

Ontario Provincial Police

Workplace Discrimination and Harassment Prevention (WDHP)

- ### O.P.P. Values include
- maintaining the highest standard of ethics, conduct and deportment
 - reflecting the diversity of our communities
 - encouraging open dialogue between our service and our communities
 - providing continuous learning and support
 - viewing our employees as our most valued resource

- ### Broad context for WDHP
- O.P.P. mission
 - O.P.P. values
 - Police Services Act*
 - Ontario Human Rights Code*
 - Equal opportunity and merit principle
 - Commissioner's Directional Statement 2002-03
 - Positive workplace

- ### The *Police Services Act* states
- the importance of safeguarding the fundamental rights guaranteed in the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*
 - the need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society
 - the need to ensure that police forces are representative of the communities they serve

O.P.P. Mission

To provide a sensitive, community-oriented, and accountable service that promotes an environment in Ontario in which all people will be secure in their pursuit and enjoyment of all lawful activities

- ### Equal opportunity/merit principle
- The Ontario government has always been and continues to be committed to ensuring all employees have equal access, free of barriers, to full participation in all aspects of employment
 - In 1995, a new approach- "Equal Opportunity" was introduced for achieving this objective that was intended to be more inclusive, voluntary and merit-based than the employment equity program
 - Merit refers to the selection of candidates whose qualifications meet job-related criteria, such as skills, experience and abilities, at the level required for a position or assignment
 - The merit principle and the *Human Rights Code* are the foundation for equal opportunity and the basis for creating and maintaining a qualified and productive workforce
 - The Ontario government has also continued to be clear that diversifying a workforce is a sound business decision and signifies a socially responsible organization

The Commissioner's Directional Statement 2004

- supporting and investing in employees to sustain an ethical, motivated and highly effective team
- maintaining the O.P.P.'s positive, professional image
- articulating and putting into practice ethical values
- recruiting a diverse workforce reflective of the communities served
- building relationships based on mutual respect and understanding

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WDHP goals are to

- implement fair and equitable employment practices for everyone's benefit
- have a *positive and respectful workplace* that is free from discrimination and harassment
- prevent, identify and correct employment practices and actions of employees that result in discrimination and harassment

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Positive workplace: Supervisors/Managers must

- clarify performance expectations
- hold people accountable
- provide ongoing, honest, constructive feedback
- treat all people fairly with dignity and respect
- encourage discussion of ethical issues
- act quickly to address issues before they become problems or escalate

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The WDHP policy applies to

- all employees - classified and unclassified hired under the *Public Service Act*, including
- all O.P.P. employees (civilian and uniform) and volunteers, and
- former employees, within six months of leaving the O.P.P., who believe they had been discriminated or harassed while with the O.P.P.

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WDHP in the O.P.P. is about

- ensuring professionalism and *quality policing*
- modeling the O.P.P.'s values and ethics
- demonstrating the kind of leadership that prevents unacceptable behaviour from occurring in the first place

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Employment-related discrimination and harassment

- based on the Ontario *Human Rights Code* prohibited grounds
- occurring at or outside of the workplace in any aspect of employment
- because of association with people perceived to be identified by prohibited grounds

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Prohibited Grounds of Human Rights Code and WDHP policy

- Age refers to employees at least 18 years of age and under 65 years
- Ancestry refers to from whom you are descended
- Colour refers to skin colour
- Citizenship refers to citizenship from any country
- Creed refers to religion or a professed system and confession of faith, including both beliefs and observances or worship
- Ethnic origin refers to the cultural origins of a person's ancestors
- Family status refers to being in a parent and child relationship
- Handicap (disability) refers to whether a person has or had, or is believed to have or have had, a disability or handicap
- Marital status refers to the status of a person relative to a person of the opposite sex (single, married, separated, divorced or living in a conjugal relationship outside of marriage)

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Discrimination is

- unequal treatment based on the prohibited grounds
- can be intentional or unintentional, direct indirect

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Prohibited Grounds of Human Rights Code and WDHP policy

- Place of origin refers to citizenship from any country
- Race refers to the descendants of a common ancestor believed to belong to the same stock, lineage or breed
- Record of offences refers to convictions in which a pardon has been received under a federal law (e.g. Criminal Code) or for a conviction under provincial law (e.g. Highway Traffic Act)
- Same-sex partnership status refers to the status of living with a person of the same sex in a conjugal relationship outside of marriage
- Sex refers to a person's gender (includes pregnancy)
- Sexual orientation refers to a person's sexual attraction to persons of another gender and/or one's own gender

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Harassment is

- a course of comment or conduct based on the prohibited grounds, and
- is known or ought to reasonably be known to be unwelcome or offensive

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The WDHP policy covers

- discrimination
- harassment, including sexual harassment
- poisoned work environment
- failure to accommodate (any ground)
- condoning
- threats, retaliation or reprisal
- interference or intimidation
- malicious or bad faith complaints

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Sexual Harassment is

- sexual attention from another employee that is known or should reasonably be known to be unwelcome
- includes threat or employment-related penalty from a person in authority for refusing to comply with sexual demands

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Poisoned Work Environment is

- comments, behaviour or work environment that ridicules, belittles people or groups identified by prohibited grounds
- can also result from a single, serious event, remark or action, and
- need not be directed at a particular individual

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Threats, Retaliation or Reprisal are

- against an employee for exercising a right under the policy or
- against any other person performing a legitimate role under the policy

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Failure to Accommodate is

- not removing barriers in the workplace, associated with the prohibited grounds under the *Human Rights Code*, that would prevent a qualified employee from participating equally in all aspects of employment

For further details, see the Ontario Public Service *Employment Accommodation for People with Disabilities Operating Policy*

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Interference or Intimidation include

- interference with an investigation
- intimidating a complainant, respondent or witness

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Condoning is

- failure of management to respond adequately to information about discrimination, harassment or poisoned work environment

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Malicious or bad faith allegation

- is a WDHP complaint made by an employee who knows at the time that the allegation is not true

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Prevention: Employees must

- treat others with respect and dignity
- refrain from offensive remarks and actions
- understand/value co-workers; accept differences

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Consequences (continued)

- Poorly handled incidents may serve to create a lack of trust and doubts among employees about the general capabilities of their supervisors and managers to make sound operational decisions and to treat all employees and the public fairly
- Unresolved incidents can become very time consuming; taking resources away from the core business
- The "best and the brightest" among potential recruits will choose another employer
- It's expensive not to intervene immediately, e.g. may lead to costly investigations, public hearings, human rights tribunals, backfilling staff on leave
- Corporate liability, plus the Commissioner and individual supervisors/managers may be held personally liable

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Prevention: Supervisors/Managers must

- ensure all employees know their rights and responsibilities
- proactively monitor the workplace for issues
- encourage people to bring issues forward
- take appropriate action personally, directly and in a timely manner

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Options for addressing WDHP complaints:

- Complaint under the *WDHP Policy* in *Police Orders*
- Complaint under the *Police Services Act*—See section on Professional Standards Bureau in *Police Orders* for details
- Grievance under the OPPA Memorandum of Agreement, AMAPCEO collective agreement, as applicable the *Public Service Act*
- Complaint to the Ontario Human Rights Commission
- Where situation allows, pursuing remedy through civil/criminal courts
- Pursue remedies under the *Occupational Health and Safety Act*, which requires employers to provide a safe workplace, and the *Workplace Safety and Insurance Act* if the discrimination or harassment results in compensable injury or stress.
- Communicate with the Office of the Ombudsman should the complaint deal with an inappropriate procedure concerning this policy

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Consequences of not addressing WDHP issues

- Small incidents can fester and be blown out of proportion becoming more difficult to resolve over time, e.g. rumours develop, sides are taken, positions become entrenched, divisive camps are established, people are wrongly blamed
- People may be unwilling to stick their necks out to challenge something they believe to be wrong
- Team morale may be significantly damaged
- Resentment and anger can lead to an unsafe working environment
- Incidents can become the "straw that breaks the camel's back", leading to lost time, lowered productivity, unbalanced workload
- Left unchecked, incidents can foster a perception that the organization isn't serious about maintaining a discrimination and harassment-free workplace

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WDHP	<i>Police Services Act</i>
Complaints may be written, oral, third party, or anonymous (no distinction between formal and informal complaints)	Complaints under the PSA are "formal" & must be written, signed by person directly affected
Normally within 6 months of alleged behaviour	Normally within 6 months of alleged offense
Management must attempt resolution upon becoming aware of an issue, even in the absence of a "complaint"	Complaints are classified as policy, service, conduct
A complaint may be mediated or resolved at any stage in an investigation	Resolutions may include informal or formal discipline, all or any portions of a complaint may be mediated/resolved at any stage in an investigation

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WDHP *Police Services Act*

<ul style="list-style-type: none"> • May not be malicious/bad faith • Respondents must receive sufficient information about allegation for rebuttal • Specific time requirements (targets), e.g. for completion of ADR/investigations • Names of parties/witnesses do not appear in final report 	<ul style="list-style-type: none"> • May not be frivolous, vexatious, bad faith • Respondents must receive written notification of complaint unless such notification would interfere with the conduct of an investigation • Specific time requirements, e.g. notice of formal hearing must be served within 6 months of management receiving the complaint • Names of parties/witnesses may appear in final report
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Resolution First Steps: Employees should

- Nip it in the bud!
 - resolve conflicts quickly and effectively
 - take action when they see unacceptable conduct
 - tell an alleged offender, if possible, about unwelcome or inappropriate behaviour
 - quickly bring issues to management's attention

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WDHP Policy Resolution Options

<ul style="list-style-type: none"> • Prevention • Discussion • Mediation • Direct Management Action • Investigation 		<p>More individual control</p> <p>Less individual control</p>
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Resolution First Steps: Supervisors/Managers must

- take action (even in the absence of a complaint)
- let a complainant know that any information given must be acted upon
- not ignore, e.g. condone policy violations
- consult others, if at all unclear how to proceed
- engage in preliminary fact-finding to assess the nature/severity of the allegation and to determine appropriate resolution avenue, e.g. mediation, immediate referral of a possible criminal offence

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Resolution goals are to

- resolve the conflict, stop inappropriate behaviour and/or correct a problem ASAP (and locally, where appropriate)
- meet the interests of the parties in the least adversarial and least disruptive way possible
- prevent recurrences of the conflict, inappropriate behaviour, problem
- restore any losses experienced by the parties

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Resolution First Steps: Supervisors/Managers must

- identify potential, personal conflict of interest
- document incidents resolved locally; complete/forward a WDHP incident/complaint tracking form to Sergeant Major
- refer to a Sergeant Major
 - "benchmark complaint" (see *Police Orders*)
 - serious form of harassment which, if proven, may warrant disciplinary action beyond a warning
 - where there is indication of more than one aggrieved person
 - when the respondent disputes the essential components of complaint

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“Benchmark Complaints” include

- comments/conduct that may constitute a criminal act
- comments/conduct where there is a supervisor - subordinate relationship between parties (including coach/probationary constable relationship)
- respondent has been subject to previous WDHP complaints
- complainant has made a previous allegation of a WDHP policy contravention
- conduct may adversely affect the reputation of the O.P.P. or the morale of its employees

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**Mediation:
Supervisors/Managers may**

- ☐ personally facilitate a resolution, i.e. where the interests of parties are met; no blame assigned
- ☐ contact a Sergeant Major for advice concerning formal mediation

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Resources to consult include

- ☐ Ministry Human Resources Branch WDHP Policy/Program Advisor
- ☐ Sergeants Major
- ☐ PSB Bureau Commander
- ☐ Human Resources Consultants/Staffing Officers
- ☐ OPPA, AMAPCEO
- ☐ Employee Assistance Program
- ☐ Workplace advisors

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**Direct Management Action:
Supervisors/Managers**

- ☐ *Must* emphasize clear expectations of appropriate behaviour in the workplace, and *may*
- ☐ identify a group/individual training need, e.g. conflict resolution, diversity, cultural awareness
- ☐ suggest personal counselling
- ☐ alter an employment practice, e.g. approach to performance management
- ☐ provide an update on policy or human rights law
- ☐ take other appropriate action

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**Discussion:
Supervisors/Managers may**

- ☐ Where appropriate, encourage and support employees to resolve issues cooperatively on their own, e.g. may result in an apology,
- ☐ but *must* still follow up and reinforce positive resolutions/behaviour

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Investigation is

- a process of collecting evidence for the purpose of substantiating or disproving an allegation
- a process of last resort to be used if the allegation is serious enough that, if proven, will result in disciplinary action or where ADR has failed or is inappropriate
- normally conducted by PSB for all employees, civilians and uniform members

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Investigations:
Supervisors/Managers must

- be sensitive to the feelings of complainants, respondents and witnesses
- cooperate with mediators/investigators, e.g. making staff available to participate in resolution processes
- ensure confidentiality of information
- maintain normal operation of work unit, as much as possible

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We are all accountable for

- sustaining a positive workplace, free from discrimination and harassment
- providing services in a fair and equitable manner
- maintaining respectful and cooperative relationships; recognizing diversity, thereby fostering the kind of community support that is essential to effective, *quality policing*

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Examples of WDHP penalties

- formal reprimand
- training
- a record that could impede promotion and career development
- for uniform members, days taken from overtime bank or demotion
- suspension without pay
- dismissal

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Workplace Restoration:
Supervisors/Managers

- must try to improve workplace relationships, when allegations, policy violations or resolution processes have disrupted them
- need not wait for an investigation to be completed

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