



*PLEASE NOTE - CHANGES TO THE POLICY ARE HIGHLIGHTED BELOW:

Human Resources Policies
 Human Rights and Anti-
 Harassment/Discrimination
 (HRAP)

Category: **Employment Equity, Human Rights and
 Accommodation**

**Policy
 Statement**

Under the *Ontario Human Rights Code*, every person has a right to equal treatment in the provision of services and facilities, occupation of accommodation, contracts and in employment. Under the *Occupational Health and Safety Act*, all employers are required to have a workplace harassment policy, program, information, instruction and protect workers from workplace harassment.

The City of Toronto, its Agencies, Corporations and citizen advisory committees/bodies are committed to respectful, equitable service delivery and employment practices. Every person has a right to equal treatment in the provision of services and facilities, occupation of accommodation, contracts and in employment. This policy articulates the City's commitment to prevent and address harassment and discrimination under the *Ontario Human Rights Code* and the *Occupational Health and Safety Act*. The goal of this Policy is to recognize the dignity and worth of every person (whether resident, service recipient or employee) and to create a climate of understanding and mutual respect

The City of Toronto will not tolerate, ignore, or condone discrimination or harassment and is committed to promoting respectful conduct, tolerance and inclusion. All employees are responsible for respecting the dignity and rights of their co-workers and the public they serve. The City's Human Rights and Anti-Harassment/Discrimination Complaint Procedures provide a range of dispute resolution options for employees, service recipients and Members of Toronto City Council who believe that they may have experienced discrimination and/or harassment. All complaints shall be treated confidentially and there shall be no reprisal.

2.0 Application

This policy applies to all City of Toronto employees, volunteers, Accountability Officers and their staff, elected officials and their staff and to all aspects of the employment relationship. Toronto Public Service (TPS) staff are expected to abide by this policy, the *Ontario Human Rights Code*, the *Occupational Health and Safety Act* and any other relevant City Policy and legislation. This policy should be read in conjunction with the Complaint Procedures

Citizen advisory committees/bodies, members of the public, service recipients, visitors to and users of City facilities/public space and individuals conducting business with, for or with support from the City of Toronto, are expected to adhere to this policy. This includes refraining from discriminating and/or harassing City of Toronto employees, elected officials and persons acting on behalf of the City of Toronto. If such discrimination and/or harassment occur, the City of Toronto will take action to ensure a harassment/discrimination-free workplace, facility and service provision, including barring a harasser from its facilities, limiting services, discontinuing business and/or revoking contracts with consultants or contractors.

**Social Areas &
 Prohibited
 Grounds**

2.1 Services and Facilities: Every person has a right to equal treatment with respect to City services and facilities, without discrimination or harassment because of one or more of the following prohibited grounds

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

2.2 Occupation of Accommodation: Every person has a right to equal access with respect to the occupancy of City-owned accommodation, without discrimination because of one or more of the following prohibited grounds:

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

2.3 Contracts: Every person having legal capacity has a right to contract on equal terms without discrimination because of one or more of the following prohibited grounds

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

All City contracts, agreements or permits for programs and services delivered by a third party individual or organization that has been (i) contracted under the City's Purchasing Bylaw, (ii) awarded a grant under the Toronto Grants Policy, (iii) is receiving financial support from the City or (iv) using City facilities through a permit, will include a signed copy of the Declaration of Compliance with Anti-Harassment/Discrimination Legislation and City Policy, and be subject to contract provisions regarding consequences for non-compliance.

2.4 Employment: Every person has a right to equal treatment in employment without discrimination or harassment because of one or more of the following prohibited grounds:

- race
- ancestry
- citizenship
- creed
- gender identity**
- gender expression**
- level of literacy*
- political affiliation*

- place of origin	- sex** (including pregnancy, breast feeding)	- age	- membership in a
- colour	- sexual orientation**	- record of offences	union or staff association*
- ethnic origin		- marital status	
- workplace harassment**		- family status	
		- disability	

* These grounds are included in the City's policy, but are not explicitly covered by the *Ontario Human Rights Code* or the *Occupational Health and Safety Act*

** Workplace harassment as defined in the *Occupational Health and Safety Act* includes harassment based on sex, gender identity, gender expression, sexual orientation and non-Code harassment, i.e., harassment that is not based on a prohibited ground listed above. The HRAP addresses this type of harassment in section 4.10-4.13.

3.0 Roles and

Responsibilities All Toronto Public Service employees, volunteers, Accountability Officers, elected officials and their staff are responsible for knowing this policy and complaint procedures, not engaging in harassment/discrimination, cooperating in good faith in dispute resolution processes including investigations and abiding by confidentiality expectations - refer to section 1 in the Complaint Procedures

3.1 Human Rights Office:

The Human Rights Office (HRO) will provide confidential advice and/or assistance to Toronto Public service recipients, facility users and employees regarding their rights and to management regarding their obligations to appropriately address harassment and discrimination. HRO staff will impartially explore complaints/allegations of harassment and discrimination and undertake independent investigations for any Toronto Public Service staff person or recipient of municipal service(s). HRO staff do not advocate, act on behalf of, or represent any party in dispute (complainant, respondent, management). All complaints to the HRO will be dealt with in an unbiased manner.

The focus of the HRO is to prevent, correct and remedy harassing and/or discriminating behaviours that are contrary to this Policy. When investigating allegations, HRO staff may explore the conduct of parties beyond the complainant and respondent (including management) to ensure compliance with the policy. Staff in the HRO report to the City Manager through the Director of the Equity, Diversity and Human Rights Division

Responsibilities include:

- administer the City's Human Rights Program
- interpret and implement this policy
- policy and resource research and development
- education and communication
- expert, independent, unbiased, confidential advice
- assess the merits of a complaint/incident and determine appropriate investigation and resolution options, including whether concern(s) can be referred to division management to address
- undertake impartial, independent informal and formal investigations
- provide mediations
- retain external consultants
- work with Legal Services Division on Ontario Human Rights Tribunal applications and Ministry of Labour Orders

- review this policy on an annual basis in consultation with the Occupational Health and Safety Coordinating Committee
- submit an annual report to City Council about statistics and trends in human rights complaint activities and other program initiatives

3.2 City Council:

- receive investigation reports involving the City Manager, City Clerk, City Solicitor and Accountability Officers
- receive recommendations from the City Manager related to complaint resolution for investigations involving Deputy City Managers
- ensure complaint investigation results are communicated in writing to the parties
- determine, where appropriate, corrective actions based on investigation findings

3.3 Integrity Commissioner:

- receive and assess, in consultation with City officials and/or external expertise as appropriate, complaints involving the City Manager, City Solicitor and City Clerk
- oversee external consultants for investigations involving the City Manager, City Clerk and City Solicitor to City Council
- transmit investigation reports undertaken by external consultants to City Council where required

3.4 City Clerk:

- receive and assess, in consultation with City officials and/or external expertise as appropriate, complaints involving Accountability Officers.
- oversee external consultants for investigations involving Accountability Officers
- transmit investigation reports undertaken by external consultants to City Council where required

3.5 City Manager:

- receive and assess, in consultation with City officials and/or external expertise as appropriate, the merits of a complaint involving Deputy City Managers and Division Heads
- transmit investigation reports undertaken by an external consultant in relation to complaints involving Accountability Officers to City Council
- where appropriate, make recommendations to City Council about complaint remedies/corrective actions regarding Deputy City Managers
- implement appropriate complaint remedies involving Division Head investigations
- responsibilities in 3.6 as appropriate
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3.6 Deputy City Managers and Division Heads:

- provide leadership in creating and maintaining discrimination-free, harassment-free, and respectful workplaces
- receive formal investigation reports and make final decisions (in consultation with the HRO, Human Resources and Legal Services staff as appropriate) about corrective actions
- communicate final decisions about corrective actions and the disposition of a formal complaint in writing to the parties
- ensure resource availability and effective implementation of complaint settlements, remedies and corrective actions

- ensure that staff are held accountable for their responsibilities under the policy and have the appropriate knowledge and skills to meet their obligations

3.7 All Toronto Public Service Supervisors/Managers/Directors have the following responsibilities:

- ensure divisional employment and service policy, program development and implementation are inclusive and that processes are in place to provide accommodation as required under the *Ontario Human Rights Code*, the *Accessibility for Ontarians with Disabilities Act* as well as the City's *Accommodation Policy, Procedures and relevant Guidelines*
- model respectful behaviour and address incivility; set and enforce standards of appropriate workplace conduct
- complete human rights training & ensure employees who report to you receive information and instruction on this Policy and Complaint Procedures - refer to section 5.0
- post the current version of this Policy and Complaint Procedures in all work locations
- address complaints/incidents of harassment/discrimination/reprisal when raised directly by employees (formally or informally) or referred by the HRO following the process outlined in the Complaint Procedures and Manager's Guide (the link can only be accessed by City employees from the Intranet); consult the HRO for advice/assistance
- **Ensure complaints/incidents are addressed in a timely manner and investigation results letters are provided to parties.**
- ensure the signed copy of the *Declaration of Compliance with Anti-Harassment/Discrimination Legislation and City Policy*, and/or its stated intent is included in all City contracts, service agreements, Letters of Understanding, Permits
- address service delivery contract non-compliance/breaches related to harassment and/or discrimination in consultation with the City Solicitor

3.8 Human Resources Division:

- remove barriers in employment policies and practices that may have the effect of discriminating against groups/individuals who are protected under the *Ontario Human Rights Code* and *Accessibility of Ontarians with Disabilities Act*
- work with the HRO to ensure harassment/discrimination advice to divisions is consistent with this policy, the Complaint Procedures and the Manager's Guide (the link can only be accessed by City employees from the Intranet)
- support division management in addressing accommodation, harassment and discrimination **issues**, including advising on who would be considered an impartial divisional investigator and on investigations/actions that would be appropriate in the circumstances
- work with divisions to ensure complainants/respondents receive investigation results from division-led investigation in writing
- work with divisions to determine, where necessary, appropriate corrective actions to address policy breaches
- work with divisions to ensure that corrective action(s) recommended/implemented to address investigation results are communicated to the complainant/respondent in writing and copy the HRO
- make training available for TPS management and employees on the Human Rights and Anti-Harassment/Discrimination Policy, Program and related legislative obligations
- inform the HRO of collective agreement grievances about discrimination, harassment and accommodation

3.9 Employees:

- ensure behaviour is civil and respectful in relation to all employment/service provision activities
- immediately report non-Code workplace harassment experienced or witnessed to division management. For clarity, reports of workplace harassment should be made to a manager who does not report to the alleged harasser
- immediately report Code-related harassment, discrimination, reprisal experienced and/or witnessed to management (not directly managed by the alleged harasser/discriminator) and/or the HRO - refer to the [Human Rights and Anti-Harassment/Discrimination Complaint Procedures](#)
- document details of harassment and discrimination that are experienced or witnessed
- when requested, provide complaint details in writing using [Employee Harassment/Discrimination Complaint Form](#)

4.0 Definitions

4.1 Allegation: An allegation is an unproven assertion or statement based on a person's perspective that the policy has been violated.

4.2 Complainant: The person alleging that discrimination or harassment occurred. There can be more than one complainant in a human rights complaint.

4.3 Complaint: A complaint is a written or verbal report by a complainant alleging that they have experienced or witnessed harassment and/or discrimination based on one or more of the grounds identified in section 2 of this policy. Refer to the definition of harassment in section 4.10-4.13.

4.4 Discrimination: Discrimination is any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group protected in the *Ontario Human Rights Code* (e.g., disability, sex, race, sexual orientation, etc.) by excluding, denying benefits or imposing burdens upon them. 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 on the individual is to withhold or limit full, equal and meaningful access to goods, services, facilities, employment, housing accommodation or contracts available to other members of society and their membership in a prohibited ground was a factor, it is discrimination.

4.5 Duty to Accommodate: The legal obligation 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 create undue hardship. Failure to accommodate a person short of undue hardship is a form of discrimination (for service provision accommodation obligations, refer to the *Accessibility for Ontarians with Disabilities Act*, in the area of employment, refer to the City's [Accommodation Policy](#), [Accommodation Procedures](#) and [Accommodation Guidelines](#))

4.6 Employee: For the purpose of this policy, the term employee includes: City of Toronto employees, job applicants and individuals performing services directly on the City's behalf whether with or without compensation or benefit, excluding individuals providing services by way of service provision/third party contracts – see section 2.3

4.7 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.

4.8 Incident An incident is an event or occurrence in which discriminatory and/or harassing behaviour is exhibited in the workplace. An incident includes situations where an individual knows or ought to have reasonably known that the behaviour is contrary to this policy. An incident may not have to be raised to management directly by a complainant (e.g., a manager is aware of sexualized banter between workers through observation or this information is raised to the manager by a third party but no one has come forward to complain).

4.9 Incivility: is not workplace harassment. It is subtle or overt, deviant behaviour where intent can be ambiguous. It is characterized by rude, discourteous interactions that display a lack of regard for others. Refer to Resolving Conflict: Addressing Incivility and Preventing Workplace Harassment.

4.10 Harassment: Provisions regarding harassment are included in both the *Ontario Human Rights Code*, referred to as "Code-based Harassment", (see 4.11) and the *Occupational Health and Safety Act*, referred to as "Workplace (non-Code) Harassment", (see 4.12). It is a form of discrimination if it is Code-based Harassment. Harassment may result from ~~one~~ a single significant incident or a series of incidents. Harassment can occur between co-workers, between management and employees, between employees and Members of Council, between employees and vendors, between employees and recipients of municipal services, between employees and members of the public, between Members of Council and members of the public, between Members of Council and their staff.

4.11 Code-based Harassment: defined in the *Ontario Human Rights Code* means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome 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 2.0 for a list of the prohibited grounds. See section 4.13 and 4.14 for examples

Examples of Code-based harassment that is based on a prohibited ground include, but are not limited to:

- slurs or derogatory remarks;
- threats;
- inappropriate jokes, innuendos, name-calling, teasing, embarrassing practical jokes;
- insulting gestures;
- displaying pin-ups, pornography, racist, homophobic or other offensive materials;
- use of electronic communications such as the internet and e-mail 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 (refer also to the City's Workplace Violence Policy).

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.

4.12 (Non-Code) Workplace Harassment: is harassment that is not related to a prohibited ground identified in the *Ontario Human Rights Code*. Workplace harassment, defined in the

Occupational Health and Safety Act means 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. It also includes Workplace Sexual Harassment - see section 4.13

Workplace 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 workplace harassment.

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

Examples of workplace harassment include a pattern of:

- frequent angry shouting/yelling or blow-ups
- regular use of profanity and abusive language
- verbal or e-mail threats (not including threats to exercise physical force which are covered by the workplace violence policy)
- intimidating behaviours - slamming doors, throwing objects
- targeting individual(s) in humiliating practical jokes,
- excluding, shunning, impeding work performance
- spreading gossip, rumours, negative blogging, cyber-bullying
- retaliation, bullying, sabotaging
- unsubstantiated criticism, unreasonable demands
- frequent insults and/or name calling
- public humiliation
- communication that is demeaning, insulting, humiliating, mocking
- intent to harm
- a single, serious incident that has a lasting, harmful impact

Workplace harassment does not include:

- legitimate performance/probation management
- appropriate exercise and delegation of managerial authority
- operational directives/direction of workers or the workplace
- other reasonable action(s) taken by management
- 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
- incivility
- conditions in the workplace that generate stress (technological change, impending layoff, a new boss, friction with other employees, workload, etc.)

4.13 Sexual Harassment: Sexual harassment is a form of discrimination based on the prohibited ground of sex under the *Code*. It is also prohibited under the *Occupational Health and Safety Act*. Workplace sexual harassment means engaging in a course of vexatious comment or conduct against a worker in the workplace because of sex/sexual orientation/gender identity/gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome. It also includes 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.

Sexual orientation: Refers to the sex/gender of those to whom one is sexually and romantically attracted. Categories of sexual orientation typically have included attraction to members of one's own sex/gender, attraction to members of another sex/gender, and attraction to people of more than one sex/gender.

Gender Identity: is each person's internal and individual experiences of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender may be the same as or different from their birth-assigned sex.

Gender Expression: is how a person publicly presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common ways of expressing gender.

Examples of harassment related to the ground of sex, sexual orientation, gender expression and/or gender identity include but are not limited to:

- sexually suggestive or obscene remarks or gestures
- use of homophobic or transphobic epithets, slurs or jokes
- insults, comments that ridicule, humiliate or demean people because of their sex, sexual orientation, gender identity or expression.
- behaviour that polices and/or reinforces traditional heterosexual gender norms
- intrusive comments, questions or insults about a person's body, physical characteristics, gender-related medical procedures, clothing, mannerisms or other forms of gender expression.
- negative stereotypical comments about an individual's physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms
- circulation or posting of homophobic, transphobic, sexist, derogatory or offensive signs, caricatures, graffiti, pictures, jokes or cartoons, display of pin-up calendars, objectifying images or other materials
- 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),
- exercising power over another person, making them feel unwelcome or putting them 'in their place' – regardless of whether the behaviour is motivated by sexual interest
- spreading rumours about, "outing", or threatening to "out" someone
- refusing to refer to a person by their self-identified name and personal proper pronoun
- other threats, unwelcome touching, violence and physical assault

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

4.14 Racial Harassment: Racial harassment is harassment on the ground 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, ethnicity or creed

4.15 Mediation: A confidential dispute resolution process, during which a neutral third party assists two or more parties to resolve conflict. It is 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.

4.16 Poisoned Work Environment: A poisoned work environment is a form of indirect *Code* based 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) creating intolerable work conditions, have been found to “poison the work environment” for employees.

4.17 Prohibited (Protected) Grounds: Refers to the list of grounds for which a person or group is protected under the *Ontario Human Rights Code* and *Occupational Health and Safety Act*. See Application section 2.0 for a list of prohibited grounds. Under the *Code*, case law and this policy, there are protections where there is a perception that one of the prohibited grounds applies or where someone is treated differently because of an association or relationship with a person identified by one of the above grounds.

4.18 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.

4.19 Respondent: The person who is alleged to be responsible for the discrimination or harassment. There can be more than one respondent in a human rights complaint.

4.20 Witness: An individual who may be able to provide information about workplace comments/conduct that are alleged to have violated this policy. Witnesses are not entitled to investigation results or complaint details unless the disclosure is necessary for the purpose of investigating allegations.

4.21 Workplace: The workplace includes all locations where business or social activities of the City are conducted. This Policy may apply to incidents that happen away from work (e.g., inappropriate social media posts, phone calls, e-mails or visits to an employee's home, incidents at luncheons, after work socials).

5.0 Harassment and Discrimination Prevention Resources

All staff are expected to be familiar with policy provisions and complaint resolution options. The Human Rights Office has produced a variety of information and instructional training/resources to educate employees about policy expectations.

- Human rights training is mandatory for supervisors/managers/directors and is available to employees and management by accessing ELI course calendar or call 416-392-9091
- Customized in-tact team training for specific issues/workplaces is available through the Human Resources Division, Organizational Development and Learning Unit
- [Sexual Harassment Resources](#)
- [Racial Harassment and Discrimination Resource](#)
- [Preventing Incivility & Workplace Harassment Resource](#)
- confidential Human Rights Enquiry Line 416-392-8383 or email at humanrights@toronto.ca
- [Online Complaint/Incident form](#)

Procedures Human Rights and Anti-Harassment/Discrimination Complaint Procedures

Approved by Toronto City Council

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Amendment
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**Related
Information**

Applicable Legislation:

Ontario Human Rights Code

Occupational Health and Safety Act

Accessibility for Ontarians with Disabilities Act

Related Policies, guidelines and procedures:

Code of Conduct for Members of Council and Members of Local Boards

Toronto Public Service By-Law - Disclosure of Wrongdoing and Reprisal Protection Provisions

Accommodation Policy, Procedures, and Guidelines

Employment Equity Policy

Hate Activity Policy