

HR. 19 Respectful Workplace

PURPOSE

A respectful workplace is an environment where communication and conduct are respectful, conflict is addressed, and individuals are valued and treated with dignity. The Works requires respect in the workplace where individuals are free from harassment and discrimination. The aim of this Policy is to promote awareness, create an understanding of what constitutes Harassment and Discriminatory Harassment, provide mechanisms to have Concerns or Complaints addressed and to affirm The Works responsibility under the Human Rights Act, SNL 2010.

All employees are entitled to perform their duties in a respectful environment. The Employer, in conjunction with employees and customers, is responsible for fostering a respectful workplace. Managers and Supervisors are responsible for taking reasonable steps to ensure this requirement is met, regardless of whether a Concern or Complaint was brought forward. Failing to respond adequately to respectful workplace issues is a violation of this Policy. In addition, all individuals in The Works Community share a collective responsibility for a respectful workplace.

SCOPE

This Policy applies to all employees of The Works and applies to all employee interactions with members of The Works Community including co-workers, supervisors, managers, customers, students, visitors, contractors, vendors, and any other individuals who may have interactions with The Works.

Individuals who are not employed by The Works who have a Concern/Complaint about Harassment or Discriminatory Harassment may express their issue to the Director/General Manager. This Policy and related Procedures may be used where an individual who is not employed by The Works makes a Concern or Complaint involving an employee. Concerns or Complaints pertaining to non-employees may be subject to Conduct of Individuals While on The Works Premises (OP.36).

The Works has a separate policy regarding Sexual Harassment (HR.12). Persons who have a Concern or Complaint regarding Sexual Harassment are advised to review The Works Sexual Harassment Policy. (HR.12)

Any employee who believes they have experienced Harassment (as defined in this Policy) has the following options for recourse:

- a) Early Resolution of Concerns- (Section 5.0 of this Policy)
- b) Formal Complaint (Section 6.0 of this Policy)
- c) The Grievance Procedure as outlined in the Collective Agreement between Memorial University Recreation Complex Inc. and Canadian Union of Public Employees, Local 3336.

Other outside options:

- a) A complaint through the Human Rights Commission of Newfoundland and Labrador
- b) Certain provisions of the Criminal Code of Canada
- c) Any other appropriate legal avenues

DEFINITIONS

Complaint- A written statement of allegation concerning harassment by a complainant seeking recourse pursuant to this Policy and which normally includes an investigation.

Complainant – An individual who believes they have been subjected to harassment who seeks recourse pursuant to this Policy.

Concern – A verbal or written statement of concern to an individual regarding harassment and which the individual wishes to resolve through an informal process.

Day(s)- A day, other than a Saturday or Sunday, statutory holiday, or other day on which The Works is not open for administrative business.

Discriminatory Harassment – Harassment based on an actual or perceived prohibited ground of discrimination as outlined in the Human Rights Act, SNL 2010. Examples, based on the grounds enumerated in the Act, include, but are not limited to race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income, or political opinion.

Harassment - any objectionable, offensive, abusing or demeaning behaviour (including comments), that is known or ought reasonably to be known to be unwelcome or unwanted. Harassment may be intended or unintended. Harassment will normally involve a series of incidents; however, a single incident may constitute harassment depending on nature and type of incident. Types of harassment included in this policy are Discriminatory Harassment and Harassment. The Works has a separate Policy regarding Sexual Harassment (HR.12).

Examples of possible harassment include, but are not limited to:

- Verbal abuse, yelling, and/or making threats;
- Making degrading or offensive comments, gestures, or jokes;
- Spreading malicious gossip or rumours;
- Inappropriate communication through social media, e-mail, instant messaging or any other electronic means;
- Actual or threatened physical contact or assault;
- Bullying or intimidation (e.g. sabotaging work equipment, interfering with someone's ability to perform their duties, exclusionary practices, etc.).
- Gender, sexual orientation or gender identity-based insults

Harassment is not:

- a) Interpersonal conflict or disagreement expressed in a respectful manner.
- b) Normal exercise of supervisory responsibilities including work assignment, performance feedback, training, coaching and/or discipline intended to support daily organizational activities. There is the expectation that these duties will be carried out in an appropriate and respectful manner.
- c) Trivial matters which are minor.

Investigator – The Director/ General Manager or the MURC Board Chair, as appropriate, appoints an investigator. Any employee who has been involved in the Concern or Complaint shall not be the investigator. The investigator may be internally or externally appointed. No person shall be selected where there is a real or perceived conflict of interest or reasonable apprehension of bias.

Legal Authorities – Legal entities, external to The Works who have the jurisdiction and responsibility to uphold and enforce the law, including Criminal Code of Canada, RSC. 1985, as amended.

Respectful Workplace Advisor – An employee of The Works who provides advice and support to employees regarding Respectful Workplace Policy and Procedures. The Advisor is appointed by the Director/General Manager.

Respondent(s)- an individual against whom an allegation of Harassment or Discriminatory Harassment has been made under this Policy.

Retaliation – any threat of reprisal, attempt to intimidate or adverse behaviour or action, taken against a member of The Works Community in response to that person having:

- invoked this Policy by bringing forward a Concern or Complaint;
- participated or cooperated in any investigation under this Policy; or
- been associated with a Member of The Works Community who has invoked this Policy or participated in any of its processes.

Retaliation may result in disciplinary action.

The Works Community – Employees, supervisors, managers, customers, students, visitors, contractors, vendors, and any other individuals who may have interactions with The Works.

Workplace – the location where employees carry out their duties. This may include, but is not limited to, The Works premises, external meeting locations, conferences or external activities, work related social events and Employer approved travel.

Workplace Assessment – a review of the work environment in The Works related to issues of Harassment and Discriminatory Harassment, with a view to identify causes and effects, and to make recommendations with respect to that Workplace.

1.0 GENERAL PROVISIONS AND CONDITIONS

- a) Harassment and Discriminatory Harassment in any form are unacceptable. Any employee who harasses another person may be subject to disciplinary action, up to and including termination.
- b) When a Concern or Complaint is raised, there will be an attempt to use informal and mediation-based approaches wherever it is appropriate to do so. Every reasonable effort should be made to resolve a Concern or Complaint early with open communication and in a responsive manner which may include coaching, mediation and training facilitated by internal or external parties.
- c) The Works does not tolerate, malicious, false or bad faith allegations of Harassment or Discriminatory Harassment and such allegations will be considered violations of this policy. Persons found to have made a malicious, false or bad faith accusation will be subject to discipline up to and including termination. A Concern or Complaint will not be deemed to be false, malicious or made in bad faith solely because it is unfounded or unable to be substantiated by the available evidence.

- d) Employees who believe that they have been affected by a violation of this Policy will be provided assistance under reasonable timelines.
- e) Complainants, Respondents and witnesses may be accompanied by a support person of their choosing when attending meetings regarding a Concern or Complaint, provided the person is not a witness to the Concern or Complaint and provided the person selected is not in a potential conflict of interest position by virtue of involvement. The support person's primary role is to provide support and guidance to the person being interviewed.
- f) If the employee's immediate supervisor is named as being part of a Concern or Complaint, the employee should present their Concern or Complaint to the next level of management. If the Concern or Complaint names the Director/General Manager, the employee should contact the Board Chair of Memorial University Recreation Complex Inc.
- g) If the employee wishes to present their Concern or Complaint to someone from outside their division, they can consult with the Respectful Workplace Advisor.
- h) Anonymous Concerns and Complaints will not be addressed under this Policy but may result in a Workplace Assessment. This decision shall be made by the Director/General Manager, in their discretion.
- i) The Respectful Workplace Advisor, may consult with the Director / General Manager on investigations and Workplace Assessments.
- j) The time limits outlined in this Policy, may be extended, where appropriate, by the Director/General Manager.
- k) If an employee at any time during the process elects to pursue a respectful workplace complaint through a process external to The Works (e.g., human rights complaint, civil action, etc.), the formal complaint process in this Policy will be held in abeyance, pending the resolution of such judicial or quasi-judicial processes, unless an investigation under this Policy has already been completed and the investigator's report submitted.

If a unionized employee chooses to utilize the Grievance Process available to them under the terms and conditions of the Collective Agreement, the formal complaint process in this Policy will be held in abeyance, pending the resolution of the Grievance process.

- l) This Policy does not restrict the Employer's rights to manage the workplace. Nothing in this procedure or Policy is intended to modify The Works right to impose disciplinary action when appropriate and justified.
- m) Reprisal or retaliation against any individual who has alleged Harassment or Discriminatory Harassment, raised a Concern or made a Complaint or participated in any proceedings under this Policy is prohibited and may result in disciplinary action.
- n) Conflicts in the workplace involving disruptive, threatening or violent behaviour where an employee's safety and security may be in danger must be reported immediately to MUN Campus Enforcement and Patrol, or to Legal Authorities. Incidents of this nature will be reported to the Director/General Manager as soon as possible.

- o) A Concern/Complaint is considered withdrawn when:
 - i. The Complainant withdraws the Concern/Complaint at any stage of the process, by informing the appropriate manager.
 - ii. The Complainant chooses not to participate in any of the process outlined in 5.0 and/or 6.0.

2.0 PRIVACY AND CONFIDENTIALITY

Respect for privacy is an important feature of a respectful workplace. All persons involved in any process related to this Policy are required to maintain confidentiality. Concerns/Complaints of Harassment or Discriminatory Harassment are received and managed in a confidential manner.

All discussions, correspondence and other communications related to a Concern/Complaint under this Policy shall be treated by all persons involved as confidential and will be handled in accordance with The Works Privacy and Information Protection Policy (OP. 41), or any other privacy legislation to which the Works is or becomes subject. Delivery of all written statements and reports shall be made in a confidential and secure manner, stating "to be opened by addressee only", and sent by email. In the event that it cannot be sent by email it will be sent by registered post to the last known address of the individual.

Confidential information will be shared only with persons who require the information to perform their role within the Concern, Complaint or investigation process, and information shared will be limited to the scope of their responsibilities. Persons outside the process who attempt to gain or who do gain access to personal information with respect to a Concern or Complaint, where such information is not within the scope of their responsibilities, are in violation of this Policy.

A breach of confidentiality by any person with respect to a Concern or Complaint may be subject to disciplinary action.

Confidentiality may not apply to persons subject to judicial processes, or where disclosure is permitted or required by law, or where the health, safety and security of a person or persons is a concern.

3.0 RECORDS AND RETENTION

All records are handled in accordance with FA.17 - The Works Information Management Policy and OP.41- Privacy and Information Protection Policy.

4.0 APPEALS

Complainants and Respondents have the right to appeal or grieve in accordance with the following:

- a) For non-bargaining unit employees, appeals can be filed with the Board Chair of Memorial University Recreation Complex Inc. within 10 days of receiving the written decision.
- b) In the case of bargaining unit employees, the Respondent has the right to file a grievance regarding any decision or discipline under this Policy, in accordance with the terms of the collective agreement. A Complainant may have the right to file a grievance regarding the finding as to whether a violation of this Policy has or has not occurred, in accordance with the terms of the collective agreement.

5.0 EARLY RESOLUTION OF CONCERNS - PROCEDURES

- a) No later than 12 months from the date of the alleged incident(s) of Harassment or Discriminatory Harassment, the employee may bring their Concern to their immediate Supervisor, Senior Manager or the Respectful Workplace Advisor. The Concern may be raised verbally or in writing.
- b) The Supervisor, Senior Manager or Respectful Workplace Advisor will examine the Concern and determine if the conduct or behaviour described falls within the provisions of the Respectful Workplace Policy. Supervisors and Senior Managers shall consult with the Respectful Workplace Advisor. At this time and following an assessment of the matter, the remainder of the Concern process may be handled by the Respectful Workplace Advisor.
- c) If it is determined that the matter does not fall within the provisions of this Policy, the employee raising the Concern will be advised by their Supervisor, Senior Manager or the Respectful Workplace Advisor.
- d) If it is determined that the matter falls within the provisions of the Respectful Workplace Policy, the Supervisor, Senior Manager or Respectful Workplace Advisor will discuss the Concern with the employees involved with the goal of reaching a mutually acceptable resolution.
- e) Informal resolution may include, but is not limited to, individual intervention, management intervention, coaching, facilitated discussions, or mediation.
- f) Every reasonable attempt should be made to resolve the Concern prior to moving to formal mechanisms. The early resolution process where possible, should not exceed 30 days.
- g) If a resolution is reached, it will be recorded by the Respectful Workplace Advisor. Managers will monitor situations where resolutions have been reached and ensure that individuals are not subject to retaliation for their involvement in a process under the Policy
- h) In the event that the Concern is not resolved at this stage, it may form part of any formal Complaint or investigation arising from the same or similar circumstances.
- i) The serious nature of a Concern may mean that it is not a matter where it is appropriate to use an informal resolution process.

6.0 RESPECTFUL WORKPLACE COMPLAINT – PROCEDURES

- a) Complaints under this Policy shall be in writing and signed and dated by the person(s) making the Complaint. The Complaint shall indicate all relevant particulars and details, including:
 - i. The name(s) of the person(s) alleged as being the cause or origin of the offending behaviour or comment;
 - ii. The particulars of the allegation, including a description of the offending behaviours, as well as the dates and times of any incidents, and the names of any witnesses to the alleged behaviour.
- b) A Complaint shall be presented by the employee to their immediate Supervisor, Senior Manager or Respectful Workplace Advisor, no later than 12 months from the date of the alleged incident(s) from which the Complaint arises. Employees are encouraged to come forward as soon as reasonably possible if they wish to make a Complaint.
- c) The Supervisor, Senior Manager or Respectful Workplace Advisor will examine the Complaint within 15 days and determine if the conduct or behavior described falls within the provisions of the Respectful Workplace Policy. In the process of examining any Complaint, the Supervisor or Senior Manager shall consult with the Respectful Workplace Advisor. At this time and following an assessment, the remainder of the Complaint processes may be handled by the Respectful Workplace Advisor.
- d) If it is determined that the matter does not fall within the provisions of this Policy or is made outside the prescribed time limits, the Complainant will be advised. If the Complaint is being or has been addressed by a grievance under a collective agreement, another complaints process, the Newfoundland and Labrador Human Rights Commission or some other legal process, the formal complaint process in this Policy will be held in abeyance, pending the resolution of such judicial or quasi-judicial processes, unless an investigation under this Policy has already been completed and the investigator's report submitted.
- e) If it is determined that the matter falls within the provisions of this Policy, the Supervisor, Senior Manager or Respectful Workplace Advisor may advise the Complainant that the Complaint is more appropriately addressed through the Early Resolution of Concerns (Section 5.0).
- f) If the matter falls within the provisions of this Policy and the Complainant decides to proceed formally, the Complaint will require an investigation. The Respectful Workplace Advisor will notify the Director /General Manager that an Investigator must be appointed. This investigation may involve discussions with employees and others mentioned in the Complaint including any witnesses.
- g) The Respectful Workplace Advisor shall ensure the Respondent is provided with a copy of the Complaint within 10 days of the decision to proceed. Any response to the Complaint must be in writing and must be submitted within 10 days of the Respondent's receipt of the Complaint.
- h) The Investigator, as appointed by the Director/General Manager will conduct a thorough investigation in the allegations of the Complaint, which may include interviews with the Complainant, Respondent and any named witnesses, and will write an investigation report which will be submitted to Director/General Manager. The Investigator shall submit their report within 40 days of being appointed. The Investigator shall ascertain the facts surrounding the Complaint, and will conduct the investigation in an impartial, fair and objective manner. Once the investigation is complete the report will be provided to the Director/General Manager. Within 7 days of receipt by the Director/General Manager, a copy of the report will be provided to the Complainant and Respondent, who may choose to respond, in writing, to the Director/General Manager within 7 days.

- i) The Director/General Manager shall decide, based on the report and the responses, if any, whether or not Harassment or Discriminatory Harassment has occurred. The Director/General Manager will provide a written decision to the Complainant and Respondent within 7 days of receiving their responses, if any. The Director/General Manager will also communicate any action that may be taken as a result of the decision, and whether or not discipline will be imposed. The Complainant and Respondent will receive a copy of the final decision in writing stating "to be opened by addressee only", and sent by email. If it cannot be emailed, it will be sent by registered post to the last known address of the individuals. If discipline is to be imposed, the Respondent will be notified at that time.
- j) Follow up action will be completed as indicated and required.
- k) Managers will monitor situations where complaints have been made even after corrective measures have been taken to ensure that individuals are not subject to retaliation for their involvement in a process under the Policy.

AUTHORITY

The Works Director/General Manager is responsible to the Board Chair of Memorial University Recreation Complex Inc. for the implementation, maintenance and review of this Policy.

All Managers/Supervisors for The Works are responsible for the communication and ongoing administration of this Policy.

RESPONSIBILITY

The Works Community:

It is the responsibility of all members of The Works Community to:

- Treat all other members of The Works community, including employees, with respect and dignity.

All Employees:

It is the responsibility of employees to:

- Treat all members of The Works community with respect and dignity;
- Familiarize themselves with this Policy and conduct themselves in a way which is consistent with the provisions and spirit of the Respectful Workplace Policy;
- Cooperate in the processes detailed in this Policy;
- Respect the confidentiality of all processes under the Policy;
- Report inappropriate behaviour to someone in authority;
- Challenge inappropriate behaviour and refuse to participate in such behaviour.

Junior Managers and Supervisors:

It is the responsibility of all Junior Managers and Supervisors to:

- Familiarize themselves with and comply with this Policy;
- Encourage a respectful workplace environment;
- Participate in and facilitate participation in education and training related to this Policy;
- Where and when appropriate, advise others about this Policy;
- Respect the confidentiality of all processes under the Policy;
- Consult with a Senior Manager or Respectful Workplace Advisor to obtain advice and guidance regarding possible violation of this Policy and refer employees to a Senior Manager or Respectful Workplace Advisor if appropriate.

Senior Managers (Director/General Manager & Division Managers):

Senior Managers bear the responsibility to maintain a respectful workplace environment by initiating positive measures and taking prompt action. This includes but not limited to:

- Lead by example and act respectfully in dealing with employees and members of The Works community;
- Ensure that all employees are aware of their rights and responsibilities under this Policy;
- Educate themselves and those in their division with respect to this Policy;
- Provide education, awareness and training related to this Policy and ensure all employees have the opportunity to participate;
- Monitor the workplace and address incidents that may violate this Policy in a timely and confidential manner, even in the absence of a Complaint;
- Participate in learning opportunities on the prevention, early intervention and resolution of respectful workplace related issues;
- Upon request, provide advice and guidance to employees, managers and others regarding the interpretation or administration of this Policy;
- As required, conduct or coordinate investigations within this Policy;
- Provide informal facilitation or mediation assistance to parties who are attempting to resolve a respectful workplace issue or arranging for a facilitator;
- Monitor situations where Complaints have been made even after corrective measures have been taken and ensure that individuals are not subject to retaliation for their involvement in processes under this Policy;
- Respect the confidentiality of all processes under the Policy;
- Develop and administer documentation to support this Policy.

Complainants:

It is the responsibility of Complainants to:

- Submit a Concern or Complaint within 12 months following the last incident;
- Follow all requirements of the Policy;
- Cooperate in the Early Resolution and/or formal Complaint process, as appropriate;
- Maintain confidentiality throughout the process.

Respondents:

It is the responsibility of Respondents to:

- Follow all requirements of the Policy;
- Cooperate in the Early Resolution and/or formal Complaint process, as appropriate;
- Maintain confidentiality throughout the process.

Investigator:

It is the responsibility of the Investigator to:

- Inform the Complainant, the Respondent and any witnesses of the Respectful Workplace processes that will be followed and their roles in the process;
- Conduct the investigation in a fair and impartial manner;
- Respect confidentiality at all times;
- Interview the Complainant, Respondent and witnesses and prepare a written investigation report;
- Review all statements and any evidence or documents collected;
- Submit a written investigation report to the Director/General Manager.

Respectful Workplace Advisor

It is the responsibility of the Respectful Workplace Advisor to:

- Provide guidance and advice in relation on the Policy, Procedures and associated programs to address employee conflict and Respectful Workplace Concerns or Complaints;
- Act as a subject matter resource for the development of employee and management orientation, training, and information programs on a Respectful Workplace;
- Receive and review Respectful Workplace Concern or Complaints from employees, managers, or others either personally or in conjunction with a Supervisor or Senior Manager, including identifying whether allegations are within scope of the Policy;
- Advise Complainants of both early and formal resolution options available to address Respectful Workplace Concerns or Complaints, and respect the confidentiality provisions of the Policy;
- Assist Divisions in notifying Respondents of a Complaint;
- Advise any party or witness related to a Concern or Complaint on matters pertaining to the Policy;
- Coordinate the assignment of investigators when formal investigations are necessary.
- Advise investigators on Policy and procedural issues associated as required;
- Send a copy of appropriate documents, reports and final decisions to the Complainant and Respondent as per procedural timelines;
- Maintain records of all Respectful Workplace Concerns or Complaints and track progress through to resolution/conclusion.

Respectful Workplace -Procedure Summary

