

<b>Manual</b>	Administrative Manual	<b>POLICY &amp; PROCEDURE</b>
<b>Section</b>	<b>Human Resources</b>	
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<b>Date</b>	<b>O: 07/13/1998</b>	<b>Version Number: 7</b>
	<b>R: 12/23/2021</b>	<b>Reference #: 3134</b>
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## ANTI-HARASSMENT & ANTI-DISCRIMINATION - POLICY

### Policy Statement

Humber River Hospital is committed creating and maintaining a work environment that exemplifies our core values of Compassion, Professionalism and Respect, supports productivity and creativity, and recognizes the dignity and worth of each member of the Hospital Community.

Members of the Hospital Community are entitled to a work environment that is free of discrimination and harassment as outlined in the Ontario *Human Rights Code*. Patients and visitors are equally entitled to the delivery of services free of discrimination.

To this end, the Hospital will not tolerate discrimination and harassment in the workplace and will make every reasonable effort to prevent and eliminate conduct that falls within the scope of this policy through:

- Providing ongoing training and education to ensure members of the Hospital Community are aware of their rights and responsibilities
- Promoting Hospital Core Values and the Code of Conduct
- Providing fair and equitable complaint resolution procedure

### Policy Objective

The objective of this policy is to support the Hospital's vision of working together to deliver innovative and compassionate healthcare in our community through the promotion of equality and inclusion in health care, and through prevention of harassment and discrimination of the members of our Hospital Community.

This policy will clearly set out the behaviour that are contrary to the standards of the Hospital and the Ontario *Human Right Code*, and which are prohibited by this policy.

### Application of the Policy

For the purpose of this policy, members of the Hospital Community shall include all employees, members of the Board of Directors, physicians, volunteers, students, and individuals contracted by the Hospital on a "purchase of service" agreement.

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Where an allegation of discrimination or harassment is made by or against a patient or visitor or non-hospital personnel (e.g., Sales Representative), the complaint and investigation procedures outlined herein will be followed as closely as possible.

### **Rights of the Members of the Hospital Community**

The *Code* states that every employee, physician and contractors has a right to freedom from discrimination and harassment in the workplace because of a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (this includes religion), sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability. These are referred to as "prohibited grounds" under the *Code*. Patients have the same right to access services based upon the prohibited grounds listed above (except record of offences).

### **Responsibilities of Management/Supervisors**

Members of the management team are legally responsible for creating and maintaining a work environment that is free of discrimination and harassment based on the prohibited grounds listed above.

If there is a reason to believe that discrimination and harassment exists, it is every manager's or physician leader's responsibility to take appropriate action. Any manager or physician leader may also be culpable if he or she was aware of, or reasonably ought to have been aware of, an incident or situation involving discrimination or harassment but did not take any steps to resolve or address it.

### **Responsibilities of the Members of the Hospital Community**

All members of the Hospital Community have a personal responsibility to ensure that their own behaviour and actions comply with this policy.

Members of the Hospital Community who witness discrimination and/or harassment or who become aware that an individual is being discriminated against and/or harassed have a responsibility to immediately report the incident to any member of the Management team, Medical Affairs (where applicable) or the Human Resources Department.

### **Hospital and Non-Hospital Premises**

Workplace is defined as all offices, buildings, or property in or on which the Humber River Hospital conducts business. Included in this definition are Hospital-related activities, including Hospital sanctioned social functions, or business performed at any other location away from the Hospital, during or outside of normal working hours. This does not include union activities conducted off site.

### **Definitions and Examples**

#### **Individual Discrimination**

It is an act of direct or indirect discrimination against an individual and does not include systemic discrimination. Discrimination is unequal treatment, usually negative, on the basis of one or more of the

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prohibited grounds. When criteria that are not job related, for example sex and disability, are considered as a factor in an employment-related decision, discrimination may have occurred.

Discrimination is a denial of equality that creates disadvantage such as harming the dignity or self-esteem of the individual, or economic and/or social disadvantage.

### **Systemic/Constructive/Adverse Effect Discrimination**

It is employment policies, practices or procedures which, though often neutral, fair and non-discriminatory on their face, may serve (whether intentionally or not) to exclude, deny opportunities and rights of individuals and groups, and differentiate in the terms and conditions of employment or among employees, because of any of the prohibited grounds of discrimination. Systemic discrimination normally relates to a recurring practice rather than an isolated act of discrimination. Systemic discrimination is normally identified through an Employment Systems Review.

### **Harassment**

Harassment is defined as any offensive, unacceptable, vexatious, or demeaning comments or conduct on the part of an individual or group of individuals towards a single person or group of people based on any of the prohibited grounds listed above.

Harassment may be subtle, direct, or indirect. It may be a single event, or a series of events. It is behaviour which is known or ought reasonably to be known to be unwelcome, even if the affected individual does not voice an objection. The intention to harass need not be established. By its nature, it creates a hostile, intimidating, abusive, humiliating, or threatening work environment.

### Some examples of Harassment

Because of a person's age, sex, sexual orientation, disability, religion or because of any other prohibited ground:

- unwelcome remarks, jokes, slurs, innuendoes or taunting
- vandalism of property
- insulting gestures or unwanted practical jokes which cause embarrassment and humiliation
- interference with a person's ability to perform his/her work responsibilities
- inappropriate communication via electronic mail, social media, etc.
- attainment and distribution of improper information from any source, including the internet
- displaying of derogatory or offensive pictures, images or materials
- refusing to work or interact with an employee
- unwelcome remarks, jokes, slurs, innuendoes or taunting about a person's body, attire, or sex
- sexually suggestive or obscene comments or gestures
- unnecessary physical contact such as touching, brushing against or pinching
- unwelcome sexual advances (verbal, written or physical)
- unwelcome comments or inquiries about a person's sex life
- inappropriate touching, come-ons, leering, staring or sexual flirtations
- display of sexually offensive pictures or objects
- nasty or derogatory remarks or conduct directed toward members of one sex
- inappropriate jokes of a sexual nature

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- demands for sexual favours
- sexual assault (also an offence under the Criminal Code)
- inappropriate and unwanted comments about a person's body, dress or appearance
- any other type of unwelcome sexually oriented conduct

#### Examples of Racial or Ethnic Harassment

- unwelcome remarks, jokes, slurs, innuendoes, or taunting about a person's racial or ethnic background
- name-calling including derogatory racial or ethnic slurs
- the display of racist pictures, images or graffiti
- refusing to work or interact with an employee because of her or his racial or ethnic background
- insulting gestures or practical jokes based on racial or ethnic grounds
- inappropriate comments or gestures about a person's racial or ethnic background
- attainment and distribution of improper information from any source, including the internet

**Sexual solicitation** or advances by a person in a position to confer, grant or deny a benefit or advancement to another person, prohibited. Reprisal or threat of reprisal for the rejection of a sexual solicitation or such advance is also prohibited.

It should be noted that sexual harassment and inappropriate gender-related comments and conduct are prohibited regardless of the gender of the persons involved.

#### **What is Not Harassment**

- Social interaction, good-natured joking and banter which is mutually acceptable and appropriate.
- Management and supervisory responsibilities, including training, counselling and disciplinary action, are not harassment.

#### **Complaint Procedure**

If you believe that you or someone else in the Hospital is being discriminated against or harassed, based on one or more of the prohibited grounds:

- If you can, tell the alleged harasser(s) to stop
- If you do not feel able to approach the alleged harasser(s) directly, or if, after being told to stop, discrimination and harassment continues, you should lodge a complaint with your manager/supervisor. In the case of physicians, lodge a complaint with your Division Head or Department Chief.
- If the complaint is against your manager/supervisor, you can lodge your complaint with either the Program Director or the Human Resources Department, or in the case of physicians, the Chief of Staff.

#### Document the unwanted behaviour

Take notes of the offensive conduct by writing down the details of each incident, including adverse job effects, the time, dates, location, what was said/done and the names of those who were present.

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### Contact your supervisor/manager

Humber River Hospital is committed to resolving complaints of discrimination and harassment in a fair, effective and timely manner. As described below, your Supervisor/Manager/Division Head/Department Chief is a resource for you if you believe that your or someone else's rights protected by this policy have been violated.

An employee, volunteer or student working at the Hospital who believes she or he, or someone else in the Hospital, is being discriminated against or harassed should contact their direct supervisor or manager or director of your department, the Human Resources Department, or any other member of the management team for assistance in the resolution of your complaint of discrimination and harassment or contact your Union representative. At any time during the complaint procedure, the complainant, the target of the harassment if different from the complainant, or the alleged harasser may request, where applicable, union representation. Complaints against physicians will involve Medical Affairs.

A physician who believes she or he, or someone else in the Hospital, is being discriminated against or harassed should contact their Division Head or Department Chief for assistance in the resolutions of your complaint of discrimination and harassment. The Human Resources Department may also be involved to provide assistance.

### **Role of Manager/Supervisor/Division Head/Department Chief**

Your manager/supervisor/Division Head/Department Chief will listen to your complaint and explain the informal and formal routes of resolution available (outlined below) in more detail, discussing the merits of each approach. The complainant's preferred course of action for achieving resolution of the complaint will be taken into consideration. It must be noted, however, that Humber River Hospital has an obligation to intervene once it becomes aware of allegations of discrimination and harassment.

### **Informal Routes of Resolution**

If the complaint is made by someone other than the employee alleging discrimination or harassment, the supervisor/manager/Division Head/Department Chief may speak to him or her listen to his or her views and consider how best to address the complaint.

***Personal Approach Technique*** - where the supervisor/manager/Division Head/Department Chief provides the complainant with support and coaching so that he or she can raise the concerns directly with the offending party. In many cases, when the offending party is unaware that his or her conduct is unwelcome and will not be tolerated, he or she will stop the annoying behaviour;

***Manager Intervention*** - where the supervisor/manager/Division Head/Department Chief speaks on behalf of the complainant to the person believed to be discriminating against or harassing him or her with the aim of stopping the unwanted conduct;

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**Mediation** - where a neutral party meets with the complainant and the person believed to be discriminating against or harassing him or her and assists in arriving at a solution to the conflict acceptable to all parties;

**Other Informal Processes** - where the supervisor/manager/Division Head/Department Chief assists in identifying other processes of resolution available including, but not limited to, counselling, training and facilitation.

### **Formal Routes of Resolution**

In the event informal routes of resolution are either unsuitable or unsuccessful, a formal investigation of the complaint will be conducted.

**Formal Internal Investigation** - where a formal investigation (co-lead by the manager/supervisor/Division Head/Department Chief and a Human Resources representative) is conducted into an employee's complaint to determine if he or she, or someone else in the Hospital, is being discriminated against or harassed.

**Formal External Investigation** – where the management team, medical affairs (where applicable) in consultation with the Human Resources Department, deems it necessary to contract services of an external party to conduct an investigation into the allegations raised in the complaint, the process would also necessitate approval for the CEO for such contracting services.

### **Role of Complainant**

To initiate a formal investigation the person complaining (“the complainant”) must prepare a formal written complaint containing the allegations of discrimination and/or harassment and give it to either their manager/supervisor/Division Head/Department Chief, Medical Affairs (where applicable) Human Resources Department or a Union representative within thirty days of the incident or event giving rise to the complaint, wherever possible. The manager/supervisor/Division Head/Department Chief, Medical Affairs (where applicable) or Human Resources will assess the situation and determine whether there are grounds to the complaint and if the alleged behaviour is contrary to the *Code*.

If so, the complaint will be investigated in a timely and unbiased manner. A decision may be made to not investigate a complaint if on its face it is groundless or the behaviour is not contrary to the *Code* or to refer the complainant to the process as set out in the hospital's Conflict Resolution Policy.

It is understood that Humber River Hospital, in any circumstances, may conduct an investigation where it has concerns that there may have been inappropriate workplace activity that is in violation of this policy.

If the complainant believes that the individuals conducting the investigation may have a conflict of interest, they should put their concerns in writing and submit them to Human Resources or Medical Affairs (where applicable) who will assess the situation and determine who would be the appropriate individual(s) to conduct the investigation.

### **The Investigation Process**

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Once the complainant's written complaint has been reviewed, the individuals conducting the investigation will meet with the complainant to provide an opportunity to present his or her claims.

The person(s) accused of discrimination or harassment ("the respondent(s)") will be given an equal opportunity to respond to the allegations. The respondent will meet with the individuals conducting the investigation to present his or her reply. The respondent can request the assistance of their supervisor/manager, Human Resources, Medical Staff Association representative (where applicable) or their Union representative; that person can answer questions and provide general support throughout the process.

Individuals who may be able to provide information relevant to the investigation will also be interviewed. Once all of the relevant information is gathered, the individuals conducting the investigation will prepare a report which will contain the investigator's findings, conclusions and, if appropriate, recommendations regarding the appropriate action.

### **Confidentiality**

All complaints received under this policy shall be considered strictly confidential to the extent possible, subject to the Hospital's obligation to resolve the matter and as required by law.

The parties to the complaint, including witnesses, are expected to maintain confidentiality. Failure to do so may result in disciplinary action.

Any and all documentation, including records of meetings, interviews, and results of investigations that pertain to the complaint will be maintained in a separate and confidential file in the Human Resources Department and retained for seven years, or by Medical Affairs (where applicable).

### **Duration of the Investigation Process**

There are a lot of different variables that can be involved in a complaint. It is the Humber River Hospital's goal to conclude any complaint within forty-five days. If the resolution or investigation will take longer than forty-five days, the complainant and the respondent will be notified and an explanation will be provided as to the delay.

### **Outcome of the Investigation**

The complainant and the respondent will be advised of the outcome summary of the investigation, in writing. The confidential report will be kept in a separate file in the Human Resources Department or in Medical Affairs (where applicable). The information obtained about an incident or complaint of workplace harassment, including identifying information about any individual involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.

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If, after the investigation, it is determined that discrimination and/or harassment has taken place, or that the complaint was false and made in bad faith, the Hospital will take appropriate corrective or disciplinary action.

Corrective action may include one or more of the following:

- a formal apology
- counselling concerning the inappropriate behaviour, and an undertaking to come to a better understanding of human rights issues
- written warning placed in the individual's file
- change of work station where possible (it is understood that the complainant may also request a move)
- demotion
- suspension or discharge of an employee, or termination of volunteer, including notification of the appropriate professional association
- a systemic remedy
- monetary or other compensation, where it is found that an employee lost income because of a discriminatory practice
- In the case of physicians, a standard escalating disciplinary action framework will be followed. Discipline could include up to recommendation for suspension or revocation of hospital privileges.

Where an investigation results in a formal written warning or disciplinary action, this information will be placed in the offender's Personnel or Medical affairs file. Where the complaint has not been substantiated, no reference will be placed in the Personnel file of either party.

Recurrences of inappropriate or offensive behaviour will result in further corrective or disciplinary action up to and including dismissal or recommendation or revocation of hospital privileges in the case of physicians.

If the harasser is not a member of the Hospital Community, a letter of complaint may be sent to the individual, his or her organization, or governing body. The individual may be barred from Hospital premises if deemed necessary. Where a complaint is received from others in the Hospital, such as Occupational Health and Safety or Risk and Quality, and the complaint is based on discrimination and/or harassment, it will be dealt with through this policy.

## Monitoring

If corrective action is taken, the accountable manager(s) will do a follow-up within three months in order to ensure that:

- Discrimination and/or harassment has stopped;
- There are no incidents of reprisal/retaliation;
- Complainant, and responder if necessary, is assured of the Hospital's ongoing support.



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## Retaliation or Reprisal

Retaliation is unlawful and will not be tolerated. For the purposes of this policy, retaliation against an individual:

1. For having invoked this policy (whether on behalf of oneself or another individual) or
2. For having participated or cooperated in an investigation under this policy; or for having been associated with a person who has invoked this policy or participated in these procedures, will be treated as harassment and dealt with accordingly.

## Additional Considerations

Where the complainant or the respondent disagrees with the outcome of the complaint, a review of the decision may be requested. The request must be made in writing within one month of being informed of the outcome, be addressed to the CEO/President and/or Chief of staff in the case of physicians, and explain the reason for the request. The review process does not preclude an employee from filing a grievance under her or his collective agreement; however, an employee may pursue only one of these approaches at a time.

The President and or Chief of Staff in the case of physicians will select another individual to assist in reviewing the complaint, and will employ any means deemed appropriate to conduct the review. Humber River Hospital is committed to addressing and eliminating workplace discrimination and harassment, however, an employee always maintains the right to file a complaint with the Ontario Human Rights Commission at any stage of the complaint procedure or, if applicable, to file a grievance under the collective agreement.

## Accountability / Responsibility

As describe in the policy

## Definitions

None applicable to this policy

## Documentation

Investigation Guideline, Reference #8144

## **Infection Prevention and Control Considerations**

All patients will be cared for using Infection Prevention and Control Routine Practices and Additional Precautions as outlined in **Provincial Infectious Diseases Advisory Committee (PIDAC): Routine Practices and Additional Precautions**, Ministry of Health and Long-term Care, as per HRH policy. All staff will perform Hand Hygiene as per HRH guideline.

## **Next Review Date**

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This policy will be reviewed as often as necessary, but at the very least, annually.

The next date of review will be no later than July 5, 2019.

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[References](#)