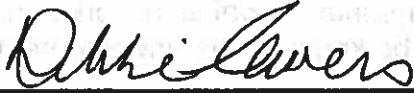


**COMMUNITY LIVING BRANT  
POLICY AND PROCEDURE MANUAL**

<b>SUBJECT:</b> Harassment	<b>POLICY NO:</b> 9.11 Page 1 of 9
<b>FILE UNDER SECTION:</b> 9 - Personnel	<b>EFFECTIVE DATE:</b> May 17, 1995 <b>REVISION DATE:</b> August 2016



**Debbie Cavers, Executive Director**

**PURPOSE:**

To ensure that all people, including people receiving services, employees, Board, volunteers, and students, have the right to participate equally in Agency activities without fear of harassment.

**POLICY:**

Community Living Brant is committed to providing an environment, which affirms and promotes the dignity of human beings of diverse backgrounds and needs and does not condone and will not tolerate any form of harassment.

The Harassment Policy and Procedure covers all people receiving services from Community Living Brant and its employees, Board, volunteers, and students in their relation to each other and between all such people.

All enquiries/complaints shall be treated in a confidential manner and handled as expeditiously as possible.

Retaliation against an individual for making a complaint is prohibited and will not be tolerated.

This policy is consistent with the Occupational Health and Safety Act, Ontario Human Rights Code, the Violence in the Workplace Policy and Procedure, and other relevant and applicable legislation and policies of Community Living Brant and shall be reviewed annually by the Joint Health and Safety Committee.

**PROCEDURE:**

**1.0 Defining Harassment**

1.1 Ontario Human Rights Code [Part 2-9 (1) (f)] defines harassment as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome."

1.1.1 Under the Code, every employee has a right to be free from harassment in the workplace on the following grounds: race, color, creed, marital status, ancestry ethnic origin, age, family status, place of origin, citizenship, disability, record of offenses. All employees have the right to be free from harassment on the basis of sex and to be free from sexual solicitation and reprisals for refusing or rejecting sexual advances.

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- 1.2 The Occupational Health and Safety Act defines Workplace Harassment as “engaging in a course of vexatious comments or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. Or workplace sexual harassment.
- 1.3 Workplace Sexual Harassment is defined under the Occupational Health and Safety Act 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”.
- 1.4 Personal harassment takes on many forms and may be one incident or a series of incidents. It can be defined as any repeated, intentional, offensive comment, behavior or action made by individuals who know or ought reasonably to know that such comments are demeaning to an individual or cause personal humiliation. It is also defined as misuse of power such as intimidation, threats, blackmail and/or coercion. Personal harassment occurs when an individual uses his/her authority or position with its implicit power to undermine, sabotage or otherwise interfere with another person. In any form, harassment is to be viewed as disruptive and undesirable, affecting the well-being of any individual in their environment.
- 1.5 Harassment is not an isolated compliment or remark, relationships between consenting adults which are voluntary and are based on mutual understanding, nor the normal exercise of supervisory responsibilities, including training, counseling and disciplining when necessary.

## **2.0 Defining the Workplace**

- 2.1 The workplace includes but is not limited to the offices and buildings of the Agency. "Workplace" would include:
  - Any location where the business of the Agency is being carried out (e.g. work sites, vehicles), and
  - Other locations and situations (e.g., training workshops) where the prohibited behavior may have subsequent impact on the work relationship, environment or performance.

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**3.0 Complaint Process - Internal**

There are four (4) ways an individual may choose to deal internally with a complaint or concern under this policy.

Option 1 - Dealing directly with the harasser.

Option 2 - Requesting informal action and resolution.

Option 3 - Filing a formal complaint.

Option 4 - Filing a grievance, if applicable.

**3.1 Option 1 - Dealing Directly With the Harasser**

Individuals who experience harassment should first attempt to make it known to the person(s) responsible that the behavior is offensive and contrary to the Agency's policy and request that it stop. The harasser(s) may not realize that their behavior is unwelcome and offensive. In many instances, this will stop the offensive behavior.

The Agency recognizes that, in some situations, this may be difficult or inappropriate, or the individual may have told the harasser to stop but the offensive behavior continues. In this case, the individual should take action as outlined in Option 2.

**3.2 Option 2 - Requesting Informal Action and Resolution**

Harassment is often 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 formal investigation.

Individuals who have unsuccessfully tried to deal directly with the harasser or who feel that a direct approach is inappropriate may choose to have the matter dealt with on an informal basis with the assistance of others prior to proceeding with a formal complaint.

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 in the Agency. If an individual is unsure whether they have experienced harassment or would like to proceed with the matter on an informal basis in the interest of seeking an informal resolution, they should report the incident immediately, or within a reasonable time, to the harasser's Immediate Supervisor/ designate. If the alleged harasser is the immediate supervisor the employee may wish to approach a director/designate.

Where attempts to achieve an informal resolution of the problem are unsuccessful or inappropriate, a formal complaint may be filed which shall result in an investigation by the Director, Administrative Support Services in accordance with the procedure as outlined in Option 3.

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**3.3 Option 3 - Filing a Formal Complaint**

A formal internal complaint can be filed directly with the Director, Administrative Support Services or Supervisor, Director, Executive Director or Union Steward as appropriate.

The complaint must be submitted in writing, signed, and include a description of the incident, witnesses, if any, and steps already taken to resolve the matter.

Where an individual is unable, or under the circumstances it is unreasonable to request a written complaint, assistance will be made available to ensure the complaint is factual.

Where a complaint is received by a Supervisor, Director or Union Steward, it is their responsibility to ensure that the Director, Administrative Support Services is notified, in writing, about the complaint within two (2) working days from when the complaint was received.

The Director, Administrative Support Services shall acknowledge receipt of the complaint within five (5) working days to the complainant and the Supervisor(s)/Director(s)/Union Steward(s), as appropriate.

The Director, Administrative Support Services shall contact the complainant for clarification and/or further information.

The alleged harasser has the right to be notified of the complaint and the nature of the complaint and shall be notified by the Director, Administrative Support Services within five (5) working days following acknowledgment to the complainant.

A file shall be opened by the Director, Administrative Support Services on all formal complaints. Summaries and notes from previous informal actions and resolutions may be requested by the Director, Administrative Support Services and appended to the complaint file as background information.

All formal complaints shall be investigated in accordance with the investigative process as outlined in Section 4.0 of this policy.

The Director, Administrative Support Services shall be responsible for the investigation of complaints except in situations where it is necessary or appropriate to have the investigation carried out by an external third party.

Individuals have the right to pursue other remedies in law, including instituting a grievance under the Collective Agreement, following or at any time during the

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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.

**3.4 Option 4 - Filing a Grievance**

Employees who are covered by a Collective Agreement can exercise their rights to file a grievance and may seek the assistance or advice of their Union Steward/Representative.

**4.0 Investigation of a Formal Complaint**

The Director, Administrative Support Services shall engage in an investigative process, which involves three primary stages.

**4.1 Fact Finding**

The Director, Administrative Support Services shall conduct confidential interviews with relevant parties to obtain information and clarify the details of the reported incident. Both parties shall 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 shall be conducted in a confidential manner, and all efforts shall be made by the Director, Administrative Support Services to deal with the interviews in a manner, which respects the nature of the work environment.

The Director, Administrative Support Services shall document the results and conclusions of the investigation after interviewing the complainant, respondent and any relevant witnesses including co-workers, if necessary.

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

**4.2 Preliminary Findings**

Where the information revealed early in the investigation suggests a reasonable possibility of resolution, the Director, Administrative Support Services may decide to propose an early settlement prior to conducting the entire investigation. Where this situation arises, the Director, Administrative Support Services shall 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

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agreement of all parties without further investigation.

Where agreement is reached and the matter deemed resolved, the Director, Administrative Support Services shall prepare a Summary Report for the Director(s) and appropriate Supervisor(s).

#### **4.3 Further Investigations**

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

4.3.1 The Director, Administrative Support Services shall subsequently schedule meetings with the complainant, alleged harasser, Supervisor and appropriate Director, where necessary, 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.

4.3.2 A summary of the complaint and results of the investigation shall be provided to the appropriate Director(s) and the parties affected by the outcome.

#### **4.4 Time Limits**

The investigative process shall normally be concluded within sixty (60) working days from the date the complaint was made.

### **5.0 Results of Investigation**

#### **5.1 Complaint Supported**

Where the results of the investigation support 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 discharge.
- Continuous monitoring.

Where deemed reasonable and appropriate, the Director, Administrative Support Services, in consultation with the Director(s), Supervisor(s), harasser and complainant, may propose and develop a more comprehensive strategy for the



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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 shall a notation be made on the employee's personnel file.

The investigation file shall 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.

**5.2 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.

**5.3 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, Administrative Support Services may make recommendations for change or further investigation of a systemic nature.

Generally, there are two situations where the Director, Administrative Support Services may recommend an investigation:

- Where there is a focused pattern of inquiries and/or complaints over time but not corrected, or which suggests the existence of a specific problem which has been identified.
- Where there is reason to believe that a broader systemic problem exists in the work environment, which causes, contributes to or encourages harassment.

Prior to proceeding with an independent investigation, the Director, Administrative Support Services shall draft a summary of the situation, providing reasonable grounds for recommending investigation in the absence of a specific complaint. The summary shall be presented to the Director(s) in question, Executive Director or President of the Board of Directors for consideration. Where an investigation under this section is approved, the appropriate parties shall be advised of the intent to conduct a systemic investigation, the reasons for initiating the investigation and the process/procedures, which will be implemented.

**5.4 Malicious Complaints**

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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 action shall be placed in the employee's personnel file.

The complainant (now the respondent to allegation 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.

## **6.0 Post-Investigation**

### **6.1 Monitoring**

Follow-up is a critical component of effective complaint resolution. Unless the complaint has been dismissed, once a resolution of the complaint has occurred, the Director, Administrative Support Services and/or the appropriate Supervisor shall monitor the situation. Normally, follow-up should occur periodically over a minimum six (6) month period from the date of resolution. All follow-up interviews, which are not conducted by the Director, Administrative Support Services, must be documented and the documentation forwarded to the Director, Administrative Support Services.

### **6.2 File Retention and Disposal**

Upon determination and notification of a complaint, either supported or unsupported, the file shall be closed and retained in the Human Resources Department. All closed files shall be retained in the Human Resources Department for a period not less than five (5) years from the date of closing.

Disposal of investigative files shall be done in an appropriate manner.

### **6.3 Annual Reporting**

The Director, Administrative Support Services shall submit an Annual Report to the Executive Director at the end of each calendar year, summarizing all complaints, including formal complaints investigated and education and training conducted.

### **6.4 Reopening of Files**

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



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- New and relevant information regarding a closed case.
- New incident of harassment post-closure by same respondent.
- Reprisal is alleged to have occurred.

**7.0 Communication of Harassment Policy and Procedure**

It is important that all persons covered by this Policy and Procedure be aware of the Harassment Policy and Procedure.

- 7.1 The Harassment Policy and Procedure shall be part of all orientation programs and shall be reviewed by all employees annually.
- 7.2 "Stopping Harassment - A Complainant's Guide to Options and Procedures" Handbook shall be available in all areas of the Agency.

