

# Workplace Discrimination, Harassment, and Violence Prevention and Response Policy

## Theological Statement

The United Church of Canada believes that all people are created in God's image and all people deserve the same human rights and freedoms.

The United Church of Canada's policies, practices, and procedures embody our beliefs while creating a work environment of mutual respect, care, protection, and empowerment that is free from all forms of discrimination, harassment, and violence.

## Policy

**The United Church of Canada is committed to providing safe environments for work, worship, and study that are free from discrimination, harassment, and violence.**

The church will not tolerate any behaviour by any person—including but not limited to its members, adherents, lay employees and ministry personnel, and elected members or volunteers—that constitutes discrimination, harassment, or violence.

All complaints of discrimination, harassment, and violence toward anyone within the church—including lay employees or ministry personnel, and elected members or volunteers—will be taken seriously and dealt with in a spirit of compassion and justice. Everyone has a right to participate in the processes under this policy in good faith, without reprisal or threat of reprisal for doing so.

Discrimination, harassment, and violence in the workplace are prohibited by the church and by provincial, territorial, and federal law. Every province and territory has human rights legislation; these laws apply in the church. Nothing in this policy is intended to prevent a complainant from filing a complaint under applicable human rights legislation. Many provinces and territories also have legislation that requires every employer to put policies in place to ensure an environment that is safe and free from harassment, discrimination, and violence.

This policy applies to all communities of faith and congregations, and to the General Council and regional council offices as well as other church organizations that adopt this policy. Communities of faith may elect to use this policy or develop their own customized policy provided that policy complies with their provincial or territorial legislation related to discrimination, harassment, and violence.

Harassment does not include constructive criticism, evaluating or monitoring performance or setting performance standards, corrective or disciplinary action, or organizational change for business reasons.

It is everyone's responsibility to address and to raise concerns about discrimination, harassment, and violence in the workplace.

## Definitions

**Discrimination** includes any distinction, exclusion, or preference based on protected grounds set out in human rights legislation that nullifies or impairs equality for opportunities in employment or equality in the terms and conditions of employment. Discrimination includes unwelcome comments or actions that relate to a person's personal characteristics—for example, race, gender, sexual orientation, and age.

It is the impact of the behaviour, not the intention behind it that determines whether the concerning behaviour is discriminatory. Discrimination is prohibited and is a violation of human rights legislation in place in each province and territory and within the church.

There are two forms of discrimination: direct and systemic.

Direct discrimination is an action, a behaviour, or a practice of treating a person unequally on the basis of any of the prohibited grounds. It may be overt and admitted or covert and denied. Examples of direct discrimination include making jokes or comments about a person's disability; imitating a person's accent, speech, or mannerisms; making persistent or inappropriate comments related to pregnancy or childbirth; or making inappropriate comments related to age or sexual orientation.

Systemic discrimination refers to entrenched and institutional practices, systems, and structures that operate to limit an individual's or group's rights to opportunities or exclude an individual or a group from participation on the basis of a prohibited ground. It is a pattern of discrimination that arises out of apparently neutral institutional policies or practices that is reinforced by institutional structures and power dynamics, and that results in the differential and unequal treatment of members of certain groups. Systemic discrimination does not occur when the requirement, qualification, or factor is in good faith and legitimate in the circumstances or is permitted by law.

**Harassment** includes improper and unwanted comment or conduct when such conduct might reasonably be expected to cause insecurity, discomfort, offence, or humiliation to another person. Harassment is a form of discrimination. Harassment usually results from a series of incidents, but one incident could form the basis of a harassment complaint.

Harassment may be written, verbal, electronic, physical, a gesture or display, or any combination of these. A complaint of harassment can be made based on inappropriate interaction between co-workers; between managers and employees; or between employees and members, adherents, or volunteers in a community of faith. (This is not meant to be an exhaustive list.)

Harassment can include jokes or innuendo, verbal abuse, pranks, hazing, inappropriate online conduct, unwelcome invitations, comments about appearance or clothing, setting impossible expectations, constant negativity, and/or undermining behaviour.

**Racial harassment** is unwelcome, unfair, or unsafe behaviour related to race based on prohibited grounds. Racial harassment includes behaviour related to a person's race, colour, ancestry, where a person was born, ethnic background, place of origin, or creed.

Racial harassment can include name calling, racial slurs, racist jokes, ridicule, insults, or different treatment because of racial identity; degrading a person of a particular group; or negative comments made because of a person's race, colour, citizenship, place of origin, ancestry, ethnic background, or creed.

Individual racism can range from targeted racial harassment and overt discrimination to micro-aggressions, which can include subtle events that occur on a regular basis such as constant slights, putdowns, or invalidation directed at a marginalized group.

Systemic or institutional racism consists of patterns of behaviour, policies, and practices that are part of the social or administrative structures of an organization and that create or perpetuate a position of relative disadvantage for racialized people. These behaviours, policies, and practices often seem neutral but effectively exclude racialized individuals.

**Microaggressions** are the everyday putdowns and slights marginalized groups face every day from other people who sometimes do not know they're being offensive or patronizing. Microaggressions can be overt or subtle, and include discriminatory comments disguised as compliments.

**Sexual harassment** means engaging in a course of improper or unwelcome comment or conduct because of sex, sexual orientation, gender identity, or gender expression, where the course of comment or conduct is known or should reasonably be known to be unwelcome. Sexual harassment can also be 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 recipient, and the person knows or should know that the solicitation or advance is unwelcome.

The church has a sexual misconduct policy that may apply if the complainant is in a vulnerable position and the respondent is in a position of trust with respect to the complainant. Complaints that are found on investigation to fit within the scope of the Sexual Misconduct Prevention and Response Policy and Procedures will be dealt with according to the process set out in that policy.

Sexual harassment can include unwelcome remarks, jokes, innuendo, propositions or taunting, persistent unwanted attention, physical contact of a sexual nature, or sexual assault.

**Violence** is the use of physical force against a person that causes or could cause physical injury. It also includes attempting to use physical force, and includes a statement or behaviour that could reasonably be interpreted as a threat to use physical force.

Domestic violence is violence between two people who currently have, or have had in the past, a personal intimate relationship, such as spouses, partners, or people in a relationship.

The organization will take all reasonable precautions to protect a person if a domestic violence situation is likely to expose someone to physical injury in the workplace or threaten their safety and the safety of others, and if the organization is aware or should reasonably be aware of the situation. Reasonable precautions will be determined on a case-by-case basis and may include developing an individual safety plan for the affected person.

The organization will reassess risks of violence as often as necessary and will implement measures to address identified risks. Measures may include security protocols, implementing additional policies and procedures, and providing training on how to respond to a violent or potentially violent situation.

**Workplace** includes any location, permanent or temporary, where an employee performs any work-related duty.

### Procedures to Respond to Complaints in Communities of Faith or Other Ministries

This procedure is to be used where the respondent or respondents—the person or persons alleged to have discriminated against, harassed, or committed an act of violence toward another person—work for or are accountable to a community of faith or other ministry. If the respondents work for or are accountable to a regional council or the General Council Office, see the next section.

**If you experience or witness violence, call 9-1-1. Once everyone is safe and medical care is provided or sent for, the regional council executive minister or designate should be notified of the incident.**

Where urgent intervention is required, as an interim measure the regional council executive minister will alert the community of faith to take steps to ensure the complainant is safe and not subjected to further discrimination, harassment, or violence. In certain circumstances this could include placing the respondent on paid administrative leave.

### Informal Resolution Options

- C1. Where the complainant is able to do so and if it is practical and safe, they should communicate directly with the respondent. The complainant should tell the respondent that their behaviour or comment is unacceptable and is being experienced as discrimination or harassment, and ask the respondent to stop. One situation where this may work is when the complainant believes the respondent is unaware of the impact of their actions or conduct.
- C2. The complainant can request assistance and be accompanied by another person at the meeting with the respondent. The complainant may bring a person of their choosing with them to any meeting or process that is part of this policy.
- C3. If the complainant does not believe it is practical or safe for them to communicate directly with the respondent on their own, they can confidentially discuss the incident(s) with someone they feel comfortable with. The United Church of Canada has consultants who have been trained to review what the complainant has experienced and the options

available to them. Alternatively, the complainant could speak to a member of the Ministry and Personnel Committee for the community of faith, or the pastoral relations minister for the regional council office.

- C4. Other options to consider before making a formal complaint include
- a facilitated conversation with the assistance of an agreed-upon third party or a conflict resolution facilitator
  - mediation
  - conflict coaching through the Employee and Family Assistance Program (EFAP) through Morneau Shepell

Before any options of informal resolution are implemented, both parties must be in agreement that such an option can be pursued.

#### Formal Complaint Procedures

C5. If the matter remains unresolved for any reason, or if it is determined that informal efforts are not appropriate in the circumstances, the complainant must set out a detailed complaint in writing, including date and time of the incident(s), location, names of any witnesses, and a description of the incident(s). A consultant can assist with this process.

C6. The complainant sends the complaint to the regional council Executive Minister for the region where the complaint occurred. If the complaint is not sufficiently detailed, further detail may be requested.

Note: If the complaint concerns the regional council Executive Minister or any employee, volunteer or a person accountable to the regional council or General Council please see the procedures in the next section.

C7. The complaint is provided to the respondent, the person who is being complained about, as soon as possible. A consultant may be asked to deliver the complaint. The respondent has the opportunity to submit a written response to the complaint, but that is not required.

C8. If the complaint is against ministry personnel, the regional council Executive Minister advises and consults with the Office of Vocation Coordinator.

C9. Pastoral care is made available to both parties. If a party or parties are working with a consultant, the consultant will discuss how they can access pastoral care. In other cases, the regional council executive minister will make the offer of pastoral care.

C10. The regional council Executive Minister assesses the complaint and the response, if applicable, and determines a suitable course of action. The regional council Executive Minister considers whether the complaint reveals any broader systemic issues that should be addressed. It may be appropriate, where the respondent is ministry personnel, to refer the matter to the Office of Vocation for consideration by the Response Committee.

C11. With the consent of the parties, the matter might be referred to a neutral third party, such as a conflict resolution facilitator, to work with the complainant and respondent to

achieve a mutually agreeable resolution through mediation, a no-blame conciliatory meeting, a facilitated conversation, or another form of dispute resolution.

- C12. Where the complaint is still not resolved or the regional council executive minister determines that an alternative process or referral to the Office of Vocation is not appropriate, an investigator is assigned to investigate the complaint. A roster of trained investigators is available to conduct investigations and make findings. If necessary, other qualified investigators not on the roster may be assigned to investigate a complaint.
- C13. The regional council Executive Minister advises the ministry from which the complaint arose that a complaint has been received and the process that will be used to resolve it. The Executive or Sub-Executive of the regional council is also informed.
- C14. The investigator arranges to interview the parties and any witnesses. If possible the interviews are held in person but may be conducted over the phone or using other technology.
- C15. The investigator writes a report that includes their findings and, if requested, recommendations. The report is sent to the regional council Executive Minister, who then communicates the resolution and recommendations as appropriate to the parties and to the governing body of the ministry for action on the basis of the report.
- C16. If the finding supports the allegations in the complaint, and if the respondent is an employee, appropriate corrective action will be taken. This may include progressive discipline of the respondent up to and including termination. If the respondent is a volunteer, corrective action could include sanctions related to the respondent's roles and responsibilities in the community of faith as well as their membership. Corrective action could also include training for the respondent and for the ministry. Corrective action could also include further policy revision, education, training, or procedures within the organization. The corrective action is based on the findings of the investigator, the nature of the complaint, and all relevant circumstances, including any previous discipline.
- C17. If the finding of the investigator is that the complaint is not substantiated, no further action is taken.
- C18. Confidentiality with respect to the findings of an investigation is maintained, except to the extent necessary to implement or defend the corrective or disciplinary action taken, or as required by law. Where corrective or disciplinary action is taken against either the complainant or the respondent, the other party is advised that action has been taken but is not provided with the particulars of that action.
- C19. All of the procedures should be carried out in a timely fashion—in most cases within a three-month period. Exceptions do occur, however, and in cases that require more time the parties are informed of the delay and, if appropriate, the reasons for the delay.

### [Procedures to Respond to Complaints: Regional and General Council Offices](#)

This procedure is to be used where the respondent or respondents—the person or persons alleged to have discriminated against, harassed, or committed an act of violence toward

another person—work for or are accountable to a regional council or the General Council Office. If the respondents work for or are accountable to a community of faith or other church ministry, see the previous section.

**If you experience or witness violence, call 9-1-1. Once everyone is safe and medical care is provided or sent for, the Human Resources Manager, General Council Office, should be notified of the incident.**

Where urgent intervention is required, as an interim measure the Human Resources Manager will take steps to ensure the complainant is safe and not subjected to further discrimination, harassment, or violence. In certain circumstances this could include placing the respondent on paid administrative leave.

#### Informal Resolution Options

- R1. Where the complainant is able to do so, and if it is practical and safe, they should communicate directly with the respondent. The complainant should tell the respondent that their behaviour is unacceptable and is being experienced as discrimination or harassment, and ask the respondent to stop. One situation where this may work is when the complainant believes the respondent is unaware of the impact of their actions or conduct.
- R2. The complainant can request assistance and be accompanied by another person at the meeting with the respondent. The complainant may bring a person of their choosing with them to any meeting or process that is part of this policy.
- R3. If the complainant does not believe it is practical or safe for them to communicate directly with the respondent on their own, they can confidentially discuss the incident(s) with someone they feel comfortable with. The United Church has consultants who have been trained to review what the complainant has experienced and the options available to them. Alternatively, the complainant could speak to their own supervisor or a colleague.
- R4. Other options to consider before making a formal complaint include
  - a facilitated conversation with the assistance of an agreed-upon third party or a conflict resolution facilitator
  - mediation
  - conflict coaching through the Employee and Family Assistance Program (EFAP) through Morneau Shepell

Before any options of informal resolution are implemented, both parties must agree that such an option can be pursued.

#### Formal Complaint Procedures

- R5. If the matter remains unresolved for any reason, or if it is determined that informal measures are not appropriate in the circumstances, the complainant must set out the complaint in writing, including date and time of the incident(s), location, names of any witnesses, and a description of the incident(s). A consultant can assist with this process.

The Human Resources Manager, General Council Office, may refer the complainant to a consultant.

- R6. The complainant sends the complaint to the Human Resources Manager, General Council Office. If the complaint is not sufficiently detailed, further details may be requested.

Note: If the complaint is about the Human Resources Manager, the complaint is sent to the Executive Minister, Ministry and Employment.

- R7. The complaint is provided to the respondent, the person being complained about, as soon as possible. A consultant may be asked to deliver the complaint. The respondent has the opportunity to submit a written response to the complaint, but that is not required.
- R8. If the complaint is against ministry personnel, the Human Resources Manager advises and consults with the Office of Vocation Coordinator.
- R9. Where the parties to the complaint are employees, counselling and support are available through the Employee and Family Assistance Program of Morneau Shepell. If any party is not an employee or does not have access to the Employee and Family Assistance Program, and wishes pastoral care, that will be provided to them on request.
- R10. The Human Resources Manager assesses the complaint and the response, if applicable, and determines a suitable course of action. The Human Resources Manager considers whether the complaint reveals any broader systemic issues that should be addressed.
- R11. With the consent of the parties, the matter may be referred to a neutral third party, such as a conflict resolution facilitator, to work with the complainant and respondent to achieve a mutually agreeable resolution through mediation, a no-blame conciliatory meeting, a facilitated conversation, or another form of dispute resolution.
- R12. Where the complaint is still not resolved or it is determined that an alternative process is not appropriate, an investigator is assigned to investigate the complaint.
- R13. The Human Resources Manager advises the manager or supervisor of the respondent that a complaint has been received and the process that will be used to work to resolve it. If the complaint is about the Moderator or a member or members of the Staff Leaders, which includes the regional council Executive Ministers and the General Council management group, the General Secretary will be informed. If the complaint is about the General Secretary, the Executive Minister, Ministry and Employment, will inform the General Secretary Supervision Committee.
- R14. The investigator arranges to interview the parties and any witnesses. If possible, the interviews are held in person but may be conducted over the phone or other technology.
- R15. The investigator writes a report that includes their findings and, if requested, recommendations. The report is provided to the Human Resources Manager, who then communicates the result of the investigation to the appropriate person as set out in paragraph 13 and discusses the findings and appropriate outcome with that person.
- R16. If the finding supports the allegations in the complaint, and if the respondent is an employee, appropriate corrective action will be taken. This may include progressive



discipline of the respondent up to and including termination. If the respondent is a volunteer, corrective action could include sanctions related to the respondent's roles and responsibilities in the General Council or regional council offices and in their community of faith as well as their membership. Corrective action could also include training for the respondent and for the ministry. Corrective action could also include further policy revision, education, training, or procedures within the organization. The corrective action is based on the findings of the investigator, the nature of the complaint, and all relevant circumstances, including any previous discipline.

- R17. If the finding of the investigator is that the complaint is not substantiated, no further action is taken.
- R18. Confidentiality with respect to the findings of an investigation is maintained, except to the extent necessary to implement or defend the corrective or disciplinary action taken, or as required by law. Where corrective or disciplinary action is taken against either the complainant or the respondent, the other party is advised that action has been taken but is not provided with the particulars of that action.
- R19. All of the procedures should be carried out in a timely fashion—in most cases within a three-month period. Exceptions do occur, however, and in cases that require more time the parties are informed of the delay and, if appropriate, the reasons for the delay.

### Responding to Complaints of Systemic Discrimination

A complaint alleging that a policy or procedure is discriminatory must first be brought to the attention of the chair of the governing body of the community of faith or the regional council Executive Minister or the General Secretary (depending on where the systemic issue is being experienced).

On receiving a complaint of systemic discrimination, reasonable efforts will be made to resolve the complaint if that is possible. Informal resolution could include amending a policy or procedure on agreement or bringing a proposal (see *The Manual*, section F, Initiating Action and Change).

If the matter cannot be resolved by these methods, a formal complaint may be brought forward to the regional council about a community of faith or to the General Council Executive if the complaint relates to denominational structures or policies alleged to be discriminatory.

Note that the three-month time frame within which complaints against individuals are usually resolved may not apply to complaints of systemic discrimination.

### Notes to the Policy

**Accommodation:** The organization will accommodate the special needs of everyone involved in the process within the church to ensure full access and participation. Accommodation could include providing documents in alternative formats, off-site and after-hours meetings, interpretation, and translation.

**Bad faith, trivial, or vexatious complaints** made by complainants may themselves be a violation of this policy. A bad faith complaint is one that the complainant knows is false or is made for a purpose other than gaining a satisfactory remedy. The decision can be made to refuse to deal with such matters at any stage of the complaint or investigation process. Anyone who is found to have made such a complaint may be subject themselves to a range of penalties similar to those that may be taken when a respondent is found to have discriminated against or harassed another person.

**Confidentiality:** Confidentiality with respect to complaints is maintained to the extent possible, having regard to the circumstances giving rise to the complaint and subject to the church's obligation to conduct a thorough investigation. Information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purpose of investigating or taking corrective action on the incident or complaint, or is otherwise required by law.

**Freedom from reprisal:** Every person with a concern or complaint has the right to bring it forward under this policy without reprisal or threat of reprisal.

**Records:** All materials related to the complaint, including the investigation and outcome, are retained in confidence according to the church's retention policies.

**Review:** This policy will be reviewed as necessary and at least annually.