



## Guide to Investigation

The Manitoba Human Rights Commission (“Commission”) investigates complaints to see if there is enough evidence to suggest that *The Human Rights Code* (“*The Code*”) has been violated. The Commission must consider whether there is enough evidence of discrimination to justify a human rights adjudicator holding a public hearing and making a final decision about a complaint.

### How is the complaint investigated?

Our investigators are trained in human rights law and principles. They conduct a fair and impartial investigation of the complaint. They review the complaint and reply to identify the human rights issues. They interview witnesses and examine documents and other evidence to find out what happened. They analyze the evidence in an investigation report and make a recommendation to our Executive Director to either dismiss the complaint or refer it to an adjudicator. The evidence is weighed on a “balance of probabilities” – in other words, the investigator considers the available evidence to determine whether it is ‘more likely than not’ that discrimination happened.

### When will an investigator contact me?

The parties are contacted when the investigator is ready to do interviews. Before that, the investigation team may be reviewing the evidence already provided, or considering possible legal or jurisdictional issues. It takes several months from the time the complaint is served or mediation is closed for an investigator to contact the parties. Please note that there is currently a large number of complaints in our system that we are working through in the order that we received them.

### How long will it take to complete the investigation?

The investigation must be thorough and the investigator’s recommendation must be supported by law. An investigation usually takes 4 to 10 months to complete but can take longer depending on several factors, including the complexity of the complaint and the availability and amount of evidence, witnesses, etc.

### Is participation in the investigation mandatory?

The Commission cannot force a person to participate in an investigation. If the Complainant does not participate, the complaint will be considered abandoned and the file will be closed. If the Respondent representative or other relevant witnesses choose not to participate, it will be noted in the investigation report that the person was contacted but did not wish to participate. The investigation will continue without the Respondent’s participation and the complaint may still be referred to a public adjudication hearing if there is enough evidence that *The Code* has been violated.

### What can I do to prepare?

Save any documents or other evidence that relate to the issues in the complaint. Put together a list of witnesses that have direct knowledge of the issues in the complaint. Save their contact information where possible.

### **Will I get to see the other party's evidence?**

The investigator must be impartial and does not share one party's documents with the other party. When the investigation is done, they will provide the parties with a written report that summarizes the relevant evidence they considered.

### **Can I give the investigator input?**

The parties may make suggestions about who should be interviewed. The investigator ultimately decides what documentary or other evidence they need to investigate the complaint. This may include medical information, personnel and employee files, emails and letters, etc. Once the investigation is done, the parties have the option of making a submission to the Executive Director in response to the investigation report. The parties can use that opportunity to clarify any information that was missing or misunderstood, or to highlight other evidence that is important to the complaint.

### **How does the Executive Director make their decision?**

When making a decision about a Complaint, the Executive Director will review the Complaint, the Reply, the Investigation Report and any submissions from the parties in response to the report. The Executive Director can accept or reject the investigator's recommendation to either dismiss the Complaint or refer it to a public adjudication hearing. In some circumstances, the Executive Director may ask for further investigation before making a final decision. The Executive Director will send a decision letter to the parties within approximately three weeks of making their decision.

### **Do I need a lawyer?**

You may choose to hire a lawyer or consult other community-based resources, but it is not required.

### **Can I apply to have the Executive Director's decision reviewed?**

Complainants may apply to have the Board of Commissioners ("Board") review the Executive Director's decision to dismiss a complaint or part of a complaint. The Board may choose to confirm the decision, change the decision, or ask for further investigation. Respondents cannot apply to have the Board review decisions made by the Executive Director. For more information, please see our *Guide to the Board Review Process*.

Parties who disagree with the decision may choose to seek independent legal advice to determine whether there is a basis to apply to the Court of Queen's Bench to have a judge review the decision. Parties can also contact the Manitoba Ombudsman if they have concerns about the Commission's process.

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