



## **Yonge-Dundas Square Board of Management Human Rights & Anti-Harassment Policy August 2008**

### **BACKGROUND**

On June 23 and 24, 2008 Toronto City Council adopted an amended Human Rights and Anti-Harassment Policy. All agencies, boards, and commissions have been advised to revise their own Human Rights and complaint procedures, consistent with the provisions of City policy.

#### **1. POLICY**

##### **Policy Statement**

Under the *Ontario Human Rights Code*, every person has a right to equal treatment by the City of Toronto, its agencies, boards and commissions, and its citizen advisory committees, with respect to services and facilities, accommodation, contracts, and employment. The Yonge-Dundas Square Board of Management (hereinafter referred to as the Board) Human Rights and Anti-Harassment Policy is consistent with the provisions of City policy, ensuring a climate of understanding and mutual respect.

The Board will not tolerate, ignore, or condone any form of discrimination or harassment and is committed to promoting appropriate standards of conduct at all times. All employees are responsible for respecting the dignity and rights of their co-workers and the public they serve. Discrimination and harassment are serious forms of employee misconduct which may result in disciplinary action up to and including discharge.

Any member of the public, including visitors to Yonge-Dundas Square and individuals conducting business with the Board, is expected to adhere to this policy, including refraining from harassment of employees, elected officials, and persons acting on behalf of the Board. If such harassment occurs, the Board will take any steps available to ensure a harassment-free workplace, including barring the harasser from its facilities, where appropriate, or discontinuing business with contractors or consultants.

#### **2. APPLICATION**

**2.1 Services and Facilities:** Every person has a right to equal treatment with respect to services and facilities under Board jurisdiction without discrimination or harassment because of the following prohibited grounds and any combination of these grounds:

-race	-ethnic origin	-sexual orientation	-family status
-ancestry	-citizenship	-marital status	-disability
-place of origin	-creed	-age	-political affiliation*
-colour	-sex (including pregnancy, breast feeding and gender identity)		-level of literacy*

**2.2 Contracts:** Every person having a legal capacity has a right to contract on equal terms without discrimination because of the following prohibited grounds and any combination of these grounds:

-race	-ethnic origin	-sexual orientation	-family status
-ancestry	-citizenship	-marital status	-disability
-place of origin	-creed	-age	-political affiliation*
-colour	-sex (including pregnancy, breast feeding and gender identity)		-level of literacy*

**2.3 Employment:** Every person has a right to equal treatment with respect to employment with the Board without discrimination or harassment because of the following prohibited grounds and any combination of these grounds:

-race	-ethnic origin	-sexual orientation	-family status
-ancestry	-citizenship	-marital status	-disability
-place of origin	-creed	-age	-political affiliation*
-colour	-sex (including pregnancy, breast feeding and gender identity)	- record of offences	-level of literacy*
- personal harassment*	-membership in a union or staff association*		

\* These grounds are included in the City's policy, but are not explicitly covered by the Ontario Human Rights Code.

### **3. ROLES AND RESPONSIBILITIES**

This policy applies to all Board members and employees and to all aspects of the employment relationship. All staff members are expected to abide by this policy and the Ontario Human Rights Code by refraining from any form of harassment and discrimination and by fully co-operating in any investigation of a harassment or discrimination complaint. Human rights are a shared responsibility.

#### **Management**

Management staff has obligations under this policy. Under the Ontario Human Rights Code, management can be held personally liable for failing to take appropriate action. All management staff members have the following general responsibilities with respect to human rights:

- not engaging in behaviour that would constitute discrimination or harassment under the policy
- setting and enforcing standards of appropriate workplace conduct
- having thorough knowledge of the policy
- being able to clarify what constitutes harassment and discrimination
- being able to advise staff of their rights and responsibilities under the policy
- taking all reasonable steps to deal with alleged workplace discrimination and harassment that they are aware of or reasonably should have been aware of (even if a direct complaint has not been made), in a timely fashion while maintaining as much confidentiality as possible

Management staff is encouraged to contact the City of Toronto Human Rights Office for guidance to address human rights complaints.

#### **3.2 Employees**

All employees have the following general responsibilities under the policy:

- be familiar with their rights and responsibilities under the policy
- not engaging in behaviour that would constitute discrimination or harassment under the policy
- raise concerns as soon as possible if they have been discriminated against or harassed
- document details of harassment and/or discrimination that are experienced or witnessed
- co-operating in interventions and investigations to resolve human rights and harassment issues
- maintaining confidentiality related to human rights investigations
- employees are strongly encouraged to report incidents of harassment, discrimination, or retaliation that they witness

### **4.0 DEFINITIONS**

- 4.1 Allegation:** An allegation is an unproved assertion or statement based on a person's perception.

- 4.2 Complainant:** The person alleging that discrimination or harassment has occurred. There can be more than one complainant in a human rights complaint.
- 4.3 Discrimination:** Discrimination is any practice or behaviour, whether intentional or not, which has a negative effect on an individual or a group because of personal characteristics or circumstances unrelated to the person's abilities or the employment or service issue in question (e.g., disability, sex, race, sexual orientation). Discrimination may arise as a result of direct differential treatment or it may result from the unequal effect of treating individuals and groups in the same way. Either way, if the effect of the behaviour on the individual is to withhold or limit full, equal, meaningful access to goods, services, facilities, employment, or contracts available to other members of society, it is discrimination.
- 4.4 Duty to Accommodate:** The legal obligation of an employer to take steps to eliminate disadvantage caused by systemic, attitudinal, or physical barriers that unfairly exclude individuals or groups protected under the Ontario Human Rights Code. It also includes an obligation to meet the special needs of individuals and groups protected by the Code unless meeting such needs would cause undue hardship. Failure to accommodate a person short of undue hardship is a form of discrimination.
- 4.5 Employee:** For the purposes of this policy, the term employee includes all employees: full-time, part-time, temporary, probationary, casual, co-op students, volunteers, job applicants, contractors, and consultants working for the Board.
- 4.6 Equal Treatment:** Equal treatment is treatment that brings about an equality of results and that may, in some instances, require different treatment. For example, to give all employees equal treatment in entering a building, it may be necessary to provide a ramp for an employee who requires the use of a wheelchair.
- 4.7 Harassment:** Harassment means improper comment or conduct that a person knows or ought to know would be unwelcome, offensive, embarrassing, or hurtful. It is a form of discrimination. Harassment may result from one incident or a series of incidents. Harassment can occur between co-workers, between management and employees, between employees and Board members, between Board members, between employees and vendors, between employees and recipients of services, between employees and members of the public, and between Board members and members of the public.
- 4.8 Code Harassment:** Means improper comment or conduct based on one or more of the prohibited grounds listed in the Ontario

Human Rights Code, that a person knows or ought to know would be unwelcome, offensive, embarrassing, or hurtful – see section 4.14 for a list of prohibited grounds.

Examples of Code harassment based on a prohibited ground include, but are not limited to: slurs or derogatory remarks; threats; inappropriate jokes, innuendos, name-calling, teasing; insulting gestures; practical jokes which result in embarrassment; displaying pin-ups, pornography, racist, homophobic or other offensive materials; use of electronic communications such as the internet and email to harass; actions that invade privacy; spreading rumours that damage one's reputation; refusing to work with another; condescending or patronizing behaviour; abuse of authority which undermines performance or threatens careers; unwelcome touching, physical assault, or sexual assault.

There is no legal obligation for an individual to tell a harasser to stop. The fact that a person does not explicitly object to harassing behaviour, or appears to be going along with it, does not mean that the behaviour is not harassing or that it has been consented to.

This policy is not intended to interfere with constructive feedback regarding performance or operational directives provided to employees by their supervisors or managers.

**4.9 Personal (non-Code) Harassment:** Personal (non-Code) harassment is harassment that is not related to a prohibited ground identified in the Ontario Human Rights Code. Personal harassment is improper comment and/or conduct, not related to a legitimate work purpose, directed at and offensive to another person or persons in the workplace, and that the individual knows or ought to reasonably know would offend, harm, or is derogatory, demeaning, or causes humiliation or embarrassment.

Personal harassment often involves a course or grouping of behaviours. However a single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute personal harassment.

Examples of personal harassment include:

- frequent angry shouting/yelling or blow-ups
- regular use of profanity and abusive or violent language
- physical, verbal, or email threats, intimidation
- violent behaviours – slamming doors, throwing objects
- targeting individual(s) in humiliating practical jokes
- excluding, shunning, impeding work performance
- spreading gossip, rumours, negative blogging, cyberbullying
- retaliation, bullying, sabotaging

- unsubstantiated criticism, unreasonable demands
- insults, name calling
- public humiliation
- communication that is demeaning, insulting, humiliating, mocking

Personal harassment does not include:

- legitimate performance/probation management
- appropriate exercise and delegation of managerial authority
- operational directives
- a disagreement or misunderstanding
- conflict between co-workers
- work-related change of location, co-workers, job assignment
- appropriate discipline
- less than optimal management
- a single comment or action unless it is serious and has a lasting harmful effect
- rudeness unless it is extreme and repetitive

- 4.10 Racial Harassment:** Racial harassment is harassment on the grounds of race. It may also be associated with the grounds of colour, ancestry, where a person was born, a person's religious belief, ethnic background, citizenship, or even a person's language. Racial harassment/discrimination can include:
- racial slurs or jokes
  - ridicule, insults, or different treatment because of your racial identity
  - posting/e-mailing cartoons or pictures that degrade persons of a particular racial group
  - name-calling because of a person's race, colour, citizenship, place of origin, ancestry, ethnic background, or creed

- 4.11 Sexual Harassment:** Harassment on the ground of sex. This includes a sexual advance or solicitation from anyone if they know or ought to know the advance is unwelcome, especially if the advance is from a person in a position to give or deny a benefit or to engage in a reprisal, or if a threat of reprisal is made if the advance is rejected. Other examples are sexually suggestive or obscene remarks or gestures, leering (suggestive staring) at a person's body, unwelcome physical contact, having to work in a sexualized environment (bragging about sexual prowess, or discussions about sexual activities), circulation or posting of sexist jokes or cartoons, display of pin-up calendars or other objectifying images, negative stereotypical comments based on gender, sex, or sexual orientation, and gender related comments about an individual's physical characteristics or mannerisms.

This policy is not intended to interfere with normal social interaction between employees.

- 4.12 Mediation:** A voluntary process where parties in dispute consent to meet with a trained mediator to determine whether the dispute can be resolved in a mutually satisfactory manner. Mediation discussions between parties are treated as private and confidential to the full extent permitted by law.
- 4.13 Poisoned Work Environment:** A poisoned work environment is a form of indirect harassment/discrimination. It occurs when comments or actions ridicule or demean a person or group creating real or perceived inequalities in the workplace. Pornography, pin-ups, offensive cartoons, insulting slurs or jokes, and malicious gossip (even when they are not directed towards a specific employee or group of employees) have been found to “poison the work environment” for employees.
- 4.14 Prohibited (Protected) Grounds:** The list of grounds related to employment for which a person is protected under the Ontario Human Rights Code. The prohibited grounds include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (includes pregnancy, breast feeding, gender identity), sexual orientation, age, record of offences, marital status, family status, disability. Under the Code and this policy, there are protections where there is a perception that one of the above grounds applies or where a person has been treated differently because of an association or relationship with a person identified by one of the above grounds.
- 4.15 Reasonable Person Test:** This is an objective standard to measure whether a comment or conduct is discrimination or harassment. It considers what a reasonable person’s reaction would have been under similar circumstances and in a similar environment. It considers the recipient’s perspective and not stereotyped notions of acceptable behaviour. This standard is used to assess human rights complaints under this policy.
- 4.16 Respondent:** The person alleged to be responsible for the discrimination or harassment. There can be more than one respondent in a human rights complaint.
- 4.17 Workplace:** The workplace includes all locations where business or social activities of the Board are conducted. Workplace harassment can also include incidents that happen away from work (e.g., inappropriate phone calls, emails or visits to an employee’s home, incidents at luncheons, after work socials) or harassment from clients and service recipients.

## **5.0 HARASSMENT AND DISCRIMINATION PREVENTION EDUCATIONAL RESOURCES**

The Board is committed to ensuring that all Board staff have knowledge about their rights and responsibilities under the Human Rights and Anti-Harassment Policy. All staff members are expected to be familiar with policy provisions. The City of Toronto Human Rights Office also operates a confidential enquiry line (416.392.8383) or [humanrights@toronto.ca](mailto:humanrights@toronto.ca)

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