

Corporate Services Committee

Report

1st Meeting of the Corporate Services Committee
December 3, 2019

PRESENT: Councillors A. Kayabaga (Chair), M. van Holst, J. Helmer, J. Morgan, A. Hopkins, Mayor E. Holder

ALSO PRESENT: Councillor S. Lewis; M. Hayward, A.L. Barbon, I. Collins, B. Coxhead, K. Dawtrey, M. Galczynski, A. Hagan, L. Livingstone, A. Macpherson, D. Munteer, K. Murray, D. O'Brien, C. Saunders, J. Taylor, B. Warner and B. Westlake-Power
The meeting is called to order at 12:31 PM.

1. Call to Order

1.1 Disclosures of Pecuniary Interest

That it BE NOTED that no pecuniary interests were disclosed.

1.2 Election of Vice-Chair for the term ending November 30, 2020

Moved by: J. Morgan
Seconded by: E. Holder

That Councillor M. van Holst BE ELECTED Vice-Chair of the Corporate Services Committee for the term ending November 30, 2020.

Yeas: (6): A. Kayabaga, M. van Holst, J. Helmer, J. Morgan, A. Hopkins, and E. Holder

Motion Passed (6 to 0)

2. Consent

Moved by: A. Hopkins
Seconded by: J. Morgan

That items 2.1 to 2.3, BE APPROVED.

Yeas: (6): A. Kayabaga, M. van Holst, J. Helmer, J. Morgan, A. Hopkins, and E. Holder

Motion Passed (6 to 0)

2.1 Authorization for Temporary Borrowing

Moved by: A. Hopkins
Seconded by: J. Morgan

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the proposed by-law appended to the staff report dated December 3, 2019 as Appendix "A" BE INTRODUCED at the Municipal Council meeting on December 10, 2019, to authorize the Treasurer or Deputy Treasurer to borrow certain sums to meet current expenditures of The Corporation of the City of London for the year 2020.

Motion Passed

2.2 Respectful Workplace Policy

Moved by: A. Hopkins

Seconded by: J. Morgan

That, on the recommendation of the City Manager and the Acting Director of Human Resources, the proposed by-law appended to the staff report dated December 3, 2019 as Appendix "A" BE INTRODUCED at the Municipal Council meeting to be held on December 10, 2019 to repeal Council Policy By-Law No. CPOL.-155-407, as amended by By-law No. CPOL.-155(a)-384, being "Workplace Harassment and Discrimination Prevention Policy" and replace it with a new Council policy entitled "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)".

Motion Passed

2.3 Declare Surplus - Portion of City-Owned Land - 65 Brisbin Street Abutting South Side of 81 Brisbin Street

Moved by: A. Hopkins

Seconded by: J. Morgan

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, on the advice of the Manager of Realty Services, with respect to a portion of City-owned land at 65 Brisbin Street, abutting the south side of 81 Brisbin Street, described as Part 2, Lot 94, Plan 484 C, containing an area of approximately 805 square feet, as shown on Schedule "A" of the staff report dated December 3, 2019, the following actions be taken:

- a) the subject property BE DECLARED SURPLUS; and
- b) the subject property ("Surplus Lands") BE TRANSFERRED to the abutting property owner at 81 Brisbin Street, in accordance with the City's Sale and Other Disposition of Land Policy.

Motion Passed

3. Scheduled Items

None.

4. Items for Direction

4.1 Issuance of Proclamations Policy

Moved by: J. Helmer

Seconded by: A. Kayabaga

That the Civic Administration BE DIRECTED to bring forward a report to the Corporate Services Committee meeting to be held on January 6, 2020, with a revised draft proclamation policy that is similar to the policy of the City of Toronto and that would provide for the authority for municipal proclamations to be delegated.

Yeas: (5): A. Kayabaga, J. Helmer, J. Morgan, A. Hopkins, and E. Holder

Nays: (1): M. van Holst

Motion Passed (5 to 1)

5. Deferred Matters/Additional Business

None.

6. Confidential (Enclosed for Members only.)

Moved by: M. van Holst

Seconded by: A. Hopkins

That the Corporate Services Committee convene, In Closed Session, for the purpose of considering the following:

4.1 Land Acquisition / Solicitor-Client Privileged Advice / Position, Plan, Procedure, Criteria or Instruction to be Applied to Any Negotiations

A matter pertaining to the proposed or pending acquisition of land by the municipality, including communications necessary for that purpose; advice that is subject to solicitor-client privilege; commercial and financial information, that belongs to the municipality and has monetary value or potential monetary value and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality.

4.2 Labour Relations/Employee Negotiations/Solicitor-Client Privileged Advice

A matter pertaining to reports, advice and recommendations of officers and employees of the Corporation concerning labour relations and employee negotiations in regard to one of the Corporation's unions and advice which is subject to solicitor-client privilege and communications necessary for that purpose and for the purpose of providing directions to officers and employees of the Corporation.

4.3 Solicitor-Client Privileged Advice

A matter pertaining advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Yeas: (6): A. Kayabaga, M. van Holst, J. Helmer, J. Morgan, A. Hopkins, and E. Holder

Motion Passed (6 to 0)

The Corporate Services Committee convenes, In Closed Session, from 12:38 PM to 1:24 PM.

7. Adjournment

The meeting adjourned at 2:16 PM.

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON DECEMBER 3, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	AUTHORIZATION FOR TEMPORARY BORROWING

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the attached proposed by-law (Appendix "A") **BE INTRODUCED** at the Municipal Council meeting on December 10, 2019, to authorize the temporary borrowing of certain sums to meet current expenditures of The Corporation of the City of London for the year 2020.

LINK TO THE 2019-2023 STRATEGIC PLAN

Council's 2019-2023 Strategic Plan for the City of London identifies "Leading in Public Service" as one of four strategic areas of focus. Authorization for temporary borrowing supports this strategic area of focus by contributing to the strategy "Continue to ensure the strength and sustainability of London's finances". This strategy, among others, helps to ensure that the City's finances are transparent and well planned and that they balance equity and affordability over the long term. This Authorization for Temporary Borrowing report ensures that the proper mechanisms are in place to manage cash flows and to help maintain the City's stable operations.

BACKGROUND

The purpose of the proposed by-law is to authorize the City Treasurer or Deputy Treasurer to temporarily borrow funds, not exceeding \$100 million, to meet current expenditures, if required for 2020. This by-law is generally brought forward on an annual basis.

Section 407 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, allows a municipality to authorize temporary borrowing, at any time during the fiscal year, the amounts considered necessary to meet expenses of the municipality for the year until taxes are collected and other revenues are received.

The City's best option for temporary borrowing is internally from the City's Reserve Funds, rather than obtaining external financing. A fair rate of interest is earned by the Reserve Funds and charged to the General Fund during the borrowing period. If cash from Reserve Funds is not available for temporary borrowing, the City will seek external options, such as drawing on an operating line of credit held at the City's bank. The City has never drawn on its line of credit but has borrowed from Reserve Funds in the past, which was last done in January 2012.

The proposed temporary borrowing by-law is being brought forward as a precautionary measure in the event of any unanticipated near-term cash requirements or interruptions in operating cash flows.

Financial Impact

The temporary borrowing of funds, if required, would result in additional interest charges in the 2020 budget, but is not currently anticipated to be required.

CONCLUSION

The authorization for temporary borrowing ensures that the proper mechanisms are in place to manage cash flows and promotes stable operations, even during any unanticipated or unforeseen events.

PREPARED BY:	REVIEWED BY:
FOLAKEMI AJIBOLA, CTP MANAGER, FINANCIAL MODELLING, FORECASTING & SYSTEMS CONTROL	MARTIN GALCZYNSKI, CPA, CA MANAGER, FINANCIAL PLANNING AND POLICY
CONCURRED BY:	RECOMMENDED BY:
KYLE MURRAY, CPA, CA DIRECTOR, FINANCIAL PLANNING & BUSINESS SUPPORT	ANNA LISA BARBON, CPA, CGA MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

Attachments: Appendix "A" - By-law

Cc: Ian Collins, Director, Financial Services

APPENDIX "A"

Bill No.
2019

By-law No.

A by-law to authorize the City Treasurer or Deputy Treasurer of The Corporation of the City of London to borrow certain sums to meet current expenditures of the Corporation for the year 2020.

WHEREAS the Municipal Council of The Corporation of the City of London deems it necessary to borrow monies to meet the current expenditures of the Corporation for the year 2020 pending the collection of current revenues;

AND WHEREAS under section 407 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, the Corporation is authorized to borrow for current purposes from January 1st to September 30th in the year, 50 per cent of the total estimated revenues of the municipality as set out in the budget adopted for the year; and from October 1st to December 31st in the year, 25 per cent of the total estimated revenues of the municipality as set out in the budget adopted for the year;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The City Treasurer or Deputy Treasurer of The Corporation of the City of London (hereinafter referred to as the "Corporation") are hereby authorized to borrow from time to time from the Bank of Nova Scotia, or other person or persons, by way of promissory notes and/or the City's operating credit line and at such rate or rates of interest as they may approve, such sum or sums which together with the total of all other temporary borrowings hereunder that have not been repaid shall not exceed \$100,000,000 at any one time, to meet, until the taxes are collected, the current expenditures of the Corporation for the year 2020; provided that notwithstanding the sums authorized to be borrowed hereunder, the amount that may be borrowed hereunder at any one time, together with the total of any similar borrowings that have not been repaid, shall not, except with the approval of the Local Planning Appeal Tribunal, exceed from January 1st to September 30th in the year, 50 per cent of the total estimated revenues of the municipality as set out in the budget adopted for the year; and from October 1st to December 31st in the year, 25 per cent of the total estimated revenues of the municipality as set out in the budget adopted for the year, all as provided for in section 407 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended.
2. All promissory notes of the Corporation shall be sealed with the seal of the Corporation and signed by the Mayor, the Deputy Mayor or the Acting Mayor, and by the City Treasurer or the Deputy Treasurer; provided however, that the signature of the Mayor, the Deputy Mayor or the Acting Mayor, may be written or stamped, printed, lithographed, engraved or otherwise mechanically reproduced.
3. Promissory notes signed in accordance with this by-law and sealed with the seal of the Corporation, for the amounts from time to time borrowed under the authority hereof, and interest thereon, may be given to the Bank of Nova Scotia, its representative, or other person or persons from time to time as security for such loans.
4. The City Treasurer is authorized and directed to apply in payment of the money borrowed as aforesaid, together with the interest thereon, all the monies now or hereafter collected or received on account or realized in respect of taxes levied for 2020 and any preceding year, and all the monies collected or received from other sources excluding the sale of debentures, which may be lawfully applied for such purposes.

5. The Mayor, the Deputy Mayor or the Acting Mayor, and the City Treasurer or the Deputy Treasurer of the Corporation are authorized to execute on behalf of the Corporation, under its Corporate Seal, and delivered to the Bank of Nova Scotia, or its representative or other persons, an agreement that all or any sums borrowed for any or all of the purposes mentioned in section 407 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the Corporation for 2020 and for any preceding year as and when such revenues are received; provided that such charge does not defeat or effect and is subject to any prior charge then subsisting in favor of any other lender.
6. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on December 10, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – December 10, 2019
Second Reading – December 10, 2019
Third Reading – December 10, 2019

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON December 3, 2019
FROM:	MARTIN HAYWARD, CITY MANAGER AND WILLIAM C. COXHEAD, ACTING DIRECTOR OF HUMAN RESOURCES
SUBJECT:	RESPECTFUL WORKPLACE POLICY

RECOMMENDATION

That on the recommendation of the City Manager and the Acting Director of Human Resources, the attached proposed by-law (Appendix "A") being "A by-law to repeal Council Policy By-Law No. CPOL.-155-407, as amended by By-law No. CPOL.-155(a)-384, being "Workplace Harassment and Discrimination Prevention Policy" and replace it with a new Council policy entitled "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)" **BE INTRODUCED** at the Municipal Council meeting to be held on December 10, 2019.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- Update: Harassment and Discrimination - Third Party Review, June 19, 2018
- Update #2 Harassment and Discrimination - Third Party Review, September 25 2018
- Update #3 Harassment and Discrimination – Third Party Review – Workplace Assessment and Recommendations, March 19, 2019
- Update #4 Harassment and Discrimination – Third Party Review – Workplace Harassment Assessment and Recommendations – Action Plan, June 18, 2019

BACKGROUND

On March 27, 2018, Council resolved that the City Manager BE REQUESTED to provide updates to the Corporate Services Committee regarding the harassment and discrimination policy and process review at the appropriate points in time. On June 18th of this year, the fourth update was provided to Corporate Services Committee. This update provided an outline of an action plan regarding recommendations made by Rubin Thomlinson LLP ("RT") in their Summary Report Re: Workplace Assessment, including recommendations for improvement to the City of London's program and practices related to workplace harassment and discrimination.

One of the first items for completion in the action plan set out in the June 18th Update is the Respectful Workplace Policy. The purpose of this report is to review the proposed new "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination) ("RWP)" (attached as Schedule "A" to the proposed by-law) and to provide a summary of next steps related to other actions to be taken once the RWP receives Council approval.

Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)

The proposed RWP reflects the Corporation's obligations related to workplace harassment, discrimination, reprisal, bullying and intimidation as set out in the *Human Rights Code* and the *Occupational Health and Safety Act*. It combines the existing *Workplace Harassment Discrimination Prevention Policy* ("WHDPP"), and *Code of Conduct for Employees* ("Code of Conduct") into one policy with a single dispute resolution and complaint process. The RWP incorporates the specific policy

recommendations provided in the RT Workplace Assessment Report summarized as follows:

- Simplify our policies and combine them into a single easier to understand, plain language “Respectful Workplace Policy” with a single process for raising concerns.
- Redraft the Resolution and Complaint procedures in the Policy to provide clear and concise information to any individual seeking to raise a concern and receive support in order to have that concern resolved and /or investigated.
- Clearly define timelines so that participants have clear expectations about the length of time each stage will take.
- Ensure clear ownership and accountability for addressing employees’ concerns after they are raised.
- Ensure that every individual involved in the process has defined accountabilities.
- Communications between the accountable individual and the employee should occur on a weekly basis until the matter is resolved or investigation completed.
- Address fear of reprisal by providing examples in the policy.
- Where allegations of retaliation are made, an investigation will be initiated immediately.
- Clear and transparent communication to impacted employees at the conclusion of every formal and informal investigation that includes steps taken in the process, the findings, and rationale for investigative conclusions along with any related process outcomes.
- Commit to as detailed and transparent public reporting as possible of the types of complaints received from employees and the manner in which those complaints were addressed under the policy.

Consultation/Feedback

Upon completion of the first draft of the RWP, the draft was provided to RT for review and feedback. RT advised that the draft policy incorporated its recommendations as outlined above and they did not have any substantive recommended changes.

After receiving RT’s review, the draft RWP was provided to various stakeholders for feedback/input, including: the Corporation’s Joint Health and Safety Committees, Senior Leadership Team, Union Leadership, the Integrity Commissioner, as well as other employees with related roles and responsibilities.

The Integrity Commissioner advised he did not have any recommended changes to the draft RWP. We received feedback from our various internal stakeholders that can be generally summarized as follows:

- The draft RWP is too long and the wording is too legalese
- Missing some definitions of key terms
- Role/responsibility of non-management (unionized) supervisors requires clarification
- Need firm timelines for completion of investigations
- Include the role of the Corporation’s joint health and safety committees
- Clarification required regarding addressing complaints from employees against members of the public

We appreciate and carefully considered the feedback from all of our stakeholders and, after review, the following amendments were made to the draft RWP:

- removed repetitive/unnecessary language and provisions
- Examples of prohibited behaviour were moved to an appendix (Appendix A)
- Provided for definitions or clarified definitions for the following key terms: “Disrespectful Behaviour”, “Human Rights Intake Administrator”, “Complainant”, “Corporate-initiated Complaints”, and “Supervisor”
- Clearly articulated the role of Non-Management Supervisors

- Clarified language regarding the timelines for completion of investigations
- Clarified process for addressing complaints from employees against members of the public

Additional Amendments

In addition to the specific policy amendments recommended by RT, the proposed RWP incorporates some other amendments that are a change and/or a clarification of provisions in the existing WHDPP and Code of Conduct for Employees. Primarily, these additional amendments are in response to internal stakeholder feedback and/or are intended to further assist in achieving the following overall objectives identified by RT to improve the manner in which we address harassment, discrimination, bullying, intimidation and reprisal in the workplace:

1. Improving employee understanding of complaint resolution processes
2. Clarifying roles and duties within the internal complaint process
3. Increasing employee trust of the internal complaint process
4. Improving employee satisfaction with the internal complaint process
5. Enhancing the skills of managers to perform their roles in addressing complaints
6. Addressing employee fear of reprisal for raising complaints in the workplace
7. Creating accountability for actions taken in response to internal complaints

Key additional amendments are summarized below.

Expanded Role of Management Supervisors and Managers

The RWP provides management supervisors and managers with the authority to address “disrespectful behaviour” that is not harassment, discrimination or reprisal. It is recommended that they seek guidance from Human Rights and must report to Human Rights all complaints and actions taken.

Clarification of Role of Non-Management Supervisors

This section was not included in the WHDPP or Code of Conduct. It clarifies that non-management supervisors must set a good example and have a duty to report all observations, concerns and/or complaints of prohibited behaviour.

Respectful Workplace Ombudsperson (“RWO”)

This is a new provision to provide for the new role of RWO in our internal processes as recommended by RT. The proposed policy details the role of the RWO.

Respectful Workplace Training

The RWP sets out requirements for employees as well as elected officials, interns and students on placement to receive mandatory training on the policy.

Respectful Workplace Response Team

Previously the Response Team was initiated under the WHDPP. In the proposed RWP, this team will decide all corrective actions where there are findings of harassment, discrimination, or reprisal.

Complaint Process – City Manager/Deputy City Manager/Managing Directors/Director of People Services/Human Rights Intake Administrator

The WHDPP and the Code of Conduct had different complaint processes related to complaints against individuals in these positions. The proposed RWP provides for the following related to these types of complaints:

- Complaints against City Manager (whether as sole respondent or along with other respondent(s)) are to be forwarded to the Director of People Services or the City Solicitor and any corrective actions are determined by City Council.
- Complaints against Deputy City Manager, Managing Directors, Director of People Services, and Human Rights Intake Administrator (whether as sole respondent or along with other respondent(s) other than the City Manager) are to be forwarded to the City Manager who will determine any corrective action.

All complaints continue to be referred externally for processing and investigation as required. Corrective/disciplinary action will be determined in accordance with applicable Council and Corporation policies and procedures as well as Council by-laws.

Complaints Against Council Members, Including the Mayor

Currently, members of Council are referenced directly in WHDPP, but not in the Code of Conduct for Employees. The process for addressing complaints is unclear. In the proposed RWP, any complaints are to be forwarded to the Director of People Services who will assess to determine the applicability of the RWP and potential for informal resolution or whether the complaint requires formal investigation. If formal investigation is required, the complaint is referred to the Integrity Commissioner under the Code of Conduct for Council Members to be addressed in accordance with the Integrity Commissioner's procedures. For the purposes of those procedures, the Director of People Services will be the "complainant" and will receive the results of any investigation conducted by the Integrity Commissioner as applicable. Where there are findings of a violation of the RWP, the Director of People Services will refer the findings to the Respectful Workplace Response Team to implement appropriate corrective action, if necessary, to ensure the behaviour stops.

Role and Responsibilities of Corporate Security and Emergency Management Division – Complaints by Employees Against Members of the Public

The WHDPP and Code of Conduct for Employees do not include a role for or responsibilities of the Corporate Security and Emergency Management Division. The proposed RWP outlines specific roles and responsibilities for this Division with respect to complaints of prohibited conduct by employees against members of the public, including providing advice and assistance with respect to addressing such complaints, whether through informal or formal action, as well as advice and assistance in implementing any necessary interim measures and corrective actions against members of the public.

Policy Review

The proposed RWP provides for the policy to be reviewed as often as necessary but at least annually. This time period for policy review is different from what is provided for in the *Policy for the Establishment and Maintenance of Council Policies* but is required to comply with legislative obligations.

Effective Date

We are recommending an effective date for the proposed RWP of March 1, 2020. This will enable Civic Administration to complete the steps set out below, as well as to communicate the RWP to employees and others, and to commence training.

Next Steps

Once the RWP receives approval from Council, we will need to complete the following:

- Create a code of ethics - once the RWP becomes effective, the Code of Conduct for Employees will be null and void. There are some sections of the Code of Conduct for Employees that outline employment obligations that are unrelated to interpersonal conduct (e.g. ethical standards, confidentiality). These provisions will need to be retained in a separate policy to be recommended for approval as a Council Policy.
- Update the current Workplace Violence Prevention Policy – and the associated resolution and complaint procedures to ensure consistency with the RWP. The updated *Workplace Violence Prevention Policy* will then be recommended for approval as a Council Policy.
- Amend Code of Conduct for Council Members and Integrity Commissioner's Resolution/Complaint Procedures - to be consistent with the RWP.

- Respectful Workplace Ombudsperson – Civic Administration has determined that it will contract for the services of a RWO, at least initially to assess the most effective way to provide this service.
- Communicate RWP to employees and impacted individuals – ensure that individuals are made aware of the RWP.
- Commence Mandatory Training Sessions – finalize the plan and commence training sessions in February of 2020.
- Other policies /procedures - ensure that any other policies/procedures impacted by the RWP are amended as applicable.

FINANCIAL IMPACT

Funding to support development and delivery of the RWP training programs as well as the contracted Respectful Workplace Ombudsperson will be accommodated within the approved Human Resources operating budget or corporate contingency budget (if necessary).

CONCLUSION

Civic Administration is recommending the proposed RWP for approval by Council with an effective date of March 1, 2020. Putting in place the RWP is an important step in the City of London’s continued commitment to providing a safe and supportive workplace.

PREPARED AND RECOMMENDED BY:	CONCURRED BY:
WILLIAM C. COXHEAD ACTING DIRECTOR OF HUMAN RESOURCES	LYNNE LIVINGSTONE DEPUTY CITY MANAGER
RECOMMENDED BY:	
MARTIN HAYWARD CITY MANAGER	

APPENDIX "A"

Bill No.
2019

By-law No. CPOL.-

A by-law to repeal Council Policy By-Law No. CPOL.-155-407, as amended by By-law No. CPOL.-155(a)-384, being "Workplace Harassment and Discrimination Prevention Policy" and replace it with a new Council policy entitled "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)".

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to repeal By-law No. CPOL.-155-407, as amended by By-law No. CPOL.-155(a)-384, being "Workplace Harassment and Discrimination Prevention Policy" and replace it with a new Council policy entitled "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)";

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. By-law No. CPOL.-155-407, as amended by By-law No. CPOL.-155(a)-384) "Workplace Harassment and Discrimination Prevention Policy" is hereby repealed.
2. The Policy entitled "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)" attached as Schedule "A" to this by-law is hereby adopted.
3. This by-law comes into effect on March 1, 2020.

PASSED in Open Council on _____, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –



Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)

Policy Name: Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)

Legislative History: Workplace Harassment and Discrimination Prevention Policy Enacted September 19, 2017 (By-law No. CPOL.-155-407); Amended July 24, 2019 (By-law No. CPOL.-155(a)-384)

Last Review Date: December 3, 2019

Service Area Lead: Director of People Services

1. Policy Statement

The Corporation of the City of London ("Corporation") is committed to providing a safe and supportive workplace in which the diversity, dignity, and perspectives of all individuals are valued and respected.

Harassment and discrimination in the workplace are prohibited by law. Under Ontario's [Human Rights Code](#), every person has a right to equal treatment in employment without discrimination and the right to be free from harassment in the workplace. Workplace measures to prevent and address workplace harassment are also required by the [Occupational Health and Safety Act](#).

The Corporation will not tolerate, ignore, or condone harassment, discrimination, or reprisal of any of its employees in the workplace by anyone, including other employees, elected officials, members of the public, customers/clients, volunteers, contractors, and consultants. Workplace harassment, discrimination, and reprisal are serious forms of misconduct that may result in corrective and and/or disciplinary actions, up to and including termination of employment.

2. Definitions

The following definitions are intended to assist employees in understanding terms referenced in this policy. To the extent definitions may not be identical to legal definitions, they shall be interpreted and applied in accordance with applicable legislation, including the [Human Rights Code](#) and [Occupational Health and Safety Act](#).

- 2.1 **Discrimination** – Actions or behaviours that result in unfavourable treatment or which have a negative impact on an individual or group because of one or more of the prohibited grounds listed in the [Human Rights Code](#). Discrimination may be intentional or unintentional. It may involve direct actions that are outright discriminatory, or it may involve rules, practices or procedures that appear neutral, but disadvantage certain groups of people.
- 2.2 **Disrespectful Behaviour** – Failing or refusing, through words or actions, to treat others in a professional, courteous, civil, dignified, fair, and equitable manner.
- 2.3 **Harassment** – Engaging in offensive, hurtful, upsetting or embarrassing comment or conduct that a person knows or ought reasonably to know is unwelcome. The fact that a person does not explicitly object to harassing behaviour, or appears to be going along with it, does not mean the behaviour is welcomed, consented to, or is not harassing. Harassment usually involves more than one incident or a pattern of behaviour, but a single incident may be sufficiently serious, offensive, or harmful to constitute harassment.

Harassment may be:

- a) **Personal** – directed at an individual(s) but not based on any prohibited ground listed in the [Human Rights Code](#); or
- b) **Code-based** – based on one or more of the prohibited grounds listed in the [Human Rights Code](#). Code-based harassment is also a form of discrimination.

Harassment of a worker in the workplace, including sexual harassment of a worker in a workplace, is collectively referred to as “workplace harassment” for the purposes of the [Occupational Health and Safety Act](#).

2.4 **Poisoned Work Environment** – A hostile, humiliating, or uncomfortable workplace that is created by comments or conduct (including comments or conduct that are condoned or allowed to continue when brought to the attention of management) that intimidate, demean or ridicule a person or group. The comments or conduct need not be directed at a specific person, and may be from any person, regardless of position or status. A single comment or action, if sufficiently serious, may create a poisoned work environment. Pornography, pin-ups, offensive cartoons, insulting slurs or jokes, and malicious gossip are examples of comments and conduct that can “poison the workplace” for employees.

2.5 **Prohibited Grounds** – The [Human Rights Code](#) prohibits harassment and discrimination in employment based on one or more of the following grounds:

- race
- ancestry
- place of origin
- colour
- ethnic origin
- citizenship
- creed (religion, including atheism)
- sex (includes pregnancy and breast feeding)
- sexual orientation
- gender identity
- gender expression
- age
- record of offences (criminal conviction for a provincial offence or for an offence for which a pardon has been received)
- marital status (includes married, single, widowed, divorced, separated, living together in a conjugal relationship outside of marriage, whether in a same-sex or opposite sex relationship)
- family status (such as being in a parent-child relationship)
- disability (includes mental, physical, developmental or learning disabilities)
- association or relationship with a person identified by one of the listed grounds
- perception that one of the listed grounds applies, whether or not it actually does

2.6 **Reprisal** – Any act of retaliation or revenge against a person for:

- a) Raising a concern or making a complaint under this policy (whether on their own behalf or on behalf of another);
- b) Participating or cooperating in an investigation or other complaint resolution process under this policy; or
- c) Associating with or assisting a person identified in paragraphs a) and/or b) above.

2.7 **Sexual Harassment** – Harassment based on sex, sexual orientation, gender identity, or gender expression and includes:

- a) Engaging in offensive, hurtful, upsetting or embarrassing comment or conduct because of sex, sexual orientation, gender identity or gender expression that a person knows or ought reasonably to know is unwelcome;
- b) Making a sexual solicitation (i.e. request) or advance where the person making the solicitation or advance is in a position to confer, grant or deny

- a benefit or advancement and the person knows or ought reasonably to know that the solicitation or advance is unwelcome; and
- c) Retaliating against or threatening to retaliate against an individual for the rejection of a sexual solicitation or advance where the retaliation or threat of retaliation is by a person in a position to confer, grant or deny a benefit or advancement to the individual.

Sexual harassment of a worker in the workplace is referred to as “workplace sexual harassment” for the purposes of the [Occupational Health and Safety Act](#).

- 2.8 **Supervisor** – When referenced in this policy means a management supervisor.
- 2.9 **Workplace** – Includes all sites, facilities, and other locations where the business, work, or social activities of the Corporation take place (see also the Applicability section below).

3. **Applicability**

3.1 This policy applies to:

- All Corporation employees, including full-time, part-time, temporary, probationary and casual employees;
- Elected officials;
- Volunteers (including members of Advisory Committees, Special Committees and Task Forces);
- Interns and students on placements; and
- Contractors and consultants acting on behalf of the Corporation.

Members of the public, including visitors to Corporation facilities and individuals accessing services or conducting business with the Corporation, are expected to adhere to the standards of conduct set out in this policy, including refraining from workplace harassment and discrimination of employees, elected officials, and persons acting on behalf of the Corporation.

3.2 This policy applies at all Corporation workplaces, whether during or outside of normal working hours and whether at or away from the worksite. This includes:

- a) All Corporation facilities and worksites;
- b) All Corporation vehicles;
- c) Any other location where Corporation employees are performing work-related duties or carrying out responsibilities on behalf of the Corporation, including work-related travel and off-site meetings, conferences, seminars, and training;
- d) Locations at which work-related social functions take place, including formal events officially sanctioned by the Corporation and informal after-work social gatherings where behaviours could have an impact on the workplace; and
- e) Social media sites (e.g. Facebook, Twitter, Instagram etc.) and internet sites, where posts may be connected to the workplace or could have an impact on the workplace or working relationships.

3.3 This policy also applies to communications by telephone, cell phone, email, text message, or other electronic instant messaging platforms where the communication may be connected to the workplace or have an impact on the workplace or working relationships, whether the computer, phone, or other electronic device used to make the communication is a personal or Corporation-issued device.

4. **The Policy**

4.1 The purpose of this policy is to:

- a) Set expectations and standards of behaviour for a respectful, safe and supportive workplace;
- b) Define behaviours that may be offensive and prohibited by law and/or this policy;
- c) Clarify roles and responsibilities with respect to interpersonal behaviour in the workplace;
- d) Outline measures to prevent and address prohibited behaviour, including harassment, discrimination, and reprisal; and
- e) Address the Corporation's obligations under applicable employment laws, including the [Human Rights Code](#) and [Occupational Health and Safety Act](#).

4.2 Expected Behaviour

Employees will interact with one another, members of the public, and all others in the workplace in a professional, courteous, civil, dignified, fair, and equitable manner.

4.3 Prohibited Behaviour

The following behaviours are prohibited in the workplace:

- Disrespectful Behaviour
- Discrimination
- Harassment (Personal and Code-based), including Sexual Harassment
- Reprisal

See [Appendix A](#) for examples of the prohibited behaviours listed above.

4.4 Roles and Responsibilities

Creating and maintaining a respectful workplace is a shared responsibility. Every individual to whom this policy applies, as well as individuals who attend at Corporation workplaces, or who access services or conduct business with the Corporation, are expected and required to abide by the standards of behaviour set out in this policy.

Employees who are subjected to or witness prohibited behaviour in the workplace should consult the Respectful Workplace Dispute Resolution and Complaint Procedures (["Resolution/Complaint Procedures" – Appendix B](#)) which outline various options available to address and resolve such behaviour.

4.4.1 All Employees

Every employee has a responsibility to create and maintain a respectful workplace. This includes to:

- a) Ensure words and actions are consistent with this policy;
- b) Raise concerns as soon as possible of prohibited behaviour;
- c) Accept responsibility for their workplace behaviours and their impact on others;
- d) Cooperate in investigations and handling of alleged prohibited behaviour upon request;
- e) Maintain confidentiality related to investigations of alleged prohibited behaviour; and
- f) Participate in training associated with this policy.

4.4.2 Managers/Supervisors

Managers and supervisors have additional responsibilities to create and maintain respectful workplaces and must act immediately on observations or allegations of prohibited behaviour.

A manager or supervisor may be held responsible if they are aware of an incident of prohibited behaviour but do not take steps to resolve or address it.

Managers and Supervisors must:

- a) Ensure work-related practices/procedures in their areas are free from barriers and do not discriminate against groups or individuals;
- b) Set a good example by ensuring their own words and conduct adhere to this policy;
- c) Be aware of what constitutes prohibited behaviour and the procedures in place for addressing and resolving such behaviour;
- d) Act promptly to address observations or allegations of prohibited behaviour;
- e) Consult and work cooperatively with the Human Rights and Human Resources Divisions as needed;
- f) Keep a detailed record of any violations of this policy and corrective actions taken and report this information to the Human Rights Division as required;
- g) Support training and awareness activities related to this policy;
- h) Ensure this policy is distributed and posted in a location that is easily accessible by all employees and any other individuals who enter the workplace and ensure contractors and consultants who enter the workplace are aware of this policy;
- i) Implement disciplinary/corrective actions and workplace restoration measures as required;
- j) Monitor the workplace where prohibited behaviour has occurred to ensure it has stopped; and
- k) Provide appropriate support to all those in their work area affected by prohibited behaviour, including witnesses.

4.4.3 Non-management Supervisors

Non-management supervisors must likewise set a good example by ensuring their behaviour complies with this policy and must report all observations, concerns, and/or complaints of prohibited behaviour to their supervisor/manager or the Human Rights Division immediately to be addressed in accordance with the [Resolution/Complaint Procedures \(Appendix B\)](#).

4.4.4 Human Rights Division

The focus of the Human Rights Division is to assist in preventing, correcting, and remedying prohibited behaviours. The Human Rights Division does not advocate for, act on behalf of, or represent any party in a dispute (complainant, respondent, or management). All complaints to the Human Rights Division will be dealt with in an unbiased manner.

The Human Rights Division is responsible for:

- a) Reviewing and recommending updates to this policy;
- b) Providing information to employees, including to managers and supervisors, regarding this policy and the various options available for raising, addressing, and resolving concerns and complaints of prohibited behaviour;
- c) Making referrals to agencies for counselling and assistance when required;
- d) Receiving complaints, including conducting intakes;
- e) Recommending appropriate interim measures, and complaint resolution and investigation options;
- f) Conducting independent investigations;
- g) Assisting in implementing resolutions of complaints; and
- h) All tracking of concerns and complaints under this policy.

4.4.5 Human Resources Division

The Human Resources Division is responsible for:

- a) Removing barriers in hiring and employment policies, practices, and procedures that may have the effect of discriminating against groups or individuals;
- b) Providing training on this policy and related practices and procedures;
- c) Providing support to managers and supervisors in responding to and addressing matters under this policy;
- d) Making referrals to agencies for counselling and assistance where required;
- e) Consulting with the Human Rights Division as required with respect to alleged prohibited behaviour; and
- f) Reporting all complaints of prohibited behaviour to the Human Rights Division, including grievances alleging harassment, discrimination and/or reprisal filed under a collective agreement.

4.4.6 Corporate Security and Emergency Management Division

The focus of Corporate Security Services is to protect and promote the safety and security of Corporation workplaces, employees, and the public by assisting in preventing and addressing prohibited behaviours where safety may be at risk. Corporate Security Services is responsible for:

- a) Providing advice and assistance to address concerns and complaints of prohibited behaviour against a member of the public or where the physical safety of employees or others may be at risk;
- b) Making referrals to agencies for counselling and assistance when required;
- c) Receiving complaints alleging a member of the public has engaged in prohibited behaviour, including conducting intakes and determining appropriate interim measures;
- d) Determining informal actions, and conducting independent investigations of complaints of prohibited behaviour against a member of the public;
- e) Consulting and working cooperatively with Human Rights and Human Resources Divisions as required;
- f) Recommending and implementing appropriate corrective action involving members of the public when required; and
- g) Reporting prohibited behaviour by members of the public and corrective actions taken to the Human Rights Division as required.

4.4.7 Respectful Workplace Ombudsperson (“RWO”)

The RWO is available as a neutral and confidential resource for employees to obtain information regarding their rights and obligations under this policy. The RWO advocates for fair and transparent processes under this policy and related practices and procedures, but does not act as an advocate for or provide legal advice to individuals.

The RWO will:

- a) Receive and respond on a confidential basis to questions from employees regarding this policy;
- b) Provide assistance to employees as they proceed through the [Resolution/Complaint Procedures](#);
- c) Review complaints from employees related to processes and procedures undertaken by the Corporation under this policy and make recommendations to the City Manager for improvements; and
- d) Report annually to the City Manager about their interactions with employees related to this policy and identify themes and potential

options for action and improvement.

4.4.8 Joint Health and Safety Committees

The Corporation's Joint Health and Safety Committees will be consulted and may provide input and feedback with respect to the implementation and maintenance of this policy and related processes and procedures in accordance with the [Occupational Health and Safety Act](#).

4.4.9 Unions/Associations

Union/Association officials are available for confidential consultation and to provide representation to both complainants and respondents, if they are Union/Association members. Union/Association officials can also make a referral to agencies for counselling and assistance where required.

4.4.10 Community Agencies

Community agencies are available to provide confidential advice to individuals affected by complaints.

4.5 Communication

This policy shall be posted on the Corporation's intranet, on the Corporation's website, and in the Corporation's workplaces.

4.6 Respectful Workplace Training

Employees, elected officials, interns and students on placement, will receive mandatory training on this policy upon assuming their respective roles in the workplace. Thereafter, as appropriate, they will receive refresher or in-service training with respect to specific rights and/or obligations arising from the [Human Rights Code](#) and/or the [Occupational Health and Safety Act](#) and will be reminded of the complaint mechanisms to enforce those rights and any substantial changes.

4.7 Policy Review Process

The Corporation is committed to continuing to enhance its respectful workplace policies, practices, and procedures. This policy will be reviewed as often as necessary, but at least annually, to ensure it remains current and is appropriately implemented. Employees and their representatives are encouraged to provide input and feedback to the Human Rights Division, the Human Resources Division, or the RWO.

4.8 Policy Implementation

Implementation of this policy will be in accordance with applicable Council and/or Corporation by-laws, policies and procedures, legislation, and collective agreement provisions.

4.9 Related Policies and Procedures

- [Accommodation of Employees with Disabilities Procedure](#)
- [Code of Conduct for Members of Council](#)
- [Formal Investigation Process](#)
- [General Policy for Advisory Committees](#)
- Public Conduct Administrative Practice
- [Rzone Policy](#)
- [Time Off for Religious Observances Guideline](#)
- [Use of Technology Administrative Procedure](#)
- [Workplace Violence Prevention Policy](#)

Appendix A: Examples of Prohibited Behaviours

The following are some examples of the prohibited behaviours listed in Section 4.3 above.

Disrespectful Behaviour

Examples could include:

- Teasing or joking that intimidates, embarrasses, or humiliates;
- Belittling and use of profanity;
- Using sarcasm or a harsh tone;
- Deliberately expressing or exhibiting disinterest when an employee is speaking;
- Spreading gossip or rumours that damage one's reputation;
- Condescending or patronizing behaviour;
- Actions that invade privacy or one's personal work space; and
- Deliberately excluding an employee from basic civilities (e.g. saying "good morning"), relevant work activities, or decision making.

Any of the behaviours listed above could also constitute discrimination (if based on one or more of the prohibited grounds) or harassment (if the behaviour is repeated, occurs in combination with other prohibited behaviours, or is severe).

Discrimination

If based on one or more of the prohibited grounds, examples could include:

- Excluding an employee from workplace activities;
- Refusing to work with another employee;
- Denial of hiring, promotion, work assignment, career development or training;
- Failing or refusing to accommodate short of undue hardship; and
- Denial of services to any individual or group of individuals.

Harassment

Examples of **Personal Harassment** could include:

- Angry shouting/yelling;
- Abusive or violent language;
- Physical, verbal, or e-mail threats or intimidation;
- Aggressive behaviours (e.g. slamming doors, throwing objects);
- Targeting individual(s) in humiliating practical jokes;
- Excluding, shunning, or impeding work performance;
- Negative blogging or cyberbullying;
- Retaliation, bullying, or sabotaging;
- Unreasonable criticism or demands;
- Insults or name calling;
- Public humiliation; and
- Communication via any means (e.g. verbal, electronic mail, voice mail, print, social media posts, or radio) that is demeaning, insulting, humiliating, or mocking.

Examples of **Code-based Harassment** could include (if based on one or more of the prohibited grounds):

- Insulting, offensive, humiliating or mocking remarks, gestures, jokes, slurs, or innuendos;
- Name calling, including using derogatory or offensive terms or language;
- Refusing to work or interact with an employee;

- Attaining, viewing, retaining or distributing insulting, derogatory or offensive information from the internet or other sources;
- Vandalism of an individual's property;
- Interference with a person's ability to perform their work responsibilities;
- Offensive, derogatory, insulting or demeaning communication via any means (e.g. verbal, electronic mail, voice mail, print, social media posts, or radio); and
- Displaying pictures, graffiti or other materials that are derogatory or offensive.

Harassment Does Not Include:

- Reasonable performance of management or supervisory functions, including:
 - performance/probation reviews/appraisals,
 - performance management (including coaching, counselling, discipline),
 - organizational changes/restructuring,
 - shift/vacation scheduling,
 - work direction, and
 - work assignments/work location;
- Occasional disagreements or personality conflicts between co-workers;
- Stressful events encountered in the performance of legitimate duties; or
- A single comment or action unless it is serious and has a lasting harmful effect.

Sexual Harassment

Examples could include:

- Comments, jokes, slurs, innuendos or taunting about a person's body, attire, sex, sexual orientation, gender identity, or gender expression;
- Comments or conduct of a sexual nature (verbal, written, physical);
- Jokes of a sexual nature which cause awkwardness or embarrassment;
- Negative stereotypical comments based on gender, sex or sexual orientation;
- Gender related comments about an individual's physical characteristics or mannerisms;
- Displaying or distributing pornographic pictures or other offensive material;
- Inappropriate touching, gestures, leering, staring or sexual flirtations;
- Sexual assault (also an offence under the [Criminal Code](#));
- Persistent unaccepted solicitations for dates (including unwelcome contact subsequent to the end of an intimate relationship);
- Unwelcome solicitation(s) made by a person in a position to confer or deny a workplace benefit or advancement on the recipient; and
- Unwelcome comments or questions about a person's sex life.

Reprisal

Examples could include:

- Issuing discipline, changing work location or hours, demoting, denying of advancement or promotional opportunities, or threatening to carry out such actions if done as an act of retaliation or revenge;
- Bullying, threats, or other intimidating behaviour;
- Making false allegations of workplace misconduct; and
- Pressuring an individual to withdraw or change a complaint or witness statement.

Appendix B: Respectful Workplace Dispute Resolution and Complaint Procedures

1. Purpose

These procedures are intended to:

- a) Outline internal options available for employees to raise concerns of prohibited behaviour for resolution and/or investigation;
- b) Inform managers and supervisors of actions required to address concerns and complaints of prohibited behaviour;
- c) Inform employees of what they can expect to occur in the event they raise a concern of prohibited behaviour, or are a witness to, or accused of such behaviour;
- d) Inform employees of available supports to assist them in raising concerns of prohibited behaviour or in the event they are accused of, or witness such behaviour; and
- e) Outline actions that will be taken to prevent, correct, and remedy incidents of prohibited behaviour.

2. Definitions

For the purposes of these procedures,

- 2.1 **Complainant** – A person(s) alleging they have been subjected to prohibited behaviour under this policy.

Note: Complaints of prohibited behaviour will be accepted from any source that provides reasonable grounds for concern (e.g. witnesses, unions/associations, or other third parties). These individuals will not be considered “complainants” for the purpose of these Resolution/Complaint Procedures or the Corporation’s [Formal Investigation Process](#).

- 2.2 **Prohibited Behaviour** – Behaviour in the workplace that is prohibited by this policy (see Policy, Section 4.3 above).

- 2.3 **Respondent** – The person(s) who is alleged to have engaged in prohibited behaviour.

- 2.4 **Respectful Workplace Response Team** – Shall be comprised of the City Manager, relevant Managing Director, Director of People Services, or their designate(s), and a member of the City Solicitor’s Office.

3. Complaints Involving the City Manager/Deputy City Manager/Managing Directors/Director of People Services/Human Rights Intake Administrator

- a) Complaints received through these Resolution/Complaint Procedures alleging the City Manager has engaged in prohibited conduct (alone or in conjunction with another respondent(s)) shall be forwarded to the Director of People Services or the City Solicitor as soon as possible. Upon receipt of a complaint, the Director of People Services or the City Solicitor will immediately refer the complaint to an external third party.
- b) Complaints received through these Resolution/Complaint Procedures alleging the Deputy City Manager, a Managing Director, the Director of People Services, or the Human Rights Intake Administrator (alone or in conjunction with another respondent(s) other than the City Manager) has engaged in prohibited behaviour shall be forwarded to the City Manager as soon as possible. Upon receipt of a complaint, the City Manager will immediately refer the complaint to an external third party.
- c) The external third party will perform all the functions assigned to the Human Resources Division and/or the Human Rights Division as described in this procedure and the Formal Investigation Process.
- d) In the case of the City Manager, if the external third party determines that a formal investigation is required, they will provide the investigation report

and their recommendations, if any, to the Committee designated by the Municipal Council to deal with such matters. The Committee, after consultation with the external third party and such other external and/or internal resources as appropriate and required (e.g. external legal counsel, member of the City Solicitor's Office, Director of People Services), shall make recommendations to the Municipal Council relating to corrective and/or disciplinary actions, and the Municipal Council shall consider, adopt or otherwise deal with the recommendations from the Committee.

- e) In the case of the Deputy City Manager, Managing Directors, Director of People Services, and the Human Rights Intake Administrator, if the external third party determines that a formal investigation is required, they will provide the investigation report and their recommendations, if any, to the City Manager. The City Manager, after consultation with such other external and/or internal resources as appropriate and required (e.g. external legal counsel, member of the City Solicitor's Office, Director of People Services) will determine or, where required, will recommend to the Committee designated by the Municipal Council to deal with such matters, appropriate corrective and/or disciplinary action.

In all other respects, the Resolution/Complaint Procedures below will apply to the processing of the complaint.

4. Complaints Involving a Member of Council (Including the Mayor)

- a) Complaints received through these Resolution/Complaint Procedures alleging a Member of Council has engaged in prohibited conduct shall be forwarded to the Director of People Services as soon as possible. In the event the Director of People Services, determines that a formal investigation of the complaint is required, they will immediately refer the complaint to the Integrity Commissioner to conduct an investigation in accordance with the Integrity Commissioner's procedures. Where such a request is made to the Integrity Commissioner, the Director of People Services shall be the complainant for the purposes of the Integrity Commissioner's procedures.
- c) Where the Integrity Commissioner conducts an investigation, the Integrity Commissioner will provide results to the Director of People Services in accordance with the Integrity Commissioner's procedures. Based on the Integrity Commissioner's reporting, the Director of People Services will provide the complainant with a written summary of the findings.
- d) Where there are findings of a violation of this policy, the Director of People Services will refer the findings to the Respectful Workplace Response Team to implement appropriate corrective action to ensure the behaviour stops in accordance with section 7.4 below.
- e) As noted in Section 7.10 below, other complaint avenues for raising concerns of prohibited behaviour by a Member of Council may be available, including directly to the Integrity Commissioner as provided for in the [Code of Conduct for Members of Council](#).

In all other respects, the Resolution/Complaint Procedures below will apply to the processing of the complaint.

5. Complaints Involving Members of the Public Attending at Corporation Workplaces and/or Accessing Corporation Services

- a) The Division Manager of Corporate Security and Emergency Management, or designate, in addition to the individuals listed in sections 6.1 and 6.2 below, is available to provide advice, guidance and assistance to employees and supervisors/managers regarding available options to raise and resolve concerns of prohibited behaviour by a member of the public.
- b) The Division Manager, Corporate Security and Emergency Management, or designate, in consultation with the Human Rights Division as needed,

may also determine an appropriate informal course of action that may effectively resolve a complaint against a member of the public in a timely and fair manner as outlined in section 6.3 below. All findings of harassment, discrimination, and/or reprisal determined through informal action, as well as any corrective actions taken, shall be reported to the Human Rights Division.

- c) In addition to the Director of People Services and in accordance with section 6.5 below, the Division Manager, Corporate Security and Emergency Management or designate, in consultation with the Human Rights Division as needed, may determine that further inquiry into a complaint of prohibited conduct against a member of the public is necessary and, if so, a formal investigation of the matter will be conducted in accordance with the Corporation's [Formal Investigation Process](#).
- d) Where there are findings of a violation of this policy, corrective action shall be determined in accordance with section 7.4 below.
- e) The Division Manager, Corporate Security and Emergency Management or designate, shall report all findings of harassment, discrimination, and/or reprisal determined through formal investigation, as well as any corrective actions taken, to the Human Rights Division.

In all other respects, the Resolution/Complaint Procedures set out below will apply to the processing of a complaint against a member of the public.

6. Resolution/Complaint Procedures

There are a number of internal options available to raise and resolve concerns of prohibited behaviour under this policy, including:

- 1) Consultation – Obtaining Advice and Assistance
- 2) Individual Action – Talking to the Respondent
- 3) Informal Action – Dispute Resolution without Formal Investigation
- 4) Mediation
- 5) Formal Investigation

Whether all options are available or appropriate in a particular case will depend on the nature of the concerning behaviour and/or the parties involved. In all cases, concerns should be raised and addressed as soon as possible. Where appropriate, and especially when raised right away, individual or informal actions can bring about a quick resolution and prevent escalation of workplace disputes.

6.1 Consultation – Obtaining Advice and Assistance

Employees who believe they have witnessed or been subjected to prohibited behaviour may benefit from having access to information and advice before deciding how to proceed with a concern. Employees may consult any member of management or Human Resources or Human Rights Division staff. These individuals have responsibility to take action to resolve and stop prohibited behaviour (see Roles and Responsibilities – Policy, Section 4.4). They can provide advice, assistance, coaching, and referrals to assist employees in addressing the dispute themselves where appropriate to do so. Depending on the nature and circumstances of the concern raised, these individuals may be obligated to initiate an investigation even if the complainant does not wish to pursue that option.

The RWO is also available to provide neutral, confidential advice and information regarding available resolution and complaint options (see Policy, Section 4.4.7).

Employees who are members of a bargaining unit may also consult their Union/Association representative.

6.2 Individual Action – Talking to the Respondent

If an employee believes they are being subjected to prohibited behaviour and there are no immediate health or safety concerns, it is recommended the respondent be told as soon as possible that their behaviour is unwelcome and must stop.

It is not necessary for the employee to advise the respondent directly. The communication may be done verbally, via e-mail, transcribed, or other suitable means. It is recommended that if the communication is done verbally, what was said, as well as the date, time and place, be documented. Human Rights and Human Resources Division staff, a Union/Association representative, any member of management, or a trusted friend may assist.

It is recommended that the complainant maintain a detailed record of incidents of prohibited behaviour, including the number of occurrences, date(s), time(s), place(s), nature of the offensive behaviour(s), names of individuals who may have observed the incidents and all actions taken.

If addressing the respondent directly could raise health or safety risks, escalate the dispute, or is not appropriate, complainants may take other resolution options outlined in these procedures.

6.3 Informal Action – Dispute Resolution without Formal Investigation

If individual action is not appropriate or if the prohibited behaviour continues after asking the person to stop, the employee shall advise their supervisor/manager or the Human Rights Division of their complaint, preferably in writing. Where the employee's supervisor/manager is involved in the complaint, the employee may advise a more senior member of management. Supervisors and managers will report all complaints of behaviour that may constitute harassment, discrimination, or reprisal to the Human Rights Division as soon as possible. When uncertain, supervisors/managers should consult the Human Rights Division for guidance.

Where the prohibited behaviour alleged is not harassment, discrimination, or reprisal, the supervisor or manager in consultation with the Human Rights Division, as needed, and with the parties to the dispute, if appropriate, may determine an appropriate informal course of action that will effectively resolve the complaint in a timely and fair manner without the need for formal investigation. If the prohibited behaviour warrants disciplinary action, the supervisor or manager must consult with Human Resources or Human Rights Division staff before issuing discipline. The supervisor or manager shall document and report to the Human Rights Division any informal action taken, including any corrective/disciplinary action(s) implemented, to resolve the complaint.

Where the alleged prohibited behaviour may constitute harassment, discrimination, or reprisal, the Director of People Services, or designate, in consultation with the Human Rights Division, and with the complainant if appropriate, will determine whether an informal course of action may be appropriate.

Circumstances in which an informal course of action may be appropriate include the following:

- i) Where the alleged misconduct is minor in nature;
- ii) Where all the facts necessary for resolution are known without the need for further inquiry;
- iii) Where no other resources or special expertise are required for an impartial and timely resolution;
- iv) Where the alleged misconduct is acknowledged by the respondent, the parties to the complaint are in agreement as to how to effectively resolve the issues, and the agreed upon resolution is acceptable to the

appropriate manager(s) and the Director of People Services or designate.

Informal action may include, among other actions:

- i) Consulting, advising, meeting with and/or interviewing those involved in the complaint (i.e. an informal review/investigation);
- ii) Reviewing documentary evidence (e.g. emails);
- iii) Communication of findings to the parties to the complaint and making recommendations to remedy concerns; or
- iv) A facilitated discussion to resolve the issues.

The [Occupational Health and Safety Act](#) requires employers to conduct an investigation that is appropriate in the circumstances of all incidents and complaints of workplace harassment. Therefore options for informal action that do not include investigation will not be available for complaints of workplace harassment until after an appropriate investigation has been completed.

Where there are findings of prohibited behaviour determined through informal action, communication of those findings will be in accordance with the Communication of Findings section of the Corporation's [Formal Investigation Process](#).

6.4 Mediation

Mediation is a form of informal action. It is a voluntary process whereby the complainant and respondent meet with a trained mediator to determine whether the complaint can be resolved in a mutually satisfactory manner.

Mediation is not appropriate in all circumstances. For example, when there are allegations of severe discrimination or harassment which, if substantiated, would result in disciplinary action, or where there are potential health or safety concerns. If the Director of People Services or designate, in consultation with the Human Rights Division, deems mediation appropriate, it will be offered to the parties but will only be conducted with the consent of both the complainant and the respondent.

It is preferable that mediation be attempted prior to a formal investigation but will remain available to the parties throughout the investigation process. Where workplace harassment is alleged, mediation will only be available, if deemed appropriate, after an investigation is completed as required by the [Occupational Health and Safety Act](#).

During the mediation process, the complainant and the respondent may, if desired, be accompanied by a Union/Association representative or a trusted friend.

If a mediated settlement is reached, the terms of the settlement shall be reduced to writing and signed by the complainant, respondent and the mediator. If the settlement requires any action on the part of the Corporation, the agreement of the Director of People Services or designate will be required.

Discussions at the mediation will be treated as carried out with a view to coming to a settlement. Discussions will be treated as privileged and confidential to the full extent permitted by law.

6.5 Formal Investigation

If mediation or other informal options to resolve the complaint are not appropriate or are unsuccessful or where the Director of People Services or designate, in consultation with the Human Rights Division, determines that further inquiry is necessary, a formal investigation into the matter will be conducted.

Corporate-initiated Investigations: In circumstances where a complaint is made by someone other than the alleged victim, the Corporation may conduct a formal investigation where the Director of People Services or designate, in consultation with the Human Rights Division, deems it appropriate, including where allegations of harassment or discrimination warrant further action/investigation or where the alleged victim does not wish to submit a complaint. The Corporation may also conduct a formal investigation where there is information to suggest the existence of an outstanding specific or systemic problem in the workplace.

Formal investigations and communication of the findings from such investigations will be conducted in accordance with the Corporation's [Formal Investigation Process](#).

7. General Provisions

7.1 Refusal to Act or Investigate

The Corporation may refuse to act or investigate or may discontinue an informal action or investigation where:

- i) The behaviour alleged, if true, would not be a breach of this policy;
- ii) The complaint is anonymous and there is insufficient information to warrant any or further steps;
- iii) The complaint is vexatious or made in bad faith (see Section 7.5 below);
- iv) Another complaint avenue has been pursued or engaged regarding the same or a related concern/complaint; or
- v) Having regard to all of the circumstances, further investigation of the matter is unnecessary.

7.2 Interim Measures

In certain circumstances such as where health or safety is at issue, it may be necessary to take immediate measures. In such a case, interim measures shall be determined by the Director of People Services, or designate, in consultation, where appropriate, with the Human Rights Division, other members of the Respectful Workplace Response Team, Corporate Security, and/or the London Police Service. Interim measures may include relocating a party, or placing a party on a non-disciplinary suspension with pay pending the resolution of the complaint or outcome of the investigation. The Division Manager, Corporate Security and Emergency Management Division, or designate, in consultation, where appropriate, with the Human Rights Division, other members of the Respectful Workplace Response Team, and/or the London Police Service, shall determine interim measures with respect to members of the public. The implementation of interim measures does not mean that conclusions have been reached relating to the allegations.

7.3 Support for Parties

The Corporation recognizes that involvement in a workplace investigation may be stressful and emotionally upsetting. Complainants, respondents, witnesses, and other affected employees may access the counselling services and support provided by the Corporation's employee assistance provider. Additionally, complainants may wish to access counselling and support through outside agencies.

Parties to a complaint also have the right to be accompanied by a support person of their choice during meetings relating to a complaint made pursuant to these procedures, including their Union/Association representative, if applicable, or a trusted friend (e.g. another manager if they are a management employee). Where the Human Rights Intake Administrator/investigator is of the opinion that the presence of the support person is inappropriate (e.g. they have a conflict) or

is hindering the process, the relevant party may select another support person provided that doing so does not hinder or unduly delay the meeting/process. As these procedures are intended as an internal means of addressing prohibited behaviour outside of more formal legal proceedings, parties are not entitled to select legal counsel as their support person.

7.4 Corrective Action and/or Disciplinary Action

Where a finding of a violation of this policy that does not constitute harassment, discrimination, or reprisal has been made, the applicable division manager, in consultation with the Director of People Services, or delegate, will determine appropriate corrective and/or disciplinary actions.

Where a finding of harassment, discrimination, or reprisal in violation of this policy has been made, the Respectful Workplace Response Team will determine appropriate corrective and/or disciplinary actions.

Where it is determined that corrective or disciplinary action is to be taken against an employee of the Corporation, such action may include the following:

- An apology
- Coaching or counselling
- Education or training
- Warning
- Suspension or leave without pay
- Demotion
- Transfer
- Termination of employment

The appropriate supervisor or manager will implement corrective or disciplinary actions to be taken against an employee.

Where it is determined that corrective action is to be taken against members of Council, volunteers (including members of Advisory Committees, Special Committees, and Task Forces), students on placements, contractors, consultants, members of the public, including clients or customers, the Corporation will take such corrective action as is reasonable in the circumstances and permitted by law to ensure the prohibited behaviour stops. This may include barring the person from Corporation facilities or discontinuing business with contractors or consultants. The Division Manager, Corporate Security and Emergency Management Division or designate will be consulted with respect to determining any corrective action to be taken against members of the public.

The Corporation may also implement any systemic remedies it deems appropriate.

7.5 Vexatious/Bad Faith Complaints

Where it is determined that the complainant has made a vexatious or bad faith complaint or an individual makes allegations knowing them to be false, the Respectful Workplace Response Team will take appropriate corrective and/or disciplinary action which may include the same corrective and/or disciplinary actions noted above.

A complaint is vexatious or made in bad faith if it is made for the purpose of annoying, embarrassing or harassing the respondent, out of spite or vindictiveness, or the complainant is engaging in improper behaviour such as fraud, deception, or intentional misrepresentation.

A complaint that is made in good faith but is not substantiated does not constitute a vexatious or bad faith complaint.

7.6 Timing of Complaint

A complaint under these procedures should be made as soon as possible after the prohibited behaviour occurred and no later than one year after the last incident occurred unless there are reasons why it was not possible to bring it forward sooner. Where failure to make a complaint in a timely fashion affects the ability of the Corporation to conduct a full and complete investigation, the Corporation may decline to deal with the complaint.

7.7 Timing of Completion of Actions/Investigation

The Corporation will complete any informal actions or formal investigations pursuant to these procedures in a timely manner and within three (3) months from the date of receiving a complaint/initiating an investigation, unless there are extenuating circumstances (e.g. illness, complex investigation) warranting a longer period. The Human Rights Intake Administrator/investigator, supervisor, or manager responsible for handling a complaint under these procedures will update the parties to the complaint on a regular basis (approximately every two to three weeks) as to the status of their complaint and anticipated next steps.

7.8 Confidentiality

The administration of these procedures will be in accordance with the [Municipal Freedom of Information and Protection of Privacy Act](#) (“MFIPPA”). All complaints received under these procedures will be considered strictly confidential subject to the Corporation’s obligation to safeguard employees, to conduct a thorough investigation, take appropriate corrective and/or disciplinary action, or to otherwise disclose information as required by law. The parties to the complaint and any witnesses are also expected to maintain confidentiality. Unwarranted breaches of confidentiality will result in corrective and/or disciplinary action.

7.9 Complaint Records

Where an investigation results in corrective and/or disciplinary action against an employee, a record of such action will be placed in the employee’s Human Resources file. Where there is insufficient evidence to prove that prohibited conduct occurred, no record of the complaint shall be placed in the respondent’s Human Resources file.

All records pertaining to enquiries and complaints under this policy will be kept in confidential storage separate from employees’ Human Resources files. All records will be subject to the provisions of [MFIPPA](#) as noted above.

7.10 Other Avenues of Complaint

In addition to these internal resolution and complaint procedures, there may be other avenues available to pursue complaints of prohibited behaviour. Depending on the nature of the behaviour at issue and the parties involved, other complaint avenues may include an Application to the Human Rights Tribunal of Ontario, a complaint to the Ministry of Labour, an application to the Ontario Labour Relations Board, a civil action, a criminal complaint, a complaint to the Integrity Commissioner, and a grievance pursuant to the terms of an applicable collective agreement.

These resolution/complaint procedures are not intended to interfere with or restrict employees’ rights to pursue any other available avenue(s) of complaint, including pursuant to the Ontario [Human Rights Code](#) and the [Occupational Health and Safety Act](#). Where appropriate and/or required by law, the Corporation will conduct its own independent investigation into the allegations and make its own determination in accordance with this policy even when another avenue of complaint is pursued. This includes circumstances where there may be a related criminal proceeding.

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON DECEMBER 3, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	DECLARE SURPLUS PORTION OF CITY OWNED LAND – 65 BRISBIN STREET ABUTTING SOUTH SIDE OF 81 BRISBIN STREET

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, on the advice of the Manager of Realty Services, with respect to a portion of City owned land at 65 Brisbin Street, abutting the south side of 81 Brisbin Street, described as Part 2, Lot 94, Plan 484 C, containing an area of approximately 805 square feet, as shown on Schedule "A", the following actions **BE TAKEN**:

- a) the subject property **BE DECLARED SURPLUS**; and
- b) the subject property ("Surplus Lands") **BE TRANSFERRED** to the abutting property owner at 81 Brisbin Street, in accordance with the City's Sale and Other Disposition of Land Policy.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
--

None.

BACKGROUND

Site Description

The subject property is a portion of City owned open space municipally known as 65 Brisbin Street. The parcel being declared surplus is located on the west side of Brisbin Street adjacent to the south side of 81 Brisbin Street. The subject City lands are located off the west end of a turning circle or bulb at the end of Brisbin Street. The proposed sale of the lands comprises of 805 square feet with 20 feet of frontage on Brisbin Street.

Official Plan:	Open Space (OS1)
Zoning:	Open Space (OS1)
Area:	805 square feet
Site Description:	Vacant City owned park land

Current Status of Site

The site is currently vacant City land abutting the south side of 81 Brisbin Street. A formal request to purchase a portion of the City owned lands was made on August 30, 2019. The property owner of 81 Brisbin Street advised that the proposed lands are required to replace an illegal driveway at the north end of his property. The owner was issued a citation from the adjoining owner to cease encroaching and using the lands as a driveway. He engaged the services of a lawyer and a surveyor and after a review of the situation by his lawyer it was confirmed that he indeed was using the lands lying to the north without permission and without legal rights.

A Property Liaison Inquiry Report was circulated on October 1, 2019. No responses or objections to the sale of the lands were raised, however after the process was completed, the following conditions on the sale were imposed:

1. That a Stage 1 and Stage 2 Archaeological Assessment be completed.
2. That the lands be rezoned from current Parkland to Residential.
3. That the new south limits of the lands be fenced with a 1.5 metre high black chain-link fence as per City standards.

An internal appraisal of the property has been recommended to determine the estimated fair market value of the property, which will be relied upon during disposition. The owner has requested that the City move forward with the process. He has accepted the conditions imposed and subject to the reasonable costs to purchase the lands as established by an appraisal, he will enter into an Agreement of Purchase and Sale with the City.

The Sale and Other Disposition of Land policy under Section 4 Methods of Sale allows for the disposition of lands to abutting property owner through direct negotiation.

Conclusion

The property is surplus to the needs of the City and therefore recommended to be declared surplus and sold at fair market value in accordance with the City's Sale and Other Disposition of Land Policy.

A location map is attached for the Committee's information.

PREPARED & SUBMITTED BY:	RECOMMENDED BY :
BILL WARNER MANAGER OF REALTY SERVICES	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

November 19, 2019
Attach.

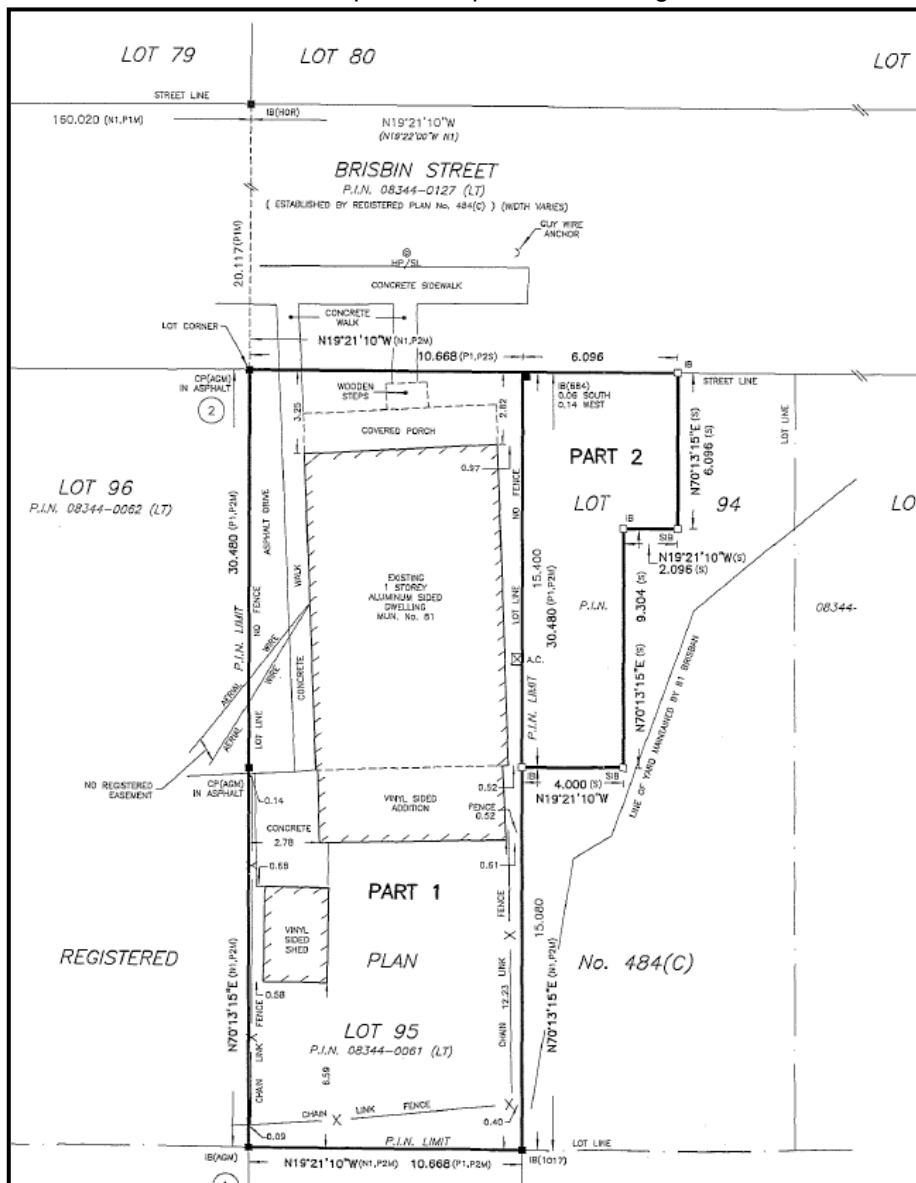
File No. P-2357 (1)

cc: Andrew Macpherson, Division Manager, Parks Planning and Operations

LOCATION MAP



Schedule "A"
Proposed Disposition Drawing



Subject Property Shown As Part 2

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON DECEMBER 3, 2019
FROM:	CATHY SAUNDERS, CITY CLERK
SUBJECT:	ISSUANCE OF PROCLAMATIONS POLICY

RECOMMENDATION

That, on the recommendation of the City Clerk, with the concurrence of the Managing Director, Corporate Services and City Solicitor, the following report BE RECEIVED.

PREVIOUS REPORTS RELATED TO THIS MATTER

16th Report of the Strategic Priorities and Policy Committee (September 18, 2017) – 4th Report of the Governance Working Group (August 21, 2017)

9th Report of the Strategic Priorities and Policy Committee (July 23, 2018) – 11th Report of the Governance Working Group (June 25, 2018)

BACKGROUND

Municipal Council passed the following resolution, at its regular meeting held on October 15, 2019:

That the Civic Administration BE DIRECTED to review and report back to the Corporate Services Committee with respect to the City of London Issuance of Proclamation Policy, specifically in terms of acknowledging nationally recognized proclamations.

The Corporate Services Committee passed the following recommendation, at its regular meeting held on November 19, 2019:

That the following actions be taken with respect to a recognition event for Black History Month:

- a) the Civic Administration BE DIRECTED to report back to the December 3rd 2019, Corporate Services Committee with options of proclaiming black history month and other proclamations;...

Chronology of Proclamations – City of London

A review of past Council minutes (1960's, 70's and 80's) notes that proclamations were made by Council from time to time. There is no record of an associated policy related to the approval of proclamations until 1989¹. It appears that, at the time, a request for a proclamation would be forwarded to Council, through the Board of Control, for consideration. Some proclamations during this time included the following: "International Co-operation Week" (need for assisting the developing nations 1965), "Heart Sunday" (Ontario Heart Foundation 1965/66), "Brotherhood Week" (1966), "Better Vision Week" (1967), "Youth Appreciation Week" (1967), "Nigeria/Biafra Day" (request via Canadian Catholic Organization for Development and Peace, the Canadian Council of Churches, Red Cross Society, Save the Children Fund, UNICEF and Oxfam of Canada); "Grape Boycott Day" (London and District Labour Council, 1968), "National Health Week" (request of the Medical Officer of Health 1969); "World Week" (London Committee – International Development 1969), "Indian Days of London" (N'Amerind, London's Indian Friendship

¹ The 1967 policy addressed the matter of costs associated with publication of the proclamation in the newspaper, whereby the cost were the requester's responsibility. This was modified in 1972, whereby costs of a local Board or Commission, or matters of wide civic interest would be paid by the City.

Centre, 1971), "Lithuanian Canadian Weekend" (1970), "Anti-Pollution Week" (London and District Labour Council, 1970), "Toastmasters Anniversary Month" (1972), "Missions Week" (Mission Services of London, 1972), "Police Appreciation Day" (1973), "Business Women's Week" (London Business and Professional Women's Club, 1973), "Youth Temperance Education Week" (London Women's Christian Temperance Union, 1974), "Police Week", "Mundialization of the City of London", "Children with Learning Disabilities Week", "Epilepsy Week", "World Environment Day" and "Hearing and Speech Month" (one motion 1974), "Salvation Army Red Shield Week" (1975), "Heritage Weekend" (Kinsmen Club of West London, 1976), "Northern Land Claims Week" (Southern Support Group for the Indian Brotherhood and Metis Association of the Northwest Territories, 1976), "Support for the Arts Day" (1978), "Block Parent Month" (1980), "Knights of Columbus Week" (1982), "Human Rights Day" (1982), "Physical Fitness Week/Day" (1983), "Easter Seal Week" (1985), "Forest Fire Prevention Week" (1986), "Community Justice Week" (Request of the Attorney General of Ontario, 1986).

In May of 1989, the London Municipal Council enacted the following policy², on the recommendation of the Board of Control:

"Issuance of Proclamations

- a) the Mayor, in his discretion and on the advice of the City Clerk, issue Proclamations on behalf of the City of London;
- b) the individuals and/or organizations requesting the issuance of Proclamations be made aware of the fact that such Proclamations are issued at the sole discretion of the Mayor, on the advice of the City Clerk, and at the time, location, and in accordance with wording approved by them;
- c) Proclamations issued by the Mayor on behalf of the Municipality will not contain any inflammatory, politically insensitive, provocative or scatological references, which, in the opinion of the Mayor, on the advice of the City Clerk, would have an adverse affect on any or all of the citizens of this Municipality or of Canada."

Following her election to the office of Mayor, Dianne Haskett adhered to the additional "Mayor's policy":

"In addition to the City Council policy ...Requests for the flying of flags or proclamations are to be declined if they relate to:

- 1) abortion – whether it be pro-choice or pro-life;
- 2) sexuality – whether it be heterosexuality, homosexuality or celibacy;
- 3) any issue that would cause serious controversy in the community;
- 4) anything that would promote any illegal activity;
- 5) anything that would incite hatred towards any group."

The records retention for information related to proclamations during the years following has expired, and therefore there is no statistical data available as to how frequently any proclamations were made. However, in May of 1995, the Mayor (Dianne Haskett) reported to the Board of Control that to-date two proclamation requests had be denied by her office. These requests were for "Chastity Week" and "Pride Weekend".

Following the refusal of proclamation related to "Pride Weekend", the requesting organization filed a complaint with the Ontario Human Rights Commission of a contravention of the *Human Rights Code, R.S.O. 1990*. The decision related to the complaint was issued October 7, 1997 and is attached to this report (Hudler vs. London) for members' information (Appendix A).

² A Flag Policy was introduced at this same meeting.

In June of 1998 the Municipal Council enacted a new 12 month trial policy on Issuing of Proclamations. This policy was as follows:

- i) the City Clerk may in his sole discretion issue proclamations on behalf of the City of London;
- ii) individuals and/or organizations requesting the issuance of proclamations be made aware of the fact that such proclamations are issued at the sole discretion of the City Clerk and at a time, location and in accordance with wording approved by him; and,
- iii) proclamations issued by the City Clerk on behalf of the City of London will not contain any inflammatory, politically insensitive, provocative or scatological references;"

Under this 12 month trial policy, a request was received by the City of London for a proclamation of "European Heritage Week", and the City Clerk issued the proclamation. This was subsequently rescinded by the Municipal Council. As a result of the rescinding of the proclamation, the matter was brought to the attention of the Human Rights Commission, on the grounds of a *Code* violation. Later that year, the Municipal Council adopted the following Council Policy, amending 16(22): "That a policy be established effective immediately whereby no proclamations shall be issued on behalf of the City of London, except those required by law to be issued."

During the comprehensive review and modernization of the Council Policies, the Issuance of Proclamations Policy was reviewed by the Governance Working Group (August 2017). The wording of the policy was updated to streamline the wording. There was no contemplation to change the municipal approach to proclamations.

In 2018, the Governance Working Group completed additional policy review work. In July of 2018, additional amendments were made in terms of applying a gender equity lens, and formatting the document to the appropriate policy template. This was adopted by Council July 24, 2018. During the bi-annual review period in 2019, no additional changes to the policy were recommended. The most current policy is attached (Appendix B).

Council Policies that are related to this matter include, "Flags at City Hall", "Illumination of City of London Buildings and Amenities" and "Inter-Municipal Endorsement of Council Resolutions Policy". The Flag and Illumination policies are intended to offer opportunities to acknowledge community and awareness events, whereas the Inter-Municipal Endorsement policy is meant to focus Council positions on matters to the appropriate federal, provincial and municipal associations, etc. All Council Policies are available for review on the City website, <http://www.london.ca/city-hall/city-council/Pages/Policy-Manual.aspx> .

DISCUSSION

The City Clerk's Office receives periodic requests for proclamations for various matters. These requests are responded to administratively, advising of the Council Policy, and offering alternative actions that may be considered. These include flag raising, lighting of City Hall, and/or circulation of information to the Members of Council. Unfortunately, there is no specific data related to the number of requests received by the City, as some of these requests are sent to other areas, outside of the City Clerk's office. Since 2017, the City Clerk has responded to six requests for proclamations. These requests included: Child Care Worker/Early Childhood Educator Appreciation Day, Co-operative Housing Day, National Public Works Week, Dig Safe Month, Wrongful Conviction Day and Eating Disorder Week. The Library of Parliament does not include any of these matters on their national list. There have not been any requests in 2019.

Current Practice – London

In addition to the previously noted community opportunities through the flag policy and illumination policy, there are a number of additional means by which community and awareness causes are supported by the City of London. Each Council meeting agenda includes opportunities for “Recognitions”. The formal recognitions, included on the agenda, are facilitated through the Mayor’s office (with the exception of Administrative recognitions for employees). There are also routinely verbal recognitions from Members of the Council acknowledging community events, awareness and achievements at Council and standing committee meetings.

Administratively, including through corporate employee groups, there are countless undertakings with respect to matters of community interest, organizational support and acknowledgements. These include, but are not limited to employee events such as: “days of significance” calendar (actively promoted on intranet), Business Cares Food Drive, support for the end of violence against women, United Way, International Day of Persons with Disabilities, Pride, positive space, Black History Month, Emancipation Day, Toque Day, White Ribbon Campaign, etc.

Current Practice – municipalities providing proclamations

An environmental scan of comparable Canadian municipalities related to proclamations has been undertaken. The following municipalities offer municipal proclamations and were reviewed in detail: Calgary, Edmonton, Brampton, Toronto, Vancouver, Ottawa, Aurora, Kingston and Windsor³. In all but one of these municipalities, proclamations are administered by the Mayor or the Clerk as a delegated authority. The proclamations are not actions of Council.

*Clerk’s Administration – *signed by the Mayor*

Calgary, Edmonton, Brampton, Toronto, Ottawa, Aurora, Windsor

Mayor’s Office Administration

Ottawa

Council Approval

Kingston (initial approval, acceptable for up to 5 years then administered by the Clerk)

The practices vary between municipalities in terms of what a municipal proclamation includes. Most are a document that is prepared with wording submitted by the requesting body, which is signed and sealed and then provided to the requestor. Some include a posting on the municipal website (either the proclamation or a list), and some are noted on the Council agenda (but there is no discussion). The notation on the Council agenda would be similar to London’s current ‘recognition’ process at Council, with exception that current London process allows for an individual Councillor to present a verbal recognition at any meeting. The associated policies of these municipalities are attached for review⁴ (Appendix C).

³ This list represents the municipalities examined in detail, and does not represent an exhaustive list of municipalities that enact proclamations.

⁴ Appendix C includes the policies of: Calgary, Brampton, Toronto, Vancouver, Ottawa, Aurora, Kingston, Windsor. Edmonton uses an “internal document” for guidelines.

A high-level summary of some of the additional information is as follows:

	# per year	Restrictions	Fact-checking (by staff)	Notice Requirement	Post on website	Dedicated staff
Calgary	130*	Yes	Yes	4-6 wks		Yes
Edmonton	150-180	Yes		4-6 wks		
Brampton	60	Yes		6 wks		Yes
Toronto	180	Yes	Yes	4 wks	Yes	Yes
Vancouver	145	Yes	(if new request)	3 wks		
Ottawa	150	Yes	Yes	4 wks		Yes
Aurora	30-35	Yes	Yes	4 wks	Yes	
Kingston	45	Yes	Yes		Yes	
Windsor	66	Yes	Yes	3 wks	Yes	

* 130 requests, with 100-110 proclamations issued.

In terms of “nationally recognized” matters, the Library of Parliament provides a list of national days and observances in Canada, including associated legislative authority where applicable. The most recent revision was in 2017; there is also a disclaimer noting that “there is no central authority responsible” for maintaining a list, and that it should be seen as a “useful guide but not a comprehensive list of every special day observed in Canada.” The proclamations made to-date in 2019 by municipalities with listings provided on their website, were reviewed in terms of the “nationally recognized” events and observances. The results of this review were:

	Proclamations to-date in 2019	Proclamations included on federal list	
Brampton	58	9	16%
Toronto	180	19	11%
Windsor	55	5	9%
Aurora	27	4	15%

Nationally Recognized Observances and Considerations

Attached to this report is the table of “National Days and Observances in Canada” (Appendix D) from the Library of Parliament for review. Based on the review that has been completed at this time, the vast majority of municipal proclamations fall outside those observances that are “nationally recognized”. The test of “nationally recognized” observances may not accomplish the desired intention in terms of a policy implementation.

In the McKellar decision, it is noted that the meaning of “services” (municipal services) may include the civic recognition of special days (proclamations). There is not any legislative authority under which municipal proclamations are made. A municipality is not compelled, nor prohibited from issuing same, however any such provision of service would need to comply with the *Human Rights Code*, and be available to all.

CONCLUSION

Over time, the City of London has made proclamations under a variety of policies and frameworks – Council approval, delegation of approval to the Mayor, delegation of approval to the City Clerk and no issuances of proclamations.

In considering the introduction of any new program, Council may wish to consider the intended outcome, and whether or not this is already achievable with existing policies, including flag raising, illumination and council recognitions.

The formation of a policy to amend the current Council Policy (Issuance of Proclamations) in order to provide for the issuance of proclamations would require Council direction in terms of the parameters (if any) for requests, confirmation and research of validity, an approval authority and a process.

The City Clerk can advise that based on the current and past requests for flag raising and illumination of City facilities, concerns have arisen from time to time with respect to the applicant. Therefore, requests for proclamations will need to be similarly reviewed and vetted. Municipal Council may wish to consider who would be responsible for undertaking this review and what criteria may be established for that review.

Even those proclamations listed on the “National Days and Observances in Canada” may be of concern to some of our residents and may not necessarily adhere to City of London policies. The Civic Administration recommends that Municipal Council consider that an organization that may be acceptable to some residents, may be of concern to others.

PREPARED BY:	PREPARED BY:
BARB WESTLAKE-POWER DEPUTY CITY CLERK	
CONCURRED BY:	RECOMMENDED BY:
BARRY CARD MANAGING DIRECTOR, CORPORATE SERVICES & CITY SOLICITOR	CATHY SAUNDERS CITY CLERK

- Attached – Appendix A – Hudler vs. City of London
 Appendix B – City of London Issuance of Proclamations Policy
 Appendix C – Policies of other municipalities
 Appendix D – National Days and Observances in Canada

Appendix A

31.13.2.97

Human Rights - Hudler



BOARD OF INQUIRY (*Human Rights Code*)

IN THE MATTER OF the Ontario *Human Rights Code*, R.S.O. 1990, c. H.19, as amended;

AND IN THE MATTER OF the complaint by Richard Hudler dated October 11, 1995, alleging discrimination with respect to services, goods and facilities because of sexual orientation.

BETWEEN:

Ontario Human Rights Commission

- and -

Richard Hudler

Complainant

- and -

The Corporation of the City of London,
Mayor Dianne Haskett

Respondents

DECISION

Adjudicator : Mary Anne McKellar

Date : October 7, 1997

Board File No: BI-0119-97

Decision No : 97-023

CITY CLERK	No. 05897
SUBJECT	Human Rights
DATE	OCT 8 1997
REF.	PAC ✓
	BAB ✓ CHR ✓

Board of Inquiry (*Human Rights Code*)

150 Eglinton Avenue East

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A P E A R A N C E S

Ontario Human Rights Commission)	
)	Kikee Malik, Counsel
)	Raj Dhir, Student-at-Law

Richard Hudler, Complainant)	
)	Leslie Reaume, Counsel
)	

The Corporation of the City of London, Corporate Respondent)	
)	James Barber, Counsel
)	Cristin Kellee, Student-at-Law
)	

Mayor Dianne Haskett, Personal Respondent)	
)	Scott Ritchie, Counsel
)	Kathryn McKerlie, Counsel

INTRODUCTION

1. I was assigned by the Chair of the Board of Inquiry (“the BOI”) pursuant to s. 35(6) of the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (“the *Code*”), to hear and decide a Complaint referred by the Ontario Human Rights Commission (“the Commission”) under s. 36(1). The Complainant, Richard Hudler alleges that the Mayor of the City of London, Dianne Haskett (“the Mayor”), and/or the Corporation of the City of London (“the City”) contravened the *Code* by discriminating with respect to the provision of services on the basis of sexual orientation. In particular, the Complainant alleges that the Mayor and the City contravened the *Code* when each refused in 1995 to publicly recognize the contributions and achievements of the Homophile Association of London Ontario (“HALO”), a non-profit corporation of which the Complainant was then President.

2. Notice of Constitutional Question was served on the Attorneys-General for Ontario and Canada. Both declined to participate in these proceedings.

DECISION

3. I find that both the Mayor and the City have contravened the *Code* by discriminating on the basis of sexual orientation with respect to the provision of services. My remedial orders are contained in Paragraphs 76 - 87.

FACTS

A. The Witnesses

4. The Commission and the Complainant called the following witnesses who testified with respect to their personal involvement in the events giving rise to the Complaint: Richard Hudler; Debbie Lee; Suzanne Couture; Ken Sadler; Councillor Joe Swan; Patrick Shanahan; and Clarence Crossman. In addition, the Commission and Complainant called Dr. Mariana Valverde as a witness.

Dr. Valverde was qualified as an expert witness in the area of sexual orientation and sexual identity. She received her Ph.D. in Social and Political Thought from York University and has held a tenured position as Associate Professor, Centre of Criminology, University of Toronto since 1992. Dr. Valverde has lectured and published widely in the areas of gender studies, sexuality and moral regulation. In addition, she has offered expert evidence in several Board of Inquiry cases involving allegations of discrimination on the basis of sexual orientation, including *Oliver v. Hamilton (City) (No.2)* (1995), 24 C.H.R.R. D/298 (Ont. Bd. Inq.).

5. The City called no evidence. Witnesses called by the Mayor were two: Mayor Haskett and George Rust D'Eye. The latter was qualified as an expert to offer opinion evidence on the range of ways in which municipalities and civic officials act, and their authority for doing so, including which of those actions are conceived of in the municipal context as "services". Rust D'Eye is the former solicitor for the Municipality of Metropolitan Toronto. His professional practice and affiliations familiarized him with the workings of city hall and municipal officials. He also gave expert testimony in *Oliver*.

6. My account of the facts is based on the testimony of the above witnesses and the exhibits filed. The recitation of them is necessarily lengthy even though there was very little dispute about what actually occurred in London in 1995. The disputed areas of evidence pertain to the inferences I was urged to draw and conclusions urged to reach with respect to why events unfolded as they did and how they affected the community.

B. What is HALO?

7. HALO is a non-profit corporation that originated as a campus group at the University of Western Ontario in 1970. It has operated at the same premises in London, Ontario since 1974. It functions as a community organization or club, offering to its members social services, such as a disco and coffee house, and support services, such as peer counselling and referrals to other affiliated

agencies. Membership in the club is available to anyone sixteen years of age or older who pays the membership fee and who subscribes to the objects of the club. Those objects are:

- (a) to provide services and facilities to meet the social, cultural, psychological and spiritual needs of the members of the homophile community;
- (b) to act as a referral source to the members of the homophile community with medical, legal, psychological, and spiritual problems;
- (c) to provide a program to assist in the integration through education of individuals of different sexual orientations.

8. HALO's membership comprises approximately 250 gay men, lesbians, bisexuals, transgendered persons and some heterosexuals. A review of the May 1995 version of the HALO pamphlet reveals that its focus is not on providing services to heterosexuals in London, who may already be adequately served by other community organizations, but on providing services and support to the gay and lesbian community. For example HALO operates a telephone counselling service called "The London Gayline". It is affiliated with the Coalition for Lesbian and Gay Rights in Ontario ("CLGRO") and the International Lesbian and Gay Association. Among the resources listed in the pamphlet are many groups that contain the word "gay" or "lesbian" in their names, such as the London Lesbian Film Festival. In addition, the description offered for other groups indicates that they are primarily comprised of or designed for gay men and lesbians. For example, the group "Dignity" is described as "Lesbian & Gay Catholics". Many of these groups had as their genesis HALO initiatives, and some still use the club's facilities for their meetings. They include religious groups, community health care agencies, groups offering cultural or recreational activities, and support groups of various kinds.

9. Heterosexuals are not precluded from joining HALO or from availing themselves of any of the services it provides or lists as resources in its pamphlet. In fact, there is one service that HALO appears to provide primarily to those who have not already identified as gay or lesbian. I am referring to the community services committee, the purpose of which is described as "providing educational services to the public", through a speakers' bureau that addresses various groups on request. HALO

speakers have addressed high school groups, police officers, health units, and groups involved in providing family and childrens' services. These speaking engagements are designed to inform the listeners about what it means to be gay or lesbian and who makes up the gay and lesbian community, with the aim of combatting prejudice based on misconceptions about that community. In addition, PFFLAG, Parents Friends & Families of Lesbians & Gays, is a group for the heterosexual friends and family members of gays and lesbians.

10. Some of HALO's activities could be described as "political action". The membership pamphlet states:

Political action efforts are primarily in the direction of seeking changes in legislation which is discriminatory against gay and lesbian people. This is generally done through letter writing campaigns and preparation of briefs. Specific instances of discrimination are also reviewed for the purpose of lending support where appropriate.

The Complainant testified that HALO's principal involvement in political action centered around its affiliation with CLGRO and was connected with the latter group's lobbying efforts around Bill 7, which included sexual orientation as a prohibited ground of discrimination under the *Code*.

C. "Pride" Celebrations in London

11. The modern gay rights movement was born in 1969 when a group of patrons of the Stonewall, a New York gay bar, for the first time resisted police efforts to arrest them and identify them publicly in the newspaper. Since that time, gay and lesbian organizations around the world have commemorated the Stonewall uprising, and those who had the strength to publicly self-identify as gay and lesbian, through "Pride" celebrations.

12. Dr. Valverde testified with respect to the significance of "Pride" to gays and lesbians. From her evidence I conclude that gays and lesbians have historically been subject to discrimination and that their own invisibility as a minority contributed to the persistence of such discrimination. Sexual identity is distinguishable from sexual activity: one can be gay or lesbian and not engage in sexual

activity. While the sexual identity of heterosexuals is societally validated on a daily basis, the same is not true for gays and lesbians, and yet

[p]ublic recognition and validation of one's identity and community (including sexual, ethnic and religious identity) is important to everyone psychologically and sociologically. Gay people do obtain some validation for their identity within the gay community itself, but no gay person lives wholly within the gay community. . . . Every group that has any distinct identity needs and want public recognition for that identity.

13. Dr. Valverde further testified that any policy that denied proclamations on the basis of "sexual identity" would have a differential impact on gays and lesbians. Heterosexuals already have a public sexual identity and do not need celebrations such as "Pride" in order to assert it.

14. A visible gay and lesbian community must exist if people are to publicly identify themselves as gay or lesbian and so combat discrimination. "Pride" celebrations and other public acknowledgements of sexual identity further this process. Public validation is not only important for individual gays and lesbians, but also for the community as a whole. Invisibility allows hatred, contempt, prejudice and ignorance to flourish, and these are not the characteristics of a healthy community.

15. Other witnesses also addressed the meaning and importance of "Pride" on a personal level. The Complainant testified that "Pride" celebrations tell an individual gay or lesbian that others share the same sexual identity and that that sexual identity is no cause for shame -- that the individual is equal, and not inferior, to other citizens. Debbie Lee said simply that "Pride" is a "celebration of our lives". For Suzanne Couture, "Pride" provides an opportunity for gays and lesbians to show their face in the broader community, as well as to get the whole gay and lesbian community, which is itself diverse, together for a party.

16. "Pride" celebrations in London began in 1981 when the Metropolitan Community Church ("MCC") hosted the first of its annual picnics for gays and lesbians and their families in a local park.

HALO's first involvement in "Pride" in London came in 1992 when it hosted an open house at its premises. The motivation for this event was the realization that the broader London community knew very little about HALO's members or the club's activities. A similar event was also held in 1993. For 1994, which was the club's 20th anniversary, HALO decided to become more public about "Pride" by erecting a sign on the premises identifying them as belonging to HALO and by hosting some events in the club's parking lot. In each of these years, the MCC held a special "Pride" religious service on the Sunday.

D. London "Pride" 1995

17. The 1994 events celebrating "Pride" and HALO's anniversary were so successful that the club decided to combine the two celebrations each year. The Pride Anniversary Committee was formed in September 1994. It decided to seek civic acknowledgment of the contributions the club had made to the community over its 21 years of operation. Suzanne Couture was a Chair of this committee. She first conceived the idea of obtaining a civic proclamation when she saw one honouring the Windsor gay and lesbian community on display in a bar. The Complainant, Couture, Clarence Crossman and Patrick Shanahan all testified that the proclamation was sought because it would help to publicize the club and draw attention to the anniversary and "Pride" celebrations it had planned.

18. Couture attended at the Mayor's Office in February, 1995, and spoke to a woman there about how to obtain a proclamation. Based on that conversation, she formed the conclusion that proclamation requests were uniformly granted.

19. On March 6, 1995, the BOI released *Oliver*, in which the mayor of the City of Hamilton was found to have contravened the *Code* by discriminating in the provision of services on the prohibited ground of sexual orientation when he refused to proclaim Gay Pride Week in 1991. This decision was the subject of an article that appeared in the London Free Press on March 11, 1995 and attributed various comments to HALO members and to the City Clerk and to London's Deputy Mayor.

20. Couture and another member of the Pride Anniversary Committee, Brian Hirschberger, prepared a draft proclamation and covering letter over Hirschberger's signature, and she delivered it to the Mayor's Office. This letter is dated April 7, 1995. An entire course of correspondence between HALO and the Mayor ensued. Some salient features of this correspondence are noted below:

- Hirschberger's April 7, 1995 letter, written on HALO stationery requested the proclamation of "Pride Weekend". Only in the recitals was HALO's role as a social service support agency for gays, lesbians and bisexuals mentioned. The Mayor's April 19, 1995 response, refusing to make the proclamation, was captioned "Re Gay Pride". This pattern persists throughout the correspondence between HALO members and the Mayor with respect to the proclamation request.
- The Mayor's April 19, 1995 letter stated that "it is the policy of my office to decline requests for Proclamations that relate to sexuality, whether it be heterosexuality, homosexuality or celibacy".
- The Complainant wrote to the Mayor on behalf of HALO on April 21, 1995. In this letter, captioned "Re: PRIDE Weekend", he renewed the request for a proclamation, stressed the inclusiveness of the club and its role in the broader London community, and submitted a revised draft proclamation in which the recital clauses reflected these points. For example, HALO's role as a social service support agency was extended to include the heterosexual family members and friends of gays, lesbians and bisexuals.
- The Mayor's May 3, 1995, response, captioned " Re: Gay Pride Proclamation" stated simply "[I] must advise that my position has not changed since my earlier letter of April 19, 1995."
- The Complainant and HALO member Clarence Crossman wrote to the Mayor on May 12, 1995. In this letter, they suggested that if her personal religious beliefs were the source of her objection to making "a proclamation for a group that believes in equal rights and responsibilities for lesbians and gay men", then she should consider declaring a conflict of interest and delegating her discretion to make proclamations to the Deputy Mayor or to a vote of City Council.

- In her response of May 15, 1995, the Mayor wrote "My position with regard to your request for a Proclamation has been made clear. If London City Council should choose to deal with this issue differently, and make a Proclamation on its own behalf, it is within its power to do so."

21. At the same time that it was corresponding with the Mayor and attempting to have her reconsider her decision to deny the proclamation request, HALO was also making other efforts to obtain official civic recognition of Pride Weekend. These efforts involved seeking the assistance of Councillor Joe Swan, who had a demonstrable record of providing support and assistance to the gay and lesbian community. When the Complainant explained the situation to Swan, he went to speak to the Mayor in an attempt to come up with proclamation wording that would be acceptable to her and to HALO. This meeting occurred subsequent to HALO's second request, but prior to the Mayor's response. She informed Swan that she would "never grant this proclamation". Swan then approached the City Clerk, Ken Sadler, for advice on how to appeal to an authority that might be capable of over-riding the Mayor's decision. Both Swan and Sadler testified that the Board of Control could have recommended that Council: request the Mayor to make a proclamation; revoke its delegation to her, or have made its own statement of recognition and acknowledgement of HALO on behalf of the City of London.

22. As a result of Sadler's discussions with Swan, HALO wrote to the Chair and members of the City's Board of Control on May 5, 1995, asking to be placed on the agenda of the next Board of Control meeting and stating "We would like to appeal [the Mayor's] decision because we feel this is a case of discrimination". The Mayor had already written to all members of City Council (which would include the Controllers) on May 3, 1995, enclosing her previous correspondence with HALO. She also enclosed her policy respecting proclamations based on , *inter alia*, sexuality, and advised that she had previously refused a request for a "Chastity Week" proclamation. The "Chastity Week" correspondence, however, was not enclosed. I deal with the Mayor's policy and with "Chastity Week" in greater detail below under the heading "Proclamations".

23. Board of Control met on May 10, 1995 and had before it the correspondence referred to in Paragraph 20. Clarence Crossman attended the meeting on behalf of HALO. Swan also attended, as did the Mayor, who chaired the meeting. The Report of the Board of Control indicates that it recommended to Council that HALO be advised that the Board of Control and the Council have no jurisdiction to consider HALO's appeal of the Mayor's decision; and that Council take no action to establish a policy with respect to the issuance of proclamations by it. According to Crossman, during the course of the proceedings the Mayor stated: "I will not be forced to be a mouthpiece for your cause."

24. City Council met on May 15, 1995. It will be recalled that the Mayor wrote to HALO on the same date indicating they could seek a proclamation from Council, and that it would be within Council's power to grant it. In any event, Councillor Swan drafted a resolution including recitals from the preamble to the *Code* and the United Nations Declaration of Human Rights and omitting all reference to HALO's service to gays, lesbians and bisexuals. This resolution, which HALO would have accepted as an acceptable civic recognition of its community service, concluded:

"THEREFORE BE IT RESOLVED THAT July 14, 15, 16, 1995 be recognized as a celebration of Pride and Accomplishment of the Homophile Association of London in providing 21 years of community service to the residents of London."

25. Swan moved that Board of Control's recommendations respecting proclamations be amended by adding the above resolution to them. The motion was debated in Council and the videotape of that debate was introduced as an exhibit in these proceedings. Also available to Council members at the time of the debate was the previous correspondence between HALO and the Mayor. The Mayor left her Chair to speak to the debate and indicated that she would not be supporting the motion. The motion was defeated.

26. Sadler described the Mayor as being "quite anxious and determined to have Council confirm her decision". I agree with this assessment. At one point in the debate, the City Solicitor characterized proclamations as a ceremonial exercise of the prerogative attaching to an office, and

suggested they could be made by any office-holder. Councillor Davenport thereupon undertook to obtain the Mayor's agreement to advise Councillors of any proclamations she would not grant so that each individual Councillor could consider whether he or she would be prepared to grant them. The Mayor was visibly reluctant to do so. I conclude that she did not want any proclamation recognizing HALO's 21 years of community service to be made by anyone on behalf of the City. This conclusion is confirmed by her remarks to Council on the Swan resolution, "the wording may be somewhat different, but it is still the same thing".

E. Proclamations in London

27. The Mayor is a self-professed evangelical Christian. She holds strong religious views on a number of issues, including abortion and homosexuality. The manner in which she testified about these matters leaves no doubt as to the sincerity of her belief. She stated that "if I were to turn my back on God, that is the moment that I would lose my authority as Mayor".

28. Prior to winning the 1994 mayoralty race, the Mayor won election to the City's Board of Control in 1991. In that capacity, she read many proclamations on behalf of her predecessor, His Worship Tom Gosnell. Those proclamations issued in accordance with the June 5, 1989 resolution of City Council in 1989:

9. That, on the recommendation of the City Clerk, with the concurrence of the City Administrator, the following policies be adopted with respect to the flying of flags from the City Hall and the issuance of Proclamations by the Mayor, namely:

FLAG POLICY

(a) in recognition of the ethnic diversity of the citizens of the Municipality, the City of London will fly the flag of any nation, country or ethnic group on the national day or on the anniversary of a special occasion requested by that nation, or ethnic group or its representatives;

(b) by the flying of the flags referred to above, the City of London neither implies nor expresses support for the politics of these nations and/or ethnic groups, but flies the flag in recognition of those of its citizens who have made the request;

(c) flags of non-partisan, non-profit groups, such as the Heart and Stroke Foundation, the United Way and the Easter Seal Campaign, will be flown at City Hall upon the request of these groups, on the understanding that the individual flags will not be flown for a period longer than one week;

(d) conflicts between the date requested by two or more nations, ethnic groups or non-partisan, non-profit groups and official municipal events, will be settled in favour of the nation or group which first made its request;

(e) the City Clerk will be responsible for the administration of this policy, in association with the Mayor;

(f) notwithstanding any of the foregoing, the City Council may, in its sole discretion, direct that a specific flag be flown, or not flown, on a specific date, in which event such direction shall take precedence over any other direction contained within this policy;

ISSUANCE OF PROCLAMATIONS

(a) the Mayor may, in his discretion and on the advice of the City Clerk, issue Proclamations on behalf of the City of London;

(b) the individuals and/or organizations requesting the issuance of Proclamations be made aware of the fact that such Proclamations are issued at the sole discretion of the Mayor, on the advice of the City Clerk, and at the time, location, and in accordance with wording approved by them;

(c) Proclamations issued by the Mayor on behalf of the Municipality will not contain any inflammatory, politically insensitive, provocative or scatological references, which, in the opinion of the Mayor, on the advice of the City Clerk, would have an adverse effect on any or all of the citizens of this Municipality of Canada.

29. There was no issued proclamation of any kind filed before me. I inquired of Sadler with respect to the usual form of them. Based on his response, as well as the comments of other witnesses, I gather that it was customary for a proclamation to include one or more recital clauses, identifying the organization or individual to be honoured and the reason(s) for bestowing the honour. These recitals were followed by the actual proclamation statement. This statement, since 1989, has

taken the form, "I, [name of current mayor], Mayor of the City of London, do hereby proclaim [designated dates] to be [name] [day/week/ month]". The proclamation is printed on heavy stock paper in calligraphic lettering surrounded by a scroll. The seal of the City used to appear on it, but that practice ceased at some point. The Mayor testified that the proclamation may be delivered in a number of ways: it may be read at an event sponsored by or honouring the organization; it may be presented by the mayor in her office under the seal of the City and photographed; or it may simply be sent to the organization.

30. The Mayor testified that she knew when elected that there certain activities and organizations that she could not endorse by making proclamations because their purposes were incompatible with her own spiritual convictions. In these circumstances, she decided that the appropriate thing to do was to develop a policy that would permit her to remain silent when requested to proclaim in these areas. Her policy was not reduced to writing until after the *Oliver* decision and after she became aware that HALO would be making a request. She testified that she was concerned that, in the absence of such policy, any denial of a request for a "Pride" proclamation would be susceptible to the kind of challenge that succeeded in *Oliver*. Sadler's testimony was that he informed the Mayor that he did not think her policy would insulate her from liability under the *Code*.

31. The Mayor's policy reads:

POLICY RE: FLAGS AND PROCLAMATIONS

In addition to the City Council policy contained in Council resolution 9., June 5, 1989, regarding the flying of flags from City Hall and the issuance of proclamations, the following policy is also to be adhered to during the term in office of Mayor Dianne Haskett:

Requests for the flying of flags or proclamations are to be declined if they relate to:

- 1) abortion - whether it be pro-choice or pro-life;
- 2) sexuality - whether it be heterosexuality, homosexuality, or celibacy;
- 3) any issue that would cause serious controversy in the community;
- 4) anything that would promote any illegal activity;
- 5) anything that would incite hatred towards any group.

32. The Mayor relied on the second paragraph of this policy in denying HALO's proclamation requests. Under cross-examination she testified that she would not make any proclamation that included the words "gay" or "lesbian" because that would be a proclamation about sexuality. She also said she could not make a proclamation that would endorse the gay and lesbian "lifestyle". When asked to define "lifestyle", she replied:

. . . people in the community that are gay or lesbian or bisexual and living out their lives as such . . . people who choose to engage in gay and lesbian activity, sexual activity or engage in gay and lesbian relationships and then how they live that out in the community . . . the outworkings of their beliefs about the appropriateness of their sexuality . . .

33. Clearly, the Mayor did not conceive of there being any distinction between one's identity as gay or lesbian and the sexual activities one might engage in. Both were for her caught under the rubric of "sexuality". Similarly, any proclamation sought by HALO would necessarily be about "sexuality":

HALO has as its very raison d'être the reinforcement of an affirmation of same sex . . . or gay, lesbian and bisexual activity . . . acts, relationships, you know, the lifestyle in the sense that it relates to it as part and parcel of that.

34. The Mayor also stated that proclamations were viewed by the public as a statement of her goodwill for an organization, of her endorsement of its activities. In her view, any proclamation recognizing HALO would be viewed as an endorsement of the sexual activity and "lifestyle" of its members, even if the proclamation itself specifically contained a disclaimer to that effect.

35. Correspondence in the Pleadings brief filed before me pertained to the issue of "Chastity Week". It contains neither an express request that any particular week be proclaimed "Chastity Week" nor any draft proclamation wording. Instead, it appears to solicit the Mayor's support for a "city-wide campaign for CHASTITY", and then continues:

Even though the idea of a "Chastity Week" would be absolutely fantastic in its own right (especially for all those thousands of single young people who, through self-control, are "sexually oriented" to abstaining until marriage), it may be the creative alternative that God's people can use (to arm ourselves in the day of evil as they did in the Book of Esther) if, and when, it is your duty (?) to declare "Gay Pride Week"! (What a travesty of justice for the mayor of Hamilton to be fined \$5,000 for refusing to affirm sodomy!) You are in my family's prayers.

36. There was uncontradicted evidence that the Mayor takes great personal interest and care in reviewing all proclamation requests, and that she revises the proposed wording of them and corrects grammatical errors. Since she took office, she has issued 252 proclamations. There was no evidence that she has refused any requests for proclamations during her tenure, other than the request for Pride Weekend and the suggestion of a Chastity Week, to the extent the latter can be considered a legitimate proclamation request. There is no evidence of any community service organization ever having been refused a proclamation. Previous mayors, or Council when it was issuing proclamations, have refused to grant them for commercial enterprises or in respect of political actions: native land claims or grape boycotts for example.

37. Council's role in proclamations since 1989 is diminished, although the records of proceedings do show that Council has, by resolution, requested the mayor, including this one, to issue proclamations from time to time. For example, Council asked the mayor to proclaim an Annual Day of Mourning for workers killed on the job; a day for the elimination of racial discrimination; Media Violence Awareness Week; White Ribbon Week; Missing Children's Week; and General Motors of Canada Limited, Diesel Division, Appreciation Day ("Diesel Division Day").

38. The circumstances surrounding the proclamation of Diesel Division Day are interesting. Civic officials commented that the manufacturing sector of the economy was a dying one, and that London should be attempting to attract new high-tech businesses. These comments were perceived as offensive to General Motors, an important area employer, and to the London residents who were its employees. The proclamation of Diesel Division Day was viewed as a way to remedy this civic slight, and that was the context in which the resolution was passed, unanimously in Swan's recollection.

F. Proclamations in General

39. George Rust D'Eye asserted that proclamations are not made pursuant to any clear legal authority. Their issuance can neither be compelled nor prohibited in a court of law. Whether they are issued at all, and by whom, is a matter of local custom. Of the thirty Ontario municipalities he surveyed, the custom varies considerably. In some, the Mayor issues proclamations; in others, Council does; and in still other municipalities, proclamations are not issued at all. Eight of the municipalities he surveyed have ceased making proclamations since the *Oliver* decision. Although a proclamation is of value to the organization seeking it, usually because of the attendant publicity, it is not of legal value because it confers no rights and imposes no responsibilities.

G. Effect of the Denial

40. The Mayor's denial of HALO's proclamation request, and Council's subsequent failure to acknowledge the organization through a resolution, did not affect the club's ability to proceed with its planned celebrations in 1995. All of the requisite permits and licenses had already been secured from the municipality, including a permit for the first-ever "Pride" March, which attracted approximately 800 participants. In fact, "Pride" weekend overall enjoyed much greater attendance than it had in the past. Witnesses for the Complainant acknowledged that this success was partly attributable to the heightened awareness of "Pride" that had resulted from the Mayor's denial of the proclamation and the consequent Council debate. A number of individuals, including local municipal, provincial and federal politicians, attended and signed proclamations, some of which were reproduced in the club newsletter.

41. In addition to the positive expressions of support that the club received from the gay and lesbian community and some members of the broader London community, however, there was a great deal of negative or even hostile comment about the club, its activities, and gays and lesbians in general. These comments were made in radio phone-in shows; in letters to the editor of the

newspaper; in telephone calls and letters to HALO; and in conversations on the street and in the workplace. Crossman traced this hostile reaction to the Mayor's denial, which he said "seemed to give permission to be homophobic". Sadler's testimony suggested the same causal connection when he said the Mayor's refusal was viewed by him not so much as her remaining silent or not taking a position on the matter, as with her indicating that she had "some difficulty with the gay and lesbian community". In addition, the Complainant received hateful personal correspondence.

42. Those members of the gay and lesbian community who testified, some of whom were also HALO members, spoke of the effects that the refusal of the proclamation had on them personally, and on other members of their community. All spoke of feeling personally hurt and diminished: the denial was tantamount to telling them that, because of their sexual orientation, they were not equal to other citizens in the community. Debbie Lee is a youth worker and she testified about the effect that the refusal had on the teenagers in her discussion group who were just coming to terms with their sexual identity, and how it made them nervous and scared, and how these feelings were only heightened when two of them were attacked while leaving the HALO premises one evening. Pat Shanahan testified that the whole incident had a chilling effect on the willingness of other public bodies to deal with HALO.

43. HALO hosted "Pride" celebrations in 1996 and 1997. It sought proclamations from the Mayor in both years. These requests were denied, although the Mayor has continued to make proclamations recognizing the contributions and achievements of other community organizations.

ANALYSIS

A. Submissions

44. In advance of making their final submissions, all parties filed written outlines of their arguments, with supporting authorities. Their further oral submissions were entertained on

September 27, 1997. I want to thank all counsel for their extensive and thoughtful submissions, and for the degree of cooperation they showed throughout the hearing.

B. Elements of a Code Contravention

45. A contravention of the *Code* is made out where it is established that:

- the respondent has discriminated against the complainant by treating him or her differently from others;
- that distinction in treatment is, at least in part, based on a ground prohibited by the *Code*;
- the distinction in treatment occurred with respect to one of the protected spheres -- services, accommodation, contracts, employment, or vocational associations.

46. The allegation here is that, contrary to s. 9, the Complainant's rights under s. 1 of the *Code* were infringed:

1. Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or handicap.

9. No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

C. Differential Treatment

47. The Mayor granted 252 proclamation requests between the date she took office and the day she testified in this matter. During that period she turned down one *bona fide* request for a proclamation -- the Complainant's. I do not construe the "Chastity Week" correspondence as constituting a request, and certainly not a *bona fide* one. As noted in Paragraph 35, it contained neither an express request that any particular week be proclaimed "Chastity Week" nor any draft

proclamation wording, and offered itself as a strategy for denying a "Pride" request without running afoul of the *Code*. I have no hesitation in concluding that the Complainant was discriminated against by the Mayor.

48. Council knew the Complainant and HALO viewed the Mayor's denial of the proclamation request as discriminatory and had approached Swan and had corresponded with Board of Control on that basis. It would be fair to conclude that the HALO members took offense at being discriminated against. Faced with the opportunity to correct this slight to at least 250 of its citizens, Council did not request the Mayor to issue a proclamation as had occurred with Diesel Division Day, nor did it approve the Swan resolution. Council did nothing. It discriminated against the HALO constituency, which included the Complainant, by treating it differently from the constituency made up of Diesel Division employees.

D. Prohibited Ground

49. The Mayor's evidence made it abundantly clear that she would not make a proclamation recognizing HALO's contributions as a community organization because its constituency is made up of persons who identify as gay and lesbian. Her policy was devised, at least in part, precisely for the purpose of justifying that refusal. Her counsel argued that the Complainant's differential treatment was not based on sexual orientation, since a heterosexual member of HALO would not have received the proclamation either. This submission is utterly devoid of merit. I conclude that the Mayor intended to and did discriminate against the Complainant and HALO on the basis of sexual orientation.

50. Even had I not found that the Mayor intended to discriminate against the Complainant and HALO on the basis of sexual orientation, I would have found that she constructively discriminated against them because her policy had a differential impact on the gay and lesbian community. To the extent that a prohibition of proclamations on the basis of sexuality entails a prohibition of proclamations for groups whose members share a particular sexual identity, which I am not persuaded

is the case, there was no evidence whatsoever that anyone other than the gay and lesbian community ever seeks proclamations relating directly to sexual identity, or for groups whose members share a particular sexual identity. Again, I do not regard the “Chastity Week” correspondence as constituting a *bona fide* request.

51. When Council treated HALO differently and with less consideration than it had the Diesel Division, it knew that the HALO constituency was predominantly gay and lesbian. Under the jurisprudence, its so acting with that knowledge constitutes a *prima facie* contravention of the prohibition against discrimination on the basis of sexual orientation. In the absence of cogent evidence establishing that a consideration of the sexual orientation of many HALO members played no part in Council’s decisions, I find that the City discriminated against the Complainant on the basis of sexual orientation.

E. Services

52. For the respondents, success or failure in this case rides entirely on their argument that the civic recognition of special days is not a “service” under the *Code*. There were several strands to their argument.

(i) statutory lexicon

53. The *Code* itself offers very little guidance on this issue, defining “services” in the negative to exclude levies, fees, taxes or periodic payments imposed by law (s. 10). As well, sections 20 and 22, which declare that certain factual situations do not offend against the right to equal treatment based on, *inter alia*, “services”, suggest that the situations themselves are ones in which services might be considered to be provided. None of them are analogous to the civic recognition of special days.

(ii) plain meaning

54. The plain meaning of “services” is very broad indeed, as the many dictionary definitions submitted to me illustrated. At its most general and least restrictive, “services” means something of benefit provided by one person to another. The Commission and Complainant have suggested that this is the meaning I should attribute to “services”. The usual rule of interpretation applied to terms in statutes such as the *Code* that are of general application and have a remedial purpose is to employ the least restrictive sense of the term, unless, of course, that would do violence to the statutory purpose or would create an absurdity. Reading “services” as suggested by the Commission and the Complainant would seem to be appropriate here. The respondents, however, have urged me not to do so, for a number of reasons which I address below.

(iii) history and application

55. Reference was made to the historical antecedents of s. 1 of the *Code*, which derive in Ontario from protections first enacted in 1954 in the *Fair Accommodation Practices Act*, R.S.O. 1960, c.131. Those protections pertained to services “available in any place to which the public is customarily admitted”, and that qualifying language was only eliminated from the *Code* in 1980. I presume that its removal was intended to effect a change in the protection offered by the *Code*. It may well be that under that old language, “services” could not have the broad meaning contended for by the Commission and the Complainant, but that is not particularly helpful in determining what meaning to give it in its unqualified state.

56. My decision in this matter merely requires that I determine whether the civic recognition of special days falls within the nature of “services”. Accordingly, I have considered the nature of the activities engaged in by public officials or bodies which have been found to constitute “services” under human rights legislation. These include: the provision of social assistance benefits (*Saskatchewan Human Rights Commission v Saskatchewan Department of Social Services* (1988), 9 C.H.R.R. D/5181 (Sask. C.A.)); the awarding of research grants (*Chiang v Natural Sciences and*

Engineering Research Council of Canada (1992), 17 C.H.R.R. D/63 (Cdn. Human Rights Tribunal)); and the processing of immigration applications (*Menghani v Canada Employment and Immigration Commission* (1992), 17 C.H.R.R. D/236 (Cdn. Human Rights Tribunal). The Commission referred me to the preceding cases. In addition, I asked the parties to consider the definition of “service” in the *French Language Services Act*, R.S.O. 1990, c. F.32.

“service” means any service or procedure that is provided to the public by a government agency or institution of the Legislature and includes all communications for the purpose

57. My consideration of the authorities referenced in the preceding paragraph inclines me to the view that the ordinary meaning of “services” may include the civic recognition of special days. The respondents submit, however, that I must also consider the nature of proclamations and the other ways special days are declared in determining whether what we are dealing with here is a service under the *Code*.

(iv) authority to proclaim special days

58. Some statutes contain provisions empowering the declaration of special days. Those statutory provisions are not applicable in the circumstances of this case. The civic recognition of special days, whether by mayoral or council proclamation, or by council resolution, does not occur pursuant to any statutory authority. Indeed, the respondents submit that it does not occur pursuant to any legal authority at all. It is described as a ceremonial prerogative attaching to an office holder that is neither capable of conferring rights nor imposing benefits. I was told that it is “extra-legal”, which I take to mean beyond the scope of the law: its exercise cannot be compelled or prohibited in a court of law, nor is it subject to judicial scrutiny.

59. “Extra-legal” acts are, by their very nature, also discretionary. Municipal corporations or their officials may engage in discretionary acts pursuant to statutory authority. For example, by-laws may be promulgated with respect to any number of permissible subjects enumerated in the *Municipal Act*,

R.S.O. 1990, c. M.45. Once engaged in, however, these discretionary acts must be performed lawfully.

60. The fact that an act is discretionary in nature and can be neither compelled nor prohibited does not take it outside the ambit of the *Code*. The discretion must be exercised in a non-discriminatory fashion in accordance with the strictures of human rights or other paramount legislation. These circumstances are analogous to those considered in *Haig v Canada* [1993], 2 S.C.R. 995. In that decision, one of the issues the Court was asked to consider was whether the federal governments' decision to hold a referendum in all provinces except Quebec contravened the *Canadian Charter of Rights and Freedoms*.

. . . . though a referendum is undoubtedly a platform for expression, s. 2(b) of the *Charter* does not impose upon a government, whether provincial or federal, any positive obligation to consult its citizens through the particular mechanism of a referendum. Nor does it confer upon all citizens the right to express their opinions in a referendum. A government is under no constitutional obligation to extend this platform of expression to anyone, let alone to everyone. A referendum as a platform of expression is, in my view, a matter of legislative policy and not of constitutional law.

The following caveat is, however, in order here. While s. 2(b) of the *Charter* does not include the right to any particular means of expression, where a government chooses to provide one, it must do so in a fashion that is consistent with the Constitution. The traditional rules of *Charter* scrutiny continue to apply. Thus, while the government may extend such a benefit to a limited number of persons, it may not do so in a discriminatory fashion, and particularly not on [a] ground prohibited under s. 15 of the *Charter*. (per L'Heureux-Dubé, J., at p. 1041, emphasis in original)

61. The respondents argued that the civic recognition of special days is both discretionary and "extra-legal" and consequently neither controllable or reviewable by a court or this tribunal. On the first argument, I find that the authorities produced do not support the conclusion that "extra-legal" acts are beyond legislative control. Jowitt's *Dictionary of English Law* (London: 1959, Sweet & Maxwell) in its entry under "prerogative" indicates that Crown prerogative can be taken away by express legislation. In *In the Matter of a Reference by the Governor General in Council Concerning the Proclamation of Section 16 of the Criminal Law Amendment Act, 1968-69* [1970], S.C.R. 777,

the Court considered the propriety of the Governor General in Council failing to proclaim three subsections of the legislation, and held that he had exercised the discretion given to him. The Court stated that if he had acted contrary to the intention of Parliament, it could control him by legislation.

62. With respect to the second branch of the respondents's argument, while the precise authority pursuant to which proclamations and other declarations of special days are made may be shrouded in the mists of time, the fact remains that they are made and I cannot conclude that they are immune from scrutiny. I share Austin, J.'s difficulty with the "extra-legal" argument as expressed in *Haig v. Durrell*, (unreported, July 15, 1990) (Ontario Court -- Weekly Court), in which he issued oral reasons granting an expedited judicial review application and quashing Ottawa City Council's resolution revoking its earlier recognition of Gay Pride Day in Ottawa:

It was agreed amongst counsel that the source of the power is not clear. There is no specific statutory authority to make such proclamations. Counsel on behalf of the city used that as a basis for arguing that there being no statutory authority, the granting or not granting of a proclamation could not be attacked. In my view, perhaps a simplistic one, that simply cannot be. The municipality, whether it be the Corporation of the City of Ottawa or any other municipality in Ontario, is creature of statute. If it does act, presumably it does so pursuant to some authority or power given to it expressly, or by implication, by a statute or regulation. But if it acts, it must do so lawfully.

63. Subsequent to issuing the reasons from which the above is extracted, but prior to any order having been taken out, Austin J. heard a motion to revoke his order, and transfer the matter to Divisional Court for hearing by a full panel. He allowed the motion. Counsel for the City suggested to me that *Haig v Durrell* stood only for the proposition that the matter should have been heard by a three-person panel of the Divisional Court. Certainly, I agree that the above extract does not constitute a ruling binding on me, or on anyone, but I nevertheless find the reasoning to be persuasive. Although Austin, J. is not considering whether proclamations are services under the *Code*, he is considering whether their extra-legal character takes them beyond the scope of the law, and concluding that it does not. Similarly, in *Oliver*, the adjudicator rejected the argument that the extra-

legal and discretionary character of the civic recognition of special days takes it beyond the reach of the *Code* as not constituting a “service”.

(v) the *Charter*

64. The respondents also submit that I must “read down” the term “services” in the *Code* so as to exclude from its ambit things that are pure speech. They place proclamations and other civic declarations of special days in the category of pure speech. The rationale for adopting this interpretive approach is that to do otherwise would involve interpreting the *Code* so as to trench or encroach on rights guaranteed in the *Charter*, namely the freedom of expression guaranteed in s. 2(b). They find support for their position in that portion of the *French Language Services Act*’s definition of “service” which provides that it “includes all communications for the purpose”. In the absence of this language, they suggest, communications would not be considered “services”.

65. The Commission submits that “reading down” is not an appropriate tool to apply to statutory interpretation. Rather, it is a remedy that is applied after it has been determined that the application of a statute in accordance with the plain meaning of the words used in it contravenes the *Charter*. I agree. I am not sure, however, that my doing so disposes of the respondents’ argument. Essentially they say, if “services” includes speech, s. 2(b) is contravened because it includes the right not to speak. I cannot accept this argument, for reasons set out in the following paragraphs.

66. Section 2(b) of the *Charter* provides:

2. Everyone has the following fundamental freedoms: (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

67. I accept that the right to freedom of expression guaranteed in s. 2(b) of the *Charter* also includes the right not to speak, and the right not to be made to say things one does not wish to say. Authority for these propositions is found in *Attorney-General of Quebec v Irwin Toy Limited* (1989),

58 D.L.R. (4th) 577 (S.C.C.), where the Court found that a prohibition on television advertising aimed at children contravened s. 2(b), and *RJR MacDonald Inc. v Canada (Attorney General)* (1995), 127 D.L.R. (4th) 1 (S.C.C.), wherein the Court found that a legislative requirement that unattributed health warnings appear on tobacco packaging contravened s. 2(b).

68. In contrast to the situations confronting the Court in the *Irwin Toy* and *RJR MacDonald* cases, interpreting “services” to include speech or other expressive conduct does not itself prohibit or compel that speech. It may attach legal consequences to the speech, or to a failure to speak. The speaker remains free to speak (or not), but runs the risk that his or her expressive activity, if exercised in a discriminatory fashion on the basis of a prohibited ground, may lead to a finding of an infringement of the *Code* and the issuing of a remedial order against the speaker and in favour of the person harmed by the speech. Interpreting “services” to require that in municipalities where statements of the civic recognition of special days are available, they be made available on non-discriminatory basis does not directly prohibit or compel speech. To so interpret “services” does not trench on s. 2(b) rights at all.

69. Notwithstanding my finding in the preceding paragraph, I want to address the possibility that an interpretation of “services” that might attach legal consequences to speech could be viewed as an incidental infringement of s. 2(b).

70. The argument of the respondents, carried to its logical conclusion, would gut the *Code*, which already attaches legal consequences to expressive activities, including speech. For example, a contravention of the *Code* may occur in certain circumstances where a sexual solicitation or advance is made (s. 7(3)); where statements indicating an intention to contravene are made (s. 13); or where pornographic photos or other material degrading to women is posted in the workplace (s. 7(2)). It is important to note that freedom of expression is not the only fundamental freedom guaranteed by s. 2 of the *Charter*. It also guarantees freedom of conscience and religion; peaceful assembly; and association. If the *Code* cannot be interpreted so as to encroach on freedom of expression, presumably it also cannot be interpreted so as to encroach on these other fundamental freedoms, and

yet it declares, for example, an equal right to membership in vocational associations and prohibits the infringement of that right.

71. Furthermore, s. 2 rights are not absolute, but are subject to the limitations contained in s. 1 of the *Charter*:

The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

72. In order to determine whether interpreting “services” to include speech providing for civic recognition of special days offends s. 2(b) of the *Charter*, I would need to consider whether any *prima facie* infringement is saved by s. 1. To do so, I would need to assess a number of things, among them, the circumstances in which the speech is made; the content of and purpose served by the speech; the purpose of the *Code* provision; the degree to which it impairs the freedom; whether less intrusive means were available; whether the asserted freedom conflicts with another *Charter* value. With respect to the last factor listed, it is worth noting that s. 15(1) also appears in the *Charter*. The Supreme Court of Canada has interpreted it as prohibiting governmental discrimination on the basis of sexual orientation in *Egan v Canada* (1995), 125 D.L.R. (4th) 609, and the British Columbia Supreme Court has done the same in *Little Sisters Book and Art Emporium et al v Canada (Minister of Justice)* (1996), 131 D.L.R. (4th) 486. Section 15(1) provides:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

73. The *Charter* is designed to restrain government action that infringes on the rights guaranteed therein. The City and the Mayor are, of course, government actors, and yet it is they who assert that the effect of the *Charter* is to minimize scrutiny of their actions under the *Code*. The Supreme Court of Canada has cautioned against interpreting the *Charter* in this way:

In interpreting and applying the Charter I believe that the courts must be cautious to ensure that it does not simply become an instrument of better situated individuals to roll back legislation which has as its object the improvement of the condition of less advantaged persons.

(per Dickson, C.J.C., in *R v Edwards Books & Art Ltd.* (1986), 35 D.L.R. (4th) 1, at p. 49)

74. To sum up with respect to the *Charter* arguments relating to “services”, here we have a case where a governmental actor is asking me to read restrictively a word in the *Code* so as to insulate from scrutiny its actions, which I have found to be discriminatory on a basis prohibited by both the *Code* and the Charter, because absolute freedom of expression, which is nowhere guaranteed in the Charter, precludes the attaching of legal consequences to expressive activity. I cannot accept this argument.

75. I find that the Respondents have discriminated against the Complainant with respect to services on the basis of sexual orientation contrary to sections 1 and 9 of the Code.

REMEDY

76. My remedial jurisdiction is set out in s. 41 of the Code:

(1) Where the board of inquiry, after a hearing, finds that a right of the complainant under Part I has been infringed and that the infringement is a contravention of section 9 by party to the proceeding, the board may, by order,

(a) direct the party to do anything that, in the opinion of the board, the party ought to do to achieve compliance with this Act, both in respect of the complaint and in respect of future practices; and

(b) direct the party to make restitution, including monetary compensation, for loss arising out of the infringement, and, where the infringement has been engaged in wilfully or recklessly, monetary compensation may include an award, not exceeding \$10, 000, for mental anguish.

(4) Where, upon dismissing a complaint, the board of inquiry finds that,

(a) the complaint was trivial, frivolous, vexatious or made in bad faith; or

(b) in the particular circumstances undue hardship was caused to the person complained against,

the board of inquiry may order the Commission to pay to the person complained against such costs as are fixed by the board.

77. The Complainant and the Commission seek the following remedy:

- a. a declaration that the Mayor's refusal to proclaim "Pride Weekend" constitutes unlawful discrimination on the basis of sexual orientation;
- b. that the City of London proclaim Pride Day/ Weekend and recognize the service provided to the London community by HALO, if so requested by HALO or any other "Pride" organizing committee;
- c. that the City of London and London City Council make a statement of recognition that the Lesbian and Gay and Bisexual Communities are integral and important communities within the City of London and that they make a commitment to investigate ways of fostering a positive relationship between the City of London and the Gay, Lesbian and Bisexual communities;
- d. that a meeting take place forthwith between delegated members of HALO and the City of London to begin discussions toward improving relations between the City of London and the Gay, Lesbian and Bisexual communities;
- e. damages in the amount of \$10, 000.00 against Mayor Haskett;
- f. damages in the amount of \$10, 000.00 against the Corporation of the City of London;
- g. pre-judgment and post-judgment interest;
- h. solicitor and client costs; and
- i. such further and other relief as the Complainant or Commission may advise or this Board of Inquiry deems appropriate.

78. I declare that the Mayor's refusal to proclaim "Pride Weekend" in 1995 constitutes unlawful discrimination on the basis of sexual orientation. I further declare that the City's failure to take any steps to redress the Mayor's discriminatory conduct constitutes unlawful discrimination on the basis of sexual orientation.

79. I have no jurisdiction to award costs in any circumstances other than those specified in s 41 (4) of the Code. The request for relief set out in Paragraph 77(h) is denied.

80. The Complainant was President of HALO in 1995. He made the Complaint in respect of himself only, and not in any representative capacity on behalf of the members of HALO or the broader London gay and lesbian community. Although the denial of civic recognition for HALO and the declaration of "Pride" damaged all members of the gay and lesbian community, I am confined to awarding damages in respect of the injury suffered by the Complainant. I assess those damages at \$10, 000.00, for which the Mayor and the City are jointly and severally liable. This amount is in respect of damages both for loss of the right to be free from discrimination, and for mental anguish caused by the infringement of that right. I conclude that the Mayor and the City acted wilfully or recklessly within the meaning of s. 41(1)(b) having regard to the following:

- the *Oliver* decision issued prior to the infringement here, and involved a finding that a similar refusal on the part of the mayor of a municipality constituted a contravention of the *Code*;
- the Mayor and Council were aware of the *Oliver* decision at the time of the infringement here;
- the Mayor drafted her policy in a deliberate attempt to avoid the consequences of *Oliver*;
- the discrimination against the Complainant was played out publicly in Council, in the media, and in the streets of the community, causing considerable mental anguish and distress. The Complainant was the recipient of hateful personal correspondence as a result of the request for and refusal of the proclamation.

81. The amount awarded is subject to both pre-judgment interest, measured from the date of the Complaint, and post-judgment interest. Both are to be calculated in accordance with the *Courts of Justice Act*.

82. Evidence was led with respect to the divisive effect on the community of events surrounding the denial of the proclamation in 1995. From the videotape evidence, it was also clear that there was considerable division within Council. It is fair to say that the litigation of these matters, which attracted a considerable amount of local media attention, has done nothing to heal these divisions. — In the circumstances, I find that the relief requested in Paragraph 77(d) is appropriate to redress the effects of the discrimination that occurred here.

83. To grant the relief requested in Paragraph 77(b) and (c) would require me to compel the respondents to speak. I derive my remedial authority from statute. Consequently, I am a government actor subject to acting in accordance with the *Charter*. An order compelling the respondents, or either of them, to speak constitutes a *prima facie* infringement of s. 2(b) of the *Charter*, which guarantees the freedom to remain silent. In the circumstances of this case, however, such an order withstands scrutiny under s. 1.

84. The remedy requested is rationally connected to the statutory purpose underlying s. 41(1) of the *Code*, which is to remedy infringements of the *Code*. Here the infringement was occasioned by a failure to speak. Logically, then, the remedy is to compel the speech that ought to have been made. That is particularly the case here where public acknowledgement of sexual identity is the uniquely appropriate means of overcoming the historical discrimination suffered by gays and lesbians. The Supreme Court of Canada has twice considered the constitutionality of ordering compelled speech, most recently in *Slaight Communications Inc. v. Davidson* (1989), 59 D.L.R. (4th) 416. The court in *Slaight* was asked to scrutinize the constitutionality of an arbitrator's order requiring an employer to furnish a wrongfully dismissed employee with a letter of recommendation, and prohibited the employer to say anything beyond what was contained in that letter to any prospective employer that contacted it. The employee in question had been found to have been damaged by the employer's

vicious and untruthful remarks. Dickson, C.J.C., held that, “On the facts of this case, constitutionally protecting freedom of expression would be tantamount to condoning the continuation of an abuse of an already unequal relationship” (at p. 421). This conclusion was based on Dickson, C.J.C.’s characterization of the employee as “vulnerable” vis-a-vis his employer. The Court was also influenced by the fact that the letter of recommendation contained only a recitation of objective facts, and not any statements of opinion. The compelled statement of opinions not one’s own had previously been found to offend s. 2(b) of the Charter and not be justified under s. 1 in *Re National Bank of Canada and Retail Clerks International Union* (1984), 9 D.L.R. (4th) 10.

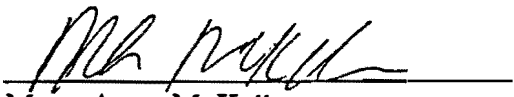
85. The upshot of *Slaight* and *National Bank* is that the ordering of compelled speech will run afoul of s.1 where it requires the uttering of opinions that are not those of the speaker. The statements that I am asked to compel do not contain opinion, with the possible exception of the word “important” in Paragraph 77(c).

86. Counsel for the Mayor tried to convince me that proclamations were a form of political speech and entitled to a great deal of deference. I have reviewed the draft proclamations in question again. In my view, they are devoid of political content, and they are not made political merely because uttered by a politician. The Mayor expressed concern that they would be viewed as her endorsement of a political agenda for gay and lesbian rights. Reference was made to a decision of the United States Supreme Court in *Hurley v Irish-American Gay, Lesbian & Bisexual Group of Boston*, 115 S. Ct. 2338 (1995). In *Hurley*, the organizers of an Irish American Parade declined to permit a group of gay and lesbian Irish Americans to march behind a banner identifying the fact that they were gay and lesbian. The Court concluded that parades were an form of expression protected by the First Amendment and that the organizers were constitutionally protected from having to include the gay groups’s message as part of their own. An important part of the Court’s rationale for this finding was that it would be difficult for the organizers to dissociate themselves from the gay groups’s message. The United States Supreme Court in *Turner Broadcasting System, Inc. v F.C.C.* 114 S.Ct. 2445 (1994), and the Supreme Court of Canada in *RJR MacDonald* were also influenced in their decisions by the ability of the speaker to dissociate itself from the message compelled. No such problem exists

here. The beauty of speech, as opposed to symbolic expressive conduct such as a parade, is that there is no need to speculate about what those words mean. The proclamation words simply do not express what the Mayor referred to as "support for homosexuality as a preferred lifestyle".

87. I grant the relief requested in Paragraph 77((b) and (c). I understand that what is sought in Paragraph 77(b) is civic recognition of HALO's contributions and of "Pride Day/Weekend", and that HALO may seek such recognition from either of the respondents.

Dated at Toronto this 7th day of October, 1997.



Mary Anne McKellar
Member, Board of Inquiry



London
CANADA

Issuance of Proclamations Policy

Policy Name: Issuance of Proclamations Policy

Legislative History: Adopted September 19, 2017 (By-law No. CPOL.-115-367);
Amended July 24, 2018 (By-law No. CPOL.-115(a)-418)

Last Review Date: April 15, 2019

Service Area Lead: City Clerk

1. Policy Statement

1.1 This policy sets out the corporate position with respect to the issuance of proclamations.

2. Definitions

2.1 Not applicable.

3. Applicability

3.1 This policy shall apply to any request for the issuance of proclamations on behalf of the City of London.

4. The Policy

4.1 No proclamations shall be issued on behalf of the City of London, except those required by law to be issued.



Policy Title: Proclamation Policy
Policy Number: CC015
Report Number: N/A
Approved by: Council
Effective Date: 1990 November 19
Business Unit: City Clerk's

BACKGROUND

Council approved the Proclamation Policy at its meeting of 1990 November 19.

PURPOSE

The purpose of the policy is to provide general criteria to the issuing of Proclamations.

POLICY

It is a matter of custom that the Mayor issues proclamations. The authority to make proclamations on behalf of the citizens of Calgary is entrusted to The Office of the Mayor as a matter of executive privilege. The declaration of all proclamations is at the discretion of The Office of the Mayor.

1. A request for a proclamation should meet at least one of the following criteria:
 - a. The sponsoring agency be a charitable organization;
 - b. The cause be one of national significance;
 - c. The cause be one of benefit to the majority of Calgarians;
 - d. The cause be an initiative of The City of Calgary.
2. Requests with commercial or political overtones will not be considered.
3. Requests for proclamations to support a cause, which is contentious or divisive within the community, will not be considered.
4. Consideration will be given in cases where a precedent has been set by a previous proclamation, as long as it meets one of the above criteria.
5. Consideration will be given to offering "Letters of Recognition" to worthwhile causes, which do not merit a proclamation, as determined based on the above criteria.



PROCEDURE

1. The City of Calgary will compose the text for proclamations and letters of support or recognition with input from The Office of the Mayor.
2. The City of Calgary or The Office of the Mayor will not publish or incur any expense for the advertising of any proclamation, on behalf of any groups or organizations.
3. All proclamations will be affixed with the seal of The Office of the Mayor.

AMENDMENTS

None



Protocol Office

Proclamations

What is a Proclamation?

Proclamations are ceremonial documents issued and signed by the Mayor on behalf of Brampton City Council that officially recognize the importance of an event, a campaign, or an organization of significance, interest or benefit to the citizens of Brampton for a particular day, week or month. A proclamation does not constitute a personal or civic endorsement.

Guidelines for Proclamation Requests

▼ **Criteria** (link: #)

- Requests are to be made at least four (4) weeks in advance of the requested issuance date
- Requests may only be made by an organization that resides/operates within the City of Brampton
- Requests must provide background information about the organization, cause or event being proclaimed
- Repeat requests are to be submitted on an annual basis, except for Heritage Months as approved by Council as part of the annual Community Recognition Program
- Requests must relate to an organization, cause or event that contributes to the economic, social, and cultural fabric of the City of Brampton

▼ **Eligible Causes** (link: #)

- Public awareness campaigns;
- Charitable fundraising campaigns;
- Arts and cultural celebrations; and
- Special honours.

▼ **Additional Information** (link: #)

- Proclamations are issued at the discretion of the Mayor
- An organization (i.e. requestor/recipient) may request one proclamation per year
- Proclamations are issued only to recognized Brampton organizations and not to individuals
- Organizations do not have exclusive rights to the day, week or month being proclaimed

- Proclamations of a similar topic will be issued on a first come, first served basis
- Only one proclamation is provided framed and will be issued to the requesting organization. Organizations can request multiple signed copies of the proclamation, as well as digital versions for their webpages and social media
- All proclamation text is subject to approval and modification by the City of Brampton

✓ A proclamation will not be issued for: (link: #)

- Matters of political controversy, ideological or religious beliefs or individual conviction
- Events or organizations with no direct relationship to the City of Brampton
- Campaigns or events contrary to City policies or by-laws
- Campaigns intended for profit-making purposes

✓ Receiving a Proclamation (link: #)


- Proclamations are listed on the agenda and read by the Mayor at the beginning of Council meetings (link: <https://www.brampton.ca/EN/City-Hall/meetings-agendas/Pages/Welcome.aspx>)
- Recipients are invited to a reception hosted by the Mayor and Council in advance of the meeting to receive the framed proclamations


Submitting a Proclamation Request

Please complete the online Proclamation Request Form. (link: https://forms.office.com/Pages/ResponsePage.aspx?id=sulJsveh6kSUxTwJwlLhUWorl2N2_7hEuglfsGX0phdUQ0045FRROEVONFU0RUFGMlJQSFJVVkdTSCQIQCN0PWcu)

Issued Proclamations

Listing of issued proclamations. (link: </EN/City-Hall/Protocol-Office/Pages/Proclamations-Issued.aspx>)

 [Contact the Protocol Office](/EN/City-Hall/Protocol-Office/Pages/Contact-Us.aspx) (link: </EN/City-Hall/Protocol-Office/Pages/Contact-Us.aspx>)

 [Corporate Policy Library](/EN/City-Hall/policies-directives/Pages/Welcome.aspx) (link: </EN/City-Hall/policies-directives/Pages/Welcome.aspx>)



Proclamations

The City provides standardized proclamations that focus on the cause being proclaimed. Requesters are no longer required to submit draft wording. Please note that the name of the requesting organization is not included in the proclamation.

Please review the criteria below and submit your proclamation request using the **online request form** (https://www.toronto.ca/?page_id=68952).

Criteria

- Requests must be made at least four weeks in advance of the due date
- Requests must be submitted on an organization's letterhead
- Requests must provide background information about the cause or event being proclaimed
- Repeat requests must be submitted on an annual basis
- Cause or event must contribute to the economic, social, and cultural fabric of the City of Toronto

Eligible Causes

- Public awareness campaigns
- Charitable fundraising campaigns
- Arts and cultural celebrations

Note: Proclamations are approved based on the mandate and strategic goals of the City of Toronto

Additional Information

- Proclamations are issued at the discretion of the Mayor
- An organization may request one proclamation per year
- Proclamations are issued only to recognized Toronto organizations and not to individuals
- Organizations do not have exclusive rights to the day, week or month being proclaimed
- Proclamations of a similar topic will be issued on a first come, first served basis

Proclamations will not be issued for:

- matters of political controversy, ideological or religious beliefs or individual conviction
- events or organizations with no direct connection to the City of Toronto
- campaigns or events contrary to City policies or by-laws
- National, Independence or Republic Days (please see **flag-raising** (https://www.toronto.ca/?page_id=2357) for appropriate recognition)

- Campaigns intended for profit-making purposes

Contact Information

City Clerk's Office

Strategic Protocol and External Relations

Toronto City Hall

100 Queen Street West, 2nd Floor

Telephone: 416-392-7666 ext.

Email: protocol@toronto.ca (<mailto:protocol@toronto.ca>)

Related Information

Invite the Mayor to an Event (<https://www.toronto.ca/city-government/awards-tributes/tributes/invite-the-mayor-to-an-event/>)

Request a proclamation by the Mayor

Proclamations are official announcements that promote events, causes, and individuals celebrated by the people and community groups of Vancouver.

What you can request proclamations for

1. Local events and initiatives
2. Charitable and community-service initiatives
3. Health and public service initiatives
4. Multicultural awareness
5. Special anniversaries for non-profit organizations that benefit communities
6. Someone who's made a major community contribution

Complete the request form

You will need to submit your request at least 15 business days before the start of your proclamation date.

See an example proclamation [📄](#) (480 KB)

Part 1 of 2: About your proclamation

What is your request?

- Existing proclamation, with changes
- Existing proclamation, no changes
- New proclamation

Title of proclamation:

Length:

- Day
- Week
- Month

Proclamation Procedures

Approved by: Chief Corporate Services Officer

Category: General Administration

Approval date: July 2, 2002

Effective date: July 2, 2002

Revision approved by: Executive Committee

Revision date: December 3, 2014

Application

These procedures apply to all proclamations issued on behalf of the City of Ottawa. These procedures support the City of Ottawa Office of Protocol policy.

Procedure Description

The purpose of this protocol is to provide a vehicle that will encourage public awareness and provide recognition for events, achievements, and activities that are significant to Ottawa. It provides an opportunity to acknowledge individuals who have achieved national or international distinction, or whose contribution to the community demands significant recognition.

This procedure also identifies those instances where a proclamation will not be issued.

Proclamations are ceremonial documents signed by the Mayor containing a message of importance, interest or benefit to a significant number of citizens of Ottawa.

The decision to issue proclamations is based on the recognition that the Mayor represents all citizens. In doing so, acknowledgement is given to the commitment of individuals and organizations within the city whose efforts enhance our community. It does not, however, constitute a personal or civic endorsement.

This recognition also emanates from the desire to uphold the intent and spirit of the Ontario Human Rights Code "to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well being of the community".

A proclamation may be issued:

- to an individual or organization residing within the boundaries of the City of Ottawa who has achieved national or international distinction, or whose significant contribution to the community deserves recognition;
- to artistic, athletic, historical and cultural celebrations held within the boundaries of the City of Ottawa;
- to charitable and non-profit fundraising events held within the boundaries of the City of Ottawa;
- as a special recognition/honour on the recommendation of the Mayor.

A proclamation will not be issued for:

- matters that are politically or religiously motivated or represent individual conviction;
- campaigns, events or activities that are contrary to the City of Ottawa's policies or bylaws;
- individuals or organizations that espouse discrimination, hatred, violence or racism;
- individuals or organizations that are not directly related to the City of Ottawa;
- events or activities intended for profit-making purposes.

Other essential details:

A proclamation must be requested by an individual or organization that resides within the boundaries of the City of Ottawa and may be issued for a day, a week or a month.

A proclamation can be issued annually, however, a new request must be submitted by the requestor each year.

A request for a proclamation, and the text for inclusion in the proclamation, must be received in the Office of Protocol at least four weeks in advance of the date required. The text for inclusion in the proclamation, to be provided by the requestor in English or French, should not exceed 130 words.

All proclamation text is subject to approval by the Office of Protocol, and will be reviewed to ensure its compliance with the policy. Modifications to the text may be necessary in order for the text to be approved.

Once the text has been approved, the Office of Protocol will ensure that the proclamation is produced in both official languages.

The City will not incur any expenses relating to the advertising or promotion of a proclamation unless a City department initiates the proclamation. Recipients are responsible for the promotion of the proclamation, organization of related activities and for all associated costs.

An organization does not have exclusive rights to the day, week or month of their proclamation.

A congratulatory letter or certificate may be considered as an alternative where the proclamation criteria has not been met.

Monitoring/Contraventions

The Chief of Protocol is responsible for monitoring compliance with this procedure.

References

None

Legislated and Administrative Authorities

None

Definitions

None

Keyword Search

Proclamations
Office of Protocol
Honour
Certificate

Enquiries

Chief of Protocol
Office of Protocol



Corporate Policies, Programs and Procedures
Proclamation Policy

Title of Policy:	Proclamation Policy	Affects:	All Employees, Elected Officials and members of the public, and all Town Facilities
Section:	Legislative Services	Replaces:	Not applicable
Original Policy Date:	Not applicable	Revision Date:	Not applicable
Effective Date:	January 1, 2017	Next Review Date:	As required
Prepared By:	Legal & Legislative Services	Approval Authority:	Council

1. Purpose

- 1.1. This Policy establishes a framework for the approval of Proclamation requests received by the Town.

2. Application

- 2.1. This Policy applies to all requests for Proclamations sent to the Clerk's Office.
- 2.2. The Policy does not apply to Notices of Motion submitted by Members of Council pursuant to the Procedural By-law that may result in Council proclaiming a particular event, day, week or month.

3. General Principles and Rules of the Policy

- 3.1. Proclamations are issued to acknowledge the efforts, commitment and achievement of individuals and organizations that enhance the community of Aurora.
- 3.2. Proclamations are issued to recognize public awareness campaigns, charitable fundraising campaigns, and arts and cultural celebrations of significance to the Town.
- 3.3. A proclamation may recognize a particular event, day, week or month.

- 3.4. An organization does not have exclusive rights to the day, week or month of its proclamation.
- 3.5. All proclamation requests will be reviewed on a case-by-case basis and no individual or organization has the right to a proclamation.
- 3.6. The declaration of a proclamation is at the discretion of the Town, and the Town reserves the right to decline any request.
- 3.7. Where the Town issues a proclamation in accordance with this policy such proclamation does not constitute a personal or civic endorsement by the Town or approving official.
- 3.8. The Town of Aurora will not incur any expenses relating to the advertising and promotion of a proclamation.

4. Definitions

- 4.1. In this Policy, the following words have the following meanings:
 - (a) “**Clerk**” means the Clerk appointed by Council pursuant to requirements of section 228 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, or his/her designate.
 - (b) “**Council**” means the Aurora Town Council.
 - (c) “**Procedural By-law**” means the by-law that governs the calling, place and procedures of meetings of the Town, and that is enacted by Council in accordance with the requirements of subsection 238(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.
 - (d) “**Town**” means The Corporation of the Town of Aurora.

5. Proclamation Criteria

- 5.1. Proclamations may be issued by the Town to acknowledge the efforts, commitment and achievement of individuals and organizations that enhance the community of Aurora.
- 5.2. Proclamations may be issued by the Town to recognize public awareness campaigns, charitable fundraising campaigns, and arts and cultural celebrations of significance to the Town.

- 5.3. A Proclamation may be issued by the Town if it pertains to one of the following matters:
- (a) Civic promotions;
 - (b) Public awareness campaigns;
 - (c) Charitable fundraising campaigns;
 - (d) Awareness or celebration that promotes interfaith and/or intercultural dialogue;
 - (e) Arts and cultural celebrations; and
 - (f) Special honours for individuals or organizations for special achievements.
- 5.4. A Proclamation will not be issued by the Town when the request pertains to any of the following:
- (a) Individuals, events, organizations or community groups with no demonstrated interest or direct relationship to the Town;
 - (b) Matters of political controversy, political parties or political organizations;
 - (c) Religious organizations whose intent is to claim a recognition, or imposition, of religious doctrine and/or particular portions of religious doctrine;
 - (d) Individual conviction;
 - (e) Businesses or commercial enterprises, and celebrations, campaigns or events intended for profit making purposes;
 - (f) Discriminatory or inflammatory matters;
 - (g) Attempting to influence Town policy;
 - (h) National, Independence or Republic Days;
 - (i) Celebrations, campaigns or events contrary to Town Policies or by-laws;
 - (j) Illegal matters;
 - (k) Matters which defame the integrity of the Town;
 - (l) Matters designed to incite hatred or disorder; and,

- (m) Matters which are untruthful.

6. Application Procedures

- 6.1 Requests for proclamations shall be submitted in writing and include:
 - (a) A brief summary and background of the individual or organization requesting a proclamation;
 - (b) A brief summary and background of the subject matter of the requested proclamation;
 - (c) The name and date(s) of the day, week, month, or event to be proclaimed;
 - (d) The proposed text for the proclamation, which the Clerk may request and make amendments to the proclamation, which in the Clerk's opinion improves the structure and/or overall intent of the requested proclamation;
 - (e) Contact person's name, address, telephone number and email; and
 - (f) A date when the proclamation is required.
- 6.2 Requests for proclamation must be submitted at least one month prior to the first day of the event day, week, or month for which a proclamation is requested.
- 6.3 Any request to raise a flag associated with the proclamation, will be required to meet the criteria set out in the Flag Protocol and Flag Raising Policy.

7. Approval Procedures

- 7.1 Proclamation requests that comply with this Policy will be approved at the discretion of the Clerk.
- 7.2 The Clerk may refer any request for a proclamation to the Mayor or any other Town staff for comment on the request.
- 7.3 The Clerk will notify the requestor of the Town's decision in relation to any request received within five (5) business days.

8. Communication of the Proclamation

- 8.1 The individual, organization or community group will be responsible for disseminating the proclamation to the media and making arrangements for

the attendance of the Mayor and/or Councillors at the specific function or event, if any, at which the proclamation is to be made.

8.2 Notice of proclamations approved by the Clerk will be posted on the Town's website or by other means at the discretion of the Town.

8.3 Certificates of proclamations are available from the Clerk's Office upon request.

9. Delegation

9.1 The authority to approve or deny Proclamations under this Policy is delegated to the Clerk or his/her designate.

9.2 The Clerk may refer any request for Proclamation for Council's consideration when deemed appropriate by the Clerk.

10. Responsibility

10.1 Council will be responsible for:

- (a) approving and amending this Policy; and
- (b) deciding on any matter referred by the Clerk to Council.

10.2 The Clerk will be responsible for:

- (a) exercising any authority delegated to the Clerk by this Policy;
- (b) administering the operation of this Policy;
- (c) interpreting this Policy; and
- (d) creating any procedure that the Clerk deems necessary for the effective and efficient implementation of this Policy.

Print font size: %

Apply for Proclamation or Flag Raising

Proclamation

- Please send your written request a minimum of three weeks prior to your special date
- You can download a printable copy of the [proclamation application](#) form from this website or visit the City Clerk's office, Monday to Friday 8:30 a.m. to 4:30 p.m. to obtain a printed copy
- Requests must be made by local organizations (defined as a group having an official presence in Windsor-Essex)
- You **must** provide the draft wording for your proclamation in order to receive an official signed proclamation from the Mayor. Feel free to refer to our proclamation [example](#)
- The Clerk shall review the request and make any appropriate amendments to the proclamation, which in the Clerk's view improves the structure and/or intent of the requested proclamation
- The City Clerk's office will prepare the proclamation and then submit it to the Mayor for signature
- Once signed, the Clerk's office will:
 - Send the original proclamation to you
 - Post a copy on the city's website and send an electronic copy to Cogeco Cable
 - List on the next City Council agenda
 - List in Windsor's Civic Corner in The Windsor Star
(subject to space constraints the week prior to the event)

Under the City of Windsor's Procedural By-Law, City Council will not entertain delegations requesting proclamations.

Flag Raising

- Please send your written request a minimum of four weeks prior to the preferred date of the Flag Raising
- You can download a printable copy of the Flag Raising [application](#) or visit the City Clerk's office Monday to Friday between 8:30 a.m. to 4:30 p.m. to obtain a printed copy
- Please see the [Flag Policy](#) for more information.

Council Services Department

Suite 530 - 350 City Hall Square West
Windsor, Ontario
N9A 6S1
Canada

Telephone: For general information, call 311.
For detailed inquiries, call (519) 255-6222 ext. 6388.
Fax: (519) 255-6868

E-mail: clerks@citywindsor.ca

Proclamations (<http://www.edmonton.ca/mayorsproclamation/>)

A proclamation is a formal document that dedicates a day, week or month to honour a special event, cause or purpose. Proclamations may be requested by Edmonton-based organizations and are intended to recognize initiatives or events that directly impact Edmontonians, including:

- Civic initiatives and campaigns
- Charitable or community initiatives
- Health and public service initiatives
- Multicultural awareness initiatives or events

The Mayor's Office may deny requests that are mainly personal, private, partisan, polarizing or commercial in nature. Some requests that do not meet the criteria for a proclamation may instead be considered for a congratulatory certificate.

Mayor's Messages (<http://www.edmonton.ca/mayorsmessage/>)

Mayor's messages are short greetings of about four paragraphs usually written for publication in programs or booklets by organizers of community events or conferences. They are signed by the Mayor and can include his picture if requested.

Certificates of Congratulations (<http://www.edmonton.ca/mayorsmessage/>)

Certificates of congratulations are custom certificates to recognize special events and achievement in the community. Certificates are often presented to people and organizations on reaching a significant milestone in their life or history — an anniversary, birthdays for persons celebrating 65th birthdays and older, certificates to athletes and to businesses on official openings.

Please Note

Many requests for **City services (</programs-services.aspx>)** are best handled by the City's 311 service. For the most efficient response, please call 311 or download the **City's 311 app (/programs_services/apps_mobile/app-edmonton-311.aspx)**.



Request to Meet with the Mayor



Contact the Mayor



Social Media

Related Links



Blog

City-building thoughts and ideas from Mayor Iveson.

Appendix D

APPENDIX – NATIONAL DAYS AND OBSERVANCES IN CANADA

The following table shows the national days and observances established under federal statutes, orders in council and resolutions of the Senate or of the House of Commons, as well as certain days recognized by federal government departments or other bodies. It does not include religious observances or provincial holidays, except those also established by a federal statute, order in council or parliamentary resolution. Because of the large number of special days observed in Canada, and the fact that there is no central authority responsible for them, the table should be seen as a useful guide, not as a comprehensive list of every special day observed in Canada.

Table 1 – National Days and Observances in Canada

Date	National Day or Observance	Authority	Further Information
1 January	New Year's Day	<i>Canada Labour Code</i> , R.S.C. 1985, c. L-2, s. 166.	
11 January	Sir John A. Macdonald Day	<i>Sir John A. Macdonald Day and the Sir Wilfrid Laurier Day Act</i> , S.C. 2002, c. 2.	Government of Canada, <i>Sir John A. Macdonald Day, January 11</i> .
17 January	Raoul Wallenberg Day		Justin Trudeau, Prime Minister of Canada, " <u>Statement by the Prime Minister of Canada on Raoul Wallenberg Day</u> ," <i>News</i> , 17 January 2017.
21 January	Lincoln Alexander Day	<i>Lincoln Alexander Day Act</i> , S.C. 2014, c. 30.	
February	Black History Month	House of Commons, <i>Debates</i> , Motion, 1 st Session, 35 th Parliament, 14 December 1995 (Ms. Jean Augustine, Parliamentary Secretary to the Prime Minister); and Senate, <i>Debates</i> , Motion, 2 nd Session, 39 th Parliament, 14 February 2008 (Hon. Donald H. Oliver).	Government of Canada, <i>Black History Month</i> .
15 February	National Flag of Canada Day	Office of the Prime Minister of Canada, <i>Declaration, National Flag of Canada Day</i> , 15 February 1996.	Government of Canada, <i>February 15 is National Flag of Canada Day</i> .
8 March	International Women's Day		Status of Women Canada, <i>International Women's Day</i> .
Second Monday in March	Commonwealth Day		Government of Canada, <i>Commonwealth Day</i> .
20 March	Journée internationale de la Francophonie		Organisation internationale de la Francophonie, <i>20 mars 2017 – Journée internationale de la Francophonie</i> .
21 March	International Day for the Elimination of Racial Discrimination		United Nations, <i>International Day for the Elimination of Racial Discrimination: 21 March</i> .

DESIGNATION OF NATIONAL DAYS AND OBSERVANCES IN CANADA

Date	National Day or Observance	Authority	Further Information
26 March	Purple Day	<i>Purple Day Act</i> , S.C. 2012, c. 13.	<i>Purpleday.org</i> .
2 April	Pope John Paul II Day	<i>Pope John Paul II Day Act</i> , S.C. 2014, c. 41.	
2 April	World Autism Awareness Day	<i>World Autism Awareness Day Act</i> , S.C. 2012, c. 21.	United Nations, <i>World Autism Awareness Day: 2 April</i> .
6 April	Tartan Day		Government of Canada, "The Maple Leaf Tartan," <i>Official symbols of Canada</i> .
Second week in April	National Volunteer Week		Volunteer Canada, <i>National Volunteer Week</i> .
9 April	Vimy Ridge Day	<i>Vimy Ridge Day Act</i> , S.C. 2003, c. 6.	Government of Canada, "Vimy Ridge Day," Statement.
Week of 10 April	National Wildlife Week	<i>National Wildlife Week Act</i> , R.S.C. 1985, c. W-10.	Canadian Wildlife Federation, <i>Get Involved in National Wildlife Week</i> .
Friday before Easter Sunday	Good Friday	<i>Canada Labour Code</i> , R.S.C. 1985, c. L-2, s. 166.	
23 April	World Book and Copyright Day		United Nations, <i>World Book and Copyright Day: 23 April</i> .
Last full week of April	National Organ and Tissue Donor Week	<i>National Organ Donor Week Act</i> , S.C. 1997, c. 4.	
28 April	Workers Mourning Day	<i>Workers Mourning Day Act</i> , S.C. 1991, c. 15.	Canadian Centre for Occupational Health and Safety, <i>April 28: Day of Mourning</i> .
A week following Passover	Holocaust Memorial Day – Yom HaShoah	<i>Holocaust Memorial Day Act</i> , S.C. 2003, c. 24.	Jewish Federation of Ottawa, <i>Yom HaShoah</i> .
30 April	Journey to Freedom Day	<i>Journey to Freedom Day Act</i> , S.C. 2015, c. 14.	
May	Asian Heritage Month		Government of Canada, <i>Asian Heritage Month</i> .
Week of the second Monday in May	National Mining Week	<i>National Mining Week Proclamation</i> , SI/95-64.	Natural Resources Canada, <i>National Mining Week, May 9–15, 2016</i> .
18 May	International Museum Day		International Council of Museums, <i>International Museum Day</i> .
Monday preceding 25 May	Victoria Day	<i>Holidays Act</i> , R.S.C. 1985, c. H-5; and <i>Canada Labour Code</i> , R.S.C. 1985, c. L-2, s. 166.	Government of Canada, <i>Victoria Day</i> .
Third Saturday in May	National Fiddling Day	<i>National Fiddling Day Act</i> , S.C. 2015, c. 6.	Parliament of Canada, "The Sound of Strings Reverberated on the Hill on National Fiddling Day," <i>SenCA Plus</i> , 19 May 2016.
June	National Aboriginal History Month	House of Commons, <i>Debates</i> , Motion, 2 nd Session, 40 th Parliament, 4 June 2009 (Ms. Jean Crowder).	Government of Canada, <i>National Aboriginal History Month</i> .
First Saturday in June	National Day to Promote Health and Fitness for all Canadians	<i>National Health and Fitness Day Act</i> , S.C. 2014, c. 34.	
First Sunday in June	Canadian Armed Forces Day	House of Commons, <i>Debates</i> , Motion No. 334, 1 st Session, 37 th Parliament, 25 April 2002 (Mr. Leon Benoit).	

DESIGNATION OF NATIONAL DAYS AND OBSERVANCES IN CANADA

Date	National Day or Observance	Authority	Further Information
Week in which 5 June occurs	Canadian Environment Week	<i>Canadian Environment Week Act</i> , R.S.C. 1985, c. E-11.	
Wednesday of Canadian Environment Week	Clean Air Day Canada	<i>Proclamation declaring the Wednesday of Canadian Environment Week in June of each year to be Clean Air Day Canada</i> , SI/99-42.	
Week in which 14 June occurs	National Blood Donor Week	<i>National Blood Donor Week Act</i> , S.C. 2008, c. 4.	Canadian Blood Services, "To give life, become a blood donor," News release, 13 June 2016.
Third week of June	National Public Service Week	<i>National Public Service Week: Serving Canadians Better Act</i> , S.C. 1992, c. 15.	Government of Canada, <i>National Public Service Week</i> .
Week leading up to Canada Day	Celebrate Canada		Government of Canada, <i>Celebrate Canada</i> .
21 June	National Aboriginal Day	<i>Proclamation Declaring June 21 of Each Year as National Aboriginal Day</i> , SI/96-55.	Government of Canada, <i>National Aboriginal Day</i> .
23 June	National Day of Remembrance for Victims of Terrorism	<i>Proclamation Requesting the People of Canada to Observe June 23 of Every Year as a National Day of Remembrance for Victims of Terrorism</i> , SI/2005-65.	Canadian Resource Centre for the Victims of Terrorism, <i>National Day of Remembrance for Victims of Terrorism</i> .
24 June	Saint-Jean-Baptiste Day/ Fête nationale du Québec		Government of Canada, "Saint-Jean-Baptiste Day on June 24: Fête nationale du Québec et de la Francophonie canadienne," <i>Celebrate Canada activities</i> .
27 June	Canadian Multiculturalism Day	<i>Proclamation Declaring June 27 of each year as "Canadian Multiculturalism Day"</i> , SI/2002-160.	Government of Canada, "Canadian Multiculturalism Day on June 27," <i>Celebrate Canada activities</i> .
1 July ¹	Canada Day	<i>Holidays Act</i> , R.S.C. 1985, c. H-5; and <i>Canada Labour Code</i> , R.S.C. 1985, c. L-2, s. 166.	Government of Canada, <i>Canada Day</i> .
1–7 July	Canada History Week		Government of Canada, <i>Canada History Week (July 1–7)</i> .
27 July	Korean War Veterans Day	<i>Korean War Veterans Day Act</i> , S.C. 2013, c. 17.	
28 July	A Day of Commemoration of the Great Upheaval	<i>Proclamation Designating July 28 of Every Year as "A Day of Commemoration of the Great Upheaval"</i> , Commencing on July 28, 2005, SI/2003-188.	
9 August	National Peacekeepers' Day	<i>National Peacekeepers' Day Act</i> , S.C. 2008, c. 27.	Veterans Affairs Canada, <i>National Peacekeepers' Day</i> .
15 August	National Acadian Day	<i>National Acadian Day Act</i> , S.C. 2003, c. 11.	
First Monday in September	Labour Day	<i>Canada Labour Code</i> , R.S.C. 1985, c. L-2, s. 166.	
3 September	Merchant Navy Veterans Day	<i>Merchant Navy Veterans Day Act</i> , S.C. 2003, c. 17.	

DESIGNATION OF NATIONAL DAYS AND OBSERVANCES IN CANADA

Date	National Day or Observance	Authority	Further Information
8 September	International Literacy Day		United Nations Educational, Scientific and Cultural Organization (UNESCO), <i>International Literacy Day</i> .
21 September	International Day of Peace		United Nations, <i>International Day of Peace: 21 September</i> .
Third Saturday in September	National Hunting, Trapping and Fishing Heritage Day	<i>National Hunting, Trapping and Fishing Heritage Day Act</i> , S.C. 2014, c. 26.	Ontario Federation of Hunters and Anglers, <i>National Hunting Trapping and Fishing Heritage Day – September 16, 2017</i> .
Last Sunday in September	Police and Peace Officers' National Memorial Day	<i>Proclamation Declaring the last Sunday in September of each year to be "Police and Peace Officers' National Memorial Day"</i> , SI/98-97.	The Memorial – La commémoration, <i>Canadian Police And Peace Officer's Memorial</i> .
October	Women's History Month	House of Commons, <i>Debates</i> , 3 rd Session, 34 th Parliament, 9 March 1992, pp. 7846–7847 (Hon. Mary Collins, Associate Minister of National Defence and Minister responsible for Status of Women), in Library of Parliament, <i>House of Commons Debates, 34th Parliament, 3rd Session: Vol. 6</i> , Canadian Parliamentary Historical Resources (database), p. 1122.	Status of Women Canada, <i>Celebrate Women's History Month</i> .
1 October	National Seniors Day	<i>Celebrating Canada's Seniors Act</i> , S.C. 2010, c. 13.	Government of Canada, <i>National Seniors Day</i> .
Second Monday in October	Thanksgiving Day	<i>Canada Labour Code</i> , R.S.C. 1985, c. L-2, s. 166.	
11 October	International Day of the Girl Child		United Nations, <i>International Day of the Girl Child: 11 October</i> .
18 October	Persons Day		Status of Women Canada, <i>Persons Day</i> .
27 October	World Day for Audiovisual Heritage		UNESCO, "World Day for Audiovisual Heritage," <i>Communication and Information</i> .
31 October	National UNICEF Day	<i>Proclamation Declaring October 31st of each year to be "National UNICEF Day"</i> , SI/2000-84.	UNICEF Canada, <i>National UNICEF Day</i> .
11 November	Remembrance Day	<i>Holidays Act</i> , R.S.C. 1985, c. H-5; and <i>Canada Labour Code</i> , R.S.C. 1985, c. L-2, s. 166.	Veterans Affairs Canada, <i>A Day of Remembrance</i> .
15 November	National Philanthropy Day	<i>National Philanthropy Day Act</i> , S.C. 2012, c. 23.	
20 November	Sir Wilfrid Laurier Day	<i>Sir John A. Macdonald Day and the Sir Wilfrid Laurier Day Act</i> , S.C. 2002, c. 2.	
20 November	Child Day	<i>Child Day Act</i> , S.C. 1993, c. 18.	UNICEF Canada, <i>Celebrate National Child Day</i> .
Fourth Saturday in November	Holodomor Memorial Day	<i>Ukrainian Famine and Genocide ("Holodomor") Memorial Day Act</i> , S.C. 2008, c. 19.	

DESIGNATION OF NATIONAL DAYS AND OBSERVANCES IN CANADA

Date	National Day or Observance	Authority	Further Information
3 December	International Day of Persons with Disabilities		United Nations, <i>International Day of Persons with Disabilities – 3 December</i> .
6 December	National Day of Remembrance and Action on Violence Against Women	<i>National Day of Remembrance Act</i> , S.C. 1991, c. 36.	Status of Women Canada, <i>The National Day of Remembrance and Action on Violence Against Women</i> .
10 December	Human Rights Day		United Nations, <i>Human Rights Day: 10 December</i> .
11 December	Anniversary of the <i>Statute of Westminster</i>		Government of Canada, "The <i>Statute of Westminster, 1931: Giving Canada Its Own Voice</i> ," <i>Anniversary of the Statute of Westminster</i> .
25 December	Christmas Day	<i>Canada Labour Code</i> , R.S.C. 1985, c. L-2, s. 166.	
26 December	Boxing Day	<i>Canada Labour Code</i> , R.S.C. 1985, c. L-2, s. 166.	

NOTES

1. Some statutes include provisions whereby the following Monday is recognized as a legal holiday if 1 July falls on a Saturday or a Sunday.