

# Guideline: Time limit extension for making a complaint



The New Brunswick Police Commission (the “NBPC”) is committed to providing a fair and independent service to the public. We address *Police Act (Act)* complaints fairly, thoroughly, and in a timely manner in accordance with the law. We must ensure that our procedures are fair and lawful when making decisions which will affect the rights, privileges, or interests of a person.

You must file your complaint no later than 12 months after the incident occurred. However, in certain circumstances, the *Act* allows us to extend the time for making a complaint. This guideline explains what information you will need to provide and what we will consider when making a decision on whether to extend the time to make a complaint.

## What will the NBPC consider when making their decision?

We may extend the one-year time limit for making a complaint where:

- a) There is a continuing intention to pursue the complaint;
- b) The submission discloses an arguable case;
- c) The police officer or police force will not be unduly prejudiced by the extension; and
- d) There is a reasonable explanation for the delay.

### a) There is a continuing intention to pursue the complaint:

*Explanation:* You will need to show that you have been trying, during the one-year limitation period, to advance your complaint.

For example, have you been trying to get information from the police force, through the OMBUD and the *Right to Information and Protection of Privacy Act* (RTIPPA), or other similar sources, to develop your case? Have you been trying to get legal advice or other professional advice? have you been trying to deal with your complaint through other oversight agencies (eg., the OMBUD, Human Rights, or Employment Standards)? Have you filed a lawsuit or been involved in a related criminal trial?

Not having made any efforts to deal with your concerns for a long time with no explanation is an example of a case where this criterion would not be met.

### b) The submission discloses an arguable case:

*Explanation:* Does your complaint, on its face, present reasonable allegations that could amount to a conduct, service, or policy breach by the officer or police force? The purpose at this stage is not to judge whether your complaint will be successful, or that the substance of your complaint is true. Your complaint will be reviewed simply to determine whether your complaint is, or may be, a credible complaint.

### c) The police officer or police force will not be unduly prejudiced by the extension:

*Explanation:* Would accepting your complaint unduly prejudice the police officer or the police force?

This could be the case where the delay is so long that the police force’s records have since been purged, thereby not allowing them to investigate or respond to the allegations. Other situations may be where police officers or witnesses have died or cannot be found, making it difficult to do a full investigation. The less excessive the delay, the less likely there will be undue prejudice to the police force or police officer.

### d) There is a reasonable explanation for the delay:

*Explanation:* What is your reason for the delay? Is it reasonable?

If you have a reasonable explanation for the delay it will weigh towards granting an extension.

Examples of reasonable explanation include not learning of the act(s) complained of until near or after the time-limit, and/or special circumstances which prevented you from filing the complaint within the time-limit. Examples of special circumstances include but are not limited to:

- mental or physical disability;
- the exercise of a legislated or other applicable appeal or review right in a timely and appropriate fashion;
- internal complaint with police force;
- a grievance procedure;
- an appeal in the courts;
- an appeal of a WorkSafeNB decision; or
- any other justified reason as determined by us.

You must provide information to satisfy each of the four factors above to have the time extension for making a complaint granted.

We may also consider whether there is some other overriding factor that necessitates an extension be granted.

### **What information do I need to provide?**

If your complaint or part of your complaint is outside of the one-year time limit for making a complaint, you will need to address all 4 (four) factors listed above and provide an explanation for the delay in the “**Details of Complaint**” section on the complaint form.

### **How does the time limit extension process work?**

We will consider all available relevant information in deciding whether the circumstances warrant an extension of the time limit to make a complaint.

You and the police officer or police force the complaint is filed against will be advised in writing of the Commission’s decision.

### **For more information**

Further information about the *Act* or this guideline may be obtained by contacting the Commission at 506-453-2069 or by visiting the Commission’s website at [NB Police Commission / Commission de police du N.-B.](#) or email us at [nbpc@gnb.ca](mailto:nbpc@gnb.ca).