



CITY OF VANCOUVER CORPORATE POLICY

APPENDIX B

SUBJECT: Human Rights and Harassment Policy	
CATEGORY: Employment	POLICY NUMBER: AE-002-05

PURPOSE

The City of Vancouver is committed to providing a work environment in which all individuals are treated with mutual respect and dignity.

The City also recognizes that employees have the right to work in an environment that is free from harassment as prohibited by the BC Human Rights Code.

This Policy sets out guidelines for the reporting, investigating and resolving of Complaints of harassment in an effort to ensure a respectful workplace for everyone.

SCOPE

This policy applies to all City employees.

This Policy applies to the workplace itself, and to work-related events. It includes harassment involving City employees that happens away from the workplace or after regular working hours, where the harassment has a negative impact on the workplace.

Harassment of employees by volunteers, members of the public, contractors, Council Officials, advisory body members, and those doing business with the City is also prohibited, and is covered by related City policies and procedures.

DEFINITIONS

Harassment is a form of discrimination, and is prohibited by the BC Human Rights Code. It is defined as behaviour that a reasonable person would find unwelcome, has a negative impact on the workplace, and is related to any of the characteristics which are listed as prohibited grounds of discrimination in the BC Human Rights Code, namely:

- Age
- Ancestry
- Colour
- Criminal or summary conviction offence that is unrelated to employment
- Family Status
- Marital Status
- Physical or Mental Disability
- Place of Origin
- Political belief
- Race
- Religion
- Sex
- Sexual Orientation

(the "Prohibited Grounds").

Harassment can, depending on the seriousness of the behaviour, consist of a single incident or a number of incidents. It can be directed at one person, or it can involve a number of individuals.

Behaviour does not need to be intentional in order to be considered harassment, although intention may be relevant in assessing the severity of the behaviour. Some examples of harassment include, but are not limited to:

- Unwelcome, offensive remarks, jokes slurs, or innuendo related to any of the Prohibited Grounds;
- Unwelcome, offensive behaviour related to gender identity, gender expression or perceptions of sexual orientation or gender;
- Displaying or distributing derogatory or offensive pictures, graffiti or other materials related to any of the Prohibited Grounds, including but not limited to racist, sexist, or homophobic materials;
- Refusing to interact or communicate with persons because of any of the Prohibited Grounds;
- Unwelcome, offensive communications related to a Prohibited Ground sent by any means, including email or other electronic transmission;
- Unwelcome, offensive behaviour related to a Prohibited Ground, where tolerance of the behaviour is explicitly or implicitly made a term of employment or a consideration in job-related decisions;
- Unwelcome, offensive behaviour related to a Prohibited Ground that creates an intimidating, hostile, offensive or poisoned workplace environment;
- Unwelcome, offensive comments that are sexual in nature;
- Unwelcome, physical contact, such as touching, patting or pinching.

Harassment under this Policy does not include conduct that a reasonable person would find welcome or neutral. This Policy is not intended to curtail welcome, appropriate workplace interaction. Some examples of conduct that is not harassment include, but are not limited to:

- Welcome, mutually consensual relationships or social invitations that do not involve inappropriate or offensive behaviours, intimidation, explicit or implicit threat of retaliation, or misuse of power;
- The exercise of the City's right to direct the workforce, including supervising, managing and giving appropriate and legitimate performance feedback, coaching, and discipline;
- Bona fide occupational requirements established by the City as contemplated in section 13 subsections 3 and 4 of the BC Human Rights Code.

POLICY STATEMENTS

1 General

City employees shall not be subjected to, and shall not subject another individual to, harassment as it is defined in this policy.

2 Roles and Responsibilities

2.1 The City of Vancouver

The City has the primary responsibility to establish and maintain a work environment free of harassment as defined in this Policy.

2.2 The Equal Employment Opportunity Program (“EEO”)

EEO is mandated by Council to oversee the City’s Human Rights and Harassment Policy, and provides:

- Informal and formal processes to address concerns of harassment;
- An accessible, impartial resource for all staff;
- Education and support to all staff, including employees, supervisors, and managers, on preventing and addressing harassment.

2.3 Supervisory Staff and Managers

Supervisors, Managers and Department Heads have an essential role in preventing and resolving harassment issues. Their primary responsibilities with respect to harassment are to:

- ensure staff is provided with information about and access to policies and procedures related to harassment;
- model appropriate behaviour;
- monitor the workplace for incidents of harassment; and
- intervene promptly and appropriately when they know, or ought reasonably to know, that harassment is occurring.

2.4 Employees

All employees have a responsibility to refrain from harassment as defined in this Policy.

3 Harassment Complaint Procedures

3.1 General

The City’s procedures for addressing harassment Complaints are designed to be flexible, timely and accessible. The City provides both an informal and formal process to resolve harassment Complaints.

An individual who believes he or she is being harassed (the “Complainant”) may consult an EEO Advisor, who can assess whether the Complaint falls under this Policy and discuss possible courses of action

Concerns about harassment should be raised as soon as reasonably possible. The time limit for filing a Complaint under this Policy is 6 (six) months from the time of the last alleged incident of discrimination or harassment. Exceptions may be made in extenuating circumstances.

Some of the options available may include:

- the Complainant discussing her or his concerns directly with those involved;

- having an appropriate party assist the Complainant in discussing concerns with those involved. An appropriate party could include a supervisor, manager, department head, human resource consultant, EEO advisor or union representative;
- initiating an “informal” or “formal” resolution process through EEO as outlined below.

EEO may suggest interim measures to be taken during either the informal or formal processes.

3.2 Informal Complaint Resolution

The City strives to provide a wide range of options to resolve Complaints. Informal Complaint resolution may include, but is not limited to: mediation, behavioural guidelines or agreements, apologies or other measures agreed to between the parties and the City Manager or her/his delegate.

3.3 Formal Complaint Resolution

If a Complaint is not resolved informally, or if an individual who believes he or she is experiencing harassment chooses, he or she may make a formal Complaint through EEO. Formal Complaints shall be made in writing to management or EEO. EEO will ensure that assistance in completing a written Complaint is provided, as required.

Formal Complaint investigations are conducted by EEO staff. A formal Complaint investigation is an impartial, fact-finding process. The investigators do not advocate on behalf of, or represent, any party involved in a Complaint.

Formal Complaint investigations cannot be carried out anonymously. The identity of the Complainant and the allegations contained in the Complaint shall be made known to the individual(s) alleged to have engaged in harassment (the “Respondent”). The Respondent shall be provided a full and fair opportunity to respond to the allegations contained in the Complaint. Likewise, the Complainant shall be provided with the response and shall have an opportunity to reply.

At any time during the course of the investigation, the matter may be resolved, so long as the resolution is agreed to by each of the parties and the City Manager or her/his delegate.

Once the formal Complaint investigation is complete, the Complainant, Respondent and the City Manager or her/his delegate shall be notified of the findings of the investigation.

3.4 Other Remedies

None of the procedures described in this Policy prevent a person from pursuing other remedies, such as pursuing a grievance, where applicable, or filing a Complaint with the BC Human Rights Tribunal.

The investigation procedures outlined under this Policy may be suspended at the discretion of EEO until any other remedial processes have been concluded.

3.5 False or Malicious Complaints

If a Complaint is found to be false or brought for malicious purposes, the City may take disciplinary measures against the Complainant, up to and including termination of employment. However, a Complaint that is found to be unsubstantiated or based on mistake may not be considered false or malicious.

4 Retaliation

4.1 General

Retaliation also constitutes a form of discrimination under this Policy, and may form the basis of a separate Complaint.

4.2 Forms of Retaliation

Any form of retaliation or discrimination against an employee because that person initiated a Complaint of harassment, or because that person acted as a witness or otherwise participated in an investigation, may be considered a violation of this Policy. Such action may result in discipline up to and including termination of employment.

4.3 Reporting Retaliation

If an employee believes that he or she has been subjected to retaliation as set out above, that person may report it as outlined under Section 3 of this Policy.

5 Consequences of Harassment

Engaging in harassment or retaliation is serious misconduct and may result in disciplinary action up to and including termination of employment.

It is understood that unionized employees may grieve any disciplinary action under the applicable collective agreement.

6 Confidentiality and Document Retention

Information collected and retained by EEO during the course of an informal or formal harassment resolution process is treated as confidential. During the investigation process, EEO shall limit disclosure of Complaint-related information to that which is necessary to resolve the Complaint.

If, after investigation, a Complaint is not established, no documentation of the Complaint shall be placed on either of the parties' personnel files. However, documentation of the investigation shall be kept in a confidential file separate from the employee's personnel file and maintained by EEO in order to evidence the City's

proper investigation of formal Complaints of harassment. Documentation which outlines disciplinary action arising from an investigation shall be placed on an employee's personnel file.

Confidentiality extends to all records relating to Complaints, including but not limited to meetings, interviews and investigation results. Individuals making a Complaint, witnesses and individuals against whom a Complaint has been made are expected to maintain confidentiality. Personal information, including the identities of the Complainant(s) and Respondent(s), shall be protected in accordance with the Freedom of Information and Protection of Privacy Act.

Information collected and retained by EEO may be required to be released by law including release required in court proceedings, arbitration or other legal proceedings.

7 Collective Agreements and Legislation

In the event that any portion of this Policy is inconsistent with a binding City collective agreement or federal or provincial legislation, that portion and only that portion of the Policy shall have no application to the extent of that inconsistency. All other portions of the Policy shall continue in full force and effect.

RELATED POLICIES

AE - 028 - 01	Code of Conduct
AE - 028 - 02	Whistleblower Policy
AE - 002 - 06	Respectful Workplace Policy

APPROVAL HISTORY

Issued by:	Approved by:	Date:
City Manager's Office	Council	2009/11/03
City Manager's Office	Council	2011/03/01

Human Rights and Harassment Policy Guideline

The Human Rights and Harassment Policy was passed by Council in 2011.

In November 2013, WorkSafe BC (WSBC) introduced new policies on the prevention of bullying and harassment that are associated with section 115 (1) (a) of the Workers' Compensation Act that ensures the health and safety of workers. These policies have specific requirements which, in certain situations, are not in alignment with the policy framework established in 2011.

In order to meet its obligations and ensure compliance with the law, the City has issued an interpretive guideline. This guideline operates according to two fundamental assumptions:

1. The existing policy as established by Council remains in effect except as clarified by this Guideline.
2. Clarifications under this Guideline are noted in italics below, and are adopted for the purpose of compliance with the law.

Clarification under the Guideline

Purpose

The policy maintains the City's commitment to, and expectation of, a respectful, harassment free workplace.

Additionally this Guideline clarifies that harassing behaviour, which includes bullying and harassment, is not accepted or tolerated in the workplace.

Scope

The policy continues to apply to all employees.

This guideline clarifies that harassing behaviour by volunteers, members of the public, contractors, Council Officials, advisory body members, and those doing business with the City is also not tolerated.

Where such behaviour does NOT impact employees, it is covered and may be addressed by related City policies as listed under the "Related Policies" section. Where such behaviour DOES impact employees, it falls under the scope of this Policy.

Definitions

This guideline clarifies that harassment is deemed to include bullying and harassment as defined by WorkSafe BC: Bullying and harassment includes:

"any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment".*

And, further:

**A person includes any individual, whether or not they are a workplace party. This means that a 'person' could be a workplace party such as an employer, supervisor, or co-worker, or a non-workplace party such as a member of the public, a client, or anyone a worker comes into contact with at the workplace.*

Roles and Responsibilities

The existing roles and responsibilities of the Policy are maintained.

This Guideline clarifies that:

1. *the Employer and all City employees, including supervisory staff and managers:*
 - a) *must apply and comply with the City's policies and procedures related to expectations of workplace conduct, such as the Human Rights and Harassment Policy.*
 - b) *must not engage in bullying and harassing behaviour of other employees, supervisory staff and managers, the employer or persons acting on behalf of the employer.*
 - c) *must report incidents of bullying and harassing behaviour either observed or experienced in the workplace as soon as possible. Incidents must be reported in writing to:*
 - i. *Manager or Supervisor, or*
 - ii. *Human Resources Consultant, or*
 - iii. *Equal Employment Opportunity Program (phone calls will be accepted in lieu of a written report), or**If the person exhibiting the alleged bullying and harassing behaviour is the supervisor or person acting on behalf of the employer, employees have the option to report the incident to the General Manager, Human Resources or the Director of the Equal Employment Opportunity Program.*
2. *A written complaint that is received and falls within the scope of this policy will be investigated by Human Resources or their designate. If the complaint:*
 - a) *relates directly to bullying and harassment based wholly or in part on a prohibited ground as identified in the BC Human Rights Code, the complaint will be investigated under the City's Human Rights and Harassment Policy (AE- 002-05).*
 - b) *relates directly to bullying and harassment which is not wholly or in part based on a prohibited ground as identified in the BC Human Rights Code, the complaint will be redirected for investigation under the City's Respectful Workplace Policy (AE - 002-06).*
3. *Council Officials and Park Board Commissioners (elected employees) must report incidents of bullying and harassment according to Section 8 of the Code of Conduct Policy.*