

January 17, 2024

Honourable Matt Wiebe
Minister of Justice
104 Legislative Building
450 Broadway Avenue, Winnipeg MB
R3C 0V8

Honourable Nahanni Fontaine
Minister of Families, Minister responsible for
Accessibility, Minister responsible for Gender
Equity
357 Legislative Building
450 Broadway Avenue, Winnipeg MB
R3C 0V8

Re: Manitoba Human Rights Commission (MHRC) backlogs

Dear Ministers,

We are writing to you on behalf of LEAF Winnipeg, with grave concerns regarding the persisting delays and backlogs at the MHRC.

LEAF Winnipeg is the Manitoba-based, volunteer-run branch of the Women's Legal Education and Action Fund (LEAF). LEAF is a national charitable organization that works towards ensuring the law guarantees substantive equality for all women, girls, trans, and non-binary people. The current situation at the MHRC directly impacts the pursuit of justice and equality for marginalized individuals, including those who fall within our organization's mandate.

Recent investigations by the CBC and the Manitoba Ombudsman have found that the MHRC's wait times are "unfair" to complainants,¹ with some complainants waiting up to two years after filing before investigators begin work on their files.² As legal professionals working closely with individuals navigating the human rights complaint process, our members observe that the norm for the MHRC is for investigation teams to be appointed twenty-four months or more after filing a complaint. The subsequent investigation and decision-making process often extends for months – and in some cases, years, leading to a staggering waiting period of well over three years before a hearing at adjudication can take place.

These extensive delays create an undeniable access to justice problem. The fundamental principle of "no right without a remedy" is severely compromised when individuals experiencing discrimination are left waiting for years to have their issues resolved. This prolonged wait exacerbates the harm and perpetuates the injury to the dignity of those affected by discrimination. It can also lead rights claimants to find no recourse through the process at all. As one complainant, Michelle McHale, told the CBC, "I think there's a lot of people that just give up at that point or think it's not worth it. That can be a really bumpy road for people. [The two-year wait] takes a physical toll, an emotional toll, a mental toll, a spiritual toll."

To illustrate, consider the case of an individual terminated for discriminatory reasons. The current delays mean that the consequences of discrimination, including lost income and psychological distress, remain unaddressed for an unreasonably extended period, adding to the injustice suffered. A person

¹ <https://www.ombudsman.mb.ca/uploads/document/files/mhrc-report-2020-en.pdf> at p 17.

² <https://www.cbc.ca/news/canada/manitoba/manitoba-human-rights-complaint-backlog-1.6823168>



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terminated for discriminatory reasons may find themselves with no, or significantly reduced, income for years because the process to remedy the discrimination has become so inadequate.

While recent legislative changes have focused on deadlines for rendering decisions after adjudication, there remains a significant gap in addressing the root cause of the problem—the timely investigation and resolution of complaints. The MHRC urgently requires adequate resources to investigate complaints effectively and promptly, ensuring that justice does not continue to be unduly delayed.

Given the current reality, a comprehensive law reform that contemplates potential models, such as a direct access approach is needed to streamline the MHRC complaint process. However, any changes must be accompanied by sufficient resources to avoid encountering the challenges experienced in other jurisdictions, notably Ontario, where an underfunded direct access Tribunal led to significant backlogs and delays in achieving justice.

It is imperative for the government of Manitoba to prioritize addressing the systemic issues plaguing the MHRC. Proper resourcing and potential law reforms are crucial steps to ensure that individuals facing discrimination can access justice in a timely and equitable manner. In order to uphold the principles of equality and justice for all Manitobans, we urge you to take these concerns seriously and proactively address the backlog issue at the MHRC.

Sincerely,

A handwritten signature in black ink, appearing to read "Dayna Steinfeld".

Dayna Steinfeld, LEAF Winnipeg Co-Chair
On behalf of LEAF Winnipeg

Cc. Kristal Bayes-McDonald (Director, Manitoba Law Reform Commission)