



Notice of Changes to *The Human Rights Code*

On January 1, 2022, changes to *The Human Rights Code* (“*The Code*”) will come into effect. These legislative changes were passed by the Government of Manitoba on May 20, 2021. This means that there will be important changes to how complaints are dealt with by the Manitoba Human Rights Commission (“Commission”) and the Manitoba Human Rights Adjudication Panel. All parties with active and unresolved complaints will be affected by these changes.

What will change on January 1, 2022:

- **Decision-making processes:** As of January 1, 2022, the Commission’s Board of Commissioners (“Board”) will no longer make decisions about whether complaints are dismissed, referred to a public hearing, or terminated (often because the complaints are withdrawn or abandoned), or assess settlement offers to determine if they are reasonable. Instead, these decisions will be made by the Commission’s Executive Director. The Executive Director will continue to register complaints. Complaints that are referred to a public hearing will continue to be heard by an Adjudicator appointed under the Manitoba Human Rights Adjudication Panel.
- **Dismissal of Complaints without Investigation:** The changes will allow the Commission to dismiss a complaint or part of a complaint without investigation where:
 - it is considered “frivolous” or “vexatious” by law;
 - the allegations are not a violation of *The Code*;
 - the Commission does not have jurisdiction to examine the issues being alleged;
 - the issues are being dealt with or have already been dealt with appropriately under another Act; and/or
 - continuing through the complaint process would not benefit the person who experienced the alleged discrimination.
- **New Grounds for Dismissal of Complaints after Investigation:** Currently, a complaint may be dismissed after investigation under section 29(1) of *The Code* if it is considered “frivolous” or “vexatious” by law, if the allegations are not a violation of *The Code*, or if there is not enough evidence to support that *The Code* has been violated. The changes as of January 1, 2022 will introduce additional grounds for dismissing complaints after investigation, which include:
 - the Commission does not have jurisdiction to examine the issues being alleged;
 - the issues are being dealt with or have already been dealt with appropriately under another Act; and

- continuing through the complaint process would not benefit the person who experienced the alleged discrimination.
- **Board Review Process:** As of January 1, 2022, a person whose complaint is dismissed or terminated by the Commission's Executive Director may apply to have the Executive Director's decision reviewed by three members of the Board within 30 days of the Executive Director's decision.
- **Limit on Damages for Injury to Dignity, Feelings and Self-Respect (\$25,000.00):** As of January 1, 2022, the maximum amount of compensation that can be awarded to a person for injury to dignity, feelings and self-respect is \$25,000.00. There will continue to be no limit on other compensation dealing with financial loss, such as lost wages, income or benefits. Existing limits on financial penalties related to malicious or reckless actions will still be in place.
- **Human Rights Hearings:** Hearings of complaints under *The Code* will continue to be conducted by Adjudicators appointed to the Manitoba Human Rights Adjudication Panel. The changes will give Adjudicators the ability to assist with mediation between parties to settle a complaint at the hearing stage. In addition, the changes allow the Adjudication Panel to develop rules of procedure. The changes will require that hearings begin within a set time after an adjudicator has been designated to hear the complaint. The changes also require Adjudicators to issue their decisions within 60 days of the hearing ending, with possibility for one extension.

To view the Government of Manitoba's changes to *The Code*, please see Bill 26 – *The Human Rights Code Amendment Act*: <https://web2.gov.mb.ca/bills/42-3/b026e.php>

Frequently Asked Questions

1. Why are changes being made to *The Code*?

The changes to *The Code* were introduced by the Government of Manitoba to help ensure that the human rights complaint system can operate in a more timely and efficient manner. In recent years, there have been significant delays in the resolution of human rights complaints. These changes will streamline some of the processes involved in dealing with human rights complaints.

Most of the changes are based on recommendations from an independent review conducted by Allan Fineblit and commissioned by the Government of Manitoba. The independent review of the Commission and the Manitoba Human Rights Adjudication Panel is available at www.manitoba.ca/openmb/infomb/departments.html under Manitoba Justice.

2. I have a complaint registered with the Commission. Will my complaint be affected by these changes?

Yes. The changes to *The Code* will apply to all open/active and unresolved human rights complaints registered with the Commission as of January 1, 2022, as well as any new complaints filed after that date. This means that there is no “grand parenting” provision in *The Human Rights Code Amendment Act*.

3. The changes allow the Commission to dismiss some complaints without investigating them. How will I know if my complaint is being dismissed without investigation?

Starting on January 1, 2022, the Commission will be required to assess complaints to determine if they should be dismissed without investigation. These are complaints that may fall outside of the Commission’s jurisdiction or statutory authority, complaints that do not allege a violation of *The Code*, complaints that are being pursued or have already been pursued in another legal forum, and instances where continuing through the complaint process would not be in the public’s interest or would not benefit the person who experienced the alleged discrimination.

Where a complaint is being assessed for dismissal without investigation, the Commission will advise the parties in writing. The parties will have an opportunity to respond to the assessment findings before the Commission’s Executive Director decides whether to dismiss the complaint without investigation.

More information on the Dismissal without Investigation process will be available on the Commission’s website in December 2021.

4. I am a Respondent to a human rights complaint. What can I do if I think the complaint should be dismissed without investigation?

If you are a Respondent to a human rights complaint and you believe there is a basis for the Executive Director to dismiss the complaint without investigation due to one of the reasons described above, please explain your position in your Reply to the complaint and provide supporting documentation if available. You may contact the Commission for more information on filing a Reply to the complaint or amending your existing Reply.

5. One of the Commission’s mediators is currently helping to resolve my complaint. Will the \$25,000.00 limit on damages for injury to dignity, feelings and self-respect apply to my complaint?

Yes. Starting January 1, 2022, the limit will apply to all open/active and unresolved human rights complaints, as well as any complaints filed in the future. This means that the maximum amount of damages that can be ordered under *The Code* for injury to dignity, feelings and self-respect is \$25,000.00. There will continue to be no limit on other compensation dealing with financial loss, such as lost wages, income or benefits.

Existing limits on financial penalties related to malicious or reckless actions will still be in place.

6. What if I am not satisfied with the decision made by the Executive Director?

As of January 1, 2022, a person whose complaint is dismissed or terminated by the Commission's Executive Director may apply to have the Executive Director's decision reviewed by three members of the Board within 30 days of the Executive Director's decision. When reviewing the Executive Director's decision to dismiss or terminate a complaint, the Board will be able to:

- confirm the Executive Director's decision to dismiss or terminate the complaint;
- make any decision that it believes the Executive Director should have made; or
- return the complaint or part of the complaint to the Executive Director for further investigation.

More information on the Board Review Process will be available on the Commission's website in December 2021. Information on this process will also be included with the Executive Director's decision letters.

7. My complaint is currently being investigated by one of the Commission's investigators. Will I still receive an Investigation Report before a decision is made about my complaint?

Yes. Before the Executive Director makes a decision about whether to dismiss your complaint or refer it to a hearing, each party will receive an Investigation Report. The report will summarize the relevant evidence, the findings and the investigator's recommendation. The parties will have a chance to provide submissions in response to the report, which will be reviewed by the Executive Director before a decision is made.

8. Will my existing complaint be "grand-parented"? In other words, will the old version of *The Code* (before the January 1, 2022 changes) apply to my complaint?

No. There is no "grand parenting" provision in *The Human Rights Code Amendment Act*. This means that as of January 1, 2022, the changes to *The Code* will apply to all active and unresolved complaints, as well as any new complaints.

9. I do not want to continue with my complaint. What should I do?

If you no longer want to continue with your complaint, you may withdraw your complaint by contacting the Commission by email at hrc@gov.mb.ca or by phone at (204) 945-3007, or toll free at 1-888-884-8681. If your complaint is currently being investigated, you may withdraw your complaint by contacting the investigator assigned to your complaint.

Detailed information on the legislative changes and the Commission's processes will be posted to the Commission's website in December 2021.

If you have questions regarding the legislative changes, please contact the Commission by email at hrc@gov.mb.ca or by phone at (204) 945-3007, or toll free at 1-888-884-8681, or fax at (204) 945-1292.

Manitoba Human Rights Commission
Room 700-175 Hargrave Street
Winnipeg, MB R3C 3R8
Phone: 204.945.3007
Fax: 204.945.1292

This notice is available in alternate formats.
Le présent avis est également disponible en français.