

**SECTION: Procedure**

Effective date: January 1, 2022

**SUBJECT: BOARD REVIEW PROCESS**

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**Purpose:**

This policy is intended to assist in the administration of *The Human Rights Code* (“*The Code*”). It sets out the circumstances in which a complainant or their representative may apply to have the Board of Commissioners (“Board”) review a decision made by the Executive Director or delegate. It also sets out the process by which the Board will review the Executive Director’s decision. If there is any conflict between this policy and *The Code*, *The Code* will be followed.

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**Context:**

Upon being notified of a decision made by the Executive Director in relation to a complaint, a complainant may have the option of applying to have the decision reviewed by a three-member panel of the Board as designated by the Chairperson.

Section 30.1(1) of *The Code* states that a complainant may apply to have the Board review a decision made by the Executive Director where the decision is:

- (a) to terminate proceedings after a settlement offer is made, under section 24.3;
- (b) to dismiss a complaint or part of a complaint without an investigation, under subsection 26(2);
- (c) to dismiss a complaint or part of a complaint after an investigation, under subsection 29(1); or
- (d) to terminate proceedings without an adjudication or prosecution, under subsection 29(3).

The application for Board Review must be filed on a form prescribed by the Commission within 30 days of the complainant being notified of the Executive Director’s decision, or within any longer period allowed by the Board.

Section 30.3(3) of *The Code* states that in disposing of an application for review filed under section 30.1, the Board may only consider the Complaint, the Reply, the recommendation letter from the Early Assessment team or the report from Commission staff after investigation, the Executive Director’s decision letter, any submissions received from the parties to the complaint, any settlement offers (where applicable) and the complainant’s application for review.

The Board will conduct a fresh and independent review of the same information that

was before the Executive Director and make a finding about the complaint per section 30.3(1) of *The Code*. In accordance with Section 30.3(3), the Board cannot consider new information or evidence in making its decision.

Section 30.3(1) of *The Code* states that upon considering an application for review filed under section 30.1, the Board may:

- (a) confirm the decision of the Executive Director to terminate proceedings or dismiss the complaint;
- (b) make any decision that in its opinion ought to have been made by the Executive Director; or
- (c) if the decision was made under section 24.3 or 29, refer the complaint or part of the complaint back for further investigation in accordance with any direction that the Board may give.

If a complainant disagrees with the decision resulting from the Board Review, they may wish to consider seeking independent legal advice in order to determine whether there is a basis to apply to the Court of Queen's Bench for a judicial review of the Commission's decision.

APPROVED BY:

"John Burchill"  
Chairperson

January 1, 2022  
Date