

Report to Corporate Services Committee

To: Chair and Members, Corporate Services Committee
From: John Paradis, Deputy City Manager, Enterprise Supports
Subject: RESPECTFUL WORKPLACE POLICY 2024 UPDATE
Date: February 26, 2024

Recommendation

That, on the recommendation of the Deputy City Manager, Enterprise Supports, and concurrence of the City Manager,

- A. That City Council receive the Respectful Workplace Policy 2024 Update Report from the Deputy City Manager, Enterprise Supports.
- B. And that the attached proposed by-law (Appendix "A"), being a by-law to repeal Council Policy By-law CPOL.-396(a)-262, being "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)" and replace it with the updated Council Policy entitled "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)", **BE INTRODUCED** at the Municipal Council meeting to be held on March 5, 2024.
- C. And that, Civic Administration review and update all policies and websites that refer to the Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination).

Executive Summary

This purpose of this report is to outline the actions being taken to implement the recommendations of the third-party review of the Respectful Workplace Policy, Practices, and Procedures. This report provides the updated Respectful Workplace Policy and Procedures for City Council consideration and support.

Linkage to the Corporate Strategic Plan

This update to the Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination) and Procedures are aligned with the following strategic area of focus and outcome from the City of London Strategic Plan 2023-2027:

Well-Run City

- The City of London is a safe, respectful, diverse, and healthy workplace.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

- Corporate Services Committee, June 19, 2018, Agenda Item 2.11 - Update: Harassment and Discrimination - Third Party Review
- Corporate Services Committee, September 25, 2018, Agenda Item 2.6 - Update #2 Harassment and Discrimination - Third Party Review
- Corporate Services Committee, March 19, 2019, Agenda Item 2.10 - Update #3 Harassment and Discrimination – Third Party Review – Workplace Assessment and Recommendations
- Corporate Services Committee, June 18, 2019, Agenda Item 2.2 - Update #4 Harassment and Discrimination – Third Party Review – Workplace Harassment Assessment and Recommendations – Action Plan

- Corporate Services Committee, December 3, 2019, Agenda Item 2.2 - Respectful Workplace Policy
- Corporate Services Committee, July 26, 2021, Agenda Item 2.6 – Council Policy Manual Review 2021

2.0 Discussion and Considerations

2.1 Third-Party Review

In April 2023, Civic Administration engaged a third-party to conduct a comprehensive review of the existing City of London Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination) (Appendix D), practices, and procedures for all aspects of the policy including how investigations are conducted. This policy is reviewed and updated annually; however, this more comprehensive review was initiated because through the employee survey in February 2023, and other avenues, it had become clear that employees had concerns with respect to the policy and how it was being implemented.

The results of the review noted that while the policy is quite comprehensive and that, as an organization, the City has a much better framework for resolving disputes than we did before the policy was enacted several years ago. Despite this it was also noted that the policy is challenging to work with due in part to a lack of role and process clarity. The lack of clarity has led in some cases to employees not feeling entirely confident in the system that is in place. This is exacerbated by the fact that our human rights work is conducted out of People Services, and it is best practice to have these two functions operate independently from one another.

The recommendations emanating from the review included:

- Update/Revise the Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination) to make it easier to follow. (Appendix B)
- Create an easier to follow set of practices and procedures for the investigative process, with a flowchart. (Appendix C)
- Ensure clearer and more frequent lines of communication throughout the process.
- Mindfulness of physical and mental safety is built into the practices and procedures through security measures and psychological safety of all parties going through the investigative process, and after.
- Move the Human Rights team outside of People Services, reporting directly to the Deputy City Manager, Enterprise Supports.
- Conduct Enterprise-wide training on the updated policy, practices, and procedures.

2.2 Implementation

As a result of the 3rd party review and recommendations for improvement, Civic Administration is moving forward with the following actions:

Updated Respectful Workplace Policy and Procedures

- An updated Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination), practices, and procedures was developed in collaboration with our third-party consultant. The updated policy incorporates best practices, feedback from employees and key parties such as ARAO, People Services, all unions, Ombudsperson etc., addresses opportunities for greater consistency and equity, and is accompanied by clear processes to support its implementation. The revised policy is provided in Appendix B. The application of the ARAO Framework and Equity Tool was used during the update of the policy and procedures. The results included the

expansion of the examples of harassment and discrimination to cover a broader range of behaviours, as well as the inclusion of micro-aggressions.

- A future change consideration is the implementation of Restorative Justice into the policy, practices, and procedures. Civic Administration will be researching this further in 2024.
- Restorative Justice refers to an approach that can be offered at the beginning or after an application and/or investigation to see if both parties are willing to meet with a neutral third party to provide an opportunity for one party to take responsibility for their actions and an opportunity for another to have harm repaired, to assist in rebuilding psychological safety in the workplace between parties. If successful at the beginning of the process, no further investigation would be required, only follow-ups to ensure things are going well for both parties.

Human Rights Division

- Effective February 1, 2024, the Human Rights Division reports directly to the Deputy City Manager, Enterprise Supports. This change was done to reflect best practices and create separation and independence from People Services.
- Once the new Human Rights team is in place, an enterprise-wide training strategy will be developed to introduce the updated policy to the Corporation.

3.0 Financial Impact/Considerations

3.1 Implementation and Training Costs

The implementation of the recommendations of the review and work of the Human Rights division is available within existing approved operational budgets.

Conclusion

The changes being made to the policy and procedures are to ensure that we are in alignment with best practices and that our employees can have full confidence in our policies and procedures. The change to the reporting structure of the Human Rights team was made to support greater accountability and anonymity, as well as minimize any perceived bias for employees.

Recommended by: John Paradis, Deputy City Manager, Enterprise Supports

cc.

Lynne Livingstone, City Manager

Kelly Scheer, Deputy City Manager, Environment and Infrastructure

Anna Lisa Barbon, Deputy City Manager, Finance Supports

Tara Pollitt, Deputy City Manager, Legal Services

Scott Mathers, Deputy City Manager, Planning and Economic Development

Cheryl Smith, Deputy City Manager, Neighborhoods and Community-Wide Services

Kevin Dickins, Deputy City Manager, Social and Health Development

APPENDIX "A"

Bill No.
2024

By-law No. CPOL.-_____

A by-law to amend By-law CPOL.-396-7, as amended, being "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)" by deleting and replacing Schedule "A".

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*, 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 amend By-law No. CPOL.-396-7, as amended, being "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)" by deleting and replacing Schedule "A";

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

1. By-law No. CPOL.-396-7, as amended "Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)" is hereby amended by deleting Schedule "A" to the By-law in its entirety and replacing it with the attached new Schedule "A".
2. This by-law comes into force and effect on the day it is passed subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

PASSED in Open Council on _____, 2024 subject to the provisions of PART VI.1 of the *Municipal Act, 2001*.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – insert date
Second Reading – insert date
Third Reading – insert date



London
CANADA

Respectful Workplace Policy

Policy Name: Respectful Workplace Policy

Legislative History: (Provided by the City Clerk's Office)

Last Review Date: (Provided by the City Clerk's Office based upon written notification by the Service Area lead responsible for the maintenance of the Council Policy)

Service Area Lead: Deputy City Manager, Enterprise Supports

1. Policy Statement

The Corporation of the City of London (Corporation) is committed to fostering a workplace that is safe and inclusive, where the diversity, dignity, and perspectives of all individuals are valued and respected. The Corporation will not tolerate or condone harassment, discrimination or reprisals and will take active steps to promote a psychologically safe and inclusive workplace.

This policy outlines shared rights and responsibilities for creating a respectful workplace. It applies in conjunction with the Corporation's Code of Ethics and Workplace Violence Prevention Policy and Procedure, and any applicable collective agreements.

2. Definitions

2.1 Discrimination and Harassment Under the Ontario Human Rights Code

2.1.1 Discrimination

Under the Ontario *Human Rights Code* (Code), every person has a right to equal treatment with respect to employment without discrimination based on 16 protected grounds of discrimination:

- race, colour, ancestry, ethnic origin, place of origin
- sex, gender identity and gender expression
- sexual orientation
- creed, including religion
- marital status (married, single, widowed, divorced, separated, or living in a conjugal relationship outside of marriage, whether in a same-sex or opposite-sex relationship)
- family status (a parent and child relationship)
- disability or perceived disability (including mental, physical, developmental, or learning disabilities)
- age
- citizenship
- record of offences (for which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked, or an offence in respect of any provincial enactment)

2.1.2 Harassment

Every employee has a right to freedom from harassment in the workplace related to a protected ground. Harassment is defined in the Code as:

Engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

2.1.3 Sexual Harassment

The Code provides protection from sexual harassment in employment as follows:

Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by his or her employer or agent of the employer or by another employee.

Every person has a right to be free from a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

2.2 Harassment Under the Occupational Health and Safety Act

2.2.1 Workplace Harassment

Workplace harassment is a protected health and safety issue covered under the *Occupational Health and Safety Act* (OHSA). The OHSA defines workplace harassment as:

Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome

The OHSA also states:

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

2.2.2 Sexual Harassment

The OHSA defines sexual harassment as:

- i) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- ii) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

3. Applicability

This policy applies to:

- all employees of the Corporation including full-time, part-time, temporary, probationary, and casual employees
- interns and placement students
- elected officials
- volunteers (including members of advisory committees, special committees, and task forces), and
- contractors and consultants acting on behalf of the Corporation
- individuals from outside the Corporation, such as suppliers, visitors, and other members of the public

4. The Policy

4.1 Discrimination, Harassment and Disrespect

Discrimination and harassment are prohibited by law. The legal and policy definitions of discrimination and harassment are in Section 2 of this policy. Left unchecked, disrespectful behaviour can lead to harassment and can create a poisoned workplace and is also prohibited under this policy.

Some examples of harassment, discrimination and disrespect are set out below.

4.1.1 Workplace Harassment and Discrimination

The Corporation does not tolerate workplace harassment including harassment based on the protected grounds of discrimination or based on association with someone identified by a protected ground.

There can be many examples of harassment, some of which are listed below.

- offensive or intimidating comments, jokes, or innuendos
- imitating someone's accent, speech, or mannerisms
- verbally abusive behaviour, such as yelling, insulting, humiliating, or threatening someone
- workplace pranks, vandalism, bullying, hazing, or aggressive behaviour
- gossiping, spreading rumours, or making malicious statements
- excluding, ostracizing, or persistently ignoring someone
- sabotaging someone else's work
- displaying or circulating offensive pictures or materials
- homophobic comments or jokes or "outing" or threatening to "out" someone based on their sexual orientation
- racial micro-aggressions and racial jokes and comments
- cyber-bullying and harassment through social media
- demeaning or abusive workplace supervision including deliberately obstructing someone's advancement for reasons unrelated to performance, merit, or other legitimate business needs
- making false allegations about someone in memos or other work-related documents
- menacing behaviours such as stalking, staring, glaring, inappropriate gestures, or unwelcome physical closeness
- workplace mobbing (group bullying)
- discriminatory or harassing conduct including (but not limited to) anti-Black racism, anti-Indigenous racism, Islamophobia, antisemitism, anti-Asian racism, homophobia, transphobia, biphobia, ableism, ageism, xenophobia and sexism

Discrimination means treating someone unfairly or differently based on the protected grounds of discrimination under the Code, for example race, sex or disability.

Discrimination can happen directly, or indirectly or by unintentionally creating rules or practices that disadvantage certain groups of people.

To establish discrimination in employment:

- the complainant must have a characteristic protected by the Code (e.g., race)
- the complainant must have experienced adverse treatment/impact
- the protected characteristic was a factor in the adverse treatment or impact

Note: Behaviour will only constitute harassment or discrimination if it meets the legal test.

4.1.2 Sexual and Gender-Based Harassment

Sexual harassment includes conduct or comments of a sexual nature that the recipient does not welcome or that offend them.

Gender-based harassment includes conduct or comments that are not necessarily sexual, but which are demeaning to someone because of their gender or sex. Gender-based harassment is a form of sexual harassment.

Sexual or gender-based harassment can involve individuals of any gender, as both targets and perpetrators. Harassment may occur between individuals of the same or different genders.

Below are some examples of sexual and gender-based harassment.

Sexual comments or conduct including:

- sexually suggestive or lewd remarks or gestures
- sexual banter and innuendoes
- spreading gossip or rumours about someone's sexual activities or relationships
- displaying sexually offensive material, such as posters, pictures, calendars, cartoons, screensavers, pornographic or erotic websites, or other digital material

Sexual solicitation including:

- threats, punishment, or denial of benefits for refusing a sexual advance
- offering benefits in exchange for a sexual favour
- unwelcome sexual advances, which may involve a manager, supervisor, or someone with the power to reward or punish the worker at work

Sexual violence including:

- persistent, unwanted attention after a consensual relationship ends
- leering (persistent sexual staring)
- unwelcome physical contact of a sexual nature, such as touching or caressing
- cyber sexual violence including spreading rumours online through social media or other electronic communication tools, or sending messages, photos or videos that are offensive or damaging to someone's reputation
- sexual assault

Gender-based comments or conduct including:

- behaviour aimed at policing or enforcing stereotypical gender norms
- insults or comments that ridicule, humiliate or demean someone because of their sex, gender identity or expression
- derogatory language based on sex or gender identity including toward trans people or trans communities
- refusing to use someone's chosen pronouns or self-identified name
- gossiping or spreading rumours about someone's gender identity or expression
- "outing" or threatening to "out" someone based on their gender identity
- intrusive comments, questions or insults about a person's body, gender-related medical procedures, clothing, mannerisms, or other forms of gender expression
- persistent or inappropriate questions about whether someone is pregnant, has children, or plans to have children.

4.1.3 Poisoned Work Environment

Unwelcome comments or conduct can poison someone's working environment, making it a hostile or uncomfortable place to work even if the person is not being directly targeted. This is known as a **poisoned (toxic) working environment**, and it is a form

of harassment.

4.1.4 Disrespectful Behaviour

Building a psychologically safe and inclusive workplace depends on treating each other with civility and respect. Even if disrespectful behaviour does not rise to the level of harassment, it may still harm workplace relationships and the workplace culture. That means you are expected to be inclusive of others and treat anyone you encounter in the workplace with civility and respect.

Disrespectful behaviour can include the above examples of discrimination, harassment and sexual or gender-based harassment. The examples below may also constitute disrespectful behaviour, harassment, or both depending on the context, circumstances, impact, and frequency.

Examples of disrespect include:

- racial and other microaggressions (a microaggression is a comment or action that expresses prejudice against a marginalized group or person)
- speaking in a belittling or condescending tone
- snide, sarcastic, or demeaning comments
- persistently interrupting or speaking over someone
- glaring, finger-pointing, eye-rolling, and other nonverbal gestures of disrespect
- disparaging or making fun of someone, even if it's meant as a joke, as well as referencing their community or culture in a derogatory way
- swearing or using unprofessional language, even if not directed at a particular person and even if those nearby are not personally offended
- passive-aggressive behaviour, such as refusing to directly communicate with someone about an issue and instead complaining behind their back
- embarrassing or humiliating someone
- gossiping, including sharing information that someone would probably want kept secret or speaking about someone behind their back in a negative way
- deliberately ignoring someone
- deliberately interfering with or impeding someone's work

4.1.5 The Elements of Harassment

The legal definition of harassment is broken down below and is set out in detail in the Section 2 to this policy.

4.1.5(a) A course of vexatious comment or conduct

The term "vexatious" refers to comments or conduct that annoy, upset, or cause distress to another person without reasonable cause.

A single incident can be considered harassment if it is serious enough and has a lasting, harmful effect. Less serious behaviour can also be considered harassment if it is repeated or persistent, there is a power imbalance or other circumstances make it more serious.

4.1.5(b) The Workplace

For this policy, the workplace is any location in which you are engaged in work-related activities, including, without limitation:

- Corporation-owned or leased vehicles and worksites
- virtual meetings and telephone calls
- communications including email, instant messaging, and social media (including comments, emoticons and reactions such as "likes")

- any location in which employees are working such as work-related travel, restaurants, hotels, or meeting facilities
- at any work-related social event, including events sponsored by the Corporation and social gatherings outside work when behaviours could impact the workplace

4.1.5(c) Knew or Ought to Have Known Behaviour is Unwelcome

It does not matter whether you intended to offend someone. The test is whether you knew or should have known that your behaviour was unwelcome to the other person in those circumstances. For example, someone may say that something is unwelcome, or they may make it clear through conduct or body language that the behaviour is unwelcome.

While someone may feel comfortable telling you that your behaviour is unwelcome, they are not obligated to do so, and the onus is on you to ensure that you do not engage in unwelcome behaviour.

4.1.6 What is Not Harassment

Legitimate, reasonable management actions that are part of the normal work function are not considered workplace harassment. This includes:

- enforcing workplace rules and policies
- measures to correct performance deficiencies, such as placing someone on a performance improvement plan
- changes to schedules and work location
- imposing discipline for workplace infractions
- requesting medical documents to support an absence from work
- organizational changes such as restructuring

Harassment also does not include occasional disagreements or personality conflicts, or stressful events that are part of your normal work duties.

4.2 CREATING A PSYCHOLOGICALLY SAFE AND INCLUSIVE WORKPLACE

It is important not to engage in harassment, discrimination, or disrespect. It is equally important to engage in positive workplace behaviours so that everyone can enjoy a psychologically safe and inclusive workplace. Here are some ways you can contribute.

Promote inclusion	Creating a respectful workplace is not just about avoiding discrimination or harassment. Do your part to make everyone feel like their opinions are valued and they belong as part of the team.
Know Where You Are	Don't rely on the expression "know your audience". We can never truly know how our actions may be received by someone. Instead, "know where you are" and ensure that all your workplace interactions are professional and respectful.
When in doubt, don't	If you have doubts about whether a joke, comment or other behaviour is inappropriate, don't do it or say it.
Accept responsibility	Take ownership of your actions. Acknowledge mistakes, learn from them, and apologize when needed, even if you feel another person bears more responsibility than you.
Listen to understand	When someone raises a concern, listen with the goal of understanding instead of listening to respond or refute. Give them your full attention, look at them while talking, and ask questions to show you care about their point of view.

Focus on kindness	Be kind to those around you. Kindness helps others but can also help you.
Don't let it fester	Conflicts and misunderstanding will happen. If you are in a conflict with someone, reach out to try and resolve it. Seek support from your manager or an employee relations advisor to help resolve it if need be.
Be the change	You don't have the power to change other people, but you do have the power to change how you respond to them. Rise above toxicity and act with professionalism and kindness.

4.2.1 Workplace Duties and Obligations

Creating and maintaining a respectful workplace is a shared responsibility. Everyone to whom this policy applies is expected to abide by the standards of behaviour set out in this policy.

Our respective duties are set out below.

4.2.2 The Corporation

To meet its commitments under this policy, the Corporation will:

- provide ongoing education on what behaviour is and is not appropriate
- investigate complaints and incidents as appropriate; and
- impose suitable corrective and restorative measures

The Corporation will also adhere to its duties and responsibilities outlined in the Occupational Health and Safety Act.

4.2.3 Managers and Supervisors

All managers and supervisors are expected to help create a workplace free from harassment, discrimination and disrespectful behaviour by:

- being familiar with this policy including examples and definitions and procedures for reporting and addressing complaints
- identifying and eliminating barriers to a psychologically safe and inclusive workplace
- acting as role models and champions of a respectful workplace
- supporting the Corporation's training on respectful workplaces and related topics
- providing ongoing education and dialogue with staff to reinforce respect in the workplace
- monitoring the workplace and employee behaviour
- immediately addressing violations, including disrespect that may not constitute harassment, but which could lead to harassment or a poisoned work environment if left unchecked
- keeping detailed records of any violations of this policy and corrective actions taken

The Corporation has a duty to investigate both complaints and incidents of harassment. So, managers and supervisors must immediately contact the Manager, Human Rights if they receive a complaint of workplace harassment or discrimination or witness or become aware of such behaviour. When in doubt, err on the side of caution and bring it forward. It won't automatically trigger an investigation but will help ensure employees are protected and issues are addressed.

4.2.4 All Employees

We must all do our part by ensuring that our individual behaviour does not violate this policy and by fostering a work environment based on respect.

You can help achieve this by reporting any incidents of harassment or discrimination you become aware of. You can report it to:

- any supervisor or manager
- any member of the Human Rights Division, or
- employee relations

Everyone has a role to play in fostering a respectful work environment. If you feel safe doing so, you should speak up and intervene respectfully when you witness harassment, discrimination, or disrespect. If you don't feel safe speaking up in the moment, you can still take an active role in addressing the disrespect by bringing it to the attention of a supervisor, manager, or member of People Services, and by offering support to the target of the behaviour.

4.2.5 Human Rights Division

The Human Rights Division is responsible for:

- reviewing and recommending updates to this policy
- providing regular communication about this policy across the Corporation including options for submitting and addressing complaints
- assisting with training on this policy and related practices and procedures
- receiving complaints and conducting intakes working with People Services on appropriate interim measures and complaint resolution and investigation options
- supporting managers and supervisors in responding to and addressing harassment, discrimination, and disrespect
- obtaining data and feedback from managers and supervisors on any instances of disrespect or poisoned (toxic) workplace behaviour that they have addressed with their team
- making referrals to agencies for counselling and assistance when required
- consulting with the Director of the Anti-Racism and Anti-Oppression Office (ARAO) and the Director Emergency Management and Security as required

4.2.6 Joint Health and Safety Committee

The Corporation's Joint Health and Safety Committee will review this policy at least annually (or sooner if necessary) and may provide feedback on the implementation and maintenance of this policy and related procedures as set out in the *Occupational Health and Safety Act*.

4.2.7 Respectful Workplace Ombudsperson (RWO)

The RWO is available as an independent and neutral resource to employees to obtain information about rights and obligations under this policy and procedure. The RWO's role is to promote fair and transparent processes under this policy and related procedures. The RWO does not act as an advocate for or provide legal advice to anyone.

The RWO's mandate is to:

- receive and respond, on a confidential basis, to questions from employees for information about this policy and related procedure
- upon request, assist employees involved in a concern or complaint under this policy to understand the process as they proceed through Resolution/Complaint Procedures

- receive and review complaints from employees about the Corporation's processes and procedures under this policy to make recommendations for improvements to the City Manager
- provide an annual written report to the City Manager about their interactions with employees related to this policy and to identify related themes and potential options for action and improvement

For clarity, the functions of the RWO **do not include** the following:

- receiving complaints of Prohibited Behaviour under the Respectful Workplace Policy
- conducting intakes of alleged Prohibited Behaviour under the Respectful Workplace Policy
- conducting investigations into allegations of Prohibited Behaviour under the Respectful Workplace Policy
- determining or reviewing findings related to Prohibited Behaviour under the Respectful Workplace Policy
- reviewing corrective and/or disciplinary actions implemented by the City pursuant to the Respectful Workplace Policy
- acting as an advocate for or providing legal advice to employees or any other individuals regarding the Respectful Workplace Policy or related processes and procedures

The RWO does not accept or assess appeals of investigation findings or procedures and only assesses whether the Corporation met its procedural duties under this policy.

4.2.8 Unions/Associations

Union and association representatives provide confidential support and representation to employees they represent in accordance with the applicable collective agreement.

4.2.9 Worker Support and Assistance

The Corporation has an Employee and Family Assistance Program (EFAP) available to employees for confidential and anonymous counselling.

If you are a complainant or respondent in an investigation, you may select a support person. The role of a support person is to provide emotional and psychological support during and after the investigation process. Someone who may be a witness in an investigation or who supervises one of the parties may not act as a support person. Support persons may not answer questions on behalf of anyone during an investigation.

4.3 Resolving and Reporting Incidents and Complaints

Discrimination, harassment, and disrespect may be addressed using informal and formal procedures outlined below.

4.3.1 Advice and Consultation

You may obtain confidential advice from employee relations, labour relations or your union representative about this policy and related procedures before deciding on next steps. They can provide advice and assistance to help you navigate options and next steps.

Depending on the circumstances, such individuals may be obligated to initiate an investigation, for example if the matter is very serious or other individuals are at risk of harm.

4.3.2 Addressing it Directly

You are not legally required to deal directly with an individual you believe is harassing or

discriminating against you. But if you feel comfortable doing so, it can be an effective way to resolve disputes and clarify misunderstandings.

If you choose to address it directly, it is usually helpful to do so as soon after the incident happens as possible. Speaking professionally and in terms of your own experience is generally more effective than making angry or accusatory statements.

Here are some ways to approach it:

Speak Up	"I feel uncomfortable with the way you're speaking to me. Please stop." "Your comments are inappropriate, and I need you to stop making them."
Set Boundaries	"I need you to respect my personal space and not make unwelcome physical contact." "It's important to keep our conversations professional and work-related."
Document Behaviour	"I'm noting this incident and will document it as it's making me uncomfortable." "I may have to report this if it continues. Let's keep our interactions professional."
Seek Support	"I would prefer not to engage in this type of conversation. Please stop." "I will be discussing this with [supervisor/people services] to find a resolution."
Invoke Policies	"I believe this behaviour goes against our respectful workplace policy and I expect it to stop." "Our workplace has guidelines against harassment. You may need to review them."
Ask for Clarification	"I'm not sure if your comment was intended to be offensive, but it came across that way. Can we keep our interactions professional?" "Did you mean for that comment to be taken seriously? It's making me uncomfortable."

If the behaviour continues after you have addressed it with the person, you may wish to give them a written statement that specifically outlines what you find unwelcome or offensive and notifies them that you intend to file a complaint if it continues.

It also helps to keep a record of any incidents you experience. This includes dates, what happened, whether there were any witnesses and your response (if any).

4.3.3 How to Respond When You Are Asked to Stop Doing Something

If you are asked to stop behaviours which could potentially violate this policy, evaluate your behaviour without getting defensive. Even if you did not mean to offend someone, your behaviour may have been perceived as offensive or unwelcome. Continuing the behaviour may cause further harm to the other person and may leave you vulnerable to disciplinary action.

4.3.4 Dispute Resolution and Restoration

In appropriate circumstances, it may be possible to resolve the matter without an investigation or even after an investigation has started through various measures including:

- consultation or advice to one of the parties
- a facilitated discussion or mediation
- coaching
- sensitivity training

- a workplace culture assessment (if the behaviour impacts an entire work unit or department)

The Manager, Human Rights is responsible for approving any decisions to use dispute resolution or restoration practices, in consultation with the Deputy City Manager, Enterprise Supports and People Services, as appropriate.

Discrimination and harassment are serious matters. Thus, there may be times when the Corporation is legally required or determines it necessary to conduct an investigation even if someone does not wish to file a formal complaint. This may include where the allegations are serious, if others are also being affected or to prevent further discrimination or harassment. In that case, it will be considered an employer-initiated complaint.

4.4 Filing a Complaint

If dispute resolution and or restoration are not appropriate or unsuccessful, you may file a formal complaint with the Human Rights Division either orally or in writing. You may contact the Human Rights Division through the Corporation's Hub, which includes links and applicable email addresses.

You are encouraged to report incidents or complaints as soon as possible so that the matter can be investigated promptly.

The chart below outlines where complaints should be filed, which depends on the respondent's role. The investigation procedure provides more detail on how investigations will be handled in each of those circumstances.

Complaint against	Where to submit the complaint
An elected official (Mayor or council member)	Integrity Commissioner The Deputy City Manager, Enterprise Supports can provide guidance on filing a complaint against the Mayor or council member.
The City Manager	Deputy City Manager, Enterprise Supports (who will forward it to the Mayor) and will consult with the City Solicitor.
Deputy City Manager	City Manager
Director of People Services	City Manager
Manager, Human Rights	City Manager
Any other employee	The Human Rights Division
Member of the public accessing services or attending Corporation workplaces	Director Emergency Management and Security

If your complaint involves multiple individuals from the list above, or does not fit into any of those scenarios, you may submit your complaint to the City Solicitor.

It is important to submit your complaint as soon as possible so that the issue doesn't escalate or happen again. Once your complaint is received, the Corporation will initiate an investigation deemed appropriate in the circumstances.

You may use the Workplace Harassment Complaint Form or any other written document you are comfortable with. When filing a complaint please include:

- your name and contact information
- the name of the alleged harasser(s), their position and contact information (if you have it)
- names of any witnesses or anyone else who may have relevant information
- a description of the incident(s) including dates, frequency, and location
- any supporting documents you may have, e.g., emails, text messages, screenshots, reports etc.
- a list of any other documents you believe are relevant, but that you don't currently have

If you are not comfortable or able to put your complaint in writing, you may contact the Manager, Human Rights to provide your allegations.

Anonymous complaints are difficult to investigate while still providing procedural fairness. While the Corporation will take appropriate steps to look into an anonymous complaint if it discloses possible harassment or discrimination the available options may be limited.

4.4.1 Intake

The workplace investigations coordinator or any other member of the Human Rights Division may conduct an intake meeting with the complainant. The purpose of the intake is to obtain information about the complaint to determine next steps.

4.4.2 Preliminary Assessment

After the intake is complete, the Human Rights Division will make a preliminary assessment to determine whether the allegations raised, if proven would amount to harassment, or discrimination, or disrespect that is serious enough to warrant discipline.

This assessment is made solely on the evidence provided by the complainant including their initial statement and any documents provided.

If it is clear that the conduct would not constitute harassment or discrimination even if the allegations were substantiated, the Corporation may elect to proceed through the dispute resolution process instead of a formal investigation. In appropriate circumstances, though, the Corporation may still investigate, for example, if similar incidents have been raised in the past or by others, or to uncover root causes of workplace issues.

4.5 Workplace Investigation

Once a complaint is submitted, or the Corporation decides to conduct an employer-initiated investigation, the Corporation will appoint an internal or external investigator.

If the complaint is against the City Manager, member of the senior leadership team, Director of People Services, or the Manager Human Rights, the Corporation will retain an external investigator. If the complaint is against an elected official, the complaint will be immediately referred to the Integrity Commissioner. The Corporation may also retain an external investigator if necessary to comply with the OHSA. An external investigator may also be appointed any other time the Corporation deems appropriate. For example, the Corporation may appoint an external investigator if the allegations are very serious or complex, to ensure an investigation can be conducted promptly, or if it is in the public interest to do so. The Deputy City Manager, Enterprise Supports will determine whether to appoint an external investigator in consultation with the Manager, Human Rights.

All other complaints will be investigated by the Human Rights Division and the investigator will be assigned by the Manager, Human Rights.

The steps in an investigation are set out in detail in the workplace investigations procedures but are outlined briefly here:

Intake Meeting	<p>Once a complaint has been received, a member of the Human Rights Division may conduct an intake meeting with the complainant.</p> <p>The purpose of this meeting is to:</p> <ul style="list-style-type: none"> • ascertain the nature of the complaint (for example, what type of harassment is alleged) • identify the respondent(s) and applicable division • complete the complaint form if it is not already completed <p>This is not an investigation interview but an information-gathering meeting to enable the Corporation to determine next steps.</p>
Assigning the investigator	<p>After the intake is complete, an investigator will be assigned.</p>
Interviewing the Complainant	<p>The investigator will meet with the complainant. During this meeting, the complainant will be given an opportunity to share their story. This includes providing any supporting information like documents, emails, text messages and witness names.</p>
Preliminary Assessment	<p>The investigator will make a preliminary assessment as outlined above.</p>
Summary of Allegations	<p>The investigator will prepare a summary of the allegations and provide it to the respondent in 2 – 5 business days before interviewing the respondent (unless there are extenuating circumstances).</p>
Meeting with the Respondent	<p>The investigator will meet with the respondent to obtain their response to the allegations and any other relevant information they would like to share.</p>
Witness Interviews	<p>The investigator will meet with any witnesses they deem necessary to assist with making findings.</p>
Follow Up Interviews	<p>The investigator will reinterview the complainant and respondent as necessary so that they can respond to any new or relevant information obtained during the investigation.</p>
Investigation Report	<p>The investigator will prepare the investigation report, which will then be reviewed by a colleague who has similar expertise and experience in what is known as the peer review process.</p>
Report Shared with the Findings Committee	<p>The report will be shared with the findings committee which is made up of the following (as required):</p> <ul style="list-style-type: none"> • City Manager, or their designate • Deputy City Manager, Enterprise Supports, or their designate • Director of People Services, or their designate • Manager, Human Rights, or their designate • Deputy City Manager of the appropriate service area, or their designate • City Solicitor, or their designate <p>Note: no one named in a complaint will be included in a Findings Committee meeting.</p>
Corrective Action	<p>The Findings Committee will review the investigator's findings and decide on any necessary corrective or remedial actions.</p>
Findings Meetings with the Parties	<p>The investigator will prepare findings letters and will meet separately with the complainant and respondent to explain the findings and next steps.</p>

4.5.1 Interim Measures

It may be necessary to take interim measures to protect the safety and wellbeing of parties to a complaint and the workplace itself. This may include separating individuals, changing work hours, or placing a party (usually the respondent) on an administrative leave with pay. Other measures may be required if the allegations are against a member of the public.

In appropriate circumstances, the Director of Emergency Management and Security Services may be consulted about interim measures.

4.5.2 Corrective Measures

If a finding of discrimination, harassment or disrespectful behaviour is made, the Corporation will take appropriate corrective measures corresponding to the seriousness of the infraction. Corrective measures may include, as applicable:

- discipline, such as a verbal warning, written warning, or suspension without pay
- demotion or denial of promotion, reassignment, or transfer
- termination with or without cause
- financial penalties such as the denial of recognition pay, or a performance-based salary increase
- referral for counselling, coaching, or sensitivity training, anger management training, supervisory skills training, or attendance at other educational programs
- barring members of the public from accessing Corporation services or facilities as appropriate
- any other corrective measures deemed appropriate under the circumstances

A record of any corrective measures will be recorded in the applicable employee's file.

4.5.3 Confidentiality of Complaints and Investigations

Information about incidents and complaints, including identifying information about any individual, will be kept confidential to the extent possible. The Corporation will only release as much information as is necessary to investigate and respond to the incident or complaint, take corrective action, protect an individual or if required to do so by law.

To protect the integrity of the investigation, anyone who participates in an investigation or is aware of an investigation under this policy (including union representatives and support persons) must maintain confidentiality during and after the investigation. This includes:

- complainants
- respondents
- witnesses
- union representatives, and support people

The confidentiality duty means not discussing the complaint or investigation with anyone other than as necessary to obtain advice from appropriate parties about applicable rights and responsibilities and to obtain psychological support. Failure to maintain confidentiality may result in disciplinary action.

This policy will be administered in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). All complaints received under these procedures will be considered confidential subject to the corporation's obligation to safeguard employees, to conduct a thorough investigation, take appropriate corrective action, or to otherwise disclose information as required by law.

4.5.4 Good Faith Complaints

If you report an incident or make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of

discipline.

Anyone who is found to have brought a knowingly false or malicious complaint may be subject to discipline or other corrective measures.

4.5.5 Freedom from Reprisal

The Corporation will not tolerate reprisals against anyone who reports an incident or complains about discrimination or harassment or takes part in an investigation. A reprisal may include:

- intimidation or threats
- pressuring someone to withdraw their complaint or provide false information
- issuing work-related sanctions (e.g., changing work hours, blocking a promotion or threatening to do so) that are not legitimate or for business-related purposes.

Anyone who engages in a reprisal under this policy may be disciplined up to and including termination of employment.

In accordance with the OHSA, the Corporation will not dismiss, threaten to dismiss, discipline or suspend or threaten to discipline or suspend, impose a penalty on or intimidate or coerce an employee for obeying the law, reporting violations, or testifying in related legal proceedings.

4.6 Respectful Workplace and Investigation Training

Employees, elected officials, interns and placement students will receive mandatory training on this policy upon assuming their respective roles and thereafter, as appropriate and as legally required.

Any employee who is required to conduct workplace investigations as part of their role will be given appropriate training.

This may include training on:

- trauma-informed investigations
- investigation best practices; and
- legal updates

4.7 Policy Administration

4.7.1 Implementation

This policy will be implemented in accordance with applicable Council or Corporation bylaws and procedures and any applicable collective agreement procedures.

4.7.2 Communication

This policy will be posted on the Corporation's intranet and website and posted in each work site.

4.7.3 Policy Review

The Deputy City Manager, Enterprise Supports will ensure that this policy is reviewed annually and more often if necessary to ensure that it meets current legal requirements and best practices.

Employees and their representatives are encouraged to provide feedback to the Manager, Human Rights, the RWO, or the Deputy City Manager, Enterprise Supports.

Human Rights Workplace Investigation Procedure

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Workplace Investigation Procedure

ABOUT THIS PROCEDURE

This procedure outlines the process for workplace investigations and how investigations are documented and managed. It applies to investigations under the:

- Respectful Workplace policy
- Code of Ethics, and
- Workplace Violence Prevention Policy and Procedure

This procedure applies to investigations initiated by a complainant(s) or by the Corporation. A Corporation-initiated complaint is an investigation triggered by the Corporation when there is no complainant or formal complaint.

These procedures will be administered in accordance with any applicable collective agreements.

STANDARD FOR INVESTIGATIONS

Investigations will be conducted in a legally sound, trauma-informed, and psychologically safe manner. Investigations will conform with the Ministry of Labour's Code of Practice to Address Workplace Harassment, as appropriate.

STEPS IN AN INVESTIGATION

This section outlines the steps in a workplace investigation. These steps may be adjusted as necessary to meet the specific requirements of each investigation.

Intake Meeting

Once a complaint has been received, a member of the Human Rights Division may conduct an intake meeting with the complainant.

The purpose of this meeting is to:

- discover the nature of the complaint (for example, what type of harassment is alleged)
- identify the respondent(s) and applicable division
- complete the complaint form, if it is not already completed

This is not an investigation interview but an information-gathering meeting to enable the Corporation to determine next steps in accordance with the applicable policy (for example, the Respectful Workplace policy).

Interim Measures

Interim measures may be implemented to protect the safety and wellbeing of parties and the workplace. This may include:

- separating individuals
- changing work hours, or
- placing a party (usually the respondent) on an administrative leave with pay

Other measures may be required if the allegations are against a member of the public.

The Human Rights Division along with People Services will decide on appropriate interim measures. The Director, Emergency Management and Security will be consulted as necessary to ensure the safety of involved parties.

If an employee of the Corporation experiences workplace violence, harassment, or sexual harassment and requires medical treatment, requires modified work duties for more than 7 days, or misses work because of the incident, the Occupational Health and Safety (OHS) department will be informed so they can report it to the Workplace Safety and Insurance Board (WSIB).

Assignment of the Investigator

Investigations may be conducted by:

- a Workplace Investigator, Human Rights
- the Manager, Human Rights, or
- an external investigator

The Deputy City Manager, Enterprise Supports, in consultation with the Manager, Human Rights, will determine whether an external investigator should be appointed. Otherwise, the Manager, Human Rights will assign the investigator.

If the complaint is under the Workplace Violence and Prevention Procedure the Director, Emergency Management and Security will investigate.

Investigators will be assigned based on several factors including:

- expertise with a particular type of harassment or discrimination
- experience with a division or work area, and
- overall workload

If the complaint is against the City Manager, Deputy City Manager, Director of People Services, or Manager, Human Rights, it will be referred to an external investigator, in consultation with the City Solicitor. The external investigator will perform all the functions assigned to the Human Rights Division as described in the Respectful Workplace Policy and this procedure.

If the complaint is against an elected official, the complaint will be immediately referred to the Integrity Commissioner. The Corporation may also retain an external investigator if necessary to comply with the Occupational Health and Safety Act. The external investigator will perform all the functions assigned to the Human Rights Division as described in the Respectful Workplace Policy and this procedure.

Notifying the Parties

The Human Rights Division will tell the complainant who the assigned investigator is.

The respondent will be notified of the investigation after the investigator is assigned unless there are extenuating circumstances. For example, the Corporation may wait to notify the respondent until a complete understanding of the allegations is obtained from the complainant or if there are safety concerns.

Interviewing the Complainant

The investigator will meet with the **complainant**. During this meeting, the complainant will be given an opportunity to share their story. This includes providing any supporting information like documents, emails, text messages and witness names.

For a Corporation-initiated investigation, the initial interview will be with the affected party. An **affected party** is someone identified as having possibly experienced harassment or discrimination. (For this procedure, “complainant” includes affected parties.)

Summary of Allegations

After interviewing the complainant, the investigator will prepare a summary of the allegations for the respondent. This is a summary only and not a detailed list of all evidence. The investigator may be able to provide greater context or information at the interview if it is available.

The summary of allegations will be shared with the respondent:

- either in person or in a virtual meeting
- and 2 - 5 business days before interviewing the respondent (unless there are extenuating circumstances)

Interviewing the Respondent

The investigator will then meet with the respondent to obtain their response to the allegations and any other relevant information the respondent would like to share. This includes providing any supporting information like documents, emails, text messages and witness names.

The respondent will normally be interviewed before witnesses. But witnesses may be interviewed before a respondent if, for example:

- the respondent will not be available within a reasonable timeframe, or
- witnesses may have also experienced similar behaviour from the respondent

Witness Interviews

The investigator will determine which, if any, witnesses to interview. This may or may not include witnesses put forward by a party.

When selecting witnesses, the investigator may consider several factors including whether:

- someone witnessed events directly
- the witness's evidence is essential and falls within the mandate of the investigation
- they are an employee of the Corporation (the Corporation does not normally interview outside parties unless their evidence is critical)

Once relevant witnesses have been identified, the investigator will then meet with them to obtain additional information to help make findings.

Follow Up Interviews

The investigator may conduct follow up interviews with the complainant, respondent, or relevant witnesses if necessary to enable them to respond to any additional relevant information obtained during the investigation.

Gathering any Other Relevant Information

The investigator may gather other necessary information such as personnel and training records.

Making Findings and Drafting the Investigation Report

The investigator will analyze the evidence and prepare a report that:

- outlines the steps taken, who was interviewed, and the evidence obtained
- makes findings of fact (what happened)
- assesses the credibility and reliability of the parties and their evidence
- states whether discrimination, harassment, disrespect or another breach of policy law or policy occurred

The report may include recommendations for remedial measures but will **not** include recommendations for discipline.

Peer Review

Investigation reports will be peer-reviewed by:

- a member of the Human Rights Division, or
- if the Manager, Human Rights conducted the investigation, the Deputy City Manager, Enterprise Supports or their designate

Submitting the Report to the Findings Committee

After the report is peer reviewed, it will be submitted to the Findings Committee.

Findings Committee Meeting

The Findings Committee includes, as required, the:

- City Manager or their designate

- Deputy City Manager, Enterprise Supports, or their designate
- City Solicitor, or their designate
- Director of People Services, or their designate
- Manager, Human Rights, or their designate
- Deputy City Manager of the appropriate service area, or their designate
- Workplace Investigator

The Findings Committee will not include anyone who was involved in the investigation (as a party or witness).

The Findings Committee will:

- review the investigator's findings, and
- decide what, if any, corrective or remedial steps are required

Notifying the Parties of the Outcome

Once the Findings Committee reaches a decision, the investigator will:

- prepare findings letters for the complainant and respondent, and
- meet separately with the complainant and respondent to explain the findings and next steps

Parties are **not** entitled to a full copy of the investigation report. But they will receive enough information to help them understand the findings and the rationale for them, and steps taken to prevent any further harassment or discrimination if the complaint was substantiated.

If disciplinary action is warranted, the party being disciplined will receive both a letter outlining the findings and a discipline notice outlining disciplinary measures to be taken.

Corrective and Remedial Measures

The Director, People Services will ensure that any corrective or remedial measures mandated by the Findings Committee are completed.

TIMELINES

All reasonable efforts will be made to meet the timelines outlined below. But occasionally the timelines may be adjusted or be longer.

For example, all or part of the investigation may take longer if:

- the allegations are extensive or complicated
- multiple parties or witnesses are involved
- a necessary party is on leave or otherwise unavailable
- the investigator is on a scheduled vacation or other approved leave, or
- to provide procedural fairness

Step	Timeline
Completing the Investigation	Reasonable efforts will be made to complete the investigation within 90 calendar days unless there are extenuating circumstances, or a different timeline is contained in a collective agreement. Legislative reporting requirements will be considered as part of the investigation process.
Updating Parties During the Investigation	The investigator will update the parties at least every two weeks on the status of the investigation and anticipated next steps.
Completing the Investigation Report	The investigator will complete the investigation report within two weeks after the interviews are completed and all necessary information obtained.
Peer Review	Investigation reports will be peer-reviewed within one week after the report is completed.
Report Submitted to the Findings Committee	The report will be submitted to the Findings Committee within five business days after the peer review has been conducted.
Findings Committee Meeting	The Findings Committee will make reasonable efforts to meet within one week after receiving the investigation report
Notifying Parties of the Outcome	Parties will be notified in writing of the outcome of the investigation within 10 days after the Findings Committee has decided on the findings and outcome.

GENERAL INFORMATION ABOUT INVESTIGATIONS

Investigation Interviews

Investigations may be conducted either in person or in a video call.

During the interview:

- the investigator will take a written statement of the information provided
- the party will be asked to review the statement at the end of the interview and identify any necessary changes or additions
- once changes have been made, the party will be asked to sign and date the statement
- for virtual interviews, the party will be asked to confirm that the statement is accurate, and the investigator will make a written note that the party reviewed it

To protect the confidentiality and the integrity of the investigation, the parties will not receive a copy of their statement.

Accommodation Measures

To ensure a psychologically safe and trauma-informed process, accommodation measures may be provided.

For example, if a party has a medical need, accommodation measures may involve:

- scheduling (including aligning interviews with therapy or medical appointments)
- location (including needs related to in person or virtual interviews)
- length (including arranging several shorter interviews rather than a single long one)

Accommodation measures may be proposed by a party, their representative, or the investigator.

Representation and Support During Investigation Interviews

Complainants and respondents may have either a union representative or support person attend the interview with them. The role of a support person is to provide emotional and psychological support during and after the investigation process.

The selected union representative or support person cannot be a potential witness in the investigation or the manager or supervisor of one of the parties.

Union representatives and support persons may **not**:

- answer questions on a party's behalf

- interfere with or obstruct the investigation
- disrespect the investigator, or
- behave in a manner that potentially jeopardizes the integrity of the investigation

Confidentiality

The investigator will instruct everyone participating in an investigation (including union representatives and support persons) to maintain confidentiality.

- If you need to speak confidentially about the investigation, please contact a legal or union representative
- a support person (as long as they also agree to maintain confidentiality)
- members of the Human Rights Division
- the Deputy City Manager, Enterprise Supports
- the Respectful Workplace Ombudsperson

This process will be administered in accordance with the confidentiality requirements in the *Municipal Freedom of Information and Protection of Privacy Act* and the *Occupational Health and Safety Act*. All complaints under this process will be considered strictly confidential.

No information obtained, including identifying information about individuals involved in the process will be disclosed unless necessary to:

- safeguard employees
- conduct an appropriate investigation
- take appropriate remedial or corrective action, or
- is required by law

Investigation Files

The investigator will keep a written record of:

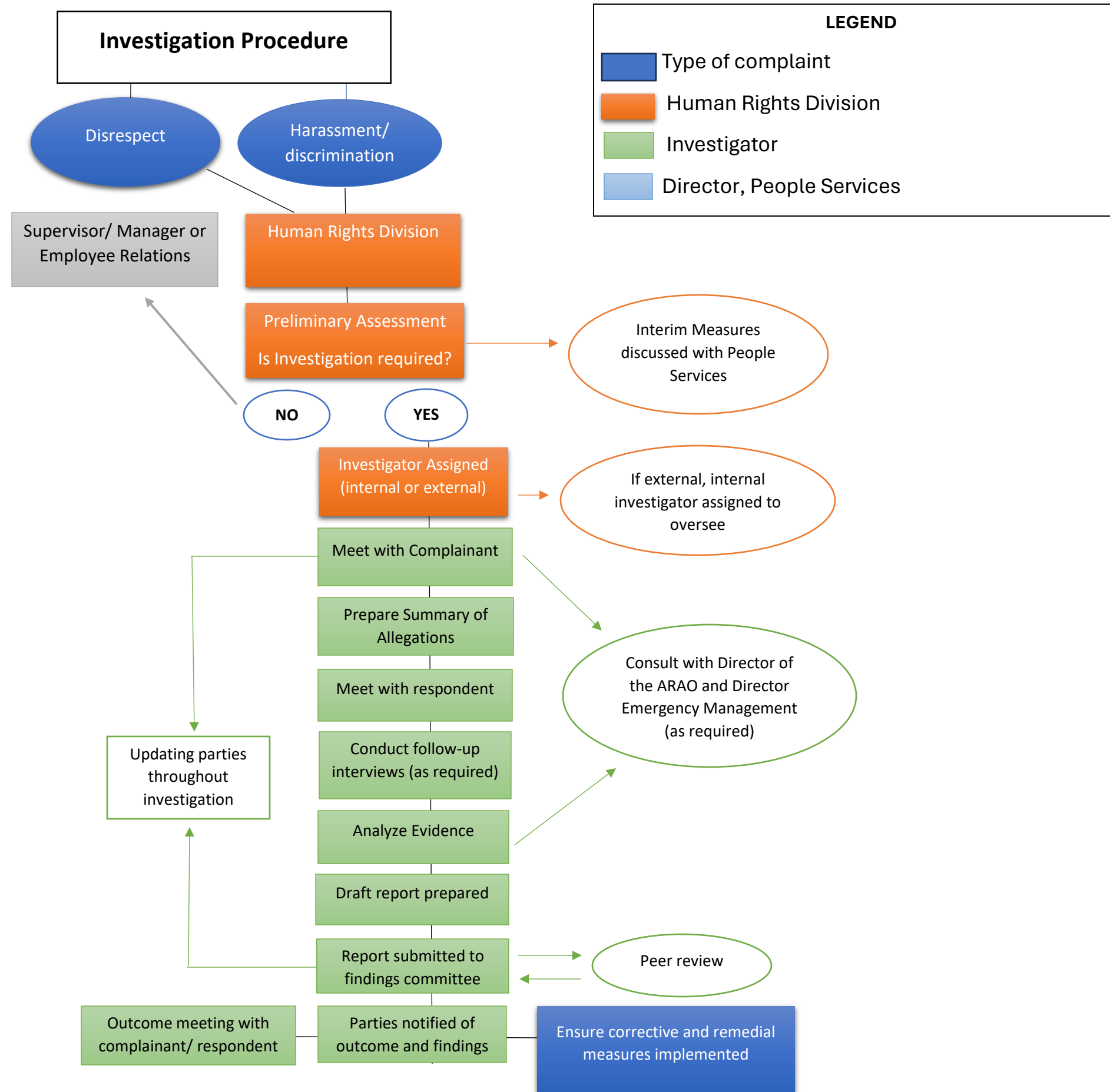
- all discussions with the parties, witnesses, and their representatives
- evidence received

The investigation file will be kept in a confidential file separate from the parties' personnel files. This includes, without limitation copies of:

- the complaint or details about an incident
- the summary of allegations

- statements taken
- the investigation report
- findings letters provided to the parties
- any corrective or remedial action taken to address the complaint or incident

These records will be kept for **at least three years** after the employee is no longer employed by the Corporation or longer if required by any applicable collective agreements. Any records related to complaints of sexual assault will be kept indefinitely.





London
CANADA

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

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

Legislative History: Replaces Workplace Harassment and Discrimination Prevention Policy Enacted September 19, 2017 (By-law No. CPOL.-155-407) and amended July 24, 2019 (By-law No. CPOL.-155(a)-384); Adopted December 10, 2019, in force and effect March 1, 2020 (By-law No. CPOL.-396-7); Amended August 10, 2021 (By-law No. CPOL.-396(a)-262)

Last Review Date: August 10, 2021

Service Area Lead: Director, People Services

1. Policy Statement

- 1.1 The Corporation of the City of London (“City”) is committed to providing a safe and supportive workplace in which the diversity, dignity, and perspectives of all individuals are valued and respected.
- 1.2 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](#).
- 1.3 The City 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:

- Raising a concern or making a complaint under this policy (whether on their own behalf or on behalf of another)
- Participating or cooperating in an investigation or other complaint resolution process under this policy
- Associating with or assisting a person identified in the above bullets

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

- 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;
- 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
- 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 City take place. (See also the Applicability section below).

3. **Applicability**

3.1 This policy applies to:

- All City 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
- Contractors and consultants acting on behalf of the City

3.2 Members of the public, including visitors to City facilities and individuals accessing services or conducting business with the City, 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 City.

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

- All City facilities and worksites
- All City vehicles
- Any other location where City employees are performing work-related duties or carrying out responsibilities on behalf of the City, including work-related travel and off-site meetings, conferences, seminars, and training.
- Locations at which work-related social functions take place, including formal events officially sanctioned by the City and informal after-work social gatherings where behaviours could have an impact on the workplace.
- 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.

3.4 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 corporate-issued device.

4. The Policy

4.1 Purpose

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.
- e) Address the City's obligations under applicable employment laws, including the *Human Rights Code* and *Occupational Health and Safety Act*.

4.2 Expected Behaviour

- a) 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

- a) Creating and maintaining a respectful workplace is a shared responsibility. Every individual to whom this policy applies, as well as individuals who attend at City workplaces, or who access services or conduct business with the City, are expected and required to abide by the standards of behaviour set out in this policy.
- b) 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.
- 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 Human Rights and People Services as needed.
- f) Keep a detailed record of any violations of this policy and corrective actions taken and report this information to Human Rights 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.
- 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 Human Rights immediately to be addressed in accordance with the Resolution/Complaint Procedures (Appendix B).

4.4.4 Enterprise Supports Service Area

4.4.4.1 Human Rights Division (Human Rights)

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

Human Rights 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.
- h) All tracking of concerns and complaints under this policy.

4.4.4.2 People Services Division (People Services)

People Services 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) Reporting all complaints of prohibited behaviour to Human Rights, including grievances alleging harassment, discrimination and/or reprisal filed under a collective agreement.
- c) Consulting with Human Rights as required with respect to alleged prohibited behaviour.
- d) Ensuring 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.
- e) Providing training on this policy and related practices and procedures.
- f) Providing support to managers and supervisors in responding to and addressing matters under this policy.
- g) Making referrals to agencies for counselling and assistance where required.

4.4.4.3 Emergency Management and Security Division (Security)

The focus of Security is to protect and promote the safety and security of City workplaces, employees, and the public by assisting in preventing and addressing prohibited behaviours where safety may be at risk. Security 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 People Services as required.
- f) Recommending and implementing appropriate corrective action involving members of the public when required.
- g) Reporting prohibited behaviour by members of the public and corrective actions taken to Human Rights as required.

4.4.5 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 City under this policy and make recommendations to the City Manager for improvements.
- 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.

4.4.6 Joint Health and Safety Committees

The City'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*.

4.4.7 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.

4.4.8 Community Agencies

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

4.5 Communication

- a) This policy shall be posted on the City's website, City's intranet, and in the City's workplaces.

4.6 Respectful Workplace Training

- a) 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

- a) The City 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 Human Rights, People Services, or the RWO.

4.8 Policy Implementation

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

4.9 Related Resources

- [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](#)
- [Criminal Code](#)
- [Municipal Freedom of Information and Protection of Privacy Act](#)
- [Occupational Health and Safety Act](#)
- [Ontario Human Rights Code](#)

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 workspace
- 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
- 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
- Communicating 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).
- 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
 - work assignments/work location
- Occasional disagreements or personality conflicts between co-workers.
- Stressful events encountered in the performance of legitimate duties.
- 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.
- 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.
- 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.
- 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 City’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 Deputy City Manager, Director, People Services, or their designate(s), and a member of the City Solicitor’s Office.

3. Complaints Involving the City Manager/Deputy City Managers/Director, 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, People Services or the City Solicitor as soon as possible. Upon receipt of a complaint, the Director, 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 a Deputy City Manager, the Director, 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 People Services and/or Human Rights 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, 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 a Deputy City Manager, Director, 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, 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, People Services as soon as possible. In the event the Director, 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, People Services shall be the complainant for the purposes of the Integrity Commissioner's procedures.
- b) Where the Integrity Commissioner conducts an investigation, the Integrity Commissioner will provide results to the Director, People Services in accordance with the Integrity Commissioner's procedures. Based on the Integrity Commissioner's reporting, the Director, People Services will provide the complainant with a written summary of the findings.
- c) Where there are findings of a violation of this policy, the Director, 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.
- d) 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 City Workplaces and/or Accessing City Services

- a) The Director, Emergency Management and Security, 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 Director, Emergency Management and Security, or designate, in consultation with Human Rights 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 Human Rights.
- c) In addition to the Director, People Services and in accordance with section 6.5 below, the Director, Emergency Management and Security or designate, in consultation with Human Rights 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 City'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 Director, Emergency Management and Security or designate, shall report all findings of harassment, discrimination, and/or reprisal determined through formal investigation, as well as any corrective actions taken, to Human Rights.

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

- a) 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
- b) 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

- a) 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 Rights or People Services 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.

- b) The RWO is also available to provide neutral, confidential advice and information regarding available resolution and complaint options (see Policy, Section 4.4.5).
- c) Employees who are members of a bargaining unit may also consult their Union/Association representative.

6.2 Individual Action – Talking to the Respondent

- a) 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.
- b) 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 People Services staff, a Union/Association representative, any member of management, or a trusted friend may assist.
- c) 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.
- d) 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

- a) If individual action is not appropriate or if the prohibited behaviour continues after asking the person to stop, the employee shall advise their manager/supervisor or Human Rights of their complaint, preferably in writing. Where the employee's manager/supervisor is involved in the complaint, the employee may advise a more senior member of management. Managers and supervisors will report all complaints of behaviour that may constitute harassment, discrimination, or reprisal to Human Rights as soon as possible. When uncertain, managers/supervisors should consult Human Rights for guidance.
- b) Where the prohibited behaviour alleged is not harassment, discrimination, or reprisal, the manager or supervisor in consultation with Human Rights, 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 Rights or People Services staff before issuing discipline. The manager or supervisor shall document and report to Human Rights any informal action taken, including any corrective/disciplinary action(s) implemented, to resolve the complaint.
- c) Where the alleged prohibited behaviour may constitute harassment, discrimination, or reprisal, the Director, People Services, or designate, in consultation with Human Rights, and with the complainant if appropriate, will determine whether an informal course of action may be appropriate.
- d) 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, 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.
- iv) A facilitated discussion to resolve the issues.
- e) 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.
- f) 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 City's Formal Investigation Process.

6.4 Mediation

- a) 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.
- b) 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, People Services or designate, in consultation with Human Rights, 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.
- c) 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*.
- d) During the mediation process, the complainant and the respondent may, if desired, be accompanied by a Union/Association representative or a trusted friend.
- e) 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 City, the agreement of the Director, People Services or designate will be required.

- f) 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

- a) If mediation or other informal options to resolve the complaint are not appropriate or are unsuccessful or where the Director, People Services or designate, in consultation with Human Rights, determines that further inquiry is necessary, a formal investigation into the matter will be conducted.
- b) Corporate-initiated Investigations: In circumstances where a complaint is made by someone other than the alleged victim, the City may conduct a formal investigation where the Director, People Services or designate, in consultation with Human Rights, 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 City may also conduct a formal investigation where there is information to suggest the existence of an outstanding specific or systemic problem in the workplace.
- c) Formal investigations and communication of the findings from such investigations will be conducted in accordance with the City's Formal Investigation Process.

7. General Provisions

7.1 Refusal to Act or Investigate

- a) The City may refuse to act or investigate or may discontinue an informal action or investigation where:
- The behaviour alleged, if true, would not be a breach of this policy.
 - The complaint is anonymous and there is insufficient information to warrant any or further steps.
 - The complaint is vexatious or made in bad faith (see Section 7.5 below).
 - Another complaint avenue has been pursued or engaged regarding the same or a related concern/complaint.
 - Having regard to all of the circumstances, further investigation of the matter is unnecessary.

7.2 Interim Measures

- a) 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, People Services, or designate, in consultation, where appropriate, with Human Rights, other members of the Respectful Workplace Response Team, Director, Emergency Management and 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 Director, Emergency Management and Security, or designate, in consultation, where appropriate, with Human Rights, 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

- a) The City 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 City's employee assistance provider. Additionally, complainants may wish to access counselling and support through outside agencies.
- b) 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.
- c) 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

- a) 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, People Services, or designate, will determine appropriate corrective and/or disciplinary actions.
- b) 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.
- c) Where it is determined that corrective or disciplinary action is to be taken against an employee of the City, 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
- d) The appropriate manager or supervisor will implement corrective or disciplinary actions to be taken against an employee.
- e) 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 City clients or customers, the City 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 City facilities or discontinuing business with contractors or consultants. The Director, Emergency Management and Security or designate will be consulted with respect to determining any corrective action to be taken against members of the public.

- f) The City may also implement any systemic remedies it deems appropriate.

7.5 Vexatious/Bad Faith Complaints

- a) 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.
- b) 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.
- c) 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) 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 City to conduct a full and complete investigation, the City may decline to deal with the complaint.

7.7 Timing of Completion of Actions/Investigation

- a) The City 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

- a) 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 City'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

- a) 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 People Services file. Where there is insufficient evidence to prove that prohibited conduct occurred, no record of the complaint shall be placed in the respondent's People Services file.
- b) All records pertaining to enquiries and complaints under this policy will be kept in confidential storage separate from employees' People Services files. All records will be subject to the provisions of *MFIPPA* as noted above.

7.10 Other Avenues of Complaint

- a) 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.
- b) 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 City 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.