



**CANADIAN HEALTH CARE AGENCY LTD**  
*EXPERIENCE THE NORTH*

Canadian Health Care Agency: Cambridge	Prepared by: S. Umana Revised by: K. Himmelman	Date Prepared: May 2008
	Approved by: CHCA	Date Revised: March 2015
Policy: Workplace Harassment		

### **POLICY STATEMENT**

Canadian Health Care Agency (CHCA) is committed to:

- The guiding principles of respecting others, relationships and caring for people;
- Providing a workplace that is free from all forms of sexual and personal harassment in accordance with the applicable human rights legislation; and
- Promoting good management practices that are directed at creating a welcoming work environment.

### **POLICY OBJECTIVES**

Policy objectives include the:

- Prevention of any conduct in the workplace that violates the fundamental rights, personal dignity and integrity of any person subjected to such conduct;
- Provision of information regarding harassment; and
- Provision of direction for handling complaints of harassment.

### **PRINCIPLES**

This policy is based on the following principles:

- Harassment is a serious offence, and is grounds for disciplinary action up to and including dismissal; and
- All harassment complaints will be dealt with in a fair, confidential and expeditious manner.

### **APPLICATION**

This policy applies to all CHCA employees and covers all forms of harassment that may occur at work or away from the workplace, provided the acts are committed within the context of the employment relationship.

### **DEFINITIONS**

**Harassment** is defined as one or a course of vexatious comments or conduct based on a protected ground listed in the Canadian Human Rights Act, which includes; personal characteristics; race, colour, creed, religion, sex, sexual orientation, age, disability, ancestry, ethnic origin, place of origin, citizenship, marital status, family status, pregnancy, lawful source of income, or a conviction for which a pardon has been granted, that is known or ought reasonably to be known to be unwelcome. Harassment has the effect of creating a degrading, intimidating, hostile or marginalizing work environment for the person experiencing it. There may be circumstances where a single incident is serious enough to amount to harassment.

**Sexual Harassment** is any unwelcomed conduct of a sexual nature that affects the work environment in a detrimental way or leads to adverse job-related consequences for the victim of the harassment.



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**Examples** of behaviour that can constitute sexual harassment include, but are not limited to:

- unwanted touching, patting or leering;
- sexual assault;
- inquiries or comments about a person's sex life;
- telephone calls with sexual overtones;
- gender-based insults or jokes causing embarrassment or humiliation;
- repeated unwanted social or sexual invitations; and inappropriate or unwelcome focus/comments on a person's physical attributes or appearance.

**Workplace Harassment** “workplace harassment” means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. (Bill 168 provision of the Ontario Occupational Health and Safety Act)

Examples include:

- Spreading malicious rumours, gossip, or innuendo that is not true.
- Excluding or isolating someone socially.
- Intimidating a person.
- Undermining or deliberately impeding a person's work.
- Physically abusing or threatening abuse.
- Removing areas of responsibilities without cause.
- Constantly changing work guidelines.
- Assigning different levels of accountability to others in the same position.
- Establishing impossible deadlines that will set up the individual to fail.
- Withholding necessary information or purposefully giving the wrong information.
- Making jokes that are 'obviously offensive' by spoken word or e-mail.
- Intruding on a person's privacy by pestering, spying or stalking.
- Assigning unreasonable duties or workload which are unfavourable to one person (in a way that creates unnecessary pressure).
- Underwork - creating a feeling of uselessness.
- Yelling or using profanity.
- Criticizing a person persistently or constantly.
- Belittling a person's opinions.
- Unwarranted (or undeserved) punishment.
- Blocking applications for training, leave or promotion.
- Tampering with a person's personal belongings or work equipment.



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**Personal Harassment** is not based on any of the prohibited grounds under the human rights legislation. It is a form of behaviour that for a variety of reasons demeans or embarrasses a person. Personal harassment can occur between individuals and groups of employees.

Examples include:

- ostracizing,
- shunning,
- uncivil conduct.

**Workplace Harassment Advisors** are neutral persons who inform the complainant and the respondent of their rights and responsibilities.

**A Complaint** is formal allegation of harassment, submitted in writing.

**A Complainant** is a person who is reporting harassment to themselves or another.

**A Respondent** is a person who has been accused of harassment.

#### **ROLES AND RESPONSIBILITIES**

**Chief Executive Officer or designate (The Designate will typically be the Supervisor, but may be anyone the CEO deems appropriate).**

The Chief Executive Officer is responsible for the implementation and administration of this policy. S/he shall:

- Appoint an investigator or investigators as soon as possible;
- Consult with the investigator or investigators to set a reasonable time frame for the completion of the investigation;
- Review the findings and recommendations;
- Determine the outcome and the appropriate action to be taken, and
- Ensure the parties are informed of the outcome in a timely fashion.

**Management** must be aware of signs and symptoms of harassment and act promptly to

- Resolve related problem;
- Assist in assessing harassment complaints; and
- Educate staff about the workplace harassment program and procedures.
- Managers are also responsible for ensuring that the rights of both the respondent and the complainant involved in a harassment incident are protected. Fair and equitable procedures must be ensured for all parties.

**Lists of Workplace Harassment Advisors/Investigators** will be kept and interviews with either the complainant or the respondent may be conducted.



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**A Complainant Alleging Harassment** must inform the harasser of the unwelcome conduct and request that it stop. Witnesses and details of events should be documented. The Complainant must establish that the alleged harassing behavior did occur.

*Complainants have the right:*

- a) to make a complaint and to obtain a review of the complaint
- b) to be accompanied by a person of their choice during the interview; and
- c) not to be subject to retaliation for the reason of having made a complaint under this policy.

*It is the responsibility of the complainants:*

- a) to immediately make known, if possible, their disapproval or unease to the individual;
- b) to follow all procedures under this policy;
- c) to cooperate with all those responsible for dealing with the investigation of the complaint

**An Employee Accused of Harassment** (The Respondent) must record conversations, dates of occurrences, details, and witnesses and must provide evidence that either the alleged incidents did not occur or they did not constitute harassment.

*Respondents have the right:*

- a) to be informed that a complaint has been filed;
- b) to be presented with a written statement of allegations and to be afforded an opportunity to respond to them; and
- c) to be accompanied by a person of their choice during their interview.

*It is the responsibility of the respondents:*

- a) to follow all procedures under the policy;
- b) to cooperate with all those responsible for dealing with the investigation of the complaint.

**Witnesses**

*Witnesses have the right:*

- a) not to be subject to retaliation because he or she has participated as a witness.

*It is the responsibility of the witness:*

- a) to provide accurate accounts of what s/he witnessed;
- b) meet with the investigator and to cooperate with all those responsible for the investigation of the complaint.



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**Workplace Harassment Advisors** inform employees of their rights and responsibilities under these guidelines. In addition, the Advisor may assist employees with the filing of a complaint.

**An Investigator**, who is a specially trained person, from either within or outside CHCA, carries out formal investigations.

The investigator shall:

- Ensure the respondent has received a written statement of the allegations;
- Ensure all parties involved have been informed of their rights and responsibilities;
- Interview the parties concerned and any witnesses;
- Collect all pertinent evidence;
- Prepare a report; and
- Ensure the investigation is completed in a timely fashion taking into account particular circumstances.

**A Mediator** helps to resolve conflict and arrive at a mutually acceptable solution.

## **PROCEDURES:**

A harassment complaint may only be initiated by someone who has experienced harassment, or witnessed harassment. The CEO may initiate a harassment complaint as a witness. Every effort should be made to ensure that the procedures are complainant-driven. (i.e., The complainant should agree to if and when s/he wishes to engage in a formal vs. informal procedure.) However, once a formal procedure is initiated, it must be continued according to the process outlined below.

### **Informal Procedure**

#### **Informal Complaint – Documentation**

Whether or not the complainant wishes to file a formal complaint, it is crucial that all allegations of harassment be documented. What happened? When did it happen? Where did it happen? Who was present?

The documentation can be held by the complainant. However, it is strongly advised that the complainant present this information, verbally or in writing (according to the complainant's preference), to the manager (unless the manager is the respondent) for documentation purposes only. The manager will take her/his own notes regarding the incident. The information will be held in confidence, and no further action will be taken without the direct consent of the complainant. This step helps to prevent retaliation against complainants and/or to provide evidence for it when retaliation does occur.



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### **Informal Complaint - Mediation**

An effective way to end the problem of harassment in the workplace is to communicate concerns directly by telling the person that the behaviour is unwelcome and must stop or by requesting the manager to do so.

A complainant should request the assistance of a manager in the informal resolution of a workplace harassment complaint. If the communication is done orally the complainant should have the manager present. If done in writing, it is highly advisable to forward a copy to the manager, and to keep a copy of the letter/email.

The manager may help with other methods of informal resolution such as discussion and mediation, to assist the parties in voluntarily reaching an acceptable solution.

If the respondent is an employee of CHCA, when the facts are not in dispute and it is determined by the CEO that the respondent or any other person has committed an act or acts constituting harassment the CEO shall take appropriate action. This action may include: corrective action; retraining; remediation or discipline, up to and including dismissal.

If the respondent is an employee of CHCA, when the facts are in dispute, the complainant must decide if s/he wishes to pursue a formal complaint.

If the respondent is not an employee of CHCA, the harassment policy of that person's agency will take effect.

If the respondent is the manager, complaints should be made directly to the CEO and the CEO will undertake the responsibilities ordinarily assumed by the manager.

### **Formal Procedure**

Where appropriate, the complainant may choose to file a formal complaint.

The employer is committed to responding to all complaints, however, it is in the CEO's discretion whether or not to investigate a complaint if it is not filed within a year of the alleged circumstance leading to the complaint unless:

- a) there is a strong factual and legal case,
- b) there is evidence of substantial loss or damage to the complainant and a clearly identifiable remedy,
- c) there are justifiable reasons beyond the complainant's control for not filing the complaint within the one year limit, and
- d) the respondent will not be unduly prejudiced by the extension.



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A formal complaint must be written and signed. It should give an accurate account of the incident or incidents of harassment including times, places and parties involved. When completed, the complaint is submitted to the manager, or CEO.

When there is a direct reporting relationship between the complainant and the respondent, it may be in the best interest of all parties for them to be physically and hierarchically removed from one another for the period of the investigation. If there is no reporting relationship, the employer shall determine if the parties should be physically removed from one another for the period of the investigation.

The CEO, manager or the investigator may upon reviewing the written complaint and interviewing the complainant determine whether or not the complainant has a prima facie complaint under this policy which merits further investigation. The CEO, manager or investigator shall inform the complainant whether or not the investigation will be pursued and may take action to resolve the issue.

The respondent shall be informed of the complaint, presented with a written statement of allegations and afforded an opportunity to respond.

Unless directed otherwise the investigator shall gather and analyze the information, summarize the findings and may propose corrective action or make recommendations.

The manager or investigator shall report the findings and recommendations to the CEO who shall determine whether the respondent has committed an act or acts constituting harassment.

Where it is determined that the respondent has committed an act or acts of harassment, the CEO shall take appropriate action. This action may include: corrective action; retraining; remediation or discipline, up to and including dismissal.

The CEO may take any other action deemed advisable.

A complaint under this policy that involves falsehood or malicious intent or is otherwise made in bad faith, as determined by the investigation, shall be subject to appropriate disciplinary action up to and including dismissal.

**External Procedure:**

If the internal informal or formal procedures fail to provide resolution, complainants may take their complaint to the Ontario Human Rights Commission.

**Complaints to the Ontario Human Rights Commission**

Ontario Human Rights Act complaints should normally be filed within one year from the time the harassment occurred. Complaints are investigated by the Ontario Human Rights Commission. For more information, call the Ontario Human Rights Commission.

**Complaints under the Criminal Code**



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Sexual and other forms of assault are covered under the Criminal Code. In these instances, the police can be asked to lay criminal charges. Sexual and other forms of assault are serious criminal offenses that should be reported to the police.

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**Approved by: Sharon Umana - President, Canadian Health Care Agency**