

**CORPORATE POLICY & PROCEDURE
ANTI-RACISM, HARASSMENT AND DISCRIMINATION FREE WORKPLACE
ROHCG
CORP V- 100**

ANTI-RACISM, HARASSMENT AND DISCRIMINATION FREE WORKPLACE			
SECTION:V - Human Resources		NO: 100	
Issued By:	Chief Operating Officer & Chief Financial Officer	APPROVAL DATES :	
Approved by:	Board of Trustees	Date Initially Issued: 05/02/2009	
		Date Reviewed: 01/02/2010, 09/08/2012, 12/08/2020, 01/02/2021	
		Date Revised: 14/04/2010, 30/04/2013, 27/05/2013, 13/02/2018, 08/03/2019, 10/12/2021	
Key Words:	Code of Conduct, Code of Behaviour, anti-racism, anti-discrimination, anti-harassment, anti-bullying, intimidation, harassment, sexual harassment, racism, conflict of interest, complaints, Bullying, Harassment, respectful workplace	Cross Reference(s)	Date Implemented: 16/06/2009, 20/06/2013, 22/02/2018, 20/06/2019, 01/01/2022
			CORP IV-i 110 Prevention & Management of Violence, CORP II-i 100 Whistleblower; CORP IX-i 110 Code White, CORP VII-iii 100 Patient Incident Reporting & Response, CORP IV-ii 160 Staff Incident Reporting

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1. PURPOSE:

To outline the structures and processes for the reporting, managing and resolving of conflicts involving discrimination, intimidation and any type of harassment of individuals at the Royal Ottawa Health Care Group (ROHCG) and the development and maintenance of an anti-racism, discrimination and harassment-free workplace program to implement this policy.

2. POLICY STATEMENT:

The ROHCG is committed to providing and maintaining a work environment that is based on respect for the dignity and rights of everyone in the organization. It is our goal to provide a healthy and safe - both physical and psychological - work environment that is free from any forms of harassment or disrespectful behaviour. Disrespectful behaviour (as outlined in the ROHCG's *Code of Conduct*), discrimination, intimidation, harassment and sexual harassment in connection with the workplace are unacceptable and will not be tolerated. To foster prevention, the ROHCG will promote the benefits of a workplace that is free from harassment, intimidation and discrimination while meeting the legal requirements of the *Occupational Health and Safety Act (OH&SA)*, *Ontario Human Rights Code* and associated standards and regulations. Where conflict occurs the ROHCG will encourage a problem-solving approach through informal means and, where needed, will undertake a prompt and formal investigation processes. The ROHCG recognizes that harassment, sexual harassment, intimidation and discrimination can adversely affect an individual's work and their psychological health and safety and will investigate complaints in a timely manner. Disrespectful behaviour, racism, discrimination, intimidation, harassment and sexual harassment by staff will be subject to discipline up to and including termination of employment or their engagement by the ROHCG. All individuals will be informed by posted signage, written material and via the ROHCG's external website that the ROHCG is a

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workplace that strives to be free from discrimination, intimidation and any type of harassment.

3. SCOPE:

This policy applies to all staff, patients/clients, families and visitors of the ROHCG including the Institute for Mental Health Research (IMHR), Royal Ottawa Volunteer Association (ROVA) and the Royal Ottawa Foundation for Mental Health (ROFMH). This policy applies to all activities that occur while on workplace premises or while engaging in off-site activities or social events organized by the ROHCG and any associated social media.

4. GUIDING PRINCIPLES:

The ROHCG recognizes and values individual differences, and will strive to ensure full use of everyone's skills, capabilities and talents by encouraging diversity and recognizing that workplace issues can be addressed in a number of different ways. The ROHCG's *Code of Conduct (Appendix 1)* outlines the expectations of how all staff act in the workplace. Disrespectful behaviour shall be dealt with at the time of the occurrence by the most responsible manager. Should this not be resolved at the initial stages using the progressive disciplinary process or other methods where the disciplinary process is not appropriate, then the processes within this policy may be initiated. This policy prohibits reprisals against individuals, acting in good faith, who report incidents of harassment, sexual harassment, intimidation or discrimination under this policy or who participate in the investigation process. The ROHCG will take all reasonable and practical measures to prevent reprisals, threats of reprisal, or further harassment following complaints under this policy.

5. DEFINITIONS:

Abuse of Authority is a form of harassment and occurs when an individual improperly uses the power and authority inherent in their position. This harassment may include: endangering an individual's job; undermining the performance of that job; threatening the economic livelihood of the individual; threatening an individual's psychological wellbeing or; in any way interfere with their career. It includes verbal abuse, intimidation, threats, blackmail or coercion. It does not include the proper exercise of managerial authority in connection with coaching or counseling, assignment and monitoring of work, performance evaluation or discipline. Abuse of authority may also occur in a staff to patient/client relationship.

Discrimination means any adverse differential treatment on the basis of the prohibited grounds of discrimination described in the *Ontario Human Rights Code*.

Racism: any distinction, conduct or action, whether intentional or not, but based on a person's race, which has the effect of imposing burdens on an individual or group, not imposed upon others or which withholds or limits access to benefits available to other members of society. Race need only be a factor for racial discrimination to have occurred.

Reprisal: is defined as any act of retaliation either direct or indirect.

Sexual Harassment: engaging in a course of vexatious comment or conduct against a worker (or other staff member) 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 individual making the solicitation or advance is in a position to confer, grant or deny a

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benefit or advancement to the individual and the individual knows or ought reasonably to know that the solicitation or advance is unwelcome.

Workplace Harassment: engaging in a course of vexatious comment or conduct against a worker (or other staff member) in a workplace that is known or ought reasonably to be known to be unwelcome. Examples of harassment include, but are not limited, to a pattern of behaviour of repeated words or actions, such as bullying, making inappropriate jokes, offensive remarks or innuendos that demean, ridicule, intimidate, offend or serve to isolate a individual in the workplace. It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers. Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including but not limited to:

- measures to correct performance deficiencies such as placing someone on a performance improvement plan
- imposing discipline for workplace infractions
- requesting medical documents in support of an absence from work
- enforcement of workplace rules and policies

Workplace Intimidation: To frighten someone into doing or not doing something, by means of violence, threats or blackmail. To create a feeling of fear, awe, or inadequacy in another individual.

6. PROCEDURE:

6.1 Roles and Responsibilities:

6.1.1 All individuals are responsible for:

- Contributing to a workplace that is free from harassment, disrespectful behaviour and discrimination by treating Individuals with dignity and respect and in a manner that respects individual differences. This obligation extends to dealings with patients/clients, families and visitors, suppliers and interactions with other third-party workplace contacts.
- Communicating respectfully with individual(s) engaging harassing or discriminating behaviour that their behaviour is offensive and unwelcome. If this is not successful or if they are not comfortable given the circumstances staff will notify their immediate supervisor.
- Promptly reporting incidents of harassment or discrimination of which they are aware to their supervisor, manager or to Manager-Labour Relations and Conflict Resolution (LR & CR) as per the complaints process.
- Cooperating with any efforts to investigate and resolve matters brought forward under this policy and maintaining confidentiality in connection with the investigation and resolution process.

6.1.2 Senior Management is responsible for:

- Consulting with the Joint Health and Safety Committee (JHSC) in the development and maintenance of the anti-racism, discrimination and harassment free workplace program.
- Ensuring that training is provided to staff members in connection with this policy and the associated program.
- Ensuring that an appropriate investigation into incidents and complaints of workplace harassment is undertaken in accordance with the procedure outlined in this policy.

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- Ensuring that the results of the investigation and of any corrective action that has or will be taken as a result of an investigation will be communicated in writing in accordance with the procedures under this policy.
- Reviewing this policy and the program as often as may be necessary and at least annually.

6.1.3 Supervisors, Directors and Managers are responsible for:

- Supporting the creation and maintenance of an anti-racism, discrimination and harassment free-workplace and the implementation of this policy and the associated program.
- Ensuring all staff complete training on this policy and determine what additional unit specific orientation and training, may be required, and ensure that the training occurs.
- Supporting staff members in the application of this policy including referral to the OHSS and EAP as may be necessary.

6.1.4 Joint Health and Safety Committee is responsible for:

- Providing comments and recommendations to management in connection with the development and maintenance of the anti-racism, discrimination and harassment free workplace program.

6.1.5 The Unions are responsible for:

- Supporting a workplace that is respectful, anti-racist, healthy, safe and inclusive, and in which discrimination, harassment and bullying are not tolerated.
- Supporting staff in the process when requested.
- Supporting and participating in the resolution process (including mediation, if appropriate).
- Working cooperatively with other ROHCG management to expeditiously resolve concerns about harassment, discrimination and racism.

6.2 Confidentiality: Information about complaints and incidents shall be kept confidential to the extent possible. Information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless disclosure is necessary to protect individuals, to investigate the complaint or incident and take corrective action or otherwise as required by law.

6.3 Complaint Process: Appendix 2

6.3.1 Initiating the Complaints Resolution Process:

- Any individual associated with the ROHCG who believes that they have been the subject of, or may have witnessed racism, harassment and/or discrimination on a prohibited ground should consult their manager, Labour Relations and their union representative (as applicable) to determine whether the incident may be defined as a human rights violation under this policy and what steps may be taken to resolve the concern. Managers have a legal obligation to seek to resolve concerns about racism, harassment and/or discrimination under the Code and this policy, and must consult Labour Relations in seeking such resolution. Labour Relations will use this policy to guide whether an alleged incident of racism, harassment and/or discrimination falls under this policy.
- The complainant has the burden of proving a case of racism, harassment and/or discrimination when the complaint is presented - i.e., there must be sufficient evidence,

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at first appearance, that the harassment, discrimination or racism was linked to a prohibited ground. The complainant must show that discrimination occurred on a “balance of probabilities,” that is, it is more reasonable and probable than not that discrimination took place. The discrimination does not have to be intentional as intention is not required to find racism, harassment and/or discrimination has occurred.

- The respondent does not have the burden of disproving racism, harassment and/or discrimination. Once the “balance of probabilities” has been established, the burden shifts to the respondent to justify that the conduct is not in violation of the principles of the prohibited grounds. If it cannot be justified, discrimination will be found to have occurred. A complainant should initiate a complaint as soon as is reasonable and, in any event, must initiate the complaints resolution process no later than one (1) year from the date of the incident.
- Labour Relations, with direction from the Manager-LR & CR, will consider whether extenuating circumstances warrant permitting the complaints resolution process to be initiated later than the time frames described above. This consideration will include, but not limited to, the length of time elapsed and the reason for the delay. The ROHCG may take temporary measures to ensure the safety of the complainant during the complaints resolution process. Such temporary measures will not penalize the complainant for making a complaint. In situations where the complainant feels threatened in conjunction with the conduct that is subject to the complaint (i.e. racism, harassment and/or discrimination), Labour Relations will take appropriate measures to reduce the risk of physical and psychological safety.

6.3.2 Informal Complaints Resolution Process:

- Any individual who believes they are being or have been subject to intimidation, harassment or discrimination should make their disapproval clearly known to the alleged offender if they can, as soon as reasonably possible with a view to resolving the situation informally. The complaining party (“complainant”) should nonetheless make notes of the incident(s) specifying the dates(s), time(s), location(s) and the name of the individual(s) who are alleged to have harassed or discriminated, in case the matter is not resolved satisfactorily. If the perceived harassment or discrimination persists, complainants should seek immediate assistance from their supervisor or manager, if that individual is the alleged offender (“respondent”), then they should seek assistance from the next higher level of management. Assistance will be provided in a prompt, fair and transparent manner. Staff may also obtain advice from a Union Representative or the Manager-LR & CR. Disciplinary action will not be considered against an individual who falls within the scope of this policy against whom a complaint of harassment has been made until such time as they have been given an opportunity to respond and the alleged harassment has been substantiated.

6.3.3 Mediation: Mediation means a confidential process, entered into voluntarily by both parties, in which a neutral and trained internal or external mediator is called in to help the parties resolve their conflict and find a mutually acceptable solution. It is a non-adversarial and confidential process and is encouraged throughout the handling of a complaint to the extent that it is feasible. A written complaint is not necessary to initiate mediation. However, where both parties desire mediation, it will be considered feasible when both parties agree in writing that they:

- Consent to entering into a mediation process.
- Accept the assigned mediator.

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- Agree with the mandate given to the mediator.

6.3.4 Formal Complaint Process:

- If an individual feels that, they are being or have been subject to harassment, sexual harassment or discrimination, and they are not comfortable bringing the matter forward under the informal complaint process, or the informal process and/or mediation has not resulted in a successful resolution of the matter the complainant may make a formal written complaint under this policy.
- A formal complaint may also be initiated by management through the Manager-LR & CR or by the COO & CFO if they are aware of harassment or discrimination and the matter warrants the initiation of a complaint but the complainant does not wish to initiate the process.
- A formal complaint must be in writing and contain the name of the respondent, the date(s), time(s), location(s) and details of the offending conduct and any informal action, if any, that has already been taken. Individuals are encouraged to bring complaints forward as soon as possible but no later than one year of the offending conduct unless there are circumstances or other valid reasons for not bringing the complaint forward sooner.
- The formal written complaint should be submitted to the Manager-LR & CR either directly or through the complainant's manager or supervisor.
- If submitting the complaint in that manner is not feasible considering the circumstances of the particular matter, the formal written complaint may be submitted to the General Counsel of ROHCG or to the COO & CFO. **6.3.5** The specific investigation protocol will depend on the circumstances of the particular matter being investigated. However, the following procedural steps are common to most investigations and are expected to be followed unless the circumstances dictate otherwise:
 - The ROHCG will use discretion as to whether an internal or external investigation is required.
 - The investigator will not be directly involved in the incident or complaint and will not be under the direct control of the harasser.
 - The Complainant will make their complaint in writing and a copy will be provided to the Respondent. The Respondent will also provide a response to the complaint in writing.
 - Both parties will be interviewed. The investigator will interview relevant witnesses and review documentation that is relevant to the matter.
 - The investigator will complete the investigation in a timely manner and generally within 90 days unless there are extenuating circumstances warranting a longer investigation; in an impartial, thorough and discreet manner, in accordance with the principles of procedural fairness and sound fact gathering.

When the fact-finding interviews and document review have been completed the investigator will prepare a final report outlining the factual findings, analysis and conclusions of the allegations that are the subject of the complaint. The investigation notes and records form part of the investigation file. The final investigation report will be provided to the Manager-LR & CR/delegate. The Manager-LR & CR or the COO & CFO will:

- Inform the parties in writing about the findings and conclusions resulting from the investigation;
- If the allegations were unsubstantiated, inform the parties to that effect in writing.

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- If the allegations were substantiated inform the parties to that effect in writing.
- Where allegations were substantiated appropriate remedial, corrective or disciplinary action will be taken and the complainant will be provided with information about the corrective action.

6.4 Opportunity to Review Investigation Outcomes: The complainant or respondent may request a review of the complaints resolution process on the following grounds: that the procedures outlined in this policy were not followed; or that there were compelling or extraordinary circumstances that were not considered. Should the complainant or respondent wish to request a review they must request a review within fifteen (15) business days of receiving their findings (in exceptional circumstances this time frame may be extended). The request must be made in writing to the Manager-LR & CR and include the reasons for requesting the review, and evidence to support the request.

6.5 Records: The ROHCG will keep records of all complaints or incidents of workplace harassment (which will be kept for one year after the investigation is complete) including:

- A copy of the complaint or details about the incident.
- A record of any internal investigation including notes and witness statements.
- The investigation report, if any.
- A copy of the results of the investigation that were provided to the worker who reported the harassment and the alleged harasser.
- A copy of any corrective action taken to address the complaint or incident of workplace harassment

6.6 Bad Faith Complaints: Where a complaint is found to be vexatious or made in bad faith, disciplinary action will be taken, up to and including termination of employment, engagement or contract. Instances of vexatious or bad faith complaints will be subject to the investigation procedures outlined in this policy.

6.7 What to Do if You are Accused of Harassment: If you are asked by a co-worker/individual to stop behaviours which could reasonably constitute harassment, evaluate your behaviour. Even if you did not mean to offend your behaviour has been perceived as offensive. Stop the behaviour that the individual finds offensive and apologize. Failure to stop this behaviour will leave you more vulnerable to disciplinary action if it is determined that the behaviour is inappropriate or constitutes harassment. If you believe the incident has been reported or the complaint has been made in bad faith or is malicious in nature, discuss this with your supervisor, manager or Human Resources.

7. RELATED PRACTICES AND / OR LEGISLATIONS:

Ontario OH&S Act and Regulations

Human Rights Code

The Dupont Inquest: Coroner's Jury Recommendations (December 2007)

Health Care Consent Act, 1996

Personal Health Information Protection Act, S.O. 2004, c. 3, Sched. A

8. REFERENCES:

East London and the City Mental Health NHS Trust – Harassment and Bullying Policy

Royal College of Nursing – Bullying and Harassment at Work

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9. APPENDICES:

Appendix 1 – Code of Conduct

Appendix 2 – Process Map for Reporting, Investigating and Resolving Complaints

<http://oreo.rohcg.on.ca/departments/hr/Resources-HRPoliciesResources.cfm>

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