

GENERAL MANUAL POLICY

APPROVED BY:



Executive Director

CATEGORY: Human Resources

TOPIC: Harassment

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POLICY

Community Living Thunder Bay (CLTB) is committed to maintaining a positive work environment where all employees are treated with dignity and respect. CLTB will not tolerate harassment of any kind in the workplace. This includes sexual harassment and harassment involving: religion, race, place of origin, age, disability, sex (gender), sexual orientation, or any other ground as defined in the Ontario Human Rights Code. All complaints of harassment will be taken seriously and will be fully investigated as soon as possible. All complaints of harassment will be fully investigated as per the Harassment procedure and CLTB will take whatever measure it considers appropriate in the circumstances against anyone who is found to have engaged in such conduct. Harassment is considered a serious offence and is subject to corrective action, up to and including termination. Any employee engaging in harassment of another employee, either at work or outside of work, can expect to face serious disciplinary action, up to and including termination.

PURPOSE

Community Living Thunder Bay (CLTB) believes that all employees have the right to work in an environment free from harassment. It is CLTB's intent to take every reasonable measure to ensure that no employee is subjected to harassment.

This policy shall ensure that employees are able to file a complaint with the knowledge that the complaint will result in a timely and thorough investigation which will draw conclusions and implement corrective measures including disciplinary action.

This policy is also meant to encourage sexual harassment victims to exercise their rights, maintain their dignity and refuse to submit to the pressure of sexual harassment; as well as make harassers aware of the kind of behaviour that is unacceptable and to warn them of the consequences of such action.



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DEFINITIONS

HARASSMENT

“Workplace harassment” is defined by *the Occupational Health and Safety Act, R.S.O 1990, C.O.1.* as:

- (a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or
- (b) workplace sexual harassment;

“Vexatious” means annoying, irritating, and distressing behavior without a legitimate purpose.

Workplace harassment may include bullying, intimidating or offensive jokes or innuendos, displaying or circulating offensive pictures or materials, or offensive or intimidating phone calls.

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

EXAMPLES:

- Verbal abuse or non verbal abuse or ridicule
- Unwelcome remarks, jokes, innuendo or taunting about a person’s body, race, colour, attire, marital status, sexual orientation, ethnic or religious origins, ancestry, place of origin, citizenship, creed, sex (gender), gender identity, disability, age, family status, record of offences
- Distribution by mail, fax, or other electronic means of material which potentially could be offensive to anyone
- Displaying pornographic, racist, or other derogatory pictures
- Practical jokes which cause awkwardness or embarrassment
- Unwelcome invitations or requests, demanding favours (sexual or otherwise), explicitly or implicitly, as a condition of employment, promotion, transfer or any other personal action.
- Leering or other gestures
- Unnecessary or offensive physical contact

WORKPLACE BULLYING

“Workplace Bullying” (Source: Code of Practice on the Prevention of Workplace Bullying under the Safety, Health and Welfare at Work Act, 1989)

Workplace bullying is a repeated pattern of inappropriate behaviour, direct or indirect (aggressive or passive), whether verbal, physical or otherwise, performed by one or more persons against another person or group of people, which could reasonably be regarded as undermining the individual’s right to dignity at work.

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Bullying includes but is not limited to:

General Bullying Tactics

- Spreading rumours, gossip, or innuendo
- Ostracism/Exclusion
- Silent treatment
- Verbal or physical Intimidation
- Physically abusing or threatening abuse
- Verbal abuse, i.e. yelling, profanity, name calling, offensive jokes
- Constant criticism of a person or their work performance
- Belittling a person's opinions either publically or privately
- Misusing confidential information
- Retaliation after a complaint was lodged
- Sabotage
- Excessive controlling behaviour with others
- Withholding necessary information or purposefully giving the wrong information
- Intruding on a person's privacy by pestering, spying or stalking or tampering with a person's personal belongings
- Mobbing

Management Bullying Tactics

- Abusing the evaluation process
- Undermining or deliberately impeding a person's work
- Constantly changing work guidelines
- Establishing impossible deadlines that will set up the individual to fail
- Assigning unreasonable duties or workload
- Giving someone the majority of unpleasant tasks
- Withholding necessary information or purposefully giving the wrong information
- Intruding on a person's privacy by pestering, spying or stalking or tampering with a person's personal belongings

What IS NOT Bullying/Harassment:

It is recognized that there may be some circumstances where an employee experiences stress or discomfort in the workplace, which is not related to bullying or inappropriate behaviours.

Unless there is evidence that demonstrates a pattern of humiliating, offensive, or intimidating behaviour, as described previously or there is evidence of one incident having severe impact, such situations may not constitute a basis for complaint under this policy. For example, bullying would not include:

- The normal exercise of supervisory responsibilities, including performance appraisals, direction, counseling and disciplinary action where necessary, provided they are conducted in a respectful, professional manner, in accordance with Community Living Thunder Bay's policies and procedures
- Legitimate management responses to pressured situations

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- Social interactions, jokes and bantering, which are mutually acceptable, provided the interactions are respectful and there is no negative impact for others in the work environment
- Disagreements, misunderstandings, miscommunication and/or conflict situations, provided the behaviour of the individuals involved remains professional and respectful

SEXUAL HARASSMENT

“workplace sexual harassment” is defined by the *Occupational Health and Safety Act, R.S.O. 1990, C.O.1.* as:

- (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;

Sexual harassment may be any comment or action with sexual overtones which is likely to offend or humiliate a fellow worker or prospective employee, or that might, on reasonable grounds, be perceived by an employee or prospective employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.

DOMESTIC VIOLENCE

When a perpetrator has a personal relationship with the worker and employs a pattern of coercive tactics meant to hurt or intimidate the victim through the use of physical force, verbal harassment or manipulation (financial or emotional) in order to establish and maintain power and control over the victim. In these situations domestic violence is considered workplace violence. Harassment of a worker which would be considered domestic violence should be investigated under the *HR 25.0 – Violence in The Workplace Policy and Procedure.*

COMPLAINANT

The person making the complaint of alleged violent or inappropriate behaviour

RESPONDENT

The person(s) about whom the complaint is being made.

MALICIOUS REPORT

A malicious report means reporting abuse with the intent of causing harm to an otherwise innocent person. It is important that this policy not be used to bring fraudulent complaints against employees. Any person found guilty of maliciously reporting an incident will be subject to discipline as per *HR #16 – Progressive Discipline Policy.*

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RESPONSIBILITIES

All individuals at CLTB are accountable for following and enforcing policies and procedures related to workplace harassment.

Employees:

- Understanding and complying with this statement of policy and all related procedures
- Reporting to their supervisor immediately all incidents of harassment that they experience or witness. No adverse action will be taken against anyone who, in good faith and on the basis of reasonable belief, makes such a report.
- Maintaining confidentiality, i.e. they will not disclose any information pertaining to a harassment investigation to anyone who is not authorized to have such information
- Speaking to the person who is committing an act that offends, degrades, humiliates, or harms an employee, if it is safe to do so
- Assisting in maintaining a safe work environment.
- Making themselves available to meet with internal investigators, police, or any other authority, and provide written documentation and statements when requested.

Supervisor:

- Enforcing policies and procedures and monitoring compliance
- Maintaining confidentiality, i.e. they will not disclose any information pertaining to a harassment investigation to anyone who is not authorized to have such information
- Intervening when inappropriate conduct has been observed or brought to their attention in a timely manner
- Notifying his/her Manager of any incidents of harassment and/or unacceptable behaviour by, or against our employees
- Acting as a role model for their staff
- Refusing to tolerate workplace harassment

Union

- Providing representation to both complainant(s) and respondent(s)
- Maintaining confidentiality, i.e. s/he will not disclose any information pertaining to violent incident(s) to anyone who is not authorized to have this information
- Cooperating and ensuring union member cooperation during the investigation process

Employer

- Training and education of all employees
- Integrating safe behaviour into day to day operations
- Review of all reports of harassment in a prompt, objective and sensitive manner
- Take immediate measures to respond to all reports of incidents of harassment in the workplace

Human Resources

- Maintaining confidentiality, i.e. s/he will not disclose any information to anyone who is not authorized to have this information
- Enforcing corrective and/or disciplinary measures where applicable

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RIGHTS

Complainant's Rights

- File a complaint and have it dealt with promptly, without fear of embarrassment or reprisal.
- Have a representative present during the complaint process (if a union member)
- Be informed of the outcome of their complaint (substantiated, partially substantiated, unsubstantiated)
- Receive fair treatment

Respondent's Rights

- Be informed of the complaint
- Be given an opportunity to respond to the allegation(s)
- Have an unbiased investigation conducted
- Have a representative present during the complaint process
- Be informed of the outcome of their complaint in writing (substantiated, partially substantiated, unsubstantiated)
- Receive fair treatment

HARASSMENT REPORTING AND INVESTIGATION PROCEDURE

- 1) If harassment occurs, ask the offender to stop. Immediately inform the harasser in a clear and firm manner that their comment(s) and/or conduct is unacceptable. Any employee who believes that another person's comment(s) and/or conduct constitute harassment is responsible to address the situation and report it.
- 2) Report all incidents of harassment that you experience or witness to your immediate supervisor as soon as possible. In cases where an employee's immediate supervisor is the perpetrator of harassment, then the employee should report the incident(s) directly to the person to whom his/her supervisor reports or the Director of Human Resources.
- 3) Submit a written report of the incident which should include:
 - The name of the person(s) involved in the incident(s)
 - The approximate date and time of the incident(s) you wish to report
 - The name of the person or persons who witnessed the incident(s)
 - A full description of what occurred in the incident(s)
- 4) All harassment claims will be treated seriously. All reports of harassment will be thoroughly investigated as per policy SS5.2 – *Conducting the Investigation* in a respectful, timely, impartial, and confidential manner. If the complaint is in regard to a member of the Investigation Team set out in policy SS5.2, another member of management shall be substituted in their place. If any member(s) of the Investigation Team are supervised by the respondent, another member of management shall be substituted in their place. In the case where there are no members able to objectively investigate the incident, the investigation shall be conducted by a third party.

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- 5) The Investigation process will ensure that:
 - The respondent is informed of the complaint made against them and the investigation process which has been initiated as a result.
 - The fact-finding process includes interviews of all those involved in or witness to the incident will be conducted as per policy SS5.2.
 - The respondent has the opportunity to respond to the complaint.
 - All individuals are treated with respect and dignity throughout the process, keeping in mind that the situation may be sensitive in nature.
- 6) CLTB will maintain confidentiality to protect from unnecessary disclosure the details of the incident being investigated and the identities of the complaining party and that of the alleged respondent
- 7) As per policy SS5.2, an Investigation Report will be completed summarizing the findings of the investigation. The results of an investigation and the report created in the course of the investigation are not a report respecting occupational health and safety, and as such the JOHSC will not have access to such information.
- 8) Based on the findings of the Investigation Report the Executive Director or delegate may impose sanctions. Where an investigation confirms harassment occurred, the party committing the harassment will face discipline up to and including employment termination. If an investigation confirms the complaint to be malicious in nature, the party issuing the complaint will also be subject to discipline as per *HR #16 – Progressive Discipline Policy*.
- 9) The Complainant and Respondent shall be informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.
- 10) All reports and records of investigations at Community Living Thunder Bay will be kept for at least five (5) years after the date of report. Reports shall be considered confidential indefinitely and will not be disclosed to anyone except to the extent required by law.

PROHIBITION AGAINST REPRISALS

Any complaint made in good faith (regardless of the investigation's findings or outcome) shall be protected from any form of retaliation be either coworkers or management. Alleged offenders shall also be protected from any retaliatory action from the complainant or other individuals.

Reprisals or threats of reprisals shall be considered a serious violation of employee rights, and will be treated as serious offence, subject to discipline as per *HR #16 – Progressive Discipline Policy*.

POLICY AND PROCEDURE REVIEW

This policy and procedure will be reviewed annually or as relevant legislation is passed and entered into law.