SUPREME COURT OF NOVA SCOTIA

Citation: *Coward v. Nova Scotia (Human Rights Commission)*, 2026 NSSC 102

Date: 20260325
Docket: Hfx No. 533341
Registry: Halifax

Between:

Rubin A. Coward

Applicant

v.

Nova Scotia Human Rights Commission

Respondent

Decision on Application for Judicial Review

Judge: The Honourable Justice John P. Bodurtha

Heard: September 29, 2025, in Halifax, Nova Scotia

Counsel: Rubin A. Coward, self-represented Applicant
Jason T. Cooke, K.C., and Ashley Hamp-Gonsalves, for the Respondent

By the Court:

Overview

[1] This is an Application for Judicial Review (the "Application") of a decision of the Nova Scotia Human Rights Commission (the "Commission") dated April 19, 2024. The Commission dismissed the Applicant's, Rubin A. Coward's, human rights complaint (the "Complaint") against the Office of the Police Complaints Commissioner ("OPCC") and the Nova Scotia Police Review Board ("NSPRB"), (collectively, the "Decision"). Mr. Coward is self-represented in this matter.

[2] The Complaint alleges that the OPCC and the NSPRB discriminated against Mr. Coward with respect to the provision of or access to services or facilities due to race, colour, and retaliation while Mr. Coward was acting as an "advocate" for Maurice Carvery in a police complaint matter. Mr. Coward is seeking an order quashing the Decision and both special and general damages.

[3] Mr. Coward is using this Application to attack and bring in evidence relating to the decision of Mr. Carvery's police complaint before the OPCC and NSPRB. Mr. Carvery's matter involves a different complaint, under a different process, and made by a different complainant.

[4] I find that the Commission correctly dismissed the Complaint, finding that it was without merit and that it would not be in the best interests of Mr. Coward to continue with the Complaint. The Decision is reasonable and there is no evidence that the Commission breached the duty of procedural fairness.

Preliminary matter

[5] At the beginning of the hearing the Respondent brought a motion to strike various paragraphs from Mr. Coward's briefs which constituted evidence beyond the Record. They argued that "Mr. Coward's submissions are largely irrelevant to this Application, outside the grounds of review provided in the Notice of Judicial Review, and rife with representations of fact that are not properly before the Court."

[6] Mr. Coward's Application sought a review of the Commissioner's Decision to dismiss his Complaint that he was discriminated against by the OPCC and NSPRB while in his role as "advocate" for Mr. Carvery only. In the Application, Mr. Coward attempted to avoid proper procedure and tender fresh evidence through his written

submissions. For instance, at paragraphs 1, 2, and 7 of his initial brief he referenced correspondence between Mr. Coward and Commission staff relating to a settlement offer and the investigation process. This correspondence was not before the Commission in rendering its Decision and was not contained in the Record. These paragraphs are not relevant to the Application.

[7] There were also several other paragraphs in Mr. Coward's initial brief related to Mr. Carvery's police complaint (paras. 3 and 4) that set out information that is not relevant to this Application. This Application is not a review nor an appeal of the merits of Mr. Carvery's police complaint before the OPCC and NSPRB.

[8] The Respondent argued that Mr. Coward's briefs asserted new grounds of review that are not set out in the Notice of Judicial Review and are not properly before this Court (paras. 7, 8, 10, 11, 13, and 14 (among others)). They contain allegations of discrimination on the part of the Commission, and bias or discrimination on the part of either internal or external Commission counsel.

[9] In Schedule "A" of the Respondent's brief they request the following paragraphs of Mr. Coward's initial brief be struck and the reasons for it:

Schedule "A"	
Reason for request to strike	**Paragraphs of Mr. Coward's Brief**
Refer to and rely upon facts which are not in the evidence before the Court	Paragraphs 1, 2, 3, 4, 7, 8, 9, 10, 12, 13, 16, and [5] on page 10
Contain information that is not relevant to this Application	Paragraphs 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 20, 21, 22, 23, [219] from page 8 to 9, 29, [1] and [2] on page 9 to 10, [5] on page 10, and [6] from page 10 to 12
Assert new grounds of review that are not set out in the Notice of Judicial Review	Paragraphs 7, 8, 10, 11, 13, 14, 17, 19, 20, 21, 22, 23, [219] from page 8 to 9, 29, [1] and [2] on page 9 to 10, [5] on page 10, and [6] from page 10 to 12

[10] Mr. Coward made unfounded allegations of bias and unprofessional conduct towards Ms. Franklin and Mr. Cooke in his submissions. Neither Ms. Franklin nor Mr. Cooke were Commissioners or decision-makers in this matter. I find these comments irresponsible, and without merit. There is no evidentiary basis for any alleged bias or unprofessional conduct. These allegations are completely irrelevant to the issue before the Court in this Application.

[11] Mr. Coward was seeking special and general damages which are not available under a judicial review. The forms of relief available in judicial review proceedings are prerogative writs, such as *certiorari*, *mandamus*, prohibitions, and declarations.

[12] In a judicial review, the evidence is limited to the record itself. The Respondent has identified numerous items that go beyond the record. This is troubling to the Court given the Applicant at the motion for directions on July 31, 2024, was provided filing deadlines and a hearing date for a motion to supplement the record but has chosen to put in evidence beyond the Record through its briefs.

[13] Regarding the motion to supplement the record, the Applicant did not file anything and did not appear at the motion on January 27, 2025. The Respondent brought a motion to dismiss, and it was granted.

[14] At the hearing before me on September 29, 2025, Mr. Coward attempted to supplement the record and argued that he needed these paragraphs to get to the source of why his Claim was dismissed. I note that he has been given two opportunities already to supplement the Record. The first opportunity was in 2024 after he received the investigator's report and was presented the opportunity to provide submissions in response to the investigator's report to the commission. The second opportunity was on January 27, 2025, at the motion before this court. He argued before me that he missed the deadlines because he was working on several cases, in particular the Lionel Desmond case. However, at no point did Mr. Coward notify the Court or the Respondent that he was working on another matter and would require an adjournment of the motion or an extension of time to file his motion materials.

[15] In a world where communication is instant and accessible, no one is too busy to spend a minute to send an email or text requesting an adjournment, or an extension of time. In fact, during his work on the Desmond matter Mr. Coward found the time to bring a motion on May 30, 2024, to strike the Respondent's notice of participation. The motion was subsequently withdrawn.

[16] The Record is the whole of the evidence that the Court should consider and the whole of the evidence that parties should speak to. To permit the Applicant to supplement the Record with additional documents beyond the Record would be manifestly unfair and prejudicial to the Respondent.

[17] After reviewing the submissions and hearing the oral arguments of the parties, I find that Mr. Coward has failed to demonstrate any extenuating circumstances to allow me to exercise my discretion and supplement the Record. As a result, I grant the Respondent's motion and strike from the Applicant's initial brief the paragraphs listed in Appendix A of the Respondent's brief on the following grounds: (a) the paragraphs refer to and rely upon facts which are not in the evidence before the Court, (b) the paragraphs contain information that is not relevant to the Application, and (c) the paragraphs assert new grounds of review that are not set out in the Notice of Judicial Review. I apply the same principles when reviewing and considering the Applicant's reply brief.

Facts

The Police Complaint matter before the OPCC and NSPRB

[18] I accept the facts from the Respondent's brief and reproduce them as follows:

> (a) On or about January 10, 2020, Maurice Carvery (who is not a party or otherwise associated with this proceeding) submitted a public complaint to the OPCC (Record, Tab 6, pp. 76-78). In his complaint, Mr. Carvery alleges that he was subjected to racial profiling and harassment during a traffic stop on January 7, 2020. In a decision dated March 16, 2020, Inspector Greg Mason found that the allegations raised in the public complaint were not sustained (Record, Tab 6, pp. 106-112).
>
> (b) On March 13, 2020, Mr. Carvery filed a notice of review with the OPCC seeking a review of the decision of Inspector Greg Mason (Record, Tab 6, pp. 119).
>
> (c) Shortly thereafter, in correspondence to the OPCC and the NSPRB, Mr. Coward put himself forward as a "community advocate" and representative of Mr. Carvery in the police complaint matter (Record, Tab 6, pp. 116-117, 121-122, 126-133). Based on a review of the materials provided by the OPCC and NSPRB, it is unclear

whether Mr. Coward's asserted role as advocate for Mr. Carvery was ever properly before either the OPCC or the NSPRB, or accepted by either body (Record, Tab 6, pp. 124, 140, 196-197).

(d) The NSPRB held a conference call on February 26, 2021, to schedule dates for a hearing and discuss any preliminary issues. Both Mr. Carvery and Mr. Coward chose not to attend (Record, Tab 6, p. 254). A five-day hearing into the subject complaint was then scheduled for July 12, 2021, to July 16, 2021 (Record, Tab 6, pp. 262-264).

(e) In correspondence dated March 1, 2021, Mr. Coward stated that he and Mr. Carvery would not be participating in the NSPRB hearing (Record, Tab 6, p. 258).

(f) A hearing of the NSPRB was convened on July 12, 2021. Neither Mr. Coward nor Mr. Carvery attended the hearing. Upon motion of the respondent parties, Mr. Carvery's complaint was dismissed (Record, Tab 5, p. 56, para 86).

The Human Rights Complaint matter before the Commission

(a) On May 20, 2021, Mr. Coward made the Complaint at issue in this Application. The OPCC and the NSPRB are the named respondents to the Complaint (Record, Tab 2, pp. 3-7). The Complaint was amended on November 2, 2022 (Record, Tab 3, pp. 8-12).

(b) In the Complaint, Mr. Coward alleges that the OPCC and the NSPRB discriminated against him with respect to the provision of or access to services or facilities due to race, colour, and retaliation while Mr. Coward was acting as an "advocate" for Mr. Carvery in the above-noted police complaint matter.

(c) We understand that Mr. Carvery submitted his own separate complaint to the Commission in regard to the above-noted police complaint matter as well (Record, Tab 4, p. 26, para 81).

(d) Human Rights Officer Jeff Spring ("HRO Spring") conducted an administrative investigation of the Complaint and issued his final Investigation Report on November 23, 2023 (the "Investigation Report") (Record, Tab 4, pp. 13-37).

(e) The Investigation Report recommended that the Complaint be dismissed in accordance with Section 29(4)(a) and Section 29(4)(b) of the *Human Rights Act*, RSNS 1989, c 214 [*Act*] (Respondent Book of Authorities, Tab 5) because the best interests of the individual or class of individuals on whose behalf the Complaint was made will not be served by continuing with the complaint, and because the Complaint is without merit, respectively.

(f) In the Investigation Report, HRO Spring determined that the Complaint "appears to be based on a series of misunderstandings, miscommunications, and frustrations regarding the nature, functions, and processes of the OPCC and [NS]PRB" (Record, Tab 4, p. 27, para. 87).

(g) The Investigation Report was provided to Mr. Coward and counsel for the OPCC and NSRPB[*sic*].

(h) The OPCC and the NSPRB provided responses to the Investigation Report on March 18, 2024, wherein they agreed with the recommendation to dismiss the Complaint (Record, Tab 7, p. 315). Mr. Coward did not submit any response to the Investigation Report.

(i) On March 25, 2024, HRO Spring submitted a Memorandum to the Commission outlining his recommendation and providing materials for review, including the Investigation Report (Record, Tab 1, pp. 1-2).

(j) A meeting of the Commissioners was held on April 17, 2024, during which the Commissioners accepted the recommendation of the Investigation Report (Record, Tab 8, pp. 316-317).

(k) On April 19, 2024, the Commission advised Mr. Coward that his Complaint had been dismissed pursuant to Sections 29(4)(a) and 29(4)(b) of the *Act* (Record, Tab 9, p. 322).

Application for Judicial Review

[19] Mr. Coward commenced his Application for judicial review on May 14, 2024. Mr. Coward's Application alleges that the Decision of the Commission was not fair or equitable based on the following grounds:

- Mr. Coward provided a settlement offer to a human rights officer in or about December 2022 that the Commission failed to accept; and
- A third party reviewed a video of the incident at issue in the police complaint matter that was provided to the Commission. That third party agreed with Mr. Carvery's position in the police complaint matter.

[20] Mr. Coward is seeking:

(a) The Decision be quashed;

(b) An award of $100,000 (the purported amount of his settlement offer to the OPCC and NSPRB); and

(c) An award of an unspecified amount from the human rights officer who was provided Mr. Coward's settlement offer.

Issues

[21] The issues to be decided in this Application are as follows:

(a) Did the Commission breach the duty of procedural fairness in rendering its Decision?

(b) Was the Commission's Decision to dismiss the Complaint reasonable?

Standard of Review

[22] There is no standard of review for procedural fairness. Instead, the Court is asked to consider the specific context and determine the specific procedural requirements that the duty of procedural fairness imposes in the circumstances: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para. 77.

[23] The standard of review for reasonableness is described in *Vavilov* as follows:

> 83 It follows that the focus of reasonableness review must be on the decision actually made by the decision maker, including both the decision maker's reasoning process and the outcome. The role of courts in these circumstances is to review, and they are, at least as a general rule, to refrain from deciding the issue themselves. Accordingly, a court applying the reasonableness standard does not ask what decision it would have made in place of that of the administrative decision

> maker, attempt to ascertain the "range" of possible conclusions that would have been open to the decision maker, conduct a *de novo* analysis or seek to determine the "correct" solution to the problem. The Federal Court of Appeal noted in *Delios v. Canada (Attorney General)*, 2015 FCA 117, 472 N.R. 171 (F.C.A.) , that, "as reviewing judges, we do not make our own yardstick and then use that yardstick to measure what the administrator did": at para. 28; see also *Ryan* , at paras. 50-51. Instead, the reviewing court must consider only whether the decision made by the administrative decision maker — including both the rationale for the decision and the outcome to which it led — was unreasonable.
>
> 84 As explained above, where the administrative decision maker has provided written reasons, those reasons are the means by which the decision maker communicates the rationale for its decision. A principled approach to reasonableness review is one which puts those reasons first. A reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with "respectful attention" and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion: see *Dunsmuir*, at para. 48, quoting D. Dyzenhaus, "The Politics of Deference: Judicial Review and Democracy", in M. Taggart, ed., *The Province of Administrative Law* (1997), 279, at p. 286.
>
> 85 Developing an understanding of the reasoning that led to the administrative decision enables a reviewing court to assess whether the decision as a whole is reasonable. As we will explain in greater detail below, a reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker. The reasonableness standard requires that a reviewing court defer to such a decision.
>
> 86 Attention to the decision maker's reasons is part of how courts demonstrate respect for the decision-making process: see *Dunsmuir*, at paras. 47-49. In *Dunsmuir*, this Court explicitly stated that the court conducting a reasonableness review is concerned with "the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes": para. 47. Reasonableness, according to *Dunsmuir*, "is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process", as well as "with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law": *ibid*. In short, it is not enough for the outcome of a decision to be *justifiable*. Where reasons for a decision are required, the decision must also be *justified*, by way of those reasons, by the decision maker to those to whom the decision applies. While some outcomes may be so at odds with the legal and factual context that they could never be supported by intelligible and rational reasoning, an otherwise reasonable outcome also cannot stand if it was reached on an improper basis.

[24] *Vavilov* states that where a decision requires reasons, they must be based on reasoning that is both rational and logical. A reviewing court must be able to trace

the decision maker's reasoning without encountering any fatal flaws in its overarching logic: *Vavilov*, at para. 102.

[25] An absence of rational and logical reasoning may be found where:

- The reasons fail to reveal a rational chain of analysis or if they reveal that the decision was based on an irrational chain of analysis;
- The conclusion reached cannot follow from the analysis;
- The reasons read in conjunction with the record do not make it possible to understand the decision maker's reasoning on a critical point; or
- The reasons exhibit clear logical fallacies, such as circular reasoning, false dilemmas, unfounded generalizations, or an absurd premise

(*Vavilov*, at paras. 103-104)

[26] In *Salmon v. Nova Scotia (Human Rights Commission)*, 2024 NSSC 295, Smith, J. discussed the application of the reasonableness standard post-*Vavilov* in the human rights context where the Commissioners adopt the recommendation of the human rights officer whose report is before them, at paras. 94-96:

> [94] A court on judicial review must consider the record that was before the Commissioners when they made their screening decision. The Supreme Court provided that direction in *Vavilov*:
>
> > [137] Admittedly, applying an approach to judicial review that prioritizes the decision maker's justification for its decisions can be challenging in cases in which formal reasons have not been provided. This will often occur where the decision-making process does not easily lend itself to producing a single set of reasons, for example, where a municipality passes a bylaw or a law society renders a decision by holding a vote; see e.g., *Catalyst*; *Green*; *Trinity Western*. However, even in such circumstances, the reasoning process that underlies the decision will not usually be opaque. It is important to recall that a reviewing court must look to the record as a whole to understand the decision, and that in doing so, the court will often uncover a clear rationale for the decision: *Baker*, at para. 44…. Conversely, even without reasons, it is possible for the record and the context to reveal that a decision was made on the basis of an improper motive or for another impermissible reasons, as, for example, in *Roncarelli*.
> >
> > [138] There will nonetheless be situations in which no reasons have been provided and neither the record nor the larger context sheds light on the basis for the decision. In such a case, the reviewing court must still examine

> the decision in light of the relevant constraints on the decision maker in order to determine whether the decision is reasonable. But it is perhaps inevitable that without reasons, the analysis will then focus on the outcome rather than on the decision maker's reasoning process. This does not mean that reasonableness review is less robust in such circumstances, only that it takes a different shape.
>
> [95] In circumstances where the Commission adopts the recommendation of the Human Rights Officer and issues brief reasons, a court on judicial review may treat the Officer's report as the reasons of the Commission. In *Sketchley v. Canada (Attorney General)*, 2005 FCA 404, the Federal Court of Appeal endorsed this approach when federal courts are judicially review the screening decisions of the Canadian Human Rights Commission (para 37):
>
> > While it is true that the investigator and Commission do have "mostly separate identities", it is also well established that, for the purpose of a screening decision by the Commission pursuant to subsection 44(3)…of the Act, the investigator cannot be regarded as a mere independent witness before the Commission. The investigator's report is prepared for the Commission, and hence for the purposes of the investigation, the investigator is considered to be an extension of the Commission. When the Commission adopts an investigator's recommendations and provides no reasons or only brief reasons, the courts have rightly treated the investigator's report as constituting the Commission's reasoning for the purpose of the screening decision under subsection 44(3) of the Act. [citations omitted]
> >
> > [Emphasis added in original]
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> [96] This approach has been adopted in the post-*Vavilov* decision of this Court in *MacDonald v. Nova Scotia (Human Rights Commission)*, 2022 NSSC 306 where Muise, J confirmed that the investigation report was inferentially the reasons of the Commission in light of the fact that there was no duty on the Commission itself to provide reasons (para. 30).

[27] I shall next apply the framework laid out by the relevant authorities to Mr. Coward's Application.

Analysis

The are no relevant or applicable grounds of review for the Court to consider in this matter

[28] Mr. Coward's Application alleges that the Decision was not fair or equitable based on the following grounds:

1. Mr. Coward provided a settlement offer to a human rights officer in or about December 2022 that the Commission failed to accept; and
2. A third party reviewed a video of the incident at issue in the police complaint matter that was provided to the Commission. That third party agreed with Mr. Carvery's position in the police complaint matter.

[29] In the first ground of review, Mr. Coward alleges that because the Commission did not "accept" his settlement offer the Commissioner's Decision to dismiss his Complaint was not fair or equitable. The basis for this ground of review is section 32(2) of the *Act* which states as follows:

> **Referral of settlement to Commission for approval**
>
> **32 (1)** When, at any stage after the filing of a complaint and before the commencement of a hearing before a board of inquiry, a settlement **is agreed on by the parties**, the terms of the settlement shall be referred to the Commission for approval or rejection.
>
> (2) Where the Commission approves or rejects the terms of a settlement referred to in subsection (1), it shall so certify and notify the parties. [Emphasis added]

[30] I find that this section does not apply in this matter. There was no settlement agreement between Mr. Coward, and the OPCC and NSPRB. There were no terms of settlement provided to the Commissioners for their review, and the Commission owed no certification or notification to the parties under s. 32(2). Given that there was no settlement agreement before the Commission, there are no materials relating to any alleged settlement agreement in the Record.

[31] The second ground of review is not relevant nor an appropriate ground of review for this Application because it relates to the merits of Mr. Carvery's police complaint. The Application before me is in relation to the Commissioner's Decision to dismiss Mr. Coward's Complaint not Mr. Carvery's complaint.

[32] I dismiss both grounds of review.

Issue 1: Did the Commission breach the duty of procedural fairness in rendering its Decision?

[33] I find the Commission met its duty of procedural fairness in rendering the Decision and shall explain.

[34] *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 describes the concept and scope of the duty of procedural fairness. This duty ensures that individuals are provided an opportunity to fully present their case and administrative decisions are made using fair, impartial, and open procedures (para. 28).

[35] During the investigative process the principal purpose of procedural fairness is to provide an opportunity for interested parties to bring evidence and arguments that are *relevant* to the decision to be made to the attention of the decision-maker, and to ensure that the decision-maker fairly and impartially considers them.

[36] A human rights officer investigated all the submissions related to the Complaint. Mr. Coward was provided a copy of the Investigation Report and an opportunity to respond to same. Mr. Coward chose not to respond to the Investigation Report. Mr. Coward was provided a meaningful opportunity to bring evidence and arguments relevant to his Complaint to the Commission. The Commissioners considered all the submissions related to the Complaint fairly and impartially. I find that procedural fairness was afforded to all parties.

[37] The evidence to be considered by the Court is what is contained in the Record. Mr. Coward failed to pursue a motion to supplement the Record or adduce fresh evidence. There are no materials in the Record which can support Mr. Coward's argument that he did not receive a fair process.

[38] This ground of review is dismissed.

Issue 2: Was the Commission's Decision to dismiss the Complaint reasonable?

[39] The Investigation Report and memorandum provided to the Commission constitute the reasons for the Decision. The Commission's Decision to dismiss the Complaint was reasonable. The Decision is justified, transparent, and intelligible. I adopt the comments of the Respondent from para. 59 of their brief:

- The Decision clearly and accurately sets out and summarizes the nature of the allegation of discrimination, the undisputed facts, the parties involved in the Complaint, the positions of each party as set out in their written submissions, and the issues to be considered as part of the investigation (Record, Tab 4, pp. 13-20).

- The Decision provides a detailed list of all the documents that HRO Spring reviewed in his investigation, including secondary sources related to the issues in the Complaint (e.g. the relationship between race and police checks, and post-traumatic stress disorder), the 244-page Book of Documents from the OPCC and NSPRB providing a record of the police complaint matter, and the written submissions of each of the parties (Record, Tab 4, pp. 20-26).
- The Decision includes an 11-page analysis section wherein HRO Spring sets out the applicable law and legal test, and individually analyzes each of the twelve examples of discriminatory treatment that Mr. Coward alleges in the Complaint (Record, Tab 4, pp. 26-37).
- The Decision provides a thorough and accurate application of the evidence to each of the allegations in the Complaint. The Decision provides individual conclusions to each of the allegations. The Decision finds that none of the allegations are borne out based on the evidence, some of the allegations are factually incorrect, and one allegation is proven in the reverse. For example, in regard to the allegation that the OPCC and NSPRB "berated" Mr. Coward, HRO Spring determined that "several of the communications from Mr. Coward might fairly be characterized as accusatory, berating, combative, and adversarial" (Record, Tab 4, p. 34).
- The Decision is thoughtful and considerate of the realities of systemic racism in Nova Scotia and the real impacts that bureaucratic processes can have on complainants (Record, Tab 4, pp. 35 and 36).

[40] Human Rights Officer Spring made the following findings in the Record at Tab 4, pp. 27, 36, and 37:

> 87 With genuine respect, sensitivity, and commitment to a trauma-informed response, following careful, impartial, non-biased, and objective assessment of the evidence, this human rights complaint appears to be based on a series of misunderstandings, miscommunications, and frustrations regarding the nature, functions, and processes of the Respondents.
>
> …
>
> 106 The Respondents appear to have made reasonable efforts to provide a viable review process to the Complainant and Carvery in this instance. Ultimately, the Complainant and Carvery did not avail themselves of this review process after the

> Police Complaints Commissioner determined that their complaint had merit and was referred to the PRB, where a public hearing was scheduled to address their appeal.
>
> …
>
> 108 In this instance, there is not sufficient evidence to support the allegations made by the Complainant and Carvery that they faced discrimination by the Respondents, the OPCC and the PRB, with respect to the provision of or access to services or facilities due to race, colour, and/or retaliation.

[41] He recommended that the Complaint be dismissed pursuant to sections 29(4)(a) and (b) of the *Act* which read as follows:

> 29 (4) The Commission or the Director may dismiss a complaint at any time if
>
> (a) the best interests of the individual or class of individuals on whose behalf the complaint was made will not be served by continuing with the complaint;
>
> (b) the complaint is without merit;
>
> …

[42] The Commission accepted the recommendation in the Investigation Report (Record, Tab 8, p. 317) and dismissed the Complaint pursuant to sections 29(4)(a) and (b) of the *Act*, respectively (Record, Tab 9, p. 322).

[43] Mr. Coward has not provided any evidence or argument to demonstrate that the Decision was unreasonable.

Conclusion

[44] Mr. Coward raises issues in his Application that are not justiciable on a judicial review and I dismiss those outright. Regarding the reasonableness of the Decision, Mr. Coward has failed to convince me that the Decision was unreasonable. Regarding the duty of procedural fairness, the Commission met its duty of procedural fairness to Mr. Coward in rendering its Decision.

[45] Mr. Coward's Complaint is without merit and the damages sought are not available to Mr. Coward in a judicial review proceeding. The Application is dismissed without costs. I would ask counsel for the Respondent to prepare the Order.

Bodurtha, J.