

2020 Annual Report

The Manitoba Human
Rights Commission



Equality of Opportunity and
Freedom from Discrimination

THE MANITOBA
HUMAN RIGHTS
COMMISSION



LA COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA



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**ATTORNEY GENERAL
MINISTER OF JUSTICE**

Room 104
Legislative Building
Winnipeg, Manitoba R3C 0V8
CANADA

The Honourable Janice C. Filmon, C.M., O.M.
Lieutenant Governor of Manitoba
Room 235 Legislative Building
Winnipeg MB R3C 0V8

May it Please Her Honour:

I have the privilege of presenting the Annual Report of The Manitoba Human Rights Commission and Human Rights Adjudication Panel for the 2020 calendar year.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Cameron Friesen".

Cameron Friesen
Minister of Justice and Attorney General



Honourable Cameron Friesen
Minister of Justice
Attorney General
104 Legislative Building
Winnipeg, MB R3C 0V8

Dear Minister:

Pursuant to section 6(2) of *The Human Rights Code*, we are pleased to provide you with the Annual Report of The Manitoba Human Rights Commission and the Human Rights Adjudication Panel for the calendar year 2020.

Yours sincerely,

A handwritten signature in blue ink, appearing to be "John Burchill". The signature is stylized and somewhat abstract, with a large loop at the end.

John Burchill
A/Chairperson
Board of Commissioners



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About the Commission

The Manitoba Human Rights Commission is an independent agency of the Manitoba government, responsible for:

- enforcing the rights and responsibilities in *The Human Rights Code* (“*The Code*”) through a complaints process; and
- promoting human rights and educating the public about *The Code*.

Our work is driven by the recognition of the individual worth and dignity of every person.

Any person who believes they have been discriminated against when at work or when accessing public services or housing may file a complaint with the Commission. We investigate those complaints to determine if there is enough evidence to warrant referring them to the Human Rights Adjudication Panel for a final decision. The Commission takes an active role in trying to prove those complaints before the Adjudication Panel because we believe that no person should be discriminated against.

Discrimination is often rooted in ignorance, prejudice and stereotypes. We assist in the early resolution of complaints through education and mediation. We also engage in policy and research initiatives and conduct education programs to assist the public in understanding human rights obligations and promote equality.

We are made up of eight commissioners appointed by the Lieutenant Governor-in-Council and seventeen staff led by an executive director.

The Commission reports to the public on finance and administration matters via the Crown Law Division of Manitoba Justice.



Message from the Chairperson

A year unlike any other, 2020 brought us unprecedented challenges. From a global health crisis to a public reckoning with the tragic impacts of systemic racism, the past year has exposed the serious inequities and barriers faced by many Manitobans.

With the onset of the pandemic, the Commission's focus shifted to ensure that we could continue to safely provide service to Manitobans in accordance with public health guidelines, while recognizing the need for increased information and guidance on human rights issues emerging as a result of COVID-19. We swiftly adapted the delivery of our operations while producing a number of resources to assist the public in navigating these difficult times. We also proactively monitored a number of pressing human rights issues, including the right of students with disabilities to equitable learning during the pandemic. With all of these efforts, our priority has been to ensure that our response to the COVID-19 pandemic centers on human rights principles, and addresses the disproportionate impact of this illness on structurally disadvantaged communities.

The COVID-19 pandemic was not the only significant human rights issue that the Commission was responding to: in 2020, we joined Canadians in taking a firm stand against racism. Across Canada, we witnessed a rise in acts of hate as a result of COVID-19 and 2020 surfaced many of the long-standing structural inequities faced by Black, Indigenous and people of colour across Manitoba. We supported employers and service providers to increase their knowledge of anti-racism by developing a human rights seminar on challenging racial discrimination. We continue to offer this session free for the public throughout 2020-21.

While we responded to these new challenges, we also continued our ongoing work of promoting and protecting human rights in our province. We were successful in proving two significant complaints at hearing. These decisions affirmed the rights of service animal users to be free from discrimination and set out that landlords must not engage in harassment of their tenants. While the pandemic slowed our progress on the reduction of our backlog in the investigation of human rights complaints, we are mindful that the Government of Manitoba has recently introduced amendments to *The Human Rights Code*. We expect that these changes will help us address the timeliness of the complaint system and look forward to implementing them over the coming year.

Our accomplishments over the past year are due to the dedication, adaptability and resilience of our staff and my fellow Commissioners. I want to extend my sincerest appreciation to them for shifting our operations to allow us to continue to serve the public throughout these unprecedented times.



Board of Commissioners

John Burchill, A/Chairperson, is Chief of Staff with the Winnipeg Police Service. He has Bachelor of Arts in Criminal Justice from Athabasca University, a Bachelor of Law from the University of Manitoba and a Master of Laws from Osgoode Hall. He was a police officer for 25 years, six of which were spent as a supervisor of the Hate Crimes Team. Prior to re-joining the Police Service he worked as a Crown Attorney with Manitoba Justice and a Risk Manager with the University of Manitoba.



Tracy Leipsic is a speed skating coach with the River Heights Speed Skating Club, coaching all levels of athletes including beginner, Provincial teams, Masters and Special Olympics athletes. She has a Business Administration diploma from Red River Community College and is a Canadian Accredited Insurance Broker with 17 years of experience in the insurance industry. She is the Vice President, Finance of the Manitoba Speed Skating Association, and has been involved with the 2017 Canada Summer Games, Canadian Sport Centre MB, Revolution Diving Club and Winnipeg Jewish Child & Family Services.



Jeannette Acheson is a Parole Officer with the Correctional Service of Canada and has worked with them in a variety of positions since 1984. She has a B.A. with distinction in Criminology and Psychology from the U of M and is fluently bilingual. She often acts as an expert witness for the Correctional Service of Canada in the area of Dangerous Offenders testifying in Manitoba and Ontario courts. She has served as the Chair of the Board of Directors for The Laurel Centre, a treatment centre for women who were sexually abused as children, in Winnipeg and continues to serve as a Honourary Board member. She is a Trustee for the Canadian Museum for Human Rights. Currently, Jeannette is the Vice Chair for the Manitoba Police Commission.



Mike Reader is the Director of Capital Management for the Northern Regional Health Authority. He has worked with the NRHA since 2008. Prior to the NRHA he worked with Tolko Kraft Papers and previous owners of The Pas paper mill for 28 years as an Industrial Electrician & 3rd Class Power Engineer. During that time he held various positions within the Union. Executive of the Communications Energy & Paperworkers Union and previous Canadian Paperworkers Union He is of Métis ancestry and was born and raised in The Pas. Mike enjoys all aspects of northern living and is an avid outdoorsman.



Loretta Ross is a lawyer and the Treaty Relations Commissioner of Manitoba. She has an LL.B from Queens' University. She has practiced law for over 20 years dealing with child and family matters, trust and corporate law, land claims and residential school claims and has acted as legal counsel to numerous First Nation governments and organizations. She is a member of the Hollow Water First Nation in Manitoba. Loretta remains active in the community by presiding on various boards.



Ian Grant is former Chief of Police with the City of Brandon - Brandon Police Service. He has a B.A. from Memorial University and a Masters in Rural Development from Brandon University. Ian also holds an Honorary Diploma in Police Studies from Assiniboine Community College. He began his policing career with the RCMP in 1980 and in 1985 joined the Brandon Police Service. He played a key role in the development of The Missing Persons Act during a secondment with the Province of Manitoba. Ian has been involved with several boards including Sisters in Spirit Walk Organizing Committee and Community Mobilization Westman. Ian is currently serving as a Special Advisor for Public Safety programs at Assiniboine Community College in Brandon.



Darcy Strutinsky is a consultant to the public and private sector on respectful workplace, harassment and discrimination issues in unionized work environments. He has a Bachelor of Arts from the University of Manitoba and has worked extensively in the area of human resources and labour relations, primarily in the health care field, holding senior management positions with the Labour Relations Secretariat, Health Sciences Centre and Seven Oaks Hospital. He serves as a member of the Manitoba Labour Board and the Labour Management Review Committee, and with the Children's Hospital Foundation of Manitoba.





Greetings from the Executive Director

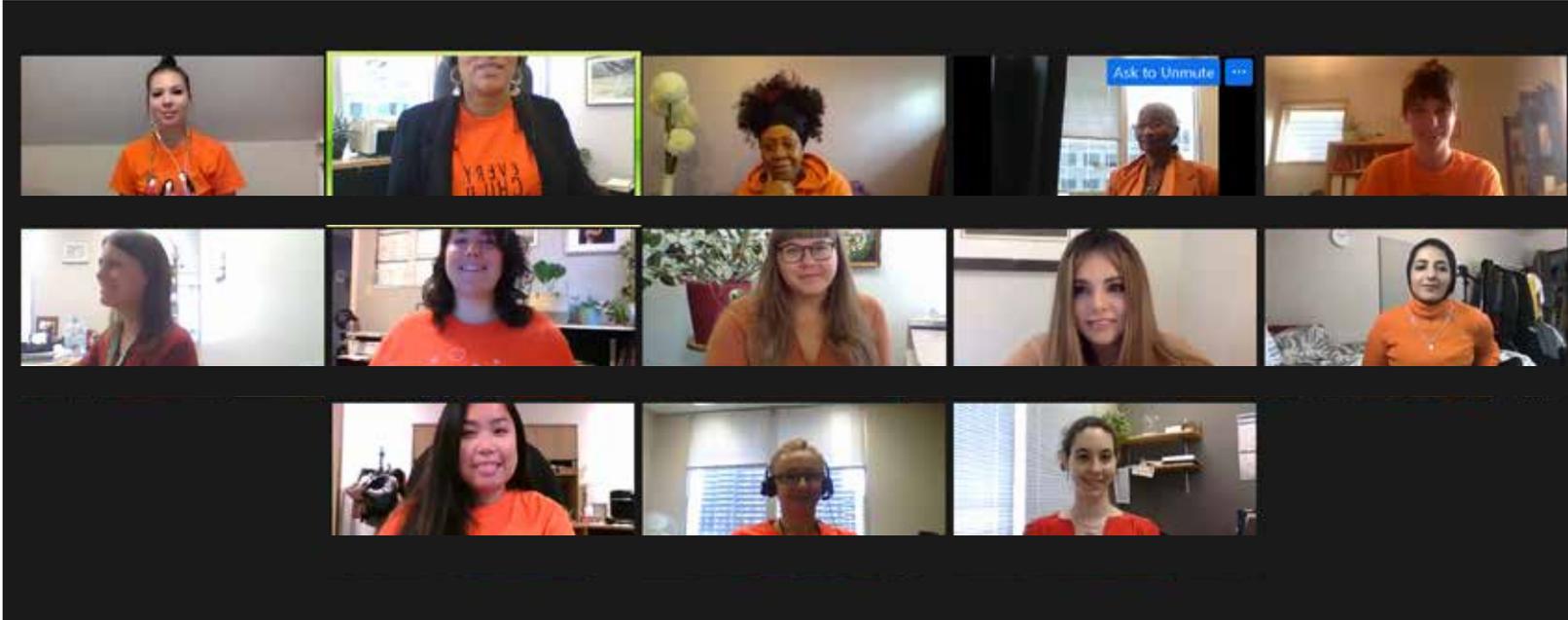
The year 2020 surfaced knowledge that many of us have known and felt for decades: despite our best efforts, significant inequities continue to persist in our province. The COVID-19 pandemic has widened equity gaps for many structurally disadvantaged communities, including Black, Indigenous and people of colour, people with disabilities, people living in congregate housing, incarcerated persons, unsheltered and low income communities, women and caregivers. While each of us has worked to safeguard the health and well being of our loved ones and communities, this past year has taught us that not everyone has equal access to health care, including the ability to practice health care directives.

During 2020, the Commission worked hard to ensure that duty bearers under *The Code* were aware of their human rights obligations. We also pivoted our operations to ensure we could respond to the needs of Manitobans, while keeping our staff and the public safe.

The past year also brought the world face to face with the tragic impacts of systemic racism. Advancing racial equity has long been a priority for the Commission, however over the past year we not only committed to ensuring that the public has access to the resources and supports they need to eliminate racial discrimination; in 2020 we looked inward and ensured our staff are trained to deeply understand the roots of racism and committed to ensuring we deliver our services in manner that advances equity and justice for all.

We remain focused on improving the timeliness of our complaint disposition system. There is no doubt that the current time frames associated with the investigation and disposition of complaints is too lengthy. While we have implemented a number of initiatives to help streamline this system, we recognize that broader systemic changes are necessary to help the commission accomplish this task. Over the coming year, we look forward to implementing the Government's proposed legislative amendments to *The Code*, and realize a more efficient, timely and accessible human rights compliance system.

This past year has brought so much uncertainty and change, but what remained consistent was the commitment, resilience and dedication of our Commission team. Throughout 2020, our team went above and beyond to ensure Manitobans had access to reliable and timely human rights information. I want to extend my sincerest gratitude to each member of our staff for their ability to listen, empathize, educate and ensure that Manitobans can rely on a fair and robust complaint mechanism during this unprecedented time.



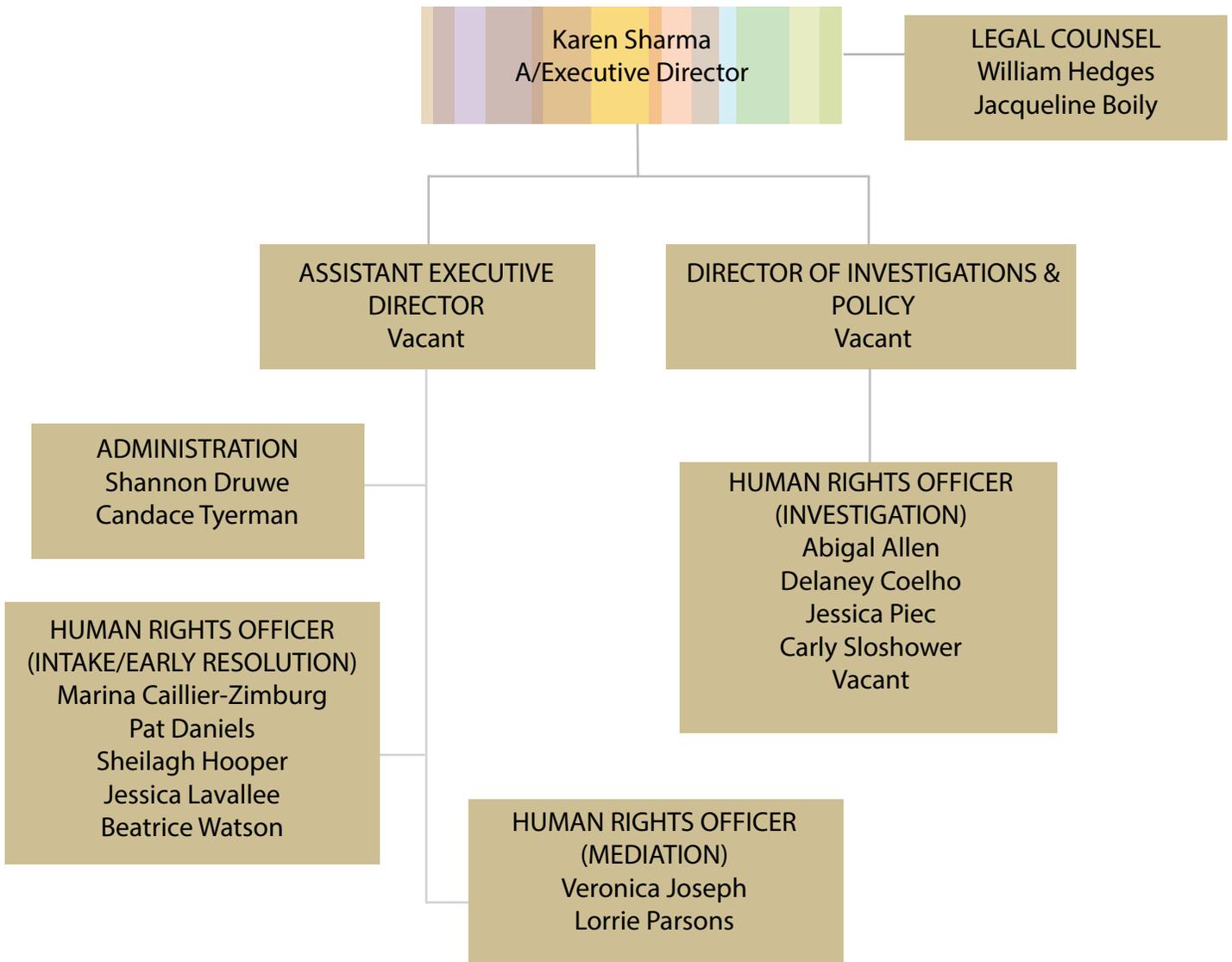


Chart reflects staffing as of December 31, 2020

Acknowledgments:
Sincerest thanks to George Sarides, Heather Unger, Sandra Gaballa and Eli Milner for your contributions to the work of the Commission.



A vibrant rainbow flag is shown waving in the foreground, with its colors (red, orange, yellow, green, blue, and purple) clearly visible. The background is a blurred, light-colored building with windows, suggesting an outdoor setting. The text is overlaid on the right side of the flag.

Advancing Rights for All Manitobans



Complaints by the Numbers

The Commission is responsible for investigating allegations of discrimination in Manitoba and for deciding if the person's complaint should be dismissed or referred to a public hearing before a member of the Human Rights Adjudication Panel.

Intake officers respond to a range of inquiries from the public. We will discuss the situation and if it appears that the person is concerned about discriminatory behaviour or treatment, we provide them with general information about their rights and our complaint process. We may assist at this early stage in trying to resolve the concern through pre-complaint mediation. If there is no resolution of the concern, we gather information and evidence to draft a formal complaint under *The Code*.

Any person may file a complaint alleging that another person has contravened The Code.

Public Inquiries in 2020

3,374

people contacted us for information
(by phone, email and in-person)

1,400

people were referred to
other agencies for assistance

924

believed they were
discriminated against

359

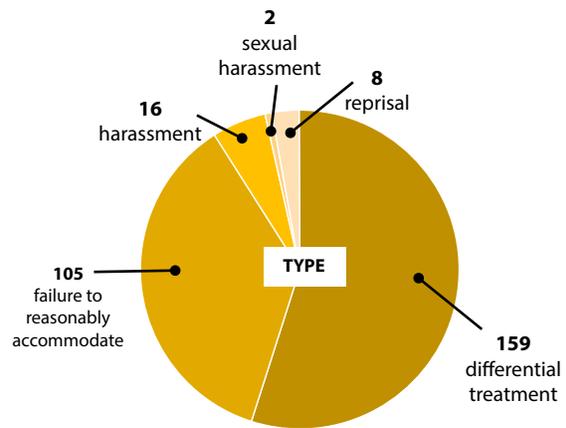
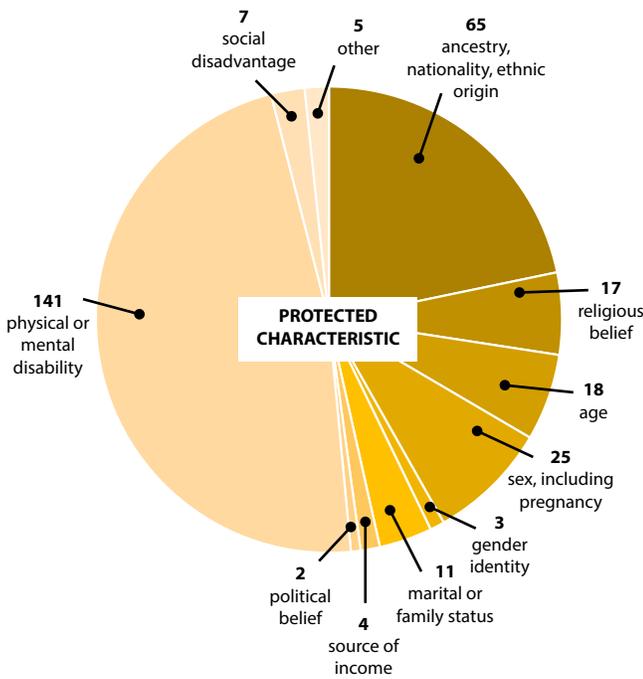
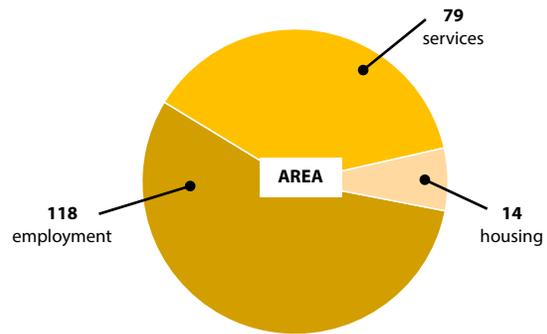
complaint files
were opened

211

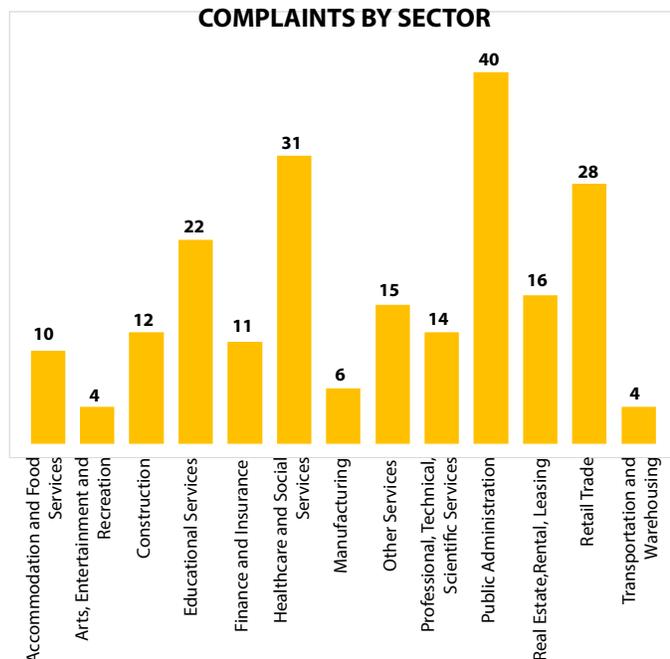
formal complaints were
registered

New Complaints Registered in 2020

Any person may file a complaint under *The Human Rights Code*, alleging they have experienced discrimination. *The Code* requires that the alleged discriminatory act occurred in the last year before the complaint is registered. In some cases, this time limit can be extended. The complaint must be registered by the Executive Director.



Of the complaints filed on the basis of disability, 50% were on the basis of a physical disability and 50% were on the basis of a mental health related disability.



Investigations in 2020

The Commission will serve the registered complaint on the respondent and will assist the parties to resolve the complaint through mediation. If there is no resolution of the complaint we will ask the respondent to provide a written response or reply to the allegation of discrimination.

The investigation team will obtain documents and conduct interviews of the parties to determine if The Code has been contravened as alleged in the complaint. The investigator will prepare a report that summarizes all of the evidence relevant to the complaint. The investigator will make a recommendation to dismiss the complaint or to refer it to the adjudication panel for a public hearing, based on whether there is sufficient evidence to substantiate the complaint. The parties have an opportunity to submit a written response to the investigation report before the board makes the decision.

In accordance with the Manitoba Court of Appeal's decision in *Northern Regional Health Authority v. Manitoba Human Rights Commission*, the Commission continues to work to ensure that we are investigating complaints that are within our jurisdiction to do so. This allows the Commission to ensure that a complaint has not already been determined by another administrative tribunal or is not being considered in another process, including through a union grievance process. Making these decisions early ensures that a person is not having to navigate multiple legal processes at once, and allows them to get a resolution to their concern more quickly.

132
complaints were investigated

121
complaints were dismissed or terminated

11
complaints were substantiated

40%
of the complaints dismissed required limited investigation in 2020

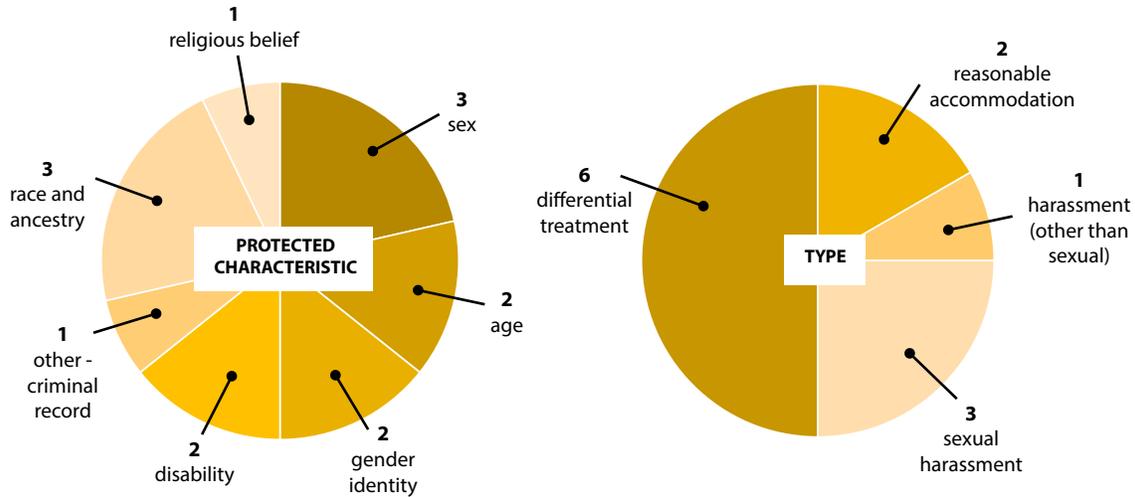
33
complaints where the Board of Commissioners declined jurisdiction to investigate because the issues had been settled or pursued in another legal forum in 2020

Average time to complete an investigation

(from the time the complaint is assigned to an investigator until the completion of the investigation report)



Complaints Substantiated in 2020



Note: some complaints were filed on the basis of multiple protected characteristics and alleged multiple types of discrimination.

Hearings in 2020

Decisions issued by the Manitoba Human Rights Adjudication Panel in 2020

- *A.B. v University of Manitoba* - February 2020
- *Zimmer v. Government of Manitoba* - May 2020
- *Richardson v. Wilma Gailbraith and Kirkwall Properties Ltd.* - July 2020
- *Jane Doe v. Harry Rosen Inc.* - July 2020
- *William Webb against LHS Holdings Inc. o/a Manigaming Resort* - July 2020
- *Sumner-Pruden v. Government of Manitoba* - August 2020
- *Webb v. LHS Holdings Inc. o/a Manigaming Resort., Sandra Carlson and Lennard Carlson* - November 2020

If the complaint is not resolved, the Commission will request that a member of the Human Rights Adjudication Panel is appointed to make a final decision following a public hearing. Our lawyers represent the public's interest in eliminating discrimination in that process. The Commission will present evidence to the Adjudication Panel to prove the complaint and enable the adjudicator to award a remedy. The purpose of the remedy is to put the complainant in the position they would have been in if the discrimination did not happen. The remedy is also meant to stop the discrimination and ensure the respondent does not commit the same or similar discrimination in future.

4

complaints that were found substantiated and not resolved in mediation were referred to the Manitoba Human Rights Adjudication Panel

7

public hearings held under *The Code* in 2020

8

decisions issued by the Adjudication Panel in 2020

Mediations in 2020

Mediators assist the parties to find creative solutions that secure the public's confidence that discrimination will not occur in the future, and that compensate for injury to the complainant's dignity and for any financial loss.

Commission staff will work with parties to resolve human rights concerns, without requiring the registration of a formal complaint. If the registration of the formal complaint proceeds, the Commission may offer parties an opportunity to resolve the complaint in mediation prior to the investigation of the complaint.

If the complaint does not resolve in mediation, it will be investigated. Where the Board of Commissioners finds that the complaint is substantiated, the Commission will offer the parties a final opportunity to resolve the complaint in board-directed mediation.

3

complaints that were referred to adjudication were resolved or settled prior to the hearing in 2020

A complaint alleging that an employee was subjected to harassment and retaliation in her workplace was referred by the Board of Commissioners for a public hearing, with one final opportunity to resolve in mediation. A Mediator was able to help the parties resolve the complaint. The employer agreed to implement a harassment policy, participate in human rights training, returned the complainant to the workplace and provided her with compensation for lost wages and injury to her dignity and self-respect.

19

issues of discrimination were resolved prior to the registration of a formal complaint in 2020

In 2020, a human rights officer assisted parties to resolve a human rights concern without the need to register a formal complaint. In spring of 2020, an employee contacted the Commission after she was cleared to return to work following a long-term disability leave. Her employer was concerned that she could not safely be returned to work given risks related to COVID-19. A human rights officer worked with the parties to explain the employer's human rights obligations and share information to ensure the employee could safely return to work.

86

complaint files were resolved through mediation in 2020

In 2020, a mediator assisted the parties to a complaint resolve their concerns prior to the investigation of the allegations. The complaint alleged that a shopper was subjected to racial profiling on the basis of her Indigenous ancestry when she attempted to purchase groceries at a local store. A Mediator was able to help the parties resolve the complaint. The store manager agreed to participate in human rights training and store agreed to compensate the complainant for the injury to her dignity and self-respect.



Inspiring Equality

Promoting a human rights
based approach to the
COVID-19 pandemic

Inspiring Equality

“Much discrimination is rooted in ignorance and education is essential to its eradication.”

– The Human Rights Code

Public education in 2020

1,230

people participated in the Commission’s human rights education in 2020

1,400

people were referred to other agencies for assistance

230

students were educated on human rights

10

sessions on the human rights implications of the COVID-19 pandemic

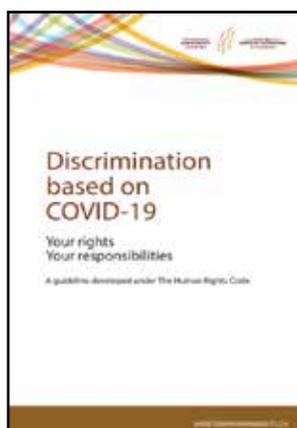
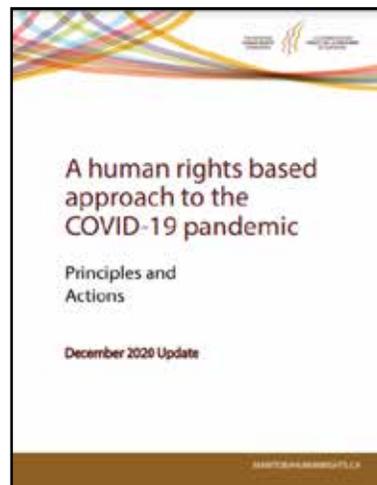
Note: In 2020, the Commission suspended the delivery of in-person learning events in response to the COVID-19 pandemic.

On April 8, 2020, the Manitoba Human Rights Commission released *A human rights based approach to the COVID-19 pandemic: Principles and Actions*. The Report calls for governments and decision-makers to centre human rights in their COVID-19 pandemic response by:

- Approaching the prevention and treatment of COVID-19 as a human rights obligation.
- Providing all healthcare services related to COVID-19, including testing, triaging and treatment, without stigma or discrimination.
- Protecting vulnerable and structurally disadvantaged communities that are at disproportionate risk to contract COVID-19 and to experience the negative impacts of enforcement measures related to COVID-19, including racialized communities, people experiencing poverty and houselessness, older people and people with disabilities, including those with compromised immune systems.
- Recognizing that any restrictive measures that deprive persons of their right to liberty must be carried out in accordance with the law and respect for fundamental human rights.

The Commission released an update to the report on December 10th - International Human Rights Day. The December 10th report outlined key observations by the Commission within the first ten months of Manitoba's pandemic response, including areas for action to ensure that Manitoba's approach to the pandemic aligns with fundamental human rights principles. In the report, the Commission called for immediate action to:

- Address the significant disproportionate impact of COVID-19 on Indigenous peoples in Manitoba.
- Ensure individuals residing in congregate living facilities, including personal care homes and correctional facilities do not experience an erosion in their human rights, including their right to have their basic needs met and their right to access health care and essential services on an equal level with others.
- Ensure that any protocols or decisions made with respect to the allocation of limited critical care services during the COVID-19 pandemic conform with human rights law, including the fundamental principle of nondiscrimination.
- Ensure that enforcement measures should not disproportionately impact racialized communities, people experiencing houselessness and poverty, and people with disabilities.
- Take steps to address the impact of COVID-19 on people who use substances, including steps to ensure that people who use substances have access to harm reduction services and resources, access to a safe supply of substances and medication, and are not negatively impacted by enforcement measures.
- Ensure that public health measures aimed at containing the transmission of COVID-19 do not result in an erosion of the equality rights of persons with disabilities.
- Guarantee that decisions related to the distribution of vaccines be driven by efforts to protect the most structurally disadvantaged communities, including older peoples, persons with disabilities, incarcerated peoples, Indigenous and racialized communities, and people facing houselessness.
- Publicly release disaggregated data on COVID-19 and equity indicators, including race and ethnicity identifiers.



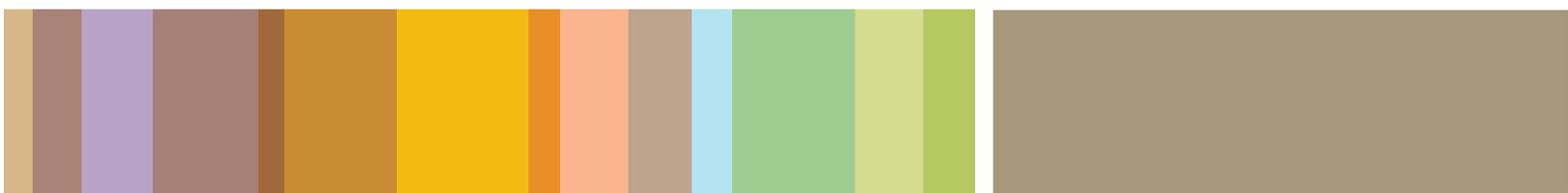
The Commission also released guidance for employers, service and housing providers on their human rights related obligations related to COVID-19. In April 2020, the Commission developed the Guideline on Discrimination and COVID-19, as well as a Factsheet on COVID-19, which has been regularly updated throughout the pandemic in response to evolving public health directives.

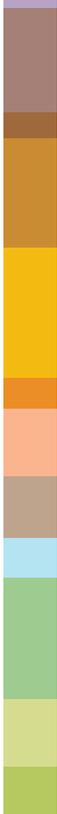
The Commission also issued sector-specific guidance on COVID-19 and human rights. In July 2020, the Commission wrote to justice officials on the human rights related implications of changes to direct lock-up agreements in response to COVID-19. In September 2020, the

Commission also wrote to education officials on upholding the equality rights of students with disabilities.

To assist in ensuring the province's response to the COVID-19 pandemic centres human rights principles, the Commission participated in the Province's COVID-19 Incident Command's Equity Planning Table, as well as the Race, Ethnicity and Indigenous Identifiers COVID-19 Data Working Group.

Finally the Commission also developed and piloted a new human rights education program on combatting racism and racial discrimination. The course is being offered free of charge throughout 2020-21, to help build the capacity of employers, service and housing providers to respond to, and eliminate, racism in Manitoba. In 2020, the Commission also continued to deliver its regular education programming via online webinar.





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