmonton. To call toll-free from Alberta locations outside Edmonton, first dial 310-0000. Visit the PIPA website at <http://pipa.alberta.ca>.

**Please note:** Persons with hearing disabilities can get toll-free TTY/TDD access to Government of Alberta offices by calling 1-800-232-7215.

**For province-wide free phone calls to Alberta government offices from a cellular phone**, enter \*310 (for Rogers) or #310 (for Telus and Bell), wait for the message and then enter the area code and phone number. Public and government callers can phone without paying long distance or airtime charges.

## Contact us

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The Alberta Human Rights Commission is an independent commission of the Government of Alberta. Our mandate is to foster equality and reduce discrimination. We provide public information and education programs, and help Albertans resolve human rights complaints.

**For our business office and mailing addresses, please see the Contact Us page of our website ([www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)), or phone or email us.**

**Hours of operation are 8:15 a.m. to 4:30 p.m.**

**Northern Regional Office (Edmonton)**

780-427-7661 Confidential Inquiry Line

780-427-6013 Fax

**Southern Regional Office (Calgary)**

403-297-6571 Confidential Inquiry Line

403-297-6567 Fax

To call toll-free within Alberta, dial 310-0000 and then enter the area code and phone number.

For province-wide free access from a cellular phone, enter \*310 (for Rogers Wireless) or #310 (for Telus and Bell), followed by the area code and phone number. Public and government callers can phone without paying long distance or airtime charges.

**TTY service for persons who are deaf or hard of hearing**

780-427-1597 Edmonton

403-297-5639 Calgary

1-800-232-7215 Toll-free within Alberta

**Email** [humanrights@gov.ab.ca](mailto:humanrights@gov.ab.ca)

**Website** [www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)

**Please note:** A complaint must be made to the Alberta Human Rights Commission within one year after the alleged incident of discrimination. The one-year period starts the day after the date on which the incident occurred. For help calculating the one-year period, contact the Commission.

The Human Rights Education and Multiculturalism Fund has provided funding for this publication.

Upon request, the Commission will make this publication available in accessible multiple formats. Multiple formats provide access for people with disabilities who do not read conventional print.



# Human rights in the hospitality industry Reader Survey

ADR2013

Please help us improve this publication by answering any or all of these questions:

1. What information were you looking for in this publication?

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you were looking for

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to understand

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to read

somewhat easy  
to read

just right

somewhat difficult  
to read

very difficult  
to read

5. What information could be added to this publication to make it more useful?

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6. Please list any other ideas you have for making this publication more useful.

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7. Please indicate  if you are:

an employer in the hospitality industry

an individual seeking information about your human rights

working in human rights, human resources, law or another field related to human rights

other (please specify) \_\_\_\_\_

Thank you for taking the time to complete this survey.

Please mail or fax your completed form to:

**Coordinator, Educational Resource Development**

**Alberta Human Rights Commission**

800 Standard Life Centre, 10405 Jasper Avenue, Edmonton, Alberta T5J 4R7

Fax 780-422-3563