

Equity, Diversity and Human Rights Policies
Human Rights and Anti-Harassment/Discrimination



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

1.0 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 policy, program, information and instruction regarding workplace harassment.

The City of Toronto, its Agencies, Corporations and citizen advisory committees/bodies are committed to respectful, equitable service delivery and employment practices. 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 condemns harassment, denigration, discriminatory actions and the promotion of hatred. The City of Toronto will not tolerate, ignore, or condone discrimination or harassment and is committed to promoting respectful conduct, tolerance and diversity at all times. 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 ([link](#)) 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.

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.

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
- political affiliation*
- level of literacy*

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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-Discrimination Legislation & 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
- place of origin
- colour
- ethnic origin
- workplace harassment**
- citizenship
- creed
- sex (including pregnancy, breast feeding)
- sexual orientation
- gender identity
- gender expression
- age
- record of offences
- marital status
- family status
- disability
- level of literacy*
- political affiliation*
- 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*.

** The *Occupational Health and Safety Act*, includes provisions regarding workplace harassment.

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3.0 Roles and Responsibilities

Upholding human rights principles and obligations is a shared responsibility

All management staff have the following general responsibilities with respect to human rights:

- modelling respectful behaviour; setting and enforcing standards of appropriate workplace conduct; and remaining alert to incidents of discrimination and harassment that may be occurring in the workplace
- not engaging in behaviour that would constitute discrimination or harassment under the policy
- knowing this policy and complaint resolution options
- posting the Human Rights and Anti-Harassment/Discrimination Policy and Complaint Procedures in the workplace
- educating employees to ensure they know what constitutes harassment and discrimination; that neither will be tolerated; and what their rights and responsibilities under the policy are (refer to Harassment and Discrimination Prevention Educational Resources, section 5.0)
- taking all necessary steps to deal with allegations/incidents of discrimination and harassment in a timely fashion while maintaining as much confidentiality as possible (even if a direct complaint has not been made).
- implementing remedies where there are findings of discrimination or harassment
- reporting all complaints of harassment and/or discrimination addressed by Division staff to the Human Rights Office

3.1 City Manager, Deputy City Managers and Division Heads:

- providing leadership in creating and maintaining discrimination-free, harassment-free, and respectful workplaces
- receiving formal investigation reports and making final decisions (in consultation with the Human Rights Office, Employee & Labour Relations and Legal Services staff as appropriate) about the disposition of a complaint
- communicating final decisions about the disposition of a formal complaint in writing to the parties
- ensuring resource availability and effective implementation of complaint settlements, remedies and corrective actions
- ensuring that staff are held accountable for their responsibilities under the policy and have the appropriate knowledge and skills to meet their obligations

3.2 Directors, Managers and Supervisors:

- ensuring divisional policy and program development and implementation are consistent with the Human Rights and Anti-Harassment Policy
- ensuring that the services they provide are free from barriers and that processes are in place to provide accommodation as required under *the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act*
- administering good faith, appropriate complaint exploration/resolution processes when allegations re policy are raised
- documenting details of concerns, actions taken, outcomes or remedies implemented

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- monitoring situations where discrimination or harassment occurred to ensure the harassment or discrimination has stopped and does not reoccur
- consulting the Human Rights Office where there may be a perceived or real conflict of interest in addressing an alleged breach of this policy, or for assistance with a human rights issue
- keeping the Human Rights Office apprised of outcomes where a complaint has been raised with or referred to division management
- cooperating, in good faith, in investigations
- responding to and taking appropriate action to resolve/remedy complaints of *workplace harassment* – see definition in section 4.9
- addressing employee incivility
- ensuring the signed copy of the *Declaration of Compliance with Anti-Discrimination Legislation & City Policy* and/or its stated intent is included in all City contracts, service agreements, Letters of Understanding, Permits
- facilitating harassment and/or discrimination complaint dispute resolution related to contracted services where appropriate
- addressing service delivery contract breaches related to harassment and/or discrimination in consultation with the City Solicitor

3.3 Human Resources Division:

- removing 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*
- supporting division management in addressing issues of discrimination and harassment and in processing accommodation requests
- providing training for TPS management and employees on the Human Rights and Anti-Harassment/Discrimination Policy, Program and related legislative obligations, and providing the Human Rights Office with information/data on annual divisional participation in human rights training
- consulting the Human Rights Office where there may be a perceived or real conflict of interest in addressing an alleged violation of this policy
- cooperating in investigations
- informing the Human Rights Office of collective agreement grievances about discrimination, harassment and accommodation (Employee and Labour Relations)

3.4 Employees:

- being familiar with their rights and responsibilities under this policy
- ensuring behaviour is respectful related to all employment activities
- not engaging in behaviour that would constitute discrimination or harassment towards members of the public, co-workers, and management
- Immediately reporting incidents of harassment, discrimination, reprisal experienced and/or witnessed - refer to the Human Rights Complaint Procedures for Employees: ([link](#))
- documenting details of harassment and discrimination that are experienced or witnessed
- co-operating in good faith in interventions and investigations to resolve human rights and harassment issues

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- maintaining confidentiality related to human rights investigations

3.6 Human Rights Office:

The Human Rights Office was set up to provide confidential advice and impartially explore allegations of harassment and discrimination for any City employee or recipient of municipal services. Human Rights Office staff do not advocate, act on behalf of, or represent any party in dispute (complainant, respondent, management). All complaints to the Human Rights Office will be dealt with in an unbiased manner.

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

Responsibilities include:

- administering the City's Human Rights Program
- interpreting and implementing this policy
- policy research, development and advocacy
- developing education and communication strategies
- providing independent, unbiased, confidential advice
- assessing the merits of a complaint and determining appropriate complaint investigation and resolution options, including whether concern(s) can be referred to division management to address
- undertaking impartial, independent informal and formal investigations
- providing mediations
- retaining external consultants
- working with Legal Services Division on Ontario Human Rights Tribunal complaints
- submitting an annual report to City Council about statistics and trends in human rights enquiry and complaint activities and other program initiatives including the policy review required under the *Occupational Health and Safety Act*

3.7 Equity Diversity and Human Rights Division:

- promoting compliance with and awareness of the City's equity legislative and policy obligations
- aligning the City's access, equity & diversity initiatives with its Human Rights and Anti-Harassment/Discrimination Policy obligations and services
- building corporate strategies, institutional supports and accountability mechanisms to fulfill the mandate of the Human Rights Office
- supporting the implementation of the decisions/remedies proposed by the Human Rights Office by developing equity, diversity & human rights based structures, capacities, responses within the Toronto Public Service
- providing divisional support to the Human Rights Office enabling it to deliver its services effectively

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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 Discrimination: Discrimination is any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group because of membership in a group protected in the Ontario Human Rights Code (e.g., disability, sex, race, sexual orientation, etc.) or circumstances unrelated to the person's abilities or the employment or service issue in question. 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, it is discrimination.

4.4 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 Employment Accommodation Policy and Guidelines) Links.

4.5 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

4.6 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: Provisions regarding harassment are included in both the *Ontario Human Rights Code*, referred to as "Code Harassment", (see 4.8) and the *Occupational Health and Safety Act*, referred to as "Workplace (non-Code) Harassment", (see 4.9). It is a form of discrimination if it is Code Harassment. Harassment may result from one 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.

4.8 Code 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.

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 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 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.

4.9 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.

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 or managers.

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), intimidation
- 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

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- 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
- 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
- conditions in the workplace that generate stress (technological change, impending layoff, a new boss, friction with other employees, workload, etc.)

4.10 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, ethnic background or creed

4.11 Sexual Harassment: Sexual harassment is harassment on the ground of sex.

This includes:

- a sexual advance or solicitation from anyone if the person knows 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, to engage in a reprisal, or if a threat of reprisal is made if the advance is rejected.
- 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,

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- negative stereotypical comments based on gender, sex or sexual orientation
- gender related comments about an individual's physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms
- exercising power over another person, making them feel unwelcome or putting them 'in their place' – motivated by sexual interest

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 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) have been found to “poison the work environment” for employees.

4.14 Prohibited (Protected) Grounds: The list of grounds for which a person or group is protected under the Ontario Human Rights Code. 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.

4.15 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 who is 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 City are conducted. This Policy may apply to incidents that happen away from work (e.g., inappropriate phone calls, e-mails or visits to an employee's home, incidents at luncheons, after work socials).

**5.0 Harassment
and Discrimination
Prevention
Resources**

The City of Toronto is committed to providing training and education to ensure that all City staff have knowledge about their rights and responsibilities under the Human Rights and Anti-Harassment/Discrimination Policy. A variety of resources to educate employees about policy expectations are available. All staff are expected to be familiar with policy provisions. Resources include:

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- human rights training is mandatory for supervisors/managers/directors and is available for employees and management through the Human Resources Division, Toronto Public Service [course calendar](#) or call 392-9091
- customized training for specific issues/workplaces is available through Human Resources Division, Organization Development and Learning Unit
- Equity Diversity and Human Rights Web page and on-line Complaint Form <http://insideto.toronto.ca/edhr/index.htm>
- Dealing with Complaints of Harassment and Discrimination: [A guide for supervisors and managers.](#)
- confidential Human Rights Enquiry Line 416-392-83

Procedures

[Human Rights and Anti-Harassment/Discrimination Complaint Procedures](#)

Approved by

Toronto City Council

Date Approved

Related Information

Applicable Legislation: (ensure all links are up to date)

[Ontario Human Rights Code](#)

[Occupational Health and Safety Act](#)

[Accessibility for Ontarians with Disabilities Act](#)

Related policies, guidelines and procedures:

[Human Rights and Anti-Harassment Complaint Procedures](#)

[Code of Conduct – complaints by or against a Member of Toronto](#)

[City Council](#)

[Whistle Blower Policy](#)

[Dealing with Complaints of Harassment and Discrimination: A guide for supervisors and managers](#)

[Employment Accommodation Policy and Guidelines](#)

[Employment Equity Policy](#)

[Hate Activity Policy](#)

[Workplace Violence Policy Guidelines and other resources](#)

[Scented Products Guidelines](#)

[Acceptable Use Policy](#)