



## POLICY AND PROCEDURE MANUAL

**SECTION: Human Resources**

**POLICY: HR 05**

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### WORKPLACE HARASSMENT AND VIOLENCE

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#### PREAMBLE

Contact Brant will abide by legislation including the Ontario Human Rights Code, and the Occupational Health and Safety Act.

**The Workplace** includes the office, other community buildings/homes, or a vehicle in which an employee works.

#### Harassment is defined as:

- Engaging in a course of vexatious comment or conduct against an employee in a workplace that is known or ought reasonably to be known to be unwelcome; or
- 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 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.

Acts of Harassment – behaviours and actions that include but are not limited to:

- Extreme micromanaging
- Intrusive invasions of personal space
- Leaving someone out of crucial meetings necessary for job success
- Excessive, unmanageable work overload
- Stealing others' intellectual property/innovations, etc. and representing it as their own
- Shunning
- Scapegoating
- Blocking someone's path
- Setting someone up to be unsuccessful.

Acts of Sexual Harassment – behaviours and actions that include, but are not limited to:

- Communications of a sexual nature: verbal, written, electronic or non-verbal gestures
- Inappropriate or unwanted touching
- Unwanted flirtatious comments or compliments
- Touching another person's hair, clothes or body
- Standing too close or brushing up against another person
- Seductive behaviour (giving sexy gifts, neck massage)

- Referring to someone as hot, a hunk, girl, honey, babe, doll, etc.
- Personal inquiries about someone's sex life, sexual orientation
- Turning work discussions into sexual topics
- Relentless requests for dates or sex
- Ranking a person's beauty or desirability
- Offering professional incentives for a date or sexual contact.

Harassment can be through emails, texts, social media, phone calls, or in person. Harassment includes, but is not limited to, a form of discrimination as set out in the Ontario Human Rights Code:

- race
- ancestry
- place of origin
- colour
- ethnic origin
- citizenship
- creed
- record of offences (in employment only)
- marital status
- family status
- disability
- sexual orientation
- sex

**Workplace Violence is defined** as the exercise of physical force by a person against an employee in the workplace that causes or could cause physical injury to the employee. This includes an attempt to exercise physical force against an employee, or a statement or behaviour that an employee could reasonably interpret as a threat to exercise physical injury, in a workplace that could cause physical injury. Accidental situations are not meant to be included in this definition.

Workplace Violence includes but is not limited to:

- Verbally threatening to attack an employee
- Leaving threatening notes at or sending threatening emails, texts, or phone calls to a workplace
- Shaking a fist in an employee's face
- Wielding a weapon at work
- Hitting or trying to hit an employee
- Throwing an object at an employee
- Sexual violence against an employee
- Kicking an object the employee is standing on
- Trying to run down an employee using a vehicle
- Domestic violence that may occur in the workplace and would likely expose an employee to physical injury; this includes whether targeted at an employee or potentially posing a threat to co-workers.

## **POLICY**

**Contact Brant will not tolerate any form of harassment including discrimination, or any form of violent behaviour in the workplace; this includes employees, volunteers, managers, clients, and any other public visitors.**

**Contact Brant is committed to providing a psychologically healthy workplace environment where people go to work feeling safe, supported acknowledged and valued; where feedback is given with care and where people are treated with integrity, respect and dignity.**

## **PROCEDURES**

1. Workplace harassment and violence will not be tolerated from any person in the workplace.
2. Contact Brant promotes health and well-being for its employees and recognizes that harassment can impact an employee's mental health. All employees, volunteers and students must be dedicated to preventing workplace harassment and violence including:
  - Managing their own behaviour and conduct appropriately (Refer to Professional Code of Conduct Policy and the Progressive Discipline Policy)
  - Being informed of Contact Brant's workplace harassment and violence policy and procedures
  - Reporting incidents, or potential for incidents, directly to the Chief Executive Officer, or if involving the CEO, to the Board Chair.
3. The Workplace Harassment and Violence Policy will be reviewed at least annually by the Chief Executive Officer with employees, as well as the Board of Directors to ensure awareness of:
  - What constitutes a complaint
  - Who to report to
  - What the process is when someone reports a concern
  - How confidentiality will be maintained
  - How people will be kept safe during the investigation
  - There will not be a backlash when anyone reports
  - How people will be notified of the results of the complaint.

### **Workplace Harassment including Sexual Harassment Procedures:**

1. Workplace harassment may be from clients, the employer, co-workers, domestic partners, or general public.
2. Any employee who feels they are being harassed or discriminated against is encouraged, wherever possible, to speak directly to the harasser to make them aware that their behaviour is offensive and contrary to agency policy and must stop immediately.
3. If the employee has not been able to resolve the matter directly, the employee will report the incident(s) to the Chief Executive Officer, or if the matter involves the Chief Executive Officer, reports the incident(s) to the Board Chair.

4. Employees who have witnessed harassment or objectionable behaviour directly, or have reasonable grounds to suspect that it is occurring, should report immediately to the Chief Executive Officer, or if the matter involves the Chief Executive Officer, report directly to the Board Chair.
5. The Chief Executive Officer, or as appropriate the Board Chair, will immediately begin an investigation of any allegations of workplace harassment including sexual harassment. The CEO or Board Chair could request an outside stakeholder to complete the investigation if impartiality is deemed required – an employee also has the right to request this. The CEO, or Board Chair, would confidentially request a partner agency as the outside stakeholder in these circumstances. Refer to Appendix 1 for Considerations when Conducting an Investigation.
  - a. The CEO will meet with the complainant in a confidential meeting to obtain a full account of the incident(s) as well as understand the impact on the employee. The CEO will provide information on counselling supports available through the employee benefit plan or other options, explain the process of the investigation that will occur, identify how to support the employee in feeling safe as an investigation is held, as well as discuss any options for resolution that the employee might have. The CEO will touch base with the employee on a daily basis through the investigation to ensure the employee is feeling safe and to put other measures of support in place when needed.
  - b. The Chief Executive Officer will formally advise the alleged harasser of the complaint in a confidential meeting; the alleged harasser will have the opportunity to reply to the allegations, including providing any documentation. The CEO will provide information on counselling supports available through the employee benefit plan or other options, explain the process of the investigation that will occur, as well as discuss any options for resolution that the employee might have.
  - c. The Chief Executive Officer will interview other employees or stakeholders that have been identified as having witnessed any incidents, reminding them of the need for confidentiality. The CEO will first explore, without naming employees or the current concerns, if they have ever witnessed any incidents of harassment in the workplace and review the types of behaviours and actions that are listed in this policy. If the person(s) has not witnessed any concerns, the CEO will then ask specific questions around incidents that have been described by the complainant and the alleged harasser – the employees will be identified at this point.
  - d. The CEO will document all interviews and information gathered, including but not limited to:
    - Dates and description of incident(s) including place of occurrence, approximate time of day, any witnesses
    - Dates of interviews, names of persons interviewed, details of the information provided by the interviewees, as well as explanations of the process and supports offered by the interviewer.

- e. The Chief Executive Officer will, within fifteen (15) working days of receiving the complaint, wherever possible, complete the investigation. At any point during the investigative process the CEO may consult with the Board Chair, a Human Resource specialist or seek legal advice.
  - f. The Chief Executive Officer will write a report of the investigation including any corrective action the employer will take as a result of the investigation. As per legislation, the written report will be provided to both the complainant and the alleged harasser. The CEO's report will need to balance between privacy and the obligation to provide the required information; any other employees or stakeholders interviewed during the investigation will not be provided with information or receive the report.
  - g. Both employees will be requested to sign acknowledging receipt of the Chief Executive Officer's report. A copy of the report will be filed in each employee's personnel file.
  - h. The Chief Executive Officer will:
    - If the results of the investigation support the complaint of harassment, take disciplinary against the harasser up to and including termination of employment.
    - If the results of the investigation conclude that this was a malicious complaint, take disciplinary action against the complainant.
  - i. Wherever possible, a face-to-face meeting with the complainant and the alleged harasser will be facilitated by the Chief Executive Officer to address moving forward in the workplace on completion of the investigation, no matter the outcome (refer to Employee Conflict Resolution Policy).
  - j. The Chief Executive Officer will ensure follow-up by monitoring the situation over the next six months, including meeting separately with each staff involved.
  - k. The Chief Executive Officer will report all allegations and incidents of harassment and outcomes of the investigation to the Board of Directors at the next In-Camera meeting.
6. The Chief Executive Officer will review, and modify if appropriate, agency policies, procedures and practices whenever a concern is identified or incident occurs regarding workplace harassment or violence. This review will consider any systemic issues in the work environment which may cause, contribute to or encourage the potential for harassment or violence; any remedial action would include education and training for all staff.
7. This policy is not intended to limit or constrain the reasonable exercise of management functions in the workplace. Reasonable action or conduct by a manager that is part of their normal work function will not be considered objectionable behaviour or workplace harassment. This is the case even if there are sometimes unpleasant consequences for an employee such as scheduling, job assessment and evaluation, workplace inspections, and disciplinary action.

Differences of opinion or minor disagreements between co-workers will also not be considered objectionable behaviour or workplace harassment. (Credit to: the Grand Erie District School Board's Harassment/Objectionable Behaviour Policy.)

8. Employees who are not satisfied with the CEO's investigative report should contact the Board Chair about their concerns. If an employee is not satisfied with the report prepared by the Board Chair, the employee has the right to contact any other Contact Brant Board member to express their concerns. In such cases, the Board Chair or Director of the Board will table the concern at an In-Camera meeting of the Board.
9. At any point, whether at initial reporting, through the investigative process, or through the follow-up period, an employee has the right to request support from another employee or other person of their choice to be present through meetings with them.
10. Employees should be aware that it is always their right to contact the Human Rights Tribunal to file an application on a matter related to the Ontario Human Rights Code, or to resolve the matter through civil litigation or any other legal avenues. The CEO will inform of this right.

#### **Workplace Violence Procedures:**

1. All employees are expected to work together to control the risks of workplace violence which include:
  - a. Safe work procedures (Refer to the Staff Safety Policy and the Health and Safety Policy); this includes working in compliance with, and reporting any contravention of, the Occupational Health and Safety Act and its regulations
  - b. Ensuring the building is secure and the alarm set when the first to arrive or last to leave the office
  - c. Training such as Non-Violent Crisis Intervention to aid staff to deal with clients including potentially aggressive/violent persons. This training includes staff attitudes and approaches as well as response to situations to help staff maintain the best possible care, welfare, safety and security.
  - d. Not engaging in any prank, contest, feats of strength, unnecessary running or rough boisterous conduct
  - e. An employee or co-workers identifying any potential domestic violence situations that may enter the workplace, including threatening emails, phone calls, unwelcomed visits.
2. All employees will summon immediate assistance when workplace violence occurs or is likely to occur:
  - a. Dial 911 for police assistance, and if required, an ambulance
  - b. Utilize office phones located in all meeting rooms and offices or cell phones when in the Contact Brant building, or cell phones if working out of the office.
  - c. As per Non-Violent Crisis Intervention (NVCi) training, call for back-up from another Contact Brant employee in the building and "work as a team"

to resolve disruptive and dangerous situations effectively, safely and respectfully”.

3. Employees will use their NVCI training to deal with aggressive or violent clients and always try to de-escalate the situation or remove themselves from the situation whenever possible. Planning ahead for all situations involving meetings with clients should also be done to prepare for any potential situations that may arise and provide some focus on ways to respond and alternatives. (Refer to Staff Safety Policy)
4. Employee will report on the potential of a client’s risk of workplace violence due to the person’s history of violent behaviour to the Chief Executive Officer who must provide other staff with information, including personal information, related to a risk of workplace violence from a person with violent behaviour; this is limited to those employees that can be expected to encounter the violent person in the course of their typical work and the risk of workplace violence is likely to expose the staff to physical injury. The Chief Executive Officer must not disclose more information than is reasonably necessary.
  - a. Factors to consider include: the history of violence is associated with the workplace or work; the history of violence was directed at a particular worker(s) in general; how long ago the incident(s) of violence occurred; and what measure and procedures are in place in the existing workplace violence program.
5. All employees will report any incidents, threats, or risks of workplace violence to the Chief Executive Officer as soon as possible.
  - a. Following an incident, all employees involved should spend some time talking and debriefing as a team to assist in reducing the stress following the incident.
  - b. Following an incident, the Chief Executive Officer will request a written report as soon after the situation is addressed. The report should include the basic facts regarding what happened including any intervention done in response, as well as ways to strengthen the agency’s and employees’ response in the future to respond to similar situations.
  - c. If appropriate, a Serious Occurrence Report will be filed with the Regional Office (Refer to Serious Occurrence Policy.) Additionally, when appropriate, a report may be required to the Workplace Safety Insurance Committee (WSIB) and/or the Ministry of Labour.
6. The Chief Executive Officer will investigate and deal with all incidents or complaints of workplace violence in a fair and timely manner, respecting the privacy of all concerned as much as possible; the investigation will include all relevant details of the incident, what led up to the incident, staff response, impact of agency policies and procedures, and recommendations for changes to policies and procedures.
  - a. The Chief Executive Officer will investigate and deal with any domestic violence concerns on a case-by-case basis, even if the targeted employee does not want the employer to take any steps; this will include evaluating

the employee's specific circumstances, how measures and procedures in the workplace could be used to support the development of reasonable precautions for the worker, and creating an individual safety plan in consultation with the employee for the employee while in the workplace. The Chief Executive Officer and employee will work with police, the courts and other organizations involved, as appropriate.

- b. Employees may be asked to participate in the investigation and make recommendations for changes.
  - c. The Chief Executive Officer will report all incidents and outcomes to the Board of Directors at the next meeting.
7. The Chief Executive Officer will advise employees of any actual or potential danger to the health or safety of the employee of which the CEO is aware.
8. The Chief Executive Officer must take every precaution reasonable in the circumstances to protect employees
  - a. Precautions could include but are not limited to provision of personal alarms and cell phones; phones in meeting rooms and offices; alarmed building; routines for opening and securing the building; well-lit parking lot with direct access from the exit; policies, procedures and training that address staff care, welfare, safety and security; and a designated safe location for emergency situations.
  - b. The Chief Executive Officer will at least annually assess the risks of workplace violence that may arise from the physical aspects of the workplace including the office, employee vehicles used during work or another community building/home where employees are working; the activities employees perform and the people with whom employees interact; as well as the hours worked, surrounding neighbourhood, mobile work, and working alone.
  - c. The Chief Executive Officer will at least annually develop procedures to control identified risks that are likely to expose an employee to physical injury.
  - d. The Chief Executive Officer will at least annually review with employees policy and procedures to control the identified risks.
9. Under the Occupational Health and Safety Act, an employee may refuse to work if they have reason to believe that they may be endangered by workplace violence, including if it can be reasonably interpreted that a threat to exercise force could result in physical injury to the employee.
  - a. The employee must remain in a safe place, as near as reasonably possible to their workstation while waiting for the employer to investigate. The location will be decided on a case-by-case basis, depending on the circumstances.
  - b. This does not mean that all work needs to be suspended during a work refusal.

## Considerations when Conducting an Investigation

- Conduct your investigation immediately after learning of the complaint.
- Remember that the experience of harassment can be subjective; the intention of the person doing the behaviour (“I didn’t mean to offend them”, does not matter – the focus needs to be on the impact of the behaviour.
- Ensure that the investigation remains confidential, and that all information gathered remains confidential. Information should be shared only where necessary, and with appropriate parties (who must also be informed of the need for confidentiality).
- Investigate all claims seriously.
- Document all information accurately.

### Interviewing the Complainant

- Obtain a full account of the incident, and document all details provided.
- Determine any potential pattern involved, or if the incident was a singular occurrence.
- Work to rule out these potential elements:
  - Determine if the incident was influenced by any contextual factors.
  - Identify any reporting relationships, or hierarchical structures that may have influenced the incident(s).
  - Determine a timeline of events associated with the incident, and what the job duties of each party were at the time of the incident, and what their expected locations were.
  - Examine the potential of a charge made under false pretences, and any motivating factors that may be involved.
- Inform the complainant that a thorough investigation will take place.
- Obtain a written, signed and dated statement from the claimant.
- Ensure that the employee is free from retaliation and feels safe as a result of their coming forward.

### Interviewing the Alleged Harasser

- Obtain a full account of the incident, and document all details provided.
- Determine any potential pattern involved, or if the incident was a singular occurrence.
- Work to rule out these potential elements:
  - Determine if the incident was influenced by any contextual factors.
  - Identify any reporting relationships, or hierarchical structures that may have influenced the incident(s).
  - Determine a timeline of events associated with the incident, and what the job duties of each party were at the time of the incident, and what their expected locations were.
  - Examine the potential of a charge made under false pretences, and any motivating factors that may be involved.
- Inform the alleged harasser that a thorough investigation will take place.

### Interviewing Witnesses

- Obtain a full account of the incident, and document all details provided.
- Ensure that the witness is free from retaliation as a result of their coming forward.

### Resolve the Complaint

- Where disciplinary action is required, determine the level of discipline based on whether the conduct of the accused harasser toward the complainant was outrageous; did the harasser intend to cause emotional stress or have a reckless disregard for causing the complainant to suffer from emotional stress; did the complainant suffer from severe or extreme emotional distress; and was the harasser's conduct the actual and proximate cause of the emotional distress. Also consider previous disciplinary action, and the employee's previous history.
- Complete a report of the investigation including any corrective action the employer will take as a result of the investigation
- Place documentation of the complaint, investigation, rulings, discipline imposed, and any actions taken into the relevant Human Resource files.
- Follow up with the involved parties to support the return to a psychologically healthy workplace.
- Review, revise and re-communicate Policies.