



Policy

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PURPOSE:

The purpose of this policy is to clearly define workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence and set out clear responsibilities and guidelines for all employees of the Corporation in order to prevent workplace harassment, workplace sexual harassment, abusive conduct, discrimination and workplace violence from taking place. This policy is supported by Complaints & Response Procedures which outline the detailed process for handling complaints and response pursuant to this policy.

POLICY PRINCIPLES:

The Corporation of the City of Richmond Hill is committed to creating, providing and maintaining a working environment that is based on mutual respect for the dignity and rights of everyone in the organization. Employees of the Corporation and members of Council are entitled to work in an environment that is free of any form of workplace harassment, workplace sexual harassment, abusive conduct, discrimination, or workplace violence. In that regard, the City prohibits workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence of or by any of its employees in the workplace.

DEFINITIONS:

For the purposes of this Policy:

“Abusive Conduct” means unwarranted and unjustified aggressive and/or provoking comment(s), threats, purposeful and persistent ignoring, coercion, persistent criticism or condemnation, public humiliation and acts of physical and verbal aggression. Such comments or conduct may: (a) be methodical, planned, sudden, irrational or unpredictable; and/or (b) include the improper use of power and/or authority inherent in a position held by an individual.

“Bad Faith” means malicious intent.

“Complainant” means any individual who makes a complaint.

“Complaints & Response Procedures” means the document accompanying this policy that outlines the process for initiating and handling complaints and incidents pursuant to this policy.

“Corporation” means the Corporation of the City of Richmond Hill.

“Discrimination” means differential treatment, including distinction, exclusion or preference, of an individual or group of individuals, whether intentional or unintentional, which is based on the prohibited grounds (as defined below).

“Employee” means all employees of the Corporation, union and non-union, including but not limited to regular full-time, temporary, probationary, part-time, seasonal and contract employees and may also include any person that performs work or services in exchange for monetary compensation, including contractors and subcontractors.

“Frivolous” means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense.

“Management / Supervisory Staff” means any individual responsible for directing the work of others and implementing discipline.

“Member of Council” means a member of Council of the City of Richmond Hill.

“Poisoned Work Environment” means a work environment where one or a series of comments or instances of conduct have an adverse impact, including, but not limited to, reduced job satisfaction, impaired job performance, employees leaving their jobs, employees being unable to progress within the Corporation or physical/psychological suffering, on an individual or group of individuals, whether or not the comments or conduct are directed at the individual or group of individuals that are adversely impacted.

“Rules of Procedural Fairness” means those rules that apply to administrative decision-making which include the requirement to inform people of any allegations against them or decision-making process that will affect their interests, give them a right to respond and/or be heard, provide access to an objective decision-maker who does not have a personal interest in the outcome, and ensure decisions are supported by evidence.

“Prohibited Grounds” means race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability, or any other prohibited grounds set out in the *Ontario Human Rights Code*.

“Respondent” means any individual who is the subject of a complaint.

“Trivial” means of very little importance or value; insignificant.

“Vexatious” means without reasonable or probable cause or excuse.

“Workplace” means any building or part of a building in which one or more employees work, including employee eating, changing and lounge areas, any vehicle or conveyance, or any other location where employees perform their duties or are engaged in work related functions or circumstances, including work related travel and social functions.

“Workplace Harassment” means (i) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or (ii) workplace sexual harassment.

“Workplace Sexual Harassment” means (i) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or (ii) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or

deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

“Workplace Violence” means (i) the use of physical force by a person against an employee, in a workplace, that causes or could cause physical injury to the employee, (ii) an attempt to exercise physical force against an employee in a workplace that could cause physical injury to the employee, or (iii) a statement or behaviour that is reasonable for an employee to interpret as a threat to exercise physical force against the employee in a workplace, that could cause physical injury to the employee.

SCOPE:

This policy applies to all employees of the Corporation and members of Council within the workplace in their dealings with other employees, as well as in their dealings with contractors, volunteers, consultants and members of the public.

It is acknowledged that this policy cannot apply to members of the public in the same way as it does to employees and members of Council. However, employees can and should expect to be treated in a manner consistent with this policy at all times in the workplace. Accordingly, the Corporation will take all reasonable steps to prevent the workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence, of its employees by members of the public.

POLICY

1. Harassing, Abusive, Discriminatory And Violent Behaviour

Workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence contribute to a poisoned work environment. The following are some examples of behaviours that can be categorized as workplace harassment, workplace sexual harassment, abusive conduct, discrimination and workplace violence. These examples are provided for illustrative purposes only, and are not meant to be a complete listing of the types of behaviours that fall under the categories of workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence. If any employee is the target of, or observes, any of these or similar behaviours occurring in the workplace, the employee is encouraged to refer to the Complaints & Response Procedures, or grievance procedure if deemed appropriate, so that the behaviour may be dealt with appropriately.

Workplace Harassment

Workplace harassment is behaviour that may include:

- racial or ethnic slurs, offensive comments or jokes;
- imitating a person's accent, speech or mannerisms;
- persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children;
- inappropriate comments or jokes about an individual's age, sexual orientation, gender identity, gender expression, personal appearance or weight (whether they are under or overweight);
- other forms of workplace sexual harassment
- practical jokes which result in embarrassment or negatively affect work performance;
- abuse of authority which undermines performance and threatens careers;
- vandalism of personal property;
- displays of racist or other offensive or derogatory material; or
- patronizing or condescending behaviour or language that reinforces stereotypes and undermines self-respect; and
- leering or stalking.

Workplace Sexual Harassment

Workplace sexual harassment is behaviour that may include:

- making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker;
- inappropriate comments or jokes about an individual's sex, sexual orientation, gender identity, gender expression, or personal appearance;
- workplace harassment of a sexual nature or based on an employee's sex, gender, gender identity or gender expression, such as unwanted touching, suggestive or obscene remarks or gestures, inappropriate sexual discussions, comments, or messages (text, email, etc.), or display of sexually offensive material;
- leering or stalking.

Abusive Conduct

Abusive conduct is behaviour that may include:

- verbally abusive behaviour such as yelling, insulting and name calling;
- persistent, excessive and unjustified criticism and constant scrutiny;
- gossiping or spreading malicious rumours;
- intentionally/unintentionally excluding or ignoring someone;
- undermining an individual's efforts by setting impossible goals and deadlines;
- sabotaging an individual's work;
- impeding an individual's efforts at promotions or transfers;
- making false allegations about an individual in memos or other work related documents; and
- patronizing or condescending behaviour or language which undermines the self-respect of the person to whom it is directed.

Discrimination

Discriminatory behaviours are based on the prohibited grounds as identified in the Ontario *Human Rights Code* and can include:

- workplace harassment or abusive conduct based on a prohibited ground and workplace sexual harassment
- failing to hire, train, mentor or promote based on a prohibited ground;
- subjecting an employee to excessive performance monitoring or more serious consequences for common mistakes based on a prohibited ground; and
- treating normal differences of opinion or failure to get along with co-workers as more serious when an employee to whom one or more of the prohibited grounds applies is involved, or otherwise responding disproportionately to performance or behavioural issues involving an employee to whom one or more of the prohibited grounds applies.

Workplace Violence

Workplace violence is defined broadly in the Ontario *Occupational Health & Safety Act* may include:

- physically threatening behaviour, such as shaking a fist at someone, destroying property, or throwing objects;
- verbal or written threats to physically attack a worker;
- leaving threatening notes or sending threatening emails;
- wielding a weapon at work; and
- physically aggressive behaviours including hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing an object at someone, physically restraining someone or any

other form of physical or sexual assault.

Legitimate Exercise of Supervisory Responsibilities

The exercise of supervisory responsibilities, such as performance management, performance reviews, training, work assignment and discipline, does not constitute harassment or abusive conduct, provided that these supervisory responsibilities are exercised in a reasonable, professional, and controlled manner.

2. Complaints

Complaints & Response Procedures

The Corporation has developed Complaints & Response Procedures that should be referred to in initiating and responding to complaints pursuant to this policy. Any employee that is unsure as to how to follow these procedures should consult the Director of Human Resources or designate. The rules of procedural fairness govern all activities under this policy.

Trivial, Frivolous, Vexatious or Bad Faith Complaints

Complaints made pursuant to this policy should not be trivial, frivolous, vexatious or made in bad faith. Employees that make a complaint in bad faith may be subject to disciplinary action up to and including dismissal.

Confidentiality

To the extent possible, the Corporation will make every effort to ensure confidentiality for employees involved in complaints about workplace harassment, workplace sexual harassment, abusive conduct, discrimination, or workplace violence complaints or incidents. Confidentiality extends to all records relating to complaints, including, but not limited to, meetings, interviews and investigation results, as well as identifying information about any individuals involved, unless necessary for the purposes of investigating or taking corrective action. Breaches of confidentiality may be subject to disciplinary action. Complainants, respondents and witnesses will all be advised to maintain confidentiality concerning complaints or incidents. Complaint and investigation records will be kept in Human Resources. Any record of discipline which occurs as a result of a complaint will be included in the disciplined employee's file. While all efforts will be made to maintain confidentiality, all records are subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and may be subject to disclosure under that legislation or as required by law.

Reprisal

Retaliation against a complainant or a witness will be considered a serious violation of this policy and will not be tolerated. Such retaliatory actions may be subject to disciplinary action up to and including dismissal.

3. Response To Workplace Violence

The Corporation will take every reasonable precaution to protect employees from and respond to incidents of workplace violence. In the event of a threat or incident of workplace violence, the employee should contact their Supervisor who will assist in taking appropriate measures to protect the employee and investigate the situation. If necessary, the Supervisor, employee or witness should call 911 immediately.

The Corporation has developed Complaints & Response Procedures that should be referred to in initiating and responding to incidents and complaints pursuant to this policy. This document includes a detailed response for incidents of workplace violence and threats of violence that may occur in the workplace. Any employee that is unsure as to how to follow these procedures should consult the Director of Human Resources or designate. The rules of procedural fairness govern all activities under this policy.

4. Compliance With Policy And Disciplinary Measures

Employees found to have violated the Respect in the Workplace Policy, including an employee that is found to have lodged a complaint in bad faith or vexatiously or to have engaged in a reprisal, may be disciplined according to the severity or frequency of their actions, up to and including dismissal.

A summary of all complaints and their resolution or corrective action will be provided to the City Manager and other management staff as appropriate.

ROLES AND RESPONSIBILITIES:

Shared Responsibilities

All employees (including management/supervisory staff) have the responsibility to support a workplace free of workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence and to ensure that they do not support or contribute to a poisoned work environment. Additionally, all employees are responsible for cooperating fully in any attempts to investigate and/or resolve a complaint and for keeping the matter confidential.

Responsibilities for Members of Council

All members of Council have a responsibility to treat staff appropriately and to refrain from engaging in workplace harassment, workplace sexual harassment, abusive conduct, discrimination and workplace violence. Members of Council have a further responsibility to promote a workplace within the City that is free of workplace harassment, workplace sexual harassment, abusive conduct, discrimination and workplace violence and to keep the matter confidential.

Responsibilities of the Corporation

As the employer, the Corporation is responsible for:

- creating a workplace that is free from workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence;
- monitoring compliance with corporate policies and procedures;
- ensuring that an investigation is conducted promptly into incidents and complaints of workplace harassment, workplace sexual harassment, abusive conduct, discrimination or workplace violence that is appropriate in the circumstances;
- ensuring that the complainant and respondent, if employees, are informed in writing of the results of the investigation and of any corrective action that has been or will be taken as a result of the investigation;
- reviewing the Respect in the Workplace policy and procedures as often as necessary, but at least annually, to ensure the policy is being implemented in accordance with its terms;
- providing awareness education to all employees, including management staff, and members of Council; and
- creating an environment that encourages the reporting of incidents of workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence.

Responsibilities of Management/ Supervisory Staff

Management staff must ensure that workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence are not tolerated. Management/ Supervisory staff are responsible for:

- providing a workplace that is free from workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence by ensuring employees under their supervision are aware of

- this policy and their obligation to refrain from such conduct;
- taking reasonable precautions to prevent workplace harassment, workplace sexual harassment, abusive conduct, discrimination, or workplace violence and to respond to and protect employees from such behaviour if it occurs;
- ensuring that they set a good example by never engaging in, tolerating, ignoring, or condoning workplace harassment, workplace sexual harassment, abusive conduct, discrimination or workplace violence, and that they respect the rights and dignity of their staff and co-workers;
- being alert to possible instances of workplace harassment, workplace sexual harassment, abusive conduct, discrimination or workplace violence;
- taking immediate action in accordance with the Respect in the Workplace policy and procedures in the event that a complaint is made or if workplace harassment, workplace sexual harassment, abusive conduct, discrimination or workplace violence is suspected.
- disciplining employees under their supervision who violate the Respect in the Workplace policy and/or procedures;
- providing information about a risk of workplace violence from a person with a history of violent behaviour if an employee can be expected to encounter that person during the course of his or her work, and the risk of workplace violence is likely to expose the employee to physical injury. Human Resources and management staff will only release as much personal information about the person with a history of violent behaviour as is reasonably necessary to protect the employee and others from physical injury; and
- reporting any incidents to their Supervisor, up to and including the Commissioner.

Responsibilities of the Human Resources Division

Human Resources Division staff, particularly the Director of Human Resources and/or designate, are responsible for:

- acting as resource persons and providing guidance and advice associated with the policy and procedures related to Respect in the Workplace and their administration;
- ensuring that internal investigators are properly trained in respect in the workplace investigations and making arrangements for this training;
- maintaining an up-to-date list of qualified external investigators;
- monitoring and reporting to the Executive Leadership Team on the effectiveness of the Respect in the Workplace policy and procedures;
- reviewing the Respect in the Workplace policy and procedures as often as necessary, but at least annually, to ensure the policy is being implemented in accordance with its terms;

Responsibilities of Employees (Non-Management/Non-Supervisory Staff)

Employees are responsible for:

- complying with the Respect in the Workplace policy and procedures and assisting in fostering a work environment that is based on mutual respect and is free of workplace harassment, workplace sexual harassment, abusive conduct, discrimination, and workplace violence.
- reporting any incidents of actual or threats of workplace violence, including domestic violence which would likely expose themselves or other employees to physical injury that may occur in the workplace. Under the Occupational Health & Safety Act, employees are required to report such incidents. Employees are also encouraged to report incidents of workplace harassment, workplace sexual harassment, abusive conduct, and discrimination.

For further information, contact the Director of Human Resources.

RELATED DOCUMENTS:

Respect in the Workplace Complaints & Response Procedures

Respect in the Workplace Complaints Form

Council Code of Conduct

Ontario Human Rights Code

Ontario Occupational Health & Safety Act