

# ***Interim Resident Harassment and Discrimination Investigation Procedure***

## ***Under the [Harassment and Discrimination Prevention and Response Policy](#)***

### **Purpose**

This is the Procedure under the *Harassment and Discrimination Prevention and Response Policy* (the “Policy”) for making a **Complaint** or **Report** about Harassment, Discrimination, and Reprisals involving a “Trainee” (meaning a Resident, Trainee, Clinical Fellow, Research Fellow, or International Medical Graduate registered with the Postgraduate Medical Education Office, regardless of funding source or placement location) in the University’s living, learning, or working environments, so it can be appropriately addressed by the University.

Individuals who do not allege that they have experienced Discrimination, Harassment or Reprisal but witnesses or become aware of such behaviour **do not file Complaints** but should refer to the section of this Procedure regarding Reports.

If a matter relates to Sexual Harassment or another form of sexual violence (as defined in the *[Policy on Sexual Violence Involving Queen’s University Students](#)*), and involves a student, a Complaint under this Procedure **should not be filed**; rather, the procedure set out in the *[Policy on Sexual Violence Involving Queen’s University Students](#)* must be followed.

*Capitalized terms in this Procedure are defined in the Policy.*

### **Procedure**

#### **Submitting a Complaint**

1. Complaints shall be directed to the University Secretary.<sup>i</sup>
2. When the University Secretary receives a Complaint, the University Secretary will assemble the Intake Assessment Team promptly, to determine whether the matter will be referred for investigation and if so, to determine the appropriate Receiving Office.

3. Complaints should be made as soon as possible following the incident(s) to which they relate and normally within one year after the incident(s) to which the Complaint relates.

4. A Complaint must contain a detailed account of all facts alleged and must attach any documents on which the Complainant(s) relies and to which they have access. A Complaint should be made using the appropriate form available on the website of the Office of the University Secretariat and Legal Counsel.

### **Complaint intake and streaming**

5. Subject to applicable law that might require an investigation, the Intake Assessment Team may decline to refer a Complaint for investigation if:

a. The Complaint is about a matter or issues not governed by the Policy;

b. the allegations, if proven to be true, would not constitute Harassment, Discrimination, or a Reprisal;

c. the substance of the Complaint is already the subject matter of another internal University proceeding (*e.g., a grievance under a collective agreement*);

d. the Complaint does not contain sufficient information. The Chair of the Intake Assessment Team may appoint a member of the Team to make appropriate follow-up inquiries and to report back to the Team to determine if the Complaint, amended with additional information, should be referred for investigation;

e. the Complaint is made more than one year after the incident(s) to which the Complaint relates. The Intake Assessment Team may accept a Complaint after the one-year period, if it is satisfied that the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay;

f. the Respondent is no longer a member of the University Community. The Intake Assessment Team may accept a Complaint in these circumstances, which it will assess on a case-by-case basis. The University's ability to investigate may be limited in such circumstances.

6. If the Intake Assessment Team decides not to refer a Complaint for investigation, the University Secretary will, on behalf of the Intake Assessment Team, advise the Complainant(s) in writing:

a. of the reason(s) that the Intake Assessment Team decided not to refer the Complaint for investigation;

b. that the Intake Assessment Team will reconsider its decision if the Complainant(s) submits significant new information; and,

c. about appropriate alternative(s) for seeking recourse or support.

7. Subject to any right to file a grievance under an applicable collective agreement the Intake Assessment Team's decision is otherwise final and is not appealable.

8. Complaints that the Intake Assessment Team refers for investigation will normally be referred to the Office of the Associate Dean (Postgraduate Medical Education) for investigation in accordance with this *Resident Harassment and Discrimination Investigation Procedure*, if a Complaint involves Complainant(s) or Respondent(s) who is registered as a Trainee with the Postgraduate Medical Education Office.<sup>ii</sup> The term "Trainee" includes Residents, Trainees, Clinical Fellows, Research Fellows, and International Medical Graduates registered with the Postgraduate Medical Education Office, regardless of funding source or placement location.

### **Record Keeping**

9. The University Secretary will keep a record of all Complaints for the purpose of administering the Policy and this Procedure and for the purpose of reporting on statistics and trends.

10. The Associate Dean (Postgraduate Medical Education) will report back to the University Secretary as to the disposition of the Complaint.

11. The Office of the Associate Dean (Postgraduate Medical Education) (the "Associate Dean's Office") shall create a Complaint file that will include all related communications, memoranda, reports, statements, and evidence. The Associate Dean's Office is responsible for securing the file and all documentation in the file and for the retention and disposition of the file in accordance with its processes and record retention schedule(s).

### **Interim Measures**

12. **Interim Measures:** Upon receiving a referral from the Intake Assessment Team, interim measures may be put in place as the Associate Dean (Postgraduate

Medical Education) (the “Associate Dean”) believes to be necessary in order to safeguard the physical and psychological safety of the Complainant(s), Respondent(s), and any Witness(es) or to ensure the proper functioning of the affected Program(s).

13. While it will normally be appropriate to ensure a Complainant is not required to interact with the Respondent(s), additional or alternative interim measures may be instituted by the Associate Dean, at the Associate Dean’s discretion.

### **Early Resolution**

14. **Early Resolution**: The Intake Assessment Team will consider whether it would be appropriate for the Associate Dean’s Office to attempt an early resolution of a matter. The University Secretary will indicate this in the written referral to the Associate Dean’s Office.

15. An early resolution can be pursued at any point after a Complaint is referred where both the Complaint and Respondent are willing, and it is appropriate to do so. At a minimum, an attempt at early resolution will include fact finding, with the Associate Dean’s Office or delegate meeting with each of the Complainant(s) and Respondent(s). Where the incident(s) complained of are alleged to have occurred during a clinical placement or under circumstances where, in the judgment of the Associate Dean, the clinical environment may be impacted by an investigation or resolution of the Complaint, the Associate Dean’s Office shall also notify the person(s) responsible for receiving such complaints on behalf of the employer(s) of the Complainant(s) and Respondent(s) and the employer(s) that operate the clinical setting at issue. Such employer representative(s) may attend any fact-finding meeting and any discussion with respect to an early resolution so that the employer representative(s) may provide feedback regarding the appropriateness of any proposed resolution terms that may impact the clinical environment.

16. If an early resolution is reached, the terms of the resolution will be formalized in writing and the Associate Dean’s Office will provide the University Secretary with a brief written summary of the terms of resolution as part of the reporting back requirement in paragraph 10 above. The Complainant(s), Respondent(s), and employer representative(s), if any, shall also be provided with a copy of the summary.

17. If an early resolution is not reached within a reasonable time (normally within 60 calendar days after the referral to investigation, but this may vary depending on

the complexity of the case), the Associate Dean's Office will proceed to conduct a formal investigation of the Complaint.

18. To ensure that any pre-complaint, alternative resolution, and early resolution discussions are full and complete, those discussions may not be referenced or relied on during the investigation process or thereafter. This restriction does not apply when investigating an alleged breach of a previously reached resolution.

19. Individuals involved in any pre-complaint, alternative resolution and early resolution discussions shall not conduct any investigation into the matter, and if interviewed as part of the investigation, shall not reference those discussions during the investigation process or thereafter.

### **Investigation Process**

20. **Investigation:** The Associate Dean's Office will establish an investigation process that is appropriate in the circumstances, considering the nature of the allegations and the severity of the conduct described in the Complaint, and any applicable procedural rules, guidelines, or best practices to be followed. Where the incidents set out in the Complaint are alleged to have occurred in the clinical environment, or where the Associate Dean believes that the allegations or the conclusion of the investigation into the allegations is likely to have an impact on the clinical environment, the investigation procedure to be followed will be discussed in advance with the person(s) responsible for receiving such complaints on behalf of the employer(s) of the Complainant(s) and Respondent(s) and the employer(s) that operate any clinical setting at issue.

21. In determining the appropriate investigation procedure, the Associate Dean's Office will consider the collective agreement(s) that apply to anyone involved in the investigation and will ensure that the required procedures are followed (for example, some collective agreements contain specific procedural rights that govern the steps to be followed in the investigation).

22. The investigation may be conducted by an internal or external investigator or investigator(s). In either case, an investigation will be conducted by an impartial, objective, and trained/experienced individual or group of individuals. Where clinical knowledge is required to form an appreciation of the evidence on a material point, the Associate Dean's Office shall ensure that appropriate resources are made available to the investigator(s).

23. The Associate Dean's Office shall take all reasonable steps to ensure that the Complainant(s), Respondent(s), and any applicable employer representative(s) and bargaining agent(s) are provided with a written notice of investigation.

24. The notice of investigation will indicate who will conduct the investigation. The notice of investigation will advise the Complainant(s) and Respondent(s) of their right to bring a Support Person and/or an Advisor to any meeting with the investigator(s).

25. The notice of investigation will also include the name of the Complainant(s) and a summary of the allegations in the Complaint that is sufficiently detailed to permit the Respondent(s) to prepare a response and determine what, if any, witnesses the investigator should be made aware of.

26. The notice of investigation will also include any additional information required by any applicable collective agreement.

27. The investigator(s) will ensure the individuals involved in an investigation, and their respective bargaining agent(s) where required, are informed of the investigation process.

28. Depending upon the nature of the allegations and the severity of the conduct described in the Complaint, the investigator(s) may conduct interviews in person or by other means, or may request written statements from all interviewees, including the Respondent(s), in lieu of interviews.

29. **Support Persons and Advisors:** A "Support Person" is an individual whose role is to provide emotional support and assistance. An "Advisor" is a more formal type of Support Person, such as a legal counsel, a union representative for bargaining unit members, or other similar representative.

30. Individuals who attend an interview with the investigator(s) may be accompanied by a Support Person and an Advisor.

a. Individuals who attend an interview with a Support Person and/or an Advisor must give the investigator(s) sufficient notice of their name(s) and position(s)/title(s) prior to the interview so the investigator(s) can confirm whether there is a potential conflict of interest (e.g., where the Support Person or Advisor is also a potential witness), in which case someone else will have to be chosen.

b. During an interview, Support Persons and Advisors are permitted to ask questions regarding the investigation process but are not permitted to answer the questions posed by the investigator(s) (i.e., individuals who are being interviewed must answer the interview questions themselves), make legal submissions or arguments on behalf of the individual, or disrupt the interview.

c. Exceeding their role or disrupting the interview will result in a Support Person or Advisor being excused from the interview.

d. Where interviewees require accommodation afforded by the Ontario *Human Rights Code*, when contacted by the investigator(s) they must advise the investigator(s) of their needs and the interview will not occur until the accommodations have been arranged.

31. The investigator(s) will determine whether, on a balance of probabilities, the alleged conduct occurred. If mandated to do so, the investigator(s) will also determine whether the facts as found support a conclusion that the Policy was breached.

32. Otherwise, subject to the terms and conditions of any relevant collective agreement, the Associate Dean or delegate will determine whether the Policy was breached, whether any actions are required as a result of such findings, and if so, what actions should be taken. These determinations will be made based on facts found by the investigator. Determinations made by the Associate Dean do not preclude the applicable regulatory authorities, employer(s), and/or sponsor(s) from making additional or alternative findings with respect to whether any policy of such body that is applicable in the circumstances has been breached, or whether any additional steps should be taken as a result.

33. The investigator(s) will provide a written report to the Associate Dean and delegate.

34. The Associate Dean's Office will ensure that the investigator's report is brought to the attention of, and reviewed by, the appropriate employer representative(s), if any, as well as the applicable professional Colleges or other regulatory bodies, Program Directors, sponsors, and any of their delegates. The Associate Dean's Office will advise recipients of the report, and any other individuals with a need to know, about any corrective measures determined by the Associate Dean or delegate to be taken, including measures aimed at preventing Reprisal where appropriate.

35. When an Employee or Trainee is found to have breached the Policy, corrective measures may include non-disciplinary actions (e.g., education or counselling) and/or disciplinary measures (e.g., a verbal or written warning, a suspension, or termination of employment or training). Any corrective measures imposed shall be implemented in accordance with applicable collective agreement requirements.

36. The Associate Dean's Office will also ensure that all recipients of the investigator's report are aware of the obligation to take reasonable steps to prevent a recurrence.

37. The Associate Dean's Office will ensure that all Complainants and Respondents are informed, in writing, of the outcome of the investigation, and any corrective action taken. The Associate Dean's Office will take reasonable steps to ensure that such information is provided in accordance with the procedural requirements of any relevant collective agreement and any applicable laws.

38. Investigation reports are confidential and are not shared with Complainants or Respondents.

39. **Systemic Discrimination:** If during the investigation of a Complaint, it is determined by an investigator or the Associate Dean's Office that Discrimination occurred, the investigator or Associate Dean's Office will also determine whether the conduct was the product of Systemic Discrimination, as defined in the Policy. If so, the investigator will include commentary regarding the Systemic Discrimination in their report; the Associate Dean's Office will include the investigator's findings and rationale regarding Systemic Discrimination in its report back to the Secretary (See paragraph 10 above). The Secretary will forward such a Report to the appropriate Vice-Principal for inquiry pursuant to the terms regarding Reports (below).

40. **Confidentiality:** personal information collected under this procedure is confidential and will only be used and/or disclosed to investigate, take corrective action, protect health and safety, manage chronic mental stress claims, to administer human resources and labour relations matters, and, to administer the Policy and its purpose.

41. The University's commitment to confidentiality also means that:

a. documents created under this procedure will be maintained in secure files;

b. documents related to the Complaint will not be included in the personnel file of any employee Complainant;

c. except for any discipline measures imposed (e.g., verbal/written warning(s), letter(s) of discipline, etc.) documents related to the Complaint will not be included in the personnel file of any employee Respondent(s);

d. only authorized individuals will have access to documents created under this Procedure, on a need-to-know basis; and,

e. reasonable steps will be taken to protect against unauthorized access to electronic documents.

42. All individuals involved in an investigation process will be advised of their duty to maintain the confidentiality of all information disclosed to them or by them, including any personal information.

## **Reports**

### **Duty to Report**

43. All members of the University Community are encouraged to make a Report when they witness Discrimination, Harassment or Reprisal, or are aware of a policy, process, or other circumstance giving rise to Systemic Discrimination.

44. Persons of Authority shall make a Report when they witness or otherwise become aware of Workplace Discrimination, Harassment or Reprisal, or, of a policy, process, or other circumstance giving rise to Systemic Discrimination.

### **General**

45. The processes referenced in this Procedure with respect to Complaints regarding the Submission and Intake of Complaints, Record Keeping, Interim Measures, Early Resolution, and Investigation Process, will be followed with respect to Reports, with necessary adjustments and subject to the following.

46. There will not necessarily be an individual "Complainant" involved in the process but rather, the University will be considered the Complainant and the "Respondent(s)" will be the alleged subject(s) of the Report.

47. The Person who makes a Report about individual Discrimination or Harassment is not normally entitled to information with respect to the outcome of the investigation unless they are involved in the implementation of that outcome.

48. If a Report of Systemic Discrimination is referred to a Vice-Principal, the Vice-Principal or their designate will conduct an inquiry, in consultation with the Associate Vice-Principal (Human Rights, Equity and Inclusion) and the University Ombudsperson, and will report back to the University Secretary, providing a copy of the to the Associate Vice-Principal (Human Rights, Equity and Inclusion) and the University Ombudsperson.

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<sup>i</sup> If a Complaint or Report contains allegations related to the conduct of employees in the office of the University Secretariat and Legal Counsel, the Complaint or Report shall be made to the Office of the Principal and the procedure will be adjusted with the role of the Chair of the Intake Assessment Team being fulfilled by an individual appointed by the Principal.

<sup>ii</sup> If a Complaint or Report contains allegations related to the conduct of employees in the Associate Dean's Office, the Complaint or Report shall be referred by the Intake Assessment Team to the Dean, Faculty of Health Sciences, and the procedure will be adjusted with the roles of the Associate Dean and the Associate Dean's Office being fulfilled by one or more individuals appointed by the Dean.