## WORKPLACE VIOLENCE, HARASSMENT, AND DISCRIMINATION

[Organization Name] does not tolerate or condone discrimination, harassment or violence in the workplace. Under the PEI Human Rights Act 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: age, association with another ground of discrimination; race; colour, ethnic or national origin; creed or religion, family status; marital status; physical or mental disability; political belief; sex or gender; sexual orientation; source of income; or criminal conviction. Under the *Occupational Health and Safety Act/Regulation*, harassment and/or violence in the workplace are not acceptable and are not limited to the prohibited grounds outlined in the *PEI Human Rights Act*.

This policy and program have been developed and will be maintained in consultation with the Health and Safety Representative/Committee.

PURPOSE

It is the distinct obligation of the employer, as per the *Occupational Health & Safety Act*, to protect workers from workplace harassment. It is the mandate of [Organization Name] to provide all employees 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 is either directed at another employee(s) or affects 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.

DEFINITIONS

The Occupational Health and Safety Act, Workplace Harassment Regulations defined **harassment** as:

* “any inappropriate conduct, comment, display, action or gesture or any bullying that the person responsible for the conduct, comment, display, action or gesture or the bullying knows, or ought reasonably to know, could have a harmful effect on a worker's psychological or physical health or safety and includes:
  + conduct that is based on any personal characteristic such as, but not limited to, race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin, gender identity or pregnancy, and
  + inappropriate sexual conduct that is known, or ought reasonably to be known, to the person responsible for the conduct to be unwelcome, including, but not limited to, sexual solicitations or advances, sexually suggestive remarks, jokes or gestures, circulating or sharing inappropriate images, or unwanted physical contact.”

The Act includes protections for workers against workplace violence.

Workplace violence is defined as follows:

* “the threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm, and includes domestic or sexual violence” or
* A statement or behaviour that a worker could reasonably interpret as a threat to use physical force against the worker in a workplace, which could result in physical injury to the worker.

POLICY

This policy and program must be developed and maintained in consultation with the Safety Representative. This policy and program must be reviewed at least annually.

**Scope**

This policy applies to all employees, contractors and consultants in conjunction with any employee agreements. It applies to any location in which you 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 overnight accommodations;
* Employment related or sponsored social functions or events;
* During telephone, email or other communications.

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

**Training**

All employees will be trained on the content of this policy, including 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 or as soon as possible thereafter. 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.

**Risk Assessment**

[Organization Name] will perform an assessment of the risk of workplace violence that may arise from the nature of the workplace, type of work or conditions of work. [Organization Name] will develop measures and procedures to control identified risks that are likely to expose a worker to physical injury. These measures and procedures must be part of the workplace violence program that corresponds with this policy.

A copy of the risk assessment and the assessment results will be provided to the Safety Representative Committee. If there is no committee or representative, the workers will be advised of the assessment results.

[Organization Name] will repeat the assessment as often as necessary to ensure the workplace violence policy and related programs continue to protect workers from workplace violence.

**Preventing Harassment**

It is everyone’s responsibility to ensure the working environment is free from discrimination, harassment and violence. [Organization Name] 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.

**Responsibilities**

**Employer**

[Organization Name] 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, conducting risk assessments as required and providing appropriate training as needed;
* Addressing complaints via mediation and/or investigation. The Company 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;
* Making the appropriate reports available as required, if applicable (WCB of PEI).

**Managers and Supervisors**

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 what constitutes discrimination, harassment and workplace violence and the procedures that are in place to deal with said allegations;
* Bring forward allegations to supervisor and/or the HR designate immediately;
* If required, conduct or cooperate in the facilitation of an investigation;
* Ensure their actions adhere to the terms laid out in this policy.

**Employees**

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

* Foster 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. Hold each other accountable.

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

**Reporting Incidents of Discrimination, Harassment or Violence**

**Confidentiality**

All complaints of discrimination, harassment or violence, whether formal or informal, will be handled as expediently 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 process to respondents, anonymous complaints or those wherein the identity of the alleged victim and/or respondent is intentionally concealed should not be accepted.

**Informal Procedure**

It is important to remember that what one person finds offensive, another person may not. Thus, in such cases where the employee feels safe, it is important for the individual 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 designate.

**Formal Procedure**

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

**Alternative Reporting Procedure**

In the case where an employee feels they have been allegedly harassed or sexually harassed by their supervisor, manager or the Executive Director, the employee may report their complaint directly to <Insert Name and Contact Information>. This alternative reporting procedure should be used in those cases where the employee does not feel safe or comfortable to discuss this incident or behaviour directly with the person being accused.

The steps taken to report an alleged incident or behaviour is as outlined in the formal procedure, outlined above. The employer reserves the right to utilize the services of a third party to receive and potentially investigate complaints.

**Immediate and Interim Measures**

In certain situations, it is the responsibility of management 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.

**Initial Determination**

Upon receipt of the written complaint, their immediate supervisor will meet with the complainant to clarify the details of the complaint, if necessary.

At this point, management 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 Act* and/or the Human Rights Act.’

If the determination is that the actions would be a violation of one of the before-mentioned Acts or policy, the complaint will progress through the following process. An investigation that is ‘appropriate in the circumstances’ will be conducted.

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

Please note: If the latter should be the case, the actions of the respondent may still be a violation of the company’s *Code of Conduct* and subject to investigation and potential discipline under the terms of said policy.

**Investigation**

If the former is the case, the employer will commence an investigation that is ‘appropriate in the circumstances.’ The employer 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.

A copy of the complaint should be provided to the alleged offender within two to five days.

The investigation should commence within two to five 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 management. A summary of the findings will also be provided to the complainant and the alleged respondent.

**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.

**No Reprisals**

No employee 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.

**Right to Refuse Unsafe Work**

It is the right of every employee under the *Occupational Health and Safety Act/Regulation* 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.

**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.