

Workplace Violence and Harassment Prevention Policy

SECTION 2 – EMPLOYMENT PRACTICES

THIS POLICY/DOCUMENT APPLIES TO: All YWCA Hamilton Employees, Students and Volunteers

Policy Description:

Under the Occupational Health and Safety Act, employers must take every precaution reasonable in the circumstances to protect the health and safety of their workers in the workplace. This includes protecting them against the risk of workplace violence and harassment.

YWCA Hamilton is committed to workplace health, safety and security for all employees, volunteers, students, clients, members, volunteers and visitors. YWCA Hamilton encourages and supports the involvement and the meaningful input from the Joint Health and Safety Committee (JHSC). This policy was developed in consultation with the Joint Health and Safety Committee (JHSC) and the following legislation governing workplace violence and harassment in Ontario:

The Occupational Health and Safety Act, Bill 168
The Occupational Health and Safety Act, Bill 132
The Criminal Code of Canada
The Ontario Human Rights Code
The Workplace Safety and Insurance Act, 1997
The Compensation for Victims of Crime Act
The Regulated Health Professions Act

Policy Scope:

This Policy is designed to ensure that all employees, students, volunteers, clients, members, residents, visitors, guests, contractors, sub-contractors and board members are aware of and adhere to practices intended to make the workplace safer. YWCA Hamilton will support and maintain strict compliance expectations regarding violence and harassment. To support this commitment, YWCA Hamilton has developed a workplace violence and harassment policy applicable to all locations and work-sites. Violent behaviour and harassment in the workplace from anyone is unacceptable. Employees are expected to uphold this policy and to work cooperatively to prevent workplace violence and harassment.

Workplaces are more than just offices- The Occupational Health and Safety Act (OHSA) defines a workplace as any land, premises, location or thing at, upon, in or near which a worker works. When an employee is at an off-site meeting, the meeting place is the workplace. When an employee is travelling in their automobile or by transit in the performance of their job, the vehicle is a workplace. Workplace violence and harassment can occur during work-related functions at off-site locations such as conferences, social events, or the offices of community based institutions such as schools, hospital, doctor's offices and courts.

Violence can also happen in an employee's home, if it is work related: for example, social media, threatening telephone calls from co-workers, clients or managers.

Policy Statement:

The YWCA Hamilton is committed to providing a safe and healthy work environment in which all individuals are treated with respect and dignity. Workplace violence and harassment will not be tolerated from any person in the workplace. All members of the YWCA Hamilton community, employees, students, volunteers, clients, members, residents, visitors, guests, contractors, sub-contractors and board members, have the right to work, live and use our facilities in an environment free from violence and harassment. YWCA Hamilton has a requirement to investigate and deal with all complaints or incidents of workplace violence and harassment in a fair, respectful and timely manner.

All employees, students, volunteers, clients, members, residents, visitors, guests, contractors, sub-contractors and board members are expected to adhere to this policy, and will be held responsible for not following it. The management of YWCA Hamilton is responsible for ensuring that health and safety practices and procedures, including workplace violence and harassment prevention, are clearly communicated and understood by all employees. Management staff are required to enforce this policy and program requirements fairly and consistently throughout the organization. Workers will not to be reprimanded, penalized or disciplined for reporting an incident or for participating in an investigation involving workplace harassment.

The work performed by YWCA Hamilton has the potential for staff to encounter violence and harassment in the workplace. To minimize risk to all employees, volunteers and students, YWCA Hamilton will make every reasonable effort to:

- Train management and staff;*
- Identify the risks and sources of violence and harassment;*
- Establish reporting requirements and procedures designed to address violent acts, threats of violence and harassment;*
- Manage, reduce or eliminate the risk of violence and;*
- Implement policies and procedures to be adhered to by the workforce*

WORKPLACE VIOLENCE

The Occupational Health and Safety Act, Bill 168

The OHS Act defines workplace violence as the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker. It also includes an:

- attempt to exercise physical force against a worker in a workplace, that could cause physical injury to the worker; and a
- statement or behaviour that a worker could reasonably interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker

Some examples of workplace violence may include:

- threats (verbal or physical) and may be implied or actual;
- leaving threatening notes or sending threatening e-mails/text messages to a worker or workplace;
- shaking a fist in a worker's face;
- wielding a weapon at work;
- hitting or trying to hit a worker;
- throwing an object at a worker;
- inflicting injury;
- damage to personal property or threats to damage personal property;
- sexual violence;
- stalking;
- aggressive gestures;
- swearing;
- shouting;
- aggressive/intimidating behaviour;
- aggressive/intimidating body language;
- unwelcome displays of affection;
- inciting an animal to attack;
- kicking, pushing, biting, groping, pinching and/or spitting

Domestic violence in the workplace is when 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. YWCA Hamilton shall take every reasonable step to protect employee(s), if the Employer is aware, or ought reasonably to be aware, that domestic violence would likely expose an employee to a physical injury.

Sexual Assault is the use of threat or violence to force one individual to touch, kiss, fondle or have sexual intercourse with another.

Some examples of sexual assault may include:

- touching of a sexual nature; and
- the threatened use of violence to force a person to engage in sexual conduct

Threat (verbal or written) is the communicated intent to inflict physical or other harm on any person or to property by some unlawful act. A direct threat is a clear and explicit communication distinctly indicating that the potential offender intends to do harm, for example, “I am going to make you pay for what you did to me.” A conditional threat involves a condition, for example, “If you don’t leave me alone you will regret it.” Veiled threats usually involve body language or behaviours that leave little doubt in the mind of the victim that the perpetrator intends to harm. It can include stalking behaviours. Various electronic social media may be included in forms of either threats or abuse.

Verbal/Emotional/Psychological abuse is a pattern of behaviour that makes someone feel worthless, flawed, unloved, or endangered. Like other forms of abuse, it is based on power and control. Examples include: swearing, put-downs/name calling over a period of time, labelling the victim in a derogatory way such as stupid, crazy or irrational, acts of humiliation, demeaning or belittling statements, treatment causing emotional distress, extreme jealous behaviour, attacking the victim’s self-esteem in other ways. It can also include harming pets and damaging property. Psychological abuse also includes any act that provokes fear or diminishes an individual’s dignity or self-worth or that intentionally inflicts psychological trauma.

WORKPLACE HARASSMENT

The Occupational Health and Safety Act, Bill 132

The OHS Act defines workplace harassment as 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.

Every person has a right to work in a workplace that is free from discrimination because of race, ancestry, place of origin, colour, ethnic origin, gender, gender identity, pregnancy, citizenship, creed, sex, and sexual orientation, age record of offences, marital status, family status, or disability.

Some examples of workplace harassment may include:

- remarks, jokes, taunts, or insults about a person or a group of people identified by a Prohibited Ground (i.e., such things as race, colour, place of origin, ancestry, ethnic background, gender, creed, disability, etc.);
- displaying of racist, sexually suggestive or other offensive or derogatory pictures, cartoons or material;
- insulting gestures or practical jokes based on sexual, racial or ethnic grounds which cause embarrassment or awkwardness;

- knowingly making a false complaint;
- insisting that employees only speak English if it does not negatively affect the work being done;
- making ridiculing, taunting, belittling, humiliating or insulting comments;
- physically intimidating behaviour or threats;
- use of profane, abusive or threatening language

Workplace sexual harassment is engaging in a course of vexatious conduct or comments against a worker in a workplace towards a person's sex, sexual orientation, gender identify or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome. It also includes, 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.

Some examples of workplace sexual harassment may include:

- unwelcome verbal or physical advances;
- sexually suggestive or obscene gestures;
- sexually explicit statements, such as jokes;
- sexist jokes;
- displays of pornographic material;
- brushing against, touching or patting;
- leering (suggestive staring) that makes a person feel humiliated, intimidated or uncomfortable
- unwelcome sexual advances;
- requests for sexual favours;
- an implied or expressed promise of a reward, benefit or advancement in return for sexual favours, or reprisal if such favours are not given;
- other verbal or physical conduct of a sexual nature that causes insecurity, discomfort, offence or humiliation to another person or group;
- unwelcome inquiries or comments about a person's sex life;
- persistent or unwelcome sexual flirtation(s), advance(s), proposition(s);
- inappropriate or unwelcome focus/comments on a person's physical attributes or appearance

Workplace Bullying is repeated and persistent negative acts towards one or more individuals, which involve a perceived power imbalance, and creates a hostile work environment. Workplace bullying can include, social isolation, personal attacks on a person's private life or personal attributes, over monitoring of work, intentionally withholding information required for the performance of the job, rumours, excessive criticism, verbal aggression, withholding job responsibilities and the inappropriate use of social media. Bullying extends to incidents occurring at or away from the workplace, during or outside normal working hours provided such incidents are employment related.

Poisoned Work Environment is a hostile and abusive work environment resulting from harassment by comment or conduct that ridicules or demeans an individual or specific group of employees: for example, racial slurs, or derogatory comments about sexual orientation. It can also include actions or inactions witnessed that create or can be interpreted as creating an offensive term or condition of employment or continued employment. The offending action does not need to be directed at the individual who claims to be harassed.

Reporting Emergencies (Immediate Risk):

This includes immediate danger; weapons involvement; physical injury related to violent behaviour; and obvious signs of abusive and/or threatening behaviour

In the event of workplace violence, the Ministry of Labour is not the first responder. It is the role of the Police to investigate and deal with incidents of physical violence, sexual assault, or attempted physical force or threat of violence in the workplace. We all have an obligation to work cooperatively with the police in matters of workplace violence and harassment investigations. When an incident of these types of workplace violence occurs, the employer should first notify police or emergency responders for immediate assistance.

Staff who feel their safety is at imminent risk are to **CALL 911** immediately. The 911 Attendant (i.e. offender still present; whether weapons are involved; etc) will require critical information. If possible, the staff in question should contact his/her supervisor. After the emergency has been handled, an Accident/Incident Report must be completed by the employee and supervisor and submitted to Human Resources.

In the Developmental Services, Family Access, and Transitional Housing programs, staff will follow written protocols/behaviour support plans including on-call emergency procedures for dealing with client-related physical & verbal aggression (i.e.) challenging behaviour directed towards staff or other clients.

In addition, under the OHS Act, an employer has a number of duties if a workplace violence incident results in death or critically injury. An employer must also:

- immediately notify, by direct means such as telephone, a Ministry of Labour (MOL) inspector, the police (as required), workplace's joint health and safety committee or health and safety representative and union, if any; and
- within 48 hours notify, in writing, a director of the Ministry of Labour, giving the circumstances of the occurrence and any information that may be prescribed

Bill 132- What is not Workplace Harassment?

Bill 132 represents important workplace changes, by amending the Occupational Health and Safety Act (OHS Act) and adds to employers' existing duties by requiring greater accountability.

Bill 132 also provides clarification that when done reasonably any action taken by an employer or supervisor related to the management and direction of its workers is not workplace harassment.

For example, any normal exercise of management's right to address performance issues such as absenteeism or other legitimate performance management concerns. When appropriate, any valid requests for medical information to support absences from work. Harassment also does not include appropriate direction, evaluation, appraisal or discipline that is warranted and can be justified. The enforcement of workplace rules and policies or changes to work, work schedules, work assignment that are done for valid purposes are also examples of conditions that are not considered harassment. Differences of opinion or minor disagreements between co-workers would also not generally be considered workplace harassment.

Roles and Responsibilities:

Employees: Unless otherwise noted in this policy, employees shall mean such individuals but not limited to CEO, directors, managers, supervisors, front line staff, board members, contractors, sub-contractors, volunteers and placement students.

Human Resources/Health & Safety Officer: Shall provide the guidance to Management and the Joint Health and Safety Committee and involve the employee(s), in the assessing of workplace violence and harassment hazards in all jobs and in the workplace as a whole. The risk assessment of workplace violence and harassment shall occur at least annually, whenever new situations of risk occur or when new jobs are created or jobs are substantially changed. The assessment of risk is communicated to employees affected.

All employees in their work are expected to be vigilant of risks of violence/harassment and are required to report risks/hazards to their supervisor in a timely fashion. Employees who are victims of violent incidents in the workplace are advised to consult a physician for treatment or referral for counselling. Staff who may be victims or exposed to violence/or harassment are encouraged to make use of the confidential Employee Assistance Program.

YWCA Hamilton is committed to working with its employees to develop strategies and practices for the ongoing reduction of risks of workplace violence and harassment by:

- The training and education of all employees, students and volunteers.
- Information exchange and annual and periodic reviews of practices and procedures.
- Integrating safe behaviour into day-to-day operations.

- Ensure that measures and procedures in the violence and harassment prevention program are carried out. Hold management accountable for responding to and resolving complaints of violence.
- Reviewing of all reports of violence and/or threats of violence in a prompt, objective and sensitive manner. This includes a review of all investigations associated with violence-related incidents.
- Providing appropriate response measures.
- Facilitating medical attention and appropriate support for all those either directly or indirectly involved.
- Tracking and analyzing incidents.
- Taking appropriate corrective and disciplinary action.
- In consultation with the JHSC, conduct regular risk assessments.
- Posting this policy on the health and safety notice boards.
- Including details of this policy in new employee orientation package.

Supervisors/Managers/Directors:

- Shall enforce policy, procedures and monitor worker compliance.
- Not permit any worker to do work if it is likely to endanger the worker or another worker.
- Not engage in or condone any acts or behaviours that are in conflict with this policy.
- Will assist in the investigation process only when delegated by the Director of Operations. The Director of Operations is the only person authorized to investigate incidents of workplace sexual harassment.
- Shall complete the WSIB Form 7 when required.
- Ensure first aid and/or medical attention if required.
- The supervisor will investigate and ensure that appropriate and reasonable measures are taken to safeguard employees.
- When directed by the Director of Operations to interview those involved in the incident either directly or indirectly.
- Contact Human Resources/Health & Safety Officer to ensure the employee receives further counselling about her/his legal rights.
- Request other supports through the Employee Assistance Program.
- Track and analyze incidents for trending and prevention initiatives.
- Immediately report a death or critical injury to an MOL inspector, the police (as required), JHSC, H&S representative and trade union, and investigate with JHSC Report the circumstance to all parties in writing within 48 hours. Include information and particulars prescribed by the regulations.

Employees:

- Participate in education and training programs so you can respond suitably to any incident of workplace violence or harassment.
- Understand and comply with the violence and harassment prevention policies and related procedures.
- Report all incidents or injuries of violence/harassment or threats of violence/harassment to your supervisor immediately. Complete the Accident/Incident Form.
- Inform the JHSC or the employee member of the JHSC about your concerns regarding the potential for violence/harassment in the workplace.
- Seek support when confronted with violence/harassment or threats of violence.
- Not engage in or condone any acts or behaviours that are in conflict with this policy.
- Shall refuse to do work if he/she has reason to believe that it is likely to endanger himself or herself or another worker.
- Report all incidents of violence and/or threats of violence to their supervisor immediately.
- Seek appropriate support from available resources, when confronted with violence or threats of violence.
- Shall not voluntarily become directly involved in any actions to deter robbery, violent acts or other serious criminal behaviour where such involvement would result in violence directed at them. This does not include immediately notifying police.
- Shall, except for the duty to report violence, maintain this type of sensitive personal information as confidential.

Joint Health and Safety Committee (JHSC):

- Participate by giving meaningful input into the violence prevention measures and procedures (the violence and harassment prevention program).
- Make recommendations to the employer for developing, establishing and providing training in violence prevention measures and procedures.
- At least once a year, take part in a review of the workplace violence and harassment prevention program.
- The employee-designate should investigate all critical violence-related injuries.
- Immediately review reports of critical injury or death. Outline in writing the circumstances and particulars within 48 hours of the occurrence.
- Within four days, review written notices of lesser injuries where any person is disabled from performing his or her usual work or requires medical attention.

Reporting Procedures:

All reports of incidents or potential incidents of violence will be taken seriously and dealt with in a way that's appropriate to the circumstance and will be handled in a respectful, confidential and timely fashion. No employee shall be disciplined or reprisal taken for reporting an incident of workplace violence or harassment or refusing to perform work as a result of a health and safety concern.

- Workers are to report all violence-related incidents including abuse, assault, threats, verbal abuse, domestic violence and harassment using the *Internal Complaints Protocol*.
- Workers are to report all near misses (i.e.) failed or unsuccessful attempts.
- Workers are to report incidents of workplace violence and harassment immediately to their Supervisor unless their Supervisor is the alleged harasser.
- Where the Supervisor is the alleged harasser the incident(s) are to be reported to the next level of authority.
- The Director of Operations is to be informed by the head of the department of all claims of workplace violence and harassment immediately to direct the investigation.
- All Workers and Management Staff have a responsibility to report in a timely fashion all workplace violence and harassment incidents. YWCA Hamilton has a duty to investigate all incidents involving workplace violence and harassment even if a formal complaint has not been made.
- Workers can report incidents or complaints of workplace violent or harassment verbally or in writing.
- WSIB will be informed in accordance with the reporting requirements.
- Safety alerts to all staff will occur when required.
- Work refusals and critical injury reporting shall be in accordance with the Right to Refuse Policy.
- YWCA Hamilton is committed to providing support services to victims of violence. Confidential counseling through the Employee Assistance Program (EAP) shall be available to employees who are victims of violence and to those who are experiencing personal problems in relation to violence.

Confidentiality:

- Information about complaints and incidents shall be kept confidential to the fullest extent possible.
- The Director of Operations will ensure information obtained about any incident or complaint of workplace harassment, will not be disclosed unless the disclosure is necessary to protect workers, for purposes of investigating or is otherwise required by law.
- The Director of Operations will ensure measures to protect the confidentiality of all information obtained and collected about an incident or complaint, including identifying information about any individuals involved.

- While the investigation is ongoing, the worker who has made the complaint, the alleged harasser and any witnesses should not discuss the incident or complaint with each other or with other workers. A formal letter will be issued to all parties involved with explicit instructions to maintain confidentiality.
- All records of the investigation will be maintained by Human Resources and stored in a secure place to ensure confidentiality.

Investigations:

- Head of the Department will immediately inform the Director of Operations of any complaint of violence and/or harassment in the workplace. Depending on the nature of the complaint, the Director of Operations will decide if a formal investigation is warranted.
- The Director of Operations will initiate the investigation as per the *Internal Complaints Protocol* and will complete the Accident/Incident Report form.
- The investigation must be completed in a timely manner and generally within 90 days or less unless there are extenuating circumstances (i.e.) illness, complex investigation.
- The investigation will include separate meetings with the complainant and the respondent.
- The Director of Operations will exercise their discretion to decide on the appropriate involvement of Joint Health and Safety Committee, Human Resources, Directors, Managers and/or Supervisors in the investigation process as appropriate.
- If an incident of violence or harassment represents a potentially dangerous situation, the Director/Manager/Supervisor shall notify the Director of Operations immediately to ensure appropriate safety plans are initiated.
- The Director of Operations may, as necessary, instruct the supervisor/manager(s) to inform other employees in their program areas to protect their health and safety.

Records:

- The Director of Operations will review reports of workplace violence and ensure that appropriate actions have been taken.
- The Director of Operations will review all workplace violence or harassment reports, monitor trends and make recommendations for prevention and changes to the Workplace Violence and Harassment Prevention Program Policy.
- Human Resources will keep records of the investigation including a copy of the complaint or details of the incident.
- Human Resources will keep a written record of all interviews conducted.
- Human Resources will keep written records of the investigation, including notes.
- Human Resources will keep a copy of the investigation report and a summary of the results of the investigation.

- Human Resources will keep a copy of any corrective action and steps taken to address the complaint or incident of workplace harassment in order to prevent future situations.

Results of the Investigation:

Within 10 days of completing the investigation, the worker who allegedly experienced the workplace harassment and the alleged harasser will be provided a written summary of the findings. This will briefly include a summary of the results of the investigation and any corrective action that has been taken or steps that have been taken as a result of the investigation to address the complaint of workplace harassment. The only people who are permitted to have access to the full investigation report are those that were directly involved in conducting the investigation (i.e.) Director of Operations.

Work Refusal:

A worker may refuse to work or do particular work where he or she has reason to believe that such work is likely to endanger himself or herself or another worker. This includes when they believe they are in danger from workplace violence, in accordance with the *Occupational Health & Safety Act*. A worker who in accordance with this policy reports workplace violence or refuses to perform work will not be subject to any form of reprisal or disciplinary action.

However a worker may not refuse if it is a normal condition of the worker's employment or when the worker refusal would directly endanger the life, health or safety of another person. Example workers in a residential group home or other facility for persons with behavioural or emotional problems, or physical mental or developmental disability. Refer to Section 43 (1) (2) of the Occupational Health and Safety Act.

Disciplinary Action:

Workplace violence and harassment is against the law and in certain cases can be a serious offence. Any individuals found to have perpetrated an act of violence may be subject to disciplinary action up to and including dismissal for cause. In addition, individuals may be subject to action under the *Criminal Code of Canada*.

It is also the expectation that all employees fully participate and cooperate in the investigation process of workplace violence and harassment. As per this policy and in accordance with the law, employees can be held accountable for not fully participating, for providing untruthful information, for withholding critical information and/or making false allegations of workplace violence and harassment. Failure to adhere to this policy, engaging in acts of violence or failing to report violence or high risk situations, may be subject to disciplinary measures up to and including dismissal for cause.

Employee Training:

Workplace violence and harassment prevention training and sensitivity training shall be offered to Directors, Managers, Supervisors, employees and volunteers. This training shall include but is not limited to anti-racism/anti-oppression training, workplace violence and harassment prevention strategies including policy review, complaint resolution, listening and communications skills, identifying problematic behaviour characteristics, anger management and any other topics that may be deemed necessary. As part of training, this policy will be reviewed on an annual basis.

Related Policies/Procedures/Documents:

- YWCA Internal Complaints Protocol

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