



A Media Guide to the Human Rights Commission and Public Hearings

This background paper will provide the media with general information about human rights public hearings and the Manitoba Human Rights Commission.

What is the Manitoba Human Rights Commission?

The Manitoba Human Rights Commission is an independent agency of the Government of Manitoba. It is responsible for carrying out the protections in Manitoba's *Human Rights Code*. Its staff includes mediators, investigators and administrative support.

What does the Commission do?

The Commission staff mediates and investigates complaints, which allege discrimination, or failure to accommodate special needs in the areas of employment, housing and services (such as governments, restaurants, stores or buses). A human rights complaint must be based on specific grounds, known as protected characteristics in *The Code*. These grounds include ancestry, religion, age, sex (including pregnancy), sexual orientation, and physical or mental disability.

Many complaints are resolved through mediation. Others are investigated and a report is presented to the Board of Commissioners.

Who is on the Board of Commissioners and what is its role regarding a human rights hearing?

The Manitoba Human Rights Board of Commissioners consists of ten individuals (including a chairperson and a vice chairperson) who are appointed by the Government of Manitoba.

Neither the Board nor the Human Rights Commission can rule on a complaint. The Board, however, does determine whether a case should go forward or be dismissed. If the complaint is to move forward and a settlement cannot be reached, the Board will ask the Minister of Justice to appoint an adjudicator for a public hearing.

Who are human rights adjudicators? Adjudicators are independent and are **not** Commission staff or on the Board of Commissioners. They are often lawyers practicing in Winnipeg.

What happens at a human rights public hearing and how much power does the adjudicator have?

A human rights hearing has similarities to any court. Both sides present their argument to the adjudicator, which includes opening and closing statements, witnesses and evidence such as documents. Witnesses can be cross examined (asked further questions) by the opposing party. The Commission's legal Counsel is responsible for presenting the case. The complainant (the person who first filed the complaint) can also be represented by his or her own lawyer. The Respondent (the person or company or organization that the complaint was filed against) can represent him or herself or be represented by his/her own lawyer. The adjudicator makes a decision that then becomes legally binding, unless appealed. If an appeal takes place, the case moves into the traditional court system where the case is reviewed to determine if an appeal will be granted.

How is a public hearing advertised?

A notice of hearing is sent out by the Adjudicator. It is published, a few days before the hearing, in the Winnipeg Free Press and the Manitoba Gazette, which is published weekly by the Government and contains all the legal and government notices. The notice is also posted on the Commission's website.

Who can come to a hearing?

The public and the media can attend. An individual who is giving evidence as a witness cannot be at the hearing until he or she has finished giving testimony.

Media and the Manitoba Human Rights Commission

The Adjudicator will decide on the use of cameras and recording devices. In the past, audio/visual equipment has not been allowed during the actual hearing. The Adjudicator may also prohibit publication or broadcast of the identities of the parties involved until a final written decision is released.

During the hearing, the executive director or designate and/or the chairperson or designate may answer questions with respect to the human rights process or, in broad terms, about the section of *The Code* where the alleged discrimination has taken place. Questions regarding the specifics of the complaint or hearing will not be answered until after the hearing has concluded. In most cases the Commission will wait for the decision before commenting.

Once the Commission has received the independent adjudicator's written decision it will

generally issue a news release, make the decision available to the media and respond to media questions.

The Decision

After the hearing, the adjudicator decides on the outcome and will deliver a written decision, based on the evidence. This could take two months or more. If the adjudicator determines there has been a violation of *The Code*, may order one or more of the following:

- Stop the discriminatory action or behaviour
- Compensate the party for any financial loss, expenses incurred or benefits lost
- Compensate the party who was discriminated against for injury to dignity, feelings or self-respect.
- Pay the party exemplary damages if the Adjudicator considers this appropriate for any malice or recklessness involved
- Adopt or implement a policy or program

What is the appeal process?

Any party to the hearing can apply to the Court of Queen's Bench for a review of the decision based solely on the following grounds:

- The Adjudicator committed an error of jurisdiction
- The legal process was unfair
- There was an error in law

Questions? Call 204-945-7007 or email hrc@gov.mb.ca