

Policy on Complaints and Grievances

PURPOSE

Calgary Outlink is a community-based, not-for-profit charity dedicated to providing support, education, outreach, and referrals for the LGBTQ2IA+ and allied community in Calgary, Alberta. To this end, the society shall maintain clear procedures (this policy) to receive, address, and if necessary, remedy, concerns that are brought forward. This policy and its embedded procedures are not intended to be a 'one size fits all' structure, and Outlink recognizes that with the uniqueness of individual concerns deviations from the procedures, within the framework set out in this policy may be needed.

DEFINITIONS

An **INFORMAL GRIEVANCE** is a complaint filed by an employee, volunteer, or client expressing dissatisfaction with conditions or perceived violation of agency policies.

The **FORMAL GRIEVANCE** is a complaint filed by an employee, volunteer, or client related to a critical or significant human resource issues affecting clients, volunteers or employees (e.g., abuse, harassment, discrimination, terminations, promotions, grossly unfair, unethical or unprofessional treatment by co-workers and direct reports, etc.), or an Informal Grievance which have not been successfully resolved through more informal means. When these conditions exist, the person may initiate a grievance review according to the following established procedures.

PERSONS AFFECTED

The Calgary Outlink Board of Directors, Staff, Volunteers, and Clients.

POLICY STATEMENT

1. Persons who seek resolution of situations associated with the organization by using this policy are assured that they will not be subjected to discrimination or retaliation, or be penalized in any way for their use of these procedures.

The aim of this complaint resolution process is to:

2. Return the complainant to the position they would have been in if the abuse, discrimination or harassment had not occurred,
3. Ensure the best interests of the organization occurs in the decision-making conclusions, and
4. Restore the organizational and work place to a space that is respectful and safe; with collegial interpersonal relationships among all, free from abuse, harassment, and discrimination, and/or as it was before the incident(s) occurred.

RESPONSIBILITIES

It is the responsibility of everyone to:

1. Maintain Confidentiality
 - a. Confidentiality among those involved in the grievance must be observed.
 - b. The inclusion of multiple people not directly involved in the issue interactions, posting of communications publicly, are breaches of the confidentiality of the process.
 - c. A breach of the confidentiality of the process may result in the complaint being tabled to allow for the breach to be addressed and to allow the process

to reformulated to address the breach.

2. Maintain Respectful Communications
 - a. Respectful communications among those involved in the complaint must be observed.
 - b. Communication during the process should be focused on communicating the concern and not aimed at causing new concerns.
 - c. If communication results in new concerns developing, the process may be tabled to allow for the new concerns to be addressed and to allow the process to reformulate to address the method of communication.
3. Provide Information in Good-faith.
 - a. When describing the concern or issue, it is recommended to simply give a step-by-step description of actual statements and behaviours.

It is the responsibility of the Board to:

4. When the Board of Directors becomes aware of a concern (see Formal Grievance below), they shall:
 - a. Ensure that any process utilized to address concerns is accessible to the participants (e.g. providing translation services or video conferencing).
 - b. Allow anonymous concerns to be brought forward, but recognize that anonymity can hinder the ability to address the root causes of a concern.
 - c. Determine if it is appropriate for the Board to address concern. (e.g. it would be inappropriate for the Board of Directors to make a determination regarding their own conduct without the supervision of an external entity).
 - i. If it is appropriate, the Board shall address the concern.
 - ii. If it is not appropriate, the Board shall engage with an external entity(ies) to help address the concern, and comply with all of the external entries recommendations and compensate the external entity(ies) fairly.
 - d. Determine if it is capable of addressing the concern.
 - i. If it is capable, the Board shall address the concern.
 - ii. If it is not capable, the Board shall engage with an external entity(ies) to build up its capacity and address the concern.
 - e. Address the Concern.

PROCEDURES

1. When concerns are raised with the objective of stopping the issues, there is no incorrect way of bringing a concern forward. Therein, the Board, staff, and volunteers may utilize any mechanism they feel appropriate to voice their concerns, these mechanism may include, but are not limited to:
 - a. Communicating with any member of the Board of Directors,
 - b. Communicating with any member of the Calgary Outlink Staff,
 - c. Submitting concerns via email to any Calgary Outlink (@CalgaryOutlink.ca) email,
 - d. Communicating with the Ombudsperson (if there is one in place),

- e. Accessing other policies that outline ways to raise concerns, or
 - f. Drawing Calgary Outlink into discussions via social media.
2. When a member of the Board of Directors, Staff, or volunteers becomes aware of a concern, they shall:
- a. Give consideration which elements of the concern should be, temporarily or permanently, withheld (e.g. the reporting person's name).
 - b. Give consideration which elements of the concern should be brought to the attention of their direct supervisor (the Direct Report) or to be brought directly to the Board of Directors.
 - c. Follow the process(es) outlined below in the Informal Grievance section or Formal Grievance section.
3. **INFORMAL GRIEVANCE PROCESS, without Direct Report Involved.**
- a. Before a Formal Grievance is filed and a process launched, the person who identified the concern or issue shall make every effort to resolve the matter through informal direct face-to-face communication with the immediate person with whom they have the concern or issue with; and may involve their supervisor (e.g., the facilitator of the program or the staff resource person).
 - b. Other individuals not included in the actual direct events should not be involved.
4. **INFORMAL GRIEVANCE PROCESS, with Direct Report Involved.**
Informal Grievance Process, with a Supervisor Involved
- a. If any participant to a concern or issues wishes, the person may take the concern or issue to the person they directly reports to (Direct Report) or the direct report's delegate.
 - b. In the case the grievance is with the direct report then the complaint report must go to the Calgary Outlink Board.
 - c. The person receiving the complaint report will take the matter under consideration and attempt to resolve it or provide an explanation within 5 working days, unless additional time is needed to gather adequate information.
 - d. The Board of Directors must be made aware of all grievances.
 - e. As deemed necessary, the Direct Report shall use the Investigation Procedures (Appendix 1) in processing the Information Grievance.
 - f. Upon conclusion of the Investigation Procedures the Direct Report shall use the Making Decisions regarding the Grievance (Appendix 2) to conclude the process.
 - g. Upon conclusion, and if deemed necessary, the Direct Report may render consequences in alignment with Appendix 3.
5. **FORMAL GRIEVANCE PROCESS**
 Only After Resolution does not Occur, Filing a Formal Grievance may Occur
- a. The direct report must be consulted before the Formal Grievance process is initiated.
 - b. If the person's matter is unresolved, or not resolved to the person's satisfaction through direct communication and through the direct report, then the aggrieved

person may file a grievance request with the Calgary Outlink Board within 5 working days following the direct report's response.

- c. This request should be made in confidence and to Representatives of the Board; it must outline:
 - i. The allegation being made, ensuring that a clear type of concern of issue is identified, and the section of the policy which has been alleged breached.
 - ii. Specific details of the problem, including names, dates, times and content of the interaction(s).
 - iii. Specific attempts at direct communication to resolve the complaint or issue.
 - iv. Specific attempts at resolution prior to initiating the grievance.
 - v. Resolution of the issues expected by the person.
 - d. As deemed necessary, the Representative of the Board shall use the Investigation Procedures (Appendix 1) in processing the Formal Grievance.
 - e. Upon conclusion of the Investigation Procedures the Board shall use the Making Decisions regarding the Grievance (Appendix 2) to conclude the process.
 - f. Upon conclusion, and if deemed necessary, the Board may render consequences in alignment with Appendix 3 and/or change the consequences that had been previously rendered.
6. Creating a Final Response
- a. After receiving the person's request, or when parties are first available, the Executive or its delegate will arrange a meeting with the person to allow the person to present a personal and complete description of the situation.
 - b. A copy of this grievance will be sent to the immediate Direct Report.
 - c. The Executive delegate will meet with the Direct Report and the Complainant to obtain additional information and seek a response from the person alleged to have not followed policies.
 - d. The Executive delegate will evaluate the information related to the situation and provide a response as soon as possible to the investigation being complete.

REVISION HISTORY

- 2022-03-21: Revisions.

Appendix 1 - Investigation Procedures

The entire process should be descriptive, seeking clarity and substantiation of events, dates, and actual behaviours. Details that are descriptive and substantiated should be identified as such and included in the decision of the investigator.

Hearsay, innuendo, third party accounts, dishonesty, exaggeration or other types of communication, ideally, should be avoided. The investigator must approach the process with neutrality and in recognition of the right of both parties to a fair hearing. No one should be assumed to have broken policy before an investigation, and no one should assume the person making allegation is doing so frivolously.

Care should be taken to ensure all parties are made safe in the process, free to speak in confidentiality, privacy is respected. The Staff, Board, or Investigators may take any steps outside the investigation process to ensure people's safety before, during and after the investigation. It is the responsibility of the investigator to withdraw from the process in the event that their neutrality is compromised.

The investigation process must determine the factual events, if policy is breached and steps that are recommended to rectify the scenario, including ensuring all parties are safe.

1. Any investigation will normally be conducted by the Staff, Board, or if deemed necessary, an external investigator selected by the Board of Directors.

Information Finding

2. The purpose of an investigation is to elicit information, not to disseminate allegations, and make recommendations to rectify the scenario.
3. Written details of a grievance provided by the complainant should be specific and it is the right of the respondent to know exactly what the allegation is.
4. The respondent should be allowed reasonable time to provide a considered response to the allegation. This written response should normally be provided within 10 working days of the respondent being notified of the allegation.
5. The complainant, the respondent and any support people will be informed of the need for confidentiality.
6. The complainant's grievance, the respondent's reply and the details of any actions taken by the complainant in attempts to conciliate at an earlier stage will form the basis of an investigation.
7. Where there is disagreement of fact, witnesses who have been appropriately cautioned about confidentiality may also be interviewed. Information should not be unnecessarily disclosed to witnesses.

Documentation of Evidence

8. Information gathered during the investigation, will be documented by the Staff, Board, or Investigator and together with the other written statements and reports will be used to test the substance of the allegation. The documentation should be summarized to describe points of evidence and step-by-step events.

Points of evidence includes documented details of the problem, including names, dates, times and content of the interaction(s), described specific behaviours or actions, described specific verbal statements and quotes, and witness accounts. Personal feelings should only be included when described by the person with the feelings (I felt...). Evidence does not include: hearsay (i.e. I/we heard, but I did not witness it myself, that ...); innuendo; third party accounts; dishonesty; exaggeration of communications, behaviours, or verbal statements. Nor does it include second hand or third party accounts and opinions of another person's feelings (they felt.... – no one can feel exactly how another person feels, so only the person with the feelings should describe their own feelings).

Omissions of evidence, lack of evidence, or inability to describe facts should also be described. Points of evidence may not be conclusive, but it should be able to determine whether the allegation is true on the balance of probability.

Report and Resolution

9. A report is then written for Board decision with recommendation to be considered. These are then reviewed and adopted or revised by the Board. The report should outline all steps taken from informal and/or formal investigation and description of points of evidence. Based on evidence and steps taken, new recommendations can then be described and submitted to the Board of Directors.
10. The Board can then delegate implementation of any steps to resolve the situation.

Exceptions to Procedural Steps

The organization recognizes that there may arise certain circumstances in which it may be inappropriate for persons to pursue the resolution of a grievance in the steps outlined above. In these situations, the employee may file the written grievance as a first step and the Board delegate may adopt an alternate process after consultation with the Board. Where a grievance involves a Member of the Board, the matter will be referred to an external investigator to avoid further conflict.

Appendix 2 - Making Decisions regarding the Grievance

Complaint's regarding abuse, harassment, discrimination, & unethical conduct

A. Complaints that do not meet the definition of abuse, harassment, discrimination, &/or unethical conduct

If the person responsible for managing the complaint process determines that the allegations are frivolous or do not satisfy the definition of abuse, harassment, discrimination, &/or unethical conduct the person informs the complainant that the complaint can not be accepted and provides the reasons for his decision.

In order to respect the principles of procedural fairness, the respondent is notified that a complaint was received, is provided with the allegations as they relate to him or her and the reasons why the complaint was not accepted. If the respondent requires a copy of the complaint, they have a right to obtain it.

Frivolous complaint. A frivolous complaint is one of little or no weight or importance ... characterized by lack of seriousness; or manifestly futile. The frivolous complaint does not require an investigation to come to the evident conclusion that it is frivolous. The complaint should not proceed any further when, from a simple initial review, it is evident that it will not be possible to substantiate it because the complainant provided no specific allegations or information surrounding the allegations and, upon request, does not provide the necessary information to initiate a proper investigation of precise behaviours, acts, events or displays.

Vexatious complaint or one made in bad faith. A vexatious complaint, or one made in bad faith, is about intent and may only be determined through an investigation. This investigation would seek to determine if either the complaint was made intentionally for the purpose of vexing and annoying or embarrassing a person or the complaint was not calculated to lead to any practical result; or there is evidence of bad faith on the part of the complainant indicating an intention to mislead or if there is the presence of ill-will.

B. Complaints that meet the definition of abuse, harassment, discrimination, &/or unethical conduct

If the complaint meets the definition of abuse, harassment, discrimination, &/or unethical conduct, the person responsible for managing the complaint process informs the complainant in writing, that the complaint is deemed admissible. The investigator also informs the respondent in writing that a complaint has been received. The respondent is provided with a copy of the allegations and is given an opportunity to respond to the allegations in writing. The parties' managers are made aware of the situation, if appropriate, and are provided with the information on a need to know basis so that they can support the parties, manage the impact on the team and keep operations running smoothly.

Admissible complaints. It must be determined that, if true, the alleged act(s) would be a violation of Calgary Outlink’s policy and/or of legislation. These alleged act(s) could include, but are not limited to:

- The behaviour was directed at the complainant;
- The complainant was offended or harmed;
- The respondent knew or reasonably ought to have known that their behaviour would cause offence or harm;
- The behaviour occurred in the workplace or at any location or any event related to Calgary Outlink.

Repetitious behaviour versus single event. It is important to consider the severity and impropriety of the behaviour (act, comment or display) in the circumstances and context of each situation.

Harassment & Bullying. Essentially, the definition of harassment means that more than one act or event need to be present in order to constitute harassment and that taken individually, this act or event need not constitute harassment. It is the repetition that generates the harassment. In other words, workplace harassment consists of repeated and persistent behaviours towards an individual to torment, undermine, frustrate or provoke a reaction from that person. It is a behaviour that with persistence, pressures, frightens, intimidates or incapacitates another person. Each behaviour, viewed individually, may seem inoffensive, however, it is the synergy and repetitive characteristic of the behaviours that produce harmful effects.

Please note that one single incident can constitute harassment when it is demonstrated that it is severe and has an important and lasting impact on the complainant.

Discrimination. Discrimination is treating another person differently based on ascribed characteristics.

Abuse. Abuse is defined as:

- emotional (attack on the person’s self-concept and self-worth, including intentional rejection, isolation from others, threats, humiliation, unrealistic expectations, or inappropriate accusations/criticism, negative exposure to someone with a mental or emotional condition),
- physical (trauma or injury to any part of a person’s body), or
- sexual (non-consensual exposure or subjection of a person to sexual contact, activity or behaviour,
 - “non-touching” activities (e.g. obscene phone calls/conversations, indecent exposure or exhibitionism, non-consensual masturbation in front of a person, deliberate exposure to others engaged in sexual activities, exposure to any forms of pornographic material)
 - non-consensual “sexual touching” activities (e.g. fondling a person, making a person touch another person’s genital area, or sexual intercourse)
 - “sexual exploitation” (e.g. engaging a child for prostitution, using a child in pornography or luring a child via the Internet for sexual purposes)).

Intention. In order to conclude that harassment, abuse, or discrimination occurred, the intent of the respondent to cause offence or harm by his/her acts, comments or displays does not need to be demonstrated; it is the impact on the other person that is taken into account. However, if this intent was present and can be demonstrated, it will be a factor in the determination of the corrective or disciplinary measures.

Reasonableness. To determine if a person ought to have reasonably known that the behaviour was improper, we must ask what a reasonable person, well informed of all the circumstances and finding themselves in the same situation as that of the complainant, would conclude. The behaviour in question is not only assessed by the impact or effect on the person, but it is also assessed against a reasonably objective standard. An element of assessing 'reasonableness' shall include community agreements, (e.g., Calgary Outlink's Policy on Safer Spaces Ground Rules) and any other common standard of acceptable behaviour enacted within Calgary Outlink's spaces.

When considering the reasonableness of a complaint, everyone (i.e., the investigator, the respondent, and the complainant) shall have the opportunity to offer feedback regarding i) did the behaviour exceed the reasonable and usual limits of interaction in the Calgary Outlink spaces, and ii) would a person, other than those involved, be offended or harmed by this conduct?

Sexual Harassment. In the case of alleged sexual harassment, it is also important to note that a single incident may be viewed to be more significant in circumstances when the parties' relationship at work is one where the respondent has influence or power over the complainant with regard to career advancement, performance review, work assignment and when the incident(s) leads to adverse job related consequences for the complainant.

Equity and Cultural Context. In administering this policy, and all policies, Calgary Outlink recognizes:

- a. That racism, colonialism, white supremacy, and other forms of power & oppression can manifest itself in many different forms, including (but not limited to) explicit actions or systemic structures; therein as an organization it must make conscious and explicit efforts to work against the effects of racism and white supremacy.
 - i. Further, Calgary Outlink recognizes that it is an organization based on colonialist and privileged structures and must actively work to overcome these structures.
- b. That it, and its Board of Directors, its Staff, and its Volunteers, have varying relations to systems of power that impact and guide how they interact with Calgary Outlink. To this end, Calgary Outlink shall, whenever possible, work to remove the negative impacts that these systems of power create.
- c. That gender and sexually diverse peoples lead complex lives and that many types of issues are queer issues by virtue of the intersectionality of life.
 - i. Calgary Outlink recognizes that LGBTQ2IA+ people are a gender and sexually diverse population, and that there is no "one size fits all" solution and that it occasionally must go to additional lengths to address the needs of people.

With these statements in mind, Calgary Outlink shall be mindful in the administration of this policy to balance effectiveness of a policy with the differences that individuals embody.

Appendix 3 - **Consequences**

Ideally, the complaint can be resolved using informal means. Informal resolution should always be encouraged over a formal complaint process and use of harsh consequences. However, not all incidents can be resolved in this manner. The consequences and actions that are recommended to, and implemented by, the Board of Directors should match the severity of the events.

A wide range of solutions should be sought and recommended before harsh consequences are implemented.

In extreme circumstances, the following consequences related to circumstances can be recommended.

Violence & Safety concerns. Incidents of violence including alleged threats should be handled through the *Alberta Labour Codes*. Assaults, including sexual assault and criminal harassment are subject to the *Criminal Code* and such cases should be promptly referred to the appropriate authorities.

In cases where personal or physical safety is an issue, persons perpetrating the events may be immediately removed from the workplace, or remote workplaces, and may be banned from return until an investigation has occurred. In extreme circumstances, legal action by the organization may be taken (i.e. restraining order).

Concerns regarding the best interests of the organization. Person(s) found to be in breach of organizational policies, contributing to the breach of policies, encouraging the breach of policies or involved with frivolous or vexatious complaints, may be found to be acting against the best interests of the organization.

Termination and banning individuals. Termination and banning individuals from participating in or with the organization may occur for clear evidence of breach of policies such that the persons are acting against the best interests of the organization, including policies directly related to abuse, harassment, discrimination, grossly unfair treatment of others, unethical behaviours, unprofessional behaviours, or unprofessional treatment of others.

Censorship. In cases where persons are found to be acting against the best interests of the organization, corrective actions may include any options, including those above, but also include censoring communication within the organization and in medias controlled by the organization.