

Homes First Foundation Workplace Discrimination, Harassment, Sexual Harassment and Bullying Policy

April 20, 2017

POLICY STATEMENT

Homes First Foundation is committed to creating and maintaining an environment in which all individuals are treated with dignity and respect, provided with equal treatment and opportunity, and are free from unlawful harassment and discrimination.

Homes First Foundation recognizes that all Homes First Foundation Board members and staff have the right to work, and relate with each other in an environment free from unlawful workplace discrimination, harassment, sexual harassment, and bullying. All Homes First Board members and staff have a responsibility to respect the dignity and human rights of all persons in the community. Homes First Foundation will not tolerate unlawful workplace harassment, discrimination, or sexual harassment or bullying behaviours.

Homes First Foundation is also committed to a workplace environment free of bullying and therefore when bullying occurs, Homes First Foundation is committed to taking action appropriate to the specific incident. Depending on the severity of the incident, the employee(s) involved will be disciplined or their employment with Homes First Foundation may be terminated.

The foregoing policy objectives are set out in this Workplace Discrimination, Harassment, Sexual Harassment and Bullying Policy (the "Policy").

PURPOSE

Homes First Foundation recognizes the dignity and worth of every person. We believe that the diversity of our community is a source of social, cultural and economic enrichment and strength.

Our goal is to create communities that encourage cross-cultural understanding and mutual respect, where each person is able to contribute fully to the development and well-being of the community. To help achieve this goal, Homes First Foundation will:

- ensure that all complaints of harassment, discrimination, sexual harassment, and bullying are dealt with confidentially and objectively and that the rights of all parties are respected; and
- provide the organization with fair and consistent procedures for dealing with complaints of discrimination, harassment, sexual harassment, and bullying.

SCOPE OF POLICY

(a) To Whom Does the Policy Apply?

This Policy applies to all Homes First members, who include employees, contractors, tenants, guests and members of Homes First Foundation Board of Directors (the “Board”) (hereinafter collectively referred to as “Members”).

(b) To What Type of Conduct Does the Policy Apply?

This Policy addresses the behaviour of individuals and groups on a day-to-day basis. It is also intended to help Homes First Foundation overcome systemic discrimination in all other policies and practices. This Policy applies to the following types of conduct:

i. Harassment

Harassment is defined as engaging in a course of vexatious comment or conduct that is known, or ought reasonably to be known, to be unwelcome. It can take the form of thoughtless remarks, inconsiderate communication and/or bullying. It can include, but is not limited to, the following:

- name-calling;
- jokes;
- slurs;
- rude behaviour or gestures;
- graffiti;
- avoidance or exclusion (when this avoidance is contrary to job requirements);
- threats;
- unwanted physical contact or physical violence.

Harassment can occur under this Policy whether or not it is based on a prohibited ground under the Ontario *Human Rights Code* (the “Code”).

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not harassment.

ii. Sexual Harassment

Sexual harassment is defined as follows:

- 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/or

- 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.

iii. Discrimination

Discrimination includes, but is not limited to, any distinction, exclusion or preference based upon prohibited grounds (as detailed below), which nullifies or impairs equal treatment or opportunity in employment or tenancy or equality of terms and conditions of employment or tenancy.

This Policy recognizes three kinds of discrimination:

- direct: granting or denying rights to certain individuals or groups.
- adverse impact: the policies or practices appear neutral and apply equally to all community Members but have a discriminatory impact on persons protected by a prohibited ground.
- systemic: the policies and practices entrenched in established institutions that result in the exclusion or promotion of particular groups.

iv. Prohibited Grounds

Every Member has the right to work and live in an environment free from harassment and discrimination based on the following grounds listed in the *Code*:

- gender;
- sexual orientation;
- race;
- ancestry;
- place of origin;
- ethnic origin;
- citizenship;
- colour;
- creed (religion/beliefs);
- age (of 18 years or more);
- marital status;
- record of offences (if a pardon for a criminal offence has been granted);
- family status;
- handicap;

- same-sex partnership status; and
- disability.

Note that a right to non-discrimination is not infringed where a requirement, qualification or factor results in exclusion or preference based on a prohibited ground but the requirement, qualification or factor is reasonable and *bona fide* in the circumstances.

v. **Bullying**

Bullying is defined as acts or verbal comments that could hurt or disconnect a person 'mentally' in the workplace. It can involve negative physical contact as well. Bullying normally involves a pattern of behaviour that is deliberate and intimidates, offends, degrades or humiliates a particular person or group of people.

Bullying can be obvious or subtle and can involve, but is not limited to, one or more of the following types of conduct:

- creating a feeling of uselessness;
- intimidating a person;
- excluding or isolating someone socially;
- spreading malicious rumours and gossip;
- expecting your colleagues to do unreasonable favours (i.e. covering for continuous tardiness and/or early departure from work);
- undermining or deliberately impeding a person's work;
- physically abusing or threatening abuse;
- withholding necessary information or purposefully giving the wrong information;
- making jokes that should be known to be offensive, whether by spoken word or in writing;
- intruding on a person's privacy by pestering, spying or stalking;
- yelling or using profanity;
- criticizing a person persistently or constantly;
- belittling a person's opinions; and
- tampering with a person's personal belongings or work equipment.

This Policy applies whether or not the offender is conscious of the fact that his/her behaviour is offensive and prohibited under this Policy.

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace bullying. A reasonable action taken by a Member relating to that Member's duties and functions as a Member is not workplace bullying.

(c) **Where/When Does This Policy Apply**

Locations and situations where behaviour will be subject to this Policy include, but are not limited to:

- Homes First Foundation and Homes First offices and premises;
- Homes First Foundation-related social functions;
- in the course of work-related assignments outside of Homes First Foundation facilities;
- during work-related travel;
- at work-related conferences or training sessions; and
- incommunications between Members that arise out of the workplace or using Homes First Foundation equipment. Such communications may be by telephone or other means of electronic written communication including, but not limited to, e-mail, voicemail, internet, fax and/or text messaging.

Behaviour that constitutes harassment, sexual harassment, or bullying that takes place outside the work setting between two Members of Homes First Foundation community, and which makes for an intolerable living or working environment for the complainant member, may also be cause for a complaint.

SPECIAL PROGRAM EXCEPTION

The *Code* allows for special programs designed to assist disadvantaged persons or groups in achieving equal opportunity in employment and accommodation. Homes First Foundation may, from time-to-time, introduce special programs in accordance with the *Code*. These special programs do not constitute unlawful harassment or discrimination under this Policy.

COMPLAINT PROCESS

A person who believes that he or she has been subject to unlawful harassment, sexual harassment, discrimination, or bullying ("the complainant") is encouraged to bring the matter to the attention of the person responsible for the conduct ("the respondent"). The complainant should advise the respondent that his or her behaviour is unwelcome and ask the respondent to stop.

Where the complainant does not wish to bring the matter directly to the attention of the respondent, or where such an approach has been attempted and does not produce a satisfactory result, the complainant may follow one or more of the following avenues:

- a. Informal Complaint to a Supervisor; and/or
- b. Formal Complaint to the Executive Director.

These options are described in greater detail in the following paragraphs.

(a) **Informal Complaint Process**

The goal of this Policy is to stop unlawful discriminatory, harassing, or bullying behaviour as soon as it occurs. Wherever possible, Homes First Foundation will seek ways to resolve any complaints before they escalate to the level of a formal complaint.

Anyone may seek an informal resolution to a complaint. However, all Members of Homes First Foundation are required to act to prevent and stop harassment, sexual harassment, discrimination, or bullying if there is an indication that harassment, sexual harassment, discrimination, or bullying has occurred. As a result, supervisors/managers who have reasonably concluded that criminal behaviour and/or harassment, sexual harassment, discrimination, or bullying contrary to the *Code*, the *Occupational Health and Safety Act* (the “*OHSA*”), or this Policy has occurred *must* bring that conduct to the attention of the Executive Director, who must in turn notify police and/or investigate the complaint as appropriate in the circumstances. This may be true even though the person making the informal complaint may have requested that no further report to the Executive Director be made. In addition, information may also have to be disclosed where required by law, for example, in grievance proceedings, proceedings before the Human Rights Tribunal of Ontario or in criminal proceedings.

In situations of violence or threats of violence, Members should refer to the Workplace Violence Policy.

i) Informal Counselling or Advice

The complainant should approach his or her supervisor (or another supervisor or member of management if the complaint involves his or her supervisor) or a member of management if the complainant is not an employee and advise the supervisor/manager of the complaint.

On being made aware of harassment, sexual harassment, discrimination, or bullying, a supervisor/manager may have to take action, even if the complainant does not wish to pursue the matter.

Once a complainant has sought the advice of a supervisor/manager, the supervisor/manager will provide the complainant with a copy of this Policy and advise the complainant of:

- a. the fact that the supervisor/manager will keep confidential the discussion with the complainant, subject to the exceptions discussed in the confidentiality section of this Policy, and unless the supervisor/manager is of the opinion that he or she must take action based on the information provided by the complainant;
- b. the fact that the supervisor/manager will keep a written record of the discussion with the complainant and that this record will be kept confidential unless the supervisor/manager is of the opinion that he or she must take action based on the information provided by the complainant;

- c. the need for the complainant to avoid discussing his or her complaint with co-workers because the complaint is confidential;
- d. the right to make a formal complaint under the Policy; and
- e. the right to withdraw from any further action in connection with the complaint at any stage (however, even if the complaint is withdrawn, Homes First may nevertheless continue to investigate the complaint if it believes it is necessary to do so in order to meet Homes First's obligations under legislation of this or any other Policy).

Additionally, the supervisor/manager may need to address the issue under the Workplace Violence Policy, if applicable.

ii) Outcome of Meeting with Supervisor

No Further Action

Where, after discussing the matter, the complainant and/or the supervisor/manager determine that the conduct in question does not constitute harassment, discrimination, or bullying as defined in the Policy, the complainant and/or the supervisor/manager will not proceed further under the Policy. The supervisor/manager shall keep a written record of the discussion without disclosing the content of the complaint to anyone.

Meeting with Witnesses

Where the complainant brings facts to the attention of the supervisor/manager which could constitute unlawful harassment, discrimination, or bullying, the supervisor may meet with any witnesses identified by the complainant. The supervisor/manager shall keep a confidential written record of any discussions with witnesses.

Discussion with Respondent

Where the complainant brings to the attention of the supervisor/manager facts which could constitute unlawful harassment, discrimination, or bullying, the supervisor/manager may, with or without the complainant present and with or without the complainant's consent, speak to the respondent, and the supervisor/manager will keep a confidential written record of that discussion and the outcome of the meeting.

Where the complainant and the respondent are satisfied that they have achieved an appropriate resolution, the supervisor will make a confidential written record of the resolution. The supervisor/manager will follow up to make sure that the resolution is working. The supervisor's/manager's confidential written record will be maintained as set out in the Records and Documentation section, below.

If the supervisor/manager believes that, notwithstanding the satisfactory resolution between the parties, the resolution has not addressed Homes First Foundation obligations under this Policy, he or she will consider whether the complaint should be referred to the Executive Director. Similarly, if the supervisor/manager is of the opinion that the situation warrants immediate

referral of the complaint to the Executive Director, he or she may do so at the outset, with or without the complainant's consent and without first attempting a resolution between the parties.

iii) Where Informal Resolution is not Appropriate

In some situations, informal conflict resolution techniques may not be appropriate. Examples include incidents of repeat offences and situations where the alleged conduct is particularly offensive, and there is clear intent and knowledge of the nature and impact of the behaviour. In situations of violence or threats of violence, the Workplace Violence Policy applies.

In all cases, it is recommended that the complainant keep a record of the incident(s). The complainant should write down the full details of the incident(s), including dates, times, nature of the offensive behaviour, and witnesses if any. The complainant should include a record of any meetings (formal or informal) where he or she tried to discuss the behaviour.

(b) Formal Complaint Process

If informal attempts at resolving the problem are not appropriate or prove ineffective, a formal complaint and investigation may be required.

All Members have the right to complain about situations they believe to be unlawful harassment or discrimination under this Policy.

All Members having knowledge of an offence under this Policy have a right to file a formal complaint.

i) Reporting a Complaint

A formal complaint by an employee under this Policy must be submitted to the employee's immediate supervisor, the responsible manager, or directly to the Executive Director. Complaints by tenants, residents, guests, or any other Members should be reported directly to the Executive Director. A complaint may first be made verbally. However, a written letter of complaint will also be required. A letter of complaint should contain a brief account of the offensive incident(s), when it occurred, the person(s) involved and the names of witnesses, if any.

All formal employee complaints will be provided by the supervisor or responsible manager to the Executive Director.

Everyone filing a complaint may be accompanied by an advocate of their choice throughout the complaint process.

ii) Timing

Complaints should normally be reported within six months of the incident. Promptness in reporting a complaint protects the rights of both the person making the complaint and the person complained against. The Executive Director may, in his or her discretion, decline to deal further with a formal complaint reported later than six months after the incident.

(c) **Investigating Formal Complaints**

i) **Timing**

The Executive Director or his/her designate(s) will investigate a complaint within twenty-five working days of receiving the complaint, where possible. At the end of that period, a clear written indication of any additional time needed to resolve the complaint will be forwarded to the complainant, the respondent and the responsible manager. The Executive Director aim is to resolve the issue no later than forty-five days after receiving the complaint. However, this period can be extended by the Executive Director where circumstances warrant.

Where appropriate, Homes First Foundation may retain the services of an outside investigator.

ii) **Investigative Procedure**

Upon receipt of a complaint, the Executive Director will:

- a. provide the person against who the complaint is made (the “respondent”) with an overview of the complaint; and
- b. provide a copy of this Policy to the person making the complaint (the “complainant”) and to the respondent.

The Executive Director will take any interim action necessary to ensure the safety of all parties pending investigation of the complaint.

The Executive Director will designate either an internal or an external investigator(s) to conduct the formal investigation.

(a) **The Investigation Process**

The investigator(s) will interview the complainant to document the details of the complaint and the remedy the complainant is seeking. The investigator(s) will also interview any witnesses identified by the complainant.

The investigator(s) will interview the respondent to document his or her perspective of the events in question. If any additional witnesses are identified by the respondent, the investigator(s) will interview those witnesses as well.

Each party may appoint an advocate and/or supporter to be present at any interviews dealing with the complaint. Each party may request cultural, language or other interpreters throughout the process.

The investigation will be conducted in confidence, subject to the exceptions identified below. The investigator will ask those who were interviewed to sign written statements summarizing their evidence.

(b) **The Investigation Report**

The investigator will prepare an investigation report which will include:

- a. the allegations of workplace harassment, sexual harassment, discrimination, or bullying;
- b. summaries of the interviews of the complainant, the respondent and each witness;
- c. the findings of fact; and
- d. if requested by the Executive Director, recommendations on appropriate resolutions.

The investigator will provide the final investigation report to the Executive Director.

(c) **Outcome of the Investigation**

Based on the findings of the investigator and in consultation with management personnel as appropriate, the Executive Director will make a final decision as to whether the Policy has been violated and what action will be taken as a result of the findings, if any.

The parties and the appropriate managers will be informed in writing of the outcome of the investigation, the decision made by the Executive Director as to whether the Policy has been violated and what actions, including corrective actions, will be taken, if any. The parties are to keep this information confidential. The parties may disclose information only to the extent necessary to implement the action directed by the Executive Director, or as required by law.

If there is sufficient evidence to conclude that harassment, discrimination, sexual harassment, or bullying in breach of this Policy has occurred, Homes First Foundation will take appropriate remedial action against the individual(s) responsible as outlined below.

*iii) **Dealing with Non-Cooperation***

If the alleged offender is a tenant who does not co-operate with the Executive Director investigation, or threatens the complainant either directly or indirectly, then Homes First will take appropriate action up to and including commencing eviction proceedings. Employees refusing to cooperate will be subject to discipline up to and including termination of employment.

REMEDIAL AND DISCIPLINARY ACTION

Members, regardless of status, seniority, influence or position, who are found to have engaged in conduct constituting harassment, sexual harassment, discrimination, or bullying contrary to this Policy may be severely disciplined (or restricted from access to services provided by Homes First Foundation). In certain cases the individual may be subject to criminal charges.

The following are specific measures based on the type of association with Homes First Foundation:

Persons working for Homes First Foundation – severe discipline up to and including dismissal from employment.

Board Members – serious remedial action including recommendations for removal from the position.

Others (visitors, volunteers, permit-holders, contractors, etc.) – access to Homes First Foundation premises may be limited or completely barred; a permit may be revoked or not renewed, or a contract may be terminated or not renewed.

FREEDOM FROM REPRISAL

For the purposes of this Policy, “reprisal” means a negative action or omission against a member carried out in relation to the member having:

1. invoked this Policy in good faith (whether on behalf of oneself or another individual);
2. participated or co-operated in any investigation under this Policy; or
3. associated with a person who has invoked this Policy or participated in its procedures.

Any form of reprisal against a member who avails himself or herself of this Policy is not acceptable. Any complaint of reprisal will be investigated and addressed in accordance with the provisions of this Policy and/or the Workplace Violence Policy and, where appropriate the specific measures set out above with respect to violations of the Policy will apply.

CONFIDENTIALITY

Information obtained by Homes First Foundation about an incident or complaint of harassment, sexual harassment, discrimination, or bullying, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or if it is otherwise required by law.

Parties to a complaint should not discuss complaints with co-workers or tenants as complaints are confidential. All other individuals involved in the investigation must hold all information and documentation in strict confidence, both during and after the investigation. They may not discuss or release information in any form to anyone who is not party to the complaint, subject to the following exceptions.

- a. anyone with a formal role under the Policy must bring criminal behaviour and/or harassment or discrimination that may be contrary to the *Code* to the attention of the Executive Director, who must in turn notify police or investigate the complaint, if appropriate;
- b. information may also have to be disclosed where required by law, for example, in grievance proceedings, proceedings before the Human Rights Tribunal of Ontario or criminal proceedings;
- c. where a complaint proceeds past the informal complaint stage, each party must be given enough information about the position of the other parties and witnesses to be able to respond; and
- d. in cases of workplace harassment allegations arising under the *OHSA*, the investigation findings and a copy of the investigation report may be provided to the health and safety representative and may also be provided to other workers.

Confidentiality is not the same as anonymity. The names of people involved in a complaint may have to be divulged in order for the complaint process to proceed fairly.

Breaches of confidentiality on the part of staff members, witnesses, advocates and board members are subject to disciplinary action, up to and including:

- a written warning or reprimand;
- suspension; and
- termination of employment or services.

RECORDS AND DOCUMENTATION

All records of the investigation will be kept strictly confidential and separate from existing files. They will be kept exclusively by the Executive Director in a secure location identified by the .

The Executive Director will keep detailed records of all communications that involve or are brought to his or her attention during the investigation of a complaint. This includes informal and formal, and written and verbal communication. Clear documentation will also be maintained on agreements and follow-up.

REVIEWING AND EVALUATING THIS POLICY

This policy will be reviewed annually and updated as necessary. All staff will be provided with a copy of this Policy annually.

OTHER/ALTERNATIVE COMPLAINT PROCESS

Although Members of Homes First Foundation are encouraged to use the complaint process under this Policy, nothing in this Policy should be interpreted as denying or limiting access to other complaint avenues such as those listed and described below:

- Human Rights Tribunal of Ontario: If the discrimination, harassment, sexual harassment, or bullying is based on a prohibited ground under the *Code*, all persons also have the right to file a human rights complaint directly with the Tribunal. The Tribunal usually requires that a complaint be filed within one (1) year of the alleged discrimination.
- Ontario Labour Relations Board: under certain circumstances, Members have the right to file a complaint under the *OHSA* directly with the Ontario Labour Relations Board.
- Police Complaint: All persons may pursue criminal charges if, for example, a complaint involves personal property damage, assault or sexual assault.

Date of Policy: December 2016

HUMAN RIGHTS ORGANIZATIONS

The following organizations can offer additional information and support about discrimination and harassment issues. Some of these organizations will also investigate and act on complaints.

- Human Rights Tribunal of Ontario
655 Bay Street, 14th floor
Toronto, ON M7A 2A3
Phone: (416) 326-1312

- Centre for Equality Rights in Accommodation (CERA)
517 College Street, Suite 408
Toronto, Ontario M6G 4A2
Phone: (416) 944-0087

- Access Action Council
509 College Street, Suite 1001
Toronto, Ontario M5B 1J3
Phone: (416) 351-0095

- Ontario Women's Directorate
2 Carlton Street, 12th floor
Toronto, Ontario M5B 2M9
Phone: (416) 314-0300

- Workers Information and Action Centre (City of Toronto)
277 Victoria Street, Suite 102
Toronto, Ontario M5B 1W2
Phone: (416) 392-1203