Canadian Human Rights Commission

Commission canadienne des droits de la personne

Policy and Procedures on the Accommodation of Mental Illness

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This internal policy of the Canadian Human Rights Commission is being made available to other organizations as a model they can adapt for their own use. Links to the Commission's intranet site will not function.

Aussi offert en français sous le titre *Politique sur les mesures d'adaptation en matière de maladie mentale et procédures connexes.*

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Policy and Procedures on the Accommodation of Mental Illness
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Canadian Human Rights Commission's Policy and Procedures on the Accommodation of Mental Illness[1]

Introduction

At some point in our lives, mental illness will impact most of us either personally or through a family member, friend or colleague. Health Canada has estimated that 20 percent of the population will experience a mental illness, which can affect people in all occupations, socio-economic status, cultures, race and at all education levels. Facing discrimination because of race, gender, age, disability, sexual orientation or any other ground protected under the Canadian Human Rights Act can have an impact on mental health.

The workplace environment can contribute positively to mental well-being. However, at times, the workplace can contribute to mental illness either as a direct source of stress, depression and anxiety or by exacerbating issues that exist in other parts of one's life. If not well managed, workplace-related mental health issues can lead to increased rates or levels of illness and can result in absenteeism, tension and conflicts between colleagues, deteriorating employee performance, reduced morale and a need for disciplinary action.

As well, negative attitudes toward mental illness remain widespread throughout society, leading to stereotypes, fear and discrimination. An individual might not seek treatment or might delay seeking treatment because of the stigma associated with mental illness.

Not all mental illness gives rise to functional limitations. Where such limitations do exist, they may be minor. The majority of persons who have mental illness improve over time and lead stable and productive lives. In fact, while mental illness is often transient and short term, stigma and discrimination tend to remain and can affect the person long after the symptoms of mental illness have dissipated.

The Canadian Human Rights Commission's mandate, as established by the *Canadian Human Rights Act* and the *Employment Equity Act*, includes preventing discrimination in employment. The Commission is committed to achieving the highest standards of human rights practice, programs, policies and procedures within its own workplace. In

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[1]Knowledge about mental illness is constantly evolving, as is the terminology used to denote this wide range of medical conditions. Some organizations use expressions such as mental health disabilities, mental health issues or mental health problems. We have chosen to use the term 'mental illness' in this policy so as to ensure consistency with the materials referenced in the policy from the Canadian Mental Health Association and the Public Health Agency of Canada. The term mental illness is defined in Section 4.

support of this commitment, the Commission has created this policy.

This policy outlines the accommodation process and provides guidance to help managers and supervisors take proactive steps to ensure employees with a mental illness are offered appropriate accommodation when necessary. It is our hope that through our accommodation process, education initiatives on mental health and mental illness, programs such as the Workplace Well-being Initiative and the provision of counselling and support for those experiencing mental illness, as well as other measures outlined in this policy, the Commission can create a work environment that supports health and well-being of all employees and that contributes to preventing mental illness.

1. Statement of Policy

1.1 The Canadian Human Rights Commission will foster a supportive workplace environment where:

- all employees have and model a positive attitude towards mental illness;
- factors that might worsen mental illness are diminished;
- the symptoms of mental illness can be identified and assistance and accommodation offered;
- employees feel safe in self identifying as a person with a mental illness so that they can be offered support in accessing proper treatment;
- discrimination based on mental illness is prevented; and
- mental illness is understood and accepted without stigma as a result of ongoing training and information about mental illness.

1.2 Employees who experience mental illness are entitled to have their needs accommodated so that they can do their work to the best of their abilities. All requests for accommodation will be individually assessed, using a case-by-case approach.

2. Application

This policy applies to all Commission employees and to applicants for employment with the Commission (see section 4, Definitions).

3. Objectives

This policy is designed to:

- help managers and supervisors take proactive steps to ensure that employees with mental illness are supported appropriately;
- ensure that employees who require accommodation receive effective, timely, and confidential assistance;
- help counteract the stereotypes, myths, negative attitudes and stigma that can be

associated with mental illness through the promotion of positive attitudes and modelling by supervisors and senior management, clear practices and ongoing education; and
- support existing policies that help prevent unjustifiable discrimination.

4. Definitions

Accommodation
The duty to accommodate refers to the obligation of the Commission to take steps to eliminate disadvantage to employees and prospective employees resulting from a policy, rule, practice or physical barrier that has or may have an adverse impact on individuals or groups protected under the *Canadian Human Rights Act* or identified as a designated group under the *Employment Equity Act* (women, Aboriginal peoples, persons with disabilities and visible minorities).

Applicant
An applicant is an applicant for employment at the Canadian Human Rights Commission.

Employees
For the purposes of this policy, the term “employees” includes full-time, part-time, casual, seasonal, term and indeterminate employees.

Employee Assistance Program (EAP)
The Employee Assistance Program offers professional assistance, at no cost, to help resolve problems in an employee’s life that may affect work performance. EAP is a means through which an employee can access mental health and addiction services. Managers and supervisors can also consult with EAP about accommodation measures. Any employee with a concern can ask for assistance and this help will be provided on a strictly confidential basis. Health Canada provides EAP services to Commission employees.

Mental illness
Mental illness is characterized by alterations in thinking, mood or behaviour—or some combination thereof—associated with significant distress and impaired functioning. The symptoms of mental illness range from mild to severe, depending on the type of mental illness, the individual, the family and the socio-economic environment. Mental illness may take many forms, including mood disorders such as depression and bipolar disorder; schizophrenia; anxiety disorders such as obsessive-compulsive disorder and post-traumatic stress disorder; eating disorders; and addictions. (*The Human Face of Mental Health and Mental Illness in Canada,* Public Health Agency of Canada, 2006)

For the purposes of this policy, mental illness does not include developmental disabilities.

Undue hardship
Under the *Canadian Human Rights Act,* health, safety and cost are relevant factors in assessing whether accommodation would result in undue hardship. The point of undue hardship is reached when all reasonable means of accommodation are exhausted and only unreasonable or impracticable options remain. A relatively minor risk that an employee is prepared to assume will not constitute undue hardship. Serious risk to the health and safety of others will constitute undue hardship. When a request for accommodation involves a cost, that cost would have to substantially affect the viability of the organization for the accommodation to be considered undue hardship.

5. Legal Framework

Mental illness is a disability which is explicitly recognized under the *Canadian Human Rights Act*. Section 25 of the Act defines disability as including "any previous or existing mental or physical disability...". The Act prohibits discrimination in employment on the basis of a disability or on the basis of perceived disability and requires accommodation to the point of undue hardship.

The *Employment Equity Act* requires an employer to include provisions in its employment equity plan for reasonable accommodation of employees' needs, which may be associated with being a member of one of the designated groups.

6. Guidelines on Accommodation and Undue Hardship

Just as individuals with physical disabilities may require physical aids or structural changes in the workplace, individuals with a mental illness often require that social or organizational accommodations be made. As with all requests for accommodation, each case must be considered individually, using a case-by-case approach.

Most individuals with a mental illness are fully capable of engaging in the accommodation process and may not need accommodation or require it only on a temporary basis. However, some employees, who have not come to terms with their illness or are prevented from doing so because of the very nature of their disability, may not take adequate steps to obtain treatment or seek accommodation. Some forms of mental illness can impair people's ability to assess their own situation, to appreciate the need to participate in accommodation efforts, to articulate their concerns, and to deal effectively with representatives from management or their union. However, employers should not use this fact to justify ceasing accommodation efforts before exploring all reasonable accommodation options.

There are, however, limits on the duty to accommodate. While denial of the existence of a mental illness may be a symptom of the condition, the accommodation process requires the active participation of the employee or applicant. The Commission's duty to accommodate may be set aside where an employee or applicant repeatedly refuses to acknowledge or deal with their mental illness, or where providing accommodation

would result in undue hardship.

In establishing undue hardship, an employer may not rely on anecdotal or impressionistic evidence of risk. Instead, it must show that it obtained information about the abilities of the employee and about the disability, and explored all possible accommodations. With respect to health and safety concerns, it is important to determine whose health and safety is at risk and the magnitude of the risk.

7. Responsibilities

7.1 *The Commission*

7.1.1 Overall responsibility for implementing this policy and these procedures rests with the Chief Commissioner, or their designate. The manager/supervisor and the employee share responsibility for identifying and addressing accommodation needs.

7.1.2 The Commission will support all of its employees through the following positive management and peer-to-peer practices regarding mental health:

- encouraging and engaging in daily practices that promote mental health and well-being;
- identifying workplace pressures that may cause high and lasting levels of stress that negatively affect mental health, and developing practical strategies to address them;
- being flexible, when possible, in individual working patterns to support an acceptable balance between work and home life;
- encouraging all employees to take positive steps to safeguard their own mental health;
- ensuring that employees are aware of the confidential Employee Assistance Program (EAP), available to all employees at no cost, and other mental health services, which are covered through their benefit plans;
- providing and promoting education and communications for all employees to help them recognize signs of mental illness, and to respond respectfully and responsibly;
- engaging in positive practices and behaviours that prevent discrimination and stigma; and
- ensuring a positive reintegration into the workplace if an employee has been on leave due to a mental health disability.

7.1.3 The Commission is committed to providing a workplace where all persons are treated with respect and dignity.

7.1.4 The Commission has responsibility to:

- advise employees and applicants about their right to accommodation and to respond to requests for accommodation in a comprehensive and timely manner;

- help an employee identify suitable accommodation and to ensure that an employee receives the necessary support to allow them to receive appropriate medical services;
- ensure that managers and supervisors have the tools, resources, support and advice necessary to accommodate their employees;
- ensure that managers and supervisors model positive attitudes concerning mental illness;
- ensure the confidentiality of the information provided.

7.1.5 The Commission will not tolerate any form of harassment in the workplace.

7.2 *Managers/Supervisors*

7.2.1 Where there is reasonable cause to believe an employee would benefit from professional mental health care, managers and supervisors have a responsibility to determine whether accommodation is necessary (see Appendix A, Frequently Asked Questions on Mental Illness in the Workplace). It is not a manager's or supervisor's responsibility to diagnose a mental illness; however, in some circumstances it may be necessary for a manager/supervisor to speak with the employee privately to assess whether mental illness may be a factor in a workplace performance issue and, if so, to encourage the employee to seek help and/or initiate a request for accommodation.

7.2.2 Managers/supervisors must follow the correct procedure when an applicant or employee seeks accommodation (see section 8, Procedure), and submit a record of the request for accommodation to the Director General of Corporate Management (or their delegate) in the appropriate format (see Request for Accommodation Form).

7.3 *Employees/Applicants*

7.3.1 All employees have responsibility to:

- take all appropriate measures to safeguard their own mental health;
- encourage and engage in daily practices that positively promote mental health and well-being;
- identify workplace pressures that may cause high and lasting levels of stress (which negatively affect mental health), develop practicable strategies to address them, and bring them to the attention of their supervisors;
- be aware of the confidential EAP, available to all employees at no cost, and other mental health services, which are covered through their benefit plans;
- attend education programs and review communications designed to help them recognize and respond to signs of mental illness;
- respond respectfully and responsibly when observing behaviours that may indicate the presence of mental illness, and bring such behaviours to the attention of their supervisor;

- engage in positive practices and behaviours that prevent discrimination and stigma; and
- cooperate in the implementation of accommodation measures, where required.

7.3.2 An employee or applicant is responsible for requesting accommodation. This responsibility includes identifying, where possible, the types of accommodation a person considers appropriate. It is important to furnish enough information so that the employer can understand the accommodation needed. If requested, an employee or applicant should provide supporting documentation from a health care provider to help the manager/supervisor develop appropriate accommodation.

7.3.3 Once accommodation has been provided, an employee has a responsibility to meet all essential job requirements and standards of their position or their modified position, and to continue to work with their manager/supervisor to ensure that the accommodation remains effective.

7.4 *Unions*

Unions have responsibility, if required, to:

- model positive attitudes toward accommodations;
- actively participate in the accommodation process; and
- support accommodation requests even where they are not consistent with the collective agreement, unless it would create undue hardship.

8. Procedure

8.1 *Applicant seeking accommodation*

8.1.1 An applicant who requires accommodation in relation to a selection process should, as soon as possible, inform the manager or the human resources advisor and identify what type of accommodation is required, if possible. It is standard practice to advise all applicants for employment of their right to accommodation, and if accommodation is requested and provided, to confirm whether the accommodation is satisfactory. The Commission may require documentation from the applicant to verify the need for accommodation. On receiving the request, the manager/supervisor or the human resources advisor will work with the applicant to develop the accommodation option that will best allow the applicant to participate in the selection process.

8.1.2 Where the request involves issues outside the Commission's expertise, the Commission may seek specialist advice, with the applicant's consent. If the manager is unable to provide or approve the accommodation, a person must refer the request to the Branch Director (or Branch Director General, if applicable). If an accommodation request requires a commitment of resources that the Branch Director General believes is beyond their budget, a request may be made to the Director General of Corporate

Management. See also the Commission's Accommodation Policy at http://intranet/committees/policy_accommodation-en.asp

8.2 *Employee seeking accommodation*

8.2.1 An employee may request accommodation by speaking or writing to their immediate supervisor, and identifying what type of accommodation is required, if possible.

8.2.2 The Commission may ask the employee for further information—such as documentation, a medical opinion or expert advice—when reasonably required to verify the need for accommodation and to develop an accommodation plan. In requesting documentation, expert advice or a medical opinion, the manager/supervisor should:

- explain to the employee that the information is private;
- refrain from asking for information about the history of the illness or its treatment;
- request only information that is relevant to the work situation so that appropriate plans for accommodation can be made;
- emphasize that the purpose of the request is to support the employee and that lack of information could hamper the accommodation process;
- ensure the employee understands that there will be instances where accommodation requests cannot be acted upon without supporting documentation;
- if an employee is reluctant to provide the needed information, consider asking a third party—such as a member of the human resources department—to gather this information and communicate recommendations regarding accommodation needs to the supervisor;
- refer the employee to the EAP, which can provide information and referral to appropriate support services; and
- work with the employee and their representative, if requested, to identify accommodation options and an accommodation plan appropriate to that employee (when the request involves issues outside the Commission's expertise, the Commission may seek specialist advice, with the employee's consent).

8.2.3 If the manager/supervisor believes the Commission cannot provide or approve the accommodation, the manager/supervisor must refer the request to the Director General for review and final decision.

8.3 *Denial of accommodation request and redress process*

8.3.1 Accommodation is often inexpensive and relatively easy to provide. However, if an accommodation request would lead to undue hardship for the Commission and is subsequently denied, the reasons for the decision must be clearly communicated to the applicant or employee, together with information relating to a right to request redress.
8.3.2 Redress processes available to the applicant or employee include, where

available:

- a request for reconsideration to be submitted to the Secretary General;
- a grievance under the collective agreement;
- a complaint to the Public Service Commission; and
- a complaint to the Canadian Human Rights Commission.

8.4 *Review of accommodation offer*

8.4.1 When accommodation is offered and the applicant or employee believes the offered accommodation does not meet their needs, the applicant, the employee or an employee representative may ask the Secretary General to review the offer.

8.4.2 Requests for a review of an accommodation offer may be verbal or written, and all requests must be kept strictly confidential.

8.5 *Changes to the need for accommodation*

Employees must notify their supervisor when services, technical aids or equipment are no longer required or need to be modified.

8.6 *Records*

Records of any requests for accommodation should be submitted to the Director General of Corporate Management, or their delegate, in the appropriate format. (see Request for Accommodation Form).

8.7 *Best Practices*

It is a best practice for managers and supervisors to share information with Human Resources about their accommodation practices, with any identifying information removed, so that others within the Commission may benefit from their knowledge and experience.

9. Communicating the Policy

The Commission will:

- provide all employees with a copy of this policy;
- ensure that all applicants receive information, in an appropriate format, about this policy and these procedures; and
- ensure that a copy of the policy and procedures are permanently posted and updated on its intranet site, and displayed in a common area within each branch.

10. Reviewing and Updating the Policy and Procedures

The Human Resources Division will regularly review this policy and the accompanying procedures and will make revisions as necessary. All employees will be invited to contribute to the review process. The Commission will accept comments on the policy

and procedures at any time and, unless a comment raises an urgent concern, they will be considered during the regular review. Comments outside the review process should be directed to the Director General of the Corporate Management Branch or their delegate.

11. Reporting and Monitoring Requests

The Director General of Corporate Management, or their delegate, will monitor all requests for accommodation to ensure the policy and procedures have been correctly implemented. The Commission will keep records of all requests for accommodation and will report to the appropriate authorities, as required.

12. Interpretation

This policy is intended to supplement the Commission's existing Accommodation Policy and Procedures, further ensuring that our workplace is conducive to mental health and that best practices are followed in developing accommodation plans for employees with mental health issues.

This policy is also intended to complement the Commission's workplace wellness initiatives.

The responsibility for interpretation of this policy rests with the Director General of Corporate Management, or their delegate, in consultation with the Knowledge Centre and other branches, where appropriate.

13. Privacy and Confidentiality

All requests for accommodation and documents relating to a specific request for accommodation will be kept confidential pursuant to the *Privacy Act*.

14. Enquiries

Enquiries about the Policy and Procedures on the Accommodation of Mental Illness should be addressed to the Director General of Corporate Management, or their delegate. They can be sent via e-mail to DUTY TO ACCOMMODATE / OBLIGATION MESURES D'ADAPTATION.

Dated: August 20, 2008

Jennifer Lynch, Q.C.
Chief Commissioner

Appendix A
Frequently Asked Questions on Mental Illness in the Workplace

*Questions and answers marked with an asterisk are reproduced, with permission, from the Canadian Mental Health Association, Ontario website: www.mentalhealthworks.ca

PRIMARILY FOR EMPLOYEES

Do I have to tell my employer that I'm ill?*

If you are able to come to work, in most cases you do not have to tell your employer that you are ill. However, if you have a mental health problem that could affect your ability to do your job, you will need to consider whether disclosure might be necessary and beneficial.

In some cases you may be required to disclose the fact that you have an illness; if, for example:

- there is an absenteeism policy that requires you to provide a medical certificate if you miss more than a specified number of days of work; or
- you are requesting accommodation—you do not necessarily have to disclose the nature of your illness, but you will have to provide enough information to the employer about your disability so that appropriate accommodation can be provided.

Are there other benefits to disclosing information about my illness to my employer?*

- It is very stressful to be in a situation where you feel that you must hide an illness.
- Your manager or supervisor may be able to provide you with support if they are aware of your problem. Otherwise, they may misinterpret a change in your behaviour as a performance issue.
- It enables your manager to help you more quickly and effectively if you become ill while at work, whether from your illness or from the side effects of medication.

How can I access the EAP?

You can access this service by contacting the 24-hour line at **1-800-268-7708.** Assistance for employees who are hearing impaired is available Monday to Friday from 7 am to 7 pm at 1-800-567-5803.

The Commission's EAP coordinator in Human Resources can be reached at 613-943-9038.

PRIMARILY FOR MANAGERS AND SUPERVISORS

How can I tell if someone is mentally ill?*

As an employer, manager or supervisor, it is not your job or your responsibility to diagnose a mental health problem. However, being aware of the signs that suggest someone might be experiencing a mental illness is important. Mental illness includes a broad range of symptoms and behaviours, and it is not easy to determine whether someone is mentally ill. One key indicator is that someone may begin to act uncharacteristically; an energetic person may seem lethargic for a considerable time, or a person who is usually mild may make grandiose claims about their abilities.

Behaviour changes such as these may reflect personal difficulties that will be resolved quickly. They may be signs that the person is no longer happy in their job. The individual might be going through a particularly stressful time in their life for any number of reasons. These behaviour changes might, however, indicate that the person is experiencing a mental health problem that goes beyond being "stressed out" and that requires professional help.

There are a number of warning signs that can indicate that a person has a mental health problem, such as:

- consistent late arrivals or frequent absences;
- lack of cooperation or a general inability to work with colleagues;
- decreased productivity;
- increased accidents or safety problems;
- frequent complaints of fatigue or unexplained pains;
- difficulty concentrating, making decisions or remembering things;
- making excuses for missed deadlines or poor work;
- decreased interest or involvement in one's work;
- working excessive overtime over a prolonged period of time;
- expressions of strange or grandiose ideas; or
- displays of anger or blaming of others.

It is important to emphasize that people behaving in these ways may be simply having a bad day or week, or may be working through a particularly difficult time in their lives that is temporary. A pattern that continues for a longer period, however, may indicate an underlying mental health problem.

If an employee's behaviour is a workplace problem, talking to them privately in the context of their workplace performance may help you determine whether mental health is a factor. You may be able to encourage the individual to get help and/or request appropriate accommodation while they deal with their mental health issue.

How can I approach an employee about their mental illness?*

You may see behaviour or performance signs that suggest an employee has a mental health problem. As an employer (or a manager or supervisor) you have a responsibility to both the individual and the organization to take action if you suspect that this is the case. You may be able to provide the employee with an opportunity to get the support, professional help and workplace accommodation they need so that they can continue working productively. In most cases the best approach is to meet with the person privately to talk about your concerns about their work-related performance.

Preparing for the meeting

Broaching the question of an employee's health as it relates to work performance can be a delicate task, especially when mental health problems might be involved. It's important to prepare for your meeting:

- Find out what resources your organization can offer an employee who is in distress. Have this information at hand when you meet with the person.
- Become familiar with your organization's accommodation policies and processes.
- Spend some time looking into the basics of mental health and illness before you talk with the employee. Misunderstanding and fear are the greatest barriers people face in dealing with a mental health problem; be aware of the possibility that your own misconceptions and fears might interfere with your ability to respond appropriately. Your employee might also benefit from good information. They may not understand what is happening or may think that mental illness is something they should be able to fix on their own.
- Think about how you can use your skills as a manager to help make the person feel safe and comfortable in the meeting. If the employee is dealing with a mental health problem you will want to minimize their stress—not contribute to it. In addressing the performance issues, you can be honest, up front, professional and caring in your approach.
- Think about the person's strong points and contributions that they have made. It will be important to talk about the ways in which the employee is valued before raising areas of concern.
- Consider open questions that will encourage an employee to request support or accommodation. At the same time, remember that your job is not to probe into an employee's personal life, to diagnose a problem or to act as their counsellor. Be prepared for the possibility that, while you may be opening a door to offer help, the employee may choose not to walk through the doorway.

Talking with the employee

Consider how well you know the employee. Some people will feel more comfortable if you treat the meeting as a performance review, focussing first on their strong points as a worker before addressing areas of concern. This format may make some people defensive, though, so you might begin by stating that you are concerned about the employee, then state reasons for your concern. In either case, assure the employee that you intend to work with them to help them get back on track or get the supports

they may need. If you can create an atmosphere in which the person feels safe and comfortable, and let them know that what you discuss with respect to health matters is confidential, they may feel more open to talking to you.

If the situation is serious enough that the loss of a job is imminent, it is important to be clear and document the meeting as a performance issue so there is no confusion.

It is important that you:

- approach your concern as a workplace performance issue;
- raise the possibility of providing accommodations if needed;
- provide access to an employee assistance program (EAP) or referral to community services;
- assure the employee that meetings with an EAP provider are confidential;
- set a time to meet again to review the employee's performance; and
- document this meeting fully.

But there are some things you should not say or do:

- Don't offer a pep talk.
- Don't be accusatory.
- Don't say "I've been there" unless you have been there. You may not understand or relate to a mental illness, but that shouldn't stop you from offering help.
- Don't try to give a name to the underlying issue. Even if you suspect a particular illness or problem, focus on how the employee's behaviour is concerning you and how you want to help them improve.
- If you learn that a specific illness is causing the behaviour, don't ask what "caused" the illness. Focus on solutions.

Your employee may not know, or may refuse to acknowledge, that they have a mental health problem. In that case, there may be little you can do to help them. At this point, focussing on work performance is the best approach.

Follow up

Your organization's involvement doesn't end with this meeting. You'll want to follow up with the employee or designate someone who can follow up on your behalf. Keep your notes on the meeting in a secure location. A locked filing cabinet and password-protected computers are key to maintaining an employee's confidentiality.

To provide appropriate accommodation, you will need to know:

- if there are any functional limitations that could affect the person's ability to carry out the essential duties of their job; and
- what accommodations would enable them to continue to do their job effectively.

The employee may not disclose a problem to you but may seek help from the EAP provider or from a community service provider (such as a doctor, psychologist or

counsellor). After receiving professional help, the employee might decide to put in a request for workplace accommodation.

Be sure you and the employee understand the employer's obligations to provide accommodation. If there is a collective agreement in place, be familiar with the terms of the collective agreement. If it would interfere with accommodation, make sure it is clear what steps can be taken to accommodate the employee.

How can I support an employee's return to work after disability leave for a mental health problem?*

The fundamentals

Three fundamentals must be in place for an employee's return to work to be successful:

- The work itself, and the employee's presence in the workplace, should not pose a risk to the employee or co-workers.
- The employee must be able to perform the tasks of his or her job at a level where meaningful work is possible with appropriate accommodations.
- The workplace must be welcoming and free from harassment and other pressures that might delay recovery.

Evaluating these fundamentals requires a look at the demands of the job and at the employee's progress, including:

- the employee's symptoms, and the severity of those symptoms;
- the effectiveness of treatment;
- the employee's resilience;
- the employee's ability to prevent a relapse (by identifying and avoiding issues that lead to relapses); and
- the level of mental acuity and stamina the job requires.

Ask your employee what they need

More than anyone else, the employee will know what they are capable of and what they need to succeed in the workplace. If you want to know how you can make their return to work successful, start by asking them—you'll get valuable information that can smooth the reintegration process for everyone, and they'll be motivated by the reassurance that they work in a supportive environment.

You should weigh their self-assessment, though, against those made by the treating physician. Generally, work is an important support for people with mental health problems, and most are keen to return to work. Occasionally an employee who is ready to return to work may try to put off their reintegration. On the other hand, someone who's not yet ready to make a meaningful contribution to the workplace may be overeager to get back to work or attempt to return to a fuller schedule than is advised by the treating practitioner.

When you talk to an employee about their return to work, you don't need to know about

their diagnosis or details of their treatment (although they may volunteer that information). What you do need to know is what reasonable accommodations the employee will need to get back on the job, the pace at which they'll be able to reintegrate into the workplace and if their work will be affected. Keep the conversation focussed on job performance.

You must work with the employee to identify appropriate work. If it is a new or modified job, you must ensure that the employee has agreed to the change. Modifying a job is a form of accommodation. You are not necessarily required to offer a different job to the employee or to create a new job for them.

Matching tasks with your returning employee's abilities is key to successful reintegration. You can ask the treating physician or psychologist for advice on the patient's abilities. Be prepared to give them a job description to help them assess suitable work during the reintegration process.

Set benchmarks
Set realistic goals and standards based on the needs of the organization and the employee's current abilities. The process of setting clear, defined goals is a useful way to reintegrate employees into the workplace.

You might be able to begin their reintegration by sending them work at home or having them return part time to work. The model should be based on agreements reached with the employee, the employee's health care provider, the manager and, if appropriate, the long-term disability insurer.

Lead by example
Stigma, like gossip or infighting, is poisonous to a productive work environment. You can support an employee's return to work, and encourage higher morale and better output from your team, by demonstrating that you still trust, respect and value a co-worker who has been on disability leave for a mental illness.

If you know the cause of your employee's disability, you might want to learn more about it. Dispelling myths about mental illness is the most important step in eliminating the stigma that leads to discrimination. When co-workers see you treating a returning worker with trust and respect, they'll likely follow your lead.

Don't be surprised if fellow employees approach you with questions about the returning worker, or complaints about the accommodations they may see as special treatment. For advice on talking to other employees, see **"One of my employees has a mental health problem. How can I explain the situation to other employees?"**

Employees are often afraid to return to work because they fear harassment. They may have been present when jokes or negative comments were made by colleagues about people with a mental illness. You have an obligation to ensure that the employee is

returning to a safe environment that is free from harassment. Ideally, the organization has a policy on harassment and employees are aware of their obligations. If the message is communicated as part of regular training rather then when a particular situation occurs, the returning employee is less likely to feel as though they are to blame for any discipline that may take place.
(The Treasury Board policy on harassment can be found at http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/hw-hmt/hara_e.asp)

What kinds of accommodations are people with a mental health problem likely to need?*

There is no comprehensive list of accommodations for people who are dealing with mental health issues. Accommodations tend to be based on the individual needs of employees as well as on the resources available to the employer. In some instances, a small employer will be unable to provide the same type of accommodation as a larger employer. In most cases, accommodations are inexpensive and involve workplace flexibility rather than capital expenditures.

It is important to note that the following are suggested examples only. Given the scope and diversity of psychiatric disorders, limitations may affect cognitive, emotional and social functioning. These limitations may be temporary or intermittent, and, in some cases, may require long-term accommodation. Consequently, each employee's situation must be reviewed on a case-by-case basis.

The most commonly used accommodations for people with mental health problems include the following.

Flexible scheduling

- Flexibility in the start or end of working hours to accommodate effects of medication or for medical appointments.
- Part-time work (which may be used to return a worker to full-time employment).
- More frequent breaks.

Changes in supervision

- Modifying the way instructions and feedback are given. For example, written instructions may help an employee focus on tasks.
- Having weekly meetings between the supervisor and employee may help to deal with problems before they become serious.

Modifying job duties

- Exchanging minor tasks with other employees.

Changes in training

- Allowing the person to attend training courses that are individualized.
- Allowing extra time to learn tasks.

Using technology

- Providing the employee with a tape recorder to tape instructions from a supervisor, training programs and meetings, if they have difficulty with memory.
- Allowing an employee to use headphones to protect them from loud noises.

Modifying work space or changing location

- Allowing an employee to relocate to a quieter area where they will be free from distractions.
- Allowing an employee to work at home.

More than anyone else, an employee will know what accommodation they need to allow them to work productively. By talking directly with the employee, you will be able to come up with solutions that meet the needs of the individual as well as the organization.

One of my employees has a mental health problem. How can I explain the situation to other employees?*

The co-workers of an employee with a mental illness may come to you with their concerns—maybe they're nervous about working with someone they suspect or know has a mental illness. Or they may approach you during the return to work of an employee who has been on disability leave for a mental illness, complaining that accommodations for that employee are special treatment. This is often the case if the employee returning to work is given preferential hours, or is offered a private or preferential workspace.

Privacy comes first

First, remember your obligation to respect the privacy of your employees—a mental health problem is a medical problem, so you aren't free to discuss it with other employees, just as you wouldn't discuss confidential medical information. In any case, there are constructive ways to answer other employees' concerns.

If you hear other employees discussing the details of the individual's illness, you need to talk to the other employees and let them know it is inappropriate. If these conversations reveal discriminatory attitudes or could be seen to constitute harassment, appropriate disciplinary measures should be taken.

Ask your employee how they want to handle questions

Society still harbours stereotypes about people with mental illnesses, and those misconceptions and fears make their way into workplaces. Although the stigma around mental illness can take the form of well-meaning misunderstandings, it often results in discrimination and harassment. In a social environment like a workplace, it's especially important to defuse and discourage stigma. Remember, the employee with the problem will face the same questions you're facing, and they'll have to suffer the misunderstandings and resentments of other workers.

So ask the employee with the mental health problem how they're handling questions about their problem and accommodations. Some will be very open about recovering from an illness, or taking time each week to see a psychiatrist, or trying to manage stress. Some will want to keep that information confidential, and it's their right to do so. It's crucial that you encourage the employee to communicate with you about their needs and preferences. It will smooth the accommodation process for everyone.

Accommodations aren't "special treatment"
Accommodations are used only when someone has a functional limitation—the limitation of skills and abilities due to a disability—preventing them from performing essential duties of their job. Be open about the policy of accommodation at your workplace; accommodations—especially those for mental health problems—usually are easy and inexpensive to implement, may be temporary, and increase the productivity of your workers. Small adjustments can make a big difference in the mental health of your employees.

As a manager, what can I do about the unprofessional conduct of an employee, who I suspect has a mental illness, when he or she refuses to acknowledge there is a problem? Can the employee be disciplined for his or her conduct?

The Commission as an employer has an obligation to provide a civil and respectful workplace for all employees. Harassment such as yelling and screaming, verbal abuse, hostile displays of anger and loss of temper, or rude, demeaning, vulgar or belittling comments from *any* employee should not be tolerated. The Commission has a harassment policy.

Where there is an indication that inappropriate conduct or a deficiency in an employee's workplace performance may be health related, a supervisor should take proactive steps to discover the facts of the situation before deciding on a course of action. Managers and supervisors should thoroughly evaluate whether accommodation is necessary and whether the employee's condition poses a serious threat to the operation of the branch or unit. They should seek help from senior management within the branch, Human Resources and Corporate Services. Appropriate disciplinary measures may be imposed; however, if the misconduct was a consequence of a medical condition, that fact may be a mitigating factor in the imposition of discipline.

Note that while some forms of mental illness can impair a person's ability to clearly assess his or her situation, without a statutory or collective agreement provision, an employer cannot force an employee to submit to a medical examination.

In cases of serious misconduct, if an employer has reasonable cause to believe that an employee is unfit to work or poses a serious risk, it may refuse to permit the employee to work until the employee produces adequate medical evidence supporting the ability to return to work.

Appendix B

Helpful References

Treasury Board of Canada Secretariat Policy on the Duty to Accommodate Persons with Disabilities in the Federal Public Service
http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_852/ppaed_e.asp

Mental Health Works
http://www.mentalhealthworks.ca

This Canadian Mental Health Association, Ontario site provides a wealth of information and guidance regarding mental health issues and the workplace. For a fee, this site also offers an online training program for managers dealing with mental health issues in the workplace.

Public Health Agency of Canada
http://www.phac-aspc.gc.ca/mh-sm/index.html

This site provides convenient access to a range of online materials related to the promotion of mental health; the planning, delivery, cost and evaluation of mental health programs and services in Canada; and the mental health issues, problems and disorders Canadians encounter. The information is drawn from many areas within the Public Health Agency of Canada and other federal departments and agencies. Selected links to other sites, including the Canadian Health Network, are also available.

Canadian Mental Health Association
http://www.cmha.ca/bins/index.asp

This site provides numerous resources to educate the public about mental health and mental illness. It contains information on the mental health system and treatment options, and fact sheets on mental illness. Selected links to other sites are also included.

Diversity Works: Accommodations in the workplace for persons with mental illness
www.cmha.ca/data/1/rec_docs/164_diversity_works_final.pdf

This very useful article, from the Canadian Mental Health Association, helps readers understand the need for workplace accommodation and provides guidance regarding productive solutions.

Canadian Centre for Occupational Health and Safety
http://www.ccohs.ca/oshanswers/psychosocial/stress.html

This site contains articles on stress in the workplace, including signs and symptoms, and advice on how to recognize stress and deal with it in positive and productive ways. It also includes the latest news items on occupational health issues.

National Institute for Mental Health
http://www.nimh.nih.gov/

This website provides comprehensive information from this U.S. federal agency, which supports and conducts research in mental health. This site also has a wealth of articles and information, including guides and booklets on a variety of mental health disorders, which are available to download free of charge.

Emedicine
http://www.emedicine.com/

Searching "mental health" on this site provides up-to-date articles on mental health disorders and symptoms, as well as recommended materials for education.