PROCEDURE

COMPLAINT PROCEDURE

Under the:

Harassment and Discrimination Prevention and Response Policy

Purpose

This is the Procedure under the Harassment and Discrimination Prevention and Response Policy (the “Policy”) for making a Complaint about individual Harassment, Discrimination, and Reprisals in the University’s living, learning, or working environments so it can be appropriately addressed by the University.

Individuals who do not allege that they have experienced Discrimination, Harassment or Reprisal but witnesses or become aware of such behaviour do not file Complaints but should refer to the Harassment & Discrimination Reporting Procedure.

If a matter relates to Sexual Harassment or another form of sexual violence (as defined in the Policy on Sexual Violence Involving Queen’s University Students), and involves a student, a Complaint under this Procedure should not be filed; rather, the procedure set out in the Policy on Sexual Violence Involving Queen’s University Students must be followed.

Capitalized terms in this Procedure are defined in the Policy.

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<th>Procedure</th>
<th>Where, how and when to submit a Complaint</th>
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<td>1.</td>
<td>Complaints shall be directed to the University Secretary.¹</td>
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<td>2.</td>
<td>When the University Secretary receives a Complaint, the University Secretary will assemble the Intake Assessment Team promptly, to determine whether the matter will be referred for investigation and if so,</td>
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¹ For matters dealing with Systemic Discrimination, see the Reporting Procedure

² If the Complaint alleges conduct of employees in the office of the University Secretariat and Legal Counsel the Complaint shall be made to the Office of the Principal and the procedure below will be adjusted with the role of the Chair of the Intake Assessment Team being fulfilled by an individual appointed by the Principal.
| Complaint | 5. Subject to applicable law that might require an investigation, the Intake Assessment Team may decline to refer a Complaint for investigation if:
   a. it is about a matter or issues not governed by the Policy;
   b. the Complaint does not contain sufficient information. The Chair of the Intake Assessment Team may appoint a member of the Team to make appropriate follow-up inquiries and to report back to the Team to determine if the Complaint, amended with additional information, should be referred for investigation;
   c. the Complaint is made more than one year after the incident(s) to which the Complaint relates. The Intake Assessment Team may accept a Complaint after the one-year period, if it is satisfied that the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay;
   d. the Respondent is no longer a member of the University Community;
   e. the substance of the Complaint is already the subject matter of another internal University proceeding (e.g., a grievance under a collective agreement);
   f. the allegations, if proven to be true, would not constitute Harassment, Discrimination, or a Reprisal.
   6. If the Intake Assessment Team decides not to refer a Complaint for investigation, the University Secretary will, on behalf of the Intake Assessment Team, advise the Complainant(s) in writing:
      a. of the reason(s) that the Intake Assessment Team decided not to refer the Complaint for investigation;
      b. that the Intake Assessment Team will reconsider its decision if the Complainant(s) submits significant new information; and,
      c. about appropriate alternative(s) for seeking recourse or support.³
| Complaint intake and streaming | 7. Subject to any right to file a grievance under an applicable collective agreement the Intake Assessment Team’s decision is otherwise final and is not appealable.
8. Complaints that the Intake Assessment Team refers for investigation will

³ If the Complaint alleges conduct that, if proven to be true, would constitute a violation of another policy, the Intake Assessment Team may refer the matter to the appropriate Office to be addressed by the applicable policy and its procedures.
normally be referred as follows:

| a. | to the Non-Academic Misconduct Intake Office ("NAMIO"), for investigation in accordance with the **Student Code of Conduct and its Procedures** if the Complaint involves a student Respondent(s) who is not a Resident in the Department of Postgraduate Medical Education (see 8(e) below); |
| b. | to Human Resources or Faculty Relations, as appropriate, to be investigated in accordance with the **Investigation Process** set out below, if the Respondent(s) is an employee; |
| c. | if the Complaint involves a Respondent(s) who is both a student and an employee, the Intake Assessment Team will determine which office (i.e., Human Resources, Faculty Relations or Student Conduct) will be the lead office for investigation and the Complaint will be referred to that office; |
| d. | to Campus Security and Emergency Services for investigation in accordance with that office’s normal practices and procedures if the Complaint involves a Respondent(s) who is a visitor; and, |
| e. | to the office of the Associate Dean (Postgraduate Medical Education) for investigation in accordance with the **Resident Harassment and Discrimination Prevention Procedure**, if a Complaint involves a Complainant(s) or Respondent(s) who is a Resident in the Department of Postgraduate Medical Education. |

### Record Keeping

9. The University Secretary will keep a record of all Complaints for the purpose of administering the Policy and this Procedure and for the purpose of reporting on statistics and trends.

10. The Receiving Office will report back to the University Secretary as to the disposition of the Complaint.

11. The Receiving Office creates a Complaint file that will include all related communications, memoranda, reports, statements, and evidence. The Receiving Office is responsible for securing the file and all documentation in the file and for the retention and disposition of the file in accordance with its processes and record retention schedule(s).

### Interim Measures

12. **Interim Measures**: Upon receiving a referral from the Intake Assessment Team, interim measures may be put in place in accordance with the rules (including any collective agreement requirements) that apply to the Receiving Office.

13. It will normally be appropriate to ensure a Complainant is not required to interact with the Respondent(s). Additional interim measures can be implemented subsequently, if the Receiving Office determines they are necessary.

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4. The investigation report will be shared with the other Office(s) to determine if any corrective action will be taken under those offices’ policies, procedures or any applicable collective agreement(s).
Early Resolution

14. **Early Resolution:** The Intake Assessment Team will consider whether it would be appropriate for the Receiving Office to attempt an early resolution of a matter. The University Secretary will indicate this in the written referral to the Receiving Office.

15. An early resolution can be pursued at any point after a Complaint is referred, where both the Complaint and Respondent are willing, and it is appropriate to do so. At a minimum, an attempt at early resolution will include fact finding, with the Receiving Office meeting with each of the Complainant(s) and Respondent(s).

16. If an early resolution is reached, the terms of the resolution will be formalized in writing and the Receiving Office will provide the University Secretary with a brief written summary of the terms of resolution as part of the reporting back requirement in paragraph 10 above.

17. If an early resolution is not reached within a reasonable time (normally within 30 calendar days after the referral to investigation, but this may vary depending on the complexity of the case), the Receiving Office will proceed to conduct a formal investigation of the Complaint.

18. To ensure that any pre-complaint, alternative resolution, and early resolution discussions are full and complete, those discussions may not be referenced or relied on during the investigation process or thereafter. This restriction does not apply when investigating an alleged breach of a previously reached resolution.

19. Individuals involved in any pre-complaint, alternative resolution and early resolution discussions shall not conduct any investigation into the matter, and if interviewed as part of the investigation, shall not reference those discussions during the investigation process or thereafter.

**This investigation process applies to referrals made under paragraph 8(b) above. It will also apply to referrals made under paragraph 8(c) if the Intake Assessment Team determines that either Human Resources or Faculty Relations will be the lead office for the purpose of investigating.**

Investigation Process

20. **Investigation:** The Receiving Office will establish an investigation process that is appropriate in the circumstances, considering the nature of the allegations and the severity of the conduct described in the Complaint, and any applicable procedural rules, guidelines or best practices to be followed.

21. The Receiving Office will review the collective agreement(s) that apply to anyone involved in the investigation and will ensure that the required procedures are followed (for example, some collective agreements contain specific procedural rights that govern the steps to be followed in the investigation).

22. The investigation may be conducted by an internal or external investigator. In either case, an investigation will be conducted by an impartial, objective and trained/experienced individual.

23. The Receiving Office or the person designated under a collective agreement, will provide the Complainant(s) and Respondent(s) with a written notice of investigation.
24. The notice of investigation to the Complainant(s) and the Respondent(s) will indicate who will conduct the investigation.

25. The notice of investigation to the Respondent(s) will also include the name of the Complainant(s) and a summary of the allegations in the Complaint (e.g., details about who, what, when, where) that is sufficiently detailed to permit the Respondent(s) to prepare a response and determine what, if any, witnesses the investigator should be made aware of.

26. The notice of investigation will also include any additional information required by any applicable collective agreement.

27. The investigator will ensure the individuals involved in an investigation, and their respective bargaining agent(s) if applicable, are informed of the investigation process.

28. Depending upon the nature of the allegations and the severity of the conduct described in the Complaint, the investigator may conduct in-person interviews or may request written statements from all interviewees, including the Respondent(s), in lieu of in-person interviews.

29. **Support Persons and Advisors:** A “Support Person” is an individual whose role is to provide emotional support and assistance. An “Advisor” is a more formal type of Support Person, such as a legal counsel, a union representative for bargaining unit members, or other similar representative.

29.30. Individuals who attend an interview with the investigator may be accompanied by an advisor, a Support Person and an Advisor. In the case of an employee who is a member of a bargaining unit, the advisor may be a union representative.

a. Individuals who attend an interview with an advisor, either or both a Support Person or Advisor must give the investigator sufficient notice of their name(s) prior to the interview so the investigator can confirm whether there is a potential conflict of interest the proposed advisor has a conflict of interest in the process (e.g., is also someone the investigator intends to interview), in which case someone else will have to be chosen. the individual will have to choose a different advisor.

b. The investigator may require the individual to choose an alternate advisor if their chosen advisor will also be interviewed as part of the investigation. In that circumstance, acting as an advisor would create a conflict and/or jeopardize the integrity of the investigation.

c. During an interview, Support Persons and Advisors are permitted to ask questions regarding the investigation process but are not permitted to answer the investigator’s questions (individuals who are being interviewed must answer the interview questions themselves), make legal submissions or arguments on behalf of the individual, or disrupt the interview.

d. Exceeding their role or disrupting the interview will result in a Support Person or Advisor being excused from the interview.

Commented [A1]: Redundant of (a) above.
Where interviewees require accommodation afforded by the Ontario Human Rights Code, they must advise the investigator of their needs at least 48 hours in advance of the interview. Where interviewees require accommodation afforded by the Ontario Human Rights Code, when contacted by the investigator they must advise the investigator of their needs and the interview will not occur until the accommodations have been arranged.

30. An investigator will determine whether, on a balance of probabilities, the alleged conduct occurred. If mandated to do so, the investigator will also determine whether the facts as found support a conclusion that the Policy was breached.

31. Otherwise, subject to the terms and conditions of any relevant collective agreement, the appropriate Person(s) of Authority will determine whether the Policy was breached. This determination will be made based on facts found by the investigator.

32. The investigator will provide a written report to the Receiving Office.

33. The Receiving Office will ensure that the investigator’s report is brought to the attention of, and reviewed by, the appropriate Person(s) of Authority. The Receiving Office 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.

34. When an Employee is found to have breached the Policy, corrective measures may include non-disciplinary actions (e.g., education or counselling) and/or disciplinary measures (e.g., a verbal or written warning, a suspension, or termination). Any corrective measures imposed shall be implemented in accordance with applicable collective agreement requirements.

35. The Person of Authority and/or the Receiving Office will also ensure reasonable steps are taken to prevent a recurrence.

36. The Receiving Office will ensure that all Complainants and Respondents are informed, in writing, of the outcome of the investigation, and any corrective action taken. The responsible office will ensure that such information is provided in accordance with the procedural requirements of any relevant collective agreement and any applicable laws.

37. Investigation reports are confidential and are not shared with Complainants or Respondents unless a procedure in the Receiving Office requires otherwise.

38. Systemic Discrimination: If during the investigation of a Complaint, it is determined by an investigator or the Receiving Office that Discrimination occurred, the investigator or Receiving Office will also determine whether the conduct was the product of Systemic Discrimination, as defined in the Policy. If so, the investigator will include commentary regarding the Systemic Discrimination in their report; the Receiving Office will include the investigator’s findings and rationale regarding Systemic Discrimination in its report back to the Secretary (See paragraph 10 above). The Secretary will forward a Report to the appropriate Vice-Principal for inquiry pursuant to the Reporting
Procedure.

39. **Confidentiality:** personal information collected under this procedure is confidential and will only be used and/or disclosed to investigate, take corrective action, protect health and safety, manage chronic mental stress claims, to administer human resources and labour relations matters, and, to administer the Policy and its purpose.

40. The University’s commitment to confidentiality also means that:
   a. documents created under this procedure will be maintained in secure files;
   b. documents related to the Complaint will not be included in the personnel file of any employee Complainant;
   c. except for any discipline measures imposed (e.g., verbal/written warning(s), letter(s) of discipline, etc.) documents related to the Complaint will not be included in the personnel file of any employee Respondent(s);
   d. only authorized individuals will have access to documents created under this Procedure, on a need-to-know basis; and,
   e. reasonable steps will be taken to protect against unauthorized access to electronic documents.

41. All individuals involved in an investigation process will be advised of their duty to maintain the confidentiality of all information disclosed to them or by them, including any personal information.

<table>
<thead>
<tr>
<th>Date Approved</th>
<th>Month Day Year</th>
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<tbody>
<tr>
<td>Approval Authority</td>
<td>Senior Leadership Team</td>
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<tr>
<td>Date of Commencement</td>
<td>Year Month Day</td>
</tr>
<tr>
<td>Amendment Dates</td>
<td>List the dates the policy has been amended (Year Month Day)</td>
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<tr>
<td>Date for Next Review</td>
<td>Year Month Day</td>
</tr>
<tr>
<td>Related Policies, Procedures and Guidelines</td>
<td>Name and link to related policies, procedures and guidelines</td>
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A complaint is for university community members who feel they have personally experienced discrimination, harassment, or reprisal and want the matter investigated. Individuals can also pursue an alternative resolution if they do not want to file a formal complaint (see Alternative Resolution, Policy S. 5).

### NO. The complaint contains insufficient detail, does not relate to a matter covered by the Policy, the complaint is already the subject of another process (e.g., a grievance), or the claim(s) if true do not constitute harassment, discrimination, or reprisal as defined in the Policy.

**Other Reasons the Complaint MIGHT not be referred to investigation:**
- It is made more than 1 year after the alleged incident(s).

The Secretary will advise why the report was not referred to investigation, that new information can be submitted for further consideration, and provide information about alternatives for recourse or support. (see ¶5 and ¶6)

### YES. The complaint will be referred to the appropriate receiving office (see ¶8). If the Respondent is a Queen’s employee, student, or both, interim measures may be put in place (see ¶12 &13).

If an early resolution is not appropriate, the receiving office will assign an internal or external investigator who will ensure the individuals involved are informed of the process. The investigator will issue a confidential written report to the receiving office.

If the complaint relates to a form of sexual harassment/violence and involves a student, the procedure set out in the Policy on Sexual Violence Involving Queen’s Students must be used.

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If an early resolution is not appropriate, the receiving office will assign an internal or external investigator who will ensure the individuals involved are informed of the process. The investigator will issue a confidential written report to the receiving office.

If no resolution is reached within a reasonable time, the complaint is referred for investigation. (see ¶17)

If the investigator reports systemic discrimination, the Secretary will forward a Report to the appropriate Vice-Principal for inquiry pursuant to the Reporting Procedure. (see ¶39)

Complainants and respondents will be informed of the outcome in writing.