



# **HARASSMENT & VIOLENCE PREVENTION POLICY**

**VERSION: OCTOBER 25, 2018**

**DISCOVERY CHILDREN'S CENTRE INC.  
HARASSMENT AND VIOLENCE PREVENTION POLICY**

**1.0 Statement of Belief**

Discovery Children's Centre Inc. (the "Employer") believes every worker is entitled to a workplace free of abusive conduct, harassment and violence. Any act of abusive conduct, harassment or violence committed by or against a worker or member of the public is unacceptable and will not be tolerated. Any worker engaging in abusive conduct, harassment or violence will be subject to a range of disciplinary procedures up to and including dismissal. Similarly, management personnel (including Unit Leaders) who are aware of abusive conduct, harassment or violence that is occurring but who fail to take appropriate action may be subject to discipline, up to and including termination for cause.

The Employer is committed to:

- (a) ensuring, so far as is reasonably practicable, that no worker is subjected to abusive conduct, harassment or violence in the workplace;
- (b) taking corrective action respecting any person under the Employer's direction who subjects a worker to abusive conduct, harassment or violence;
- (c) treating all complaints as confidential; and
- (d) ensuring that the abusive conduct, harassment and violence prevention policy is not intended to discourage or prevent any complainant from exercising any other legal right he or she may have pursuant to any other law.

**2.0 Purpose**

The purposes of this policy are:

- (a) to maintain a working environment that is free from abusive conduct, harassment and violence;
- (b) to alert the Employer, its employees to the fact that abusive conduct, harassment and violence in the workplace are offences under the law and that corrective action will be imposed;
- (c) to set out the types of behaviour that may be considered offensive and unacceptable;
- (d) to establish a mechanism for receiving complaints and to provide a procedure by which the Employer will deal with those complaints;
- (e) to encourage employees subjected to abusive conduct, harassment or violence in the workplace, to access any assistance they may require to pursue a complaint;

- (f) to ensure employees are advised of available recourse if they are subjected to, or become aware of, situations involving abusive conduct, harassment or violence; and
- (g) to provide an example of the steps a responsible employer can take towards maintaining a working environment in which all who work there treat each other with mutual respect; and
- (h) outlining controls and procedures should an instance of violence occur in the workplace.

### **3.0 Process**

This policy was developed in conjunction with the Employer's workplace safety and health committee and shall remain posted in the workplace.

### **4.0 Application**

This abusive conduct, harassment and violence policy applies to all employees, customers, clients, volunteers and guests of the Employer. For the purposes of this policy, the types of behaviour which constitute abusive conduct, harassment or violence means any such conduct which occurs:

- (a) in the working environment; or
- (b) anywhere else as a result of employment responsibilities or the employment relationship.

It includes but is not limited to abusive conduct, harassment or violence at or outside the workplace, at workplace-related social functions, in the course of work assignments outside the workplace, at work-related conferences or training sessions, during work-related travel and over the telephone, by email or other electronic means of communication.

It is understood that in scenarios where children, who are clients of the Employer, engage in behaviours which could fall within the scope of this policy, the Employer will strive to address those behaviours through its existing Behaviour Management Policies, rather than through this policy.

#### **4.1 Retaliation**

For the purposes of this policy, retaliation against an individual for having:

- (a) invoked this policy (whether on behalf of oneself or another individual);
- (b) participated or cooperated in any investigation under this policy; or
- (c) been associated with a person who has invoked this policy or participated in these procedures,

will be treated as harassment. Retaliation may occur against a Complainant, as defined in Article 10.0 herein, for having invoked the policy or against individuals who take part in an investigation. In cases where the Respondent, as defined in Article 10.0 herein, has, in addition, retaliated against the

Complainant, more severe disciplinary action will be taken than in the case of abusive conduct, harassment or violence alone.

## **4.2 Additional Action**

In addition to any complaint filed under this policy, a worker has the right to exercise any legal right he or she has under any other law. A worker has the right to file a complaint with the Manitoba Human Rights Commission and/or the formal legal system, even when steps are being taken under this policy.

## **5.0 Definitions**

**“abusive conduct”** includes violent or threatening physical or verbal outburst or abuse, sarcastic or derogatory comments or actions which undermine, demean, belittle or humiliate an individual or his or her ability or intelligence, yelling, screaming, swearing or similar behaviour aimed at or having the effect of bullying, intimidating, frightening, coercing or offending those at whom it is directed. Such behaviour may occur as an abuse of authority. It may also occur among peers.

**“conduct”** includes a written or verbal comment, a physical act or gesture or a display, or any combination of them.

**“harassment”** occurs in the workplace and includes:

- (a) engaging in a course of vexatious comment or conduct against a worker that is known or ought reasonably to be known to be unwelcome;
- (b) A course of abusive and unwelcome conduct or comment undertaken or made on the basis of any of the following characteristics:
  - ancestry, including colour and perceived race; nationality or national origin; ethnic background or origin; religion or creed, or religious belief, religious association or religious activity; citizenship; age; sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy; gender-determined characteristics or circumstances other than those included in the previous category; sexual orientation; gender identity or expression; marital or family status; source of income; receipt of public assistance in housing; record of offences; political belief, political association or political activity; physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair, or any other remedial appliance or device;
- (c) objectionable and unwanted behaviour with no legitimate purpose and which is not based on any of the foregoing prohibited grounds but which constitutes a clear pattern of mistreatment that would reasonably be perceived to be severe enough to create a hostile, intimidating, or humiliating environment;
- (d) sexual harassment, as defined in Article 5.0 herein;
- (e) objectionable conduct that creates a risk to the health of a worker; or

(f) severe conduct that adversely affects a worker’s psychological or physical well-being.

For the purposes of clarity, harassment is broad enough to include harassment prohibited under *The Human Rights Code* (Manitoba), psychological harassment or personal harassment.

The following do not constitute harassment within the meaning of the foregoing definition:

- (a) The reasonable exercise of supervisory and management responsibilities in the direction of workers or the workplace, including but not limited to coaching, performance reviews, work evaluation and disciplinary action; or
- (b) Voluntary or consensual sexual contact between workers.

**“objectionable”** is defined as conduct based on any of the enumerated characteristics under the definition of harassment.

**“severe”** is defined as conduct which could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, have a lasting, harmful effect on a worker.

**“sexual harassment”** occurs in the workplace and includes:

- (a) unwelcome sexual solicitations, comments or advances;
- (b) a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- (c) an express or implied promise of reward or threat of reprisal for rejecting a sexual solicitation or advance.

**“violence”** includes:

- (a) the attempted or actual exercise of physical force by any person against a worker, in a workplace, that causes or could cause physical injury to the worker; and/or
- (b) a statement or behaviour that gives a worker reasonable cause to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

For the purposes of clarity, violence may include domestic violence which may enter the workplace but does not include accidental situations.

**“worker”** for the purposes of this policy, shall mean an employee of the Employer.

**“workplace”** means any land, premises, location or thing at, upon, in or near which the Employer works. For the purposes of this policy, workplace shall also include anywhere else a worker is located as a result of employment responsibilities, such as workplace-related social functions, work-related conferences or training sessions, during work-related travel and over the telephone, by email or other electronic means of communication.

## **6.0 Confidentiality**

The Employer understands that it is difficult to come forward with a complaint of workplace abusive conduct, harassment or violence and recognizes a Complainant’s interest in keeping the matter confidential. The Employer will not disclose the name of a Complainant or Respondent or the circumstances related to the complaint to any person except where disclosure is:

- (a) necessary to investigate the complaint or take corrective action with respect to the complaint;
- (b) required by law.

Where any personal information is disclosed under Article 6.0, the Employer will only disclose the minimum amount of personal information necessary for the stated purpose.

### **6.1 Records**

All records of complaints, including notes and memoranda of meetings, interview, results of investigations and other relevant material will be kept confidential by the Employer, except where disclosure is required as part of the investigation process, by disciplinary or other remedial processes or there is a legal obligation to disclose. Information will be placed on an individual’s personnel file only in the event that the investigation results in disciplinary action. Where the Director of Programs and Operations is the subject of the complaint, all documentation will be provided to the Executive Director of the Employer and will then be housed at the offices of the Employer’s labour lawyer. Where the Executive Director is the subject of the complaint, all documentation will be provided to the Board Chair of the Employer and will then be housed at the offices of the Employer’s labour lawyer.

## **7.0 Employer Responsibilities**

The Employer has the responsibility to eliminate or minimize the risk of abusive conduct, harassment and violence in the workplace. To do so the Employer will:

- (a) review this policy on an annual basis, at a minimum;
- (b) ensure this policy is readily available to all workers, including posting a copy in the workplace;
- (c) ensure workers are aware of what constitutes abusive conduct, harassment or violence;
- (d) conduct hazard risk assessments, implementing measures and procedures to control risks identified therein;

- (e) allow for the reporting and investigation of abusive conduct, harassment or violence as outlined in this policy;
- (f) provide measures and procedures for summoning immediate assistance, as outlined in this policy - as set out in Appendix “A” attached hereto;
- (g) provide adequate information, supervision, direction and instruction to workers in the safe performance of their duties;
- (h) provide training to minimize the risk of violence to workers including specific training for supervisors in meeting their responsibilities under this policy, ensuring supervisors are competent;
- (i) notify any workers who may be exposed to violence, of the nature and extent of the risk;
- (j) ensure that corrective action is taken respecting any person under the Employer’s direction who subjects a worker to violence;
- (k) ensure that any prescribed measures and procedures under this policy are followed;
- (l) provide for the purposes of diagnosis or treatment, upon request, information in the possession of the Employer to a legally qualified medical practitioner, or other prescribed individual, in the event of a medical emergency; and
- (m) provide assistance and co-operation to a health and safety representative/committee carrying out their functions; and
- (n) take every reasonable precautions for the protection of the worker.

## **8.0 Supervisor Responsibilities**

Supervisors have the responsibility of ensuring their workers are properly trained to perform their work without abusive conduct, harassment or risk of violence. To do so the Supervisor(s) will:

- (a) work in a manner consistent with the obligations of this policy and ensure workers work in a manner consistent with the obligations of this policy;
- (b) take every reasonable precaution for the protection of the worker;
- (c) inform workers of the nature and extent of any known risk of violence;
- (d) ensure that corrective actions are taken in response to incidents of abusive conduct, harassment and violence; and

- (e) ensure that the abusive conduct, harassment and violence report form and/or a number to call to make an oral complaint is readily available.

## **9.0 Employee Responsibilities**

All workers have the responsibility of complying with this policy. In doing so, all workers have the responsibility to:

- (a) abide by the terms of this policy, treating each other with respect, and to speak up if they or someone else is being subjected to abusive conduct, harassment or to violence;
- (b) report abusive conduct, harassment and violence to the appropriate person, including concerns that domestic violence may enter the workplace;
- (c) respect the confidentiality of anyone involved in a complaint under this policy; and
- (d) report actual or potential hazards in the workplace to a supervisor or the Employer.

## **10.0 Complaint Procedures**

If a worker wishes to report an incident of abusive conduct, harassment or violence, the following procedures should be followed.

However, even where a worker does not wish for any steps to be taken under this policy, in certain circumstances, the Employer may still be required to do so in order to protect a worker.

### **10.1 Informal Resolution**

Where appropriate, a worker who believes that he/she has been subjected to abusive conduct, harassment or violence (the “Complainant”) should take direct action to make his/her discomfort and/or disapproval known immediately to the individual making the comments or performing the actions (the Respondent). Complainants should keep a written record of the date, time and nature of the conversation along with the name of any witnesses who were present.

In the event that the Complainant takes such steps, and the abusive conduct, harassment or violence (collectively, for the purposes of this Article 10.0, the “Harassment”) does not stop, or in the event that the Complainant is not comfortable confronting the Respondent, then the Complainant may contact the appropriate Employer representative to request that the issue be raised with the Respondent.

For the purposes of this policy, the “appropriate Employer representative” shall be the Complainant’s supervisor, except that if the complaint is against the supervisor, the appropriate Employer representative will be the Director of Programs and Operations, and if the complaint is against the Director of Programs and Operations, then the appropriate Employer representative will be the Executive Director of the Employer.



It is at this informal complaint stage that the parties may rely on the process of Cooperative Resolution, with that being defined as any form of resolution that is entered into voluntarily by both the Complainant and Respondent; that is reached through direct cooperative interaction between the parties involved; and that is satisfactory to all parties. The purpose is to eliminate and prevent the reoccurrence of the perceived Harassment with no or minimal disruption to the persons involved and to the work environment. Cooperative Resolution may include any of the following options, the choice of which remains in the sole discretion of the Employer:

- (a) The Complainant's supervisor speaking to the parties separately and the Respondent agreeing to cease engaging in such behaviour.
- (b) The Complainant's supervisor bringing the parties (and a support person where either party requests it) together to discuss the incident(s) with a view to achieving a mutually acceptable outcome. Such outcome should be reduced to writing with a copy being provided to each party.
- (c) The Complainant's supervisor referring the complaint to a mutually acceptable external third party for engagement in a mediation process.

## **10.2 Initiating a Formal Complaint**

If the Harassment does not cease or if the Harassment has been such that the Complainant nevertheless wishes to proceed with a formal complaint, then the employee may elect to either file a complaint under this policy, pursue litigation or complaint, where appropriate, in the civil courts or under the provisions of *The Human Rights Code*. Regardless of the election that is made, the Complainant should take such action on a timely basis.

A sample complaint form is attached hereto as Appendix "B".

## **10.3 Processing of Formal Complaints under this Policy**

The Employer will normally require that a Complainant file a written complaint prior to an investigation being launched. The complaint, which shall be filed with the appropriate Employer representative, should set forth complete particulars of the alleged Harassment.

Where a supervisor or other management representative learns of an allegation of Harassment that has not been brought forward by the affected Complainant, then such person will, after having spoken with the affected Complainant, document the essence of the allegation. The Employer will then address the allegation, either by way of a disciplinary investigation or by way of having it advanced as a complaint under the terms of this policy.

Where a formal complaint is filed, the appropriate Employer representative, either alone or in consultation with other Employer representatives, will first determine whether the incident(s) on which the complaint is based could amount to a breach of the policy. If there is a question as to whether such is the case, the appropriate Employer representative may consult with the Complainant to determine if the complaint, while appearing to be deficient, can or should be amended to better state the essence of the complaint. If

the complaint cannot be appropriately amended so as to possibly constitute abusive conduct, harassment or violence within the meaning of those terms, then the Complainant will be advised that the complaint does not amount to a breach of the policy and as such will not be processed under the terms of the policy.

#### **10.4 Investigation**

If the incident(s) referred to in the complaint could be considered to amount to a breach of this policy, then the following procedures will apply:

- (a) The Employer will advise the Respondent of the complaint that has been received and, except where inappropriate, will provide the Respondent with a copy of the complaint and a copy of this policy. The Respondent may but need not file a written response to the complaint.

Exceptions where it may not be appropriate to disclose the name of the Complainant would include circumstances where the personal safety of the Complainant or others could be put at risk by such disclosure.

- (b) The Respondent shall be advised that if he/she wishes to discuss the complaint or related matters with the Complainant, then that shall be done only in the presence of a representative designated by management.

The Respondent shall also be advised that an express or implied threat or promise that is made for the purpose of discouraging the filing of a complaint, or any interference with the conduct of an investigation, including any attempt to have a Complainant withdraw the complaint, or any retaliation or threatened retaliation, whether express or implied, against the Complainant or a witness, is strictly prohibited and will result in disciplinary action. When any of the foregoing conduct is engaged in by a person who appears to be doing so on behalf of the Respondent, then such conduct or interference shall be presumed to have been taken with the knowledge and approval of the Respondent.

- (c) The Director of Programs and Operations will designate a person to conduct an investigation into the complaint. The Investigator may be either an employee of the Employer or an independent third party retained by the Employer to conduct such investigation. In doing so, the Director of Programs and Operations will, where possible, appoint an Investigator who is acceptable to both parties, but the ultimate appointment shall remain in the sole discretion of the Employer.
- (d) All complaints will be handled in confidence in accordance with the provisions of Article 6.0 of this policy. Similarly, employees who are interviewed as part of any investigation conducted pursuant to this policy shall treat all information discussed or disclosed during the interview in a confidential manner. An employee who breaches this confidentiality obligation may be subject to discipline.
- (e) During the course of an investigation, the Investigator will generally interview the Complainant and the Respondent along with any witnesses that may have information relevant

to the investigation. The Complainant and the Respondent may elect to have a representative present during their interviews. Witnesses shall not be entitled have a representative present during their interviews.

- (f) At the conclusion of the investigation, the Investigator shall prepare a report that will set forth the nature of the complaint, the essence of the Respondent's formal or informal reply (if any), the Investigator's assessment of relevant evidence related to the complaint, and the Investigator's findings with respect to the complaint.

In arriving at a determination, the Investigator shall determine, on a balance of probabilities, whether the Harassment as alleged did or did not occur. Alternately, the Investigator may conclude that the evidence obtained during the investigation was insufficient to draw a conclusion.

- (g) The Investigation Report may, where appropriate, make recommendations for remedial action of an educational nature.
- (h) Copies of the Investigation Report will be provided to the Complainant, the Respondent, and the Director of Programs and Operations (or if appropriate, to the Executive Director of the Employer). The Director of Programs and Operations shall also be provided with copies of all documentation in accordance with Article 6.1 of this policy.

## **10.5 Disposition of the Complaint**

If the Director of Programs and Operations (or in the case of the Director of Programs and Operations, the Executive Director of the Employer) concludes that there has been a breach of this policy, then the Director of Programs and Operations (or if appropriate, the Executive Director of the Employer) shall decide on and initiate an appropriate course of action which may include discipline ranging from a warning up to and including termination, as well as other non-disciplinary steps intended to ameliorate the impact of the breach or to minimize the likelihood of a further breach. The resolution shall be subsequently communicated in writing to the Complainant and the Respondent.

For the purposes of clarity, whether any Remedy or Corrective actions should be taken, and determination of the nature of that action, is within the sole discretion of the Employer.

Corrective action for the Respondent include, but are not limited to:

- i. a written reprimand;
- ii. a suspension, with or without pay;
- iii. a transfer, if it is not reasonable for the people involved to continue working together;
- iv. a demotion;

- v. a dismissal; and/or
- vi. notification to law enforcement.

A Complainant who makes a complaint under this policy that is subsequently not substantiated shall not be disciplined for making the complaint except in circumstances where the complaint was made in bad faith or is frivolous, vexatious or malicious. In such circumstances, the Complainant will be subject to the same penalties as a Respondent.

### **10.6 Right to Appeal**

A Complainant who is dissatisfied with the outcome of an investigation may proceed with an appeal to the Executive Director of the Employer. Similarly, an employee who has been disciplined as a result of a complaint investigation may advance an appeal to the Executive Director, as appropriate.

### **10.7 Other Matters**

Where warranted, and until a complaint has been resolved by the Employer, the Employer may take steps to avoid the Complainant having to work directly with the Respondent.

The Employer may arrange supportive counseling for the Complainant where necessary, the determination of which shall be within the sole discretion of the Employer. Additionally, workers may wish to access the Employer's Employee Assistance Program. Should workers wish to engage this service, the number is included within Appendix A of this policy.

If an employee has been harmed as a result of violence in the workplace, the employee is advised to consult their health care provider for treatment or referral, if appropriate.

A Complainant who has been physically assaulted by an individual should consider reporting such assault to the appropriate policing authority at the earliest possible opportunity.

### **11.0 Conclusion**

The Employer has developed this policy in conjunction with the Employer's workplace safety and health committee, because all of its workers have the right to work in an environment free from abusive conduct, harassment and violence. Anyone found guilty of abusive conduct, harassment or violence contrary to this policy is liable to be disciplined, up to and including termination of employment for cause.

### Appendix “A” - Summoning Immediate Assistance

Should any abusive conduct, violence or harassment occur which would require immediate assistance, the Employer has compiled a list of some commonly used numbers which you may call:

<b>SERVICE</b>	<b>NUMBER</b>
Emergency Police/Paramedic/Fire	911
Blue Cross Employee Assistance Program (see company health benefit plan)	204-786-8880 professional counselling services
Human Rights Commission (Manitoba)	<a href="http://www.manitobahumanrights.ca">www.manitobahumanrights.ca</a> 204-945-3007
DCC’s Health and Safety Committee	See bulletin board in communication room
Chair - Discovery Centre Board of Directors	boardchair@discoverycc.com

**Appendix "B" - Sample Complaint Form**

Complainant Name: \_\_\_\_\_

Respondent Name(s): \_\_\_\_\_

Date(s) of Events: \_\_\_\_\_

Date of Complaint: \_\_\_\_\_

Description of Events (including identification of witnesses): \_\_\_\_\_

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Do you wish to pursue an Informal Resolution (unless a resolution is reached, this does not preclude pursuing a Formal Complaint at a later time)? \_\_\_\_\_

Do you wish to pursue a Formal Complaint/Investigation? \_\_\_\_\_

Desired Outcome: \_\_\_\_\_