

Human Resources Policy Manual

Title: Harassment and Discrimination

Women's College Hospital		Policy No:	3.20.007
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Issued by:	Human Resources		
Approved by:	Senior Leadership		

Note: Where employees are covered by a collective agreement, provisions of the collective agreement will apply.

Policy Statement:

It is Women's College Hospital Policy to adhere to the principles and practices set out in the Human Rights Code.

The Human Rights Code provides that every individual has the right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (religion), sex, sexual orientation, age, record of offences, marital status, family status or handicap. The Human Rights Code also prohibits any form of harassment in the workplace.

In keeping with our Mission, Vision, and Values, Women's College Hospital (WCH) is committed to providing a work environment that is free from discrimination, systemic discrimination, and harassment and where the dignity and worth of every individual is respected.

Discrimination and harassment will be viewed as extremely serious misconduct that may result in disciplinary action, up to and including termination of employment.

Definition(s):

Individual: Individual refers to any person who is employed by WCH, anyone working under contractual agreements, students, volunteers, Medical/Dental/Midwifery Staff, Board members, researchers, and others carrying out business on behalf of WCH, wherever that business might be conducted.

Workplace: The workplace includes all offices, buildings, and exterior properties e.g. parking lots of WCH, as well as off-site work related conferences, seminars, and social events.

Workplace Discrimination: Workplace discrimination is described as any act, rule or standard that withholds from or limits access to opportunities, benefits or advantages for one employee or group of employees.

Systemic Discrimination: A general workplace practice, procedure, requirement, qualification or policy that, by its very nature excludes or treats individuals differently based on the prohibited grounds defined by the Human Rights Code.

Harassment: Harassment is defined in the Ontario Human Rights Code as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome".

Workplace Harassment: Workplace harassment includes both personal harassment and sexual harassment.

Workplace Sexual Harassment: Workplace sexual harassment 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, 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, where it is known or ought reasonably to be known that the comment, conduct, solicitation or advance is unwelcome.

Conduct That Does Not Constitute Discrimination or Harassment: Conduct that does not constitute discrimination or harassment includes but is not limited to an embrace between friends or similar consensual conduct, a Supervisor/Manager asking an employee to perform a task that is within the individual's job description/role profile, or reasonable actions of employers or supervisors related to the management and direction of workers or the workplace

Complainant: The person who files the complaint.

Respondent: The person who is named in the complaint.

Procedure:

Responsibility:

Every Individual is responsible for:

- Refraining from engaging in any behaviour that constitutes discrimination or harassment.
- Ensuring that they support practices in the workplace that discourage and prevent discrimination and harassment.
- Reporting any concerns regarding discrimination, harassment, or retaliation to a Supervisor/Manager or the Chief Human Resources Officer or delegate. In cases where the concerns involve a member of the Medical/Dental/Midwifery Staff, the Chief Human Resources Officer or delegate will advise/consult with the Chief of Medical Staff or delegate.

Every Supervisor/Manager/Physician Leader is responsible for:

- Refraining from engaging in any behaviour that constitutes discrimination or harassment.
- Establishing and maintaining a work environment free from discrimination and harassment for each individual and for eliminating discrimination or harassment if it occurs in their department.
- Treating complaints seriously, including taking appropriate action in consultation with the Human Resources Department, when discrimination complaints are raised. In cases where the complaint involves a member of the Medical/Dental/Midwifery Staff, the Chief Human Resources Officer or delegate will advise/consult with the Chief of the Medical Staff or delegate.
- Maintaining confidentiality of the information obtained about an incident or complaint of workplace harassment or workplace sexual harassment

- Communicating and reinforcing this policy to new staff and ensuring that all staff are aware of the complaint procedure, including their role in these procedures.

The Human Resources Department is responsible for:

- Providing information and education to managers, supervisors and staff on discrimination and harassment related issues and on the interpretation and application of this policy.
- Providing consultation regarding specific issues raised by management, union representatives and staff.
- Investigating and resolving complaints in an expeditious and confidential manner.
- Maintaining confidentiality of the information obtained about an incident or complaint of workplace harassment or workplace sexual harassment

COMPLAINTS

GENERAL:

Any individual may seek confidential advice or assistance from the Chief Human Resources Officer or delegate on how to deal with a situation of discrimination or harassment and how to make a complaint if necessary. If a complaint involves a member of the Medical/Dental/Midwifery Staff the Chief Human Resources Officer or delegate will advise/consult with the Chief of Medical Staff or delegate.

Complaints should be registered as soon as possible.

Any individual who feels they are being discriminated against or harassed should:

- Make it known to the person who is discriminating or harassing that the behaviour is offensive and must stop.
- Keep a written record of dates(s) and time(s) of the behaviour and any witnesses to the incident.

INFORMAL COMPLAINT PROCEDURE

1) Any individual who feels she/he is being or has been discriminated against or harassed by a co-worker, supervisor, member of the Medical/Dental/Midwifery Staff or a member of management may choose either of the following options, without registering a formal complaint:

a) Discuss the concern directly with the person who is believed to have behaved in a discriminating or harassing manner advising her/him that the behaviour is not acceptable and must stop.

b) If the discrimination or harassment continues or if the individual is unable or unwilling to confront the alleged offender directly, the individual may, depending on the circumstances, discuss the complaint with her/his immediate Supervisor, Manager, or with the Chief Human Resources Officer or delegate. If a complaint involves a member of the Medical/Dental/Midwifery Staff, the Chief Human Resources Officer or delegate will advise/consult with the Chair of the Medical Advisory Committee or delegate.

- 2) To initiate the informal complaint procedure, a written complaint should be submitted by the individual to her/his immediate Supervisor, Manager, or the Chief Human Resources Officer or delegate. (Anyone to whom a complaint is reported (verbally or in writing) should notify the Chief Human Resources Officer immediately.)
- 3) Individuals must register the complaint as soon as possible from the date when the incident is alleged to have occurred.
- 4) If the individual agrees, the Supervisor, Manager or Chief Human Resources Officer or delegate will facilitate the resolution of the individual's complaint directly with the respondent to obtain an apology and an assurance that the discriminatory or harassing behaviour will not be repeated. If a complaint involves a member of the Medical/Dental/Midwifery Staff the Chief Human Resources Officer or delegate will advise/consult with the Chief of Medical Staff or delegate and that person may choose to be involved in the resolutions process.
- 5) If the complaint is resolved satisfactorily through the informal complaint process, no further action will be taken. **Resolution means that all parties to the complaint are satisfied with the outcome of the informal complaint procedure.**
- 6) Every attempt will be made to have the informal complaint procedure completed no later than sixty (60) days after receipt of the complaint.
- 7) WCH has a legal responsibility to take appropriate action regarding Discrimination and Harassment complaints. Therefore, the Chief Human Resources Officer or delegate may decide to take further action if enough evidence is received to warrant further investigation, even though the complainant may not wish to file a formal complaint or withdraws the informal complaint. If a complaint involves a member of the Medical/Dental/Midwifery Staff the Chief Human Resources Officer or delegate will advise and consult with the Chief of the Medical Staff or delegate to ensure the process is consistent with the Medical/Dental/Midwifery Staff Bylaws (Section 3.8).

FORMAL COMPLAINT PROCEDURE

When a complaint cannot be resolved through the informal process, the formal complaint procedure may be initiated upon the request of the complainant or at the initiative of the Chief Human Resources Officer. If a complaint involves a member of the Medical/Dental/Midwifery Staff, the Chief Human Resources Officer will advise and consult with the Chief of the Medical Staff or delegate.

- 1) Formal complaints must be registered in writing as soon as possible from the date when the incident is alleged to have occurred. A formal written complaint should be submitted by the individual to her/his immediate Supervisor, Manager, or the Chief Human Resources Officer or delegate. (Anyone to whom a complaint is reported (verbally or in writing) should notify the Chief Human Resources Officer immediately). If a complaint involves a member of the Medical/Dental/Midwifery Staff, the Chief Human Resources Officer will advise and consult with the Chief of Medical Staff or delegate.
- 2) The complainant will meet with the Chief Human Resources Officer or delegate, who will review the written complaint and provide copies of the complaint to the alleged offender without delay. If a complaint involves a member of the Medical/Dental/Midwifery Staff, the Chief Human

Resources Officer or delegate will advise and consult with the Chief of the Medical Staff or delegate and that person will be present for the meeting.

- 3) The complainant and the alleged offender have the right to request involvement of union, legal, or other representation at any stage of the formal complaint procedure.
- 4) The Chief Human Resources Officer or delegate will appoint a person or persons to investigate every written complaint under this process. The investigation will include an opportunity for all parties having knowledge of the matter to state their case. If a complaint involves a member of the Medical/Dental/Midwifery Staff, the Chief Human Resources Officer delegate will advise the Chief of Medical Staff or delegate and they may choose to appoint a person or persons to be part of the investigation.
- 5) Following the investigation, the Chief Human Resources Officer (and the Chief of Medical Staff if the complaint involves a member of the Medical/Dental/Midwifery Staff) will review the matter with the appropriate member(s) of Senior Management, Chair of the Medical Advisory Committee (MAC), Medical Department Chiefs, or President of the Medical Staff Association as specified in the Bylaws. The Chief Human Resources Officer (and the Chief of Medical Staff if the complaint involves a member of the Medical/Dental/Midwifery Staff) will then issue a decision reflecting how the matter may best be resolved and the appropriate corrective action. This decision will be sent in writing to the complainant, the alleged offender and the appropriate Medical Leaders. Disciplinary action affecting Medical/Dental/Midwifery Staff privileges will follow the procedure(s) outlined in the Bylaws and the Public Hospitals Act.
- 6) Every attempt will be made to have the formal complaint procedure completed no later than sixty (60) days after receipt of the formal complaint.
- 7) If the complainant is not satisfied with the outcome of the investigation, she/he can appeal to the President and CEO of WCH after receiving the response of the Chief Human Resources Officer. The President and CEO or delegate shall conduct a further review and will respond in writing to the complainant and to any other individual(s) involved in the matter. If a complaint involves a member of the Medical/Dental/Midwifery Staff, the President and CEO or delegate will advise the Chief of Medical Staff or delegate and ensure appropriate involvement.
- 8) Unionized employees have the option of filing a grievance under their collective agreement instead of following this complaint procedure.
- 9) While it is hoped that such matters may be resolved internally, all individuals have the right to take complaints to the Ontario Human Rights Commission at any time during this process.

Note: These procedures were developed taking into account the Medical/Dental/Midwifery Staff Bylaws and the University of Toronto Governing Council statements on Human Rights and Prohibited Discrimination and Discriminatory Harassment.

FREEDOM FROM RETALIATION

Any individual has the right to register a complaint or provide information regarding a complaint under this policy without retaliation or the threat of retaliation for doing so. Disciplinary action up to and including

termination of employment can result if any person retaliates against any individual for submitting a complaint, or for providing information regarding a complaint.

CONFIDENTIALITY

Every effort to maintain confidentiality will be observed to protect any party against unsubstantiated claims that might result in harmful or malicious gossip. However, to ensure due process there may be a need for disclosure of factual information. Confidentiality must also be distinguished from anonymity. In any complaint involving a written statement, the individual seeking a remedy through this policy must be prepared to be identified to the alleged party. The identity of witnesses will be protected at their request where possible.

The written complaint and information regarding the investigation will be shared with individuals with a legitimate need to know, as determined by the Director, Human Resources.

FALSE OR MALICIOUS COMPLAINT

Any individual who knowingly makes a false or malicious complaint will be subject to the appropriate corrective action, up to and including termination.

CORRECTIVE ACTION AND CONSEQUENCES

Any individual who has engaged in discrimination or harassment, or any Supervisor, Manager or Medical Leader, who is aware of discrimination or harassment and allows it to take place, will be subject to corrective action as appropriate. This may include any combination of the following:

- A formal apology.
- Training and education regarding workplace discrimination.
- Counseling regarding acceptable behaviours.
- Written warning placed in the individual's employee file.
- Suspension, discharge, and/or reporting to the appropriate professional college.
- Termination of the relationship with the hospital (e.g. volunteers, contractors, suppliers, and students).

Where the subject of the complaint is a member of the Medical/Dental/Midwifery Staff, corrective action or disciplinary action may range from a formal apology to a written reprimand through to the loss of privileges. Should the latter be contemplated, the procedure as outlined in Medical/Dental/Midwifery Bylaws (Section 3.8) and the Public Hospitals Act will be enforced.

RECORDS

If there is no evidence of discrimination or harassment, and the complaint was made in good faith, no documentation of the complaint will be placed on the employee file or medical staff file of the alleged offender, or any person involved in the complaint.

Records of informal complaint resolution will be kept by the Chief Human Resources Officer or delegate or if a complaint involves a member of the Medical/Dental/Midwifery Staff by the Office of the Chief of Medical Staff. They will not appear in the individual's employee or medical staff file.

Records of formal complaint resolution will be placed in the complainant's and respondent's employee or medical staff file, and kept for a maximum of five (5) years or as determined by the individual's collective agreement, or Bylaws, depending on the seriousness of the complaint. Complete employee file documentation will be kept by the Chief Human Resources Officer or delegate for seven (7) years in order to meet legal requirements.

Records of informal and formal complaint resolution involving members of the Medical/Dental/Midwifery Staff **only** will be filed by the Office of the Chief of Medical Staff.

Records relating to complaints of workplace harassment or workplace sexual harassment will not be disclosed to any individual unless disclosure is required for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law. Where applicable, professional associations will be informed in writing of significant disciplinary action arising from the application of this policy e.g. termination of employment or suspension of privileges.

References:

[Code of Conduct](#) Policy 3.10.003

[Working Alone](#) Policy 3.20.008

[Dispute Resolution](#) Policy 3.10.001