



Workplace Violence, Harassment & Discrimination Policy

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1. POLICY STATEMENT

Strathroy Middlesex General Hospital Foundation (SMGH Foundation or the employer) does not tolerate or condone discrimination, harassment or violence in the workplace. Under the Ontario Human Rights Code every employee has the right to be free from discrimination or harassment from the employer, agent of the employer or by another employee based on the following prohibited grounds: race, ancestry, religious beliefs, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy and breast feeding), status (including same sex partnership status), sexual orientation, age, record of offences for which a pardon has been granted, marital or family status, disability or political affiliation. Under the Occupational Health and Safety Act, harassment and/or violence in the workplace are not acceptable and are not limited to the prohibited grounds outlined in the Ontario Human Rights Code.

2. PURPOSE

It is the distinct obligation of the employer, as per the *Occupational Health & Safety Act*, to protect workers from workplace harassment. Thus, it is the mandate of SMGH Foundation to provide all employees, directors, officers and volunteers (Individuals) with a safe workplace environment, free from discrimination, harassment and workplace violence. Employees have the right to work in an environment that respects the dignity, self-worth and basic human rights of every individual. As such, this policy outlines what is deemed to be unacceptable practices and behaviours in the workplace, whether intentional or unintentional, that are either directed at another employee(s) or affect an employee(s) in a manner that is felt to be unwelcome. This policy also outlines the processes, responsibilities and potential outcomes that are to be adhered to in the workplace to make this workplace a safe and respectful workplace for all Individuals

3. DEFINITIONS

Discrimination involves the unequal treatment of a person based on, but not limited to, the prohibited grounds listed below. Discrimination can be intentional or unintentional. It can occur where the employer has a requirement or policy that does not appear to discriminate but which affects people differently based on the protected grounds of discrimination. The corporation is committed to the elimination of systemic barriers that prevent anyone from full participation in the organization.

Discrimination includes, but is not limited to:

- Prejudice or overt bias in any workplace context towards individuals of a protected grounds;
- Stereotyping or racial profiling;
- Sexism, racism, ageism, homophobia;
- Offensive comments, jokes or behaviours that disparage or ridicule a person;
- Refusing to work, communicate or cooperate with another individual due to their status under the protected grounds.

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Harassment under the Occupational Health and Safety Act is defined as “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”

Although this definition of harassment under the OH&SA implies that the behavior must happen more than once, if the conduct is sufficiently serious a single occurrence may constitute harassment.

Harassment or Bullying includes but is not limited to:

- Verbally abusive behaviour such as yelling, insults, ridicule and name calling, including unwelcome remarks, jokes or innuendos that demean, intimidate or offend;
- Repeated offensive contact with an individual(s), whether it be in person, email, phone, etc.;
- Refusal to work with, cooperate and/or communicate with another individual for unjustified reason;
- Vandalism of personal property.

Sexual Harassment under the Occupational Health and Safety Act is defined as:

“Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.”

Sexual harassment may include, but is not limited to:

- Unwelcome sexual comments made either towards another individual or within earshot of individuals who may deem said comments unwelcome;
- Inappropriate sexual touching, advances or suggestions, leering or stalking, including demands or requests for sexual favours, especially by a person who is in a position to confer a benefit;
- Displaying or circulating offensive pictures or materials in print or electronic form; Leering or other offensive gestures;

Note: Certain actions or behaviours that are not considered ‘harassment’ as per the definition under the *Human Rights Code* or the *Occupational Health & Safety Code* are addressed under the *Acceptable Workplace Conduct Policy* and are subject to discipline accordingly under the terms of said policy.

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“Workplace Harassment ” does not include reasonable actions taken by an employer or supervisor to carry out management and Board directives.

This includes, but is not limited to:

- Exercising appropriate supervisory or management responsibilities as operationally required and/or as required by company policy or employment requirements;
- Appraisals of performance, constructive criticism or direction when required, appropriate discipline up to and including termination by management;
- Actions or conduct by an individual(s) that is mutual and/or not thought to be unwelcome but still appropriate as per the terms of this policy.

Workplace Violence can be defined/includes but is not limited to:

- The use of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- An attempt to use physical force against a worker, in a workplace, that could cause physical injury to the worker;
- A statement or behaviour that it is reasonable for a worker to interpret as a threat to use physical force against the worker, in a workplace, that could cause physical injury to the worker.

Workplace violence is the use, statement or behaviour of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker, such as:

- Physical acts (e.g., hitting, shoving, pushing, kicking, sexual assault).
- Any threat, behaviour or action which is interpreted to carry the potential to harm or endanger the safety of others, result in an act of aggression, or destroy or damage property.
- Disruptive behaviour that is not appropriate to the work environment (e.g., yelling, swearing).
- Attempting an act of physical violence or threatening actions made to another individual (e.g., shaking a fist in a worker’s face, wielding a weapon or sending threatening notes to another worker).

4. POLICY

The objective of this policy is to provide guiding principles and approach to address workplace harassment and discrimination in SMGH Foundation.

5. SCOPE

This policy applies to all directors, officers, employees, and volunteers (Individuals) of SMGH Foundation. This policy applies to any location where Individuals are engaged in work related activities. These include but are not limited to:

- The workplace;
- In the course of work being performed, activities directly related to work or workplace assignments outside of the workplace;
- During workplace travel or required over-night accommodations;
- Employment related or sponsored social functions or events;
- During telephone, email or other communications.

This policy also applies to situations in which Individuals are harassed in the workplace by others who are not employees of the organization, such as customers and suppliers; although the available remedies may be constrained by the situation.

6. TRAINING

All Individuals will be trained for anti-workplace violence and harassment awareness and the reporting process for any alleged incidents brought forth. This training will be provided to employees upon commencement of employment. Refresher training on the subject will be provided to employees as required as per the principles of due diligence. This training is a continued condition of employment for all employees.

7. PREVENTING HARASSMENT

Individuals are responsible to ensure the working environment is free from discrimination, harassment and violence. SMGH Foundation will not condone an unsafe environment, nor will they condone any level of employee contributing (condoning a behaviour by not coming forward) to an individual being treated in a disrespectful or harmful way.

8. RESPONSIBILITIES

SMGH Foundation will ensure the workplace is free from discrimination, harassment and violence by not tolerating or condoning these behaviours. This includes:

- Educating employees on this policy and the terms therein, reviewing policy regularly, and providing appropriate training as needed;
- Addressing complaints via mediation and/or investigation. SMGH Foundation reserves the right to utilize a third party in the investigation and/or decision stages of the process;
- Taking appropriate corrective and/or disciplinary action if necessary;

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- Making the appropriate reports available as required, if applicable (Joint Health & Safety Committee, Union, Ministry of Labour, WSIB).

Managers and supervisors are required to act immediately on observations or allegations of discrimination, harassment or violence. They are responsible to:

- Ensure they offer an 'open door' to receive, discuss and move forward on allegations;
- Ensure the immediate safety, if applicable, of any employee coming forward with a serious and immediate concern;
- Must be aware of what constitutes discrimination, harassment and workplace violence and the procedures that are in place to deal with said allegations;
- Bring forward allegations to their supervisor and/or the Chief Executive Officer immediately;
- If required, conduct or cooperate in the facilitation of an investigation;
- Ensure their actions adhere to the terms laid out in this policy.

Every Individual to whom this policy applies has a responsibility to ensure that the working environment is free from discrimination, harassment and violence by:

- Fostering an environment based on mutual respect and dignity by treating each other accordingly, supporting this policy, refraining from any form of discrimination, harassment and violence and not ignoring harassment in the workplace;
- Advising any member of management and/or Human Resources of an incident of apparent discrimination, harassment and violence or any other incident of retaliation against any person for invoking this policy;
- Co-operating in an investigation and handling of any complaints of discrimination, harassment and violence. Holding each other accountable.

Important: Any manager, supervisor or Individual who fails to meet their obligations as laid out in this policy may be deemed culpable and hence, may be subject to discipline accordingly.

9. REPORTING INCIDENTS OF DISCRIMINATION, HARASSMENT OR VIOLENCE

9.1. CONFIDENTIALITY

All complaints of discrimination, harassment or violence, whether formal or informal, will be handled as expeditiously and discreetly as possible to maintain the dignity and respect of both the complainant and the alleged offender.

To protect the interest of the complainant, alleged offender and any potential witness to an alleged incident, confidentiality is maintained throughout the investigatory process to the extent practical and appropriate under the circumstances. However, in order to provide due

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process to respondents, anonymous complaints or those wherein the identity of the alleged victim and/or respondent is intentionally concealed should not be accepted.

9.2. DOMESTIC VIOLENCE

Where the SMGH Foundation is aware of or has reason to believe that the potential for domestic violence may occur or enter into the workplace, the SMGH Foundation will take every reasonable precaution to protect an employee at risk by taking measures that protect all workers.

9.3. INFORMAL PROCEDURE

It is important to remember that what one person finds offensive, another person may not. Thus, in such cases where the Individual feels safe, it is important for them to attempt to educate or make a person aware that their action, behaviour or communication was in fact unwelcome or thought to be offensive.

If you feel safe and comfortable:

- Advise the individual to stop their offensive conduct;
- Explain to the individual why their conduct is offensive and refer to this policy. This step may be offered verbally to the individual or in writing;
- Document the complaint and keep a written record outlining the incident, including the name of the person involved, details of the incident, date, time, location and witnesses if applicable.

If you feel unsafe or uncomfortable bringing forward the incident to the person responsible, or you have attempted to bring forth the issue and the individual was not responsive to your efforts, you may seek the assistance of your immediate supervisor/manager or human resources.

9.4. FORMAL PROCEDURE

In cases where the informal procedure was unsuccessful, and the individual feels that they have been a victim of discrimination, harassment or violence and/or in the course of hearing the complaint the manager/supervisor feel the incident too serious to handle via informal measures, the complainant may submit a formal, written complaint to the Chief Executive Officer.

The written complaint should include:

- The date, time and location of the incident;
- The name of the person or persons involved;
- The name of any person or persons who witnessed the incident;
- A detailed description of what occurred.

9.5. ALTERNATIVE REPORTING PROCEDURE

In the case where a Non-profit Individual feels they have been allegedly harassed or sexually harassed by their supervisor, manager, Chief Executive Officer, director or officers, members of the committee of the SMGH Foundation, the Non-profit Individual may report their complaint directly to the Chair of the Governance Committee or if Chair of the Governance Committee is of the concern, then the Board Chair. This alternative reporting procedure should be used in those cases where the Non-profit Individual does not feel safe or comfortable to discuss this incident or behaviour directly with the person being accused.

The SMGH Foundation reserves the right to utilize the services of a third party to receive and potentially investigate complaints.

9.6. IMMEDIATE & INTERIM MEASURES

In certain situations, it is the responsibility of the Chief Executive Officer to determine if the claimant's safety is at risk and/or the incident was of such a serious nature to take immediate measures. Such interim measures may include involving the police, relocating the claimant and/or respondent within the workplace or placing the respondent on a non-disciplinary suspension with pay pending the outcome of the investigation. The implementation of interim measures may mean that certain terms within this policy, including confidentiality, will be set aside.

9.7. INITIAL DETERMINATION

Upon receipt of the written complaint, the Chief Executive Officer or any other officer as designated by the Chief Executive Officer will meet with the complainant to clarify the details of the complaint, if necessary.

At this point, the Chief Executive Officer or any other officer as designated by the Chief Executive Officer will review the complaint and make the necessary determination that 'if the allegation made in the complaint were to be true, would the alleged actions constitute discrimination, harassment or violence as per the terms of this policy, the Occupational Health and Safety Code and/or the Human Rights Code.'

If the determination is that the actions would be a violation of one of the afore-mentioned Acts or policy, the complaint will progress through the investigation process provided in Clause 9.8

Should the determination be that the action would not constitute a violation of the before-mentioned Acts or policy, written notice will be provided to the claimant and an alternative means of dispute resolution will be sought by management.

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Please note: If the later should be the case, the actions of the respondent may still be a violation of the SMGH Code of Conduct and Ethics and subject to investigation and potential discipline under the terms of said policy.

9.8. INVESTIGATION

The SMGH Foundation reserves the right to make the determination whether the investigation will be conducted internally or referred to an external investigation process. If appropriate, an investigator will be appointed as soon as is reasonably possible as approved by the Governance Committee.

A copy of the complaint should be provided to the alleged offender within 2 to 5 days. The investigation should commence within 2 to 5 days of an investigator being appointed and will include:

- Interviewing the complainant and alleged offender to ascertain all facts and circumstances relevant to the complaint, including dates and locations;
- Interviewing witnesses, if any;
- Reviewing the related documentation and;
- Making detailed notes of the investigation and maintaining them in a confidential file.

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings and submit the report to the Chief Executive Officer. A summary of the findings will also be provided to the complainant and the alleged respondent.

9.9. OUTCOMES

The decision will be one of the following:

- The complaint is substantiated, and appropriate corrective action or disciplinary action will be taken, ranging from a formal written apology, awareness re-training and on the terms of this policy and/or formal discipline up to and including termination of the employment relationship with cause;
- The complaint is unsubstantiated; no further action required;
- The complaint is unsubstantiated and made in bad faith and/or with improper motive. In such cases appropriate disciplinary action will be issued to the claimant.

The employer will inform both the accuser and the alleged perpetrator of the outcome of the investigation and any corrective action issued as it related to the incident. The employer will provide the information necessary to satisfy this requirement under the Occupational Health & Safety Act, still being mindful of the confidentiality of both parties.

9.10. BAD FAITH/VEXATIOUS COMPLAINT

If a complaint is found to have been made knowing that the allegations are false or purely for a vindictive or malicious purpose, the complainant will be subject to corrective or disciplinary action up to and including termination. If a complaint is made in good faith the complainant will not be subject to any form of discipline, regardless of the outcome of the investigation.

10. NO REPRISALS

No Non-profit Individual will suffer reprisal, retaliation or intimidation as a result of pursuing a complaint or participating in an investigation under this policy or for pursuing any other options available for addressing said issues, including filing a complaint with the Human Rights Commission. Individuals responsible for issuing any type of reprisal will be disciplined accordingly and immediately.

11. RIGHT TO REFUSE UNSAFE WORK

It is the right of every employee under the Occupational Health and Safety Act to refuse work should you have legitimate cause to feel at risk or in danger while performing your duties. This includes causes outlined in this policy. Please refer to the company's Occupational Health and Safety policy for the process regarding work refusal.

12. TIMING

Any complaint should be brought forth as soon as possible and in any event, no later than six (6) months of the last incident of discrimination, harassment or violence unless the delay in bringing the complaint was incurred in good faith and the delay does not affect any of the parties' ability to respond to the allegations. Where failure to bring a timely complaint affects the employer's ability to conduct a full and complete investigation, the employer may have grounds to decline to deal with a complaint.

13. POLICY REVIEW

The Chief Executive Officer/Governance Committee/ Board shall review this policy as and when required or at least once in a three-year, whichever is earlier.