

HARASSMENT AND DISCRIMINATION POLICY

LHSC's Harassment and Discrimination Policy responds to the Hospital's responsibility under the Ontario Human Rights Code to prevent harassment and discrimination, to ensure that all individuals in the workplace have equal opportunities and are treated with respect and dignity, and to establish a process for handling complaints of harassment and discrimination.

The information that follows is a summary of procedures and responsibilities under the Policy. The full policy may be viewed on the LHSC Intranet or obtained from Human Resources, and its terms will take precedence over the contents of this summary.

Prohibited Grounds

Every person has the right to freedom from discrimination or harassment in employment on the basis of race, ancestry, place of origin, colour, ethnic origin, age, citizenship, creed, record of offences (provincial offences and pardoned federal offences), marital status, family status, pregnancy, disability, sex, or sexual orientation.

Discrimination

Discrimination is the less favourable treatment of persons in any aspect of employment because of any of the prohibited grounds. Aspects of employment include recruitment, hiring, training, transfer, promotion, demotion, layoff, termination, recognition, equitable treatment, compensation and working conditions. Discrimination includes the use of requirements, qualifications or factors that appear to be neutral but may result in the exclusion, restriction or preference of a group of persons identified by a prohibited ground of discrimination.

Harassment

Harassment means engaging in vexatious comments or conduct related to any of the prohibited grounds that humiliates, insults or degrades and is known, or should reasonably be known to be unwelcome, whether or not that effect was intended. It includes offensive behaviour or the display of offensive material that ridicules or is demeaning towards any of the groups identified by a prohibited ground of discrimination, whether or not it is directed at specific individuals.

Sexual Harassment

Sexual harassment involves attention of a sexual nature, as well as harassing comments and conduct related to gender, which are known or should reasonably be known to be unwelcome. Sexual harassment

includes advances from a person in a position to confer, grant or deny a benefit or advancement where it is known or should reasonably be known to be unwelcome, and retaliation or threat of retaliation for not complying with such sexual demands. Note: Relationships based on mutual consent and normal social interactions do not constitute sexual harassment

Examples of Harassment and Sexual Harassment

- displaying or communicating information or material that is racist or derogatory in relation to any of the prohibited grounds;
- refusing to converse or work cooperatively with an employee because of racial or ethnic background or any of the other prohibited grounds;
- insulting gestures, graphics or jokes based on a person's sexual orientation or any prohibited grounds;
- derogatory or degrading remarks, verbal abuse or threats directed towards members of one gender or regarding one's sexual orientation;
- sexual advances, leering, touching, propositions and requests for sexual favours;
- persistent unwanted contact or attention after the end of a consensual relationship;
- comments which draw attention to a person's gender and have the effect of undermining the person's role in the work environment.

Note: LHSC's Abuse Policy defines abusive actions and behaviours. It explains how LHSC can manage abusive situations, and how LHSC will investigate reports of abuse.

Know Your Rights & Responsibilities

All employees, volunteers and persons with practising privileges are covered by this Policy and may pursue their rights under this Policy with respect to any conduct or activity carried out in the workplace. For purposes of this Policy, the workplace includes any place where Hospital business is being conducted, including travel and training, as well as Hospital social functions. Any allegations of harassment or discrimination involving other individuals in the Hospital environment, such as students or employees of contractors, will be dealt with on an individual basis. Employees, volunteers and persons with practising privileges have an obligation to participate in the procedures under the Policy and to respect the confidentiality of the process. The Hospital does not tolerate retaliation for making complaints or participating in an investigation. Allegations of retaliation will be investigated and, if substantiated, disciplinary action will be taken. Every employee has the responsibility to assist in ensuring that the workplace environment is free from harassment and discrimination. This responsibility is met by:

- treating all persons in the workplace with dignity and respect and avoiding any conduct which might constitute harassment or discriminatory behaviors;
- reporting incidents of harassment or discrimination that have been experienced or witnessed to Management or Human Resources staff.

All Management and supervisory staff including physician leadership are responsible for enforcing the Policy by communicating to all employees that harassment and discrimination is not permitted and will not be condoned or ignored. If they are aware or become aware of inappropriate behaviour they must investigate and take appropriate action, in consultation with Human Resources.

Complaint Resolution Procedure

The Hospital's Policy outlines informal and formal procedures which ensure that reports of harassment and/or discrimination are handled in a serious, timely and fair manner. Wherever possible and appropriate, complaints are handled informally by the immediate supervisor of the alleged offender and Human Resources. The formal investigation process may be used at any time, or when a complaint cannot be resolved informally. Anonymous complaints can result in unwarranted harm and may or may not be dealt with.

The Hospital has an obligation to enforce the Policy and to take corrective action when violations are identified, including disciplinary action where appropriate. Such action would be based on an assessment of various factors, including the seriousness and frequency of the behaviour, and may include disciplinary action up to dismissal. Because of the seriousness of harassment and discrimination complaints, disciplinary action may also be taken against a complainant if an allegation is found to have been made frivolously, maliciously or in bad faith. If you make a complaint, you may decide after reviewing the matter with an Advisor not to proceed with further action under the Policy. However, the Hospital may need to initiate an investigation to determine whether the complaint is substantiated and take whatever action may be warranted. Complaints should be brought forward in a timely manner. Complaints that are received more than six months after the last alleged incident may not be dealt with, at the discretion of the Hospital.

Informal Complaint Procedures

If you feel that you have been or are being subjected to harassment or discrimination, you may:

1. If appropriate, inform the respondent (the alleged offender) in person or in writing, that the behavior is unwelcome and should stop. You should document the events, including dates, times, locations, witnesses and your efforts to resolve the matter. Note: this step is not required.
2. If the above approach has not been successful, OR you are not comfortable approaching the offender directly, you should report your concerns to your immediate supervisor, the immediate supervisor of the respondent or to a Human Resource Consultant (HRC). If an incident has occurred which you perceive as threatening to your sense of security, you should report your concerns immediately to your supervisor and to Security. You will need to provide that person with a description of the complaint, the name of the respondent and any details such as dates, times, location and witnesses. After discussing the matter, you and your Advisor will determine whether the Policy applies to the situation you have reported. If the situation constitutes a potential case of harassment or discrimination you and the Advisor will discuss the options available.
3. You will be asked what remedy you prefer for the situation.

4. If an informal investigation is decided upon, the HRC and/or the immediate supervisor of the respondent may meet with that person, provide a copy of the Policy and discuss the complaint. If necessary, witnesses will be interviewed.
5. The complaint may be resolved at this stage on the basis of a mutually satisfactory agreement between the parties, appropriate corrective action (including discipline where justified), or a determination by the Advisor that further action under the Policy is not warranted.
6. Supports such as Occupational Health Services and the Employee Assistance Program are available to employees of LHSC.

Formal Complaint Investigation

The employee making the complaint or the alleged offender may at any time submit in writing a request to initiate a formal investigation. The Hospital may also initiate a formal investigation where it is in the interests of all parties concerned and/or the Hospital environment. The Chief Human Resources Officer (CHRO) determines whether to authorize a formal investigation and will notify both parties in writing within 10 days of the decision. The steps in the formal investigation are:

1. The employee requests a formal investigation in writing to the CHRO. The request includes a description of the facts and circumstances of the complaint, including dates, location and witnesses.
2. The CHRO receives the request, determines whether to authorize a formal investigation and appoints an investigator, who may be from outside the Hospital. Both parties will be notified of the decision. The investigation will normally commence within three weeks of appointment and normally be completed within 60 days.
3. The Investigator interviews the complainant, respondent, and relevant witnesses and is authorized to review documents considered to have information pertinent to the complaint.
4. The Respondent will be provided with a copy of the complaint and will be afforded the opportunity to provide a written record of the facts.
5. The Investigator prepares a written report of his or her findings. The report is forwarded to the CHRO.
6. The CHRO provides a copy of the Report and his or her recommendations concerning any disciplinary or other action that he/she considers appropriate to the Most Responsible Leader, normally within two weeks of the receiving the report. The Most Responsible Leader considers the Report and recommendations, in consultation with HR and determines the most appropriate action.
7. The Most Responsible Leader and a representative of Human Resources will advise the Complainant and the Respondent as to the outcome of the investigation, normally within two weeks of receipt of the Panel's decision.
8. If the Most Responsible Leader, in consultation with Human Resources, determines that a complaint has been made frivolously, maliciously or in bad faith, it may recommend that disciplinary action be taken against the complainant.

Appeal Process

The complainant or the respondent may appeal the outcome of the formal investigation by writing to the CHRO to request a review. As soon as possible upon receipt of the written request, the CHRO, or an alternate designated by the President, reviews the investigator's report and the conclusions of the CHRO and the Most Responsible Leader, and renders a written decision. Unionized employees may utilize the process available under the applicable collective agreement to appeal any disciplinary action.

If the CHRO declines to authorize a formal investigation, the decision may be appealed to the Chief Operating Officer, in writing, within 10 days of the decision.

Confidentiality and Records

To protect people's interests and reputations, confidentiality will be maintained during the investigatory process to the extent practical and appropriate under the circumstances. Information will be disclosed on a "need to know" basis for purposes of investigation and resolution of complaints.

All records of formal investigations are maintained in a confidential manner by Human Resources, except where disclosure is required by disciplinary or other remedial processes. If it is concluded that a complaint has been substantiated, the incident and the resulting actions are documented on the personnel file of the offender.

If it is concluded that a complaint has been made frivolously, maliciously or in bad faith and that finding is endorsed by the Most Responsible Leader, the incident and the resulting action are documented on the personnel file of the complainant. There is no documentation of unsubstantiated complaints on the personnel file of the respondent.

Notwithstanding any of the policies and/or procedures established by London Health Sciences Centre respecting Harassment and Discrimination, individuals have the right to have their complaints heard by the Ontario Human Rights Commission or any other applicable governing body or College.

Where to Go For Help

If you feel you have been discriminated against or have experienced harassment in employment in relation to any of the prohibited grounds, you should speak with your immediate supervisor or a Human Resource Consultant in Human Resources. This person will act as an Advisor to you for purposes of explaining the Policy and assisting you with the procedures. He or she can provide you with a copy of the Policy, recommend appropriate resources, and initiate appropriate action if there are any concerns regarding personal safety. You will need to provide this person with details of your complaint. If an investigation is undertaken, you will need to provide the details of the complaint in writing, and be prepared to be identified to the alleged offender so that person understands and can respond to the allegations.

DEFINITIONS

Advisor: Members of Management and Human Resources Consultants who receive complaints will act as Advisors to persons who feel they have been subjected to harassment or discrimination by explaining the procedures of the policy and facilitating informal resolutions of complaints. Complainant: Person who initiates a complaint of harassment or discrimination. Respondent (alleged offender): The person against whom a complaint of harassment or discrimination has been made. Most Responsible Leader: The Coordinator, Manager, Director and/or Vice-President to whom the respondent or complainant reports.

REFERENCES

Ontario Human Rights Code
Ontario Human Rights Commission
LHSC Employee Assistance Program
Related Corporate Policies (available on the LHSC Intranet)
Abuse Policy (GEN017)
Confidentiality Policy (GEN022)
Privacy Policy (GEN020)

For more information on LHSC's Harassment and Discrimination Policy,
contact Human Resources, extension 35222.

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