




Corporate Human Resources Policy		Content Updated: 2018-06-04 Date of Last Review: 2022-06-27
Work Environment		Supersedes Policy: Personal Harassment Prevention Policy 2005-04-27
Policy No: HR-71-13		
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PERSONAL (WORKPLACE) HARASSMENT PREVENTION POLICY
(In accordance with the Occupational Health & Safety Act)


POLICY STATEMENT	<p>The City of Hamilton is committed to maintaining a Workplace climate that embodies mutual respect for the dignity and worth of each person. The City upholds a zero tolerance to Personal Harassment and as such, does not condone Personal Harassment of or by any of its Employees, in the Workplace, and at any work-related functions, or in any other work-related circumstances.</p> <p>In this diverse and equitable Workplace, all Employees will have the opportunity to contribute fully to the City of Hamilton’s mission, vision and values and each Employee’s unique contribution will be respected.</p>
PURPOSE	<p>Under the <i>Occupational Health and Safety Act</i>, the City of Hamilton is required to have a policy for dealing with harassment complaints and a process to handle and investigate harassment complaints. This policy and its associated procedure (Resolving Harassment and Discrimination Issues) are consistent with the City’s obligations under the <i>Occupational Health and Safety Act</i>.</p> <p>The intention of this policy and its procedures is to promote a healthy, respectful and supportive Workplace by preventing Personal Harassment from taking place, and where necessary to act upon complaints of such behaviour in the most prompt, fair, and timely manner with due regard to confidentiality for all parties concerned. An effective element in preventing Personal Harassment is education. To this end, education programs and information sessions will be provided to promote awareness of the issues of Personal (Workplace) Harassment and to foster an environment free of Personal (Workplace) Harassment within the City of Hamilton.</p> <p>The City of Hamilton has implemented a policy on harassment and discrimination based on the prohibited grounds under the Ontario <i>Human Rights Code</i> – see the <i>Harassment and Discrimination Prevention Policy (HDPP)</i>. The HDPP may provide means for addressing concerns which do not fall within the provisions of the Personal Harassment Prevention Policy. The City also has a <i>Violence in the Workplace Prevention Policy</i> that addresses concerns related to Workplace violence. Some Employees may</p>

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	<p>also have rights under collective agreements.</p> <p>This policy defines Personal Harassment and identifies the rights and responsibilities of all Employees including Management.</p>	
SCOPE	<p>This policy applies to all Employees of the City of Hamilton, including but not limited to regular, temporary, probationary and contract Employees, and to consultants, volunteers, students and interns. This policy also applies to elected officials.</p> <p>Members of the general public, visitors to City facilities, or individuals conducting business with the City of Hamilton are expected to refrain from Personal Harassment of Employees. If such Personal Harassment occurs, the City will take any reasonable and necessary steps to stop the Personal Harassment to the extent possible, which may include issuing trespass notices, contacting police, and involvement of internal Legal Services etc.</p>	
DEFINITIONS Personal (Workplace) Harassment	<p>The following definitions apply to this Policy:</p> <p>Personal (Workplace) Harassment as defined by the Occupational Health and Safety “means 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.”</p> <p>Personal Harassment does not violate any of the prohibited grounds outlined in the Ontario <i>Human Rights Code</i>. Personal Harassment can make a person feel uncomfortable, distressed, offended or intimidated. Types of behaviour that may constitute Personal Harassment include, but are not limited to:</p> <ul style="list-style-type: none"> • Ongoing condescending comments or name calling • Repeated offensive gestures or comments • Practical jokes • False accusations • Repeatedly excluding or ignoring the victim • Spreading malicious rumours or gossip • Abuse of power or authority which negatively disrupts or prevents the performance of Workplace duties or unduly influence Workplace decisions, or requests to perform duties outside the scope of job requirements such as requests for personal errands 	

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<p>Sexual Harassment</p> <p>Bullying</p> <p>Complainant</p> <p>Employee</p>	<ul style="list-style-type: none"> • Persistent, excessive or unjustified criticism and constant scrutiny beyond reasonable exercise of supervisory duties • Intimidation • Being coerced to engage in conduct that is not consistent with Workplace expectations of the City of Hamilton. • Bullying • Actions which create a “Poisoned Work Environment” which is hostile, intimidating or offensive <p>An isolated insult or adverse comment typically does not constitute Personal Harassment.</p> <p>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; 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.</p> <p>A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment. Actions such as performance management, training, directing work assignments and discipline does not constitute Personal (Workplace) Harassment.</p> <p>The misuse of power or position to persistently criticize, condemn or openly humiliate an individual, in a manner that undermines their ability. This involves the misuse of power or aggression to control or distress another. The power differential can take various forms, including the exercise of power in numbers, through one’s position etc. The behaviour is often repeated. Bullying can also take many different forms, including physical, verbal, non-verbal, unduly influencing a decision, social isolation or overt exclusion etc.</p> <p>Any person who makes a complaint.</p> <p>All Employees of the City of Hamilton, union and non-union including but not limited to, regular, temporary, probationary and contract Employees.</p>	

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Employer	In accordance with the <i>Occupational Health & Safety Act</i> , means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services.	
Frivolous	Characterized by a lack of seriousness or sense; of little or no weight, worth or importance, not worthy of serious notice.	
Management	Any individual responsible for leading or directing the work of others, including but not limited to elected officials (when in a supervisory relationship with City Employees), the City Manager, General Managers, Executive Directors, Directors, Managers, Supervisors and team leaders. These individuals are considered a part of the “directing mind” of the organization and the City of Hamilton could be held liable by a court or tribunal if these individuals do nothing to prevent and stop Personal Harassment in the Workplace.	
Poisoned Work Environment	A work environment in which inappropriate comments, behavior, or the display of offensive material has an adverse impact on an individual or a group. The offending behaviour does not need to be directed towards an individual, but may have an adverse impact beyond the original incident. The adverse impact can include psychological suffering. A Poisoned Work Environment may result from a pattern of events or a single, serious remark or action.	
Respondent	Any person who is the subject of a complaint (i.e. a complaint is made against them).	
Trivial	Of very little importance or value, insignificant.	
Vexatious	Conduct that is inappropriate, unnecessary, and that a reasonable person would consider to be offensive, upsetting, distressing, demeaning or would make a person uncomfortable.	
Workplace	Any building or part of a building in which one or more Employees work, including Employee eating, changing and lounge areas, and any vehicle or conveyance, or any area including outside worksites, where Employees perform their duties (construction site, open field,	

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	<p>parking lot, road, park). A workplace also includes any work-related function or circumstances. In some instances, harassing or discriminatory behaviour which occurs outside of the physical Workplace and/or adversely affects relationships in the work environment may be covered under this policy (e.g., work-sanctioned social functions, conferences, <i>etc.</i>).</p>	
<p>TERMS & CONDITIONS</p> <p>1. Complaints</p> <p>2. Confidentiality</p> <p>3. Reprisal</p>	<p>The following terms and conditions apply to this Policy:</p> <p>Complainants and Respondents have the right to confidential, unbiased advice from the Human Rights Specialist for the City of Hamilton.</p> <p>The Procedure for <i>Resolving Harassment and Discrimination Issues</i>, outline the steps for handling of complaints, including the following options:</p> <ul style="list-style-type: none"> • Complaint to the City of Hamilton, through an Employee’s Supervisor • Complaint directly to the Human Rights Specialist in the Human Resources Department • In consultation with the Human Rights Specialist and Labour Relations, filing of a grievance for those Employees covered under a collective agreement • Complaint to Police if a criminal act has occurred. <p>The City of Hamilton will make every effort to maintain confidentiality for Employees involved in Personal (Workplace) Harassment complaints or incidents. Confidentiality extends to all records relating to complaints, including but not limited to meetings, interviews and investigation results. Breaches of confidentiality may be subject to appropriate disciplinary action. Complainants, Respondents and witnesses will be advised to maintain confidentiality concerning complaints or incidents. Any record of discipline which occurs as a result of a complaint will be included in the disciplined Employee’s file. However, all records are subject to the provisions of the <i>Municipal Freedom of Information and Protection of Privacy Act</i> and may be subject to disclosure under the Act or to a court of law.</p> <p>Any form of retaliation against any parties involved in a complaint</p>	


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<p>4. Trivial, Frivolous or Vexatious Complaints</p> <p>5. Procedural Fairness</p>	<p>(including a Complainant, Respondent, witness or investigator) will be considered a serious violation of this policy and will not be tolerated. Such retaliatory actions may be subject to disciplinary action up to and including termination of employment.</p> <p>The City of Hamilton prohibits complaints that are Trivial, Frivolous, Vexatious or made in bad faith. Any Employee found to have lodged such a complaint may be subject to appropriate disciplinary action up to and including termination of employment.</p> <p>The rules of procedural fairness govern all activities occurring under this policy.</p>	
<p>RESPONSIBILITIES</p> <p>Shared Responsibility</p> <p>Employer Responsibility</p> <p>Management Responsibility</p>	<p>All Employees have the right to work in a healthy, respectful and supportive work environment that is free from Personal Harassment, and all Employees share the responsibility to support a harassment-free Workplace. The particular responsibilities of the Employer (City of Hamilton), Management and non-Management Employees are specified below:</p> <ul style="list-style-type: none"> ○ Promote a healthy, respectful, and supportive work environment. ○ Ensure information and instruction on the content of a harassment prevention program is shared with all Employees. ○ Create an environment that encourages the reporting of all incidents of Personal Harassment. ○ Provide a process to handle and investigate Personal Harassment complaints in the most effective, fair and timely manner, given the circumstances. ○ Inform the Complainant of the results of the investigation and any corrective action that has been or will be taken by the City of Hamilton to address workplace harassment <p>Management is responsible for promoting a Workplace that is healthy, respectful and supportive and for intervening if harassment occurs. They must ensure that Personal (Workplace) Harassment is not tolerated, ignored or condoned.</p>	


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- They must develop and maintain a written program to implement the Personal Harassment Policy in consultation with the joint health and safety committee. The Procedures for *Resolving Harassment and Discrimination Issues* form the basis and provide the elements for the workplace program. The program must be reviewed at least annually.

Management is responsible for not only their own actions, but also for dealing with the actions of Employees under their supervision. The following are actions which Management must undertake to prevent Personal (Workplace) Harassment and to address perceived harassment or complaints by Employees that are being harassed.

- Set a good example by never engaging in, tolerating or condoning harassment.
- Make all reasonable efforts to protect Employees from harassment.
- Consult with the Human Rights Specialist on all matters that may pertain to this policy.
- If harassment is suspected, or if an Employee complains that they are being harassed, take action in accordance with this policy and the associated procedure (*Resolving Harassment and Discrimination Issues*).
- Consult with the Human Rights Specialist as soon as possible, upon learning or suspecting that harassment may be occurring. In consultation with the Human Rights Specialist, Management must approach an Employee if harassment is suspected because some Employees may be embarrassed and/or reluctant to complain.
- Respond immediately to any harassment complaints, by contacting the Human Rights Specialist. In most cases, only the Human Rights Specialist can formally investigate a Personal Harassment complaint (see the associated procedures – *Resolving Harassment and Discrimination Issues*). Management that are aware of Personal Harassment and do not take corrective action, in consultation with the Human Rights Specialist, may be subject to disciplinary action

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Employee Responsibility (including Management)	<p>up to and including termination of employment.</p> <ul style="list-style-type: none"> ○ Take remedial action with Employees who violate this policy, including disciplinary action, training, education, or other actions as deemed appropriate given the circumstances. <p>Employees share in the responsibility to maintain a work environment that is healthy, respectful and supportive.</p> <ul style="list-style-type: none"> ○ Do not engage in any behaviour that is or may be perceived as harassment. ○ Report incidents of harassment or retaliation (reprisal) to Supervisor or Manager, or to the Human Rights Specialist in Human Resources. ○ Co-operate fully in any attempts to resolve a matter under these policies and co-operate fully in the investigation of any complaint. <p>Any Employee who refuses to participate in an investigation or the resolution of a complaint/matter under these policies, or who knowingly or recklessly makes a false statement or gives false or misleading information, will be subject to disciplinary action, up to and including, termination.</p>	
COMPLIANCE	<p>Any Employee who is found to have violated this Personal (Workplace) Harassment Prevention Policy may be disciplined according to the severity of the actions, up to and including termination of employment with cause and without termination pay/severance. Such terminations will be communicated to City Manager and Council.</p>	
RELATED DOCUMENTS	<p>The following related documents are referenced in this Policy:</p> <ul style="list-style-type: none"> ○ <i>Harassment and Discrimination Prevention Policy</i> ○ <i>Violence in the Workplace Prevention Policy</i> ○ <i>Procedures for Resolving Harassment and Discrimination Issues</i> ○ <i>Occupational Health and Safety Act (OHSA)</i> ○ <i>Municipal Freedom of Information and Protection of Privacy Act</i> ○ <i>Ontario Human Rights Code</i> ○ <i>Protocol for Gender Identity and Gender Expression;</i> 	

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	<p align="center"><i>Transgender and Gender Non-Conforming Persons</i></p> <p>Contact: For more information on this Policy, contact a Human Rights Specialist in Human Resources, City Manager’s Office.</p>	
HISTORY	<p>This Policy replaces previous Personal Harassment Prevention Policy, approved by Council on April 27, 2005 (Report HUR05005).</p> <p>The Corporate Policy Review Group and an Employment Lawyer, specializing in Human Rights, were consulted in the revisions made to this Policy.</p> <p>Approved by Council of the City of Hamilton 2014-02-12</p> <p>Revision History:</p> <ul style="list-style-type: none"> • 2016-09-08 this policy was updated to be consistent with Bill 132 and changes to the <i>OHS</i>A • 2018-06-04 policy updated to clarify language, align more closely to legislation and to add reference to the Protocol on Gender Identity and Gender Expression; Transgender and Gender Non-Conforming Persons <p>Review History:</p> <ul style="list-style-type: none"> • Senior Management Team 2016-03-31 • Corporate Policy Review Group 2017-06-01 • Corporate Policy Review Group 2018-07-06 • Corporate Policy Review Group 2019-06-28 • Human Resources 2020-12-01 • Corporate Policy Review Group 2022-06-27 	