



Independent Living Centre Kingston Disability Resources and Support

INDEPENDENT LIVING CENTRE KINGSTON (ILCK)

ILCK HUMAN RIGHTS, VIOLENCE AND HARASSMENT IN THE
WORKPLACE POLICY MAY 2016

Part 1:

VISION and COMMITMENT

We at ILCK believe that we must be leaders in the fight against all forms of discrimination. We want to create an organization that is free from discrimination for all members of the ILCK community — staff, volunteers and members, as well as the broad community that we serve. We believe that everyone should be treated equally and should enjoy all of the freedoms and services available in our diverse Canadian society. We are especially sensitive to those forms of discrimination based on physical, sensory, intellectual, psychiatric or learning differences or physical reliance on special aids. These things that we want are also the law in our province and in our country. The Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act and the Ontario Human Rights Code are all important laws that recognize the dignity and value of every person. These laws state that everyone has the right to live free from discrimination and harassment based on characteristics such as disability, race, skin colour, national origin, sex, age, family relationship, marital status, sexual orientation, creed, religious or political affiliation. The Independent Living Philosophy promotes the integration and full participation of all persons with a disability. All persons with a disability have the right to examine choices, make decisions, take risks, make mistakes, and take responsibility for their own lives. In accordance with our own beliefs and with the laws of our province and country, ILCK is committed to leading by example, abiding by the principles of human rights as well as promoting human rights within our organization and the community at large.

This Human Rights policy is one of a set of policies aimed at ensuring "best practices" in our workplace. The purposes of this Human Rights Policy, described in detail below, are: To affirm our commitment to providing a healthy, productive and safe working environment at ILCK for all staff, Board members, volunteers, members, service recipients and organizational/community partners. To promote awareness of human rights and responsibilities. To provide specific and helpful procedures for handling complaints and for resolving them in a fair and reasonable manner.

Part 2:

PREVENTION

The best way to achieve our goal of a discrimination-free workplace is to make sure that discrimination does not happen in the first place. However, because we have all grown up in a society which has discriminatory attitudes, deliberate and careful effort is required to overcome the kinds of insensitivity, carelessness and ignorance that often underlie discriminatory behaviour. We all have responsibilities for the prevention of discrimination. These responsibilities are different depending upon our different roles and positions.

ILCK as an employer is responsible for:

Recruiting and hiring in a way that does not discriminate against potential candidates for staff, volunteer and Board positions. Ensuring that all staff, volunteers and Board members know about the Human Rights policy, have access to the policy in whatever format suits their individual needs, and receive training in how to interpret and use the policy. Using the very best management practices to ensure that staff and volunteers are treated with respect at all times, and have access to a fair and open process when disputes arise. Working to maintain an environment that promotes respect for human rights.

ILCK as a community organization is responsible for:

Operating in a manner consistent with Independent Living principles and philosophy. Ensuring that our programs, opportunities and services are accessible to people with all kinds of disabilities and are fully available to all people in our racially, culturally, economically, socially and sexually diverse society. Making efforts to build links and

foster partnerships with other organizations, including those serving people with disabilities from diverse social and cultural groups at all socio-economic levels. Making the policy available to ILCK members and community partners through postings in the ILCK office and announcements in the ILCK newsletter.

With respect to these responsibilities, the Board of Directors of ILCK has further responsibilities:

To review this Human Rights policy and its procedures on an annual basis to ensure that it is working the way it was intended to work, and that it is still in tune with the changing nature of our diverse society.
To select appropriate and qualified members to the AntiDiscrimination Complaints Committee.

Individual staff, volunteers and Board members are responsible for:

Familiarizing ourselves with this Policy. Respecting this Policy in dealings with staff, volunteers, Board members, members of the community and the general public. Using the procedures detailed in the Policy if and when we have a complaint that appears to fall within the guidelines indicated.

Part 3:

DEFINITIONS

What is Discrimination?

You are discriminated against when you are not treated with respect, or when you are treated differently from others or prevented from having the same opportunities that others have. It is against the law to discriminate against anyone in the areas of accommodation, employment and provision of services, on grounds prohibited by human rights statutes, such as: disability, race, colour, sex, sexual orientation, place of origin, ancestry, ethnic background, citizenship, age, marital status, family status, religion, receipt of welfare or Family Benefits, or criminal offence conviction for which a pardon has been granted.

For example: It is discrimination to refuse to hire a person for a job that he or she is qualified for because that person has a disability. It is discrimination to refuse to provide a reasonable amount of support or

accommodation to make it possible for a person with a disability to participate in the same way as a non-disabled person. It is discrimination to punish someone just because he or she has objected to being treated in a discriminatory manner or has made some effort to assert his or her human rights.

What is Harassment?

Harassment is a particular form of discrimination. Harassment consists of unwelcome comments or actions related to a person's race, sex, disability or any of the other characteristics listed above, that have the effect of making that person feel embarrassed or insulted or that tend to exclude or penalize the person.

For example: It is harassment for co-workers to tease or insult a person about his or her disability, race, religion, family status, etc. in a way that that person finds annoying or hurtful. It is harassment to display pictures, jokes or cartoons that are demeaning to a person or group of persons.

Forms of harassment include:

Disability Harassment:

These are forms of harassment related to a person's disability, such as making fun of someone's speech or way of walking.

Racial and Ethno-Cultural Harassment:

These are forms of harassment based on a person's race, colour, ancestry, place of origin, ethnic or national origin, citizenship, creed or faith.

Gender and Sexual Orientation Harassment:

These forms of harassment may consist of words, gestures, or acts directed at someone because of their sex, pregnancy or sexual preference in a way that is insulting or demeaning. Sexual harassment occurs when unwelcome attention, solicitation, physical contact or sexual advances are made by or towards anyone covered under this policy when such behaviour or conduct is known or reasonably ought to be known as unwelcome.

For example: It is sexual harassment to discuss sexual matters in a way that is known or should be known to be offensive. It is sexual harassment to make comments about a person's body or appearance in a way that

offends or embarrasses them. It is sexual harassment to leer or make suggestive comments; it is sexual harassment to make sexual demands in exchange for promotions or favours.

VIOLENCE AND HARASSMENT IN THE WORKPLACE POLICY

Background

ILCK is obligated to comply with Bill 168 which amended the Occupational Health and Safety Act, to address Violence and Harassment in the Workplace.

This change is the result of the death of a woman in her workplace at the hands of her former boyfriend, also an employee of the same workplace.

Accordingly, ILCK has adapted and implemented the policy developed by the CENTRE FOR INDEPENDENT LIVING IN TORONTO (C.I.L.T.). The policy is outlined below.

VIOLENCE AND HARASSMENT IN THE WORKPLACE POLICY

Purpose and Application of Policy

ILCK is committed to providing an environment in keeping with the spirit of the Ontario Human Rights Code and implementing these principles.

We are also committed to a transparent and effective complaints process. In addition, we are committed to workplace health, safety, and security for all employees, volunteers, and consumers.

To convey the commitment to nonviolence, we have adopted a workplace violence policy.

Section 25(2)(j) of the Ontario Occupational Health and Safety Act, R.S.O. 1990, c. O.1 sets out an employer's responsibility in developing and implementing a policy to deal with violence in the workplace.

What Is Workplace Violence and Harassment

Workplace violence is any act in which a person is abused, threatened, intimidated or assaulted in the course of employment. Workplace violence includes threatening behaviour, verbal or written threats, verbal abuse and physical attacks.

There are various inappropriate behaviours associated with workplace violence:

- Verbal abuse is the use of vexatious comments that are known, or that ought to be known, to be unwelcome, embarrassing, offensive, threatening, or degrading to another person (including swearing, insults, or condescending language).
- Threat (verbal or written) is a communicated intent to inflict physical or other harm on any person or to property by some unlawful act. A direct threat is a clear and explicit communication distinctly indicating that the potential offender intends to do harm, for example, "I am going to make you pay for what you did to me." A conditional threat involves a condition, for example, "If you don't leave me alone you will regret it." Veiled threats usually involve body language or behaviours that leave little doubt in the mind of the victim that the perpetrator intends to harm.
- Physical attacks are aggression resulting in a physical assault/abuse with or without the use of a weapon. Examples include hitting, shoving, pushing, punching, biting, spitting, groping, pinching, or kicking the victim.
- Psychological abuse is an act that provokes fear or diminishes an individual's dignity or self-worth or that intentionally inflicts psychological trauma on another.
- Assault is any intent to inflict injury on another, coupled with an apparent ability to do so; any intentional display of force that causes the victim to fear immediate bodily harm.
- Near miss is an act of striking out, but missing the target.

Workplace harassment includes both personal harassment and sexual harassment.

Harassment is defined in the Ontario Human Rights Code as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome".

What this Policy Does Not Cover:

Conduct that does not constitute discrimination or harassment includes but is not limited to mutual flirtation, an embrace between friends or similar consensual conduct, or a Supervisor/Manager asking/requiring an

employee to perform a task that is within the individual's job description/role profile.

Part 4

Complaints/Investigation Procedure

1. Who Can Make a Complaint?

Anyone who feels that they have been discriminated against or harassed at ILCK can make a complaint under this policy. This includes staff, Board members, volunteers, members, service recipients and organization/community partners. A complaint can be withdrawn under this policy at any time.

However, because ILCK is legally responsible for a workplace that is free from discrimination, ILCK may be obliged to continue the investigation of the complaint without the complainant. The steps involved in making a complaint are described in Question 3.

2. Who Will Deal With The Complaint?

An Anti-Discrimination Complaints Committee will be appointed to deal with complaints under this policy. Nominations for this Committee will be solicited from the current staff and Board. The Board Executive will make the appointments to this Committee. This Committee will be responsible for receiving, investigating and recommending measures to resolve complaints.

The Anti Discrimination Complaints Committee will have two members:

- one staff person (past or present)
- one Board member (past or present)

The names and telephone numbers of the members of the AntiDiscrimination Complaints Committee will be posted in the ILCK office in an area that is easily accessible to staff, volunteers and members.

The membership of the Committee will be reviewed annually by the Executive Committee of the Board of Directors. The two members of the Committee will investigate each complaint. Persons named as respondents (the person(s) about whom the complaint is being made) in

the complaint and persons who have a conflict of interest will not be involved in investigation of the complaint. If a conflict arises the Board Chair may appoint an alternate staff or board member to the committee. Both the complainant and the respondent can ask for an alternate to be assigned.

Both members of the Committee must be at meetings to make any decisions about a complaint.

Members of the Anti-Discrimination Complaints Committee and potential alternates will receive training which will include the following:
Understanding and recognising discrimination and harassment;
Investigating and making decisions about discriminatory or harassing behaviour; and

Mediation and conflict resolution.

The Anti-Discrimination Complaints Committee will report to the Board of Directors the following: The nature of the complaint being investigated; Their recommendations regarding resolution of the complaint; and Their recommendations for changes/improvements to the Policy and Procedures.

3. What do I do if I feel harassed or discriminated against or if I have witnessed harassment or discrimination?

Under this policy, there are 6 steps in the complaints process:

Step 1: Tell the person to stop the behaviour if you feel you can. Explain to them why their actions or words are discriminatory or harassing and remind them of ILCK'S policy. This gives them a chance to stop the behaviour. You should follow this step unless you feel uncomfortable approaching the person on your own.

Step 2: Talk to another staff member (if possible a supervisor) about the situation. They can support you in speaking with the person or assist you in making a formal complaint

If you approach a supervisor, he or she is responsible to see that your complaint is resolved satisfactorily or, if the behaviour continues, that a formal complaint is made. You should follow this step unless you feel that it would not be helpful.

Step 3: Make a formal complaint to a member of the Anti-Discrimination Complaints Committee.

Write down what happened, including: dates, the respondent's name, the names of any witnesses, details of what happened, how you have attempted to resolve the issue, your signature.

You can ask anyone who is not a member of the Complaints Committee to assist you in writing out your complaint or you can submit your complaint on tape or disk. You must submit your complaint within 60 days after the most recent incident of discrimination or harassment.

Step 4: As soon as your complaint is received, the members of the AntiDiscrimination Complaints Committee will start an investigation. They will: Tell the respondent about your complaint with sufficient particulars to allow him or her to respond, give him or her a copy of the complaint and provide him or her an opportunity to record their response to the complaint; Explain ILCK's Human Rights Policy and confidentiality requirements to everyone involved; Conduct separate interviews with the complainant, the respondent, and any witnesses; Write down all the information obtained through this process.

Step 5: Within 25 working days of receiving the complaint, the AntiDiscrimination Complaints Committee will meet to review all the information and complete their report. This report will be available in alternate formats if necessary. A copy of the report will be given to the complainant, respondent, Executive Director and the Chair of the Board of Directors. In the report, the Committee will state its conclusions about whether discrimination or harassment occurred and recommend a resolution.

Recommended resolutions may include:

- Clarification of a misunderstanding;
- An apology;
- A verbal warning;
- A written warning to be placed in the respondent's file;
- Suspension;
- Dismissal;
- Dismissal of the complaint.

The Committee may also make other recommendations, such as:

- Reinstatement of the complainant if he or she lost his or her job because of discrimination or harassment;
- Paying the complainant for any time lost from work because of discrimination or harassment;
- Taking down offensive posters, cartoons and wall writing;
- Changing policies and practices that are creating a barrier to equality;
- Discontinuing or altering the terms of a community partnership.

Step 6: The Executive Director will consider the recommendation of the Committee and, in consultation with the Chair of the Board, make a decision about what to do. This decision will be communicated in writing to both the complainant and the respondent within 10 working days of receiving the Committee's final report.

If the Committee's recommendation involves suspension or dismissal, the full Board must approve the recommendation before action is taken.

The Board must make its decision about such a recommendation within 10 working days of the Chair's receipt of the Committee's report.

The Executive Director is responsible to see that the resolution that is decided upon takes place as soon as reasonably possible.

If the Executive Director or Chair of the Board are parties to the complaint (i.e., are the complainant or respondent) then the next person in line of authority will make the decision and/or see to it that the resolution takes place.

4. How does the Committee make its recommendation?

The Committee will examine all information presented and recommend a resolution taking into account the following:

- What is the relationship between the complainant and the respondent
 - is there a real or perceived difference in power between them?
 - Did the respondent know, or should he or she reasonably have known, that the behaviour was discriminatory or harassing?

- What effect did the discrimination or harassment have on the complainant?
 - Did ILCK'S policies or procedures have a discriminatory effect in this case? Did the discrimination or harassment happen more than once?
- Was an assault or physical harm of any kind involved? • • •
- Was the discrimination or harassment intentional or planned?
- Has the respondent been found to be acting in a discriminatory or harassing manner in the past?

5. What if I am not satisfied with a decision of the Complaints Committee? Either the complainant or respondent can appeal the decision if they believe that: they have been unfairly treated and/or some significant evidence has not been considered.

To appeal a decision, you must write a letter to the Board of Directors within 10 working days of receiving the Complaints Committee's report or, in the case of suspension or dismissal, within 10 working days of your learning of the Board's decision regarding the Committee's recommendation.

The Board will appoint a person to hear the appeal. If possible, the Board will appoint a person agreed upon by both the complainant and the respondent for this purpose. If this is not possible, the Board will appoint someone who is not connected in any way with ILCK. This person will be qualified to arbitrate an appeal of a decision about discrimination or harassment. They will hear the appeal and make a final determination within 15 working days after the request for the appeal is received.

6. What other options do I have for dealing with discrimination or harassment?

The above procedure does not affect your right to seek legal counsel or to file a complaint with the Ontario Human Rights Tribunal or the police. It also does not affect ILCK's right to seek legal counsel.

Legal Counsel: You may hire a lawyer to assist you at your own cost.

Police: You may pursue criminal charges if the complaint is a serious matter involving physical harm, threats of physical harm or damage to property.

Ontario Human Rights Tribunal: You may file a complaint with the Tribunal within one year from the time the discrimination or harassment occurred. Although there are no time limits for complaints in the Human Rights Code, the Tribunal may decide not to deal with a complaint where it appears to the Tribunal that the facts upon which the complaint is based occurred more than one year before the complaint was filed, unless the Tribunal is satisfied that the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay.

7. What rights do ILCK staff, volunteers and members have under this policy?

Confidentiality:

All parties in the complaint resolution process have a right to confidentiality. This protection is essential for people to feel safe to come forward with concerns or information. When a complaint is being investigated, the only people who should know about it are those who are directly involved and who have a role to play in resolving it. Breaches of confidentiality can seriously hurt people and their reputations and take away from everyone's right to a fair process. Breaches of confidentiality should be reported to the Anti-Discrimination Complaints Committee. The Committee will investigate and report to the Executive Director and the Chair of the Board of Directors. In the event that the breach involves a member of the Complainants Committee, it should be reported to the Chair of the Board of Directors for appropriate investigation. Breaches of confidentiality will be subject to discipline, which may include a warning, reprimand, suspension, removal from the Committee or recommendation for termination of employment or services.

Accessible formats: All persons involved in the complaint process have the right to present and receive information in formats that make the information easily accessible to them (e.g., in large print, in Braille, with the assistance of a translator or interpreter, etc.).

Representation/Support: Both the complainant and respondent have the right to be accompanied by a representative or support person of their choice in any meetings during the complaint resolution process, provided that this person agrees to the confidentiality requirement outlined above.

Protection from Reprisal: The complainant, as well as anyone else who is involved (i.e., witnesses, representatives, members of the Complainants

Committee) have a right not to be penalised for making the complaint or participating in the process.

Protection from False Accusations: All persons involved with ILCK have the right to protection from false accusations. Any person who is found to have made, on purpose, a false complaint, may receive a warning; a reprimand; a suspension; or exclusion from services.