

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 1 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

TAB: HUMAN RESOURCES
SECTION: EMPLOYEE CONDUCT
SUBJECT: RESPECTFUL WORKPLACE

POLICY STATEMENT Employees, elected officials, citizen members of committees and volunteers acting on behalf of the City of Mississauga are entitled to, and are expected to contribute to, a Respectful Workplace, and no form of discrimination, harassment, or bullying will be tolerated.

PURPOSE The City of Mississauga's objective is to ensure a climate of understanding and mutual respect for the dignity and worth of each individual. This policy:

- defines Respectful Workplace, Discrimination, Harassment, and Bullying;
- clarifies legislative requirements;
- identifies the rights and responsibilities of Employees; and outlines the Employee's course of action should a violation of this policy occur.

LEGISLATIVE AUTHORITY

This policy complies with the *Accessibility for Ontarians with Disabilities Act*, the *Ontario Human Rights Code*, and the *Occupational Health & Safety Act*. Every person who is an employee has a right to freedom from discrimination and harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (includes pregnancy), sexual orientation, age, record of offences, marital status, family status or disability.

SCOPE All employees, elected officials, citizen members of committees, and volunteers acting on behalf of the City of Mississauga are covered by this policy.

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 2 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

The City's Corporate Policy and Procedure – Human Resources – Workplace Violence should be consulted regarding issues of actual, attempted or threatened workplace violence.

Respectful Workplace Statement of Commitment

This policy is supplemented by a Respectful Workplace Statement of Commitment, which is posted at City facilities. A copy is available from Human Resources, Corporate Services Department.

Members of the general public, visitors to City facilities, and individuals conducting business with, or performing work on behalf of, the City of Mississauga are required to adhere to the Respectful Workplace Statement of Commitment. Groups which are affiliated with the City, or which appear on the City's volunteer group register, through Corporate Policy and Procedure - Community Group Support Program, while independent of the City in their operations, are required to adhere to the Respectful Workplace Statement of Commitment. If a violation occurs, the City will take any steps available, in accordance with City policies and/or by-laws and existing legislation, to ensure that a Respectful Workplace is restored and maintained.

DEFINITIONS

Employee

To simplify the language in this policy, the term "Employee" encompasses all union and non-union employees, as well as elected officials, citizen members of committees, and volunteers acting on behalf of the City of Mississauga.

Management Staff

"Management Staff" means any individual responsible for directing the work of others, including elected officials, the City Manager, commissioners, directors, managers, supervisors, team leaders, or any other person taking a leadership role, such as trainers, project leaders, facilitators, etc.

Advisor

"Advisor" means an individual who is neutral, objective and knowledgeable about human rights issues. This person will

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 3 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

provide information and explain resolution options available to employees. The following positions are considered “Advisors”:

- Departmental and Corporate Human Resources Managers;
- Departmental and Corporate Human Resources Consultants;
- Organizational Effectiveness/Development Consultants.

Investigator

“Investigator” means the person(s) responsible for examining the circumstances of a complaint. Departmental and Corporate Human Resources Managers or Consultants are considered “Investigators”.

Workplace

The “Workplace” includes all locations where employees or elected officials conduct business or social activities and where their behaviour may have a subsequent impact on work relationships, environment and/or performance. Incidents that occur by way of electronic communication (e.g. unwelcome phone calls, messages on e-mail or voice mail, and the display of offensive materials) are considered to have occurred in the Workplace.

Respectful Workplace

A “Respectful Workplace” means a positive, safe and healthy Workplace that results in the preservation of equal dignity and creates a culture that supports an individual’s physical, emotional and social well-being.

Discrimination

“Discrimination” results from treating a person unequally, rather than treating the person fairly on the basis of individual merit. Discrimination can be either intentional or unintentional, and is usually based upon personal prejudices and stereotypical assumptions related to at least one of the grounds set out in the Ontario *Human Rights Code*.

Harassment

Harassment is a form of Discrimination. The Ontario *Human Rights Code* defines “Harassment” as “a course of vexatious comments or conduct that is known or ought reasonably to be known to be unwelcome.” “Vexatious” means annoying. A

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 4 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

“course” of conduct means that a pattern of behaviour or more than one incident is usually required to establish Harassment. However, a single significant incident may be sufficiently offensive to be considered Harassment.

Harassment is not defined by intent, but rather by perception of the behaviour. Behaviours which constitute Harassment include, but are not limited to:

- physical actions, such as touching, leering, violence (for violence refer to Corporate Policy and Procedure – Workplace Violence);
- patronizing or condescending behaviour or language which reinforces stereotypes and undermines self-respect;
- comments, such as inappropriate jokes, psychological abuse, name-calling;
- displays of offensive materials or offensive e-mail;
- behaviours which create an environment which is hostile or offensive, or which contribute to a poisoned work environment;
- Bullying (see definition of Bullying below).

Bullying

“Bullying” is behaviour by a person or group which intimidates or demeans another person, and includes, but is not limited to:

- abuse of power;
- humiliation or embarrassment;
- persistent and unjustified criticism;
- exclusion and/or isolation;
- threats; or
- rumours/gossip.

RESPONSIBILITIES

Employee Responsibilities

Employees are expected to:

- promote and contribute to a Respectful Workplace;
- refrain from any violation of this policy;
- report incidents where violations of this policy have occurred

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 5 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

to any person with leadership and/or supervisory responsibility;

- co-operate fully in any investigation.

Management Staff Responsibilities

Management Staff are responsible not only for their own actions, but also for dealing with the actions of staff under their supervision. Management Staff must intervene if a violation of this policy has been brought to their attention and/or has been witnessed. Appropriate steps must be taken to address and resolve the situation.

Management Staff are expected to:

- actively promote a Respectful Workplace;
- set a good example by neither engaging in, tolerating, or condoning Harassment, Discrimination or Bullying;
- keep a detailed written record of any violations;
- consult with a Human Resources Manager to address and resolve informal employee complaints, as necessary;
- maintain confidentiality;
- ensure that staff involved in the complaint/situation are aware of their responsibility to keep the issue confidential;
- co-operate with the Investigator of the complaint.

Human Resources Manager/ Human Resources Consultant Responsibilities

Human Resources Managers and Human Resources Consultants are responsible for:

- acting as Advisors to complainants;
- acting as Advisors to persons being accused;
- acting as Investigators;
- providing advice to Management Staff.

To ensure objectivity, individual Human Resources Managers and Human Resources Consultants may perform only one role with respect to any given complaint. If approached to perform more than one role, the Human Resources Manager/Consultant must advise of the role he/she has already taken, and provide the names of others who can advise or investigate.

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 6 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

Organizational Effectiveness/Development Consultant Responsibilities

Organizational Effectiveness/ Organizational Development Consultants are responsible for acting as Advisors to complainants or to persons being accused. They may not act as Advisor to both the complainant and the person being accused.

Advisor Responsibilities

Advisors are responsible for providing confidential advice and information concerning this policy to any Employee who requests it. Any Employee, whether he or she is the complainant or the person being accused, may contact an Advisor. The Advisor should advise the Employee of:

- all of the complaint resolution options available;
- other avenues of recourse such as the right to file an Application (complaint) with the Ontario Human Rights Tribunal, or where appropriate, the right to file charges under the *Criminal Code*
- any time limits which may apply;
- the need to keep all issues strictly confidential.

Investigator Responsibilities

Investigators are responsible for:

- investigating complaints filed under this policy;
- examining the circumstances of a complaint;
- exercising objectivity;
- ensuring confidentiality;
- recording/maintaining appropriate documentation;
- discussing findings, conclusions and recommendations with the departmental Commissioner, Director and/or Manager, as appropriate.

COMPLAINT RESOLUTION

Employees are encouraged to attempt to resolve issues informally. However, it is the Employee's right to choose to make the complaint through a formal process. An Advisor is available to Employees for confidential advice and assistance in resolving Respectful Workplace issues. Employees will not suffer reprisals for making legitimate complaints, either informally or formally.

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 7 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

This policy outlines three types of complaint resolution processes. Utilizing any one of the processes outlined does not prevent the Employee from also utilizing any of the other processes. The processes outlined are:

- Informal Internal Complaint Resolution Process
- Formal Internal Complaint Resolution Process
- External Complaint Resolution Processes

INFORMAL INTERNAL COMPLAINT RESOLUTION PROCESS

This section outlines an internal process for resolving complaints informally. Union employees should refer to the terms of their particular collective agreement. Union employees may wish to seek the assistance of the union. Management will provide assistance to an employee who chooses to approach his or her union in this regard.

Attempt to resolve the issue on your own

Whenever possible or appropriate, the Employee should approach the person, and clearly inform him or her that the inappropriate behaviour is unwelcome and ask that it stop. Employees should inform the person(s) responsible for the behaviour that it is offensive and contrary to the City's Respectful Workplace policy.

Keep a Record

The Employee should keep a record of the incident(s) and any related discussions. The details should be noted, including when it happened, where it happened, who was involved, and any witnesses who may have seen or heard it. These notes will be required if a formal complaint is made.

Seek Assistance

If the Employee feels uncomfortable in dealing directly with the issue, or if his or her efforts to do so are unsuccessful, he or she should bring any concerns to any person with leadership and/or supervisory responsibilities. If an issue is brought to the attention of a person with leadership and/or supervisory responsibility, they should consult, confidentially, the employee's Departmental Human Resources Manager or Human Resources Consultant to assist in efforts to resolve the issue quickly and thoroughly.

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 8 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

FORMAL INTERNAL COMPLAINT RESOLUTION PROCESS

This section outlines a Respectful Workplace Complaints Review Process for resolving issues internally, on a formal basis.

Union employees should refer to the terms of their particular collective agreement. If the collective agreement does not provide a formal complaint resolution process, union employees should follow the Respectful Workplace Complaints Review Process as outlined below.

Respectful Workplace Complaints Review Process

If the Employee wishes to initiate a Respectful Workplace Complaints Review, he or she must put the issue in writing, indicating that it is to be considered as a formal complaint. The written complaint may be submitted to the complainant's supervisor, manager, director, commissioner, or a Human Resources Manager.

Complaints should be made as soon as possible, but no later than 30 days from the date of the incident(s). All efforts will be made to ensure that formal complaints are resolved within 30 business days, or within a specified time as discussed with the complainant.

All complaints will be investigated in an unbiased, impartial and timely manner by the Investigator. Management Staff who receive a formal complaint must immediately forward the complaint to the complainant's Human Resources Manager.

The Investigator will arrange to meet and interview the complainant, and notes will be taken. A copy of the interview notes will be reviewed and signed by the complainant and each will retain a copy.

The Investigator will thoroughly investigate the complaint, including any necessary consultation with other Employees. The complaint will be considered in the context of existing policies,

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 9 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

established procedures, and applicable legislation.

At the conclusion of the formal investigation, a report will be discussed with the complainant's Director and/or Commissioner which will include the allegations and the investigation's findings, conclusions and recommendations.

The Investigator will provide both the complainant and those alleged in the complaint with a written response.

If the complaint has not been resolved to the Employee's satisfaction, and if the Employee wishes to appeal the findings of the investigation, he or she must formally request an appeal through the Director of Human Resources, who will refer the issue to the City Manager.

EXTERNAL COMPLAINT RESOLUTION OPTIONS AND RESOURCES

This section outlines options available with respect to complaint resolution using external resources.

While not directly involved in the complaints resolution process, the City's Employee Assistance Program (EAP) is available to provide confidential support and counselling.

Ontario Human Rights
Tribunal

All persons have the right to file a human rights Application directly with the Ontario Human Rights Tribunal. The Tribunal normally requires that an Application be filed at any time within twelve (12) months of the alleged Discrimination or Harassment, or the last incident thereof.

Police Complaint

Employees have the right to file complaints with the police.

CONFIDENTIALITY

All persons involved with a complaint must endeavour to ensure that the matter remains confidential. To this end, complaints shall be investigated both confidentially and objectively, with respect for the rights of all parties involved. Personal information will be disclosed only on a need-to-know basis, in accordance with the

Corporate Policy and Procedure



Policy No. 01-03-04
(Formerly Workplace Harassment)
Page 10 of 10
Effective Date 2010 06 09
Supersedes 2007 05 23

Municipal Freedom of Information and Protection of Privacy Act.

Those conducting the investigation of a complaint should advise all persons interviewed that they will be expected to treat the matter as confidential, and that they may be disciplined if they breach confidentiality.

DISCIPLINARY ACTION Any Employee who violates this policy, and/or Management Staff who fail to take action when advised of a violation, will be subject to appropriate disciplinary action, up to and including termination of employment. Disciplinary action will also be taken if a complaint is found to have been made fraudulently and with malicious intent.

REFERENCE: AC-0010-2007 – 2007 05 23
2008 10 23 – housekeeping to reflect minor process changes by Human Rights Commission re: filing complaints.
GC-0403-2010 2010 06 09
2011 10 12 – housekeeping – Volunteer policy renamed to Community Group Support Program

LAST REVIEW DATE: April, 2007

CONTACT: For more information, contact the departmental Human Resources Representative. Employees may also contact other government agencies (such as the Employment Standards Branch of the Ministry of Labour, and the Ontario Human Rights Commission) for information on their legal rights and entitlements. For a copy of the City's Respectful Workplace Statement of Commitment, contact Human Resources, Corporate Services Department.