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## The Corporation of the City of Stratford Policy Manual

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<b>Policy Section:</b>	Human Resources
<b>Department:</b>	Human Resources
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<b>Policy Type:</b>	Administrative Policy

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### Respectful Workplace Policy

#### Policy Statement:

In keeping with its Corporate Values, the Corporation of the City of Stratford (City) is committed to providing a safe and respectful workplace free from all forms of harassment, discrimination, and violence.

The City will make every reasonable effort to identify all potential sources of workplace harassment, discrimination, and violence to maintain a respectful workplace and eliminate and /or minimize these risks.

This policy should be interpreted as consistent with the provisions of the **Ontario Human Rights Code**, and **Occupational Health and Safety Act**, as amended, and read in conjunction with any applicable collective agreement provisions. The requirements set out in this policy do not limit any obligations under any applicable legislation.

The City is committed to ensuring all employees, members of the Council, and volunteers can work in an environment where all individuals are treated with professionalism, respect, and dignity. The City treats all concerns, complaints, or incidents of discrimination, workplace harassment, workplace sexual harassment, bullying, poisoned work environment, workplace violence or domestic violence seriously. Accordingly, the City will not tolerate discrimination, harassment or violence of any form in the workplace.

## **Purpose:**

The Purpose of this policy is to:

- Define behaviour that constitutes workplace discrimination, harassment, and violence.
- Identify roles and responsibilities when discrimination, harassment, and violence occur in the workplace.
- Establish the procedures and process for investigating and responding to concerns or reports of discrimination, harassment, and violence in the workplace.

## **Scope:**

This policy applies to all City employees while performing work in the workplace. Volunteers and members of City Council are afforded the same workplace rights and protections provided by this policy while performing authorized work-related activities on behalf of the City in the workplace.

In addition, this policy should be interpreted as consistent with other City policies including but not limited to the following:

C.3.17 Public Conduct Policy

H.1.27 Employee Code of Conduct Policy

Code of Conduct – Council, Local Boards and Committees

C.1.13 Facilities Code of Conduct Policy

H.1.12 Health & Safety Policy

Health and Safety Manual

## **Definitions:**

For this policy, these terms are defined as follows:

**“Bullying”** a form of harassment, generally involving repeated acts over time, attempting to create or enforce one person’s (or group’s) power over another person (or group). Bullying can be emotional, verbal, or physical and is intended to intimidate, offend, demean, humiliate, ridicule, patronize, or degrade. It can be directed at one person or not aimed at anyone in particular but is part of generally hostile behaviour that has a toxic effect on the workplace.

Bullying may include:

- Persistently and excessively criticizing and scrutinizing the victim’s work without justification.
- Spreading malicious gossip or rumours.
- Belittling the victim’s opinion.
- Spying on or stalking the victim.
- Tampering with the victim’s desk workspace or belongings.
- Isolating, excluding, or ignoring the victim.

- Undermining or sabotaging the victim’s work by settling unreasonable deadlines or withholding key information.
- Engaging in physically abusive or aggressive behaviour such as pushing, hitting, spitting, finger pointing or aggressively invading the victim’s personal space.

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

**“Employees”** for the purposes of this policy, means all full-time, part-time, regular, casual, and temporary employees of the City and includes volunteers and members of Council while performing authorized volunteer or work-related activities for the City in the workplace.

**“Harassment”** 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, as defined in the **Occupational Health and Safety Act**.

Some examples of harassment include:

- Verbally abusive behaviour such as yelling, insults, ridicule and name calling, including remarks, jokes or innuendos that demean, ridicule, intimidate or offend.
- Workplace pranks, bullying and hazing.
- Gossiping or spreading malicious rumours.
- Excluding or ignoring someone, including persistent exclusion of a particular person from workplace social gatherings.
- A leader undermining someone else’s efforts by setting impossible goals, with short deadlines and deliberately withholding information that would enable a person to do their job.
- Sabotaging someone else’s work.
- Displaying or circulating offensive pictures or materials.
- Offensive or intimidating phone calls or e-mails.
- A leader blocking an individual’s efforts at promotions or transfers for reasons that are not legitimate; and
- Making false allegations about someone.

Harassment can also be discriminatory when based on the prohibited grounds in the **Ontario Human Rights Code**, some examples of discriminatory harassment include:

- Inappropriate or offensive comments, jokes, or behaviour that belittle or ridicule a person’s membership in one of the protected grounds, such as race, religion, age or disability.
- Intimidating a person’s accent, speech, or mannerisms, or

- Persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children.

Harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:

- Actions to correct performance deficiencies.
- Imposing discipline for workplace infractions.
- Requesting medical documents in support of an absence from work.
- Normal workplace conflict that may occur between individuals or differences of opinion between co-workers.
- Friendly teasing or bantering that is mutually acceptable and not offensive to others.

Differences of opinion or minor disagreements between employees would not generally be considered workplace harassment.

**“Sexual harassment”** harassment against an employee because of sex, sexual orientation, gender identity or gender expression, or 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.

Examples of workplace sexual harassment include:

- Persistent leering (suggestive staring) or other obscene/offensive gestures.
- Unwanted and inappropriate physical contact such as touching, kissing, patting pinching, brushing up against a person.
- Unwelcome sexually oriented remarks, invitations, request, jokes, gestures.
- Unwelcome sexual flirtations, advances, propositions.
- Inquiries or comments about a person’s sex life.
- Demands or requests for sexual favours, especially by a person who is in a position of authority.
- Displaying sexually offensive materials.
- Sexual assault.
- Refusal to address someone using their preferred pronoun or comments meant to belittle employees for using washroom, locker rooms and change rooms that correspond to their gender identity, regardless of their sex assigned at birth.

**“Poisoned or toxic work environment”** one or a series of harassing comments or conduct that creates a damaging, hostile, or uncomfortable environment for individuals or groups to work and may be related to the prohibited grounds, which has a toxic effect in the workplace. The comment or conduct must be of a significant nature or degree and have the effect of “poisoning” the work environment.

Examples of conduct that can create a poisoned work environment include:

- Displaying offensive or sexual materials such as posters, graffiti, cartoons, pictures, calendars, web sites or screen savers.
- Distributing offensive e-mail messages or attachments such as pictures or video files.
- Practical jokes that embarrass or insult someone; or
- Jokes or insults that are offensive, racist, or discriminatory in nature.

**“Workplace”** any location where work-related duties for the City occur or are conducted, including those locations that are not on primary City work sites. This includes virtual locations accessed throughout the use of information and communications technology. This may include a social function, training, and conferences, during travel, at restaurants, and include all forms of communication including telephone, e-mail, and social networking sites (Facebook, Twitter, LinkedIn, etc.).

**“Workplace violence”** includes acts that may be considered criminal and is defined under the **Occupational Health and Safety Act** as:

- The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker.
- An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker.
- A statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Examples of workplace violence include:

- Physical threatening behaviour such as shaking a fist at someone, finger-pointing, destroying property, throwing objects;
- Verbal or written threats to physically attack a worker;
- Leaving threatening notes or sending threatening e-mails.
- Wielding a weapon at work.
- Stalking someone; and
- Physically aggressive behaviours including hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing an object at someone, physically restraining someone or any other form of physical or sexual assault.

Violence that occurs outside the normal workplace, but which has an impact on the working environment, including working relationships, may also be considered violence in the workplace.

Workplace violence may come from many different sources:

- Strangers or people with no ties to the workplace.
- Clients, customers.
- Other employees.

- Intimate relationships outside of work (such as intimate partners, family, friends).

**“Domestic violence”** a pattern of behaviour used by one person to gain power and control over another person with whom they currently have or previously have had an intimate relationship. This pattern of behaviour may include physical violence, sexual, emotional, and/or psychological intimidation, verbal abuse, stalking or using electronic devices to harass and control. Anyone can be a victim of domestic violence. Domestic violence may put the targeted employee at risk and may also pose a threat to co-workers.

## **Roles & Responsibilities:**

All employees have a responsibility to ensure their behaviour and conduct in the workplace positively contributes to a respectful, healthy, and safe workplace free from harassment, discrimination, and violence in accordance with the provisions of this Policy.

Specific groups or individuals have responsibilities as follows:

### **Leaders (CAO/Directors/Managers/Supervisors/Leads)**

It is the responsibility of those in supervisory/management positions, up to and including the Chief Administrative Officer (CAO), to actively foster respectful interactions in the workplace by providing information, training, clear expectations, and modeling desired behaviour. Leaders must not condone inappropriate workplace behaviour. In the event of an alleged incident of harassment and/or discrimination, Leaders will immediately provide supports to maintain the physical and emotional health of those affected, provide information on the procedures associated with this policy and inform Human Resources.

During an investigation, Leaders will cooperate with and respond to the needs of the Investigator to ensure an effective and timely investigation. The Leader will demonstrate and promote the maintenance of confidentiality.

A person in authority who does not take active steps to ensure a respectful, healthy, and safe workplace may be held responsible for failing to do so and face disciplinary action up to and including termination of employment. Active steps include, but are not limited to:

- Ensuring employees are aware of this policy.
- Regularly reinforcing the requirement for respectful interactions.
- Modeling behaviour in keeping with the City’s Values.
- Supporting employees who come forward with complaints under this policy.
- Notifying Human Resources when becoming aware of harassment and discrimination, regardless of whether the employee wishes to pursue a complaint.
- Consulting with Human Resources, investigating and addressing workplace harassment, discrimination, or other unwanted behaviour, including by a member of the public against an employee.

## **Union/Association Executive**

Executive members of Unions and Associations play a leadership role in partnering with the City to promote a workplace that is free of harassment, discrimination, and violence and to support education and training initiatives in respect of this policy.

## **Employees**

All employees have a duty to report workplace harassment, discrimination or violence to Human Resources as outlined in this policy.

Employees who are aware of or have directly observed conduct that they think contravenes this policy are expected to provide support to the target of the behaviour and encourage those being targeted to report the offending conduct. If that person does not act, observers are asked to bring information forward to any Leader, the Union or Human Resources staff.

Anyone involved in the investigation of an alleged incident is required to cooperate with the person responsible for investigating and to always maintain confidentiality.

## **Reporting Workplace Harassment, Discrimination, and Violence**

### **Harassment or Discrimination**

Any employee who feels they have been harassed are encouraged to inform the harasser (or respondent) that their behaviour is unwelcome and ask the perpetrator to stop. Occasionally, the harasser may not realize their behaviour is unwelcomed or perceived as offensive and the issue may be resolved without the need to make a formal harassment report or complaint.

The following phrases are examples of what an employee might say to a harasser in an effort to stop the harassing behaviour:

- "I don't want you to do that."
- "Please stop doing or saying..."
- "It makes me uncomfortable when you ..."
- "I don't find it funny when you ..."

The Director or Manager of Human Resources can offer support in this process with assistance to prepare for this conversation and may act as an informal mediator for both parties.

If confronting the harasser is too intimidating, inappropriate or has the potential to jeopardize an employee's well-being, health, or safety, or if the attempt to stop the offending behaviour is unsuccessful, the employee should submit a complaint, either verbally or in writing, to the Director of Human Resources or designate.

When submitting a complaint, either in writing or verbally, a report of the incident should include the following information:

- Name of the employee who has allegedly experienced workplace harassment, discrimination or violence and contact information
- Name of alleged perpetrator(s), position and contact information (if known)
- Date, time and location of the incident(s)
- Description of the incident, including words, gestures
- Names of witnesses to the incident or other persons with relevant information and contact information (if known)
- Any documents relevant to the incident such as email or text messages

Employees can also use the **Respectful Workplace Complaint form**, available on the Respectful Workplace web page, from the Director of Human Resources or designate. All Respectful Workplace documents are posted on the Respectful Workplace webpage.

Employees are encouraged to promptly report any incident or complaint as soon as possible after experiencing or witnessing an incident. This allows the incident to be investigated in a fair and timely manner.

If a complaint involves someone outside the City (example: a customer, supplier, or resident etc.) the complaint should still be reported, and the City will do its best to investigate and address the issue and prevent further problems from arising.

## **Workplace Violence**

The personal safety of everyone in the workplace is of paramount importance. An employee who believes they or another person in the workplace are in immediate risk of harm should immediately contact the police.

All employees are responsible for promptly notifying a supervisor or manager of any actual or potential violence or threats of violence that they have witnessed, received, experienced or have been told that another person has witnessed, received, or experienced, or that they have reasons to believe may occur.

Supervisors and managers who are aware of or receive a report of any actual or potential workplace violence are required to immediately notify the Director, Human Resources or designate.

Employees have the right to refuse work if workplace violence is likely to endanger themselves or other workers. If work is refused, the refusing employee must immediately inform their supervisor, at which point appropriate measures will be taken to protect the workers and investigate the situation. The refusing employee will be moved to a safe place near their normal workstation and will need to be available for the purposes of investigating the incident. In some circumstances, subject to the provisions of the respective collective



agreements and the **Occupational Health and Safety Act**, employees may be provided with reasonable alternative work during normal working hours.

Details about the measures and procedures for summoning immediate assistance will be provided and may include:

- equipment to summon assistance such as fixed or personal alarms, locator or tracking systems, phones, cell phones, two-way radios etc.
- emergency telephone numbers and/or email addresses
- departmental/divisional emergency procedures

Provided the situation is dealt with quickly and the danger to workers is removed, the necessity of work refusal may be alleviated.

The Director of Human Resources or their designate will manage the incident including any investigation, ensure immediate assistance has been summoned as required to assist, intervene, or investigate workplace violence.

The City will take every precaution, reasonable in the circumstances, to protect an employee from domestic violence in the workplace. This may include some or all of the following:

- Creating a safety plan.
- Contacting the police.
- Establishing enhanced security measures such as panic button, code words, and door and access security measures.
- Screening calls and blocking certain e-mail addresses.
- Setting up priority parking or providing escorts to your vehicle or to public transportation.
- Adjusting an employee's working hours and location so that they are not predictable; and
- Facilitating an employee's access to counselling through the Employee Family Assistance Program or other community programs.

The City appreciates the sensitivity of these issues and will do its best to assist the employee as discreetly as possible while maintaining the employee's privacy.

## **Investigation into Workplace Harassment, Discrimination and Violence**

The City will ensure that an investigation, appropriate for the circumstances, is conducted when notified of an incident or potential incident or upon receiving a report or complaint of workplace harassment, discrimination, or violence.

## **Procedure to Appoint an Investigator**

The Director of Human Resources, or designate, will determine who will investigate incidents or complaints. The City will ensure the person who conducts the investigation is not involved in the incident and is not under the direct control of the person bringing a complaint (complainant) or the individual alleged to have engaged in workplace harassment/ violence (respondent).

In appropriate cases, the City may, at its discretion, elect to have an investigation into workplace harassment, discrimination, or violence conducted by an external third party. Allegations against City Leadership staff, Council members or Human Resources staff will be investigated by an external third party, selected by the City. The City will involve Union Representatives in investigations as applicable.

The investigator will consult with the Director of Human Resources and conduct investigations, as necessary. Additionally, the investigator may provide recommendations for support such as coaching, training and monitoring.

## **Investigation Process**

The Director of Human Resources or designate will commence an initial assessment of the complaint or concern and ensure that a fair, impartial, and timely investigation is conducted, if required, in a timely manner.

The investigation will include:

- Interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations.
- Interviewing witnesses, if any.
- Reviewing any related documentation; and
- Making detailed notes of the investigation and maintaining them in a confidential file.

Once the investigation is complete, the investigator(s) will prepare a detailed fact report including an analysis, findings, and recommendations where appropriate to the Director of Human Resources. The Director of Human Resources, in consultation with the impacted Department Head (where the incident has taken place), will review the report and determine appropriate follow-up actions. If required, this consultation process may involve legal advice. The Director of Human Resources and the impacted Department Head will then render a decision on the incident. A summary of the findings will be provided to the complainant and respondent in writing, within a reasonable time frame.

## **Outcome of Investigation**

The Director of Human Resources and the impacted Department Head will determine what action should be taken as a result of the investigation.

If a finding of harassment, discrimination, or violence is made, the City will take corrective measures up to and including termination of employment, appropriate in the circumstances.

The Director of Human Resources or designate will inform the complainant and the respondent, in writing, of the results of the investigation and any corrective actions taken, or which will be taken to address the harassment, discrimination, or violence, if applicable.

Interim measures, appropriate in the circumstances, will be taken after a complaint is received and during the investigation. The City will take all reasonable measures to eliminate or mitigate any risks identified by the investigation into an incident or report of workplace harassment, discrimination, or violence.

## **Confidentiality of Complaints and Investigations**

The City recognizes the sensitive nature of harassment, discrimination, and violence complaints and will keep all complaints confidential, to the extent that it is able to do so. The City will only release as much information as is necessary to investigate and respond to the complaint or situation or if required to do so by law.

Out of respect for the relevant individuals, it is expected that the complainant, respondent, witnesses, and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterward.

Unionized staff may have the assistance of a union representative throughout an investigation process if they so choose. The role of the union representative in the investigation process is to observe the proceedings and provide support after the proceedings are completed.

## **Protection from Reprisal or Retaliation**

Employees shall not be penalized, disciplined, or otherwise reprimed against for reporting in good faith, an incident or for participating in an investigation involving workplace harassment, discrimination, or violence.

The City will, however, take appropriate disciplinary measures up to and including termination of employment against anyone who knowingly brings a false and malicious complaint or in respect of any person, who taunts, retaliates against, or threatens anyone in relation to harassment, discrimination, or violence complaint.

## **Record Keeping**

Human Resources shall maintain all records of the investigation including:

1. A copy of the complaint or details about the incident.
2. A record of the investigation including notes.
3. A copy of the investigation report (if any).
4. A summary of the results of the investigation that was provided to the worker who allegedly experienced the workplace harassment and the alleged harasser, if a worker of the employer.
5. A copy of any corrective action taken to address the complaint or incident of workplace harassment.

All records of the investigation will be kept confidential. The investigation documents, including the report, should not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law. Records will be kept in accordance with the City's records retention program.

## **Training and Review**

Human Resources will ensure all employees and leaders are trained on and provided a copy of this policy upon hire and after any changes/revisions to the policy are made.

This policy shall be reviewed annually and as often as necessary, to ensure that the program adequately implements the **Occupational Health and Safety Act**.

Requests for assistance in the administration or interpretation of this policy should be directed to the Director, Human Resources, or their designate. The City reserves the right to rescind and/or amend this policy at its sole discretion.

**Legislative Authority:** The parameters of this policy adhere to the following:

**Ontario Human Rights Code (OHRC)**

**Occupational Health and Safety Act (OHSA)**

**Criminal Code (R.S.C., 1985, c. C-46)**

## **Related Documents:**

C.3.17 Public Conduct Policy

H.1.27 Employee Code of Conduct Policy

Code of Conduct- Council, Local Boards and Committees

C.1.13 Facilities Code of Conduct Policy

H.1.12 Health & Safety Policy

Health and Safety Manual

This revised Respectful Workplace Policy H.1.36 replaces the current:

- H.1.6
- H.1.23