

## **HR. 12 Sexual Harassment**

---

### **PURPOSE**

This policy addresses the issue of sexual harassment at The Works and establishes a process for the resolution of sexual harassment concerns and complaints.

### **SCOPE**

This policy applies to all employees of The Works.

Individuals who are not employees may have concerns about sexual harassment at The Works and may express their concerns to the Director/General Manager of The Works. This policy may be used where a non-employee expresses a concern or makes a complaint of sexual harassment against an employee or an employee expresses a concern or makes a complaint of sexual harassment against a non-employee.

### **POLICY STATEMENT**

Sexual harassment is a violation of human rights. The Works considers sexual harassment to be reprehensible and is committed to maintaining an environment where such harassment does not exist. To this end, The Works will undertake to resolve concerns and complaints either informally or formally. The process to resolve sexual harassment concerns and complaints is as follows:

#### **Informal Meetings:**

A person who thinks he or she has been the target of sexual harassment may meet with the Director/General Manager. Anyone may confidentially seek advice from the Director/General Manager but will be advised to refrain from naming individuals as long as the person expressing the concern or making the complaint wishes to remain anonymous. All informal consultations are confidential. However, neither the confidentiality provisions, nor the notification protocols should prohibit the Director/General Manager from notifying the Manager of Campus Enforcement and Patrol and the appropriate administrative office where it is the Director/General Managers reasonable belief that the health, safety or well being of an individual is at risk.

The Director/General Manager shall provide information about The Works policy on sexual harassment and the procedures for handling concerns and complaints. The Director/General Manager will also advise of other services available to the individual, which may include the appointment of a mediation officer to provide professional advice/services to the complainant, access to the employee assistance program, involvement of Campus Enforcement and Patrol, and other appropriate external services.

The Director/General Manager may suggest informal or formal, options to help resolve the issue. For example, it may be suggested that the individual speak directly to the alleged harasser or write a letter, however, these types of advice-seeking interactions do not constitute complaints of sexual harassment nor is any attempt made to ascertain whether sexual harassment has occurred.

No record shall be kept by the Director/General Manager of this informal meeting.

## **Formal Complaint:**

- I. All complaints will be handled as confidential unless disclosure is required by law.
- II. An employee who considers that he/she has been the target of sexual harassment should submit a written complaint to the Director/General Manager as soon as possible but within twelve (12) calendar months of the incident/s. The complainant will provide a description of the events that led to the filing of the complaint and will include dates, places and a list of any witnesses.  
  
The Director/General Manager will advise the Chair of the Board that the complaint has been made.
- III. The Director/General Manager is responsible for ensuring all complaints are taken seriously and investigated in a timely manner.  
  
An employee, who considers that he/she has been sexually harassed by the Director/General Manager, will file his/her complaint with the Chair of the Board. The complaint will be managed by a committee of the Board of Directors.
- IV. The Director/General Manager may seek the assistance of outside expertise to conduct an investigation. This may include discussions with the Sexual Harassment Advisor at Memorial University.
- V. Normally, the Director/General Manager will first attempt to settle the complaint; however, if the settlement is not to the satisfaction of the complainant, he/she may refer the matter to the Provincial Human Rights Commission and/or avail of the grievance procedures if it involves a unionized employee.
- VI. Malicious or bad faith complaints will constitute grounds for disciplinary action against the complainant in accordance with the existing Collective Agreement and/or The Works policies.

## **Discipline:**

If the Director/General Manager decides that sexual harassment did occur, he/she may impose fair and reasonable penalties. Discipline will follow the concept of progressive discipline and may include but is not limited to the following factors:

- I. The nature of the harassment
- II. The degree of aggressiveness and physical contact
- III. The impact of the comments or conduct on the complainant
- IV. The time period of the harassment
- V. The age of the complainant
- VI. The psychological impact of the harassment on the complainant
- VII. Whether the offence was an isolated incident or involved repeated acts
- VIII. Mitigating or aggravating circumstances affecting either party
- IX. Whether there was an imbalance in power between the parties
- X. The record of the subject of the complaint at the University vis-à-vis sexual harassment
- XI. Sanctions applied in similar cases

The respondent shall have the right to grieve or appeal the action(s) taken by the Director/General Manager under the terms of the Collective Agreement where applicable. Time limits for launching grievances or appeals shall extend from the date of the Director's notification of the action to be taken and shall conform to the Collective Agreement. In the case of non-bargaining unit members and management of The Works, appeals shall be directed to a committee of the Board of Directors.

If the complaint involves a customer or member of the public sexually harassing an employee or other member/customer of The Works, the Director/General Manager will fully investigate the complaint. If the Director/General Manager determines that sexual harassment did occur, then the individual (member, customer or general public) will be banned from entering and using the facility under the Petty Trespassers Act. \

### **Definition of Sexual Harassment:**

Comments or conduct of a sexual nature directed at an individual/s by a person who knows or ought reasonably to know that such attention is unwelcome and unwanted, constitutes sexual harassment when:

- a. Submission to such comments or conduct is made either explicitly or implicitly a term or condition of an individual's employment
- b. Submission to or rejection of such comments or conduct by an individual is used as the basis for employment
- c. Such comments or conduct interferes with an individual's work
- d. Such comments or conduct creates an intimidating, hostile, or offensive work environment

Such comments or conduct include, but is not limited to, unwelcome sexual invitations or requests, demands for sexual favors, unnecessary touching or patting, leering at a person's body, unwelcome and repeated innuendoes or taunting about a person's body, appearance or sexual orientation, suggestive remarks or other verbal abuse of a sexual nature, visual displays of degrading or offensive sexual images, threats of a sexual nature, sexual assault, and any other verbal or physical conduct where the purpose or effect is of a sexual nature.

Sexual harassment may occur during one incident, or may result from a series of single incidents which in isolation might not necessarily constitute sexual harassment.

Sexual harassment may occur between individuals of the same sex or opposite sex.

Sexual harassment may occur in the course of work or participation in The Works-sponsored organizations, activities and programs, whether they occur on-site or off-site. Under this Policy any inappropriate social interactions in the course of work may be considered as sexual harassment whether it happens on-site or off-site. Examples of off-site settings, include, but are not limited to, field trips, meetings, conferences or training events and/or work-related social functions whether or not they are official The Works functions

### **AUTHORITY**

The Director/General Manager is responsible for the administration of this policy or, in the case of a complaint against the Director/General Manager the Chair of the Board is responsible.

### **RESPONSIBILITY**

Division Managers are responsible to the Director/General Manager for the communication and administration of this policy.