

## The Corporation of the City of Stratford Policy Manual

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| <b>Policy Number:</b>  | H.1.6           |
| <b>Policy Section:</b> | Human Resources |
| <b>Department:</b>     | Human Resources |

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| <b>Policy Type:</b>          | Council-adopted Policy                                |

### Workplace Harassment, Sexual Harassment and Discrimination

**Policy Statement:**

The Corporation of the City of Stratford (the City) strives to create a work environment governed by respect and regard for the rights and dignity of all, where employees can work free from any form of harassment and discrimination.

The City prohibits any form of harassment or discrimination in our workplace.

**Purpose:**

The purpose of this Policy is to foster a respectful workplace through the prevention and prompt resolution of workplace harassment, sexual harassment and discrimination in accordance with the provisions of the *Occupational Health and Safety Act*, the *Ontario Human Rights Code* and/or *Canadian Human Rights Act*.

**Scope:**

This policy applies to all employees of the City as well as all members of City Council, contractors, clients, customers, and volunteers.

Other individuals, conducting business on City of Stratford’s premises (including but not limited to contractors, citizens, and visitors), are also expected to conduct themselves in any City of Stratford-related activity in a manner consistent with this policy.

**Relationship to Other Policies:**

Some behaviours that are defined as harassment under this policy can also constitute workplace violence or abuse and, as such, the City's Workplace Violence Policy, Respectful Workplace Policy and Codes of Conduct may also be applicable in some circumstances.

**Roles and Responsibilities:**

**Management Employees** - All levels of managerial employees are responsible for communicating to all employees that harassment, sexual harassment, or discrimination is not permitted and will not be condoned or ignored. Management employees will make every effort to prevent harassment by:

- demonstrating by leadership and action a commitment to the prevention of harassment and discrimination;
- communicating the principles of this policy and upholding its spirit and intent;
- taking all steps to put a stop to any harassment or discrimination of which they are aware, regardless of whether a complaint is filed;
- taking all complaints of harassment and discrimination seriously and promptly and diligently investigating any alleged incident;
- provide affected employees support and referral to the Employee Assistance Program;
- taking prompt action to resolve complaints and taking appropriate corrective action.

**Employees** - All employees share the responsibility to create a workplace that is free from harassment, sexual harassment and discrimination. Each employee is responsible for understanding what constitutes harassing and/or discriminatory behaviour and conducting themselves in accordance with the spirit and intent of this policy.

**Human Resources** – Human Resources will be responsible for the following:

- Training and educating all employees on this policy and procedures including their responsibilities;
- Acting quickly and appropriately as when receiving a complaint under the policy;
- Providing guidance on the policy to managers/supervisors and employees;
- Keeping any information about the complaint and/or investigation confidential unless disclosure is necessary for the purpose of investigating the complaint, or otherwise required by law.

**Definitions:**

"Protected Grounds" the *Ontario Human Rights Code* prohibits harassment and discrimination on the basis of the following protected grounds race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status, sex, disability, sexual orientation, gender identity, and gender expression.

“Complainant(s)” means the person(s) who alleges they have been subjected to workplace violence.

“Discrimination” means any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group of people protected under the Human Rights Code by excluding, denying benefits or imposing burdens upon them. Discrimination may arise as a result of direct differential treatment or it may result from the unequal effect of treating individuals and groups in the same way.

Discrimination includes but is not limited to:

- Harassment and bullying, when connected to any of the protected grounds covered by the Human Rights Code.
- Practices, policies, procedures and systems which have a direct or negative impact based on a protected ground.
- Behaviours, comments or actions to or about an individual or group which are unwelcome, based on a protected ground and result in a negative or poisoned work environment.

Discriminatory practices, procedures, policies, or systems include:

- Denial of equitable treatment in hiring or in the terms, conditions, or benefits of employment.
- Policies or procedures which have a negative effect or impact on an individual or group.
- Denial of access to City services or the processes by which people use City related services, programs and/or facilities.
- Failure to accommodate an individual(s) protected under the Human Rights Act.

“Code-based Harassment” as defined in the *Ontario Human Rights Code* means engaging in a course or conduct that is known or ought reasonably to be known to be unwelcome based on one or more of the protected grounds listed in the Code, that a person knows or ought to know would be unwelcome, offensive, embarrassing or hurtful.

Examples of Code-based harassment include, but are not limited to:

- slurs or derogatory remarks
- threats
- inappropriate jokes, innuendos, name-calling, teasing, embarrassing practical jokes
- insulting gestures
- displaying pin-ups, pornography, racist, homophobic or other offensive materials
- use of electronic communications such as the internet and e-mail to harass
- actions that invade privacy
- spreading rumours that damage one’s reputation
- refusing to work with another
- condescending or patronizing behaviour
- abuse of authority which undermines performance or threatens careers;

- unwelcome touching, physical assault or sexual assault (refer also to the City's Workplace Violence Policy).

There is no legal obligation for an individual to tell a harasser to stop. The fact that a person does not explicitly object to harassing behaviour, or appears to be going along with it does not mean that the behaviour is not harassing or that it has been consented to.

"(Non-Code) Workplace Harassment" defined in the *Ontario Occupational Health and Safety Act* means 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. It also includes Workplace Sexual Harassment. Workplace harassment often involves a course or pattern of behaviours. However, a single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute workplace harassment.

This policy is not intended to interfere with constructive feedback regarding performance or operational directives provided to employees by their supervisors, managers or directors.

Examples of workplace harassment include a pattern of:

- frequent angry shouting/yelling or blow-ups
- regular use of profanity and abusive language
- verbal or e-mail threats (not including threats to exercise physical force which are covered by the workplace violence policy)
- intimidating behaviours – slamming doors, throwing objects
- targeting individual(s) in humiliating practical jokes
- excluding, shunning, impeding work performance
- spreading gossip, rumours, negative blogging, cyber-bullying
- retaliation, bullying, sabotaging
- unsubstantiated criticism, unreasonable demands
- frequent insults and/or name calling
- public humiliation
- communication that is demeaning, insulting, humiliating, mocking
- intent to harm
- a single, serious incident that has a lasting, harmful impact.

Workplace harassment does not include:

- legitimate performance/probation management
- appropriate exercise and delegation of managerial authority
- operational directives/direction of workers or the workplace
- other reasonable action(s) taken by management
- occasional disagreement or misunderstanding
- personality conflict between co-workers
- work related change of location, co-workers, job assignment
- appropriate discipline

- less than optimal management
- a single comment or action unless it is serious and has a lasting harmful effect
- rudeness unless it is extreme and repetitive
- conditions in the workplace that generate stress (technological change, impending layoff, a new boss, friction with other employees, workload, etc.).

“Workplace Sexual Harassment” under both the *Ontario Human Rights Code* and *Occupational Health and Safety Act* means engaging in a course of vexatious comment or conduct against a worker in the workplace because of sex/sexual orientation/gender identity/gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome. It also includes 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.

“Sexual orientation” refers to the sex/gender of those to whom one is sexually and romantically attracted. Categories of sexual orientation typically have included attraction to members of one’s own sex/gender, attraction to members of another sex/gender, and attraction to people of more than one sex/gender.

“Gender Identity” refers to each person’s internal and individual experiences of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person’s gender may be the same as or different from their birth-assigned sex.

“Gender Expression” refers to how a person publicly presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person’s chosen name and pronoun are also common ways of expressing gender.

Examples of harassment related to the ground of sex, sexual orientation, gender expression and/or gender identity include but are not limited to:

- sexually suggestive or obscene remarks or gestures.
- use of homophobic or transphobic epithets, slurs or jokes.
- insults, comments that ridicule, humiliate or demean people because of their sex, sexual orientation, gender identity or expression.
- behaviour that polices and/or reinforces traditional heterosexual gender norms.
- intrusive comments, questions or insults about a person’s body, physical characteristics, gender-related medical procedures, clothing, mannerisms or other forms of gender expression.
- negative stereotypical comments about an individual’s physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms.
- circulation or posting of homophobic, transphobic, sexist, derogatory or offensive signs, caricatures, graffiti, pictures, jokes or cartoons, display of pin-up calendars, objectifying images or other materials.
- leering (suggestive staring) at a person’s body.

- unwelcome physical contact.
- having to work in a sexualized environment (bragging about sexual prowess, or discussions about sexual activities).
- exercising power over another person, making them feel unwelcome or putting them 'in their place' – regardless of whether the behaviour is motivated by sexual interest.
- spreading rumours about, "outing", or threatening to "out" someone.
- refusing to refer to a person by their self-identified name and personal proper pronoun.
- other threats, unwelcome touching, violence, and physical assault.

"Racial Harassment" is harassment on the grounds of race. It may also be associated with the grounds of colour, ancestry, where a person was born, a person's religious belief, ethnic background, citizenship or even a person's language.

Racial harassment/discrimination can include:

- racial slurs or jokes.
- ridicule, insults or different treatment because of your racial identity.
- posting/e-mailing cartoons or pictures that degrade persons of a particular racial group.
- name-calling because of a person's race, colour, citizenship, place of origin, ancestry, ethnicity or creed.

"Worker" is a person who performs work (also known as employee) or supplies services for monetary compensation (as defined under the Occupational Health and Safety Act (OHSA)).

"Poisoned Work Environment" is a form of indirect Code based harassment/discrimination. It occurs when comments and actions ridicule or demean a person or group creating real or perceived inequalities in the workplace creating intolerable working conditions for employees.

"Respondent(s)" means the person(s) who the allegations of workplace violence have been made against.

"Workplace" means any location where an employee is carrying out any work-related function. The meaning of workplace may also be extended if harassment and discrimination occur outside the workplace but has an adverse effect on employee relationships in the workplace. This may include social functions, training and conferences, during travel, at restaurants, hotels or meeting facilities being used for business purposes, during telephone, email or other electronic communications such as texting and instant messaging and social media.

### **Procedure:**

Upon becoming aware of any incident which may fall under the definition of any form of harassment, sexual harassment or discrimination identified in this policy the Director of

Human Resources or designate will assess any complaint that is filed by an employee within (7) seven working days of receipt. If a formal workplace investigation is required, this process will be conducted and completed within 90 ninety working days of receipt of a complaint.

### **Reporting an Incident**

Employees are directed to refer to the workplace *Harassment, Discrimination, and Workplace Violence Reporting and Investigation Procedures (H.1.6 & H.1.23-001)* which outlines the City's internal process. Employees wishing to report an incident will use the Respectful Workplace Incident Form. Both documents can be found on the City's Website under the section Respectful Workplace Policy page.

### **Retaliation**

All employees have a right to be free of retaliation or threat of retaliation as a result of being involved in a complaint of harassment, sexual harassment or discrimination. Retaliation will be deemed to be harassment and will be dealt with in accordance with the City's Disciplinary Policy outlined in the *H.1.27 Employee Code of Conduct Policy*.

### **Malicious Complaints**

If, as a result of an investigation, it is determined that an otherwise unfounded complaint was intended to be malicious, it will be considered a form of harassment, sexual harassment and may be dealt with in accordance with this policy and/or as a disciplinary matter.

### **Confidentiality**

The administration of this policy will be done in accordance with all applicable provincial and federal laws. The City understands that it may be difficult to come forward with a complaint of violence and recognizes a complainant's interest in keeping the matter confidential.

To protect the interests of the complainant, the person complained against and any others who may report incidents of harassment, sexual harassment and discrimination, confidentiality will be maintained throughout the investigatory process to the extent appropriate and information obtained about an incident, including any identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating the complaint or taking corrective action, or is otherwise required by law.

All records of complaints, including minutes of meetings, interviews, results of investigations and other relevant material will be kept confidential by the Director of Human Resources except to the extent that disclosure is necessary to conduct an investigation and to take remedial and/or disciplinary action in relation to the complaint. In that regard, information regarding the particulars of the allegations and the identity of the complainant may, where necessary, be provided to the individual against whom a

complaint has been made regardless of whether the informal or formal complaint procedure is invoked.

**Communication**

A copy of this policy and procedures will be posted on the City’s website and bulletin boards. Contractors/tenants who sign contracts or acquire permits from the City’s will, at a minimum, will be notified of the policy and its location on the City’s website. All employees and managerial staff will receive training on the policy.

**Legislative Authority:**

Ontario Human Rights Code (OHRC)  
Occupation Health and Safety Act (OHSA)  
Accessibility for Ontarians with Disabilities Act (AODA)

**Related Documents:**

- Harassment and Discrimination Reporting and Investigation Procedures (H.1.6-001)
- H.1.23 Workplace Violence Policy
- H.1. 27 Employee Code of Conduct Policy
- Council Code of Conduct
- C.1.13 Facilities Code of Conduct Policy
- H.1.12 Health & Safety Policy
- Health and Safety Manual