



## Guide to Remedies

### What is a human rights remedy?

The purpose of a human rights remedy is to redress the discrimination the person experienced and to ensure the same kind of discrimination does not occur in the future. An adjudicator who makes a final decision about the complaint may order certain remedies provided in *The Human Rights Code* or the parties may agree to certain remedies as part of a settlement agreement.

### What kinds of remedies can be ordered?

If the adjudicator decides that the Complainant has been discriminated against or harassed as alleged in the complaint, the adjudicator can order the Respondent to do any of the following:

- **ensure it will not contravene *The Code* in the future** which may include immediately ceasing the discriminatory practice or behaviour, reviewing or changing the discriminatory policy or practice, or taking human rights training;
- **make amends or apologize** for the discriminatory practice or behaviour;
- **compensate the Complainant for any lost wages, income or benefits** resulting from the discrimination in an amount that is deemed appropriate;
- **compensate the Complainant for injury to their dignity, self respect and feelings** as a result of the discrimination or general damages, in an amount that is deemed appropriate. Under *The Code*, this amount is capped at a maximum of \$25,000.00;
- **pay a penalty or exemplary damages as punishment** for malice or recklessness, in an amount that is deemed appropriate; or
- **implement an affirmative action or special program** where appropriate.

If a complaint goes to an adjudication hearing, the Commission will only ask for remedies that have a basis in the law or evidence. The Complainant may ask for other orders, but will be on their own in convincing the adjudicator to make the order.

### How is the impact of discrimination measured?

Discrimination impacts a person's dignity, self respect and feelings. The impact of discrimination on the Complainant is difficult to quantify, however human rights law tells us that the amount of compensation should be meaningful and not trivial. As well, it should be determined based on the nature and extent of the discrimination and its impact on the individual guided where possible by decisions made in similar circumstances in Manitoba and across Canada.

### When are lost wages or income appropriate?

If the discriminatory action is to terminate a person's employment or if discrimination or harassment results in a person losing wages, income, tips, bonuses, commissions or other benefits, an appropriate remedy may be to compensate the person for any

financial losses as a result of that discrimination. The amount of compensation should attempt to make the person “whole” and should take into account any amounts earned or received following the discriminatory action. Human rights law tells us this amount is different than any amounts paid in lieu of notice of termination or severance.

An adjudicator will consider a complainant’s efforts to limit losses caused by discrimination. For example, a complainant will be expected to make reasonable efforts to look for a new job if a job was lost due to discrimination or harassment. Only the actual loss can be claimed, so if the complainant has received other compensation for the loss, this may be taken into account. Statutory deductions on lost income is likely payable by the complainant, and this will also be considered.

### **How do you ensure the discrimination will not happen again?**

Human rights remedies will almost always involve the Respondent agreeing to do things to ensure that the same type of situation does not arise again. This can be done by agreeing to take human rights training, to develop and/or distribute a policy, or to otherwise change the way something is done.