

**POLICY: HUMAN RIGHTS AND HARASSMENT**

**SECTION: II – General Policies – Human Resources**

**MOTION#/DATE: 05 - CM - 22 – July 21, 2005**

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**Effective Date**

July 21, 2005

**Policy Objective**

To ensure a workplace free of harassment for the employees of the Toronto Public Library Board.

**Underlying Principles**

- Freedom from harassment in the workplace is a fundamental right of all employees.
- Harassment is a corporate and human resources management issue and involves everyone.
- A spirit of fairness to all parties involved is essential. All information, evidence and circumstances will be carefully considered when deciding upon a course of action.
- The efficient handling of all complaints and other actions taken to resolve, prevent or address harassment are necessary to ensure that the rights of individuals are not prejudiced or jeopardized.
- This policy is consistent with the *Ontario Human Rights Code* (the Code) and other relevant and applicable legislation.

## Policy Statement

The Toronto Public Library Board, as a responsible employer and provider of Library services to the community, is committed to improving the workplace by creating and maintaining a work environment for its employees which is free from all forms of harassment.

In order to create an environment that enhances the dignity and self worth of its employees, the Board is committed to a harassment-free workplace strategy of prevention and elimination which includes a policy and implementation guidelines, communications, training and education, and a complaint-resolution process.

The Board will not tolerate, ignore or condone workplace harassment, and considers harassment to be a serious offence which may result in disciplinary action up to and including dismissal.

All employees are responsible for respecting the dignity and rights of their co-workers and the public they serve. Through leadership, Management will play a critical and significant role in ensuring that the Board meets the policy objectives.

## Scope

Harassment takes on many forms, but can be generally defined as behaviours such as conduct or comments which are unwelcome and inappropriate or otherwise offensive to an individual or group of individuals, thus creating an uncomfortable work environment.

The Code defines harassment as:

“...engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome;” [Part II 10 (1)]

Under the Code, every employee has a right to be free from harassment on the following grounds:

Race	Ancestry	Place of Origin
Colour	Ethnic Origin	Citizenship
Creed	Age	Record of Offences
Marital Status	Disability	Family status
Sex		Sexual Orientation
	Receipt of public assistance	

All employees also have a right to be free from harassment on the basis of same sex partnership status, and to be free from sexual solicitation and reprisals for refusing or rejecting sexual advances. It is understood that any other personal characteristics are included in this policy.

Harassment may be one incident or a series of incidents, and may also exist systemically as part of the work environment.

For the purpose of this policy, the definition of harassment is consistent with the definition in the Code, and also includes other forms of harassment. The following types and examples of harassment are included in, but do not limit, this definition.

Behaviours which fall within the above definition range in terms of the type or grounds (e.g., racial, sexual, personal), whether it is directed at an individual or non-directed, or whether it is intentional or unintentional.

#### Examples of Directed & Intentional Harassment

Offensive behaviours, gestures, comments or conduct which are directed specifically at an individual are often quite obvious and consequently, readily detectable. Examples of this type of harassment may include:

- written or verbal insults, abuse or threats;
- racial or ethnic slurs, including racially derogatory nicknames;
- unwelcome remarks, jokes, innuendoes or taunting about a person's body, age, marital status, gender, ethnic/racial origin, religion, accent, or disabilities;
- practical jokes which cause awkwardness or embarrassment, endanger an employee's safety or negatively affects work performance;
- persistent leering (suggestive staring) or other obscene/offensive gestures;
- unwanted and inappropriate physical contact such as touching, kissing, patting, pinching, brushing up against a person;
- unwelcome sexually-oriented remarks, invitations, requests, jokes or requests, whether indirect or explicit;
- inquiries or comments about a person's sex life, sexual preferences;

- physical assault (including sexual assault); and
- misuse of authority towards another person which is based on irrelevant factors (e.g. unfair delegation or assignment of work, unwarranted transfers).

#### Examples of Undirected and Unintentional Harassment

Harassment may also include behaviours, conduct, comments or activities which are not necessarily directed specifically at an individual, but which nonetheless create a degrading or offensive “poisoned” work environment. Examples of this type of harassment are much more subtle and may include:

- displaying of materials which are sexually explicit or degrading, racist, ethnic or religious in a degrading or derogatory manner;
- displaying of graffiti which is sexually explicit or degrading, racist, ethnic or religious in a degrading or derogatory manner; and
- patronizing behaviour, language or terminology which reinforces stereotypes and undermines self-respect or adversely affects work performance or working conditions.

#### Defining the Workplace

The workplace is not confined to the offices and buildings of the Board. “Workplace” has been interpreted broadly by the Ontario Human Rights Commission and by recent case law and as applied to the Board would include:

- any location where the business of the Library is being carried out (i.e. administration building, branches, Bookmobile, cafeteria, meeting rooms); and
- other locations and situations such as during business travel; work-related social gatherings or other locations where the prohibited behaviour may have a subsequent impact on the work relationship, environment or performance.

Conduct, comments or behaviours which constitute harassment and occur in locations covered by this definition are subject to investigation under this policy.

## **Application**

The policy covers all employees (including part-time, temporary employees, pages, full-time employees) in their relations to each other and, between all such employees, elected officials and members of the Board. All individuals affected by this policy will be informed of this policy and expected to adhere to its principles.

All Contractors who do business with the Board will also be informed of the policy and expected to adhere to the policy regarding workplace harassment.

## **Specific Directives**

### Confidentiality

The Board, through the City Librarian; the Director, Human Resources; and its Management staff; must ensure that complaints are investigated and handled in a manner so that the identities of the persons involved are kept confidential.

It must be recognized that to the extent that the complainant chooses to initiate proceedings or make comments outside the Board's internal harassment complaint procedures, confidentiality cannot be guaranteed. It must also be recognized that information collected and retained is subject to release under the *Municipal Freedom of Information and Protection of Privacy Act*, the Code or the rules governing court proceedings.

All disclosures made under this policy will be dealt with in a manner respecting the need for confidentiality subject to the *Municipal Freedom of Information and Protection of Privacy Act*.

### Representation

All parties involved in a complaint have a right to be represented by their Union or other individual/group to the extent that the representation does not create a conflict. All parties have a right to legal representation at their own expense.

### No Reprisal

All employees have a right to be free from reprisal or threat of reprisals as a result of filing a complaint or being party to the investigation of a complaint. Reprisals will be taken seriously, and may be subject to discipline.

## **Accountability**

Everyone is responsible for ensuring that the workplace is free from harassment. All employees, management and staff, are responsible for understanding and applying the policy in good faith.

### Members of The Board and City Librarian

As elected and appointed officials, Board members are responsible for giving direction to the administration on the future development and improvement of this policy, and encouraging development of parallel policies which will enhance the workplace, and subsequently improve services to the community.

The City Librarian is responsible for ensuring policy directives are implemented, adhered to and monitored.

### Directors

As senior management, Directors are specifically responsible for ensuring that the policy is accessible and supported. They are responsible for ensuring that Managers and Supervisors are given the appropriate support, encouragement, opportunity and resources to fulfil their respective roles.

### Managers/Supervisors

Managers and Supervisors are critical to the success of the policy. They are specifically responsible for ensuring that the policy is communicated and understood by all staff, and that it is supported and encouraged. They are also responsible for assisting employees who feel that they have been harassed and, as a result, come to them with a complaint.

Managers and Supervisors have specific responsibilities to create and maintain a workplace which is free from harassment. They are responsible for ensuring that harassment is neither allowed, condoned nor ignored, and may be considered party to the harassment if they fail to take corrective actions.

With a fundamental knowledge and understanding of the policy and guidelines, Managers and Supervisors can be the first place for employees to turn to for assistance when trying to deal with harassment-related concerns. They are also responsible for preventing the development, escalation or recurrence of harassment.

## Human Resources

The Director, Human Resources is an integral part of the overall complaint and resolution process. Not only can the Director, Human Resources offer an alternate method of dealing with harassment through mediation and resolution of a complaint, he/she also provides advice and support to all employees and to management in their efforts to implement the policy.

Throughout the complaint process, employees or management may at any time seek the assistance or advice of the Director, Human Resources. In turn, the Director, Human Resources may seek advice or assistance from the Ontario Human Rights Commission where necessary.

It is therefore important to recognize that successful implementation depends on the active support of the Human Resources Department in cooperation with all employees.

The Human Resources Department will provide orientation training on the policy and guidelines to all staff, and specifically to all management to ensure that they have the necessary knowledge to implement the policy and provide assistance to staff.

An information brochure which summarizes the policy and complaint process will be distributed to all employees of the Library to ensure that they are aware of the policy and their rights and obligations. Further detailed information will be available to staff through the Human Resources Department on request.

Continuous training and education are necessary to ensure that the policy works. To meet the needs of management and staff, the Human Resources Department will develop curriculum and materials to meet these needs.

The Director, Human Resources is responsible for ensuring that the policy, once implemented, is supported and developed. This will be achieved through periodic review and assessment of the policy and results.

The Director, Human Resources is also responsible for conducting investigations of all formal harassment complaints and making recommendations. As well, he/she is responsible for ensuring that the environment is free from systemic problems which create or support harassment.

The Director, Human Resources will act as a neutral source of information and advice for all employees, and advise and assist management throughout the process.

Finally, the Director, Human Resources is responsible for developing and implementing training and education programs which further the understanding of the policy and issues of harassment and general human rights.

### **T.C.E.U. Local 416 (CUPE)**

The Union has a specific responsibility to provide information and assistance to their members. They may act as a first contact for members who feel they are being harassed. Similar to management, Union Representatives will need to develop appropriate skills and knowledge which will allow them to act as effective problem-solvers.

### **The Role of the Union in the Complaint Process**

The policy anticipates an active and supportive role of the Union which represents Toronto Public Library Board employees. All Union employees are encouraged to seek the assistance and advice of their Union Representative prior to engaging in, or at any time throughout, the complaint process.

All Union employees have the right to be represented by their Union at any stage in the overall process. Where the Union is representing a member in the complaint process, it will, as an active participant, be involved in all meetings relevant to its member.

The Union will play a key role in any mediation or conciliation efforts and active participation in the monitoring phase will be critical.

## **Appendices**

Appendix 1: References

Appendix 2: Contact

Appendix 3: Implementation Guidelines

Appendix 4: Understanding and Implementing the Human Rights and Harassment Policy: Guidelines for Directors, Managers, Supervisors and Union Representatives



Appendix 1

**References**

*Ontario Human Rights Code* R.S.O. 1990, c. H.19

*Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56

Appendix 2

**Contact**

Director, Human Resources  
Tel: 416-395-5850  
Fax: 416-395-5925

Appendix 3

## IMPLEMENTATION GUIDELINES

### WHO CAN AN EMPLOYEE GO TO FOR ASSISTANCE OR INFORMATION

If an employee needs information about the policy or how the policy applies or clarification of the policy, or simply needs to discuss a concern or issue regarding harassment or an incident, or they wish to request action be taken, they may seek assistance from the following:

1. Management/Supervisor
2. Union Representative/Steward

If an employee is uncomfortable in approaching any of the individuals mentioned above, to discuss a concern or consider pursuing a harassment complaint, they may contact the Director, Human Resources directly for confidential assistance (416-395-5850).

The Director, Human Resources is responsible for promoting, advancing, supporting and ensuring the effective implementation of the policy. The Director, Human Resources can provide information and/or assistance to any employee or Manager with respect to the policy or in dealing with a specific complaint.

Regardless of whom an employee approaches for assistance, it is expected that the request will be responded to in a sensitive, supportive and understanding manner.

### WHAT TO DO IF YOU ARE BEING HARASSED

There are four internal and two external ways an employee may choose to deal with a complaint or concern under this policy:

#### INTERNAL METHOD:

- Option A: Dealing directly with the harasser
- Option B: Requesting informal action and resolution
- Option C: Filing a formal complaint
- Option D: Filing a grievance

An employee may choose any of these options; a bargaining unit employee may file a grievance at any time.

**Option A: Dealing directly with the harasser**

The employee should first attempt to make it known to the individual(s) responsible that the behaviour is offensive, and contrary to the Board's policy, and that it should stop. The harasser(s) may not realize that their behaviour is unwelcome and offensive. In many instances this will stop the offensive behaviour.

In some situations, dealing directly with the harasser may be difficult or inappropriate, or the individual may have told the harasser to stop, but the offensive behaviour continues. In this case, you should take immediate action as outlined under any of the options below.

**Option B: Requesting informal action and resolutions**

The purpose of this step is to provide a means of obtaining information, voicing the concern and developing a way of dealing with the problem with the assistance of others. You can proceed with the matter on an informal basis in the interest of seeking an informal resolution. You should report the incident immediately, or within a reasonable time, to:

- immediate Supervisor;
- any other member of the employee's management group;
- other member of the Board's management group;
- Union Representative, if appropriate; if employee is a member of the bargaining unit;
- Director, Human Resources.

Often, harassment is the result of simple communication problems, and proceeding informally may identify this problem readily and produce a quick and simple solution without having to engage in a full investigation.

Where attempts to achieve an informal resolution of the problem are unsuccessful or inappropriate, a formal complaint may be filed, which will result in a full investigation by the Director, Human Resources.

Although the informal approach and resolutions are encouraged, employees are not required to engage in this step, and may choose to file a formal complaint directly.

Option C: Filing a formal complaint
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### **Filing the Complaint**

All formal complaints will be investigated by the Director, Human Resources. Where the complaint is initially received by Manager/Supervisor/Union Representative or other person, it is their responsibility to ensure that the Director, Human Resources is notified about the complaint within four working days from when they first received it. The Director, Human Resources is then responsible for assessment and initiation of an investigation.

Alternatively, a formal complaint can be filed directly with the Director, Human Resources.

Upon receipt of a complaint, either through a Manager or directly, the investigative process is initiated with a complaint documented in writing. Where an employee is unable, or under the circumstances it is unreasonable to request a written complaint, assistance will be made available to ensure that the complaint is factual. The complaint must include a description of the incident, witnesses, and steps already taken to resolve the matter.

### **Receipt and Documentation of the Complaint**

All complaints requesting or requiring formal investigation must be forwarded immediately to the Director, Human Resources. Upon receipt of the complaint, an interview will be scheduled with the employee to discuss and clarify the incident, and identify steps they have taken so far to resolve the matter. The employee may be represented/assisted by a person of their choice.

The Director, Human Resources must acknowledge receipt of the complaint within five working days (to Manager/Complainant/Union Representative or third party where appropriate). The alleged harasser has the right to be notified of the complaint and the nature of the complaint within five working days following the acknowledgement to the complainant.

### **Clarification and File Opening**

Where a formal complaint is received in writing it shall be documented and a file opened by the Director, Human Resources. To ensure that the complaint is documented properly and accurately, the Director, Human Resources will contact the complainant for clarification and/or further information. Summaries and notes from previous informal actions and resolutions may be requested by the Director, Human Resources, and appended to the complaint file as background information.

A file will be opened on all formal complaints.

#### Option D: Filing a Grievance

Employees who are covered by a collective agreement which contains harassment-free or discrimination clauses can exercise their rights to file a grievance and should seek the assistance or advice of their Union Representative/Steward. A unionized employee is entitled to file a grievance at any time regardless of options chosen.

### **EXTERNAL METHOD:**

There are two external ways of dealing with a harassment complaint which include:

1. making a complaint directly to the Ontario Human Rights Commission (related to prohibited grounds covered by the Code);
2. seeking outside legal assistance.

The pursuit of a complaint under the internal complaint mechanism does not preclude an employee from filing a complaint with the Ontario Human Rights Commission or pursuing any other available means.

It should be noted that employees should pursue their complaints to the Commission within six months of the date of the facts upon which the complaint is based.

### **Third Party and Anonymous Complaints**

#### **A. Third Party**

Investigations can be undertaken where the complaint is received from an employee who is *directly and personally* affected by the incident(s) being reported. Or, complaints may be investigated from an employee who is not being harassed directly, but where there is a direct and personal impact as a result of harassment involving others.

Third parties such as Union Representatives or lawyers who are acting on behalf of an employee can file a complaint.

Third party complaints are investigated and documented as described in the options above.

#### B. Anonymous

Investigations cannot be undertaken on the basis of a complaint written and/or received anonymously. However, management should not ignore these situations, and should report them to the Director, Human Resources for other forms of intervention.

To ensure that the matter can be dealt with effectively and efficiently, and not prejudice an investigation, complaints or concerns should be brought forward immediately to the Director, Human Resources.

### **WHAT TO DO IF YOU ARE ACCUSED OF HARASSMENT**

If you are asked by a co-worker to stop behaviours which constitute harassment, assess your behaviour seriously. Understand that even if you did not mean to offend, your behaviour has been perceived as offensive. Cease the behaviour that the person finds offensive. Failure to cease in this behaviour will leave you more vulnerable to a formal complaint which could lead to disciplinary action if the complaint is substantiated.

If you believe the complaint is unfounded and/or made in bad faith, discuss the matter with your Union Representative, Supervisor, Manager or with the Director, Human Resources. You are entitled to know the allegations against you and to have an opportunity to respond. You are also entitled to representation or accompaniment by a Union Representative, and/or lawyer.

If you are named as the harasser in a complaint, the investigative procedure for such complaints is a comprehensive one, and is the responsibility of the Director, Human Resources.

In any event, document your version of the alleged incident, including times, places, what happened and any witnesses.

## **INVESTIGATION OF COMPLAINT**

The Director, Human Resources will be responsible for investigating complaints, except in situations where it is necessary or appropriate to have the investigation carried out by a third party. The Director, Human Resources will engage in an investigative process which involves three primary stages:

### **1. Fact Finding**

The Director, Human Resources will conduct confidential interviews with relevant parties to obtain information and clarify the details of the reported incident. Both parties will have an opportunity to identify witnesses or others to be interviewed. Where witnesses are not identified, or where otherwise appropriate, co-workers may be interviewed. All interviews will be conducted in a confidential manner, and all efforts will be made by the Director, Human Resources to deal with interviews in a manner which respects the nature of the work environment. Witnesses will be entitled to Union Representation if requested.

The Director, Human Resources will document the results and conclusions of the investigation after interviewing the complainant, respondent, and any relevant witnesses including co-workers if necessary. As required by the facts, the Director, Human Resources may consult with legal counsel and prior notification will be given to management/staff where this is deemed appropriate.

Where appropriate and necessary, the Director, Human Resources may contact the Ontario Human Rights Commission for advice or assistance.

### **2. Preliminary Findings**

Where the information revealed early in the investigation suggests a reasonable possibility of resolution, the Director, Human Resources may decide to propose an early settlement prior to conducting the entire investigation.

Where this situation arises, the Director, Human Resources will convene a meeting with the parties involved to discuss preliminary findings of the investigation and inform participants of the possibility and nature of early settlement and the reasons. This stage allows all parties to become aware of the tentative findings and presents an opportunity, based on the information, to resolve the matter upon agreement of all parties, without further investigation.

Where agreement is reached and the matter deemed resolved, the Director, Human Resources will prepare a confidential summary report for the City Librarian, close the



file, and store in Human Resources.

### 3. Further Investigations

Where as a result of preliminary findings, a resolution cannot be reasonably proposed or achieved, or where the Director, Human Resources determines that file closure at this point would not be appropriate, further investigations will be conducted.

### 4. Notification and Discussion of Results

The Director, Human Resources will subsequently schedule meetings with the complainant, alleged harasser, management staff and the Union where appropriate to present and discuss the findings and conclusions of the investigation. Separate meetings may be convened if necessary, and all parties have a right to be represented.

A summary report will be given to the complainant and alleged harasser.

## **RESULTS OF INVESTIGATIONS/MEDIATION**

### 1. Complaint Supported

Where the results of the investigation supports a specific complaint of harassment, or where the results suggest the existence of systemic problem(s) in the work environment which caused or contributed to the incident, the following, without limitation, may be recommended forms of remedial action:

- education and training;
- review and modification of policies, procedures and practices;
- disciplinary action up to and including dismissal;
- continuous monitoring.

Where deemed reasonable and appropriate, the Director, Human Resources, in consultation with management/supervisor, harasser and complainant, may propose and develop a more comprehensive strategy for the elimination and/or prevention of harassment to improve the overall workplace. Only where formal disciplinary actions have been implemented as a result of an investigation, will a notation be made on the employee's personnel file.

The investigation file will remain open for a reasonable period of time to allow for the monitoring of actions to be taken and subsequent reports to be placed on the file.

## 2. Complaint Unsupported

Where the results of the investigation do not support the allegations of harassment made by the complainant, the complaint shall not be proceeded with further.

## 3. Complaint Unsupported: Recommend Systemic Investigation

Where the results of the investigation do not support the specific complaint, but where the investigation suggests the existence of systemic problems in the work environment which may cause, contribute to, or encourage harassment, including poor management practices which are directly related to the harassment, the Director, Human Resources may make recommendations for change or further investigation of a systemic nature.

## 4. Malicious Complaints

Where as a result of an investigation, it is determined/concluded that the complaint was made maliciously – with a specific and directed intent to harm – or made in bad faith with reasonable knowledge of and intent to harm, formal disciplinary actions may be taken against the complainant. Documentation regarding the disciplinary action will be placed in the employee's personnel file.

The complainant (now respondent to allegations of malicious complaint) has the right to be notified in writing of this decision/conclusion including the reasons and grounds, to prepare and submit a response, and to be represented at all proceedings.

## 5. File Retention and Disposal

Upon determination and notification of a support or non-support decision, the file will be closed and retained in the Human Resources Department. All closed files will be retained in the Human Resources Department for a period not less than five years from the date of closing.

Closed investigative files will be disposed of in an appropriate manner after the five-year period. Notations on personnel files will be removed as per existing procedures and/or provisions contained in existing collective agreements.

## 6. Reopening of Files

Request for reopening of a closed file may be made upon written request to the Director, Human Resources under the following circumstances:

- new and relevant information regarding a closed case;

- new incident of harassment post-closure by the same respondent;
- reprisal is alleged to have occurred.

## 7. Pursuing Other Remedies Post-Investigation

Employees have the right to pursue other remedies provided in law, including instituting a grievance under a collective agreement following, or any time during, the investigation. Where an alternate means is chosen during the course of an internal investigation, the internal investigation may be postponed or terminated, and the file closed upon agreement by the parties involved and the approval of the City Librarian.

## 8. Monitoring

Unless the complaint has been dismissed, once a resolution of the complaint has occurred, the Director, Human Resources and/or the appropriate management staff will monitor the situation. Follow-up is a critical component of effective complaint resolution. In most cases, follow-up should occur periodically over a minimum six- month period from the date of resolution. All follow-up interviews, which are not conducted by the Director, Human Resources, must be documented, and the documentation forwarded to the Director, Human Resources. To ensure that monitoring is effective, it is advisable to develop a monitoring plan which sets out what steps or activities will be taken to ensure the implementation has been successful, how it will be done and progress measured, when and who is responsible for the actual monitoring.

## 9. Implementation and Execution of Resolutions

Where as a result of the monitoring process, or through other means, it is determined that there are difficulties in implementing or executing the solutions recommended from the investigation, or, where actions have been taken, but are deemed ineffective, inappropriate or untimely, the Director, Human Resources in consultation with the appropriate Director and City Librarian shall determine what further actions and/or support can be provided to ensure that the policy objectives and terms of resolution can be met more effectively and efficiently.

## 10. Independent/Systemic Investigations

To ensure that the environment is free from harassment, the Director, Human Resources may decide on his/her own to conduct an investigation in the absence of a specific complaint from an employee, in order to address, resolve or prevent harassment in the workplace.

Generally, there are three situations where the Director, Human Resources may recommend an investigation:

- a) where there is a focused pattern of injuries and/or complaints over time which suggests the existence of a specific problem which has been identified but not corrected; or
- b) where there is reason to believe that a broader systemic problem exists in the work environment which causes, contributes to, or encourages harassment; or
- c) where, as the result of an investigation, a complaint is not supported, but there is reasonable evidence that a broader systemic problem exists.

Prior to proceeding with an independent investigation, the Director, Human Resources will draft a summary of the situation providing reasonable grounds for recommending investigation in the absence of a specific complaint.

The summary will be presented to the Director in question and the City Librarian for consideration. Where an investigation under this section is approved, the appropriate parties will be advised of the intent to conduct a systemic investigation, the reasons for initiating the investigation and the process/procedures that will be implemented.

#### 11. Annual Reporting

The Director, Human Resources shall submit a confidential annual report to the City Librarian, at the end of each year, summarizing the activities, including formal complaints investigated, education and training provided.

<b>GUIDELINES FOR DIRECTORS, MANAGERS, SUPERVISORS AND UNION REPRESENTATIVES</b>
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A separate Guideline has been developed as a working tool for Directors, Managers, Supervisors and Union Representatives. The Guideline provides direction and assistance for Managers and Supervisors in the implementation of the policy and how to handle complaints and inquiries.

Appendix 4

**UNDERSTANDING AND IMPLEMENTING THE HUMAN RIGHTS AND  
HARASSMENT POLICY: GUIDELINES FOR DIRECTORS, MANAGERS,  
SUPERVISORS AND UNION REPRESENTATIVES**

The purpose of this manual is to provide Directors, Managers, Supervisors and Union Representatives with specific information on their obligations and responsibilities with respect to the implementation and application of the policy, and to provide practical step-by-step guidelines on how to deal with a harassment complaint.

**NOTE: It is acknowledged that harassment is a sensitive and difficult topic. If, at any stage you feel uncertain about your role in the process, or are unsure about the policy or the Code, please do not hesitate to contact the Director, Human Resources or Union Executive member, as appropriate, for guidance or assistance.**

### **LEGAL RESPONSIBILITIES UNDER THE *ONTARIO HUMAN RIGHTS CODE***

A person who has the authority to prevent or discourage harassment is considered responsible for failing to exercise his or her duty to do so. If a complaint of harassment goes to a Board of Inquiry, the Board may find that a person, such as an employer or a Supervisor, knew or should have known about the harassment and could have stopped it. If the Board finds this, the responsible person may be added as a party, and if the harassment happens again, the Board may make an order against that person as well as against the harasser.

### **YOUR ROLE IN THE POLICY AS A DIRECTOR, MANAGER, SUPERVISOR OR UNION REPRESENTATIVE**

As a Director, Manager, Supervisor or Union Representative, you are responsible for:

- understanding, promoting and upholding the Human Rights and Harassment Policy (attached);
- understanding, promoting and upholding the *Ontario Human Rights Code*;
- being a positive role model;
- making staff aware of the policy and of their options;
- providing staff with accurate and timely information/referrals;
- ensuring that complaints are dealt with efficiently, sensitively and confidentially;
- ensuring that recommended actions to deal with harassment are implemented; and

- constantly monitoring work environment to ensure adherence to policy.

## **TYPES AND EXAMPLES OF HARASSMENT**

Harassment is defined in the Code as:

“...engaging in a course of vexatious comments or conduct that is known or ought reasonably to be known to be unwelcome.”

The Code prohibits harassment because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, disability, age, marital status, family status, receipt of public assistance, sexual orientation, and record of offenses. The Library Board's policy prohibits harassment on all of the grounds covered by the Code. However, our policy goes one step further and covers personal harassment based on any other personal characteristics and same sex partnership status.

The most common forms of workplace harassment are racial harassment, sexual harassment and personal harassment.

### **Racial Harassment**

Racial harassment includes any behaviours, comments or conduct which is insulting, intimidating, humiliating or offensive on the basis of a persons' race, ancestry, place of origin, colour, ethnic origin and/or religion. The most common examples include racial slurs, jokes and name calling. Other examples include:

- terminology which reinforces stereotypes by race;
- racially derogatory nicknaming or remarks;
- making fun of employees or their abilities because of their race or ethnic origin; and
- racist, ethnic or religious graffiti or the displaying of racist material.

### **Sexual Harassment**

Three types of sexual harassment are prohibited by the Code.

The first type includes all forms of vexatious comment that is unwelcome or ought reasonably to be known to be unwelcome and is of a sexual nature. Examples of this type of harassment include, but are not limited to:

- inappropriate comments about a person's body or appearance;
- use of inappropriate or derogatory terms/language;
- inquiries or comments about an individual's sex life or sexual preferences, etc.;
- sexual or sexist remarks, insults or jokes;
- spreading rumours about an individual's sex life or sexual preferences, etc.;
- unwanted touching, leering, petting or physical contact; and
- unwanted sexual advance or solicitation made by one person to another e.g. between co-workers.

The second type is sexual advance or solicitation made by a person who is in a position to grant or deny a benefit to another. There is a contravention of the Code when the person making the solicitation or advance knows, or should know, that such behaviour is unwelcome. An example of this type of harassment includes, but is not limited to, advances from a supervisor to an employee.

The third type of sexual harassment is reprisals. Reprisals occur when a person in a position of authority threatens to use that authority to retaliate against an employee who has rejected his/her sexual advances. This may include demoting, repressing or firing an employee who has turned down a proposition.

### **Personal Harassment**

**PERSONAL HARASSMENT IS NOT COVERED BY THE CODE**, however, it is covered by our policy, and is defined as “a series of conduct which is intimidating, humiliating, hurtful, malicious, degrading or otherwise offensive behaviour, being directed towards an individual based upon that individuals' personal characteristics”. Personal harassment is not a single incident or disagreement between two people. It usually involves a series of incidents directed at only one individual in the particular work group which can be described as unwarranted, differentially applied and not based on any management practices which could be considered reasonable.

Disagreements and confrontations between individuals do not necessarily constitute harassment. In order to ascertain whether there has been personal harassment (i.e. whether the incidents conform to the above criteria), the normal complaint/investigation process will be used.

## **YOUR ROLE IN THE COMPLAINT PROCESS**

Essentially, there are three types of request or situations which may arise:

- inquiries/information requests;
- requests for informal actions/resolutions;
- formal complaints. **YOU MAY NOT BE RESPONSIBLE FOR HANDLING FORMAL COMPLAINTS.**

### **Handling Inquiries and Information Requests**

Often employees are not sure if they are being, or have been harassed or whether the alleged behaviours are covered by the policy. At this stage, they may simply approach you with inquiries about the policy, ask whether the policy applies, and inquire as to their options. It is important that you provide accurate information.

Sometimes employees will simply come to you to discuss a concern, but not specifically request any further action to be taken. In most of these cases, further action will not be necessary. If you feel that it is appropriate, you may wish to take note of the date and time of the contact as well as a few details about the discussion.

### **Handling Requests for Informal Action/Resolution**

Informal complaints may result from an information request or may come directly to you as a specific request for intervention – that is, the employee is convinced about the nature of the incident, but at this point prefers an informal approach to resolution. It is your responsibility to act on the matter promptly and attempt to achieve a resolution. Do not hesitate to contact the Director, Human Resources or Union Executive if any assistance is required.

The objective of this stage is to resolve the matter through informal discussions of the incident(s) with the parties involved.

Example:

An employee feels uncomfortable about certain jokes being told by a co-worker. Although the jokes are not directed at the individual, they are nonetheless unwelcome. The employee is not sure whether the incidents represent harassment, but contacts the Union Representative to discuss the matter. The Union Representative speaks to the co-worker, and in describing the impact, the co-worker better understands the subtle nature of the jokes, agrees to stop. The concern is resolved informally to the mutual satisfaction of the parties concerned, and no further investigative or mediation efforts



are required.

### **Important DO'S And DON'T'S When Dealing With The Harassment Policy**

#### **DO...**

- discuss the matter in a private area, never out in the open;
- ensure by your actions and words that you will handle the issue confidentially and that the same is expected of all parties involved;
- treat the concerns/requests seriously;
- be objective – if you feel you have a conflict of interest, simply state this upfront;
- handle the request sensitively;
- listen, support, inform of options, stick to the facts;
- discuss the issue with the alleged harasser before interviewing witnesses;
- ensure all parties that they cannot be the subject of any reprisals for having made an inquiry/complaint or for giving information or evidence; and
- maintain appropriate and timely communication with the parties involved regarding status of the complaint, steps being taken, etc..

#### **DO NOT...**

- discuss the issue with anyone other than those who should logically and reasonably be kept informed; and
- be judgmental.

### **Sample Interviewing Guide**

- inform the parties that it is their right to be represented if desired;
- reassure the complainant that harassment will not be tolerated;
- emphasize that the information provided/collected will be kept confidential;

- explain the policy options available to help deal with harassment issues;
- explain that the informal resolution approach is optional and that they have the right at any time to file a formal complaint or go to the Ontario Human Rights Commission (except in cases of personal harassment);
- obtain details of the incident including dates, times, locations, what was said or done, the name of the harasser(s), witnesses;
- determine what the employee believes would be a reasonable and acceptable solution – be sure that you understand what they want;
- ensure that your information is accurate – document if appropriate;
- advise that any witnesses will be contacted and interviewed;
- inform the respondent immediately about the complaint and use the same techniques as above for fact-finding and documentation;
- provide a tentative timeframe for dealing with the matter;
- advise all parties that the incident and results of attempts to resolve the matter informally will be reported to the Director, Human Resources or Union Representative (as appropriate) in confidence;
- proceed with implementing the action plan/resolution.

### **Your Role In The Formal Complaint Process**

All formal complaints will be investigated by the Director, Human Resources. Your role is to ensure that all such complaints that are brought to your attention get to the Director, Human Resources. You may be asked to inform the Director, Human Resources on a complainant's behalf or you may be asked to represent/accompany a complainant while they lodge a formal complaint. Any documentation that you have pertaining to the complaint should be forwarded to the Director, Human Resource immediately.

The following are examples of how and why a formal complaint may arise:

- when attempts to resolve problems informally have been unsuccessful;
- as a result of a direct written complaint where the informal approach was not

pursued;

- where a concern appears to have been effectively resolved through the informal or formal process but there is a recurrence and the employee requests that the issue be readdressed; or
- when an incident has been brought to your attention and due to the nature or circumstances you feel it is necessary to refer the complaint to the Director, Human Resources.