



# Guide to Early Assessment and Dismissal without Investigation

*The Human Rights Code* (“*The Code*”) outlines specific situations where the Executive Director of the Manitoba Human Rights Commission (“*Commission*”) may dismiss a Human Rights Complaint (“*Complaint*”) or part of a *Complaint* without investigation. In order to determine whether a *Complaint* should be dismissed without investigation, *Complaints* may have to go through the Early Assessment process.

## Why would my Complaint be flagged for Early Assessment?

A *Complaint* will go through the Early Assessment process if there may be a reason not to investigate it. The Executive Director may dismiss a *Complaint* or part of a *Complaint* without investigation if:

- (a) it is considered “frivolous” or “vexatious” by law;
- (b) the allegations are not a violation of *The Code*;
- (c) the Commission does not have jurisdiction to examine the issues being alleged;
- (d) the issues are being dealt with or have already been dealt with appropriately under another Act; and/or
- (e) continuing through the complaint process would not benefit the person who experienced the alleged discrimination.

## What is the Early Assessment process?

The Early Assessment Team will consider the available information to determine if the *Complaint* should be dismissed without investigation due to one of the reasons listed above. The Early Assessment Team may ask parties for any other documents or information they may need to help them complete their assessment.

The Early Assessment Team will make a recommendation to the Executive Director to help them decide whether a complaint should be investigated or not. Before the Executive Director makes their decision, the Early Assessment Team will provide the parties with a copy of their recommendation, which will include an analysis of whether or not they believe the complaint should be dismissed without investigation. The parties will then have an opportunity to provide a written submission in response to the Early Assessment Team’s recommendation, outlining why they agree or disagree with the team’s findings.

## What do I need to do?

If your file is being assessed by the Early Assessment Team, you may need to respond to the Commission’s requests for information or documents to help the team complete their assessment. Once you are advised of the Early Assessment’s Team

recommendation, you will also have the option of providing a written submission in response to their findings and recommendation.

### **How will I be notified of the Early Assessment Team's recommendation?**

Once the Early Assessment Team has finished their assessment, they will send you a letter advising you of their findings. This letter will include a recommendation to either dismiss the complaint without investigation, or to advance the complaint to investigation.

### **Can I respond to the Early Assessment Team's recommendation?**

Yes. Parties to a complaint have two weeks to provide a written submission in response to the recommendation, if they wish. Your submission should explain why you agree or do not agree with the recommendation.

Your submission can be up to a maximum of 5 single-sided pages (or 2.5 double-sided pages) including any attachments. For more information, please see Board Policy #P-2 on submissions.

### **How does the Executive Director make their decision?**

The Executive Director must assess the available information to determine if the Complaint should be dismissed without investigation due to one of the reasons above, or if the Complaint should proceed to investigation. When making their decision, the Executive Director considers the Complaint, the Reply, any submission(s) from the parties to the Complaint, and the recommendation from the Early Assessment team.

Parties to the complaint will receive a decision letter from the Executive Director that outlines the basis for their decision.

### **What happens to my Complaint after an early assessment?**

If your Complaint is dismissed without investigation, your file with us is closed. If your Complaint proceeds to investigation, your file moves to the investigations team and will be assigned to an investigator.

### **Can I apply to have the Executive Director's decision reviewed?**

Complainants may apply to have the Board of Commissioners ("Board") review the Executive Director's decision to dismiss a Complaint or part of a Complaint without investigation. For more information on the Board Review Process, please see our *Guide to the Board Review Process*.

Parties may also choose to apply to the Court of Queen's Bench for a judicial review. The Commission recommends that parties seek independent legal advice before doing so. Finally, if a party is concerned with the Commission's processes, they may contact the Manitoba Ombudsman.

This guide is available in alternate formats.  
*Ce guide est disponible en français.*