



## Guide to Filing a Complaint

*The Human Rights Code* (“*The Code*”) is a provincial law that allows any person who believes they have been discriminated against to file a complaint with The Manitoba Human Rights Commission (“*Commission*”). It says that employers, service providers and landlords must not discriminate without reasonable justification for doing so.

### Is what happened to me discrimination?

Discrimination is **treating a person differently** to their disadvantage because of a protected characteristic under *The Code*, without reasonable justification for doing so. Protected characteristics under *The Code* are aspects of personal identity that include ancestry or race; nationality; religion or creed; ethnic background; age; sex (including pregnancy); gender identity; sexual orientation; marital or family status; source of income; political belief; physical or mental disability; social disadvantage; and criminal record.

Discrimination is also **failing to reasonably accommodate** the special needs of a person based on one of those characteristics in *The Code*.

The Commission may accept complaints based on being a member of some other historically disadvantaged group, after further discussion with an Intake Officer.

### Is what happened to me harassment?

Harassment is a form of discrimination. Harassment is a pattern of demeaning behaviour that is connected to one of the characteristics in *The Code* and includes sexual harassment.

### Is what happened to me reprisal?

Reprisal is retaliation against a person for filing a complaint, participating in the complaint process or refusing to contravene *The Code*.

### Can anyone file a complaint? Is there a time limit?

Any person may file a complaint alleging that someone else has violated *The Code*. Complaints must be registered within one (1) year of the alleged discriminatory act. In some cases, the time limit may be extended.

### How do I file a complaint?

If you believe that you have been discriminated against, please contact the Commission and an intake officer will assist you. Our services and publications are available in French and English and accessible to persons with disabilities. We can also arrange for a

translator upon request. There is no charge for filing a human rights complaint or for seeking advice about a human rights concern.

Commission staff are impartial and do not advocate for either party.

### **What information do I need to provide?**

If your issue falls within *The Code*, an Intake Officer will ask you to complete an Intake Questionnaire Form. This form will help us draft your complaint. We will use the form and the information you provide to identify the organization or person (“the respondent”) that you (“the complainant”) are complaining about. Staff will also gather information about your allegations of discrimination, such as what happened and what you believe to be the reason for the discriminatory treatment. You may be asked about possible witnesses and other information relevant to your complaint, such as medical, tenancy, or employment records like cheque stubs or Records of Employment. Depending on your complaint, you may also be asked to sign medical or other consent forms in order for us to obtain the information necessary to investigate your complaint.

Intake Officers may ask you for other documents that will be helpful to the investigation of your complaint. They will store this information on your file. If your complaint is investigated, the Investigator will ask you for documents or any other evidence they may need to investigate your complaint. If you have documents or other materials that you believe are relevant to your complaint, you should store them safely so they can be provided to the Investigator.

### **Who do I make the complaint against?**

Our Intake Officers will help you decide who to file the complaint against by reviewing documents (such as a T4 or Record of Employment) and researching the legal name of the organization. Because *The Code* applies to the actions of employers, service providers and housing providers, the complaint will likely be against a company or organization. In some cases, the complaint may be filed against a specific individual (such as when a person has been harassed by the owner of a business or if the housing provider is an individual).

### **Can the Commission give me advice?**

Our Intake Officers cannot give legal advice. They can provide information about *The Code*; its principles and what it covers. They can also make suggestions based on their experience. You have the right to a lawyer, but it is not necessary. The Commission staff is impartial and does not advocate on the part of either party.

### **What does the Commission do with my complaint?**

Our Intake Officers will take the information you provide in the Intake Questionnaire form and prepare a complaint in our standard form. The complaint must clearly set out the basis for your complaint and is usually only 1 or 2 pages.

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

The complaint must be registered before it is given to the respondent for a response. The Commission will then determine if it can investigate the complaint. In some cases, complaints will be dismissed without investigation if they have been dealt with under another legal process, or if the actions complained of are not covered by *The Code*. For more information on this process, see our *Guide to Early Assessment and Dismissal without Investigation*.

In cases where the Commission investigates the complaint, the Commission's Executive Director will review the investigation findings. If the Executive Director decides there is enough evidence of discrimination, they will request that an adjudicator make a final decision at a public hearing of the complaint. If the Executive Director decides that the complaint allegations are not covered by *The Code*, were dealt with under another *Act*, or are not supported by enough evidence of discrimination, they will dismiss the complaint. For more information on the investigation process, see our *Guide to Investigation*. For information on public hearings, see our *Guide to Adjudication*.

The Commission will also offer mediation at various times in the process. For more information on the mediation process, see our *Guide to Mediation*.

### **Can I get help without filing a formal complaint?**

Depending upon the nature of your issue, Commission staff may be able to help resolve your concern through pre-complaint mediation. With your agreement, a Commission staff person will telephone the person or organization that you believe has discriminated against you and will explore the possibility of reaching a resolution on an informal basis, without a written complaint. Pre-complaint mediation is voluntary, and requires both your participation as well as the potential respondent. Pre-complaint conciliation discussions are kept confidential and are not revealed if the matter proceeds to a formal complaint.

Many parties find a satisfactory resolution or explanation through this process as it is fast and informal. Any agreement that you reach with the potential respondent is set out in a letter to both of you, to avoid misunderstandings. Usually your intake file with us will not be closed until after the terms of the agreement have been carried out. If the potential respondent fails to complete the agreement, you may contact us and we will take another look at the matter.

### **I have already pursued my concerns with my union or through another legal process. Can I also file a human rights complaint?**

If you have already pursued your issues with your union or through another legal forum (like the Social Services Appeal Board, Workers Compensation Board, or through the Courts), the Commission may be required to dismiss your complaint without investigating it. This ensures that the same issue is not being pursued through multiple

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legal forums and that the Commission respects the authority of other legal decision makers. For more information, see our *Guide to Early Assessment and Dismissal without Investigation*.

If you have pursued your matter through another forum, please advise your Intake Officer. They will refer you to other supports or agencies, where applicable.

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