

Item	6.6.3
Parent Policy	Health and Safety Policy
Framework Category	Legal, Compliance and Governance
Approving Authority	Senior Leadership Team
Policy Owner	Vice-President, Human Resources and Services
Approval Date	March 2005
Review Date	January 2019
Last updated	January 2016; Minor Amendments

WORK REFUSAL PROCEDURES

Purpose

The purpose of these Procedures is to describe the process to address work refusals should they occur. It identifies the various workplace parties involved in a work refusal and the process which must be followed to assure that the safety concern, which triggered the work refusal process, is adequately addressed.

Policy

UOIT recognizes that employees may have concerns for their health and safety and respects the rights of each employee, under Section 43 of the Occupational Health and Safety Act (OHSA), to refuse unsafe work.

It is hoped that the need for a work refusal will never arise as the University is committed to providing a safe and healthy work environment. However, in fulfilling its obligations to employees, the University has developed these Procedures to ensure that work refusal concerns are addressed in a manner which is consistent and compliant with the OHSA.

Scope and Authority

A worker has the right to refuse to work if the worker has reason to believe that the work or the workplace is in contravention of the OHSA or regulations and/or is likely to endanger himself, herself or another worker or if the condition of the workplace is in contravention of the OHSA or regulations.

This procedure applies to all persons employed by UOIT. It identifies workplace parties that have the authority to initiate and participate in the process required to address health and safety concerns and to address work refusals should they occur.

Responsibilities

It is extremely important that supervisors understand their obligations and strictly follow the procedures for dealing with health and safety concerns and work refusals given here. It is hoped that in all cases health and safety concerns can be resolved between the employee and his or her supervisor without escalation beyond the certified members of the health and safety committee. The supervisor must take every precaution reasonable for the protection of the employee.

Procedure

Procedure for a work refusal

The following procedure for dealing with a work refusal is set out in the Occupational Health and Safety Act. It must be followed rigorously by the employee and the supervisor.

1. Upon refusing to work, the worker will promptly report the circumstances of the refusal to their supervisor. Worker will remain in a safe place near work.
2. The supervisor will immediately contact the [Occupational Health and Safety Office](#) (extension 2140 or 6521) to advise of the work refusal. The Occupational Health and Safety Office notifies a Joint Health and Safety Committee (JHSC) worker member to attend the investigation.
3. The supervisor will then investigate the reported concern in the presence of the worker and the JHSC worker member. The intent of the OHS Act is that this investigation be carried out immediately and that the work is not done until the investigation is completed.
4. If, after the investigation and implementation of any steps taken to deal with the concerns, the worker still has reasonable grounds to believe that the work is unsafe, the worker may continue to refuse to work.
5. The supervisor and the JHSC worker member will, with the assistance of the Health and Safety Office, notify the Ministry of Labour (MOL) of the occurrence of the work refusal. The University's VP of Human Resources and Services will also be notified at this time.

Ministry of Labour Health & Safety Contact Centre
Toll-free: 1-877-202-0008
TTY: 1-855-653-9260

An inspector from the MOL will attend to investigate and resolve the work refusal. The inspector may not arrive that day and until the inspector arrives the following steps must be followed:

6. Pending the arrival of a MOL inspector, the worker must remain at a safe place near his or her normal work location, during the worker's normally scheduled work hours.
7. The supervisor may assign the worker alternative work during this period.
8. Pending the arrival and investigation of the inspector, no other worker may be assigned to do the work under dispute unless the other worker is advised, in the presence of a worker member of the JHSC, of the work refusal and the reasons for the refusal.
9. The inspector will give their decision in writing to the worker, the supervisor and the JHSC worker member. Please note that a decision may not be forthcoming immediately, and that the inspector may order workplace testing depending on the nature of the work refusal.

An order of an inspector may be appealed to the Ontario Labour Relations Board within 30 days after the order is issued.

Work Refusal Flow Chart

The following flow chart illustrates the procedure for dealing with a work refusal, as set out in the Occupational Health and Safety Act. It must be followed rigorously by the employee and the supervisor.

First Stage

Worker has reason to believe work is unsafe and notifies supervisor.
Worker remains in safe place near work



Supervisor contacts Occupational Health and Safety Office at Ext. 2140 or 6521.
Occupational Health and Safety Office notifies a JHSC worker member



Supervisor investigates in the presence of the worker and the JHSC worker member.



Issue Resolved

Worker goes back to work



Issue Not Resolved

May proceed to the Second Stage

Second Stage

With reasonable grounds to believe work is still unsafe, worker continues to refuse and remains in a safe place. Supervisor and JHSC worker member request the Occupational Health and Safety Office, or designate, to report the work refusal to the MOL.



MOL Inspector investigates in presence of worker, JHSC worker member and supervisor.*



Inspector gives decision to worker, JHSC worker member and supervisor in writing.



Changes are made if required and/or ordered.

Worker returns to work.

*Pending the outcome of the MOL investigation:

1. The worker refusing work may be assigned other work.
2. The refused work may be offered to another worker. However, the new worker must be informed that the offered work is the subject of a work refusal and the reason the work was refused. This must be done in the presence of a JHSC worker member.

Prohibition of reprisals

Section 50 of the Occupational Health and Safety Act specifically prohibits reprisals by an employer against any worker who has exercised his or her rights under the act. In particular:

"No employer or person acting on behalf of an employer will,

(a) Dismiss or threaten to dismiss a worker;

(b) Discipline or suspend or threaten to discipline or suspend a worker;

(c) Impose any penalty upon a worker; or

(d) Intimidate or coerce a worker, because the worker has acted in compliance with this Act or the regulations or an order made there under...."

Supervisors must take note of this section in all their dealings with employees when health and safety is an issue.

References

Occupational Health and Safety Act, R.S.O. 1990, Chapter O.1

Review Date

Procedure should be reviewed at minimum every 3 years.