

TORONTO SENIORS HOUSING CORPORATION (TSHC) WORKPLACE ACCOMMODATION POLICY

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I. TORONTO SENIORS HOUSING'S COMMITMENT

TSHC is committed to promoting and ensuring equality rights in the workplace by ensuring a work environment where persons are comfortable identifying their needs; and where needs are properly assessed with a view to identifying and implementing accommodation activity responsive to substantiated needs.

Successful accommodation is a shared responsibility. All members of the TSHC workplace have important roles and responsibilities if successful accommodation activity is to be achieved. This includes all levels of management, exempt staff, union staff, and bargaining agents.

II. PURPOSE AND APPLICATION

The purpose of this policy is to encourage and facilitate effective responses to accommodation issues that arise in the workplace; responses that enable persons to perform their workplace responsibilities effectively. Our ability to identify, properly assess and implement accommodation activity is dependent upon the support and input of all members of all staff. This policy outlines

the roles and responsibilities of all participants and stakeholders in the accommodation process.

III. UNDERSTANDING THE DUTY TO ACCOMMODATE

There is a legal duty to accommodate the needs of employees and prospective employees who identify a conflict between their employment obligations and their individual needs based on designated grounds in the TSHC Human Rights Harassment Fair Access Policy and the Ontario Human Rights Code.

As an Employer TSHC is required to respond in a timely and effective manner to substantiated accommodation issues consistent with the scope of the duty to accommodate.

Qualifying needs that can trigger the duty to accommodate may relate to a disability, religious observance, sex, age, family status, same sex partnership status. TSHC will respond to any conflict that an employee experiences between an equality right need and a workplace expectation by identifying and implementing appropriate accommodation activity; subject to the undue hardship limit.

The duty to accommodate does not require TSHC to create a new workplace position nor does it guarantee any person continued employment. Once a person is accommodated, the person must perform competently in the workplace.

The duty to accommodate is limited to circumstances where it does not expose TSHC or any other necessary participant to undue hardship.

Defining Undue Hardship

Generally speaking, the following three factors will be of relevance to assessing undue hardship:

- Cost,
- Outside sources of funding, and
- Health and safety

IV. DEFINING ACCOMMODATION

Accommodation can require the modification of rules, policies, practices or expectations that result in discrimination against an employee based on an equality right ground where there is a conflict between such rules, requirements or expectations and an employee's need. The duty to accommodate incorporates an obligation to adapt/adjust the workplace to facilitate the employee's continuing participation in the activity of work and employment.

The adjustments to the workplace can include the following:

- (1) *Physical workplace: Redefine the workplace, modification to equipment, provision of special equipment, tools, etc.*
- (2) *Scope of work: It can require the removal of duties, reassignment of duties, providing assistance or changing duties.*
- (3) *Hours of work: Accommodation may require modification to the days of work, hours per day, shift times or shift schedule of an employee.*

- (4) *Job expectations or requirements: Accommodation can require the relaxing of timekeeping and attendance expectations where needs attending equality right conflict with such expectations.*

In summary, accommodation activity can involve changing or modifying rules, policies or expectations by incorporating alternative or modified arrangements that eliminate the discriminatory barrier for the employee.

V. MULTI-PARTY RESPONSIBILITIES

Accommodation activity can impact a number of stakeholders within TSHC. As a result, the accommodation process is seen as a multi-party process in which the input and cooperation of all parties can be relevant or necessary for successful accommodation activity. The following summarizes the responsibilities of the various parties or stakeholders. Each of these parties is required to make their required contribution to successful accommodation activity.

1. Responsibilities of Person Seeking Accommodation (Accommodee)

(i) Communication Of The Need

Employees with an accommodation need are expected to inform their manager of any need that conflicts with his/her ability to provide regular attendance, perform regular duties or meet any other term and condition of the employment contract.

On matters of disability the employee is not required to reveal their disability; but is required to ensure that TSHC has access to the

scope of information required to assess and respond to accommodation needs attending the disability issue.

(ii) Provide necessary information, including functional capabilities or other professional opinions that will assist in completing successful Accommodation Assessments

Whenever a potential accommodation issue has been identified, the employee seeking accommodation is responsible for delivering all information relevant to the assessment of the accommodation issue. Employees seeking accommodation are expected to cooperate with requests for information that TSHC identifies as relevant to assessing or pursuing accommodation initiatives.

(iii) Participate in discussions about solutions

Employees seeking accommodation are expected to provide their cooperation and support to facilitate the successful identification and implementation of accommodation activity. TSHC's ability to successfully address the employee's accommodation needs will be limited by inadequate information or participation by the person with the need.

NOTE: An accommodated employee's right to have their needs accommodated may be curtailed or terminated in circumstances where the accommodated employee fails to meet their obligations as outlined in (i), (ii) and (iii) above.

2. Management's Responsibilities

(i) Secure Relevant Information

Management or human resources shall initiate the necessary steps to secure information, input or documentation relevant to assessing the accommodation need. Such initiatives may include

but will not be limited to verbal and written communications to the accommodee and/or their health professional to secure functional information required for and relevant to the assessment of accommodation options.

(ii) Assessment

Management shall use the information secured relevant to the accommodation need to evaluate accommodation options with a view to identifying the most appropriate accommodation initiative. Additional input may be sought from Human Resources and or Human Rights and Equity Unit.

(iii) Consultation

Management shall consult with the relevant stakeholders; including but not limited to the accommodee and the bargaining agent, where relevant. Such consultation shall include a review of the accommodation options and recommendations determined by management and seeking relevant employee or bargaining agent input in connection with finalizing an accommodation initiative or assessing the feasibility of an accommodation initiative.

(iv) Determination of Accommodation Issues

Using information acquired through the necessary assessments and consultation, management shall determine if an accommodation initiative is feasible; and where it is, determine the appropriate accommodation initiative in the particular circumstances.

(v) Implementation

Management shall finalize and implement an appropriate accommodation initiative. Implementation shall include verbal and

documented communications to the accommodee and bargaining agent with respect to the details of the accommodation initiative to be implemented. When the implementation of a particular accommodation initiative demands the direct participation of a co-worker, management shall pursue the relevant communications with the coworker to ensure they understand the support that is required of them.

(vi) Monitoring

Management shall monitor the accommodation initiative. The monitoring may include requests for updated information from employees and/or attending health professionals. The monitoring and updating of information will facilitate the Organization in responding to changing accommodation needs and/or identify when the accommodation need is exhausted.

3. Responsibilities of Bargaining Agents

Bargaining agents have important roles and responsibilities with respect to facilitating effective accommodation assessments and facilitating the implementation of appropriate accommodation activity. In connection with supporting accommodation processes and the implementation of accommodation, bargaining agents are expected to facilitate the delivery of necessary information, provide relevant input on accommodation options that is consistent with the scope of the duty to accommodate; support and facilitate the implementation of appropriate accommodation activity, encourage bargaining unit members to meet their obligations in terms of the duty to accommodate.

VI. CORPORATE RESPONSIBILITIES

Successful accommodation requires the support and commitment of everyone working in TSHC. All employees are expected to

provide their assistance and support where required. All members of the workplace have an obligation to support the right to accommodation. Other employees may be required to assume some additional responsibilities or burdens in connection with accommodation activity.

VII. HUMAN RESOURCES' RESPONSIBILITIES

- To manage the process of accommodation assessments, determinations and implementation of accommodation activity.
- To provide support to all relevant parties and understanding and making the necessary contributions to successful accommodation.
- To provide policy clarification and consultative support when requested by supervisors, managers or any stakeholder in the accommodation process.
- To maintain ongoing communication with employee and any internal and external stakeholders to ensure, on an ongoing basis, that reasonable steps are being pursued to address the employee's needs and TSHC's interests.
- To facilitate the provision of legal, procedural, functional, ergonomic and job modification assistance to successfully address accommodation issues.

VIII. RESPONSIBILITIES OF HEALTH PROFESSIONAL

The verification of accommodation issues and identification of appropriate accommodation initiatives is dependent upon relevant

and timely input from attending medical practitioners. The treating health professional of an employee who is faced with an accommodation issue in the workplace shall provide their full cooperation and support by:

1. Responding in a complete and timely manner to any request for information initiated by TSHC.
2. Communicating to TSHC through the Human Resources Division in a timely manner any changes in the Employee's condition that may alter the required scope, duration or nature of an accommodation initiative.

IX. SUMMARY OF PROCEDURES FOR RAISING ACCOMMODATION ISSUES

1. Identification of accommodation needs: Employees are to notify their supervisor/manager or human resources of any need for workplace accommodation in a clear and timely manner. It is recognized that the supervisor/manager or human resources staff may identify and raise an accommodation issue in circumstances where an employee experiences a conflict in his/her ability to comply with a job responsibility or any condition of employment in circumstances where it appears that the conflict may attend an equality right status.
2. The supervisor/manager shall immediately review and assess the accommodation request/issue. In connection with such review, he/she shall request and receive any input, information or documentation required from any of the relevant stakeholders (i.e. the employee with the accommodation need, treating Health Professional, supervisor/manager, bargaining agent, Health & Safety Unit,

Human Rights and Equity Unit, Labour Relations & Employee Services Unit).

3. An appropriate accommodation plan shall be developed as promptly as possible with the input of the relevant internal and external stakeholders.
4. The accommodation initiative or plan shall be implemented immediately or as agreed to by the employee, management and bargaining agent where applicable.
5. If for any reason the stakeholders are unable to agree on a resolution, the Labour Relations and Employee Services Unit, and the Human Rights and Equity Unit in conjunction with the relevant supervisors/managers and in consultation with the employee and bargaining agent where relevant, will review the proposed accommodation plan with a view to making a final determination as to whether the plan or initiative is appropriate accommodation or would represent an undue hardship.

OUR MUTUAL COMMITMENT TO SUCCESSFUL ACCOMMODATION: SUCCESSFUL ACCOMMODATION REQUIRES THE COOPERATION, INPUT AND SUPPORT OF ALL RELEVANT STAKEHOLDERS (i.e. supervisors, managers, senior management, accommodee, co-workers, attending physicians, bargaining agents). SUCCESSFUL ACCOMMODATION DEPENDS UPON ALL PARTIES PROVIDING THE REQUIRED INPUT AND THEIR FULL SUPPORT AND COOPERATION IN CONNECTION WITH ACCOMMODATION ASSESSMENTS AND THE IMPLEMENTATION OF ACCOMMODATION ACTIVITY.