

# **Creating a Respectful Workplace**

## **Human Rights and Anti-Discrimination/Harassment**

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# **Guide and Procedure**

Office of the Chief Human Resources Officer  
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# RESPECTFUL WORKPLACE GUIDE & PROCEDURE

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## Policy Statement

The City of Vaughan is committed to ensuring a respectful work environment, free from harassment and discrimination. The City will not tolerate or condone discrimination or harassment. All employees are responsible for respecting the dignity and human rights of others and the well-being of the community we serve.

The principles which guide the City in promoting a respectful workplace are as follows:

1. The City recognizes that the most effective way to deal with harassment and discrimination is through action, including education, awareness and, if required, investigation.
2. The City will promote a diverse, equal and inclusive work environment.
3. The City will take all reasonable steps to provide a healthy and safe workplace, free from any form of discrimination or harassment.
4. The City is committed to a work environment that respects the dignity, self-worth and human rights of every person and provides opportunities for each person to contribute to the City.
5. Employees and others must report harassment or discrimination to their supervisor, management or Human Resources. If the complaint involves a Member of Council, it should be directed to the Integrity Commissioner.
6. Retaliation against an individual for filing a complaint, participating in any investigation or otherwise exercising their rights will not be tolerated.
7. Employees who engage in harassment and/or discrimination will be subject to corrective action and may be disciplined up to and including termination of employment for cause.

## Guide and Procedure

This Guide and Procedure sets out steps to address an incident or complaint of harassment or discrimination. This Guide and Procedure must be read in conjunction with the [Respectful Workplace Policy \(Human Right and Anti-Discrimination/Harassment\)](#) (the “Policy”).

This Guide and Procedure applies to all Employees (permanent, full-time, part-time, contract, seasonal, temporary), students, interns, volunteers, Members of Council, appointees, citizen members of committees and contractors.

## Legislative Requirements

This Guide and Procedure sets out how the City will address a complaint or incident of discrimination or harassment in order to comply with the Ontario *Human Rights Code* and the *Occupational Health & Safety Act*. Under the [Ontario Human Rights Code](#), every person has a right to equal treatment in with respect to employment. Under the [Occupational Health and Safety Act](#), all employers are required to have a workplace harassment policy and program, as well as to conduct an investigation appropriate in the circumstances into a complaint of workplace harassment.

## What is Discrimination or Harassment?

For a full list of definitions, please see the [Respectful Workplace Policy \(Human Rights and Anti-Discrimination/Harassment\)](#).

1. **Code-based Harassment:** 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 set out in the Code.

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 obligation for an individual to tell another individual(s) to stop behaviour that they reasonably ought to have known is unwelcome. 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.

## Examples of Race-based 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

**2. Discrimination:** is any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group based on a protected ground in the Code by excluding, denying benefits or imposing burdens upon them. Discrimination may arise as a result of differential treatment or it may result from treating a group of people in the same way that results in unequal treatment. Either way, if the effect on the individual is to withhold or limit equal and meaningful access to goods, services, employment, or contracts available to other members of society and the differential treatment is based on a prohibited ground, it is discrimination.

**3. Harassment or non-Code-based Harassment:** is engaging in a pattern or a course of vexatious comment or conduct directed toward an individual or group, that is known or ought reasonably to be known to be unwelcome. Harassment includes sexual harassment as defined below.

Harassment also includes creating or contributing to a poisoned work environment as defined below. Harassment includes offensive comments or jokes; intimidation, threats, bullying or aggressive behaviour; inappropriate staring; or conduct such as isolation or avoidance because of a person's race, sex, disability, gender identity or other prohibited ground. Single acts of sufficient severity may constitute harassment. Provisions regarding harassment are included in both the Code, referred to as "Code-based Harassment," and OHSA, referred to as non-Code based Harassment.

## Examples of Workplace Harassment or Non-Code-based Harassment

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.

Constructive feedback regarding performance or operational directives provided to employees by their supervisors, managers or directors is not considered harassment.

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 is not:**

- 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. **Poisoned Work Environment:** A City work environment that has become hostile or unwelcoming because of harassment and/or discrimination. It occurs when comments or actions ridicule or demean a person or group creating inequalities or exclude persons based on a prohibited ground 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) have been found to “poison the work environment” for employees.

5. **Prohibited Grounds:** For behaviour to be considered discrimination or harassment under the Code, the comment or conduct must be directed toward one of these aspects of a person’s background:

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

6. **Sexual Harassment:** is a form of discrimination based on the prohibited ground of sex under the Code and form of harassment under OHSA. Engaging in a course of vexatious comment or conduct against an employee in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or 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 employee where the person making the solicitation or the advance knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual relationships between a person in a position of power and a subordinate employee may also be considered sexual harassment or a poisoned work environment when the person in power can confer, grant or deny benefits or advancement, or otherwise influence the subordinate employee’s employment. For example, a Director should not have a sexual relationship with a direct report as the power imbalance may influence the direct report’s ability to freely consent.

If you are in an office romantic or sexual relationship where one employee is in a position of power over the other, you must disclose the relationship to the Chief Human Resources Officer. Depending on the circumstances, an employee may be removed or may need to report to another People Leader, at the discretion of the City.

### Examples of Sexual Harassment

**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

## What is the considered a Workplace?

For the City’s obligations under the Policy to apply, the discrimination or harassment must occur at a City workplace. The workplace includes all locations where business or other activities of the City are conducted. The Policy and this Guide and Procedure 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) that impact the workplace.

## Complaint Process

### Informal Resolution

The City is obligated to investigate harassment and discrimination under the Code and/or OHSA. Alternative resolution processes such as mediation or facilitation may be undertaken with the consent of the parties to the complaint and with the agreement of the City. The early resolution of concerns, in some cases, can preserve or repair workplace relationships and improve the work environment for all affected employees.

### Complaint and Investigation

#### Step 1 – Filing of Complaint:

A written complaint must be submitted to the employee's supervisor or manager. If the supervisor or manager is involved in the harassment or discrimination, the employee should report it to their respective Deputy City Manager or Human Resources. An employee with a complaint about a Deputy City Manager should direct their complaint to the City Manager with a copy to the Chief Human Resources Officer.

A complaint about the City Manager should be directed to the Mayor's office with a copy to the Chief Human Resources Officer.

Employees are encouraged to use the attached Complaint Form ([see Appendix A](#)). A complaint must include the following information:

- Name and department/location of the complainant
- Name and department/location of the respondent(s)
- When the incident(s) happened including date and location.
- A description of the complaint, detailing the circumstances surrounding the incident(s)
- Names of any potential witnesses to the incident(s) in the complaint.
- A list of documents that may be relevant to the complaint (including emails, etc...)
- Desired outcome, if appropriate

### Anonymous Complaints

The City recognizes that it is difficult to come forward with allegations of discrimination or harassment. The City must ensure complaints and investigations are handled fairly and kept confidential. Anonymous complaints may not allow for the City to respond or to investigate. The Respectful Workplace Coordinator needs to know who the complainant is, how to contact them and obtain details of the complaint. If there is a real risk that the employee may be harmed by disclosing their name and filing a complaint, contact Human Resources to assess what steps may be taken to protect against any harm, reprisal or retaliation. If you feel that you are at risk of immediate harm, please contact the police.

## Step 2 – Initial Determination:

After receiving the complaint, the supervisor, manager or the person who has received the complaint shall forward it to the Chief Human Resources Officer who will designate a Respectful Workplace Policy Coordinator. If there is a conflict of interest for Human Resources, the City shall designate a RWP Coordinator who has knowledge of the Policy and this Procedure and is able to fairly review the complaint.

The RWP Coordinator shall acknowledge receipt of the complaint in writing and advise whether the complaint is properly filed under the Policy. Should the RWP Coordinator determine the complaint will not proceed, the complainant may be provided with the reason(s) as to why the decision was made.

## Step 3 – Respondent Advised of Complaint:

If it has been determined that the complaint will proceed, the respondent will be advised in writing of the complaint and will be provided with a copy of the allegations requiring a response under the Policy. The respondent will also be informed of the importance of confidentiality.

## Step 4 – Response:

The respondent will have an opportunity to fully respond to the allegations. The Respectful Workplace Policy Coordinator will provide the respondent with a copy of the Policy and this Guide and Procedure. Depending on the circumstances and at the discretion of the RWP Coordinator, the respondent may be asked to complete Respondent's Response Form (see [Appendix B](#)).

## Step 5 – Resolution Meetings:

The RWP Coordinator may meet separately with the complainant and the respondent to clarify any details and collect documents. The RWP Coordinator may take this opportunity to offer alternative resolution process such as mediation or facilitation.

## Step 6 – Investigation:

If after Step 5 the complaint has not been resolved, an incident or complaint will be investigated in a manner appropriate in the circumstances. This may include an internal investigation conducted by Human Resources, or the use of an external investigator. The person who investigates should not be involved in the incident and should not be under the direct control of the respondent.

The investigator should take the following steps as deemed appropriate in the circumstances:

1. Review the allegations and any written submissions
2. Conduct interview(s) of the complainant, the respondent(s), and relevant witnesses.

3. Remind the complainant, respondent, and witnesses of the importance of confidentiality.
4. Give the respondent(s) a full opportunity to respond to the allegations. In some cases, the complainant may need to reply to allegations raised by the respondent or witness(es).
5. If the respondent or witness is not a City employee, the investigator should make reasonable efforts to interview the respondent or witness.
6. Collect and review documents.
7. Make findings and document the investigation.

### Timing of the Investigation

The City recognizes that an investigation may be stressful for those involved. The length of time it takes to complete an investigation will depend on the nature of the circumstances and complexity of the investigation. Some investigations may only take a few weeks. The investigation should be completed within 90 days unless there are extenuating circumstances (i.e. illness or absence, complex investigation involving multiple parties or witnesses). The RWP Coordinator shall provide the complainant and the respondent with regular updates of the investigation status.

### Interim Measures during the Investigation

During the investigation, the City may take interim measures such as temporarily reassigning or placing an employee on a paid leave if it is necessary to ensure a fair investigation or accommodate an employee.

If a party to the investigation is on a leave and depending on the circumstances, the City may continue an investigation into the complaint.

### External Independent Investigation

Human Resources with the approval of the Chief Human Resources Officer will determine if an independent investigator is required to conduct an appropriate investigation. An independent investigator is someone not employed by the City who is qualified to conduct an investigation appropriate in the circumstances and free from any conflict of interest.

An independent investigator may be retained by Human Resources depending on the extent of the allegations, the complexity of the investigation or when additional resources are needed.

If a complaint or incident involves the City Manager or Member of Council, the City shall engage an independent investigator qualified to conduct an investigation under the Policy.

### Privileged Investigation

When a complaint is made known to the City and there is anticipated legal proceedings including a civil or WSIB claim or Human Rights Application, the City Solicitor or their designated Legal Counsel shall be notified of the complaint and any investigation may be considered privileged. The City's Human Resources will engage designated Legal Counsel who shall provide direction accordingly.

## Step 7 – Investigation Report:

The investigator shall submit a written summary report of the findings and analysis of the investigation to the RWP Coordinator and Legal Counsel (if applicable). A full investigation report may be requested by the RWP Coordinator.

The RWP Coordinator will review a draft of any findings or investigation report to ensure that it meets the necessary standards of fairness, thoroughness, and complies with the Policy and Procedure. After receiving the report, the RWP Coordinator shall meet with the complainant and the respondent separately to review the written summary of the investigator's findings.

Due to the confidential nature of these matters and to ensure protection of individuals' privacy, the RWP Coordinator and Human Resources will only disclose the findings of the investigation to the parties to the complaint or otherwise required by law.

## Step 8 – Appeal:

If either the complainant or respondent disagrees with the findings of the investigation, they may file a written appeal outlining their concerns and reasons within ten (10) business days to the City Manager. The City Manager may designate an appropriate person to review the appeal. The City Manager or their designate may ask to meet with the complainant or respondent to obtain further details.

The City Manager or their designate will review the report and any appeal submissions provided, as well as consult with others for advice if they deem it necessary. The City Manager or their designate will inform the parties whether the City will confirm the findings of investigation or take any further steps within ten (10) business days of receiving the appeal.

## Withdrawal of a Complaint

A complainant has the right to withdraw a complaint at any stage. However, the City may continue to act on the issue identified in the complaint in order to comply with its legal obligations. A complaint may still be investigated, and the City may take steps to address any issues.

## Remedial and Corrective Action

Corrective action is intended to prevent a reoccurrence of harassment or discrimination and restore a safe and health workplace free from discrimination or harassment. Corrective action may be in the form of a workplace restorative process, coaching, training, written warning, suspension or termination. Any Employee who is found to have engaged in discrimination or harassment or otherwise violated the Policy will be subject to corrective action that may include discipline up to and including termination of employment for cause. A complaint which is found to be made in bad faith may result in disciplinary action.

A workplace restorative process may be offered or considered as an outcome as a form of corrective action. This process requires the consent of the complainant and the respondent and

the agreement of the City. It is non-disciplinary. It may not be suitable for all incident(s) of discrimination or harassment.

Other corrective action or discipline will be decided by the Director, Deputy City Manager or City Manager, as appropriate, in consultation with Human Resources. Any corrective action taken or that will be taken by the City to address a complaint will be provided in writing to the complainant. The nature of any discipline or discipline letter will not be provided to the complainant.

## Confidentiality

The City understands it may be difficult to bring forward or respond to a complaint of discrimination or harassment. Information about complaints shall be kept confidential. Information obtained about an incident or complaint of discrimination or harassment including identifying information about any individuals involved will not be disclosed unless disclosure is necessary to protect employees, investigate the complaint, take corrective or disciplinary action, obtain legal advice or otherwise required by law. Complaints and documentation related to investigations under the Policy shall be filed in one centralized HR location, separate from any personnel files to ensure confidentiality.

## Time Limits

A complaint of discrimination or harassment must be initiated within one (1) year of an incident or series of incidents occurring. The City may decline to investigate an incident(s) that occurred more than one year before the complaint was received by the City.

## Union or Legal Representation

During any stage of the Procedure, an employee may seek advice from the Human Rights Legal Support Centre, union representative or legal counsel. The complainant or respondent may have their union representative, legal counsel or a support person present at an investigation meeting so long as the person does not interfere with the investigation in any way. The City does not pay for legal counsel.

## No Reprisal or Retaliation

The City will not condone retaliation or reprisal against Employees who in good faith report or complain about harassment, discrimination or other violation of this Policy.

Retaliation or reprisal against someone who is a witness or is involved in an investigation is prohibited and will result in discipline up to and including termination for cause against the person found to have retaliated.

## Vexatious Complaints or Bad Faith

The City encourages its employees to bring forward complaints of discrimination or harassment without fear of reprisal. While not all complaints may be substantiated or



result in a determination that the Policy has been violated, employees will not face discipline for filing a complaint in good faith.

However, complaint(s) which are vexatious in nature or made in bad faith may result in discipline.

### **Policy & Procedure Review**

The City shall review the Respectful Workplace Policy (Human Rights and Anti-Discrimination/Harassment), along with this Guide and Procedure at least once per year.

## Appendix A - Complaint Form

Complainant (your name):

\_\_\_\_\_

Department/Location of Complainant:

\_\_\_\_\_

Respondent(s) full name:

\_\_\_\_\_

Department/Location of Respondent:

\_\_\_\_\_

Date of Incident(s): \_\_\_\_\_

Location of Incident: \_\_\_\_\_

Witness names (if any) :

\_\_\_\_\_

Description of Complaint: (detail what happened and when-  
attach additional pages if needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you have documents that may be relevant to your complaint? No \_\_\_\_\_ Yes \_\_\_\_\_

If yes, please attach the documents to this form.

Did you keep notes of the conduct as it went on? No \_\_\_\_\_ Yes \_\_\_\_\_

If yes, please attach your notes to this form.

Proposed Outcome: \_\_\_\_\_

Signature \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix B - Respondent Form

**ATTACHED IS A COPY OF THE COMPLAINT OR A SUMMARY OF THE ALLEGATIONS. THESE DOCUMENTS ARE CONFIDENTIAL IN ACCORDANCE WITH THE RESPECTFUL WORKPLACE POLICY (HUMAN RIGHTS AND ANTI-DISCRIMINATION/HARASSMENT) & THE CREATING A RESPECTFUL WORKPLACE GUIDE AND PROCEDURE.**

Respondent (your name): \_\_\_\_\_

Department/Location of Respondent:

\_\_\_\_\_

Complainant(s) full name:

\_\_\_\_\_

Department/Location of Complainant:

\_\_\_\_\_

Witness names (if any) :

\_\_\_\_\_

Response to the Complaint: (detail what happened and when-  
attach additional pages if needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you have documents that may be relevant? No \_\_\_\_\_ Yes \_\_\_\_\_

If yes, please attach the documents to this form.

Did you keep notes? No \_\_\_\_\_ Yes \_\_\_\_\_

If yes, please attach your notes to this form.

Proposed Outcome: \_\_\_\_\_

Signature \_\_\_\_\_

Date: \_\_\_\_\_