

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 aim to address *Police Act* complaints fairly, thoroughly, and in a timely manner in accordance with the law. We must ensure that our procedures are fair 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. In certain circumstances, we can extend the time for making a complaint. This guideline explains what information you will need to provide and that we will need to consider when making a decision to extend the time to make a complaint.

In the *Police Act*, the time limits for making a complaint are found in section 25.1:

25.1(1) A complaint shall be filed within

- a) one year after the date of the alleged incident or omission that is the subject of the complaint, or*
- b) one year after the last alleged incident or omission, in the case of a series of incidents or omissions that are the subject of the complaint.*

25.1(2) Despite subsection (1), the Commission may, where in the opinion of the Commission circumstances so warrant, extend the time for the filing of the complaint.

What will the NBPC consider when making their decision?

We may extend the one-year time limit for making a complaint under subsection 25.1(2) 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: Despite the delay in filing a complaint, you 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 in touch with other oversight agencies (eg., trying to deal with your complaint with another agency, like the OMBUD, Human Rights or Employment Standards)? Have you filed a lawsuit or been involved in a related criminal trial?

If you have not 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? Your complaint will be reviewed simply to determine whether your complaint is or may be credible. The purpose at this stage is not to judge whether your complaint will be successful, or that the substance of your complaint is true, but to eliminate allegations that are obviously frivolous, vexatious or not made in good faith.

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 would normally 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 are cannot be found, making it difficult to do a full investigation. In most cases where the delay is not excessive, there is no 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, then this should 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, for example:

- 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 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 fill out a *Time limit extension request* form within 10 days of the complaint being filed and send it to us.

How does the time limit extension process work?

Your request and your complaint form will be sent to the police officer or police force for a response and they will also have 10 days to submit the *Response to time limit extension* to us.

We will consider all the 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 complaint 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.](http://www.nbpc.com) or email us at nbpc@gnb.ca.