

**SECTION: Procedure**

Effective date: January 1, 2022

**SUBJECT: DISMISSAL OF COMPLAINT WITHOUT INVESTIGATION**

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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 the Executive Director or delegate may dismiss a complaint or part of a complaint without investigation. Where there is any conflict between this policy and *The Code*, *The Code* will be followed.

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**Context:**

Human rights legislation in most jurisdictions across Canada enables human rights commissions and tribunals to dismiss complaints on a preliminary basis in certain situations.

Section 26(2) of *The Code* states that the Executive Director may dismiss a complaint or part of a complaint without investigation if the Executive Director is of the opinion that:

- (a) it is frivolous or vexatious;
- (b) the acts or omissions described in it do not contravene *The Code*;
- (c) it is not within the jurisdiction provided by *The Code*;
- (d) its subject matter is being or has been dealt with appropriately according to a procedure provided for under another Act; or
- (e) additional proceedings in respect of it would not benefit the person against whom *The Code* is alleged to have been contravened.

This means that the Executive Director must make a preliminary assessment of a complaint based on all of the material before them in order to determine whether a complaint may be dismissed on one of the above grounds, or if it should proceed to investigation.

The Executive Director will consider the Complaint, the Reply, the recommendation of the Early Assessment team and any submission(s) received from the parties to the complaint in making the decision to dismiss the complaint or part of the complaint without investigation, or to advance the complaint to investigation. For more information on submissions, see Commission Policy #P-2 - Maximum Length of Written Submissions to Executive Director from Parties to a Complaint.

A complainant or their representative may apply to have the Board of Commissioners review the Executive Director's decision to dismiss a complaint or part of a complaint without investigation. For more information on applying for a review of the Executive Director's decision, see Commission Policy #P-1 on the Board Review Process.

APPROVED BY:

"John Burchill"  
Chairperson

January 1, 2022  
Date