

INFORMATION SHEET FOR COMPLAINANTS

Who are we?

The Office of Human Rights Proceedings is established by the Human Rights Act 1993. It is an independent part of the Human Rights Commission and is headed by the Director of Human Rights Proceedings. The Director's staff includes two Solicitors, a Registered Legal Executive/EA and an Administrator.

What do we do?

The Office of Human Rights Proceedings is a specialised, publicly funded organisation, which provides legal representation for people who have complained about breaches of the Human Rights Act, to take their case to the Human Rights Review Tribunal.

Our service is a last resort because people are first encouraged to try to resolve their disputes through the mediation service provided by the Human Rights Commission.

If the Director decides to take a case to the Tribunal, the service is free.

How do you apply for legal representation?

You should first try to resolve your complaint through the mediation service provided by the Human Rights Commission. If you apply to the Director for legal representation to start legal proceedings without first having tried to mediate your complaint, your application is likely to be rejected. But where you have tried to mediate a resolution and this has not been successful, you can ask the Director to provide legal representation to assist you to take your case to the Human Rights Review Tribunal.

The resources of the Office of Human Rights Proceedings are limited and we are not able to provide legal representation to all who apply. We must be selective about the cases we take up.

If we decide not to provide legal representation for a complainant, that person has the right to take their own case to the Tribunal, at their own expense.

You can apply for legal representation by completing the application form attached.

How will the Director decide whether to give you legal representation?

The Human Rights Act sets out a list of things that the Director must consider when deciding whether to provide legal representation. These are:

- Whether the complaint raises a significant question of law.
- Whether resolution of the complaint would affect a large number of people (for example, because the proceedings would be brought by or affect a large group of persons).
- The level of harm involved in the matters that are the subject of the complaint.
- Whether the proceedings are likely to be successful.
- Whether the remedies available through any proceedings are likely to suit the particular case.
- Whether there is likely to be any conflict of interest in the provision of representation by the Director.
- Whether the provision of representation is an effective use of resources.
- Whether or not it would be in the public interest for the Director to provide representation.
- The Director may also (but is not required to) consider any other matters he/she considers relevant.

The Director is more likely to give priority to cases where an important issue needs to be dealt with; or to cases that involve a large number of people; or to cases where a reasonably high level of harm is involved. Each application, however, will be assessed on its merits.

The Director must also consider whether the case is likely to be successful, and whether providing representation would be an effective use of the limited resources available.

What happens if the Director agrees to provide you with legal representation?

If the Director agrees to provide you with legal representation you will not have to pay any fees. This is a free service. However, the Director's decision to provide legal representation can be re-visited if, for example, new evidence indicates that a reassessment of the case is necessary or a reasonable settlement offer is made.

Once papers have been filed in the Tribunal a date will be set for the hearing of your complaint. The hearing will usually be in the District Court building nearest to the place where the events happened.

You (and any witnesses called to support your case) will need to give evidence at the hearing of your complaint. The person against whom you have made your complaint can also give evidence and bring any witnesses he/she has. All witnesses, including you, may be subject to cross-examination.

Appeals and Enforcement

A decision to provide you with legal representation for the Tribunal hearing does not mean that you are automatically entitled to representation for an appeal or for other additional proceedings. The Director will make a fresh decision in each case.

What happens if the Director decides **not** to provide you with legal representation?

If the Director decides not to provide you with representation you will be advised of the reasons in writing. If you wish, you can then take your case to the Tribunal yourself, at your own expense. The Tribunal's Registrar can assist you with information about the Tribunal. The Tribunal's telephone number is (04) 462 6660.

If you wish to take your case to the Tribunal you can use your own lawyer. You may be entitled to legal aid. Your lawyer can explore this possibility with you.

If you wish to apply to the Director of Human Rights Proceedings for legal representation, for the purpose of taking your complaint to the Human Rights Review Tribunal, please fill out the application form attached to this fact sheet and send it back to us.

Once we have received your application we may contact you to discuss your complaint in more detail.

Our contact details are as follows:

The Office of Human Rights Proceedings
Level 3
Zurich House
21 Queen Street
Auckland

PO Box 6751
Wellesley Street
Auckland

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