

SECTION: Procedure

Effective date: October 8, 2014

SUBJECT: JURISDICTION – EXCLUSIVE JURISDICTION OF OTHER TRIBUNALS

Purpose:

The Manitoba Human Rights Commission (“Commission”) can only act within the authority given to it by *The Human Rights Code* (“*The Code*”) and case law. This policy sets out circumstances in which the Commission does not have jurisdiction to consider a complaint due to the exclusive jurisdiction of another administrative body. Where there is any conflict between this policy and *The Code*, *The Code* will be followed.

Context:

Some administrative bodies are given the *exclusive power* to decide questions of law arising from the law or statute that governs them.

The Code is paramount over any other provincial law (section 58). This means that the rights and obligations covered by *The Code* take precedence over the rights and obligations in any other law, unless that law specifically displaces the Commission’s authority.

The Supreme Court of Canada has also established however that administrative bodies with the authority to decide "questions of law", other than human rights commissions or tribunals, may also consider and apply human rights laws because of their fundamental importance in Canada.

In order to displace the Commission’s broad jurisdiction to consider complaints against any business or organization providing a service in the province, it must be shown that in enacting another law, the legislature intended to give another administrative body the sole authority or exclusive jurisdiction to consider matters described in that law. If the law uses the words "exclusive jurisdiction" that is enough to show that the legislature intended for it to have exclusive authority over those issues described in the law. If it does, the Commission will analyze which elements of a human rights complaint, if any, would fall within the administrative body’s exclusive jurisdiction given the entire context of a complaint and their enacting law.

The Worker’s Compensation Board, Manitoba Public Insurance Corporation, and Automobile Injury Compensation Appeal Commission are examples of administrative bodies that are charged with the exclusive authority to determine certain matters because of the language used in their enabling law.

Where the subject matter of a complaint falls within the exclusive jurisdiction of another administrative body, the Commission must dismiss the complaint under section 29(1)(b) of *The Code*.

APPROVED BY:

"Yvonne Peters"
Chairperson

October 8, 2014
Date