

	THE CORPORATION OF THE COUNTY OF LAMBTON POLICY MANUAL			
	Subject:	Accommodation - Ontario Human Rights Code	Section L11	Policy #02
	Effective Date:	July 1, 1996	Approved By: C.A.O. General Managers	
	Revision Date:	January, 2017		

PURPOSE

The County of Lambton is committed to providing an environment that is inclusive and that is free of barriers based on age, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy and gender identity), sexual orientation, record of offences, marital status, family status, and disability.

The County of Lambton commits to provide accommodation for needs related to the grounds of the Ontario *Human Rights Code*, unless to do so would cause undue hardship, as defined by the Ontario Human Rights Commission's Policy on Disability and the Duty to Accommodate.

Accommodation will be provided in accordance with the principles of dignity, individualization, and inclusion. The County will work cooperatively, and in a spirit of respect, with all partners in the accommodation process.

POLICY

This Policy and Procedure applies to all employees, including full time, part time, temporary, casual and contract staff, as well as those who work to gain experience or for benefits, such as volunteers, co-op students, interns and apprentices. It also applies to individuals who are applying for employment with the organization.

It applies to all stages and to all aspects of the employment relationship, including recruitment and selection, promotions and transfers, and conditions of work such as hours of work and leaves of absence. It applies to all organization locations.

All new and existing employees will be informed of and have access to this Accommodation Policy and Procedure. All job applicants who are selected for an interview will be notified of the Accommodation Policy and Procedure prior to the interview.

Under the Ontario Human Rights Code all individuals are protected by the "*Code*". Under the Human Rights Code, discrimination is prohibited because of disability. Section 10 (1a) defines disability as follows:

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
- (b) a condition of mental impairment or a developmental disability,
- (c) a learning disability, or dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- (d) a mental disorder, or
- (e) an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997*; ("handicap")

Section 17 (1) provides an exemption for disability discrimination if that disability makes the employee "incapable of performing or fulfilling the essential duties or requirements "of the job. As Section 17 continues, the language in Section 17 (2) requires the employee to be accommodated and states as follows:

"No tribunal or court shall find a person incapable unless it is satisfied that the needs of the person cannot be accommodated without undue hardship on the person responsible for accommodating those needs, considering the cost, outside sources of funding, if any, and health and safety requirements, if any."

Section 17 (3 and 4) contain guidelines to ensure that the exemption in Section 17 (1) is not applied inappropriately. [The Ontario Human Rights Code](#).

Requests for Accommodation

1. Requests for accommodation should be made to the Employee's manager.
2. Accommodation requests should, whenever possible, be made in writing. The accommodation should indicate the following:
 - The *Code* ground with respect to which accommodation is being requested;
 - The reason why accommodation is required, including enough information to confirm the existence of a need for accommodation; and
 - The specific needs related to the *Code* ground.

All accommodation requests will be taken seriously. No person will be penalized for making an accommodation request.

Provision of Information

The parties to the accommodation process must share information about accommodation needs and potential solutions. It may in some cases be necessary to obtain expert opinions or information in order to confirm the need for accommodation, or to determine appropriate accommodations.

The Corporate Manager, Human Resources or Benefits/Disability Specialist may require further information related to the accommodation request, in the following circumstances:

- Where the accommodation request does not clearly indicate a need related to a *Code* ground;
- Where further information related to the employee's limitations or restrictions is required in order to determine an appropriate accommodation;
- Where there is a demonstrable objective reason to question the legitimacy of the person's request for accommodation.

Note: Where expert assistance is necessary in order to identify accommodation needs or potential solutions, the accommodation seeker is required to cooperate in obtaining that expert advice. Failure to respond to such requests for information may delay the provision of accommodation.

The Corporate Manager, Human Resources or Benefits/Disability Specialist will maintain information related to:

- The accommodation request;
- Any documentation provided by the accommodation seeker or by experts;
- Notes from any meetings;
- Any accommodation alternatives explored; and
- Any accommodations provided.

This information will be maintained in a secure location, separate from the accommodation seeker's employee file, and will be shared only with those persons who need the information.

Privacy and Confidentiality

The County will maintain the confidentiality of information related to an accommodation request, and will only disclose this information with the consent of the employee or applicant.

Accommodation Planning

The accommodation process is a shared responsibility. Accommodation requests will be dealt with promptly. Where necessary, interim accommodation will be provided while long-term solutions are developed.

The Manager, the person requesting accommodation related to a *Code* ground and, where appropriate, the Corporate Manager, Human Resources or Benefits/Disability Specialist and any other necessary experts will work together cooperatively to develop an "Accommodation Plan" for the individual.

The Accommodation Plan, when agreed on, will be put in writing, and signed by the individual requesting accommodation, the Manager, and the Corporate Manager, Human Resources or Benefits/Disability Specialist.

An accommodation plan may include the following:

- A statement of the accommodation seeker's relevant limitations and needs, including any necessary assessments and information from experts or specialists, bearing in mind the need to maintain the confidentiality of medical reports;
- Arrangements for necessary assessments by experts or professionals;
- Identification of the most appropriate accommodation short of undue hardship;
- A statement of annual goals, and specific steps to be taken to meet them;
- Clear timelines for the provision of identified accommodations;
- Criteria for determining the success of the accommodation plan, together with a mechanism for review and re-assessment of the accommodation plan as necessary; and
- An accountability mechanism.

Appropriate Accommodations

The aim of accommodation is to remove barriers and ensure equality. Accommodations will be developed on an individual basis. Appropriate accommodations may include:

- Workstation adjustments
- Job redesign
- Modifications to organizational policies and practices
- Technical aids
- Human support
- Provisions of materials in alternative formats
- Building modifications
- Counselling and referral services
- Temporary or permanent alternative work
- Modifications of performance standards
- Leaves of absence
- Changes to scheduling or hours of work
- Changes to work uniforms

Note: This list is not exhaustive.

Monitoring Accommodations

The Manager and the person receiving accommodation shall monitor the success of the Accommodation Plan, and shall promptly address any deficiencies or any relevant changes in the workplace or the employee's needs.

Undue Hardship

Accommodation will be provided to the point of undue hardship, as defined by the Ontario Human Rights Commission's [Policy and Guidelines on Disability and the Duty to Accommodate](#). A determination regarding undue hardship will be based on an assessment of costs, outside sources of funding, and health and safety. It will be based on objective evidence.

A determination that an accommodation will create undue hardship may only be made by the Chief Administrative Office of the County of Lambton.

Where a determination is made that an accommodation would create undue hardship, the person requesting accommodation will be given written notice, including the reasons for the decision and the objective evidence relied upon.

Where a determination has been made that an accommodation would cause undue hardship, The County will proceed to implement the next best accommodation short of undue hardship, or will consider phasing in the requested accommodation.

Source:

- Ontario Human Rights Commission, "[The Ontario Human Rights Code](#)".
- Ontario Human Rights Commission, "[Policy and Guidelines on Disability and the Duty to Accommodate](#)".
- Ontario Human Rights Commission, "[Guidelines on Developing Human Rights Policies and Procedures](#)".
- Ontario Human Rights Commission, "[VII. Accommodation Policy and Procedure](#)".

POLICY HISTORY

REVISION	DATE	PREPARED BY
Policy reviewed and the following revisions made: <ul style="list-style-type: none">• Policy formatted for AODA compliance.• Updated terminology to reflect OHRC definitions.• Incorporated new purpose, policy and procedure language.	November, 2013	Human Resources
Policy reviewed and the following revisions made: <ul style="list-style-type: none">• Policy template updated and formatted for accessibility compliance.	January, 2017	Human Resources