

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON June 18, 2019
FROM:	MARTIN HAYWARD, CITY MANAGER AND WILLIAM C. COXHEAD, MANAGING DIRECTOR, CORPORATE SERVICES AND CHIEF HUMAN RESOURCES OFFICER
SUBJECT:	UPDATE #4 : HARASSMENT AND DISCRIMINATION- THIRD PARTY REVIEW – WORKPLACE ASSESSMENT AND RECOMMENDATIONS – ACTION PLAN

RECOMMENDATION

That, on the recommendation of the City Manager and Managing Director, Corporate Services and Chief Human Resources Officer, City Council **ENDORSE** the plan set out in this Report in response to the Rubin Thomlinson LLP Workplace Assessment Report.

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

BACKGROUND

On March 27, 2018, Council resolved that the City Manager BE REQUESTED to provide updates to the Corporate Services Committee regarding the harassment and discrimination policy and process review at the appropriate points in time. This is the fourth update following the reports provided in June and September, 2018 and March, 2019.

As recommended by Rubin Thomlinson LLP, their Summary Report Re: Workplace Assessment, including recommendations for improvement to the City of London’s program and practices related to workplace harassment and discrimination, was shared publicly in the third update to the Corporate Services Committee in March, 2019.

On March 26, 2019, Council resolved that “the Civic Administration BE DIRECTED to immediately begin development of a “Respectful Workplace Policy” and associated resolution and complaint procedures and provide to Corporate Services Committee a plan to respond to the balance of the recommendations in Rubin Thomlinson LLP’s Workplace Assessment within three months.”

The purpose of this report is to provide an update on the following:

1. the development of the “Respectful Workplace Policy” and associated resolution and complaint procedures;
2. an action plan to respond to the balance of the recommendations in the “Workplace Assessment Report”; and
3. the status of investigations conducted by Rubin Thomlinson into allegations of workplace harassment, discrimination, bullying, intimidation, and/or reprisal received through the interim intake and investigation process.

I. Workplace Assessment

The March, 2019 Report summarized eight recommendations from the Workplace Assessment Report which can be broadly categorized as follows:

- Simplify our relevant workplace policies
- Improve managerial competencies
- Improve timeliness
- Improve communications and accountability
- Address fear of reprisal
- Improve transparency
- Establish a new role of “Ombudsperson”
- Publicly report the results of Rubin Thomlinson’s review process and prepare and publicly share a written plan to respond to the recommendations within three months.

An excerpt from the Workplace Assessment Report of the full recommendations can be found at Appendix A.

This section will outline the actions taken to date and going forward regarding the development of a simplified “Respectful Workplace Policy” and associated resolution and complaint procedures, as well as action plans related to each of the recommendations.

1. Respectful Workplace Policy and Associated Resolution and Complaint Procedures

Since receiving the Workplace Assessment Report, the Chief Human Resources Officer has been overseeing the development of a draft Respectful Workplace Policy (the “Policy”) and associated resolution and complaint procedures and practices.

Currently, there are three main policies that address interpersonal conduct related to employees and other individuals in the workplace: the *Workplace Harassment Discrimination Prevention Policy* (“WHDPP”), *Code of Conduct for Employees* (“Code of Conduct”), and the *Workplace Violence Prevention Policy*. We are working to combine the WHDPP and the Code of Conduct into one policy – the Respectful Workplace Policy - along with the associated resolution and complaint procedures. We will also review the current *Workplace Violence Prevention Policy* and update as required. Both the *Respectful Workplace Policy* and the *Workplace Violence Prevention Policy* will be recommended for approval as Council Policies. The associated resolution and complaint procedures will be drafted as administrative practices and procedures.

The draft Policy and associated resolution and complaint procedures incorporate the following recommendations from the Workplace Assessment Report:

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

The Respectful Workplace Policy and associated resolution and complaint procedures will reflect the Corporation’s obligations related to harassment, discrimination, reprisal, bullying and intimidation as set out in the *Human Rights Code* as well as the *Occupational Health and Safety Act* (“OHSA”). Once the Policy and the associated resolution and complaint procedures are completed in draft, we will need to review and address any impacts to existing policies as well

as consider if some portions of the current Code of Conduct that are unrelated to interpersonal conduct (e.g. ethical standards, confidentiality etc.) need to be included in a separate policy.

Consultation/Feedback

The Workplace Assessment Report incorporated feedback from completed surveys and interviews with individuals who were identified based on their survey response, those that expressed an interest, those in leadership roles with the City or the community, and those who have a role in implementing the Corporation's policies and procedures related to harassment, discrimination, bullying intimidation and/or reprisals.

In addition to this internal and external feedback already obtained, the *OHSA* requires the Corporation to consult with our various joint occupational health and safety committees regarding the development and maintenance of our program to implement the Respectful Workplace Policy.

To further help finalize the Respectful Workplace Policy and associated resolution and complaint procedures, we will be engaging the following groups/individuals for consultation and feedback including:

- The Corporation's Health and Safety Committees,
- Senior Leadership Team,
- Union Leadership,
- The Integrity Commissioner, and
- Rubin Thomlinson.

Respectful Workplace Policy Action Plan

To finalize the new Respectful Workplace Policy and the associated resolution and complaint procedures, we are implementing the following action plan with anticipated timeline.

- Council endorses Plan by June 25, 2019.
- Complete draft of Respectful Workplace Policy and associated resolution and complaint procedures and consult with Senior Leadership Team, Union Leadership, Integrity Commissioner, Health and Safety Committees and Rubin Thomlinson. We estimate that this will be completed by beginning of October, 2019.
- Council approves Respectful Workplace Policy by end of October 2019.

2. Workplace Assessment Report Recommendations

Further to Council direction, we reviewed the balance of the recommendations provided in the Workplace Assessment Report. Outlined below is the proposed action plan related to each recommendation.

1. Simplify our Policies

The majority of this recommendation has been addressed in the section above "Respectful Workplace Policy and Associated Resolution and Complaint Procedures". Once the Policy and associated resolution and complaint procedures have been finalized, training for employees will be conducted as more particularly reviewed below under "Improve Managerial Competencies".

2. Improve Managerial Competencies

This recommendation addresses several areas including development of a training program the Corporation's selection (hiring) and management performance processes.

(a) Training Program

This recommendation provides for clearly defined managerial roles as well as enhanced and advanced training for managers to be effective in taking the necessary steps when they observe or are made aware of behaviours that conflict with the Policy. We have been working on the development of a Leadership Development Program for all leaders. As part of the program, competencies for both leaders and employees were developed. The selected competencies will form the basis for future training. We anticipate that the Leadership Development Program will be rolling out January 2020.

Competencies can be best described as the expected behavior for leaders and employees in an organization. We believe the introduction of the new Policy is an opportune time to also introduce the organization to competencies. We believe this will set managers up for success in both modelling positive behaviour and dealing with negative behaviours under the Policy.

We will develop a training program for all employees that will cover areas including:

- What does a respectful workplace look and feel like?
- What are your responsibilities as an employee in creating a respectful workplace?
- Working with peers - positive workplace relationships
- What should you expect from your leader?
- Performance coaching – what is it and what is it not?
- Review of the Policy and associated resolution and complaint procedures

In addition, we will develop a training program for all leaders that will cover areas including

- What does a respectful workplace look and feel like? How will you know you're successful in creating one?
- As a leader, how will you begin the shift towards creating a respectful workplace?
- Introduction of Leadership competencies – each competency along with expected behaviors will be covered
- Your responsibilities as a leader (legislative, job expectations)
- Managing performance
- The Policy and associated resolution and complaint procedures
- Reprisal

It is anticipated that the sessions for the above training programs will commence in January 2020. The training will also be incorporated into the Corporation's onboarding program in order to capture new employees.

Consultation/Feedback

After the training program has been developed, we will be seeking feedback from interested community leaders regarding the content of the Policy and workplace harassment module and will modify as appropriate

(b) Selection (Hiring) Process

The Workplace Assessment Report recommended that all managerial hiring processes consider a candidate's understanding of Policy issues and, when hiring for leadership positions, the Corporation should conduct a review of candidates to determine whether they have any substantiated complaints under the Policy and how that might impact their suitability for the role. These recommendations will be incorporated into the current selection process by:

- Aligning reference checks with competencies and ask situational/behavioural questions.
- Reviewing and amending interview questions to align with competencies and including behavioural and complex scenarios about leadership at the City.
- Considering as part of the assessment for internal candidates: knowledge of Policy issues, performance, any substantiated Policy complaints, and any impact of these factors on effectively performing the role.
- Highlighting on the recruitment web site the competencies and soft skills which are important to our organization.
- Reflecting on the onboarding site the feel and culture we are trying to create as well as the competencies for leaders and employees.

These changes will be completed over the summer, with an anticipated implementation date of October 2019.

(c) Management Performance Process

We are currently updating the Management Performance and Development Program. The new program delivered in the 4th Quarter will:

- Be designed to align with the tiered competency program to include all employees, people leaders and senior leaders.
- Integrate managerial competencies into regular focused coaching “check-ins”.
- “Check-ins” will incorporate a review of the managers’ ability to recognize and respond to Policy issues.
- Focused on activities and conversations managers undertake to create a Respectful Workplace.
- When gaps are identified managers will be supported with targeted coaching and training.
- “Check-ins” will be facilitated through the performance management and development system allowing for regular reporting and auditing on quality and timeliness.

The updated Management Performance and Development Program will be fully implemented for the January 1, 2020 performance year.

3. Improve Timeliness

Defined timelines will be included in the Policy and associated resolution and complaint procedures as outlined previously. In addition to the Policy and procedures, resources within the Human Rights Division will be reallocated to support completion of investigations within the determined time periods. The amount of resources needed to support these changes will be monitored and assessed to determine if any additional resources may be required.

4. Improve Communications and Accountability.

This recommendation will be addressed by the Policy and associated resolution and complaint procedures as well as training. First, as outlined above, the Policy will include roles and responsibilities for individuals involved in the process. Second, the training program, as outlined above, will include expectations regarding roles and responsibilities as well as support for individuals to carry out these functions.

To ensure ongoing and consistent communication for employees involved in a Policy matter, an administrative procedure will be developed to outline expectations regarding communications on a weekly basis until the matter is resolved or the investigation is completed. A process by which participants, at the conclusion of the process can provide feedback will be implemented and administered by the Human Rights Division in multiple formats including electronically and paper. It is anticipated that the administrative procedure and feedback process will be completed in the same time frame as the Policy.

5. Address Fear of Reprisal

This recommendation will be addressed in the Policy by providing examples of reprisal and prescribing that, where allegations of retaliation are made after an investigation is completed, an investigation into the allegations will be initiated immediately. Reprisal will also form part of the training program as outlined previously.

To ensure that questions about reprisal are asked at the intake meetings and investigative interviews and that reprisal risk assessments are completed, our current practices will be enhanced by creating an administrative procedure to address these matters and to outline a standard protocol for follow up contacts at two separate times following an investigation (two weeks and three months) to inquire about working conditions and to ensure that reprisal is not occurring. A separate administrative procedure will be created regarding workplace restoration processes to address various matters including reprisal risks. These administrative procedures will be completed within the same time frame as the Policy.

6. Improve Transparency

These recommendations will be included in the Policy and associated resolution and complaint procedures. The resolution and complaint procedures will incorporate clear and transparent communication to impacted employees regarding steps taken in the process, the findings and as much information as possible regarding the rationale for investigative conclusions along with

any related process outcomes. This communication will occur at the conclusion of every investigation, including informal inquiries or more formal investigations.

The Policy will include provisions regarding detailed and transparent public reporting regarding types of complaints received and the manner in which the complaints were addressed under the Policy. We are in the process of amending our current public reporting template to address these recommendations subject to applicable legislation including the *Municipal Freedom of Information and Protection of Privacy Act*. It is anticipated that the amended template will be used to report on 2019 that will be completed in the first quarter of 2020.

7. Establish a new role of “Ombudsperson”

The recommendation is that the Corporation establish a new role of “Ombudsperson” reporting to the City Manager. The individual in this role would assist employees as they proceed through the complaint process, providing independent neutral advice and advocating for fair and transparent processes under the Policy among other recommended duties tied to the policy.

We are currently reviewing how best to implement this recommendation in order to provide the support contemplated. There are several considerations to be reviewed. As a first step, and in order to assess how this role will function, we are considering the preferred operating model; an internal employee resource or an external third party resource.

It is anticipated that a finalized model and scope for this recommendation will be completed by the end of the year along with potential financial impacts.

8. Publicly report the results of Rubin Thomlinson review process and prepare and publicly share a written plan to respond to the recommendations within three months.

The March, 2019 Report included the entire Workplace Assessment Report which was publicly available. In addition, a communication regarding the Workplace Assessment Report went out to all employees along with a copy of the report. This Report outlines the plan to respond to the Workplace Assessment Report recommendations including consultations regarding various aspects of the plan with union leadership and community leaders and other interested parties as noted above.

Feedback

Once the eight recommendations above are fully implemented, the Corporation will seek opportunities for feedback both formally and informally from its employees, union leadership and other interested parties to assess if these changes have had a positive effect on our workplaces.

Summary of Timelines for Action Plan

Action	Anticipated Date of Completion
Update to Employees	June 2019 and on-going
Council endorses Plan	June 2019
Review Selection (hiring) Process to include competencies	Summer 2019
Complete draft of Respectful Workplace Policy and associated resolution and complaint procedures and consult with applicable groups and individuals	October 2019
Council approves Respectful Workplace Policy	October 2019
Finalize model and scope for Ombudsperson and financial impact	December 2019
Leadership Development Program begins	January 2020
Respectful Workplace training to all employees and leaders	January 2020
Management Performance and Development program	January 2020
Amended public reporting template	1 st Quarter 2020

II. Interim Intake and Investigations

In addition to conducting the workplace assessment, Rubin Thomlinson was also retained to provide interim intake and investigation services through which employees and former employees could make a complaint of harassment, discrimination, bullying, intimidation and/or reprisal directly to Rubin Thomlinson for investigation.

As reported in September, 2018, Rubin Thomlinson confirmed it received 39 contacts/complaints through the interim intake process and responded to all 39.

Of the 39 contacts/complaints received, 18 underwent a secondary review. 11 were ultimately investigated and are at or near completion.

The intake calls that were not investigated either provided information to be considered (and was considered) in the workplace assessment, or did not involve allegations of harassment, discrimination, bullying, intimidation or reprisal within the scope of the process.

Consistent with Rubin Thomlinson’s recommendations regarding communication and transparency, the Corporation intends to report to the extent possible on the types of complaints investigated and the manner in which the Corporation addressed those complaints once all communications to applicable parties and any necessary corrective actions have been implemented and the new format for reporting out on the City’s harassment and discrimination program as referred to above is finalized.

FINANCIAL IMPACT

Suitable sources of funding have been identified in the approved operating budget to support the work outlined above including development of the training programs. Once a determination has been made regarding the ombudsperson recommendation, a business case and source of financing will need to be developed for consideration as part of the multi-year budget.

CONCLUSION

The City looks forward to working with union leadership, the senior leadership team and other interested parties to implement the recommendations as set out in the Workplace Assessment Report. As we work through the recommendations, we are committed to being transparent with our employees and will continue to provide updates regarding our progress.

PREPARED AND RECOMMENDED BY:	RECOMMENDED BY:
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