



REPORT FOR ACTION

Feasibility of Changing the City of Toronto's Policy on Statutory Holidays

Date: August 31, 2020

To: General Government and Licensing Committee

From: Chief People Officer, People & Equity

Wards: All

SUMMARY

This report provides information on recent amendments to the City's policy and collective agreement provisions to provide enhanced flexibility in accommodating requests by employees to observe religious days that are not among the 12 holidays designated by the City. The City negotiated with its bargaining units, CUPE local 79 and TCEU Local 416, to increase the number of float days for all City employees, from two (2) days to three (3) days, for full-time employees, and from one (1) day to two (2) days, for part-time City employees. This enhancement was ratified by the unions and by City Council earlier this year. In addition, City Council approved in July 2020, an amendment to the policy for non-union employees to increase the annual number of paid float days to three days from two days, for full-time employees and from one day to two days for part-time employees.

RECOMMENDATIONS

The Chief People Officer recommends that:

1. The General Government and Licensing Committee receive this report for information.

FINANCIAL IMPACT

There is no financial impact resulting from the adoption of the recommendation in this report.

The Chief Financial Officer & Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact Section.

EQUITY IMPACT STATEMENT

All employees of faith currently have their religious holiday observations recognized equally. The City of Toronto continues to apply an equity approach by providing a variety of options to employees which allows them to observe a religious holiday other than those provided through legislation.

DECISION HISTORY

A deferral of this report was requested at the June 2, 2020 General Government & Licensing Committee meeting until such time as the collective agreements are ratified by the union and approved by Council.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.GL13.9>

Consideration of a report to the General Government & Licensing Committee on June 12, 2019, on the "Feasibility of Changing the City's Policy on Statutory Holidays" was deferred until the conclusion of collective bargaining with CUPE Local 79 and TCEU Local 416, and ratification of the collective agreements.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.GL6.28>

City Council, on March 27, 2019, requested the Executive Director, People, Equity and Human Rights, in consultation with the City Solicitor, to report back to the General Government and Licensing Committee in the second quarter of 2019 on the feasibility of allowing City staff whose religious holidays do not fall on statutory holidays to take their religious holidays off as paid time off work without using sick days, vacation days, or lieu time.

City Council on January 30 and 31, 2019, referred Motion MM2.7 to the General Government and Licensing Committee. [GL2.15 "Request for Report on the Feasibility of Changing the City of Toronto's Policy on Statutory Holidays"](#).

City Council on November 8 and 9, 2016, referred Motion [MM22.6 "Request for Report on the Feasibility of Changing the City of Toronto's Policy on Statutory Holidays"](#) to the Executive Committee.

This item was considered by Executive Committee on December 1, 2016 and was deferred indefinitely.

City Council on October 3, 4, 5, 6, 10, 11, 12, 2000, adopted [Report 19, clause 5 from the Administration Committee](#) recommending the adoption of the Personnel Sub-Committee report from September 12, 2000 on the Harmonization of Compensation Related Policies for Non-Union staff. That report contained the recommendations from the Executive Director of Human Resources on the initial Designated Holidays and Floating Holidays Policy following amalgamation. That policy implemented the clause that non-union employees are eligible for two (2) floating holidays in each calendar year which can be taken at a time that is compatible with the operational requirements of the division in which the employee works.

COMMENTS

Designated Holidays and Floating Holidays

The City of Toronto currently provides the following paid days off to its employees:

- New Year's Day
- Family Day
- Good Friday
- Easter Monday
- Victoria Day
- Canada Day
- Civic Holiday
- Labour Day
- Thanksgiving Day
- Christmas Day
- Boxing Day
- Remembrance Day (when Remembrance Day falls on a weekend)

Of the twelve paid days off, all but Easter Monday, Civic Holiday and Remembrance Day are provincial statutory holidays designated in the *Employment Standards Act*.

In addition to the twelve listed holidays, the City, up until this year, had provided full-time employees with two paid floating holidays annually, and part-time employees with one paid floating holiday annually, which could be taken at any time in the year subject to operational requirements.

These days have been provided in addition to an employee's entitlement to paid vacation and any earned lieu time. In addition, the City has other leave options available to employees who require time off work, with divisional approval. For instance, the City's collective agreements with CUPE Local 79, TCEU Local 416 and CUPE Local 2998 (Association of Community Centres) provide for up to five (5) unpaid personal leave days each year, in addition to other leave provisions that are separate from the floating holidays. The City's agreement with TPFFA Local 3888 has a provision for unpaid voluntary leave at the request of the employee.

Current Practice for Creed Related Time Off

Creed is a protected ground under the *Ontario Human Rights Code*. Creed includes religion as well as non-religious based belief systems. The City has a legal obligation to accommodate an employee's creed. The following excerpt from the City's Guidelines on Accommodation of Creed provides guidance with respect to creed related requests for time off.

Time Off for Creed-Based Days of Significance

Individuals may request time off to observe creed-based days of significance. Time-off requests may be accommodated by allowing the use of floating holidays, lieu time, applicable leaves, or other scheduling options. Vacation days should be used only as a last resort. There is no requirement to pay individuals for time not worked. Individuals who observe creed-based days of significance should make the request for time-off as early as possible. Management can take proactive steps to manage and anticipate creed-based requests for time-off, for example by developing and referring staff to a calendar or resources that sets out common creed-based holy days/observances, however such lists should not be viewed as exhaustive/definitive. The HRO [the Human Rights Office] has resources such as the Multifaith information manual that can assist management in assessing accommodation requests.

The City is committed to ensuring a diverse and inclusive workplace and routinely accommodates creed related requests for time off. As indicated, employees whose religious holidays do not coincide with the holidays provided by the City may use floating holidays, lieu time, vacation days, or unpaid days to take the required days off.

The City's practice of providing designated holidays and floating holidays is common in both the public and private sector in Ontario. The number of paid floating holidays offered by employers typically range from one to three.

In 2008, the Human Rights Tribunal of Ontario in the *Markovic v. Autocom Manufacturing Ltd.* case held that there is no automatic right to two days of paid leave to reflect the days off for Christmas and Good Friday. Rather, the Tribunal endorsed individualized accommodation through flexible scheduling or the "menu of options" approach as an appropriate response to requests for religious observance leave. In essence the Tribunal found that the accommodation of religious observance will not require in all cases that employees be provided paid days off. Rather, the Tribunal found that by providing a process for employees to arrange for time off through options for scheduling changes, without loss of pay, an employer can satisfy its duty to accommodate. It is only where scheduling changes would create undue hardship that employers will be required to annually grant employees a minimum of two days of paid leave for religious observances. The City currently provides 2 or 3 floating holidays to its employees. The City's current practice is consistent with the "menu of options" approach endorsed by the Human Rights Tribunal of Ontario.

Following the City's comparative analysis, and as part of the City's efforts to support its diverse workforce and ensure an equitable and inclusive environment for religious and non-religious creed beliefs practiced by employees, the City negotiated with its bargaining units, CUPE Local 79 and TCEU Local 416, to increase the number of float days for all City employees, from two (2) days to three days (3), for full-time employees, and from one (1) day to two (2) days, for part-time City employees.

This enhancement was ratified by the unions and by City Council in March and June, 2020. In addition, City Council, at its meeting on July 28, 2020, approved an amendment to the policy for non-union employees to increase the annual number of paid float days from two days to three days, for full-time employees and from one day to two days for part-time employees.

The additional float day is available to all employees regardless of their religion or lack thereof. This enhancement in paid float days took effect as of each of the Council ratification dates.

CONCLUSION

The City's current practice and policy are in compliance with the City's legal obligations and are consistent with the City's goals of supporting its diverse workforce and ensuring an equitable and inclusive environment for religious and non-religious creed beliefs practiced by employees.

CONTACT

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SIGNATURE

(original signed)

Omo Akintan
Chief People Officer