

COMMUNITY LIVING DURHAM NORTH

PREVENTION OF HARASSMENT IN THE WORKPLACE

Policy No: C-12 (Human Resources) Effective Date: January 30, 2017

Rationale:

To ensure for all employees a healthy and non-threatening workplace.

Policy Statement:

Community Living Durham North does not tolerate harassment.

The Association will make every effort to ensure a harassment-free workplace, by communicating to employees what “harassment” encompasses, and by intervening promptly if instances of harassment are reported. If an instance of harassment is confirmed, the perpetrator will be subject to discipline up to and including termination.

Employees have the right to be free from harassment of any kind, and from reprisals or threatened reprisals for the reporting or rejection of such behaviour. At the same time, all employees share in the responsibility to ensure that the workplace is free of harassment.

The prohibition on harassment applies within any location that can reasonably be regarded as an extension of the workplace, including off-site facilities used for social functions, training purposes, meetings, etc.

The Association is committed to providing a work environment in which all workers are treated with respect and dignity. Workplace harassment will not be tolerated from any person in the workplace including: customers, clients, other employers, supervisors, workers, and members of the public.

Approved by: _____ for the Board of Directors	Date: _____
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COMMUNITY LIVING DURHAM NORTH

PREVENTION OF HARASSMENT IN THE WORKPLACE

Procedure No: C-12-1

Definition of Harassment

Effective Date: July 31, 2007

Revision Date: March 29, 2018

Harassment may take a variety of forms but it is always demeaning, offensive, intimidating, embarrassing and hurtful. An individual is most commonly harassed because of his or her sex, sexual orientation, race (or ethnicity), or personal characteristics.

- **Sexual Harassment:**
 - a. 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
 - b. 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.
- Racial harassment refers to words or actions (sometimes disguised as jokes) which show disrespect for, or cause humiliation to, another employee because of his race, colour, creed, ancestry, or ethnicity.
- Harassment on the basis of sexual orientation can be defined as any comment, gesture, or action directed against a person's sexual orientation or preference.
- Personal harassment can be defined as (a pattern of) derogatory remarks or actions about an individual's intelligence, competence, religious beliefs, age, physical appearance, etc. which create a negative psychological and emotional environment in the workplace. It can also include a pattern of non-sexual but aggressive physical contacts.
- Bullying is an especially aggressive form of harassment. It is defined as repeated, persistent, and aggressive behaviour directed to an individual (or individuals) that is intended to cause (or known to cause) fear and distress, and/or harm to another person's body, feelings, self-esteem, or reputation. Bullying occurs in a context where there is a real or perceived power imbalance.

Harassment is serious. To substantiate a harassment allegation it must be demonstrated on the balance of probabilities that each of the following occurred. If even one of these elements was (probably) not present, there will not likely be a finding of harassment:

- The respondent displayed improper and offensive conduct including objectionable acts, comments or displays, or acts of intimidation or threats, or acts, comments or displays in relation to a prohibited ground of discrimination under the Canadian Human Rights Act;
- The behaviour was directed at the complainant;
- The complainant was offended or harmed, including the feeling of being demeaned, belittled, personally humiliated or embarrassed, intimidated or threatened;
- The respondent knew or reasonably ought to have known that such behaviour would cause offence or harm;
- The behaviour occurred in the workplace or at any location or event related to work (e.g. a conference or training session) or while travelling to or from such an event.
- There was a series of incidents or one severe incident which had a lasting impact on the individual. In the case of sexual harassment particularly, a single incident may be viewed to be more significant in circumstances where the relationship at work is not equal, i.e. where one party has influence over the other's career advancement, performance assessments, work assignments, etc.

For clarity, the normal exercise of management rights with regard to day-to-day operations, the assessment of work place performance, the assignment of tasks, etc., does not constitute harassment.

Nor do the following constitute harassment:

- Disagreements and workplace conflict;
- Work related stress;
- Difficult conditions of employment, professional constraints, and organizational changes.

Procedure No: <u>C-12-2</u>	Effective Date: <u>July 21, 2007</u>
Workplace Harassment Program	Revision Date: <u>January 30, 2017</u>

1. Reporting Workplace Harassment

a. How to Report Workplace Harassment

- Workers can report incidents or complaints of workplace harassment verbally or in writing. When submitting a written complaint, please use the workplace harassment complaint form (Agency wide / Health and Safety/ Workplace Harassment Complaint Form). When reporting verbally, the reporting contact, along with the worker complaining of harassment will fill out the complaint form.
- An incident or a complaint of workplace harassment should be reported as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a timely manner.

b. Who to Report Workplace Harassment to

- Report a workplace harassment incident or complaint to your program manager or designate. If the worker's supervisor or reporting contact is the person engaging in the workplace harassment, contact your program director.
- If the staff representing the employer (e.g. director or CEO) is the person engaging in the workplace harassment, contact the person to whom they report (e.g. CEO or Board Chair). Note: The person designated as the reporting contact (i.e. the person who receives the report) cannot be the alleged harasser or anyone under the authority of the alleged harasser.
- Human Resources or designate shall be notified of the workplace harassment incident or complaint so that it can ensure an investigation is conducted that is appropriate in the circumstances. If the incident or complaint involves the CEO or member of the Board, an external person who is qualified to conduct a workplace harassment investigation and who has knowledge of the relevant workplace harassment laws will be retained to conduct the investigation.
- All incidents or complaints of workplace harassment shall be kept confidential except to the extent necessary to protect workers, to investigate the complaint or incident, to take corrective action or to comply with legal requirements.

2. Investigation

a. Commitment to Investigate

- The association will ensure that an investigation appropriate in the circumstances is conducted when the employer, human resources, a manager or supervisor becomes aware of an incident of workplace harassment or receives a complaint of workplace harassment.

b. Who Will Investigate

- Senior Management will determine who will conduct the investigation into the incident or complaint of workplace harassment. If the allegations of workplace harassment involve Senior Management or the Board, the employer will refer the investigation to an external investigator to conduct an impartial investigation.

c. Timing of the Investigation

- The investigation must be completed in a timely manner and generally within 90 days or less unless there are extenuating circumstances (e.g. illness, complex investigation) warranting a longer investigation.

d. Investigation Process

- The person conducting the investigation whether internal or external to the workplace will, at minimum, complete the following:
 - The investigator must ensure the investigation is kept confidential and that identifying information is not disclosed unless necessary to conduct the investigation. The investigator should remind the parties of this confidentiality obligation at the beginning of the investigation.
 - The investigator must thoroughly interview the worker who allegedly experienced the workplace harassment and the alleged harasser(s), if the alleged harasser is a worker of the employer. If the alleged harasser is not a worker, the investigator should make reasonable efforts to interview the alleged harasser.
 - The alleged harasser(s) must be given the opportunity to respond to the specific allegations raised by the worker. In some circumstances, the worker who allegedly experienced the workplace harassment should be given a reasonable opportunity to reply.
 - The investigator must interview any relevant witnesses employed by the employer who may be identified by either the worker who allegedly experienced the workplace harassment, the alleged harasser(s) or as necessary to conduct a thorough investigation. The investigator must make reasonable efforts to interview any relevant witnesses who are not employed by the employer if there are any identified.
 - The investigator must collect and review any relevant documents.
 - The investigator must take appropriate notes and statements during interviews with the worker who allegedly experienced workplace harassment, the alleged harasser and any witnesses.
 - The investigator must prepare a written report summarizing the steps taken during the investigation, the complaint, the allegations of the worker who allegedly experienced the workplace harassment, the response from the alleged harasser, the evidence of any witnesses, and the evidence gathered. The report must set out findings of fact and come to a conclusion about whether workplace harassment was found or not.

3. Results of the Investigation

- a. Within 10 days of the investigation being completed, the worker who allegedly experienced the workplace harassment and the alleged harasser, if he or she is a worker of the employer, will be informed in writing of the results of the investigation and of any corrective action taken or that will be taken by the employer to address workplace harassment.

b. These results are not considered to be an occupational health and safety report that must be shared with the joint health and safety committee or health and safety representative [section 32.0.7(2)].

c. 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 workers, to investigate the complaint or incident, to take corrective action or to comply with legal requirements.
- While the investigation is on-going, the worker who has allegedly experienced harassment, the alleged harasser(s) and any witnesses should not discuss the incident, or complaint, or the investigation with each other or other workers or witnesses unless necessary to obtain advice about their rights. The investigator may discuss the investigation and disclose the incident or complaint-related information only as necessary to conduct the investigation.
- All records of the investigation will be kept confidential.

d. The Improvement Plan or other Outcomes

- If the investigation has found evidence in support of the complaint, appropriate action will be taken. Discipline may include suspension or termination and the incident will be documented in the respondent's file.
- Regardless of the outcome of the investigation, nothing will be added to the file of the complainant unless it is found that the complaint was not made in good faith.
- Notwithstanding the above process, the complainant may at any time file a complaint with the Ontario Human Rights Commission and/or contact the police. There will be no reprisals in such a case and the Association will cooperate fully in any resulting investigation.

4. Record Keeping

- The employer (human resources or designated person) will keep records of the investigation including:
 - a copy of the complaint or details about the incident;
 - a record of the investigation including notes;
 - a copy of the investigation report (if any);

- a summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace harassment and the alleged harasser, if a worker of the employer;
 - a copy of any corrective action taken to address the complaint or incident of workplace harassment.
- All records of the investigation will be kept confidential. The investigation documents, including the final outcomes report must not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law.
 - In the case of active employees, records will be kept for the duration of their employment. In the event of a resignation or termination, they will be kept for a further seven years as prescribed in policy C-1 “Hiring Practices and Process.”

Procedure No: C-12-3
Protection Against Reprisals

Effective Date: July 31, 2007
 Revision Date: Feb. 1, 2009

It is unlawful to retaliate against an employee for filing a complaint of harassment in good faith, or for cooperating in an investigation of a complaint. CLDN will not tolerate reprisals against a person who files a complaint in good faith, or who honestly and to the best of his ability cooperates with an investigation.

Any act of reprisal should be reported immediately.

Approved by: _____
 CEO

Date: _____