

SECTION: Procedure

Effective date: October 8, 2014

SUBJECT: JURISDICTION – SCOPE AND APPLICATION OF *THE CODE*

Purpose:

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

Context:

The Code prohibits unreasonable discrimination and harassment (or allowing harassment to continue) against individuals based on the grounds below in the following activities or undertakings:

- employment (including pre-employment);
- services from a business, municipal or provincial government, and/or organization that are available to the public or a section of the public;
- housing (rental or purchase);
- contracts that are offered to the public or a section of the public; and
- sign, symbol, notice, or statement that discriminates, or indicates an intention to discriminate, on the basis of a protected characteristic in the areas of services, housing, employment, or contracts.

The Code protects individuals from being discriminated against or harassed in the above activities based on one or more of the following enumerated (protected) grounds:

- ancestry, including colour and perceived race;
- nationality or national origin;
- ethnic background or origin;
- religion or creed, or religious belief, religious association or religious activity;
- age;
- sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- gender identity;
- sexual orientation;
- marital or family status;

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- source of income;
 - political belief, political association or political activity;
 - physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device; and
 - social disadvantage.

In addition, individuals are protected from discrimination and harassment on the basis of an unspecified (analogous) ground. Individuals seeking protection based on an unspecified ground usually must be members of a group suffering social, economic, political or legal disadvantage in our society, such as individuals with a criminal record. See also Commission Policy I-11 about unspecified grounds.

It is also a contravention of *The Code* to retaliate against an individual because they filed or may file a complaint, participated in a Commission proceeding, or complied with an obligation under *The Code*.

Generally, the alleged contravention must occur in Manitoba in order for the Commission to have jurisdiction.

Allegations that do not relate to a protected ground and activity covered by *The Code* cannot be considered by the Commission. For example, the Commission would not ordinarily have jurisdiction to address discrimination based on an individual's tattoos, dress or hairstyle unrelated to a protected ground like religion or sex, or abusive comments made by a passerby in a public place or an individual at a private social setting.

Experiences of being "bullied" or treated poorly are not subject to sanction under *The Code* unless they are based on a protected ground. Accordingly, the Commission may not have jurisdiction where a complainant alleges he or she has been "bullied" without adequately demonstrating that the alleged bullying was related to a protected ground.

Where the alleged discrimination or harassment does not occur within an activity covered by *The Code* or does not relate to a protected ground, the Commission must dismiss the complaint under section 29(1)(b), namely that the acts or omissions described in the complaint do not contravene *The Code*.

APPROVED BY:

"Yvonne Peters"
Chairperson

October 8, 2014
Date