

**MANITOBA HUMAN RIGHTS COMMISSION
POLICY AND PROCEDURES MANUAL**

POLICY # L-16
Page No: 1/1

SECTION: Legislation

Effective date: December 12, 2003

SUBJECT: SERVICES — PRIVATE CLUBS (Membership)

Purpose

This policy is intended to assist in the interpretation and application of section 13(1) of The Code, in the context of membership of private clubs. Where there is any conflict between this policy and The Code, The Code prevails.

Context/Application

The membership policies and practices of private clubs and other seemingly private organizations may be subject to scrutiny under this subsection where such clubs generate sufficient benefits of a public nature to justify characterizing membership as a “service [or a benefit] available to the public or a section of the public”.¹

In such circumstances, s. 13(1) of The Code is interpreted to prohibit the denial of membership on the basis of a protected group factor, unless the Commission is satisfied that bona fide and reasonable cause, including an inability to reasonably accommodate, exists for the discrimination. [See also Policy # L-13.]

In determining the application of s. 13(1), the Commission will consider any factors which appear to be relevant to the particular situation. These may include the selectivity of the organization, its purpose(s), its size relative to the size of the community, its presence in and benefits conferred upon the community, etc. None of these, taken in isolation, is likely to be determinative in itself. For example, selectivity in membership will not insulate such an organization from scrutiny under s. 13(1) if in the total context membership is found to be a service or a benefit available to the public or a section of the public.²

APPROVED BY:

Original Signed By

“Janet Baldwin”

Chairperson

4 March 2004

Date

¹ See for example the analysis in *Gould v. Yukon Order of Pioneers* (1996), 25 C.H.R.R. D/87 (SCC); and *Singh v. Royal Canadian Legion, Jasper Place Alberta* (1990), 11 C.H.R.R. D/357 (Alta Bd of Inq)

² For a more detailed description of factors which may be relevant in this analysis, see the judgments of Justices LaForest and McLachlin in the *Gould* decision (supra)