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Respect in the Workplace

1. PURPOSE

The OMA is committed to providing a civil working environment in which all individuals are treated with respect, fairness, and dignity. Under the Ontario Human Rights Code and the Occupational Health and Safety Act, every person has the right to be free from harassment and discrimination. Harassment and discrimination, including bullying, will not be tolerated, condoned, or ignored at the OMA.

The following policy provides a conflict resolution and complaint process which applies to any conduct that can be described as incivility, harassment and/or discrimination.

2. SCOPE

This policy applies to all OMA employees, members, visitors, and contractors, as well as any directors and officers of the corporation and/or its subsidiaries (including elected OMA physician leaders).

3. DEFINITIONS

Civility

Civility involves treating others with dignity and respect and acting with regard to other's feelings. Civility means that even the most critical feedback must be delivered respectfully, privately, and courteously. Legitimate comments and/or advice from managers and supervisors on work performance or the work-related behaviour of an individual or group is intended to assist employees to improve work performance or the standard of their behaviour. The OMA's expectations of civility are above the legal requirements set by the OHCR and the OHSA.

Incivility

Incivility deals with a broad range of behaviours that are rude, disrespectful, inconsiderate, or insensitive. There may not be an intention of harm, but the result of such behaviour makes for an unpleasant work environment, decreased performance and commitment to the organization and workers. Examples include, but are not limited to:

- a pattern of behaviour intended to demean or diminish the other person in some way;
- deliberate exclusion of a worker from relevant work activities or decision-making where the worker should or would have otherwise been included;
- intruding on personal or physical boundaries in an unwanted manner;
- repeatedly arriving late while relying on others to arrive on time;
- body language that conveys dismissiveness or negative judgment.

Incivility can be subtle or overt. It may be a single event or may involve a continuing series of incidents and may involve the abuse of authority or position. Uncivil behaviour may be unintended or deliberately directed at another individual. In any case, the impact on that individual and/or the work environment is what must be considered and addressed.

Discrimination

Discrimination is any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group protected in the Ontario Human Rights Code by excluding, denying benefits, or imposing burdens upon them. Discrimination may arise as a result of direct differential treatment, or it may result from the unequal effect of treating individuals and groups in the same way. This Policy specifically relates to discrimination in employment.

The prohibited grounds protected by the Ontario Human Rights Code are:

Age, ancestry, colour, race, citizenship, ethnic origin, place of origin, creed, disability, family status, marital status (including single status), gender identity, gender expression, record of offences, sex (including pregnancy and breastfeeding) and sexual orientation.

- **Code-Based Harassment** defined in the Ontario Human Rights Code means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome based on one or more of the prohibited grounds.

Workplace Harassment

Workplace Harassment is defined in the Occupational Health and Safety Act, as,

- engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome; and
- workplace sexual harassment.

Workplace harassment often involves a course or grouping of behaviours. However, a single serious incident of such behaviour that has a lasting harmful effect on a worker may also constitute workplace harassment.

Examples of workplace harassment include, but are not limited to:

- frequent angry shouting/yelling or blow-ups;
- bullying;
- intimidating behaviours such as slamming doors, throwing objects, etc.;
- impeding work performance;
- spreading gossip, rumours;
- communication that is demeaning, insulting, humiliating, mocking;
- any combination of the above that creates a negative or “toxic” work environment; and
- direct or indirect discrimination based on a prohibited ground as indicated above.

Monitoring performance at work or absenteeism, the assignment of tasks, reference checks, and the application of progressive discipline, up to and including termination, all constitute the legitimate exercise of management’s authority.

Sexual Harassment

Sexual harassment is protected by both the Ontario Human Rights Code and the Occupational Health and Safety Act. The respective definitions are:

Ontario Human Rights Code Sexual harassment is a form of discrimination based on the prohibited ground of sex under the Human Rights Code. Examples of harassment relating to sex, sexual orientation, gender expression, and/or gender identity include, but are not limited to:

- making inappropriate sexual gestures;
- use of homophobic or transphobic slurs or jokes;
- insults, comments that ridicule, humiliate, or demean people because of their sex, sexual orientation, gender identity or expression;
- staring in a sexually suggestive or offensive manner, or whistling;
- making sexual comments about appearance, clothing, or body parts;
- inappropriate touching, including pinching, patting, rubbing, or purposefully brushing up against another person; and/or
- other threats, violence, and physical assault (see OMA Policy on Workplace Violence).

Occupational Health and Safety Act

- a. engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, and
- b. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant, or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Employment-related sexual harassment may occur either in the working environment or may occur elsewhere if it relates to employment (e.g., office-related social functions or during work related travel).

4. POLICY STATEMENT

The OMA is committed to providing a civil working environment in which all individuals feel safe and are treated with respect, fairness, and dignity.

Principles

1. Workplace disputes and conflicts should be addressed using approaches that foster clear communication, facilitate respectful interactions, and give way to solutions of mutual agreement.
2. Guidelines and actions taken under the policy should serve to strengthen OMA recruitment and retention of highly qualified and diverse employees.

3. Promoting civility and respect and early intervention will reduce the risk of incivility, workplace harassment and violence. This includes proactively ensuring an environment that is respectful of diversity and inclusion principles
4. Reports of incidents and complaints of incivility, harassment or discrimination, must be dealt with in a confidential manner with the exception of disclosing information for the purpose of investigating an incident or complaint, or for taking corrective action, or as required by law.

Responsibilities

All employees have a responsibility to act in good faith and be an active participant in contributing to the creation and enhancement of a community culture of safety, respect, inclusion, civility, dignity and understanding of the people with whom they work. This requires taking action to deal with incidents of incivility. All parties, at a minimum, are required to be open about concerns and listen to each other's point of view with the goal of creating a healthy, safe, and caring work environment.

All OMA workers and members (including elected OMA physician leaders) are responsible for understanding their roles and responsibilities, such that:

- everyone in the workplace is dedicated to maintaining respect and promoting civility in the workplace and will comply with this policy and supporting legislation;
- employees are aware of and understand that bullying, harassment and discrimination in the workplace will not be tolerated from any person in the workplace;
- those who are subjected to, or witness, acts of bullying, harassment and/or discrimination should report these acts that threaten or perceive to threaten a safe work environment;
- employees and physician leaders will participate in training and awareness initiatives;
- employees are advised of available recourse if they are subjected to, or become aware of, situations involving workplace harassment and/or discrimination;
- Association business is delivered in an environment that promotes the safety and wellbeing of all those giving and/or in receipt of services at the Ontario Medical Association and a general atmosphere of civility.

The OMA will endeavor to provide workers with all relevant information to do their job and empower them to make decisions or provide information within their scope of responsibility.

1) Management

It is the responsibility of managerial staff (and physician leaders, as appropriate and applicable) to:

- take reasonable precautions to protect the health and safety of all workers;
- ensure to the best of its ability that the workplace is free from incivility, harassment, discrimination, intimidation, or other disruptive behaviour;
- investigate and respond to all complaints of harassment and/or discrimination in accordance with policy;
- take appropriate disciplinary action in collaboration with HR when an act of workplace harassment and/or discrimination has been confirmed;

- Participate and promote education and training regarding Respect in the Workplace.

2) Workers

It is the responsibility of each worker to:

- ensure that behaviour is civil and respectful in relation to all employment/service provisions;
- report any acts of harassment or discrimination they have been subjected to, witnessed, or have knowledge of;
- keep a written record of date(s), time(s), location(s), what was said and done, and name(s) or witness(es) to the incident(s), if any.
- cooperate in any aspect of an investigation, as required.

4. PROCEDURE

Resolution Procedure

Workers are always encouraged to first address an issue at an early stage and in a collaborative manner.

If workers are confronted with disrespectful conduct and/or behaviour, workers are empowered to explain that the behaviour/language is unacceptable and either give the party an opportunity to de-escalate or end the interaction.

- Workers should offer to escalate more complicated or contentious issues to management or Human Resources (People & Culture).
- Incidents of incivility or disrespect should be reported to management, up to the CEO level, for escalation or further investigation.
- Workers should identify themes or trends of challenges to management to develop potential responses or solutions.

If an issue remains unresolved or is not appropriate, a worker may wish to initiate a formal complaint by contacting one of the following individuals:

- immediate supervisor or department head;
- Executive Director, People and Culture;
- Chief Executive Officer (CEO).

Note: To report incidents of workplace harassment or discrimination where the alleged offender is the employer (CEO), employees should contact the Executive Director, People and Culture, or the Chair of the OMA Board of Directors.

Where possible, the following details should be included in the complaint:

- What happened – a description of the events or situation, particularly specific details of what the respondent said or did that the complainant believes could be considered harassment or discrimination.
- The Human Rights Code (Code) ground if applicable
- When it happened – dates and times of the events of incidents
- Where it happened
- Who saw it happen – the names of witnesses, if any.

To help frame the situation in cases of harassment and/or discrimination, the following questions should be considered by any potential complainant:

- What was the context in which the incident(s) took place?
- Was the behaviour improper?
- Did the incident occur within the scope of the Policy?
- Was this the first incident or is it a series of incidents?
- Would a reasonable person well informed of all the circumstances and finding themselves in the same situation as yours view the conduct as unwelcome or offensive? The behaviour in question is not only assessed by the impact or effect on yourself, but it is also assessed against a reasonably objective standard.
- Did the behaviour exceed the reasonable and usual limits of interaction in the workplace? Would a reasonable person be offended or harmed by this conduct?
- As I describe and evaluate my work environment, are there other factors contributing to the situation (level of stress, workload, professional constraints, etc.)?
- Is the incident related to my work performance?
- How would this behaviour be perceived by other work colleagues?
- Are there other factors in my life that could impact on my reaction to this event?
- Have I spoken to the individual and tried to clarify the situation?
- Have I considered resolving the situation through informal means of conflict resolution, such as a facilitated discussion, coaching or mediation?

Complaints should be made in writing to management or Human Resources. The OMA strongly encourages individuals who believe they are experiencing incivility, harassment and/or discrimination to come forward as soon as possible to seek support and prompt resolution.

However, aligned with the timelines of the Ontario Human Rights Code, individuals have up to a year to come forward, and this may be extended in extenuating circumstances.

If a complaint is made in good faith and without malice, regardless of the outcome of the investigation, the complainant will not be subject to any form of discipline. The OMA, however, will ensure that appropriate disciplinary action be taken against anyone who brings forth a false and malicious complaint. This includes complaints that are an abuse of process/made in bad faith in circumstances that include when an adequate remedy already exists or the complainant

is engaging in improper action – fraud, deception, intentional misrepresentation or the complaint is filed out of malice, hostility, personal animosity or vindictiveness.

Note: Nothing in this policy prevents the right of an employee to file a complaint with the Ontario Human Rights Tribunal, as outlined by the Human Rights Code and legislation.

Seeking Immediate Assistance/Emergency Situations

In an emergency situation where there is an imminent threat, workers should immediately call **911 for emergency services**, and initiate any appropriate action such as calling for staff trained in first aid/CPR. Then notify the Crisis Manager (Director, Office Services) and department management, who will initiate next steps and follow up.

All workers should familiarize themselves with the OMA Safety and Security Plan and Procedures, as found on StaffSpace.

Investigations

The OMA will consider the appropriate resolution mechanisms available. There is a legal obligation to investigate incidents and complaints made that, if true, would result in policy violations.

Specifically, the OMA may investigate when sufficient details have come to management’s attention. The OMA has an obligation to investigate even if the individuals who have alleged to have been impacted withdraw their claim or do not want to pursue the situations. Allegations of harassment and/or discrimination in the workplace will be handled on a case-by-case basis. The OMA will ensure that all incidents and complaints are addressed in a manner that is fair, equitable, neutral, and timely.

The OMA is committed to a fair process. Following a report of an (alleged) incident, Human Resources will do a preliminary review of the incident and initiate the investigation process.

The following steps will be taken to ensure an investigation and outcome that is fair to all parties:

- i) Human Resources department will initiate an internal facilitation with the applicable parties.
- ii) If an internal resolution is not attained, at the discretion of the OMA’s HR department and/or General Counsel or his or her designate, an external third-party investigator will be retained. Investigators will be retained from reputable third-party firms that have specialized training in investigations. The investigator will at all times remain neutral and preserve confidentiality.
- iii) The Complainant will be asked to provide details of the complaint in writing. Follow-up with the complainant will then take place to clarify details, identify witnesses, and understand the scope of the complaint.
- iv) Respondent will be given notice in writing of the investigation unless this would be prejudicial to the investigation. The respondent will also be cautioned about

- interfering in the investigation. At the appropriate time, the respondent will be provided sufficient particulars of the allegations and be provided the opportunity to respond.
- v) The Investigator will conduct the investigation by interviewing all relevant individuals. Witness statements and any other key evidence will be properly documented to ensure procedural fairness for all parties involved.
 - vi) The Investigator will consider the matter and evaluate according to the following criteria:
 - Did the respondent display an improper and/or offensive conduct, such as objectionable acts, comments or displays, or acts of intimidation or threats, or acts, comments or displays in relation to a prohibited ground of discrimination under the Ontario Human Rights Code?
 - Was the behaviour directed at the complainant?
 - Was the complainant offended or harmed by the respondent? “Harmed” in this context may include feelings of being demeaned, belittled, personally humiliated or embarrassed, intimidated or threatened;
 - Did the respondent know or reasonably ought to have known that such behaviour would cause offence or harm?
 - Did the behaviour occur in the workplace or at any location or any event related to work, including while on travel status, at a conference where attendance is sponsored by the employer, at employer-sponsored training activities/information sessions and at employer sponsored events, including social events?
 - Was there a series of incidents or one serious incident that had a lasting impact on the individual?

Note: in the case of sexual harassment specifically, a single incident may be viewed to be more significant in circumstances when the relationship at work is one where the respondent has influence or power over the complainant with regard to career advancement, performance review, absenteeism, day-to-day management of activities, work assignments and the carrying out of progressive disciplinary measures.

To make a finding of harassment and/or discrimination, there must be, on a balance of probabilities, a determination that the above criteria are satisfied.

- vii) The Investigator will draft the report with conclusions supported by the evidence. The conclusions may recommend penalties as outlined below (“Complaint Resolution”).

The OMA will seek legal counsel and/or summon immediate emergency assistance, if necessary.

Complaint Resolution

If an investigation substantiates an act of harassment and/or discrimination, appropriate disciplinary action will be taken immediately. This could include one or more of the following:

- a formal apology from the respondent to the person affected;
- counselling (e.g., sensitivity training, anger management training, etc.);
- a verbal/written warning; • suspension without pay;
- termination, with or without cause.

When determining disciplinary action, the OMA will consider the following factors:

- the severity of the harassment or discrimination;
- the frequency/history of the harassment or discrimination;
- the intent;
- the impact on the person affected;
- the presence or absence of remorse;
- the chances of rehabilitation; and
- previous disciplinary record of the respondent.

Where there has been a finding that an act of harassment and/or discrimination did occur, the complainant may, if they wish, be relocated within the OMA in a manner that does not affect their compensation or their responsibilities relevant to their position.

If it cannot be determined that an act of harassment and/or discrimination did occur, there will be no disciplinary action taken against the respondent.

Allegations of workplace harassment by or against any other individuals providing services on behalf of the OMA, including contractors, consultants, volunteers, etc., will be dealt with by the OMA and, if substantiated, may be considered a breach of contract that may affect the person's right to be present at the OMA and/or to participate in any of its activities.

Confidentiality

Confidentiality will be maintained throughout the process. In accordance with the Occupational Health and Safety Act and the Human Rights Code, the information obtained about an incident or complaint of workplace harassment and/or discrimination will not be disclosed unless the information is necessary for the purpose of investigating the incident or complaint; or for taking corrective action; or as required by law.

Employees who allege they have experienced workplace harassment and/or discrimination, and employees who are respondents, will be provided with appropriate communication in writing, within 10 days of the investigation report being finalized, of the results of the investigation and any corrective action that has or will be taken. Potential confidentiality breaches will be investigated and if confirmed, it may lead to disciplinary action, up-to and including termination.

All investigation notes and findings will be maintained in a confidential file in Human Resources.

Leaves of Absence

It is recognized that, in some cases, incidents and/or allegations of harassment may result in a staff member requesting a leave of absence. Such requests shall align with relevant OMA process and policy related to Leaves of Absence.

Policy Review and Training

As per the Occupational Health and Safety Act, the OMA will consult with the Joint Health and Safety Committee (or a JHSC Representative) to review this policy annually and to develop and maintain the program and procedures to implement this policy.

All staff will be trained on an ongoing basis and/or when any changes are made to the policy, programs and procedures relating to Respect in the Workplace.

5. SUPPORTING/REFERENCED DOCUMENTS

Use Type	Document Title
Mandatory/Optional	OMA Policy on Workplace Violence OMA Safety and Security Plan and Procedures

6. RESPONSIBILITIES

Position	Actions
CEO	Approve operating policies and/or procedures.
Process Owner/Author	Include the responsibility information required for the Process/Service Owner of the Policy/Procedure being written.
Knowledge & Records	Review and provide additional metadata as required. Notify Authoring Department when each policy reaches its review date. Maintain original documentation for archiving.
Department Directors	Monitor compliance with this policy by employees. Obtain training for employees, if required.
Employees	Acknowledge as required and comply with policies/procedures.

Author: Human Resources
Process/Service Owner: People & Culture

Approved by: Chief Executive Officer
(Title of Approver)



06/04/2022

Signature

Date