

# FAIR PRACTICES OFFICE POLICY AND PROCEDURES

<b>POLICY/PROCEDURE TITLE:</b> FAIR PRACTICES OFFICE	<b>DATE APPROVED</b>	
<b>BRANCH/DIVISION:</b> ADMINISTRATION AND FINANCE	<b>APPLICABLE TO</b>	<b>EIA, CLDS, CDS, and ELCC</b>
<b>RESPONSIBLE AUTHORITY:</b> DEPARTMENT OF FAMILIES	<b>NEXT REVIEW DATE</b>	<b>December 2021</b>
<b>POLICY OWNER:</b> Fair Practices Office	<b>DATE REVISED</b>	<b>December 7, 2018</b>

## 1.0 POLICY STATEMENT

- 1.1 The focus of the work of the Fair Practices Office (FPO) is to receive complaints from participants who believe that they have not been treated fairly or respectfully by designated programs of the Department of Families and work towards solution-identification where appropriate and possible.
- 1.2 The FPO will make recommendations to the Department of Families designed to improve overall service capacity of the designated programs and work to promote the concept of Fair Practices.

## 2.0 BACKGROUND

- 2.1 The FPO was established as a means to complement and enhance the complaint resolution processes for designated programs administered by the department.
- 2.2 The FPO supports clients of the following programs:
  - a) Employment and Income Assistance (EIA)
  - b) Community Living disABILITY Services (CLDS)
  - c) Children’s disABILITY Services (CDS)
  - d) Early Learning and Child Care (ELCC)
- 2.3 The definition of fairness for the purpose of the FPO is based on the Manitoba Ombudsman’s “Fairness Triangle” (see section 4.1 for details).
- 2.4 The FPO will operate under the guiding principles of impartiality, confidentiality and independence.

## 3.0 PURPOSE

This policy guides the FPO in its

- a) investigation and resolution of complaints
- b) making recommendations and reporting to the department with the goal of improving service delivery and enhancing fairness for program participants
- c) consulting within government on issues of fairness.

#### 4.0 DEFINITIONS

- 4.1 Fairness: the Manitoba Ombudsman's "Fairness Triangle" expects decisions to be unbiased, dispassionate, equitable, and impartial. The three axes of the Fairness Triangle are:
- a) Procedural Fairness which relates to how decisions are made and the steps to be followed before, during and after decisions are made
  - b) Substantive Fairness which relates to the fairness of the decision itself
  - c) Relational Fairness which relates to how people are treated during the decision making process, and how they feel about the process and outcome
- 4.2 Guiding Principles:
- a) Impartiality: the FPO will review all complaints and issues impartially and make recommendations to resolve matters and promote fair practice
  - b) Confidentiality: all inquiries received by the FPO are confidential
  - c) Independence: the FPO serves program participants and each program area, but works independently in the interest of fairness

#### 5.0 POLICY

- 5.1 The department is committed to quality services to Manitobans. To that end, the minister has authorized the establishment of the FPO.
- 5.2 The FPO operates as a quasi-independent, arms-length office of the department's service delivery and program and policy branches.
- 5.3 In the undertaking of its role and mandate, the FPO is authorized to interview staff and view relevant client file records.
- 5.4 The FPO may interview staff and view file records in any relevant agency under contract with the department to provide services within the program areas subject to the mandate of the FPO.
- 5.5 Staff will cooperate with the Fair Practices Officer by making themselves available for an interview, and providing any information necessary for the investigation being undertaken by the FPO.
- 5.6 In all circumstances, complainants maintain the right to file an appeal to the Social Services Appeal Board (SSAB) on any matter under the jurisdiction of the SSAB. Appeals to the SSAB may be made before, during or after contact with the FPO.
- 5.7 The FPO must be able to share relevant information with parties to a complaint in order to resolve the issue(s).
- 5.8 The FPO must receive consent from a complainant to contact program staff and investigate their complaint. Consent should be in writing, but can be given verbally. If consent is given verbally, it will be documented and kept on file by the FPO.
- 5.9 A complainant may request that the FPO deal directly with an advocate or other third party but the FPO must receive written consent, signed by the complainant, before it can discuss the details of a complainant's case with the advocate or third party.
- 5.10 The personal information provided to the FPO is collected under section 36(1)(b) of The Freedom of Information and Protection of Privacy Act (FIPPA) and section 13(1) of The Personal Health Information Act (PHIA), as the information is directly related to and necessary for the purposes of carrying out the duties of the Fair Practices Office.

Personal information will not be used or disclosed for any other purpose without consent or unless required to do so by law.

## 6.0 STANDARDS

- 6.1 The Fair Practices Officer will report directly to the Assistant Deputy Minister of Administration and Finance.
- 6.2 The FPO will use the principles of procedural, substantive and relational fairness to determine if a complainant has been treated unfairly by the program or its staff.
- 6.3 In all matters reviewed by the FPO, its role is to determine the facts of the case and where warranted, make recommendations to relevant parties with steps to resolve the issue.
- 6.4 Depending on the case and the nature of the issue(s), the FPO may make recommendations to the following senior managers:
- the Executive Director of Winnipeg Services, Community Service Delivery
  - the Executive Director of Rural and Northern Services, Community Service Delivery
  - the Executive Director of Employment and Income Assistance Program
  - the Director of Manitoba Early Learning and Child Care Program
  - the Director of Community Living disABILITY Services
  - the Director of Children's disABILITY Services
  - the Director of Provincial Services
- 6.5 The FPO can make program-specific recommendations to the Executive Management Committee of the department related to systemic policy and procedure changes designed to improve fairness in its service delivery.
- 6.6 At the end of each fiscal year, the FPO will prepare a narrative summary and outline of activities for inclusion in the Department of Families annual report.
- 6.7 The FPO takes the lead in commenting on fair practices generally. The FPO is periodically asked to consult within government and with community groups on what fair practices involves. The FPO is the voice of the department in public presentations on the subject of fair practices.

## 7.0 PROCEDURES

- 7.1 The FPO is intended to enhance but not replace existing complaints procedures. Clients may access the services of the FPO directly or referrals may come from many sources including, but not limited to, the Manitoba Ombudsman, community advocacy groups, the Social Services Appeal Board, or a minister's office.
- 7.2 Prior to engaging the FPO when conflicts arise, clients must first make attempts to speak to their case worker or program staff about their concern(s).
- 7.3 If they are unable to resolve the issue with their worker or program staff, clients should ask to speak to the supervisor in charge.
- 7.4 If clients are not able to resolve their issue with the supervisor, they may contact the FPO for assistance.

- 7.5 Depending on the issue, the following questions may be considered:
- Are there communication issues that need to be addressed?
  - Does the complainant need more information to understand the program's policies and procedures?
  - Did the complainant have advance notice that a decision would be made and the nature of the issue to be decided?
  - Did the complainant have an opportunity to make a submission and challenge any information?
  - Were the reasons for the decision clearly explained?
  - Was the decision consistent with legislation and policy?
  - Did staff take time to listen to the complainant's concerns and answer their questions?
  - Was there a breach of confidentiality?
  - Did staff mislead the complainant about what he or she could or could not do?
  - If a mistake was made, was it acknowledged and, when possible, corrected?
  - Did staff respond fairly and respectfully if the complainant felt poorly treated?
- 7.6 If the FPO determines that the complainant has been treated fairly by the program and its staff, the FPO will notify the complainant and, where possible, offer alternative avenues for resolution or assistance.
- 7.7 If there is a fairness issue that requires further investigation or action, the FPO will contact the program supervisor in charge to gather information and discuss steps to resolve the issue.
- 7.8 If the FPO determines that the complainant has been treated unfairly, the FPO will make recommendations to staff to resolve the issues raised by the complainant. Recommendations may include:
- a) Management will contact the complainant and try to resolve their concern
  - b) Staff will provide verbal and/or written explanation of the reasons for the decision
  - c) Staff will grant an extension to allow the complainant to submit information or challenge information on file
  - d) Management will review the decision to ensure that it complied with legislation and policy
  - e) If a mistake was made, management and/or front-line staff will offer an apology
- 7.9 In cases involving respectful treatment and ongoing relational fairness concerns, the FPO may offer formal in-person mediation sessions between complainants and staff.
- 7.10 If the issue remains unaddressed, the FPO will contact senior management to discuss options for a resolution.
- 7.11 The FPO will contact the complainant with the results of the investigation and/or to follow up to ensure the matter has been resolved.
- 7.12 If the FPO is unable to resolve the complainant's concerns to their satisfaction, the FPO will advise the complainant of their right to file an appeal if the issue is one that may be appealed to the Social Services Appeal Board.

7.13 In order to identify repetitive trends in complaints and provide senior management with recommendations for systemic policy and procedural changes designed to improve fairness in its service delivery, the FPO will maintain records and statistics regarding the number and nature of the complaints received. Statistics to be collected include:

- the program area involved
- the area office involved
- the front line staff person involved
- the type of complaint
- if the complainant accessed an advocate
- if the complainant identified as belonging to a specific group or groups (for example, single parent, persons with a disability, visible minority, new Canadian, First Nation, Métis, or Inuit, LGBTQ2)
- the recommendation(s) made
- the finding of unfairness (confirmed, undetermined, denied) and type (procedural, substantive, relational)
- the resolution
- the impact of the FPO involvement on the number of appeals held
- the FPO staff hours spent on each complaint

**APPENDIX A FAIR PRACTICES OFFICE COMPLAINT RESOLUTION PROCESS DIAGRAM**

**APENDIX A**  
**FAIR PRACTICES OFFICE**  
**COMPLAINT RESOLUTION PROCESS**

