

# CORPORATE POLICY



Policy Title: **Harassment and Discrimination**  
Policy Category: **Human Resources**  
Policy No.: H-002  
Department: Corporate Services  
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Author: Marie de Boyrie  
Attachments: Appendix A: Complaint Investigation and Resolution Process  
Related Documents/Legislation:  
Violence in the Workplace Policy  
Respectful Behaviour Policy  
Complaint Investigation and Resolution of Violence, Harassment and/or Discrimination in the Workplace Procedures  
Accident and Incident Procedures  
Health and Safety Policy and Procedure Manual  
Security Incident Reporting Form and Procedures  
*Ontario Human Rights Code*  
*Occupational Health and Safety Act*

Key Word(s): Harassment , Discrimination , Human Rights

## **POLICY STATEMENT:**

The City of Waterloo does not tolerate or condone discrimination or harassment in the workplace. In this regard, the Corporation provides information about appropriate behaviour, investigation of complaints and the imposition of appropriate corrective measures. Under the Ontario Human Rights Code every employee has the right to be free from discrimination or harassment from the employer, agent of the employer or by another employee based on the following prohibited grounds: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy and breast feeding), status (including same sex partnership status), sexual orientation, age, record of offences for which a pardon has been granted, marital or family status, disability or political affiliation. Under the Occupational Health and Safety Act, harassment in the workplace is not limited to the prohibited grounds outlined in the Ontario Human Rights Code.

**Mandatory Policy, *Municipal Act*: No**

**Policy Administration Team, Review Date: December 18, 2013**

**Corporate Management Team, Review Date: December 11, 2013**

**PURPOSE:**

It is the policy of the City of Waterloo to provide all employees with a work environment that is free of any form of discrimination, including harassment; and one that respects the dignity, self-worth, and the human rights of every individual. Every person covered by this policy has the right to make a complaint and give evidence and may be requested to assist in the investigation or resolution of a complaint without reprisal or threat of reprisal. This policy also applies to situations in which an employee is harassed or subjected to violence in the workplace from individuals who are not employees of the organization, such as customers, members of the public, domestic/intimate partners, suppliers and contractors, although the available remedies may be constrained by the situation.

**DEFINITIONS:**

Discrimination involves the unequal treatment of a person based on one of the prohibited grounds listed above. Discrimination can be intentional or unintentional. It can occur where the employer has a requirement or policy that does not appear to discriminate but which affects people differently based on the protected grounds of discrimination. The corporation is committed to the elimination of systemic barriers that prevent anyone from full participation in the organization.

Harassment under the Ontario Human Rights Code is defined as “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”

Workplace Harassment (and Bullying) under the Occupational Health and Safety Act is defined as “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.”

Although the phrase “a course of” implies that it must happen more than once, if the conduct is sufficiently serious, a single occurrence can constitute harassment.

**SCOPE:**

This policy applies to all employees, contractors and consultants in conjunction with any employee agreements. It applies to any location in which you are engaged in work related activities. These include but are not limited to;

- the workplace;
- during work related travel;
- at restaurants, hotels, meeting facilities that are being used for business purposes;
- in City owned or leased facilities;
- during telephone, email or other communications; and
- at any work related social event, whether or not it is sponsored by the City.

This policy also applies to situations in which you are harassed in the workplace by individuals who are not employees of the organization, such as customers and suppliers, although the available remedies may be constrained by the situation.

**POLICY COMMUNICATION:**

A copy of this policy will be posted on the City's website and the Health and Safety section of City's intranet. It will also be posted on the H&S bulletin boards in each facility.

Staff will receive training on the policy as part of the new hire orientation. Managers will review the policy with staff on an annual basis and additional training will be provided as needed.

**POLICY:**

Harassment of co-workers will not be tolerated and is subject to disciplinary action (see Disciplinary Action policy).

Examples of Harassment and Bullying include but are not limited to:

- Displaying or circulating offensive pictures or materials in print or electronic form; Leering or other offensive gestures;
- Inappropriate sexual touching, advances or suggestions, including demands or requests for sexual favours, especially by a person who is in a position to confer a benefit;
- Vandalism of personal property;
- Repeated offensive or intimidating phone calls or emails;
- Unwelcome or unwanted physical contact;
- Refusal to converse or work with an employee for unjustified reasons;
- Verbally abusive behaviour such as yelling, insults, ridicule and name calling, including unwelcome remarks, jokes or innuendos that demean, intimidate or offend;  
or
- Workplace pranks, vandalism and hazing.

Note: performance coaching or discipline as set out in the Discipline Policy is not harassment under this policy, requesting medical documents in support of absence from work is not harassment.

Examples of intentional and unintentional discrimination may include, but is not limited to:

- Sexism,
- Racism,
- Ageism,
- Homophobia,

- Nepotism,
- Favouritism,
- Referral systems (who you know), or
- Non bona-fide job requirements.

This policy regarding intentional/unintentional discrimination is not intended to interfere with the legitimate, unbiased and fair business practices.

Workplace and Domestic Violence: See City of Waterloo – Violence in the Workplace Policy

It is expected that all staff support this harassment and discrimination policy as follows:

Commissioners, Directors and Managers are expected to:

- Foster an environment that is based on respect and is free of harassment by supporting this policy and not participating in or ignoring harassment;
- Make all City staff members aware of this policy;
- Address incidents in the workplace that are suspected or are brought forward by complaint;
- Take appropriate corrective actions to address allegations confirmed through investigation;
- Hold each other accountable and support the complaint process.

Employees are required to:

- Foster an environment that is based on respect and is free of harassment by supporting this policy and not participating in or ignoring harassment;
- Treat one another with dignity and respect;
- Report all incidents of harassment, discrimination or violence to a person of authority, regardless of who the offender might be; and
- Hold each other accountable and support the complaint process.

**COMPLIANCE:**

In cases of policy violation, the City may investigate and determine appropriate corrective action. Please refer to Appendix A, Complaint Investigation and Resolution Process.

## **Complaint Investigation and Resolution of Harassment, Discrimination and/or Violence in the Workplace**

### **Purpose**

In accordance with the Human Rights Code and the Occupational Health and Safety Act, the duty to provide a harassment and violence free workplace involves the investigation of complaints when they arise.

### **Objective**

To facilitate the resolution of the conflict that prompted the complaint. If a complaint is made, the City is obligated to investigate. The goal is to complete an internal investigation and communicate the results to the complainant and respondent within 30 days of receiving the formal complaint, although circumstances may require that the investigation and communication of results will take longer than 30 days.

### **Procedure**

All complaints of harassment, discrimination or violence, whether formal or informal, will be handled as expediently and discreetly as possible to maintain the dignity and respect of both the complainant and the alleged offender. To protect the interest of the complainant, alleged offender and any others who report incidents of harassment, discrimination or violence, confidentiality is maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.

### **Informal/Self-help**

If a staff member considers that he/she has been subjected to harassment and/or discrimination, that person should follow the appropriate procedures below:

1. If comfortable,
  - a. approach the person responsible and advise that person to stop the offensive conduct. Although this may be difficult to do, telling the person that they don't like their actions is often enough to stop the behaviour; and/or
  - b. tell the individual why the conduct is offensive (this can be verbal, by letter, or by giving or sending a copy of the Harassment and Discrimination policy); and
  - c. document the complaint and keep a record detailing the incident (include name of person involved, what was said or done, possible witnesses, and the date, time and location);

or,

2. If uncomfortable in bringing the matter directly to the attention of the person responsible, or where such an approach is attempted and does not produce a satisfactory result, contact any of the following workplace parties:
  - a. his/her Supervisor, Manager, Director or Commissioner
  - b. a Human Resources Consultant
  - c. a Union/Association representative

Based on the nature of the matter, it may escalate to a formal complaint requiring investigation.

### **Formal Complaint\***

If the complaint cannot be resolved informally, or when the harassment and/or discrimination continues, the following procedures will apply:

1. The complainant may make a written complaint to a Human Resources Consultant within 6 months of the occurrence of the alleged incidents detailing the incidents (include names of individuals involved, what was said or done, possible witnesses, and the dates, times and location).
2. The Human Resources Consultant will commence an investigation and in consultation with the Director of Human Resources, determine, based on the nature of the complaint, whether or not the investigation will be conducted internally or referred to an external investigation process. If appropriate, an investigator will be appointed as soon as is reasonably possible. A copy of the complaint should be provided to the alleged offender within 2 to 5 days.
3. The investigation should commence within 2 to 5 days of an investigator being appointed and will include:
  - Interviewing the complainant and alleged offender to ascertain all facts and circumstances relevant to the complaint, including dates and locations
  - Interviewing witnesses, if any
  - Reviewing the related documentation and;
  - Making detailed notes of the investigation and maintaining them in a confidential file.
4. Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings and submit the report to the Director of Human Resources and the applicable Commissioner of the department. A summary of the findings will also be provided to the complainant and the alleged offender.

### **Unconfirmed allegation**

If the investigation does not substantiate the allegation, the Human Resources Consultant will,

- Terminate the investigation
- Withdraw the complaint, and
- Advise both the complainant and the alleged offender

Disciplinary and corrective action may be taken in cases where the complaint is found to be frivolous or malicious.

### **Confirmed allegation**

1. The investigating Human Resources Consultant or the Director of Human Resources will meet with the complainant and the alleged offender individually or together, as appropriate, to attempt to achieve a satisfactory resolution to the complaint wherever possible. Resolution may include, but is not limited to:
  - a formal apology to the complainant,
  - appropriate counseling for those involved, and/or
  - discussion with the alleged offender regarding expected and appropriate workplace behaviour and responsibilities
2. If a finding of harassment is made, the City will take appropriate corrective measures regardless of the alleged offender's seniority or position in the City. Corrective measures may include one or more of the following:
  - discipline, such as a verbal warning, written warning or suspension without pay
  - termination with or without cause
  - referral for counseling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on workplace respect
  - a demotion or denial of a promotion
  - reassignment or transfer
  - financial penalties such as the denial of a performance related salary increase, and
  - any other disciplinary action deemed appropriate under the circumstances

\* If a satisfactory conclusion is not reached the complainant may at any time, file a complaint with the Ontario Human Rights Tribunal or the Ministry of Labour, depending on the grounds in which the complaint was reported.

### **Additional Procedures for Resolving and Investigating Workplace Violence**

The employee has the right to refuse work if workplace violence is likely to endanger them. In that instance, the employee must immediately contact their supervisor (or designate), at which point appropriate measures will be taken to protect the employee and investigate the situation.

The employee will be moved to a safe place, as near as is reasonably possible, to their regular work station and must be available for the purposes of investigating the alleged incident. Where applicable, subject to the provisions of the relevant Collective Agreement, the employee may be provided with reasonable alternative work during normal working hours.

In appropriate circumstances, the Employer may contact the police, or other emergency responders as appropriate, to assist, intervene or investigate workplace violence. Details about the measures and procedures for summoning immediate assistance will be provided and may include:

- equipment to summon assistance, such as fixed or personal alarms, locator or tracking systems, phones, cell phones, etc.
- emergency telephone numbers and/or email addresses
- Workplace Violence Emergency Procedure/Quick Reference
- Security Incident Procedures and Reporting Form

If the situation is dealt with quickly and the danger to workers is removed, the necessity of work refusal may be alleviated.

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings. The report will be submitted to the Director of Human Resources. The Health and Safety Consultant will provide a copy of the report to the applicable Joint Health and Safety Committee.

### **Procedures for Addressing Domestic Violence**

If an employee is experiencing domestic violence that may expose them to physical injury in the workplace or the employee is experiencing workplace violence or believes that workplace violence is likely to occur, the employee may seek immediate assistance by contacting their Supervisor and/or Human Resources Consultant, who will assist in responding to the situation.