



## Respectful Workplace Policy

### Policy

*[Insert Firm Name]* is committed to providing a safe and respectful workplace in which the dignity of each individual is respected. A respectful workplace is one that is free of inappropriate behaviour, where employees are entitled to be free of discrimination, harassment and violence.

*[Insert Firm Name]* will make every reasonable effort to ensure that none of its employees are subject to acts of discrimination, harassment or violence. It will therefore not tolerate any incidents of discrimination, harassment or violence. Corrective action, which includes discipline up to and including termination of employment for just cause, will be taken to address breaches of this policy.

*[Insert Firm Name]* maintains the exclusive right to amend this policy at any time without advance notice to you and you will continue to be bound by any amendments and replacement policy or policies as part of the terms of your employment.

**Note:** As a best practice, we recommend giving advance notice of new or amended policies whenever possible before they take effect. In order to enforce policies, firms will need to be able to prove employees were made aware of new or amended policies. A written or electronic acknowledgement that the employee has received, reviewed, understands and agrees to be bound by a policy is ideal.

### Purpose

The purpose of this policy is to make all employees aware that acts of discrimination, harassment, and violence are unacceptable and will not be tolerated. It is also intended to make all employees aware that there is a process in place to report any form of discrimination, harassment or violence without fear of retaliation.

This policy is not meant to override applicable provincial, territorial, or federal laws. Where there are inconsistencies, the applicable laws will prevail.

### Scope

This policy applies to all *[Insert Firm Name]* employees, or employees of *[Insert Firm Name]* affiliates, and other individuals acting on behalf of *[Insert Firm Name]* under contract for service or services with *[Insert Firm Name]* at the Workplace or while using firm property (referenced collectively in this policy as employees). This includes but is not limited to all administrative staff, associates, partners, and articling and summer students.

For clarity, within this policy the term “employee” is a catch-all term. It includes all categories of workers, including contractors and partners, who may not be considered employees in other legal contexts.

Nothing in this policy prevents anyone from contacting appropriate officials to report a violation of the Alberta Human Rights Act, the Occupational Health and Safety Act, or the Law Society of Alberta's Code of Conduct (the "Code").

This policy applies to behaviour that occurs in the Workplace or outside of the Workplace while representing yourself as an employee of *[Insert Firm Name]* or in a manner that impacts *[Insert Firm Name]*.

For the purposes of this policy, "Workplace" is defined broadly and includes, but is not limited to:

- all areas of the actual work site;
- the locations of work-related social functions;
- the location of work assignments;
- any location related to the firm's business;
- any location where interactions may be reasonably viewed as having an impact on the work environment and relationships; and
- work-related conferences or training sessions.

This policy targets actions and conduct that are verbal, physical, sexual, psychological, written, copied, typed, texted, recorded or otherwise communicated to others in the Workplace or in public about *[insert firm name]*, the Workplace or coworkers.

## Definitions

**Discrimination** means any act, omission or threat, or any policy, practice or term of employment, which directly or indirectly causes differential treatment of, or otherwise adversely affects, an employee or prospective employee in the course of employment or applying for employment, and the act or practice is based on a statutorily protected or prohibited ground under the human rights legislation applicable to the Workplace of the employees involved, including race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.

**Harassment** means any inappropriate conduct, comment, display, action or gesture by a person that is:

1. based on a statutorily protected or prohibited ground under the particular human rights, health and safety or similar legislation applicable to the Workplace of the employees involved,
2. a form of bullying or personal harassment, which involves either:
  - a. repeated conduct, comment, display, action or gesture, or
  - b. a single, serious occurrence of conduct, comment, display, action or gesture, that has a lasting harmful effect,

that adversely affects the employee's psychological or physical well-being and that the person knows or ought reasonably to know would cause the employee to be humiliated or intimidated; or



3. a form of sexual harassment, which includes conduct, comment, display, action, gesture or contact of a sexual nature that is likely to cause offence or humiliation to the employee or that might, on reasonable grounds, be perceived by that employee as a condition of employment or of an opportunity for training or promotion.

**Examples of discrimination, harassment or bullying include, but are not limited to:**

- written or verbal abuse;
- yelling, or screaming;
- threats of unwarranted discipline or loss of job;
- intimidating gestures such as slamming doors or throwing objects;
- derogatory remarks;
- cutting the employee out of the communication loop or withholding information they require to perform their job;
- jokes and practical jokes that result in embarrassment or awkwardness;
- innuendo or taunts;
- silent treatment;
- spreading rumours or gossip;
- displays of racist or offensive signs, images or material at or about work or your coworkers;
- communications or displays intended to mock someone;
- patronizing or condescending behaviour;
- isolating another;
- persistently criticizing another;
- tampering with another's belongings or workstation;
- excluding, cornering or confining another person through body language or physical barriers;
- repeatedly assigning unreasonable duties or tasks; and
- physical assault.
- engaging in different treatment of employees with that treatment being motivated by one or more protected ground (as articulated in Human Rights legislation). Different treatment includes but is not limited to remuneration, promotion, opportunities to work on files, and participation in marketing opportunities

**Examples of sexual harassment include, but are not limited to:**

- unwelcome flirtation, suggestive remarks, advances, propositions or gestures;
- unwelcome invitations or requests, whether indirect or explicit;
- unwelcome questions or discussions about sexual activities or preferences;
- drawing attention to a person's gender;
- unwelcome comments, including compliments, jokes, nicknames or pet names, innuendos or taunting about a person's body, attire, sex or sexual orientation;
- leering or whistling;
- displays of pornographic or sexually suggestive signs, calendars, pictures, images or material;
- demands for sexual favours, whether or not in return for work-related favours;
- unwelcome physical contact such as touching, hugging, patting or pinching of a sexual nature; and
- sexual assault.

Reasonable action taken by a manager or supervisor relating to the management and direction of an employee is not discrimination or harassment. For example, behaviours such as holding employees accountable for their performance and imposing justifiable discipline are typically not forms of harassment.

**Violence** means any action, conduct, threat or gesture by one individual toward another in the Workplace that could reasonably cause physical or psychological harm, injury or illness, and includes sexual violence. Discrimination and harassment may constitute violence.

**Examples of violence include, but are not limited to:**

- physical acts, including hitting, shoving, pushing, kicking, and sexual assault;
- threatening, verbally or in writing, to harm someone;
- adopting threatening behaviour toward someone including gestures, clenching fists, throwing objects;
- intentionally causing or threatening to cause material damage;
- possessing, showing or using a weapon; and
- intimidating or threatening an individual by adopting aggressive behaviour

## Responsibility

Employees are required to promote a respectful Workplace. Employees must refrain from causing or participating in the discriminatory, harassing or violent treatment of others in the Workplace. This includes refraining from violent, discriminatory or harassing treatment of other employees and other individuals at the Workplace, including clients, opposing counsel, court personnel and service providers.

Employees have an obligation to report instances of discrimination and harassment in the Workplace.

**Note:** This obligation arises from Occupational Health and Safety legislation and the Code. Employers receiving reports of discrimination and harassment should ensure a reporting mechanism is in place that maximizes the privacy and confidentiality of the parties involved and avoids re-victimizing the recipient of the offensive behaviour.

If a person, in good faith, brings a complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed, and no record of it will be put in the accused harasser's file. As long as the complaint was made in good faith, there will be no penalty to the person who complained, and no record in their personnel file.

Managers will take all reasonable steps to prevent and effectively deal with Workplace violence, harassment and discriminatory treatment. They will support all parties involved in a complaint and provide guidance on this policy, when requested. They will also watch for warning signs of potential violence, discrimination or harassment, such as drastic changes in behaviour, rumors, isolation, increase in sick leave, increase in resignations, increase in conflicts or aggressive behaviour, and sudden changes in performance.

*[Insert Firm Name]* is committed to creating a positive Workplace, free of violence, harassment and discrimination. It will provide education and training in relation to this policy and to violence, harassment and discrimination generally. It is committed to eliminating violence, harassment and discrimination in the Workplace. It will investigate all incidents of violence, harassment and discrimination and take corrective action where appropriate.

*[Insert Firm Name]* recognizes that its employees may be subject to inappropriate behaviour by those not covered by this policy, such as clients, opposing counsel, or court personnel or judges. *[Insert Firm Name]* will support and assist the employee affected. *[Insert Firm Name]* encourages the reporting of all incidents of harassment and discrimination regardless of who the offender is.

*[Insert Firm Name]* will not tolerate any form of retaliation against someone who brings a complaint or participates in the investigation of a complaint made under this policy. Retaliation will be subject to discipline up to and including termination of employment for just cause.

## Procedure

1. Individuals who have been subjected to inappropriate behaviour that may constitute discrimination, harassment or violence are encouraged to first clearly and firmly make the offender aware that their behaviour is unwelcome, objectionable and must stop.

*[Insert Firm Name]* recognizes that this is not always possible or appropriate, depending on the circumstances. Such informal resolution is not required as a precursor to a formal complaint.

Note: It is not necessary for an employee who has been subjected to inappropriate behaviour that may constitute harassment, discrimination or violence to first seek to tell the offender that the behaviour is unwelcome and must stop. In some circumstances, it may even be inappropriate or unsafe to do so. It is not required for the employee to ask the offender to stop the offensive behaviour before the employer will take steps to address it.

2. If the matter is not resolved informally, the individual may make a formal complaint.
3. Complaints must be submitted in writing to *[the Managing Partner/Director of Administration/Office Manager]*. If that individual is the subject of the complaint or is not available, the complaint should be directed to *[insert alternate position]*.
4. The complaint should include as much detail as possible including dates, times, witnesses (if any), a detailed description of the events and nature of the behaviour, acts or conduct complained of, and your attempts (if any, and if not then why not) to deal with the situation directly.
5. The *[Managing Partner/Director of Administration/Office Manager]* will review and consider the complaint to determine if further investigation is required. The review may include interviewing the complainant, the respondent, and witnesses to the incident or circumstances that led to the complaint.
6. The findings of the review and recommendations for further action, if any, must be communicated in writing to the complainant and respondent within 10 working days of receipt of the complaint.

**Note:** The time frames for various steps in the procedure as set out in this model policy are a recommended best practice. The intent is to make sure the process moves forward and is concluded in a timely manner. Delays in the investigation process can result in complaints of a lack of procedural fairness which can limit options for responding to the outcome of the investigation. Firms should also be aware that relevant legislation, such as the Occupational Health and Safety Act, may have additional time frames with which the firm must comply.

7. If an investigation is recommended, the *[Managing Partner / Director of Administration/ Office Manager]* must:
  - a. Advise the respondent, in writing, of the nature and specifics of the complaint, of their rights to representation and of the investigation;
  - b. Advise the complainant of the investigation; and
  - c. Assign the investigation to an investigator.



**Note:** The investigator can be either internal or external. In either case, the investigator should be someone with training in conducting investigations. An external investigator is strongly recommended in situations where the allegations are serious, where the allegations relate to systemic discrimination or harassment, or where there is no one with investigation training that is sufficiently senior in comparison to the respondent to be perceived as having the authority and influence for the investigation to be effective.

8. The investigator will make a written report with the findings of the investigation to the *[Managing Partner/Director of Administration/Office Manager]* within 30 working days. Extensions may be granted by the *[Managing Partner/Director of Administration/Office Manager]* in appropriate circumstances.
9. The *[Managing Partner/Director of Administration/Office Manager]* must review the report and determine a plan of action within 15 working days of receiving the investigator's report.
10. The *[Managing Partner/Director of Administration/Office Manager]* must advise the complainant and the respondent, in writing, of the outcome of the investigation. Summaries of the investigation process and conclusions may be provided to the complainant and the respondent.
11. Where discrimination or harassment has been substantiated, corrective and disciplinary action will be taken up to and including termination of employment for just cause, depending on the circumstances. In the event of a finding of a breach of the Code, a report will also be made to the Law Society. Specific details of the corrective action or discipline may not be shared with the complainant or others in order to respect privacy and confidentiality.
12. If it is determined that an employee made a false complaint knowingly or in a malicious manner, he or she will be subject to corrective action or discipline up to and including termination of employment for just cause.
13. In order to comply with statutory obligations to prevent and investigate discrimination, harassment and violence, the *[Managing Partner/Director of Administration/Office Manager]* must follow the above procedure even when:
  - a. a complaint has been made anonymously or by someone who asks to remain anonymous; or
  - b. there is no specific complaint, but
    - i. there is a pattern of inquiries or concerns raised over time which suggest the existence of a specific problem not already addressed, or
    - ii. there is reason to believe that a systemic problem exists in the Workplace.



**Note:** In addition to setting out this (or similar) procedure as part of a respectful workplace policy, it is important to be prepared to implement the procedure on short notice. As an example, advance consideration should be given to potential investigators. If there is an intention of using internal investigators in certain circumstances, they should be provided training. Also, the individual [*Managing Partner/Director of Administration/Office Manager*] assigned responsibility for receiving and handling complaints, and their alternate, should also be given training so they are alert to legal, privacy and other issues that may come up in the course of the investigation process.

## Confidentiality

Any complaint brought or investigation conducted under this policy will be treated confidentially to the greatest extent possible. The identity of the complainant, respondent or witnesses, or the circumstances of the complaint, may be disclosed where disclosure is necessary for the purposes of resolving the complaint or taking disciplinary action in relation to the complaint, or to inform the employees of a specific or general threat of violence, or as authorized or required by law.

Any unauthorized disclosure of confidential information relating to a complaint may result in disciplinary action, up to and including termination of employment for just cause.

All records of a complaint must be kept separate from the respondent's personnel file except where the complaint is determined to be substantiated.

## Compliance

Failure to comply with this policy may result in disciplinary action up to and including termination of employment for just cause.