

<i>Policy &amp; Procedure:</i>	<b>02B-03 WORKPLACE ANTI-VIOLENCE, HARASSMENT, AND SEXUAL HARASSMENT POLICY (BILLS 168 AND 132) - ONTARIO</b>		
<i>Performed by:</i>	All Staff		
<i>Approved by:</i>	Senior Management Team		
<i>Date Approved:</i>	September 28, 2016	<i>Date Reviewed:</i>	
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**PURPOSE<sup>1</sup>:**

Hospice Care Ottawa is committed to building and preserving for its employees and volunteers a safe, productive, and healthy working environment based on mutual respect. In pursuit of this goal, Hospice Care Ottawa does not condone and will not tolerate acts of violence, harassment, or bullying against or by any Hospice Care Ottawa employee.

Our Workplace Anti-violence, Harassment, and Sexual Harassment Policy is not meant to stop free speech or to interfere with everyday interactions. However, what one person finds inoffensive, others may not. Usually, harassment can be easily distinguished from normal, mutually acceptable socializing. It is important to remember that it is the perception of the receiver that determines whether the potentially offensive message is acceptable or not, be it spoken, gestural, pictorial, or some other form of communication which may be deemed objectionable or unwelcome.

**BACKGROUND:**

**Definitions (worker can include employee or volunteer)**

Workplace violence or bullying: workplace violence or bullying is the exercise, statement, or behaviour of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker, such as:

- Physical acts (e.g., hitting, shoving, pushing, kicking, sexual assault, throwing an object at a worker, kicking an object the worker is standing on such as a ladder, or trying to run down a worker using a vehicle or equipment such as a forklift);
- Any threat, behaviour, or action which is interpreted to carry the potential to harm or endanger the safety of others, result in an act of aggression, or destroy or damage property; or

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<sup>1</sup> This policy has been written to comply with the changes to the Occupational Health and Safety Act introduced by Ontario Bill 132: Sexual Violence and Harassment Action Plan Act. These legislative changes came into effect on September 8, 2016.

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- Disruptive behaviour that is not appropriate to the work environment (e.g., yelling or swearing).

Domestic violence: a person who has a personal relationship with a worker—such as a spouse or former spouse, current or former intimate partner or a family member—may physically harm, or attempt or threaten to physically harm, that worker at work. In these situations, domestic violence is considered workplace violence.

Personal harassment: any unsolicited, unwelcome, disrespectful, or offensive behaviour that has an underlying sexual, bigoted, ethnic, or racial connotation and can be typified as:

- Behaviour that is hostile in nature, or intends to degrade an individual based on personal attributes, including age, race, nationality, disability, family status, religion, gender, sexual orientation, gender identity, gender expression, or any other protected ground under human rights legislation.
- Sexual solicitation or advance made by a person in a position to confer, grant, or deny a benefit or advancement to the person, where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome;
- Reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant, or deny a benefit or advancement to the person.
- Unwelcome remarks, jokes, innuendos, propositions, or taunting about a person's body, attire, sex or sexual orientation, or religion;
- Suggestive or offensive remarks;
- Bragging about sexual prowess;
- Offensive jokes or comments of a sexual nature about an employee;
- Unwelcome language related to gender;
- Displaying of pornographic or sexist pictures or materials;
- Leering (suggestive persistent staring);
- Physical contact such as touching, patting, or pinching, with an underlying sexual connotation;
- Sexual assault:

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- For the most part, victims of sexual harassment are female; however, conduct directed by female employees towards males or between persons of the same sex can also be held to constitute sexual harassment;
- Any actions that create a hostile, intimidating, or offensive workplace, which may include physical, verbal, written, graphic, or electronic means; and
- Any threats of physical violence that endanger the health and safety of the employee.

Racial/ethnic harassment: any conduct or comment which causes humiliation to an employee or volunteer because of their racial or ethnic background, their colour, place of birth, citizenship, or ancestry. Examples of conduct which may be racial or ethnic harassment include:

- Unwelcome remarks, jokes, or innuendos about a person's racial or ethnic origin;
- Colour, place of birth, citizenship, or ancestry;
- Displaying racist or derogatory pictures or other offensive material;
- Insulting gestures or practical jokes based on racial or ethnic grounds which create awkwardness or embarrassment; and
- Refusing to speak to or work with someone or treating someone differently because of their ethnic or racial background.

The following definitions are taken from the [Occupational Health and Safety Act](#):

Workplace Harassment –

*(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.*

Workplace 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*

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*(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.*

## **POLICY:**

Hospice Care Ottawa is committed to providing a safe and healthy work environment, free from violence, threats of violence, discrimination, harassment, sexual harassment, intimidation, and any other misconduct. Similarly, weapons are strictly prohibited from the company's premises; violators will be subject to disciplinary action, and the incident will be reported to the police.

It is also a violation of the Workplace Anti-violence, Harassment, and Sexual Harassment Policy of Hospice Care Ottawa for anyone to knowingly make a false complaint of violence or harassment or to provide false information about a complaint. Individuals who violate this policy are subject to disciplinary and corrective action, up to and including termination of employment.

This policy prohibits reprisals against individuals acting in good faith who report incidents of workplace violence or act as witnesses. Management will take all reasonable and practical measures to prevent reprisals, threats of reprisal, or further violence. Reprisal is defined as any act of retaliation, either direct or indirect.

Hospice Care Ottawa will ensure that all employees and volunteers are trained and educated on violence and harassment and that they are clear about their roles and responsibilities, as well as this policy, the corresponding program, and all workplace procedures. In addition, a copy of this policy will be made available to all employees.

Hospice Care Ottawa will, in consultation with the (Joint Health and Safety Committee OR Health and Safety Representative) develop a written program to implement this policy.

As required by the *Occupational Health and Safety Act* Hospice Care Ottawa will review this policy annually and will post the policy in a conspicuous place in the workplace.

### **Application of this Policy**

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This policy applies to all individuals working for the organization, including front-line employees, temporary employees, contract service providers, contractors, all supervisory personnel, managers, officers, volunteers and directors. The organization will not tolerate violence or harassment, whether engaged in by fellow employees, managers, volunteers, officers, directors, or contract service providers of the organization.

Hospice Care Ottawa will not tolerate any form of harassment or discrimination against job candidates and employees on any grounds listed in the definitions for violence and harassment, whether during the hiring process or during employment. This commitment applies to such areas as training, performance assessment, promotions, transfers, layoffs, remuneration, and all other employment practices and working conditions.

All Hospice Care Ottawa employees and volunteers are personally accountable and responsible for enforcing this policy and must make every effort to prevent discrimination or harassing behaviour and to intervene immediately if they observe a problem or if a problem is reported to them.

For the purposes of this policy, harassment and bullying can occur:

- At the workplace;
- At employment or volunteer-related social functions;
- In the course of work assignments outside the workplace;
- During work-related travel;
- Over the telephone and social media if the conversation is work-related; or
- Elsewhere, if the person is there as a result of work-related responsibilities or a work-related relationship.

### **Training**

Employees and volunteers will receive training and are required to reach certification based on the Provincial Act legislation for Workplace Violence and Harassment (Ontario Bill 168 & Bill 132)

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## **PROCEDURE:**

### **Violence Risk Assessment**

Hospice Care Ottawa will conduct a risk assessment of the work environment to identify any issues related to potential violence that may affect the operation, and will institute measures to control any identified risks to employee safety. This information will be provided to the joint health and safety committee or safety representative.

The risk assessment may include review of records and reports: e.g., security reports, employee incident reports, staff perception surveys, health and safety inspection reports, first aid records, or other related records. Specific areas that may contribute to risk of violence may include, but are not limited to, contact with the public, exchange of money, receiving doors, and working alone or at night. Research may also include a review of similar workplaces with respect to their history of violence.

Hospice Care Ottawa will communicate information relating to a person with a history of violence where:

- Workers may reasonably be expected to come into contact with the person in the performance of their job duties; and
- There is a potential risk of workplace violence as a result of interactions with the person with a history of violence.

The company will only disclose personal information that is deemed reasonably necessary to protect the worker from physical harm.

### **Reporting Violence or Bullying**

If you are either directly affected by or witness to any violence in the workplace, it is imperative for the safety of all Hospice Care Ottawa employees that the incident be reported without delay. Reporting any violence or potentially violent situations should be done immediately to management, or the Human Resources department.

### **Investigating Reports of Violence or Bullying**

The company shall:

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- Investigate all reported acts and incidents of violence, and consult with other parties (e.g., legal counsel, health and safety consultants, JHSCs, employee assistance provider, human rights office, local police services).
- Take all reasonable measures to eliminate or mitigate risks identified by the incident.
- Document the incident, its investigation, and corrective action taken.
- Submit a report of the incident to the Ministry of Labour where an employee incurs a lost time injury as a result of violence in the workplace.
- Review this policy and hazard assessment annually, or as changes to job responsibilities or environments occur, and revise the assessment as needed.
- Review annually, in conjunction with review of the hazard assessment, the effectiveness of actions taken to minimize or eliminate workplace violence and make improvements to procedures, as required.

The joint health and safety committees/safety representative will:

- Review the Workplace Violence Hazard Assessment results and provide recommendations to management to reduce or eliminate the risk of violence.
- Review all reports forwarded to the JHSC regarding workplace violence and other incident reports as appropriate pertaining to incidents of workplace violence that result in personal injury or threat of personal injury, property damage, or police involvement.
- Participate in the investigation of critical injuries (e.g., incidents that place life in jeopardy or result in substantial blood loss or fracture of leg or arm.)
- Recommend corrective measures for the improvement of the health and safety of workers.
- Respond to employee concerns related to workplace violence and communicate these to management.

In addition, JHSCs may participate in the investigation of reported incidents that result in personal injury or have the potential to result in injury.

**Reporting Discrimination or Harassment**

Informal Procedure

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If you believe you have been personally harassed you may:

- Confront the harasser personally or in writing pointing out the unwelcome behaviour and requesting that it stop; or
- Discuss the situation with the harasser’s supervisor, your supervisor or any other supervisor other than your own.

Any employee who feels discriminated against or harassed can and should, in all confidence and without fear of reprisal, personally report the facts directly to your supervisor or manager, or to another member of management if the complaint relates to your supervisor or manager.

#### Formal Procedure

If you believe you have been personally harassed, you may make a written complaint. Hospice Care Ottawa has an Incident Form. If you do not have easy access to the incident form please prepare your document and note the inclusions below. The written complaint must be delivered to Lisa Sullivan – Executive Director OR Kim Sheldrick - Director of Finance & Administration. Your complaint should include:

- The approximate date and time of each incident you wish to report;
- The name of the person or persons involved in each incident;
- The name of any person or persons who witnessed each incident; and
- A full description of what occurred in each incident.

#### **Investigating Reports of Discrimination or Harassment**

Once a written complaint has been received, Hospice Care Ottawa will complete a thorough investigation. Harassment should not be ignored, as silence can and often is interpreted as acceptance. Employees will not be demoted, dismissed, disciplined, or denied a promotion, advancement, or employment

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opportunities because they rejected sexual advances or because they lodged a complaint when they honestly believed they were being harassed or discriminated against.

Hospice Care Ottawa will ensure that all information obtained during the course of an investigation will not be disclosed, unless the disclosure is necessary for the purposes of investigating or taking corrective action, or is otherwise required by law.

For the purposes of this section the following definitions apply:

**Complainant** – The person who has made a complaint about another individual whom they believe committed an act of violence, discrimination, or harassment against them.

**Respondent** – The person whom another individual has accused of committing an act of violence, discrimination, or harassment.

The investigation will include:

- Informing the respondent of the complaint;
- Interviewing the complainant, any person involved in the incident, and any identified witnesses; and
- Interviewing any other person who may have knowledge of the incidents related to the complaint or any other similar incidents.

A copy of the complaint, detailing the complainant’s allegations, is then provided to the respondent.

- The respondent is invited to reply in writing to the complainant’s allegations, and the reply will be made known to the complainant before the investigation proceeds further.
- The company will protect from unnecessary disclosure the details of the incident being investigated and the identities of the complainant and the respondent.
- During the investigation, the complainant and the respondent will be interviewed, as will any possible witnesses. Statements from all parties involved will be taken and documented, and a decision will be made.
- If necessary, the company may employ outside assistance or request the use of legal counsel.
- Employees will not be demoted, dismissed, disciplined, or denied a promotion, advancement, or employment opportunities because they rejected sexual advances of another employee or because they lodged a harassment complaint when they honestly believed they were being harassed.

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- Upon completion of the investigation, Hospice Care Ottawa will inform both the complainant and respondent in writing of the findings of the investigation and any corrective action that has been or will be taken as a result of the investigation.

If the complainant decides not to lay a formal complaint, senior management may decide that a formal complaint is required (based on the investigation of the incident) and will file such documents with the person against whom the complaint is laid (the respondent).

If it is determined that harassment in any form has occurred, appropriate disciplinary measures will be taken as soon as possible.

### **Seeking Immediate Assistance**

Canada's *Criminal Code* addresses violent acts, threats, and behaviours, such as stalking. The police should be contacted immediately when an act of violence has occurred in the workplace or when someone in the workplace is threatened with violence. If an employee feels threatened by a co-worker, volunteer, contractor, student, vendor, visitor, client, or customer, an immediate call to "911" is required.

### **The Right to Refuse Unsafe Work**

- The right to refuse unsafe work is a legal right of every worker provided by the *Occupational Health and Safety Act*. Hospice Care Ottawa is committed to ensuring a safe workplace. .
- If you wish to pursue this right, please refer to the Work Refusal Policy.

### **Special Circumstances**

Should an employee or volunteer have a legal court order (e.g., a restraining order, or "no-contact" order) against another individual, the employee is encouraged to notify his or her supervisor, and to supply a copy of that order to the Human Resources department. This will be required in instances where the

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employee or volunteer strongly feels that the aggressor may attempt to contact that employee or volunteer at Hospice Care Ottawa, in direct violation of the court order, so that Hospice Care Ottawa may take all reasonable actions to protect the employee or volunteer. Such information shall be kept confidential and protected in accordance with all applicable legislation.

If any visitor to the Hospice Care Ottawa workplace is seen with a weapon (or is known to possess one), or makes a verbal threat or assault against an employee or another individual, employee witnesses are required to immediately call 911, emergency response services, their immediate supervisor, and the Human Resources department.

All records of harassment and subsequent investigations are considered confidential and will not be disclosed to anyone except to the extent required by law.

In cases where criminal proceedings are forthcoming, Hospice Care Ottawa will assist police agencies, lawyers, insurance companies, and courts to the fullest extent.

### **Fraudulent or Malicious Complaints**

This Anti-violence, Harassment, and Sexual Harassment Policy must never be used to bring fraudulent or malicious complaints against employees or volunteers. It is important to realize that unfounded or frivolous allegations of personal harassment may cause both the accused person and the company significant damage. If it is determined by the company that any employee or volunteer has knowingly made false statements regarding an allegation of personal harassment, immediate disciplinary action will be taken.

### **Disciplinary Measures**

If it is determined by the company that any employee or volunteer has been involved in a violent behaviour, unacceptable conduct, or harassment of another employee, immediate disciplinary action will be taken. Such disciplinary action may involve counselling, a formal warning, or dismissal.



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### **Confidentiality**

Hospice Care Ottawa will do everything it can to protect the privacy of the individuals involved and to ensure that complainants and respondents are treated fairly and respectfully. Hospice Care Ottawa will protect this privacy so long as doing so remains consistent with the enforcement of this policy and adherence to the law. Neither the name of the person reporting the facts nor the circumstances surrounding them will be disclosed to anyone whatsoever, unless such disclosure is necessary for an investigation or disciplinary action. Any disciplinary action will be determined by the company and will be proportional to the seriousness of the behaviour concerned.

Hospice Care Ottawa will also provide appropriate assistance to any employee who is the victim of violence, discrimination, or harassment.

### **Managing and Coaching**

Counselling, performance appraisal, work assignment, and the implementation of disciplinary actions are not forms of harassment, and this policy does not restrict a manager's or supervisor's responsibilities in these areas.

### **Acknowledgment and Agreement**

I, \_\_\_\_\_ (Employee Name), acknowledge that I have read and understand the Workplace Anti-violence, Harassment, and Sexual Harassment Policy of Hospice Care Ottawa. I agree to adhere to this policy and will ensure that employees working under my direction adhere to this policy. I understand that if I violate the rules set forth by this policy, I may face disciplinary action up to and including termination of employment.

Name: \_\_\_\_\_



*When comfort matters most*

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_