

THE CORPORATION OF THE CITY OF WINDSOR POLICY

		Policy No.:	HRHSPRO-00025(a)
Department:	Human Resources	Approval Date:	June 7, 2010
Division:	Occupational Health & Safety Services	Approved By:	City Council
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Subject:	Workplace Harassment Policy	Procedure Ref.:	
		Pages:	Replaces: Workplace Violence and Harassment Policy
			Date: December 5, 2005

1. **POLICY**

1.1 The Corporation of the City of Windsor maintains a zero-tolerance approach to Workplace Harassment whether between employees, involving an employee, an official (elected or appointed) or a customer of the Corporation in the exercise of workplace responsibilities. All reported incidents of workplace harassment and incidents of workplace harassment the Corporation becomes aware of, shall be reviewed and appropriate action shall be taken.

2. **PURPOSE**

2.1 The City of Windsor provides a workplace for employees that is free from harassment by:

- ▶ Having a written policy regarding workplace harassment in which all employees have a duty to report workplace harassment and a right to be safe from workplace harassment.
- ▶ Providing training and information regarding the Respectful Workplace Program and the Workplace Harassment Policy to all employees.
- ▶ Establishing measures to prevent harassment in the workplace.
- ▶ Undertaking investigations of alleged incidents where applicable
- ▶ Holding those within the scope of this policy accountable for inappropriate behaviour accountable.
- ▶ Providing assistance and support to any employee who is involved in incidents of harassment including alleged respondents and complainants.

2.2 Properly Discharged Supervision

Properly discharged supervisory responsibilities by managers and supervisors do not constitute harassment. Performance appraisals, counselling, discipline and the proper enforcement of high standards, provided that such standards are not arbitrary and are applied in a consistent and fair manner, are not contrary to this policy.

3. SCOPE

3.1 Policy Application

This policy applies to all employees of the Corporation and officials (elected or appointed), inclusive of paid, unpaid and/or volunteer status.

3.2 Right to Respond to Any Incident of Workplace Harassment

The Workplace Harassment Policy is both a complaint and incident driven policy meaning that nothing in this policy shall be deemed to limit the right or obligation of the Corporation to respond to an incident of workplace harassment of which the Corporation is aware whether or not any employee has made a complaint.

3.3 Right to Discipline

Nothing in this policy shall be deemed to limit or in any other way affect the right of the Corporation to discipline employees for insubordination or other breaches of the Standards of Employee Department or the appropriate Collective Agreement whether or not the action was accompanied by an act of harassment.

4. RESPONSIBILITY

Responsibility, Authority & Accountability

The Occupational Health and Safety Act imposes a duty on all employers' to take every precaution to ensure the health and safety of employees. As such, there is a duty to report any circumstances, which might affect the health and safety of employees.

The Occupational Health and Safety Act prescribe the requirements with regards to the employer's duty to protect the health and safety of workers in the workplace as outlined in Part III.0.1 "Violence and Harassment".

In order to comply with these duties as identified in the Occupational Health and Safety Act, the following responsibilities are determined to apply specifically for the protection of City of Windsor staff members from potential exposure to workplace harassment.

4.1 Responsibilities of City Council

City Council shall ensure adequate human and financial resources are made available to Senior Management to meet the prescribed requirements of the Occupational Health and Safety Act and corresponding regulations.

4.2 Responsibilities of Chief Administrative Officer (CAO)

The CAO shall support and maintain a safe and healthy workplace free from harassment for all City of Windsor employees.

4.3 Responsibilities of Senior Management Team (CAO, Corporate Leadership Team and Executive Directors)

Senior Management shall ensure:

- Promotion of and active participation in staff training.
- The Workplace Harassment Policy and corresponding procedure is understood, implemented and maintained in an effective manner for the protection of each employee under their department's jurisdiction.
- Employees authorized with responsibility under the Workplace Harassment Policy are provided with information and resources to carry out those responsibilities.
- The Workplace Harassment Policy is supported by ensuring employees within their areas participate in Corporate training and communication sessions.
- Compliance with the standards and procedures for safe and healthy work practices and measures as established.

4.4 Responsibilities of Managers/Supervisors

Managers/Supervisors shall ensure that:

- Promotion of and active participation in staff training
- Employees are aware of and work in compliance with the standards and procedures established in the Workplace Harassment Policy.
- Any incident(s) of workplace harassment are documented, reported and duly investigated where a worker identifies that they are experiencing harassment in the workplace or are being compromised in their ability to perform their job duties as a result of workplace harassment, as per the Corporate Workplace Harassment Procedure. This includes incidents of Workplace Harassment that are reported by third parties, where the complainant may or may not make a formal report.
- Employees work in compliance with the standards and procedures established in the Workplace Harassment Policy.

- Employees receive training to make them aware of the Workplace Harassment Policy and Procedure.
- Employees work in such a manner and refrain from actions that may expose themselves or other workers to any unnecessary exposure to workplace harassment.

4.6 Responsibilities of Human Resources

- The Executive Director of Human Resources is designated as the Workplace Harassment Policy Co-ordinator and is responsible for the maintenance of the Workplace Harassment Policy and Procedures.
- The Workplace Harassment Policy Co-ordinator is responsible to ensure the Workplace Harassment Policy is in compliance with the requirements of the Occupational Health and Safety Act and any corresponding regulations.
- The Workplace Harassment Policy Co-ordinator is responsible to develop a plan of communication of this policy to inform employees and officials of its existence and use.
- Where the Workplace Harassment Policy Co-ordinator is a party to an incident of workplace harassment, the City Clerk shall be designated as the Workplace Harassment Policy Co-ordinator for that incident.
- Provide the delivery of staff training through the Health and Safety Division in raising awareness in workplace harassment as established in the Corporate Health and Safety Plan and in compliance with section 25(2)(j) of the Occupational Health and Safety Act.
- The Workplace Harassment Policy Co-ordinator, in consultation with the corporate joint health and safety committees, is responsible for ensuring the policy is reviewed on an annual basis to ensure it complies with all applicable legal standards, codes, and practices. Provide a policy and corresponding procedure that is working effectively to provide a safe and healthy work environment for all staff of the Corporation. If inadequacies or gaps in this policy or corresponding procedure are identified, amend this policy and procedure to ensure a safe and healthy workplace for all City of Windsor employees.
- Conduct investigations of complaints as directed by the Workplace Harassment Policy Co-ordinator in a timely manner and provides copy of completed Workplace Violence Investigation Reports to the appropriate management member(s), complainant and respondent.

4.7 **Responsibilities of Workers**

All workers shall:

- Work in compliance with the Occupational Health and Safety Act and Regulations, specifically the safe work practices identified in this policy, and all other corporate and departmental safe work practices.
- Notify their supervisor of circumstances in the workplace where they experience concerns or observe others experiencing concerns in relation to possible or actual incidents of workplace harassment.
- Attend and participate in all Health and Safety training provided in relation to this policy and the prevention of workplace harassment.

5. **GOVERNING RULES AND REGULATIONS**

5.1 This policy is governed by the following statutes of the Province of Ontario or the Government of Canada:

Criminal Code RS 1985, c. C-46, ss. 217.1, 265

Municipal Freedom of Information and Protection of Privacy Act, RSO, 1990 c. M-56

Occupational Health and Safety Act RSO 1990, C.0.1

Ontario Human Rights Code RSO 1990, H.19

Workplace Safety and Insurance Act S.O. 1997, c. 16

6. **DEFINITIONS**

Customer is defined to include users and visitors to facilities as well as non-employees engaged in off-site interaction with city employees for work-related reasons.

Domestic Violence also known as **domestic abuse, spousal abuse, child abuse** or **intimate partner violence (IPV)**, can be broadly defined as a pattern of abusive behaviors by one or both partners in an intimate relationship such as marriage, dating, family, friends or cohabitation. Domestic violence has many forms including physical aggression (hitting, kicking, biting, shoving, restraining, throwing objects), or threats of sexual abuse; emotional abuse; controlling or domineering; intimidation; stalking; passive/covert abuse. (http://en.wikipedia.org/wiki/Domestic_violence)

Employee Family Assistance Program (EFAP) is defined as the program that is contracted by the Corporation of the City of Windsor to provide counselling to eligible employees and officials.

Employee under the scope of this policy, is defined to include all union and non-union, regular and temporary full and part-time staff as well as students, interns, secondments, volunteers, seasonal staff and those working through an employment contract.

Informal Resolution is defined as a mutually agreed upon resolution between the respective parties which may involve an objective third party to resolve the issue without proceeding to a formal investigation.

Malicious Complaints are defined as complaints made under this policy, which were known to be unfounded at the time they were made. Making a vexatious or malicious complaint can result in discipline up to and including dismissal.

Official (Elected or Appointed) under the scope of this policy, is defined as a person who holds a public office or membership on a Council Committee with the City of Windsor whether obtained by election or by nomination of City Council or the Corporation of the City of Windsor.

Poisoned or Negative Environment is characterized by an activity or behaviour, not necessarily directed at anyone in particular, that creates a hostile or offensive workplace. Examples include but are not limited to: graffiti, sexual insults or jokes, or abusive treatment of an employee or the display of pornographic or otherwise offensive material.

Retaliation is defined as any action taken against an employee who reported or witnessed an incident of workplace harassment that is intended or perceived as a form of intimidation of the employee or an attempt to pressure the employee into withdrawing his or her complaint or statement about the incident. Retaliation includes making a false report of workplace harassment against another employee. Acts of retaliation will be treated as independent acts of workplace harassment and will be dealt with under this policy.

Senior Management Team (SMT) includes members of the Corporate Leadership Team or whichever group(s) directly report to the CAO and all Executive Directors.

Workplace Harassment is defined as 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. [R.S.O. 1990, Occupational Health and Safety Act 1(1)].

Workplace Harassment Policy Co-ordinator is defined as the Executive Director or Human Resources or his or her designate or in case of conflict of interest, the City Clerk.

7. HARASSMENT PROGRAM

7.1 The Corporation shall develop and maintain a program to implement the policy with respect to workplace harassment as required under the Occupational Health and Safety Act section 32.0.1(1)(b).

7.2 The contents of this program shall include:

7.2.1 Measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor.

7.2.2 How the employer will investigate and deal with incidents and complaints of workplace harassment.

7.2.3 Any prescribed elements identified in regulations or guidelines provided by the Ministry of Labour.

7.3 Complaints of workplace harassment the corporation received anonymously will not be investigated by the corporation. Anonymous complainants will be re-directed to obtain additional information in relation to alleged incidents including contact information in order to provide appropriate follow up.

7.4 Reasonable action or conduct by an employer, manager or supervisor that is part of his or her normal work function would not normally be considered workplace harassment. This is the case even if there are sometimes unpleasant consequences for a worker. Examples would include changes in work assignments, scheduling, job assessment and evaluation, workplace inspections, implementation of dress codes and disciplinary action.

7.5 Differences of opinion or minor disagreements between co-workers would also not generally be considered workplace harassment.

8. TRAINING

8.1 All employees shall receive Workplace Harassment Policy training during Corporate Employee Safety Orientation and shall be retrained once every 5 years.

8.2 All Supervisors, Managers and Senior Management shall receive Workplace Harassment Policy training during Supervisor Manager Health and Safety training once every 5 years as stipulated in the requirements of the Management Windsor Certificate.

9. ADMINISTRATION

9.1 Costs

The Corporation shall be responsible for the costs of the administration of this policy including the costs of any mediation services initiated by the Corporation. All parties retaining outside legal or any other assistance shall be solely responsible for the cost involved.

12.2 Records

All documentation related to complaints made under this policy shall be filed in one centralized location, separate from any personnel files, with the Workplace Harassment Policy Co-ordinator, to ensure confidentiality. Records will be destroyed in accordance with the record retention requirements of the Municipal Freedom of Information and Protection of Privacy Act.

12.3 Policy Review

In accordance with the Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace) 2009, this policy shall be reviewed as often as necessary, but at least annually.

12.4 Communications

The Workplace Harassment Policy Co-ordinator, in collaboration with Corporate Health and Safety is responsible for a plan of communications to inform employees and officials (elected and appointed) about the existence of this policy and how to effectively use it.

This policy shall be posted at a conspicuous place in the workplace in accordance with section 32.0.1(2) of the Occupational Health and Safety Act.

12.5 Inconsistencies with Policy

The Executive Director of Human Resources along with the Senior Management Team is responsible for the Workplace Harassment Policy and ensuring compliance with this policy. Where consistency questions arise, the Executive Director of Human Resources is responsible for raising the concerns with the City Clerk and/or Chief Administrative Officer and the appropriate members of management in an effort to resolve the issue.