



STAFF REPORT INFORMATION ONLY

Human Rights and Anti-Harassment Complaints Procedures

Date:	July 4, 2008
To:	Employee and Labour Relations Committee
From:	City Manager
Wards:	All
Reference Number:	

SUMMARY

This report responds to a request to report on the implementation of the City's Human Rights and Anti-Harassment Complaint Procedures. This report also responds to a request from the Executive Director of COTAPSAI regarding mandatory human rights training for supervisors and managers and for an appeal process related to complaints that are outside the scope of the Ontario Human Rights Code. Dedicated mandatory training sessions for all supervisors and managers will commence in August 2008. The request for an appeal process was considered. An appeal process is not necessary as the current procedures provide adequate resolution options to issues which go beyond any legislated obligations.

FINANCIAL IMPACT

There are no financial implications from this report beyond what has already been approved in the current year's budget.

EQUITY IMPACT STATEMENT

The amended Human Rights and Anti-Harassment Policy states that the City of Toronto will not tolerate, ignore or condone any form of discrimination or harassment and that the City is committed to promoting appropriate standards of conduct at all times. The City's Human Rights and Anti-Harassment Complaint Procedures set out clear options for raising and resolving complaints of harassment and discrimination. Complaint procedures

have been implemented for employees, senior management and residents and recipients of municipal services.

DECISION HISTORY

At its meeting on June 23 and 24, 2008, City Council adopted the following motions:

(2) City Council delegate authority to staff to adopt complaint procedures for: (a) complaints involving employees, (b) complaints involving senior management and (c) complaints by residents and recipients of municipal services, for implementation once the revised Human Rights Code Amendment Act, comes into effect.

(3) City Council request the City Manager to report back to the Employee and Labour Relations Committee on the complaint procedures described in the foregoing Part 2, and include in the report comments on the concerns outlined in the communication (May 16, 2008) from the Executive Director, COTAPSAI.

ISSUE BACKGROUND

The City's Human Rights and Anti-Harassment Policy clarifies that harassment and discrimination will not be tolerated and sets standards of appropriate workplace conduct. The City's Policy includes an internal complaints resolution process that is intended to minimize the necessity for employees and service recipients to file their complaints with the Human Rights Tribunal of Ontario - potentially, at considerable cost to the City. Complaint procedures will help to ensure that human rights issues raised under the City's Policy provisions are brought to the attention of the appropriate staff and effectively dealt with.

As with the 1998 Policy, the amended Human Rights and Anti-Harassment Policy goes beyond the protections offered in the Ontario Human Rights Code by including protections against discrimination in employment based on the grounds: (a) level of literacy, (b) political affiliation, (c) membership in a union or staff association and (d) a commitment to the prohibition of non-Code or personal harassment.

COTAPSAI has requested a separate mechanism in the amended Policy that would secure the right of an individual, with the support of COTAPSAI, to appeal any denied complaint related to the grounds noted above and for mandatory human rights training for management staff.

COMMENTS

Human Rights and Anti-Harassment Complaint Procedures (Appendix 1) have been implemented for complaints involving employees, complaints involving senior management and complaints by residents and recipients of municipal services.

The procedures clearly describe the available dispute resolution options, including the provision of internal independent investigations and a legal right to seek redress under the Code. The process for making a complaint, access to expert advice, confidentiality commitments, the investigation process, potential outcomes, prohibition of reprisals, representation and documentation are also addressed in the complaints procedures.

The implementation of the City's amended Human Rights and Anti-Harassment Complaint Procedures include a communications and training strategy. Training is currently available for all employees through the Course Calendar for the Toronto Public Service (http://insideto.toronto.ca/hrweb/training/learning_guide/courses_civic_administrations.htm#06 and http://insideto.toronto.ca/hrweb/training/learning_guide/courses_managers_supervisors.htm#09). Dedicated mandatory training sessions for all supervisors and managers will commence in August 2008.

With respect to COTAPSAI's request for an appeal process for complaints related to the non-Code grounds: (a) level of literacy, (b) political affiliation, (c) membership in a union or staff association and (d) a commitment to the prohibition of non-Code or personal harassment; the City's Human Rights and Anti-Harassment Complaint Procedures currently provide a range of complaint resolution options related to these grounds. These resolution options go beyond any legislated obligations. Under the current Human Rights and Anti-Harassment Policy and Complaint Procedures, resolution options include: addressing the conduct with the person directly; having division management explore concerns to facilitate resolution; if this option is not appropriate, raising concerns to the Human Rights Office; the provision of internal independent investigations; and where a complaint involves senior City management, or an ongoing, systemic issue, an external consultant may be retained to investigate the complaint.

The City is considered a role model to other organizations for its human right approach. Approximately twenty-five public and para-public organizations responded to a survey regarding their processes to address complaints of harassment and discrimination based on non-Code grounds. Of the organizations that reported having a process, none reported having all the grounds and generous protections included in the City's Human Rights and Anti-Harassment Policy and Complaint Procedures. The majority of organizations who reported having official processes to address some forms of non-Code harassment and discrimination advised that complaint resolution was the responsibility of internal staff in positions such as senior administration, management, human resources, equity/human rights, etc. This is consistent with the City's approach. Some academic institutions reported having an ombudsperson position available to address a broad range of complaints including non-Code harassment and discrimination. Other organizations reported that they retained an external consultant to investigate serious, complex, or ongoing issues that could not be resolved internally. A few unionized organizations included language about non-Code harassment and discrimination resolution processes in their collective agreements. No organization reported having an appeal process related to the non-Code grounds/complaints that are included in the City's Policy.

The mandate of the City's Ombudsperson is to resolve complaints from the public related to City programs and service provision. The Ombudsperson has no jurisdiction to advise on, investigate or resolve employee complaints.

Under the City's Human Rights and Anti-Harassment Policy, city management staff have responsibility for preventing, addressing, resolving and remedying human rights complaints in workplaces for which they are responsible. Staff in the City's Human Rights Office report to the City Manager through the Executive Director of the Human Resources Division. As such, it would not be appropriate for City management staff, including senior administration to participate in a non-Code appeal process. Under the current City structure and Policy, a credible appeal process would require retaining an impartial, independent consultant who has expertise in human rights investigations. External human rights investigations cost on average \$25,000 per investigation.

The most frequently cited ground of complaint raised to the Human Rights Office each year is non-Code harassment and discrimination. There are more than 150 non-Code complaints filed with the Human Rights Office each year: in 2007 there were 173; in 2006 there were 152; in 2005 there were 162. An appeals process for as few as 15% of these complaints could cost the City in excess of \$500,000 annually.

The City's Human Rights and Anti-Harassment Policy and Complaint Procedures currently provide broad protections and a number of complaint resolution options for employees and service recipients. With respect to complaints of non-Code harassment or discrimination, the City's protections and complaint resolution options are already more generous than similar public and para-public organizations and legislated obligations. The cost of an appeals process would be considerable and there is no evidence that an appeals process is necessary.

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SIGNATURE

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