

**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
		Effective Date:	June 15, 2010
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.

THE CORPORATION OF THE CITY OF WINDSOR PROCEDURE

		Procedure No.:	HRHSPRO-00025(b)
Department:	Human Resources	Approval Date:	June 7, 2010
Division:	Occupational Health and Safety Services	Approved By:	Chief Administrative Officer
		Effective Date:	June 15, 2010
Subject:	Workplace Harassment Procedure	Policy Ref.:	Workplace Harassment Policy
		Pages:	Replaces: Workplace Violence and Harassment Policy
Prepared By:	Kimberley Brown		Date: December 5, 2005

1. PURPOSE

1.1 To ensure that incidents and injuries as a result of workplace harassment are investigated in accordance with the Occupational Health and Safety Act and corporate policy, and that appropriate corrective actions are identified and implemented to prevent the incident from reoccurring.

2. SCOPE

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

3. DEFINITIONS

Accident – An incident which has given rise to an injury, ill health, a fatality or property damage.

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.

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 as defined in this procedure 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.

Incident – A work related occurrence in which an injury, ill health (regardless of severity) or damage to property could have occurred.

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) 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 violence 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 violence 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 Co-ordinator is defined as the Executive Director of Human Resources or designate or in cases of conflict of interest the City Clerk.

4. **GUIDING PRINCIPLES**

4.1 The guiding principles of this procedure are:

- 4.1.1 Employees and officials (elected or appointed) have a duty to report incidents of workplace harassment.
- 4.1.2 Complaints filed under the Workplace Harassment Policy should involve events that have occurred within six months of the filing date.
- 4.1.3 Safety of employees, customers, and officials (elected or appointed) in all City of Windsor workplaces and City of Windsor owned or operated facilities.

- 4.1.4 Mutual respect between employees, between employees and customers of the City, and between employees, customers and officials (elected or appointed).
- 4.1.5 Co-ordinated application of all components of the Respectful Workplace Program.
- 4.1.6 Compliance with legislation and regulations including, but not limited to the Occupational Health and Safety Act, the Ontario Human Rights Code and the common law.
- 4.1.7 Maintain respect for the collective agreements between the City unions, associations and the Corporation.
- 4.1.8 Ease of use by both employees and management.
- 4.1.9 Availability of informal resolutions.
- 4.1.10 Enforceability and clarity.

5. HARASSMENT PROGRAM

- 5.1 The Workplace Harassment Procedure is developed based on the requirements of the Occupational Health and Safety Act section 32.0.1(1) (b).
- 5.2 Section 7.0 of the Workplace Harassment Procedure establishes the mechanism for all employees to report incidents of harassment to their supervisor or the employer.
- 5.3 Section 8.3 of the Workplace Harassment Procedure establishes the process for conducting investigations at both the department level and Human Resources level.
- 5.4 In developing the Workplace Harassment Procedure, the Ministry of Labour guideline, Workplace Violence and Harassment: Understanding the Law was utilized.

6. RESPONSIBILITY

All employees and officials are responsible to abide by and uphold the Workplace Harassment Procedures.

6.1 Chief Administrative Officer (CAO)

The CAO shall ensure:

- o Promotion of and active participation in staff training.
- o Provision and implementation of safe and healthy work practices as outlined in the Workplace Harassment Procedure; and

- By requiring Senior Management and all Managers and Supervisors to be accountable for ensuring compliance with this procedure.

6.2 Senior Management Team

Senior Management shall ensure:

- Promotion of and active participation in staff training
- Employees authorized with responsibility under the Workplace Harassment Procedure are provided with information and resources to carry out those responsibilities.
- The Workplace Harassment Procedure is supported through corporate training and communication sessions.
- All corrective actions are completed to eliminate recurrence of identified exposures to workplace violence. Respond to any other additional recommendations with acceptance or alternative measures providing the same level of safety including timetables for implementation.

6.3 Human Resources

Human Resources shall:

- Identify who is responsible as the Workplace Harassment Policy Coordinator.
- Update and maintain all training programs in relation to the Workplace Harassment Procedure.
- Identify and provide to departments a schedule of all required training in regards to the Workplace Harassment Procedure.
- Provide assistance and support to departments in relation to the requirements of this procedure.
- Review all investigation documents received from departmental level investigations for completeness and thoroughness.
- Review all recommendations for corrective action and provide support and follow-up to departments as required.

6.4 Managers/Supervisors

Managers/Supervisors shall:

- Provide promotion of and active participation in staff training

- Attend appropriate training programs as required in corporate investigation protocols.
- Ensure required forms are provided and accessible to employees and investigator.
- If requested, assist in the investigation or provide other means of support.
- Ensure incidents are documented on corporate Workplace Harassment Investigation Form(s) as required in this procedure.
- Ensure all required reports and documentation are submitted to Human Resources for file retention and follow-up.
- Implement all appropriate recommendations after consultation with appropriate Senior Management Team member.
- Obtain assistance from any other person or source deemed necessary and appropriate in the course of the investigation.
- Conduct investigations into instances of workplace harassment that are reported to you or incidences of workplace harassment that come to your attention, using the procedure contained herein.
- Record all actions taken on the Workplace Harassment Investigation Report as detailed in Section 8.0 of this Procedure.
- Communicate details of the incident and any corrective actions taken to all applicable workers.
- Monitor situation to ensure corrective actions have achieved desired results.

6.5 Workers

Workers shall:

- Co-operate and provide assistance during investigations of workplace harassment as requested.
- Attend and participate in Health and Safety training provided in relation to this procedure and the prevention of workplace harassment

7.0 REPORTING PROCEDURES

7.1 All employees have to report workplace safety issues, including incidents of workplace harassment to their supervisor or manager.

- 7.2** Any employee who is a witness to or a victim of workplace harassment shall report the incident to his or her supervisor or manager as soon as possible. The person receiving the report from the employee shall advise the appropriate Executive Director(s)/Corporate Leadership Team (CLT) member.
- 7.3** Where an employee's supervisor or manager is the person who is alleged to have committed the act of harassment, the employee shall report the incident to the Workplace Harassment Policy Co-ordinator, who shall advise the appropriate Executive Director(s)/CLT member.
- 7.4** Upon review of an alleged incident of workplace harassment, an employee's supervisor or manager, in consultation with their Executive Director/CLT member, or the Workplace Harassment Policy Co-ordinator, as applicable, may direct that the alleged incident should be dismissed or dealt with under another policy, procedure, process of the Respectful Workplace Program, collective agreement or criminal investigation and if they determine another policy applies, they shall advise and assist the employee in applying under that venue. If an incident is dismissed the appropriate Executive Director(s)/CLT member and the Workplace Harassment Policy Co-ordinator shall be notified.
- 7.5** Where an employee's supervisor or manager, or the Workplace Harassment Policy Co-ordinator, determines that the alleged incident should be dealt with under this policy the following shall occur:
- a. Where the employee's supervisor or manager, or Workplace Harassment Policy Co-ordinator, as applicable, reasonably believe that the incident can be resolved without a formal investigation and all the parties to the incident agree, efforts may be made to achieve an informal resolution. An informal resolution may be achieved with the utilization of mediation services, corporate staff members or Union Executive.
 - b. Where the employee's supervisor or manager, or Workplace Harassment Policy Co-ordinator, as applicable, does not believe that the incident can be resolved without a formal investigation or any party does not agree to an informal resolution, he or she shall immediately prepare a Workplace Harassment Reporting Form.
 - c. The employee's supervisor or manager, or Workplace Harassment Policy Co-ordinator, as applicable, shall acknowledge in writing to the individual submitting the complaint receipt of complaint within 5 Human Resource days. A copy of the notification shall be maintained in the file.
 - d. The employee's supervisor or manager, or the Workplace Harassment Policy Co-ordinator, as applicable, shall, following notification to the complainant, notify in writing the alleged respondent(s) within 14 Human Resource business days. The notification will include a copy of

the complaint, where there is a single respondent identified. In instances where multiple respondents are named each respondent will be advised of the allegations solely against them rather than a copy of the entire complaint. A copy of the notification(s) shall be maintained in the file.

- e. In cases where the respondent(s) provide a written response to the complainant's allegations, a copy of the respondent(s) written response will be forwarded to the complainant for review.

7.6 After discussion with their the Executive Director, the employee's supervisor or manager, or the Workplace Harassment Policy Co-ordinator, determine that disclosing any part or all of the incident report with or without names included, will not create a potential for further workplace harassment, he or she may, in their sole discretion, provide a copy of any part or all of the Workplace Harassment Reporting Form to any or all the parties to the incident. In exercising this discretion, regard shall be had to the following principles:

- a. The safety of the worksite
- b. The privacy and reputations of the individuals involved
- c. The reasonable expectations of any witnesses
- d. The rights of the employees and the bargaining unit
- e. The possibility for achieving an informal or mediated resolution
- f. The integrity and intent of the Respectful Workplace Program.
- g. In accordance with the requirements of the Municipal Freedom of Information and Protection of Privacy Act (M.F.I.P.P.A.)

8. INFORMAL RESOLUTION OF COMPLAINT

8.1 The following measures and informal actions can often prevent or resolve problem situations:

- 8.1.1** Employees – **set a good example.** Do not participate in or ignore disrespectful behaviour, discrimination and harassment.
- 8.1.2** Supervisors – **approach employees if something is suspected.** Symptoms of someone who may be experiencing harassment may include: reduced productivity, changes in behaviour, increased sick leave, increased resignations, or sudden deterioration in performance.
- 8.1.3** **Discuss the situation with the person who is alleged to have acted inappropriately discretely and in private.** They may be unaware that their behaviour is offensive. Even if the allegations are denied, the discussion should be treated as a warning that inappropriate workplace behaviour will not be tolerated. Union or Association representation during these discussions should be made available to the employees.

8.1.3.1 Keep a record. Supervisors should document all discussions with the victim and alleged perpetrator in the initial stages. If the situation escalates to the Human Resources Department all notes and personal records will be stored in Human Resources.

8.1.3.2 Seek advice and assistance from the Human Resources Department about the organization's procedures for handling these types of complaints.

8.1.4 Employee Experiencing Harassing Behaviour:

8.1.4.1 Clearly and directly ask the offending party to stop the behaviour immediately. This will most often put an end to the behaviour so that further action will not be required.

8.1.4.2 Keep a record of the offending events with dates and witnesses and when and how you advised the offending party to stop the behaviour.

8.1.4.3 Seek advice and assistance from your supervisor or the Human Resources Department about the organization's procedures for handling such complaints.

8.2 Suspension of Investigation

8.2.1 If there is a prior criminal proceeding, outstanding grievance, a prior outstanding complaint under the Human Rights Policy or multiple complaints in relation to the same incident(s) that forms the basis of a report under this policy, the employee's supervisor or manager, shall notify the applicable Executive Director/CLT member or Workplace Harassment Policy Co-ordinator who may, in his or her sole discretion, suspend the investigation, pending the result of the other process.

8.2.2 The Executive Director/CLT member or the Workplace Harassment Policy co-ordinator shall notify the employee's supervisor or manager of any decision to suspend an investigation pending the result of the other process.

8.2.3 The employee's supervisor or manager will advise the employee making the complaint of any decision to suspend an investigation under the above provisions.

8.3 Investigation Process

In order to provide an investigation process that is fair for all parties, the Corporation will provide complainants with two options in which an investigation may proceed.

Department Investigation

8.3.1 Where, in the discretion of an employee's supervisor or manager in consultation with the City Solicitor or designate and the respective Executive Director/CLT member, it is necessary to immediately suspend an employee for reasons of safety to himself or herself or others and/or to prevent damage to equipment, the supervisor or manager shall have regard to the applicable collective agreements and law in respect of union, association or non-union employees.

8.3.2 The complainant can file a Workplace Harassment complaint with their direct supervisor or Executive Director, and have their department conduct the investigation. The investigation will follow the process as outlined in Section 8.4 Formal Investigations at Department Level and 8.5 Department Level Investigation Procedure.

Referral to Workplace Harassment Policy Co-ordinator

If an Executive Director/CLT member believes a complaint and/or incident could more effectively be investigated by a party outside its department of origin, the Executive Director/CLT member can refer the complaint to the Workplace Violence Policy Co-ordinator or the Executive Director of Human Resources for follow-up.

8.4 Formal Investigations at Department Level

If informal attempts at resolving the problem are not appropriate or prove ineffective, a formal complaint and investigation shall be required.

The following procedure has been established so that complaints of workplace harassment can be resolved internally and expeditiously within departments.

If the employee has clearly and directly asked the offending party to stop the behaviour immediately but the behaviour has continued or if you are not comfortable approaching the individual:

8.4.1 The employee who is the victim or witness to an incident of workplace violence shall inform their supervisor or manager. The report shall be made as soon as possible after the incident(s) occurred and the supervisor/manager shall ensure the incident details are documented on a Workplace Harassment Reporting form.

8.4.2 In cases of suspected or confirmed domestic violence, the supervisor or manager shall consult with Human Resources and the corporate EFAP provider for appropriate referrals and documentation.

8.5 Department Level Investigation Procedure

8.5.1 When a supervisor or manager becomes aware of an incident of workplace harassment and a formal investigation is to be completed the following steps will be taken in recording and investigating the incident.

File Created:

- All incidents are to be recorded on a Workplace Harassment Reporting Form.
- Supervisor is to establish a file to record all actions taken.
- On the left hand inside cover a Workplace Harassment Contact Log shall be affixed. All actions taken on the file are to be recorded on this form in order to compile an accurate chronological record of the history of the complaint/incident.
- The Workplace Harassment Reporting Form is to be attached to the back cover of the file.
- Using the Workplace Harassment Investigative Report, document all follow-up action taken in response to an incident or complaint.
- Advise Respondent of complaint prior to beginning of interview process, and if the complaint is in writing, provide the respondent(s) with a copy of the portion of the complaint that is alleged to have occurred.
- Prior to beginning any interview, ensure that Waiver for Disclosure of Information is signed by the person being interviewed and placed in the file.
- Ensure the Certified member of the worksite Joint Health and Safety Committee is present during interviews with the complainant, respondent and all witnesses as a resource to the interviewee.
- Advise Respondent of complaint prior to beginning of interview process, and if the complaint is in writing, provide the respondent(s) with a copy of the portion of the complaint that is alleged to have occurred.
- Conduct interview with the complainant first then respondent, then any witnesses deemed to have direct information on the issue(s) at hand.
- All interview notes are to be reviewed by person being interviewed at the end of interview for accuracy. Once the person being

interviewed is satisfied with content they are to sign the recorded statement of information. If the interviewee refuses to sign for any reason, this is to be documented in the notes and signed by the person conducting the interview.

- Investigator must determine outcome of investigation applying the definition of Workplace Harassment and considering information obtained through the investigation process.
- Final report is to be completed on the Workplace Harassment Investigative Report by the investigator.
- Copy of the report is to be provided to the Executive Director of the respective department(s).
- Copy of the final report is to be forwarded to the Human Resources Department, Attention: Workplace Harassment Policy Co-ordinator for file retention.
- Human Resources will monitor follow-up on the recommended actions to ensure implementation and effectiveness thereof.

9.0 WORKPLACE HARASSMENT POLICY CO-ORDINATOR INVESTIGATIONS

- 9.1** After receiving a Workplace Harassment Reporting Form, in relation to an incident wherein the employee's supervisor or manager is alleged to have harassed the employee, the Workplace Harassment Policy Co-ordinator or designate shall conduct an investigation into the alleged incident. The timing of the investigation shall be at the discretion of the Workplace Harassment Policy Co-ordinator given consideration to the issue at hand, safety of the employees, availability of witnesses and other considerations.
- 9.2** The Workplace Harassment Policy Co-ordinator or designate shall acknowledge in writing to the individual submitting the complaint within 5 Human Resource business days of the receipt of the complaint to the Workplace Harassment Policy Co-ordinator located at Human Resources Department. A copy of the notification shall be maintained in the file.
- 9.3** The Workplace Harassment Policy Co-ordinator or designate shall, following notification to the complainant, the Workplace Harassment Policy Co-ordinator shall notify within 14 Human Resource business days in writing the alleged respondent(s). The notification will include a copy of the complaint, where there is a single respondent identified. In instances where multiple respondents are named each respondent will be advised of the allegations solely against them rather than a copy of the entire complaint. A copy of the notification(s) shall be maintained in the file.
- 9.4** In cases where the respondent(s) provide a written response to the complainant's allegations, a copy of the respondent(s) written response will be forwarded to the complainant for review.

- 9.5** The Workplace Harassment Policy Co-ordinator may delegate an investigation to a Health and Safety Advisor or another corporate employee with appropriate skills, or subject to consultation with the appropriate Executive Director, an external agency.
- 9.6** The investigator may interview witnesses, examine work areas, review documents or take any other steps which they consider in their sole discretion would further the investigation. Where an employee who is alleged to have committed the act of workplace violence is interviewed, he or she will be entitled to have one (1) representative of his or her worksite Joint Health and Safety Committee (JHSC) present. The worksite JHSC shall designate the representative.
- 9.7** The designated JHSC member shall be the certified member of the JHSC representing the worksite. In accordance with the union or association designation, the certified worker member or the certified management member shall be designated by the JHSC to act as a resource to the complainant or respondent respectively.
- 9.8** Where there has been police involvement in the incident, the carriage of response will remain exclusively with Windsor Police Services.
- 9.9** Where the alleged perpetrator of the harassment is a customer or an official (elected or appointed), the investigator shall seek the advice of the appropriate Executive Director/CLT member or CAO as to whether the customer, the official or other witnesses who are not employees should be interviewed.
- 9.10** The investigator shall advise any witnesses that any agreements made as to the confidentiality of information may be overridden by an order made by any person hearing a disciplinary grievance.
- 9.11** The investigator may, in his or her discretion, attempt to achieve an informal resolution of the incident by agreement or mediation and may, subject to the approval of the Workplace Harassment Policy Co-ordinator retain an external mediator for that purpose. Any informal resolution will be subject to the acceptance of all parties to the incident, the supervisor and/or the Workplace Harassment Policy Co-ordinator to ensure the resolution was freely agreed to and is appropriate in all the circumstances.
- 9.12** The investigator shall adhere to the following principles in the conduct of the investigation:
- a. The safety of the worksite.
 - b. The privacy and reputations of the individuals involved
 - c. The reasonable expectations of any witnesses
 - d. The rights of the employees and the bargaining unit
 - e. The possibility for achieving an informal or mediated resolution

- f. The integrity and intent of the Respectful Workplace Program.
- g. In accordance with the requirements of the Municipal Freedom of Information and Protection of Privacy Act (M.F.I.P.P.A.)

10.0 INVESTIGATION REPORTS FOR ALL LEVELS OF INVESTIGATION

- 10.1** The investigator shall prepare a report, as soon as possible following the receipt of the Workplace Harassment Reporting Form and the commencement of the investigation. The investigator will make every reasonable effort to complete the investigation and/or report in a timely manner giving consideration to 9.12 above.
- 10.2** The report shall set out the nature of the alleged incident of harassment, the nature of the investigation conducted and any findings of fact reached by the investigator.
- 10.3** The investigator may make non-binding recommendations with respect to future conduct of any employee in the report. Where it is alleged that the perpetrator of the harassment was a customer, the investigator in consultation with Corporate Legal Department, the respective Executive Director/CLT member, may make recommendations about actions to be taken with respect to the customer.
- 10.4** Where the investigator was able to resolve the matter informally or through mediation, the investigator will report to the Workplace Harassment Policy Co-ordinator in writing on the type or nature of resolution achieved.
- 10.5** The report of the investigation will be delivered to the Executive Director of Human Resources and the Executive Director/CLT member of the employee who made the report and, when the act was alleged to have been committed by another employee, the Executive Director/CLT member of the employee alleged to have committed the act of harassment.
- 10.7** If, at the discretion of the Workplace Harassment Policy Co-ordinator disclosing the investigation report will not create a potential for further workplace harassment, the Workplace Harassment Policy Co-ordinator may provide a copy of the investigation report to the parties in the incident. In exercising his or her discretion under this section the Workplace Harassment Policy Co-ordinator shall have regard to the following principles:
- a. The safety of the worksite
 - b. The privacy and reputations of the individuals involved
 - c. The reasonable expectations of any witnesses
 - d. The rights of the employees and the bargaining unit
 - e. The possibility for achieving an informal or mediated resolution
 - f. The integrity and intent of the Respectful Workplace Program.
 - g. In accordance with the requirements of the Municipal Freedom of Information and Protection of Privacy Act (M.F.I.P.P.A.)
 - h. Other actions as deemed appropriate.

11.0 ACTING ON INVESTIGATION REPORTS – EMPLOYEE HARASSMENT

11.1 The Executive Director in consultation with the appropriate CLT member and Executive Director of Human Resources, of the employee alleged to have committed an act of workplace harassment is obligated, having regard to the recommendations of the investigator, to determine the appropriate remedy including but not limited to:

- a. Acceptance or rejection of an informal or mediated resolution.
- b. Changes to the worksite.
- c. Training for any or all employees in the worksite.
- d. Recommendations for EFAP assistance for any or all employees in the worksite.
- e. Discipline.
- f. Reporting the incident to the police if it has not already been reported.

11.2 Where discipline is issued to an employee as a result of an investigation, the supervisor or manager shall have regard to the applicable process inclusive of the collective agreements and law in respect of union or non-union employees.

11.3 If there is a grievance or other legal process under any disciplinary procedure following discipline issued under section 11.1 and 11.2 above, the person hearing the grievance or process at any level may make an order, in his or her sole discretion, that the contents of the investigation report may be disclosed to all parties to the grievance notwithstanding any agreements previously made regarding confidentiality. In exercising his or her discretion, the party hearing the grievance or process will have reference to the following principles:

- a. The safety of the worksite.
- b. The privacy and reputations of the individuals involved.
- c. The reasonable expectations of any witnesses.
- d. The rights of the employees and the bargaining unit.
- e. The possibility for achieving an informal or mediated resolution.
- f. The integrity and intent of the Respectful Workplace Program.

12.0 ACTING ON INVESTIGATION REPORTS – NON EMPLOYEE HARASSMENT

12.1 The Executive Director consultation with the appropriate CLT member, Executive Director of Human Resources, the CAO and Corporate Legal Department of the employee alleged to have been a victim of an act of workplace harassment by a customer or official (elected or appointed) is (are) obligated to determine the appropriate remedy including but not limited to:

- a. Acceptance or rejection of an informal or mediated resolution

- b. Advising other affected employees of potential risks with respect to the customer or official (elected or appointed) by the most appropriate means and in consultation with the Corporate Legal Department.
- c. Changes in the worksite.
- d. Training for any or all employees in the worksite on the Respectful Workplace Program.
- e. Recommendations for EFAP assistance for any or all employees in the worksite.

13 ADMINISTRATION

13.1 Discretion to amend time limits

The Workplace Harassment Policy Co-ordinator may in his or her sole discretion, extend the time required for completing any of the requirements of this procedure. The investigator will make every reasonable effort to complete the investigation in a timely manner commensurate to the complexity of the matter giving rise to the items of 11.3.

13.2 Forms

The forms applicable to this procedure are:

- A. The Workplace Harassment Reporting Form
- B. Workplace Harassment Contact Log
- C. Waiver for Disclosure of Information
- D. Workplace Harassment Investigative Report

13.3 Procedure Review

This procedure shall be reviewed by the Workplace Harassment Policy Co-ordinator in consultation with the Joint Health and Safety Committees, and approved by the CAO and the Corporate Leadership Team annually and; in the event of any significant change in health or safety law or policy in the province of Ontario, or a determination that any part of this procedure is contrary to law, the procedure shall be reviewed and revised.


Chief Administrative Officer

6/11/10
Date