



Interim Workplace Harassment & Discrimination Complaints Procedure

Contact Officer

Director and Counsel, Employee and Labour Relations

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| PROCEDURE | Purpose | <ol style="list-style-type: none"> 1. The purpose of this procedure is to provide a process for an Employee who has allegedly experienced Discrimination and/or Harassment to submit a Complaint to the University under the <i>Interim Workplace Harassment & Discrimination Policy</i> (the "Policy"). The procedure also provides a process for individuals to advance the allegation that they have been penalized for submitting a Report or Complaint in good faith, or for participating in a related investigation ("reprisal"). This procedure seeks to ensure the University will respond appropriately to Complaints of Discrimination, Harassment and/or reprisals in the workplace. 2. A Complaint can only be filed by an Employee who has allegedly experienced Discrimination, Harassment and/or reprisal. A separate procedure--the <i>Interim Workplace Harassment & Discrimination Reporting Procedure</i>--is available to individuals, other than those who are alleged to have experienced Discrimination and/or Harassment, to report information about Discrimination and/or Harassment in the workplace. 3. This procedure does not override or diminish the rights provided to Employees under applicable collective agreements, and will be applied with appropriate regard to the rights established under collective agreements, where applicable. |
| | Defined Terms | <ol style="list-style-type: none"> 4. Capitalized terms in this procedure are defined under the <i>Interim Workplace Harassment & Discrimination Policy</i> (the "Policy"). |
| | Records | <ol style="list-style-type: none"> 5. Human Resources or the Faculty Relations Office, whichever has primary responsibility for responding to a Complaint, will maintain a confidential file for each Complaint, including all related communications, memoranda, reports, statements and evidence. Complaint files will generally be retained for seven years following the completion of this procedure. However, one year after the completion of this procedure, the Complaint file will be stored off-site. Furthermore, if a file is relevant to recurring incidents, it may be recalled, and added to a subsequent Complaint or Report file. |

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| <p>Confidentiality</p> | <p>6. Information collected under this procedure will be used only for the purposes of administering the <i>Interim Workplace Discrimination & Harassment Policy</i>, and may be disclosed only on a need-to-know basis to the extent required to fulfill the University's legal obligations. For example, during investigations, Respondents must be provided with enough information to be able to provide a meaningful response, and no less information than is required under an applicable collective agreement. Personal Information collected, used and disclosed under this procedure will otherwise be kept confidential. To this end:</p> <ul style="list-style-type: none"> a) Physical documents created under this procedure will be kept in a confidential file at Human Resources or the Faculty Relations Office, and such documents will not be included in the personnel file of the Complainant. b) Only authorized individuals will have access to electronic documents created under this procedure, and then only on a need-to-know basis. Reasonable steps will be taken to protect against unauthorized access to such electronic documents. c) All individuals involved in this procedure will be advised of their duty to maintain the confidentiality of all information disclosed to them in this procedure, including any Personal Information disclosed to them. d) Personal Information obtained during the Complaints Process will not be disclosed except to the extent that disclosure is necessary for the purposes of investigating Complaints, taking corrective action, protecting the health and safety of members of the University community, or as otherwise required by law. For example, information may be shared with EHS and/or Campus Security if this is necessary to protect an individual who has allegedly experienced Discrimination and/or Harassment. e) Investigation reports created under this procedure will not normally be disclosed or produced to a Complainant, Respondent or witness. Complainants, and Respondents who are Employees, will, however, be advised of the outcome of the investigation, and the corrective actions taken, if any. |
| <p>A Valuable Resource - The Human Rights Office</p> | <p>7. The Human Rights Office is available to provide information and ongoing support to Employees who perceive Discrimination or Discriminatory Harassment (<i>i.e.</i> "Code-based" harassment) in the workplace. In determining whether a Complaint is appropriate and/or advisable in a particular case, the prospective Complainant may seek guidance from the Human Rights Office. If a Complaint would involve a Respondent who is employed in the Human Rights Office, then the prospective Complainant may seek guidance</p> |

directly from Human Resources. In such cases, the following steps--described as the responsibility of the Human Rights Office--will be taken instead by Human Resources.

8. In addition to providing information and guidance regarding Discrimination and/or Discriminatory Harassment, the Human Rights Office may play an important role in the resolution of incidents involving alleged Discrimination and/or Discriminatory Harassment. As a general rule, the Human Rights Office provides a confidential service. When the Human Rights Office receives information suggesting an Employee has faced adverse treatment linked to a Protected Ground, it will generally not disclose that information, provided steps have been taken to ensure any prospective Complainant fully understands the Complaints Process and has voluntarily declined to proceed. However, the Human Rights Office will disclose information to Human Resources in any of the following circumstances:
 - (a) A prospective Complainant seeking support from the Human Rights Office decides to proceed with a Complaint;
 - (b) Information is received suggesting there is a clear risk, or suggesting there has been an incident of Workplace Harassment under the *Occupational Health and Safety Act*;
 - (c) Information is received that requires the University to investigate Discrimination or Discriminatory Harassment in the context of employment under section 5 the *Human Rights Code*. For example, such an investigation will be required where there is evidence of a broader pattern of discrimination affecting Employees other than those who are seeking assistance from the Human Rights Office. However, such an investigation will not be required where all prospective Complainant(s) have made an informed decision not to proceed with a Complaint, and their decision is documented;
 - (d) The University is involved in proceedings which require the disclosure of information; or
 - (e) Disclosure of information is otherwise required by law (e.g. if the police conduct a related investigation and the University is legally required to disclose information to the police).
9. Whenever information is disclosed to the Human Rights Office about a matter involving Discrimination, Harassment and/or reprisal in the workplace, it will provide a copy of this procedure and the Policy, electronically or in hard copy, and it will make reasonable efforts to maintain an accurate record including the names of individuals to whom it distributes these documents. The Human Rights Office will

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| | | <p>take further steps to ensure the prospective Complainant understands the Complaints Process, and will explain that the Complaints Process does not diminish or override any rights available to the prospective Complainant under a collective agreement or access to external remedial processes such as an application to the Human Rights Tribunal of Ontario.</p> <p>10. When information is disclosed by the Human Rights Office to Human Resources, the Human Rights Office may continue to provide ongoing support to the Complainant or prospective Complainant.</p> |
| | <p>A Valuable Resource - The Office of the University Ombudsman</p> | <p>11. The Ombudsman is available to provide independent, impartial and confidential advice on an ongoing basis to members of the University community who are involved in the investigation of a Complaint.</p> <p>12. As a general rule, the Ombudsman provides a confidential service. When the Ombudsman receives information suggesting an Employee has faced adverse treatment linked to a Protected Ground, it will generally <u>not</u> disclose that information, provided steps have been taken to ensure any prospective Complainant fully understands the Complaints Process and has voluntarily declined to proceed. However, the Ombudsman will disclose information to Human Resources in any of the following circumstances:</p> <ul style="list-style-type: none"> (a) A prospective Complainant seeking support from the Ombudsman decides to proceed with a Complaint; (b) Information is received suggesting there is a clear risk, or suggesting there has been an incident of Workplace Harassment under the Occupational Health and Safety Act; (c) Information is received that requires the University to investigate Discrimination or Discriminatory Harassment in the context of employment under section 5 the <i>Human Rights Code</i>. For example, such an investigation will be required where there is evidence of a broader pattern of discrimination affecting Employees other than those who are seeking assistance from the Ombudsman. However, such an investigation will <u>not</u> be required where all prospective Complainant(s) have made an informed decision not to proceed with a Complaint, and their decision is documented; (d) The University is involved in proceedings which require the disclosure of information; <u>or</u> (e) Disclosure of information is otherwise required by law (e.g. if the police conduct a related investigation and the University is legally required to disclose information to the police). |

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| | | <p>13. Whenever information is disclosed to the Ombudsman about a matter involving Discrimination, Harassment and/or reprisal in the workplace, it will provide a copy of this procedure and the Policy, electronically or in hard copy, and it will make reasonable efforts to maintain an accurate record including the names of individuals to whom it distributes these documents. The Ombudsman will take further steps to ensure the prospective Complainant understands the Complaints Process, and will explain that the Complaints Process does not diminish or override any rights available to the prospective Complainant under a collective agreement or access to external remedial processes such as an application to the Human Rights Tribunal of Ontario.</p> <p>14. When information is disclosed by the Ombudsman to Human Resources, the Ombudsman may continue to provide ongoing support to the individual.</p> |
| | <p>Right to an Advisor</p> | <p>15. Individuals who attend an interview in an investigation under this procedure may be accompanied by one advisor. Individuals who choose to attend an interview with an advisor will choose their own advisor and will notify the investigator of their advisor's name at least 24 hours prior to the interview. In the case of an Employee who is a member of a bargaining unit, the advisor may be a union representative.</p> <p>16. The role of an advisor is to support the individual by providing procedural information and/or moral support. During the interview, an advisor will be permitted to speak and ask questions regarding the investigation process, but will not be permitted to make legal submissions or arguments on behalf of the individual, or to disrupt the interview. Exceeding their role or disrupting the interview will result in the advisor being excused from the interview. In any event, individuals who are being interviewed must answer the interview questions themselves. Where interviewees require accommodation on the basis of a Protected Ground they must advise the investigator of their needs at least 36 hours in advance of the interview.</p> |
| | <p>Alternative Dispute Resolution</p> | <p>17. At any stage during this procedure an alternative dispute resolution ("ADR") process, such as mediation, can be pursued if the Complainant(s), Respondent(s) and Human Resources (or the Faculty Relations Office, if it has been assigned primary responsibility) consent to ADR being pursued and to its format.</p> <p>18. Where those involved in the ADR process reach an agreed resolution, that resolution will only be binding and effective upon</p> |

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| | | <p>written approval of Human Resources (or the Faculty Relations Office, if it has been assigned primary responsibility).</p> <p>19. Once an ADR process has commenced, the investigation may be held in abeyance for a maximum period of 30 calendar days, after which, unless a resolution has been reached and approved, the investigation will be re-commenced.</p> <p>20. Notwithstanding a resolution being reached and approved, Human Resources (or the Faculty Relations Office, if it has been assigned primary responsibility) retains the discretion to continue/complete its investigation if it concludes it is appropriate to do so, having regard for relevant collective agreement requirements and applicable law, and, to protect the interests of the University.</p> |
| | <p>Step 1 - Submitting a Complaint to Human Resources</p> | <p>21. Concerns relating to Discrimination, Harassment and/or reprisal should first be raised through consultation with a supervisor or manager. All such Persons of Authority should seek guidance from Human Resources in attempting to address and resolve concerns relating to Discrimination and/or Harassment in the workplace. However, if an Employee's supervisor or manager is allegedly involved in Discrimination, Harassment and/or reprisal, then the Employee's concerns should be raised directly with Human Resources.</p> <p>22. If allegations of Discrimination, Harassment and/or reprisal are not fully addressed and resolved by way of consultation with a Person of Authority, a Complaint should be submitted to Human Resources. However, if a Complaint involves a Complainant or a Respondent who is employed in Human Resources, then the Complaint must be submitted to the Faculty Relations Office. The Faculty Relations Office will then ensure that the Complaint is addressed by individuals outside of Human Resources. Similarly, if a Complaint involves a Complainant or a Respondent who is employed in the Faculty Relations Office, that Office will not be assigned primary responsibility for the Complaint.</p> <p>23. When Human Resources is approached by a prospective Complainant, it will advise that information about a Complaint will be kept confidential except to the extent that Human Resources is legally required to investigate and/or disclose information, in which case information may be shared only on a need-to-know basis.</p> <p>24. Human Resources will provide, or otherwise make available to Complainants, a Complaint form for submitting a Complaint, and the Complainant will submit the Complaint form to Human Resources in the format provided, attaching additional pages if needed.</p> |

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| <p>Step 2 - Interim Measures</p> | <p>24. Upon receiving a Complaint, Human Resources will immediately consider whether interim measures are necessary. It will normally be appropriate to ensure a Complainant is not required to interact with the Respondent(s) during the Complaints Process.</p> <p>25. Further interim measures will be implemented where reasonable and appropriate in the circumstances. Human Resources will consult with others as appropriate, such as the manager of the Complainant and Respondent, EHS and Campus Security, on a confidential basis to determine reasonable interim measures.</p> |
| <p>Step 3 - Establishing the Process & Investigation</p> | <p>26. Based on a review of the Complaint form, Human Resources will determine whether the allegations involve a member of an academic bargaining unit administered by the Faculty Relations Office (see s. 5.4 of the Policy for details). If so, Human Resources will contact the Faculty Relations Office to determine which department will assume primary responsibility with respect to the Complaint.</p> <p>27. If the Respondent to a Complaint is a member of an academic bargaining unit administered by the Faculty Relations Office, then it is presumed that the Faculty Relations Office will take primary responsibility, but this will be determined on a case-by-case basis. In some cases, it will be necessary for Human Resources and the Faculty Relations Office to work collaboratively. If it is determined that the Faculty Relations Office will take primary responsibility, the steps below--steps described as the responsibility of Human Resources--will be handled instead by the Faculty Relations Office.</p> <p>28. Based on a review of the Complaint form, Human Resources will determine if the conduct alleged in the Complaint would amount to Discrimination, Harassment and/or reprisal, assuming all of the alleged facts were true. If not, Human Resources will respond to the Complainant in writing, explaining that the Complaint has been reviewed, and that the information provided does not support an allegation of Discrimination, Harassment and/or reprisal under the <i>Interim Workplace Harassment & Discrimination Policy</i>. The Complainant will also be advised that Human Resources will reconsider the Complaint if further, significant information is provided. If there is another process or resource at the University that would be more appropriate for the subject matter of the Complaint, the Complainant will also be advised of this.</p> <p>29. If, on the other hand, the information provided by the Complainant would, assuming the alleged facts were true, support a finding that Discrimination, Harassment and/or reprisal had occurred, an investigation will be conducted. When an investigation is to be conducted, Human Resources will establish an investigation process that is appropriate in the circumstances.</p> |

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| | | <p>30. Human Resources will review the collective agreement(s) of any individuals involved in the Complaint, and will ensure the procedural rights granted to those individuals under their respective collective agreements are maintained. For example, some collective agreements establish timelines for investigations, and impose further requirements upon the University in the course of the investigation. At this stage, consideration will be given to whether the investigation will be conducted internally or externally. An investigation will not be conducted by an individual who was directly involved in the events in issue.</p> <p>31. Human Resources will ensure the individuals involved in an investigation, and their respective bargaining agent(s), where applicable, are informed of the investigation process that will be adopted in each particular case. At a minimum, any investigation will provide a reasonable opportunity for the parties to understand the allegations, and to submit relevant information. For example, an investigation may include written submissions or witness interviews, depending upon the severity of the allegations.</p> |
| | <p>Step 4 - Determination & Corrective Action</p> | <p>32. Subject to the terms and conditions of any relevant collective agreement, Human Resources will ensure the investigator determines whether Discrimination, Harassment and/or reprisal has occurred. Human Resources will also ensure that the results of the investigation are brought to the attention of, and reviewed by, the appropriate Person(s) of Authority. Human Resources will advise the Person(s) of Authority with respect to appropriate corrective measures, if any, to be taken, including measures aimed at preventing reprisal, where appropriate.</p> <p>33. Where an individual, other than an Employee, is found to have engaged in Discrimination, Harassment and/or reprisal affecting an Employee, Human Resources will ensure reasonable steps are taken to prevent the Employee from experiencing Discrimination, Harassment and/or reprisal in the future. Where it is alleged that a student has, in their capacity as a student, engaged in Discrimination and/or Harassment against an Employee, the matter will be addressed under the <i>Queen's University Student Code of Conduct, 2016</i> and related procedures. However, in such cases, Human Resources and/or Faculty Relations will nevertheless be consulted in the process to ensure any investigation and/or corrective action satisfy the standards set out this Policy.</p> <p>34. Where an Employee is found to have engaged in acts of Discrimination, Harassment or reprisal, corrective measures may include non-disciplinary actions (e.g. education) or disciplinary measures (e.g. a written reprimand, a suspension, or termination). In any event, any corrective measures that are imposed shall be</p> |

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| | | <p>implemented in accordance with applicable collective agreement requirements. Human Resources will also ensure reasonable steps are taken to prevent a recurrence.</p> <p>35. At the conclusion of each investigation, Human Resources will ensure that any Employee who was alleged to have experienced Discrimination and/or Harassment, and any Respondent(s) who are Employees, are informed, in writing, of the outcome of the investigation, and the corrective actions taken. Human Resources will ensure that such information is provided in accordance with the procedural requirements of any relevant collective agreement and any applicable laws.</p> |
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| Date Approved | <i>August 22, 2016</i> |
| Approval Authority | <i>Vice-Principals' Operations Committee</i> |
| Date of Commencement | <i>September 08, 2016</i> |
| Amendment Dates | <i>N/A</i> |
| Date for Next Review | <i>September 08, 2017</i> |
| Related Policies, Procedures and Guidelines | <i>Interim Workplace Harassment & Discrimination Complaints Procedure; Interim Workplace Harassment & Discrimination Information Reporting Procedure; Queen's University's accessibility policies; Return to Work and Accommodation Policies; Sexual Violence Policy; Queen's Policy Against Campus Violence; Harassment/Discrimination Complaint Policy and Procedure; Queen's University Policy and Procedures for Safe Disclosure Reporting and Investigation.</i> |