



# ***Interim Workplace Harassment & Discrimination Information Reporting Procedure***

Contact Officer

*Director and Counsel, Employee and Labour Relations*

<b>PROCEDURE</b>	<b>Purpose</b>	<ol style="list-style-type: none"> <li>1. The purpose of this procedure is to provide a process for Employees, Persons of Authority, Human Resources, the Faculty Relations Office, bargaining agents and University departments to Report information about Discrimination and Harassment under the <i>Interim Workplace Harassment &amp; Discrimination Policy</i> (the "Policy"). This procedure seeks to ensure the University will respond appropriately to information about Discrimination and Harassment in the workplace where the information is <u>not</u> submitted to Human Resources in the form of a Complaint by the individual who has allegedly experienced Discrimination and/or Harassment.</li> <li>2. A Report cannot be filed by an individual who alleges they have experienced Discrimination and/or Harassment. A separate procedure--the <i>Interim Workplace Harassment &amp; Discrimination Complaints Procedure</i>--is available to individuals who allege having experienced Discrimination and/or Harassment in the workplace.</li> <li>3. If at any point in this procedure a Complaint arises, the Complaints Process will be initiated. This procedure will continue, however, to the extent that there is information of Discrimination and/or Harassment that will not be addressed under the Complaints Process.</li> <li>4. 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.</li> </ol>
	<b>Defined Terms</b>	<ol style="list-style-type: none"> <li>5. Capitalized terms in this procedure are defined in the <i>Interim Workplace Harassment &amp; Discrimination Policy</i> ("Policy").</li> </ol>
	<b>Records</b>	<ol style="list-style-type: none"> <li>6. Human Resources or the Faculty Relations Office, whichever has primary responsibility for responding to a Report, will maintain a confidential file for each Report, including all related communications, memoranda, reports, statements and evidence. Report files will generally be retained for seven years following the</li> </ol>

		<p>completion of this procedure. However, one year after the completion of this procedure, the Report 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.</p>
	<p><b>Confidentiality</b></p>	<p>7. Information collected under this procedure will be used only for the purposes of administering the <i>Interim Workplace Discrimination &amp; Harassment Policy</i>, and may only be disclosed 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. Information collected, used and disclosed under this procedure will otherwise be kept confidential. To this end:</p> <ul style="list-style-type: none"> <li>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 individual who Reports the information.</li> <li>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.</li> <li>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.</li> <li>d) Personal Information obtained during the Reporting Process will not be disclosed except to the extent that disclosure is necessary for the purposes of investigating Reports, 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.</li> <li>e) Investigation reports created under this procedure will not normally be disclosed or produced to Employee(s) who have allegedly experienced Discrimination and/or Harassment, Respondent(s) or witness(es). However, if there is an investigation, Employee(s) who are alleged to have experienced Discrimination and/or Harassment, and Respondent(s) who are Employees, will be advised of the investigation outcome, and the corrective actions taken, if any.</li> </ul>

<p><b>A Valuable Resource - The Office of the University Ombudsman</b></p>	<p>8. 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 an investigation.</p> <p>9. As a general rule, the Ombudsman provides a confidential service. However, the Ombudsman will disclose information to Human Resources in any of the following circumstances:</p> <ul style="list-style-type: none"> <li>a) A prospective Complainant seeking support from the Ombudsman decides to proceed with a Complaint;</li> <li>b) Information is received suggesting there is a clear health or safety risk to the individual or to the university community;</li> <li>c) Information is received that requires the University to investigate Discrimination or Discriminatory Harassment in the context of employment under the Human Rights Code, unless the prospective Complainant(s) have made an informed decision not to proceed with a Complaint, and their decision is documented;</li> <li>d) The University is involved in proceedings which require the disclosure of information; <u>or</u></li> <li>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).</li> </ul> <p>10. If information is disclosed by the Ombudsman to Human Resources, the Ombudsman may continue to provide ongoing support to the individual.</p>
<p><b>Right to an Advisor</b></p>	<p>11. 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>12. 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</p>

		<p>advise the investigator of their needs at least 36 hours in advance of the interview.</p>
	<p><b>Alternative Dispute Resolution</b></p>	<p>13. At any stage during this procedure an alternative dispute resolution ("ADR") process, such as mediation, can be pursued if the 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>14. Where an agreed resolution is reached, that resolution will only be binding and effective upon written approval of Human Resources (or the Faculty Relations Office, if it has been assigned primary responsibility).</p> <p>15. 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>16. 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><b>Step 1 - Obligation to Report</b></p>	<p>16. Concerns relating to Discrimination and/or Harassment 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 and/or Harassment, then the Employee's concerns should be raised directly with Human Resources.</p> <p>17. If allegations of Discrimination and/or Harassment are not fully addressed and resolved by way of consultation with a Person of Authority, a Report should be submitted to Human Resources. However, if a Report involves a prospective Complainant or a Respondent who is employed in Human Resources, then the Report must be submitted to the Faculty Relations Office. The Faculty Relations Office will then ensure that the Report is addressed by individuals outside of Human Resources. Similarly, if a Report involves a prospective Complainant or a Respondent who is employed in the Faculty Relations Office, that Office will not be assigned primary responsibility for the Report.</p> <p>18. <u>Persons of Authority</u> are required to Report information concerning Harassment and/or Discrimination in any of the following</p>

circumstances:

- (a) An Employee expresses an interest in filing a Complaint and is seeking guidance from the Person of Authority;
- (b) The Person of Authority receives information suggesting an Employee has faced adverse treatment on the basis of a Protected Ground;
- (c) 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*;
- (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).

19. The Human Rights Office generally provides a confidential service and therefore does not submit Reports. Nevertheless, 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 the *Human Rights Code*, unless the 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).

20. If information is disclosed by the Human Rights Office to Human Resources, the Human Rights Office may continue to provide ongoing support to the prospective Complainant.

<p><b>Step 2 - Determination of Actions Required</b></p>	<p>21. Upon receiving or initiating a Report, Human Resources will conduct reasonable inquiries with persons who have information about Discrimination and/or Harassment. Based on the information provided, Human Resources will determine whether the information would substantiate an allegation of Discrimination and/or Harassment, assuming all of the alleged facts were true. If not, Human Resources will not proceed further, but will maintain a record of the Report.</p> <p>22. If the information provided would substantiate an allegation of Discrimination or Harassment, assuming all of the alleged facts were true, an investigation will be conducted. Human Resources will proceed to Step 3.</p>
<p><b>Step 3 - Interim Measures</b></p>	<p>23. Human Resources will immediately consider whether interim measures are necessary. Interim measures will be implemented where reasonable and appropriate in the circumstances. Human Resources will consult with others as appropriate on a confidential basis to determine reasonable interim measures.</p>
<p><b>Step 4 - Establishing the Process &amp; Investigation</b></p>	<p>24. Human Resources will determine whether incidents of Discrimination or Harassment 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 matter. 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>25. When an investigation is to be conducted, Human Resources will establish an investigation process that is appropriate in the circumstances. Human Resources will review the collective agreement(s) of any individuals that are subject to investigation, 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 also 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>26. Human Resources will ensure the individuals involved in an investigation, and their respective bargaining agent(s), where</p>

		<p>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 all 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><b>Step 5 - Determination &amp; Redress</b></p>	<p>27. Subject to the terms and conditions of any relevant collective agreement, Human Resources will ensure the investigator determines whether Discrimination and/or Harassment 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>28. Where an individual, other than an Employee, is found to have engaged in Discrimination and/or Harassment affecting an Employee, Human Resources will ensure reasonable steps are taken by the University to prevent the Employee from experiencing Discrimination and/or Harassment in the future. Where it is found 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>29. Where an Employee is found to have engaged in acts of Discrimination or Harassment, corrective measures may include non-disciplinary actions (e.g. education) or disciplinary measures (e.g. a written reprimand, a suspension, or in severe cases, termination). In any event, any corrective measures that are imposed shall be implemented in accordance with applicable collective agreement requirements. Human Resources will also ensure reasonable steps are taken to prevent a recurrence.</p> <p>30. 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 applicable laws.</p>

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<b>Date Approved</b>	<i>August 22, 2016</i>
<b>Approval Authority</b>	<i>Vice-Principals' Operations Committee</i>
<b>Date of Commencement</b>	<i>September 08, 2016</i>
<b>Amendment Dates</b>	<i>January 15, 2018</i>
<b>Date for Next Review</b>	<i>September 08, 2017</i>
<b>Related Policies, Procedures and Guidelines</b>	<i>Interim Workplace Harassment &amp; Discrimination Policy; Interim Workplace Harassment &amp; Discrimination Complaints Process; 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>