

## Anti-Harassment and Violence Policy



Section	Date	Approved by By-law Number:	Page	of
Human Resources	September 12, 2017	105-2017	1	15
Subsection	Supersedes By-law Number:		Policy No.	
Hiring Policies	121-2008		HR-1-4	

### Purpose

The Corporation is committed to providing and maintaining a work environment that is based on respect for the dignity and rights of everyone in the Corporation. It is the Corporation's goal to provide a healthy and safe work environment that is free of any forms of violence, harassment or disrespectful behaviour.

The intention of this policy and its procedures is to prevent violence and harassment from taking place and, where necessary, to outline how we will act upon incidents and complaints of such behaviour quickly and fairly with due regard to confidentiality.

### Definitions

**1.1 Discriminatory Harassment** means engaging in a course of vexatious conduct or comment related to the grounds of discrimination that offends the recipient or makes him or her uncomfortable, when the harasser knows or ought reasonably to know that the behaviour is unwelcome. In some instances, a single, serious incident may constitute harassment. Harassment includes, but is not limited to, verbal comments and/or gestures, written or graphic materials and systematic avoidance or exclusion of an individual.

The grounds of discrimination include, but are not necessarily restricted to, race, colour, ancestry, place of origin, ethnic origin, citizenship, creed/religion, sex, sexual orientation, age, record of offences, marital status, family status or handicap, as defined by the *Ontario Human Rights Code*.

**1.2 Sexual and Gender-Based Harassment:** in addition to the foregoing, sexual harassment includes sexual comments or conduct or a solicitation or advance, or reprisal or threat or reprisal for the rejection of a sexual solicitation or advance, where the person engaging in the behaviour knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual and gender-based harassment also includes negative or inappropriate conduct or comments that are not necessarily sexual in nature, but which are directed at an individual because of his or her gender or sex. Comments or conduct of a sexual nature or that are based on gender or sex that are not necessarily directed at a particular individual but are unwelcome or offensive to an individual or group can also constitute sexual or gender-based harassment.

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The Ontario *Human Rights Code* provides for protection from sexual harassment in employment as follows:

*Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by his or her employer or agent of the employer or by another employee.*

*Every person has a right to be free from a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.*

The *Occupational Health and Safety Act* defines workplace sexual harassment as:

- (i) Engaging in a course of vexatious comment or conduct against a worker 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*
- (ii) 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 worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.*

Both men and women can be victims of sexual or gender-based harassment and someone of the same or opposite sex can harass someone else. Some examples of sexual or gender-based harassment are:

- sexual advances or demands that the recipient does not welcome or want
- threats, punishment or denial of a benefit for refusing a sexual advance
- offering a benefit in exchange for a sexual favour
- leering (persistent inappropriate staring)
- displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic websites or other electronic material
- distributing sexually explicit e-mail messages or attachments such as pictures or video files
- sexually suggestive or obscene comments or gestures
- unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, clothing or sex
- persistent, unwanted attention after a consensual relationship ends
- physical contact of a sexual nature, such as touching or caressing

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- gossip or rumours regarding a person's sexual activities or relationships, regardless of whether they are malicious; and
- sexual assault

### 1.3 Workplace Harassment and Bullying under the Occupational Health and Safety Act.

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; or Workplace sexual harassment (as defined in 1.2 policy).*

Some examples of workplace harassment are:

- verbally abusive behaviour such as yelling, insults, ridicule and name-calling, including remarks, jokes or innuendos that demean, ridicule, intimidate or offend
- workplace pranks, vandalism, bullying and hazing
- gossiping or spreading rumours, regardless of whether they are malicious
- excluding or ignoring someone, such as persistent exclusion of a particular person from workplace-related social gatherings
- workplace supervision done in a demeaning or abusive manner
- humiliating someone
- sabotaging someone else's work
- displaying or circulating offensive pictures or materials
- offensive or intimidating phone calls, emails, texts or social media communications
- a supervisor/manager impeding an individual's efforts at promotions or transfers for reasons that are not legitimate
- making false allegations about someone in memos or other work related documents
- menacing behaviours including staring, glaring, inappropriate gestures or unwelcome physical closeness

#### The Test of Harassment

It does not matter whether you intended to offend someone. The test of harassment is whether you knew or should have known that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case you must immediately stop that behaviour.

Although it is commonly the case, the harasser does not necessarily have to have power or authority over the recipient. Harassment can occur from co-worker to co-worker, supervisor to employee and employee to supervisor.

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Respect in the workplace is everyone's responsibility. Any acts that demean, harm or exclude are counter to our culture and should be addressed promptly in accordance with the procedures set out below.

### What Is Not Harassment

The *Occupational Health and Safety Act* states:

*A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.*

Therefore, workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including but not limited to:

- measures to correct performance deficiencies, such as placing someone on a performance improvement plan
- imposing discipline for workplace infractions
- requesting medical documents in support of an absence from work
- enforcement of workplace rules and policies

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

Workplace and domestic violence that may occur in the workplace are health and safety issues, which are covered under the *Occupational Health and Safety Act*.

**1.4 Poisoned Work Environment:** Even if no one is being directly targeted, harassing comments or conduct can poison the work environment, making it a hostile or uncomfortable place in which to work. This is also a form of harassment. Some examples of actions that can create a poisoned work environment include:

- displaying offensive or sexual materials such as posters, pictures, calendars, web sites or screen savers
- distributing offensive e-mail messages, or attachments such as pictures or video files
- practical jokes that embarrass or insult someone; or
- jokes or insults that are offensive, racist or discriminatory in nature.

**1.5 Workplace Violence** is defined under the *Occupational Health and Safety Act* as:

- the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker
- an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker

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- a statement or behavior that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

It is defined broadly enough to include acts that may be considered criminal. Workplace violence includes:

- physically threatening behaviour such as shaking a fist at someone, finger pointing, destroying property, throwing objects
- verbal or written threats to physically attack a worker
- leaving threatening notes or sending threatening emails
- wielding a weapon at work
- stalking someone; and
- physically aggressive behaviours including hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing an object at someone, physically restraining someone or any other form of physical or sexual assault.

Violence that occurs outside the normal workplace but which has an impact on the working environment, including working relationships, may also be considered violence in the workplace.

Workplace violence may come from many different sources:

- strangers or people with no ties to the workplace
- clients, customers or patients
- other employees
- intimate relationships outside of work (such as intimate partners, family, friends)

**1.6 Domestic Violence:** If you are experiencing domestic violence that would likely expose you, or other workers, to physical injury that may occur in the workplace, we will take every precaution reasonable to protect you and your co-workers in the circumstances. This may include some or all of the following:

- creating a safety plan
- contacting the police
- establishing enhanced security measures such as a panic button, code words, and door and access security measures
- screening calls and blocking certain email addresses
- setting up priority parking or providing escorts to your vehicle or to public transportation
- adjusting your working hours and location so that they are not predictable; and
- facilitating your access to counselling

We appreciate sensitivity of these issues and will do our best to assist you as discreetly as possible while maintaining your privacy.

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### Scope

- 2.1** This policy applies to all departments within the Corporation.
- 2.2** This policy applies to all employees, unionized and non-unionized. Students and volunteers are afforded the same rights and protection as employees, while performing authorized activities in the workplace and are also required to abide by this policy.
- 2.3** For the purposes of this policy, the workplace includes any location in which you are engaged in work-related activities. This includes, but is not limited to:
- the workplace, including during council meetings whether in open or closed session
  - during work-related travel
  - at restaurants, hotels or meeting facilities that are being used for business purposes
  - in corporation owned or leased facilities
  - during telephone, email and other communications, including but not limited to social media
  - dialogue that extends from the workplace, related to work or workplace relations as well as comments made on social media pertaining to or associated with workers, work or the workplace
  - at any work-related social event, whether or not it is sponsored by the Corporation
  - discrimination and harassment which occurs outside the workplace but which may adversely impact employee relationships

This policy also applies to situations in which you are harassed or discriminated against in the workplace by individuals who are not employees of the Corporation, such as suppliers, ratepayers and other members of the public, although the available remedies available may be constrained by the situation and the fact that these individuals are not Corporation employees.

### Preventing Harassment and Violence

It is our mutual responsibility to ensure that we create and maintain a harassment and violence-free workplace. This includes addressing violence and/or the threat of violence from all possible sources (including customers, clients, employers, supervisors, workers, strangers and domestic/intimate partners). All employees, volunteers and members of council have a responsibility to ensure that their own behaviour and interaction are respectful and not in contravention of this policy.

### Rights and Responsibilities

**3.1** The Corporation will do its part by not tolerating or condoning discrimination, harassment or violence in the workplace. This includes making everyone in our organization aware of what behaviour is and is not appropriate, assessing the risk of workplace violence, investigating complaints and imposing suitable corrective measures.

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**3.2** The Managers and Human Resources Strategist are responsible to ensure that the guidelines set out in this policy are implemented and adhered to.

**3.3** All managers and supervisors are responsible for establishing and maintaining a workplace that is free from harassment and ensuring that employees are aware of their rights and responsibilities under this policy and of the mechanisms to investigate and resolve harassment complaints.

If made aware of a harassment situation, managers and supervisors are responsible for attempting an informal resolution (if informal resolution is appropriate), with assistance from Human Resources if required, and for reporting the situation to the appropriate Department Manager or the Chief Administrative Officer, if further action is needed.

Supervisors and managers must take every reasonable precaution to protect workers from workplace violence, including participating in conducting risk assessments for workplace violence.

Risk assessments are to be conducted as frequently as necessary to prevent injury in the workplace, for example:

- after an event or threat has occurred
- if the work or workplace has changed
- when a safety concern related to workplace violence has been raised

Risk assessments may include evaluating a person's history of violent behaviour to determine whether and to whom this worker poses a risk. In making this evaluation, supervisors and managers should consider:

- whether the person's history of violence was associated with the workplace or work
- whether the history of violence was directed at a particular worker or workers in general
- how long ago the incidence of violence occurred

In certain circumstances, supervisors and managers may have a duty to provide information about a risk of workplace violence from a person with a history of violent behaviour if a worker can be expected to encounter that person during the course of his or her work and the risk of workplace violence is likely to expose the worker to physical injury. Supervisors and managers will only release as much personal information about the person with a history of violent behaviour as is reasonably necessary to protect the worker from workplace violence. Supervisors and managers are required to consult with the CAO prior to releasing information about a person with a history of violence.

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### 3.4 All employees have:

- a right to treatment which is free from harassment in the workplace and during work-related activities
- a right to make a harassment complaint
- a right to a review of a complaint without fear of retaliation
- a responsibility to treat all other employees, supervisors and subordinates in a manner that is free from harassment
- a responsibility to co-operate fully in any investigations resulting from a complaint and to keep all information concerning the matter confidential

## Procedure for Resolving and Investigating Harassment Incidents and Complaints

### 4.1 Informal Procedure

If you believe that you are being harassed or discriminated against, the first thing to do is to tell the person to stop. Do so as soon as you receive any unwelcome comments or conduct. Although this may be difficult to do, telling the person you don't like their actions is often enough to stop the behaviour.

Some of the things you can say that might stop the behaviour include:

*"Please stop doing or saying..."*

*"I don't want you to do that."*

*"It makes me uncomfortable when you..."*

*"I don't find it funny when..."*

If the harassment or discrimination continues after you have confronted the individual, you may want to provide him or her with a written statement of the situation.

You can also report the incident(s) to your supervisor, manager, or Human Resources. Where appropriate, the Corporation will assist you with implementing the appropriate de-escalation techniques.

It helps to keep a record of any incident(s) that you experience. This includes when the harassment started, what happened, whether there were any witnesses and what your response was.

If you believe that someone who is not an employee of the Corporation (e.g., a supplier, contractor, etc.), has harassed or discriminated against you, please report the incident(s) to your supervisor, manager, or Human Resources. Although the Corporation has limited control over third parties, we will do our best to address the issue and prevent further problems from arising.



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### **4.2 Formal Procedure**

If the incident or complaint cannot be resolved informally or if it is too serious to handle on an informal basis, you may bring a formal complaint to your supervisor, manager, or Human Resources. If the matter involves your supervisor, manager or Human Resources, the complaint should be brought to the Chief Administrative Officer ("CAO"). If the matter involves the CAO, the complaint can be reported to council.

When bringing a formal complaint forward, as much written information as possible will be needed, including the name(s) of the person(s) you believe is harassing or discriminating against you, the place, date and time of the incident(s) and the names of any possible witnesses.

It is important that you provide your complaint as soon as possible so that the issue doesn't escalate or happen again. Once we receive your complaint, we will initiate an investigation. The investigation may be informal or formal as deemed necessary and appropriate by the Corporation.

Discrimination and harassment are serious matters. Therefore, even if a decision is made not to make a formal complaint by an individual, an investigation may still need to occur and steps may need to be taken to prevent further discrimination or harassment. For example, an investigation may need to be conducted if the allegations are serious or if there have been previous complaints or incidents involving the same individual(s).

### **4.3 Investigation**

The Corporation has the responsibility to respond as soon as reasonably possible upon a receipt of a formal complaint of harassment.

The manager and HR Strategist will coordinate the Corporation's response. Where this is not appropriate, the Chief Administrative Officer will ensure coordination. Depending on the nature of the allegations, the Corporation may choose to use an internal or external investigator to conduct the investigation, depending on the nature of the incident or complaint. The Corporation will determine whether an external investigator is required.

- a) Any complaint received will be acknowledged in writing as soon as reasonably possible by the Manager, Human Resources or the Chief Administrative Officer, and the complainant will be informed whether an investigation will be conducted.
- b) Persons against whom a complaint has been lodged will be informed in writing as soon as practical that a complaint has been received, and will be provided with a summary of the allegations.
- c) The parties will be interviewed separately at the first available opportunity.
- d) The employee against whom the complaint is directed or who is enquiring as to the appropriateness of his/her conduct shall have the opportunity to submit a written response within five working days of the notification of the investigation.

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- e) The Corporation may interview any appropriate witnesses identified by the parties, and any appropriate individuals who may have knowledge of the complaint.
- f) All parties interviewed shall be advised that any information obtained with respect to the complaint shall be kept confidential, except where disclosure is necessary for investigation or disciplinary action, or as required by law.
- g) A report of the investigation shall be submitted within 30 working days after the investigation has been completed, or as soon as reasonably possible thereafter, for review and decision by the Chief Administrative Officer or the appropriate Committee of Council, as necessary.
- h) The complainant and respondent will be made aware of the findings and provided with a letter stating whether or not the incident or complaint constituted harassment or discrimination. If a finding of harassment or violence has been made, the complainant will also be provided with information regarding corrective measures taken to prevent a recurrence. The Corporation will determine the appropriate amount of information to be shared with the complainant and respondent.
- i) In the event the complaint is against a supervisor, manager, Human Resources or the CAO, that individual would be excluded from the process. In the case of the HR Strategist the CAO would become responsible for the investigation. If the complaint is against the CAO, the report of the investigation would be made directly to the appropriate Committee of Council.

### **Procedure for Resolving and Investigating Workplace Violence Incidents and Complaints**

#### **5.1 Reporting Workplace Violence**

Under the *Occupational Health and Safety Act* workers have a responsibility to report workplace hazards and workplace violence is considered a hazard. Therefore, if you are aware of workplace violence, even if you are not a recipient or witness to the violence directly, you are required to report it.

If you are either the recipient of or a witness to workplace violence, from any person, you must report such behaviour to your supervisor, manager or Human Resources. A worker who believes they are unable to report workplace violence to their supervisor, manager or Human Resources may report to the CAO. (Should the complaint involve the CAO, then the complaint may go directly to council.)

If a worker is believed to be in imminent physical danger or physical assault has occurred, you must immediately report it to the police.

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All workers also have the right to refuse unsafe work if they have reason to believe they are in danger from workplace violence. In that instance, please immediately contact your supervisor, manager or Human Resources, at which point appropriate measures will be taken to protect you and investigate the situation. You will be moved to a safe place as near as reasonably possible to your normal work location and will need to be available for the purposes of investigating the incident. Certain workers may have a limited right to refuse, when the risk is inherent in their job duties, such as a member of the fire department.

### 5.2 Investigation

Any reports or incidents of workplace violence will be taken seriously. All reports and incidents of workplace violence must be investigated. If a manager or supervisor becomes aware of or witnesses acts or threats of violence, even if these events or actions are not reported to them by a worker, they must initiate an investigation and corrective and preventative actions by reporting this to the CAO.

The Corporation has discretion to use either an internal or external investigator to conduct an investigation, depending on the nature of the incident.

The investigation may include:

- conducting interviews of relevant individuals to ascertain all of the facts and circumstances relevant to the incident or complaint, including dates and locations
- reviewing any related documentation
- making detailed notes of the investigation and maintaining them in a confidential file

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings. A copy of the findings will be provided to the Joint Health and Safety Committee. The goal is to complete any investigation and communicate the results to the complainant and respondent within a reasonable time frame after becoming aware of an incident or a complaint is received, where possible. The timeframe within which an investigation can be completed varies depending on the circumstances of each investigation.

***Any incidents or reports of discrimination or harassment must follow the direction provided under this policy.***

### 5.3 Procedures for Addressing Domestic Violence

If you are experiencing domestic violence that would likely expose you, or other workers, to physical injury that may occur in the workplace, we will take every precaution reasonable to protect you and your co-workers in the circumstances.

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This may include some or all of the following:

- creating a safety plan
- contacting the police
- establishing enhanced security measures such as a panic button, code words, and door and access security measures
- screening calls and blocking certain email addresses
- setting up priority parking or providing escorts to your vehicle or to public transportation
- adjusting your working hours and location so that they are not predictable
- facilitating your access to counselling

We appreciate the sensitivity of these issues and will do our best to assist you as discreetly as possible while maintaining your privacy.

### **6.1 Disposition of Complaint**

The finding of the investigation and the decision made by the Corporation will be reviewed with the complainant and with the alleged harasser and confirmed in writing. The decision will be one of the following:

- a) Complaint substantiated, with appropriate disciplinary action in accordance with the City's Progressive Discipline Policy, ranging from requiring a formal apology to the complainant to dismissal of the harasser.
- b) Complaint unsubstantiated; no further action required.
- c) If a complaint is made falsely and maliciously, the complainant may be subject to discipline in accordance with the City's Progressive Discipline Policy. This will not apply if the complaint is made in good faith.
- d)

If a finding of workplace harassment or violence is made, the Corporation will take appropriate corrective measures, regardless of the respondent's seniority or position at the Corporation.

Corrective measures may include but are not limited to one or more of the following:

- discipline, such as a verbal warning, written warning or suspension without pay
- termination with or without cause
- referral for counselling, coaching or training, anger management training, supervisory skills training, or attendance at educational programs on respect in the workplace
- demotion or denial of promotion
- reassignment or transfer
- financial penalties such as the denial of a bonus or performance related salary increase
- any other disciplinary action deemed appropriate under the circumstances

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The goal is to complete any investigation and communicate the results to the complainant and respondent within a reasonable time frame after becoming aware of an incident or a complaint is received, where possible.

The timeframe within which an investigation can be completed varies depending on the circumstances of each investigation.

### **7.1 Confidentiality of Complaints and Investigations**

Due to the sensitive nature of workplace violence and harassment complaints, these complaints will be kept confidential to the extent possible. We will only release as much information as is necessary to investigate and respond to the incident or complaint, to take corrective action with respect to the incident or complaint or if required to do so by law.

The Corporation may be required to disclose pertinent information for the purpose of protecting a worker from injury where a reasonable threat of workplace violence exists. Reports will be kept confidential if it has been determined that a reasonable threat of workplace violence does not exist or where reasoned and practical in the circumstances. Out of respect for the individuals involved, it is essential that the complainant, respondent, witnesses, and anyone else involved in or aware of the investigation maintain complete confidentiality throughout the investigation and afterwards.

You may have the assistance of a support person throughout the investigation process, as long as they are not a witness or potential witness and agree to maintain strict confidentiality. The role of the support person throughout the investigation process is to observe and provide support.

All employees, representatives and support persons are required to fully cooperate in the investigation process and to not in any way impede, obstruct or behave in a manner that potentially jeopardizes the integrity of the investigation. Breaching confidentiality or acting in a manner that obstructs, impedes or affects the integrity of the investigation is subject to discipline up to and including termination of employment.

Any documents relating to the complaint and investigation will be kept separate from the parties' personnel files, except for documents relating to disciplinary action.

### **8.1 What To Do If You Are Accused Of Harassment Or Discrimination**

If you are asked by a co-worker to stop behaviours which could reasonably constitute harassment, evaluate your behaviour. Even if you did not mean to offend, your behaviour has been perceived as offensive. Stop the behaviour that the person finds offensive and apologize.

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Failure to stop this behaviour will leave you more vulnerable to disciplinary action if it is determined the behaviour is inappropriate or constitutes harassment or discrimination. If you believe the incident has been reported or the complaint has been made in bad faith or is malicious in nature, discuss this with the CAO, your supervisor or any member of management.

### **9.1 Protection from Retaliation or Reprisal**

No worker can be penalized, reprimanded, or in any way criticized when acting in good faith while following the procedures for addressing situations involving workplace violence or harassment.

The Corporation will not tolerate retaliations, taunts, or threats against anyone who reports an incident or complains about violence or harassment or takes part in an investigation. Any person who taunts, retaliates against or threatens anyone in relation to a discrimination or harassment incident or complaint may be disciplined, up to and including termination of employment.

If you report an incident or make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline. The Corporation will, however, discipline or terminate anyone who brings a false and malicious complaint.

### **10.1 Training**

All staff will receive training and communications on this policy and any related program. All staff will receive this policy and a copy of this policy will be posted on the Health and Safety bulletin board.

### **11.1 Other Action**

This policy and its procedures does not abrogate the right of any employee, at any stage of the internal procedure, to file a grievance with the appropriate bargaining unit or access other provisions of the Collective Agreement which many apply. The employee also has a right to file a complaint under the Human Rights Code, 1990 as amended, and to take appropriate legal action.

### **12.1 Review**

The Corporation will review this policy as often as necessary or at least annually.

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This policy has been reviewed with me. I understand the policy and agree to abide by it.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Print Name