

**WORKPLACE HARASSMENT AND DISCRIMINATION POLICY**

**Anglican Diocese of Ottawa**

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# **Workplace Harassment and Discrimination Policy and Program**

## **Anglican Diocese of Ottawa**

### **1.0 WORKPLACE HARASSMENT AND DISCRIMINATION POLICY STATEMENT**

The Anglican Diocese of Ottawa (the “Diocese”) is committed to ensuring that all individuals work in a harassment free environment. We recognize the dignity and worth of every individual. Accordingly, we will not tolerate any behaviour that degrades a person because of their sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, place of origin, ancestry, citizenship, race, colour, religion or creed pursuant to Ontario’s *Human Rights Code*.

The Diocese will follow the procedures outlined in Anglican Diocese of Ottawa’s Sexual Misconduct Policy in all cases of Sexual Misconduct as defined in that Policy.

### **2.0 PURPOSE**

The purpose of the Workplace Harassment and Discrimination Policy is:

- (a) to maintain a harassment and discrimination-free work environment;
- (b) to ensure that managers, employees, volunteers, and students are aware that harassment and discrimination in the workplace are both illegal and counter to the Diocese’s principles;
- (c) to outline the types of behaviour which are considered harassment and discrimination;
- (d) to establish a mechanism for receiving complaints of harassment and discrimination;
- (e) to provide a procedure by which these complaints and incidents will be investigated; and
- (f) to ensure appropriate remedial action is taken when allegations are founded.

### **3.0 POLICY**

All appointees, employees, volunteers and students are responsible for maintaining and promoting an environment free from harassment and discrimination and for reporting any incidents they believe are harassing or discriminatory as defined in this Policy.

Additionally, managers have specific responsibility to investigate and act decisively to end to any harassment or discrimination that comes to their attention whether or not there is a complaint.

Approval:     The Rt. Rev. John H. Chapman, Bishop of Ottawa

## 4.0 DEFINITIONS

In this Policy:

**“Associated Party”** shall refer to an appointee, manager, employee, volunteer, client or community partner engaged in activities at the Employer’s workplace.

**“Appointee”** Any person appointed to a position within the Diocese e.g., priests and deacons, Executive Director of a Community Ministry, volunteer, etc.

**“Assault”** Physical and sexual assault, whether actual or threatened, while considered harassment are also serious offences under the *Criminal Code*. As such, in addition to discipline by the Employer, police may be notified and charges may be laid.

**“Complainant”** shall refer to the individual(s) complaining of harassment or discrimination.

**“Employer”** shall refer to The Incorporated Synod of the Diocese of Ottawa (the “Diocese”). For purposes of workplace harassment and discrimination, the Diocese means individuals in a supervisory position within the Community Ministries of the Diocese as well as persons designated as contact persons by the Bishop of the Diocese. The Executive Archdeacon of the Diocese has been designated as a contact person of the Diocese.

**“Prohibited Grounds”** are listed in the Ontario *Human Rights Code*: race, colour, creed (religion), place or ethnic origin, sex (including pregnancy, gender expression and gender identity), age (eighteen years old and over), disability (including mental, physical, developmental or learning disabilities), ancestry, citizenship, sexual orientation, marital status (including the status of being married, single, widowed, divorced, separated, or living in a conjugal relationship outside of marriage), or family status (such as being in a parent-child relationship) and record of offences.

**“Respondent”** shall refer to the individual(s) who have been complained about and who have allegedly engaged in harassment or discrimination.

**“Workplace”** shall refer to any place where work or work-related activities are conducted in the name of this Diocese. It includes, but is not limited to, the physical work premises, work-related social functions, work assignments off work premises, work-related travel and work-related conferences or training sessions.

**“Workplace Discrimination”** is engaging in an incident or a course of vexatious comment or conduct against any Associated Party in the workplace that is known or ought reasonably to be known to be unwelcome. This may include discrimination on the basis of the prohibited grounds.

**“Workplace Harassment”** means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known to be unwelcome, or workplace sexual harassment. Harassment includes personal harassment, sexual harassment and abuse of authority. Harassment can occur with a colleague, a supervisor, a subordinate, persons contracted to work for the Diocese, agents or other persons who are found in the workplace and may or may not be on the basis of a prohibited ground.

For the purposes of this Policy, “workplace harassment” includes the conduct as defined in Ontario’s *Occupational Health & Safety Act* and the grounds of discrimination as set out in the Ontario’s *Human Rights Code*.

***Sexual Harassment*** means 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 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. It includes any comment, conduct, gesture or contact of a sexual nature by a supervisor, co-worker or other towards an Associated Party that is likely to cause offence or humiliation to any Employee or that might, on reasonable grounds, be perceived by that Employee as placing a condition of a sexual nature upon employment or on any opportunity for training or promotion. It can occur between members of the opposite sex and between members of the same sex.

***Personal Harassment*** involves hostile, obnoxious, or intimidating or other disrespectful behaviour which ought reasonably to have been known to be hostile, obnoxious or intimidating. It is targeted at a person or group of people because of a personal dislike or personality conflict, and may or may not be related to a prohibited ground.

It is not possible to identify each and every act that constitutes Personal Harassment. Personal Harassment can include, but is not limited to:

- Spreading malicious rumours, gossip, or innuendo that is not true;
- Intimidating a person, verbal abuse, threats, belittling or humiliating a person;
- Deliberately not speaking to someone thereby ostracizing them;
- Yelling or using profanity;
- Refusal to work with a person;
- Tampering with a person’s personal belongings or work equipment;
- Making jokes, that are obviously offensive (written or oral);
- Undermining or deliberately impeding a person’s work; and
- Other objectionable behaviour designed to torment, pester or abuse someone.

***Harassment does not include*** a reasonable action taken by the employer, a manager or supervisor relating to the management and direction of the workforce or volunteers. A manager with the proper authority giving appropriate/objective guidance, feedback or instruction in the workplace, or taking corrective disciplinary action, or performance management or attendance management action is not workplace harassment.

## 5.0 EMPLOYER RESPONSIBILITIES

The Employer:

- shall ensure that this Policy and Program is updated as often as necessary and is reviewed on an annual basis to ensure that it complies with respect to the requirements of the OHSA.
- shall, in consultation with the committee or a health and safety representative, if any, develop and maintain a written program to implement the Policy with respect to workplace harassment.
- is required to protect all Associated Parties from harassment and discrimination and may initiate a complaint of harassment or discrimination even if the perceived victim has not made a complaint;
- is required to protect all Associated Parties from unsubstantiated complaints that are frivolous, vexatious, or made in bad faith or with malicious intent;

will advise all Associated Parties involved in a perceived situation of harassment and discrimination of their rights under this Policy;

will, at its discretion, retain a competent external investigator or appoint a competent internal investigator to assist in the investigation of complaints and incidents of workplace harassment;

- will take appropriate action, in the event an investigation determines that a complaint is deemed unsubstantiated, frivolous, vexatious, made in bad faith or with malicious intent;
- will provide a summary of any complaint, alleged incident or a copy of any written complaint (see “Incidence of Harassment and Discrimination Reporting Form”) to the Respondent;
- will conduct an appropriate investigation into complaints and incidents of harassment or discrimination, as defined by this Policy, as expeditiously as possible;
- will determine whether any Associated Party will be reassigned duties or placed on administrative leave with pay pending an investigation of any complaint / incident of workplace harassment;
- will provide direction to all Associated Parties who are subjected to or who witness harassment or discrimination;
- will not disclose identifying information about individuals involved unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law;
- will submit a written report to both the Complainant and the Respondent of a summary of the findings of the investigation and any corrective / remedial action taken;

- will require that all Associated Parties understand their obligations to maintain confidentiality during the investigation process as necessary and legally possible;
- will offer support to associated parties through appropriate means such as EAP or other appropriate means acceptable to all parties.
- may, where appropriate, mediate a resolution between the Complainant and the Respondent; and

will take remedial action, as necessary.

**In the case of a sexual misconduct complaint, it is acknowledged that the Employer is obligated to refer the investigation to the Diocese Sexual Misconduct process.**

## **6.0 RESPONSIBILITIES OF ASSOCIATED PARTIES**

Associated Parties:

- have a responsibility to be familiar with the Workplace Harassment and Discrimination Policy and procedures;
- shall not engage in actions and activities that can be considered harassment or discrimination as defined by this Policy and act respectfully towards others while at work and while participating in work related activities;
- have a responsibility to follow the Employer's policies and directives that are set out to ensure their safety and freedom from harassment and discrimination;
- are required in good faith to report incidences of harassment or discrimination should they arise;
- participate in education and training regarding workplace harassment;
- shall co-operate in the investigation, as may be necessary, of complaints and incidents under this Policy; and
- Shall refrain from any communication or discussion of any alleged incident(s) / complaints except as appropriate in the context of reporting or of the investigation as outlined in this Policy and Program.

### **6.1 Where the Complainant is Not the Victim**

In cases where the Complainant is a witness and not the target or victim of the harassment or discrimination, they may be required to meet with the investigator during the investigation process.

## **7.0 RIGHTS**

### **7.1 No Retaliation**

There shall be no retaliation against anyone who in good faith files a complaint of harassment or discrimination or is a witness in the investigation of a complaint. The filing of an unsubstantiated complaint that is frivolous, vexatious or made in bad faith or, one that is done with malicious intent, is considered to be harassment and may be subject to discipline up to and including dismissal.

### **7.2 Right to File a Complaint**

The Complainant has the right to file a complaint with the Employer in accordance with the terms of this Policy and to receive a summary of the findings of the investigation and be advised of any remedial action.

**7.3 Incidents and Complaints Will be Investigated** The Employer must investigate any incident or complaint that on its face could constitute a violation of this Policy regardless of whether the Complainant wishes to withdraw his/her complaint in order to protect all Associated Parties from further discrimination or harassment.

### **7.4 Right to File with the Responsible Provincial Agency**

Notwithstanding this Policy, the Complainant has a right to file a complaint with Ontario's Human Rights Tribunal.

### **7.5 Respondent's Rights**

Persons accused of harassment or discrimination will be presumed innocent unless an investigation determines otherwise. The Respondent has a right to be given a summary of the allegations or a copy of the complaint and a summary of the findings of the investigation.

### **7.6 Additional recourse**

Every person has the right, at any and all stages of a harassment and discrimination investigation:

- To seek independent legal advice from a lawyer of his/her choice at his/her expense.
- To contact the police about the laying of criminal charges, even when steps are being taken under this Policy, in case the conduct complained of may constitute criminal conduct as defined by the Canadian *Criminal Code*.
- To seek support from their union if they are unionized

## **8.0 FILING A COMPLAINT PROCESS**

Any Associated Party who believes that they have been harassed or discriminated against is encouraged to:

- Attempt to make it clear to the person exhibiting the unwelcome behaviour that they are offended by it and request that it cease;
- Record the date, time and nature of the harassment or discrimination and the names of any witnesses;
- Seek advice from their supervisor or manager or proceed with a complaint directly to the Employer if the behaviour(s) or actions(s) complained of do not cease, or if they are not comfortable approaching that person; or
- Submit their complaint in writing or orally directly to their immediate supervisor, or, in the event that their supervisor is the one being complained of, then their supervisor's supervisor or human resources. If the Complainant feels they have been sexually harassed, this will be immediately referred to the Diocesan Misconduct Policy Administrator under the Diocesan Sexual Misconduct Policy.

## **9.0 INVESTIGATION PROCESS**

### **9.1 Interim Measures**

During the investigation process, the Employer may take such administrative actions as the Employer determines may be necessary that would excuse the Complainant and Respondent from directly working together to ensure the safety of the individuals involved and the efficient operation of the organization.

All Associated Parties (Complainant, Respondent, alleged victim, witnesses, and other staff) will be reminded to refrain from any communication or discussion of the alleged incident(s) except as appropriate in the context of the investigation process as outlined in this Policy and Program. All parties to a complaint and any witnesses are expected to maintain strict confidentiality during the investigation process.

### **9.2 Investigation**

1. Upon receipt of a formal complaint or where the Employer becomes aware of an incident of workplace harassment that on its face could constitute a violation of this Policy, the Employer will assign the investigation to an internal or external person to investigate.

2. The investigation may include the following:
  - a. Interviewing the Complainant and the Respondent as soon as possible
  - b. Interviewing any witnesses
  - c. Advising all persons interviewed to refrain from discussing the complaint as well as the possible consequences.
  
3. The investigator may make findings with respect to the allegations of:
  - a. sufficient evidence to support a finding of violation of this Policy,
  - b. insufficient evidence to support a finding of violation of this Policy,
  - c. evidence that the complaint is frivolous, vexatious, made in bad faith or with malicious intent, or
  - d. no violation of this Policy.

### **9.3 Report of Findings**

For all complaints, a written summary report of the findings of the investigation and statement that corrective action (if warranted) has been taken or will be taken as a result of the investigation and will be provided to the Complainant and Respondent.

Where there is no finding of harassment or discrimination, there will be no notation of the complaint in the personnel file of the Respondent person but a complete copy of the investigation report and findings will be kept by the Diocese in a confidential file.

Where there is finding of an unsubstantiated complaint that is frivolous, vexatious, or made in bad faith or with malicious intent, any disciplinary or other remedial action taken will be kept on file.

Where there is finding of harassment or discrimination, any disciplinary or other remedial action taken will be kept on file.

### **9.4 Alternate Dispute Resolution Process**

The Employer may offer mediation to the parties and if agreed to by both the Complainant and Respondent, a meeting shall be held involving the Employer, the Complainant and the Respondent. The purpose of the meeting will be to discuss the details of the alleged harassment or discrimination and its impact and also to develop potential solutions. Wherever possible, a mutually satisfactory solution shall be found and implemented. The Employer will ensure the appropriate follow-up is done.

Disciplinary action where deemed appropriate by the Employer shall follow the Employer's normal disciplinary process and be independent of any resolution between the Complainant who has allegedly experienced workplace harassment and the Respondent.

In cases where the Complainant or the Respondent is not under the authority of the Incorporated Synod of the Diocese of Ottawa, they, or a representative of their company/ organization may be involved in such a meeting to the extent it is deemed necessary, appropriate and feasible.

All mutually satisfactory resolutions between the Complainant and Respondent will be put in writing and signed by the both parties and the Employer.

As a resolution, in whole or part, the Employer may unilaterally put into effect such actions or policies which will act to prevent further harassment and discrimination from the individual accused or that addresses the situational factors which may have facilitated the incident.

#### **9.5 Response to Harassment and Discrimination**

Any resolution of a harassment or discrimination complaint and/or subsequent actions taken by the Employer must reflect the serious nature of such acts, and send a clear signal that harassment and discrimination will not be tolerated. An Employee who is determined to be guilty of harassment or discrimination following an investigative procedure may be subject to discipline up to and including immediate termination of employment.

#### **9.6 Outside Resources**

The parties may utilize the assistance of a union representative, or another individual of their choice to provide support as an observer, to assist them in arriving at a mediated resolution to the complaint or to investigate complaints, at their discretion and expense.

#### **10.0 COMPLAINT TO THE RESPONSIBLE PROVINCIAL AGENCY**

All Complainants are informed of their right to pursue a complaint to the Ontario Human Rights Tribunal if they choose to do so.

#### **11.0 TRAINING**

The Employer shall ensure that training on the Workplace Harassment and Discrimination Policy is included in the Standard Orientation of New Hires and new Volunteers. Further, the Employer shall ensure that all Appointees and Employees shall be familiarized with their rights and obligations under this Policy.

#### **12.0 QUESTIONS**

Any questions or concerns that an Employee might have regarding this Policy should be directed to their direct supervisor.

#### **13.0 ACKNOWLEDGEMENT**

I have read, understood and agree to abide by the terms of this Workplace Harassment and Discrimination Policy.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date