

<b>Corporate Human Resources Policy</b>	 <b>Hamilton</b>	Content Updated: 2019-06-27
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## ***HATE RELATED INCIDENT PREVENTION POLICY***

### **POLICY STATEMENT**

The City of Hamilton is committed to maintaining a safe and inclusive environment that promotes mutual respect for the dignity and worth of each person. The purpose of this policy is to assist in the identification of a hate motivated crime or incident and identify appropriate ways in which to respond. The goal of the City's Hate Related Incident Prevention Policy is to establish and maintain a hate-free City as required under the City of Hamilton Harassment and Discrimination Prevention Policy, the Ontario Human Rights Code, and the Criminal Code of Canada.


The City of Hamilton believes that diversity and inclusion strengthen and enrich our community socially, politically, culturally and economically and are vital to our vision of being the best place to raise a child and age successfully. In support of this belief, the City of Hamilton condemns the promotion of hatred and promotes a respectful environment without hate. The City of Hamilton is committed to eliminating hate activity by:

- ensuring that all City employees including but not limited to regular, temporary, contract and probationary employees, contractors, consultants, volunteers, students, interns as well as every member of Council and their staff, citizens, and service recipients can work, assemble, and are serviced in a respectful environment without hatred;
- facilitating the combined efforts of various sectors in responding to hate, including but not limited to: staff, the police, community groups, elected officials and other levels of government; and,
- publicly condemning the actions of hate groups/individuals and racist organizations.

### **PURPOSE**


The intention of this policy and its procedure is to prevent Hate Related Incidents from occurring in City of Hamilton owned and operated spaces and where necessary, to act upon complaints of such behaviour promptly, fairly, judiciously and with due regard to confidentiality for everyone involved.


The City of Hamilton also has a *Harassment and Discrimination Prevention Policy and Procedure* to address concerns related to harassment, discrimination, sexual harassment, and personal


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	<p>harassment in accordance with the Ontario Human Rights Code and Occupational Health and Safety Act.</p> <p>The City also has a <i>Workplace Violence Prevention Policy</i> that addresses concerns related to Workplace violence. Some Employees may also have rights under collective agreements.</p> <p>Any individual has the right to pursue their complaint with police services or other related legislated processes.</p> <p>This policy contains definitions related to Hate Related Incidents and identifies the rights and responsibilities of all Employees, including Management, and other individuals accessing City of Hamilton space.</p>		
SCOPE	<p>This policy applies to all City of Hamilton employees, including but not limited to regular, temporary, contract and probationary employees, and to contractors, consultants, volunteers, students, interns as well as applicants for employment. This policy also applies to elected officials. Citizen advisory committees/agencies and boards, members of the public, service recipients, visitors to and users of City facilities/public space and individuals conducting business with, for or with support from the City of Hamilton, are expected to adhere to the intent of this policy, consistent with their obligations under provincial and federal law.</p> <p>Members of the public, visitors to City facilities, and individuals conducting business with the City of Hamilton, are expected not to engage in any form of hate related incidents against employees or other individuals/groups. If such Hate Related Incidents occur, the City will take all reasonable and necessary steps to ensure an environment free from Hate to the extent possible, which may include involvement of Legal Services; issuing no trespass notices; contacting Police; requesting injunctions, and prosecution.</p>		

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<b>DEFINITIONS</b>	
<b>Hate</b>	<p>Acts of hate are committed to intimidate, harm or terrify victims and the identifiable groups to which they belong. Victims of hate are targeted on the sole basis of who they are and/or the groups to which they belong (i.e., being Jewish, Muslim, Transgender, Black, Indigenous, etc.).</p> <p>Hate Related Incidents may involve intimidation, harassment, physical force or threat of physical force against a person, a group or a property if motivated by hatred/bias/prejudice against an identifiable group. Acts of hate may be committed by strangers or individuals well known to the victim. Perpetrators may include individuals, groups, organizations and institutions. Victims may be reluctant to report hate for a variety of reasons, including: not recognizing that the motivation was hate; fear of retaliation; embarrassment and humiliation; and/or uncertainty of the criminal justice system response.</p>
<b>Hate Crime</b>	<p>A hate crime is defined as a criminal offence committed against a person or property that is motivated in any part by the suspect/offender's bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.</p> <p>The <i>Criminal Code of Canada</i> (the Criminal Code) provides enhanced sentencing powers when a crime is motivated by bias/prejudice/hate:</p> <p>Section 718.2 notes:</p> <p><i>A court that imposes a sentence shall also take into consideration the following principles:</i></p> <p><i>(a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing: (i) evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.</i></p>
<b>Hate Propaganda</b>	Hate propaganda can be any communication used by a person or

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	group which promotes hatred based on colour, nationality or ethnic origin, race, religion and/or sexual orientation. The hate propaganda section of the Criminal Code is broken down into two sections; Advocating Genocide and Public Incitement of Hatred.	
<b>Genocide</b>	Section 318 of the Criminal Code notes:  <i>(1) Every one who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.</i>  Definition of "genocide"  <i>(2) In this section, "genocide" means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely,</i> <ul style="list-style-type: none"> <li>• <i>(a) killing members of the group; or</i></li> <li>• <i>(b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.</i></li> </ul>	
<b>Public Incitement of Hatred</b>	Section 319 of the Criminal Code notes: <i>(1) Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of</i> <ul style="list-style-type: none"> <li>• <i>(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or</i></li> <li>• <i>(b) an offence punishable on summary conviction.</i></li> </ul>	
<b>Willful Promotion of Hatred</b>	Section 319 of the Criminal Code notes: <i>(2) Every one who, by communicating statements, other than in private conversation, willfully promotes hatred against any identifiable group is guilty of</i> <ul style="list-style-type: none"> <li>• <i>(a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or</i></li> <li>• <i>(b) an offence punishable on summary conviction.</i></li> </ul>	
<b>Announced Intention to Discriminate</b>	While not specifically dealing with "hate activity" the <i>Ontario Human Rights Code</i> deals with an announced intention to discriminate as follows: Section 13(1) of the <i>Ontario Human Rights Code</i> notes: <i>A right under Part I is infringed by a person who publishes or displays before the public or causes the publication or</i>	

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	<p><i>display before the public of any notice, sign, symbol, emblem or other similar representation that indicates the intention of the person to infringe a right under Part I or that is intended by the person to incite the infringement of a right under Part I.</i></p> <p>Activity captured under this section of the Code may, depending on the specific context, also amount to hate under the Criminal Code. To meet the requirements of section 13:</p> <ul style="list-style-type: none"> <li>• the display must be public;</li> <li>• a person must have the intention to infringe a right under Part 1; and,</li> <li>• the display must take place within the context of one of the prohibited grounds.</li> </ul>	
<b>TERMS &amp; CONDITIONS</b>  <b>1. Hate Related and Hateful Behaviours</b>	<p>The following terms and conditions apply to this Policy:</p> <p>Hate related or hateful behaviour results from actions directed at specific individuals or groups, which are unwelcome or unwanted; or, may be actions which are not directed at a particular individual, but have created an environment which is hostile, intimidating or offensive. To be covered under this policy, the hate related or hateful behaviours must be linked to one or more of the prohibited grounds.</p> <p>Examples of <b>hate related or hateful behaviours</b> include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Acts of violence</li> <li>• Verbal slurs accompanied by a threat</li> <li>• Vandalism of ethnic, religious, lesbian or gay, minority sites</li> <li>• Sexual assaults</li> <li>• Intimidation and harassment</li> <li>• Bomb threats</li> <li>• Public messages implying that members of an identifiable group are to be despised, scorned, denied respect and made subject to ill-treatment on the basis of group affiliation. Such messages may include group symbols, slogans or epithets and can be transmitted in many ways (e.g. graffiti, posters, flyers, hate mail, music lyrics, over the telephone, website and e-mail content, etc.)</li> <li>• Inappropriate references to racist organizations or individuals</li> <li>• Accessing, displaying, transmitting or storing (including on the City's technology systems, including computer network etc.) material which violates any Canadian federal or</li> </ul>	

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<b>2. Complaints</b>	provincial law or City by-law or directive, or is hate related. (See City of Hamilton Computer Acceptable Use Policy).		
	<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 Resolving Hate Related Incident Issues outline the steps for handling of complaints, including the following options:</p> <ul style="list-style-type: none"> <li>• Complaint to the City of Hamilton, through an Employee's Supervisor</li> <li>• Complaint directly to the Human Rights Specialist in the Human Resources Department</li> <li>• Complaint to the Human Rights Tribunal of Ontario</li> <li>• Complaint to Police if a criminal act has occurred.</li> </ul>		
<b>3. Confidentiality</b>	<p>The City of Hamilton will make every reasonable effort to maintain confidentiality for Employees involved in Hate Related Incident complaints. 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>		
<b>4. Procedural Fairness</b>	<p>The rules of procedural fairness govern all activities occurring under this policy.</p>		
<b>5. Reprisal</b>	<p>Any form of retaliation against parties involved in a complaint (including a Complainant, Respondent, witness, investigator etc.) 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>		



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## 6. Trivial, Frivolous/ Vexatious Complaints

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 dismissal.

## RESPONSIBILITIES

### Shared Responsibility (All Employees)

All Employees have the right to work in a healthy, respectful and supportive environment free from Hate. Employees share in the responsibility to ensure that their work environment is free from Hate.


The responsibilities of the Employer, Management and non-Management Employees are specified below.

Employees must not engage in any behaviour or comments that are or may be perceived as Hate Related Incidents. Employees are required to report incidents of Hate, or Reprisal to their Supervisors or Managers or to the Human Rights Specialist in Human Resources.


It is the responsibility of every Employee to co-operate fully in any attempts to resolve a matter under these policies and to co-operate fully in the investigation of any complaint. Any Employee who refuses to participate in an investigation or the resolution of a 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 of employment.

### Employer Responsibility

- Provide a Workplace free from any Hate Related Incident that is based on the prohibited grounds under the Ontario *Human Rights Code* and *Criminal Code of Canada*.
- Ensure corporate policies and procedures comply with the Ontario *Human Rights Code*.
- Ensure information and instruction on the content of a hate prevention program is shared with all Employees.
- Provide Human Rights awareness education to all Employees.
- Create an environment that encourages the reporting of all Hate Related Incidents.
- Provide a process to handle and investigate Hate Related Incident 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

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<b>Management Responsibility</b>	<p>Hamilton to address workplace Hate Related Incidents.</p> <p>Management is responsible for providing a Workplace that is free of Hate, and for intervening if a Hate Related Incident occurs. They must ensure that Hate is not tolerated, ignored or condoned.</p> <p>Management is responsible for not only their own actions, but also for dealing with the actions of staff under their supervision. In order to prevent Hate, address perceived Hate Related Incidents, and to address Employee complaints with respect to Hate on the basis of the prohibited grounds under the Ontario <i>Human Rights Code</i> and <i>Criminal Code of Canada</i>,</p> <p>Management will undertake the following actions:</p> <ul style="list-style-type: none"> <li>○ Set a good example by never engaging in, tolerating or condoning Hate.</li> <li>○ Make all reasonable efforts possible to protect Employees from Hate.</li> <li>○ Consult with the Human Rights Specialist on all matters that may pertain to this policy.</li> <li>○ If a Hate Related Incident is suspected, or if an Employee complains that they are being harassed or discriminated against, action must be taken in accordance with this policy and the associated procedure (<i>Resolving Hate Related Incident Issues</i>). Accordingly, Management must consult with the Human Rights Specialist as soon as possible, upon learning or suspecting that Hate Related Incidents may be occurring. In consultation with the Human Rights Specialist, Management must approach an Employee if a Hate Related Incident is suspected because some Employees may find it difficult and/or be reluctant to complain.</li> <li>○ Respond immediately to any Hate Related Incident complaints by contacting the Human Rights Specialist. Only the Human Rights Specialist may formally investigate a Hate Related Incident Complaint (see the associated procedure – <i>Resolving Hate Related Incidents</i>). Management who are aware of a Hate Related Incident and do not take corrective action in consultation with the Human Rights Specialist, may be subject to disciplinary action, up to and including termination of employment.</li> <li>○ In consultation with the Human Rights Specialist/Labour</li> </ul>	



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	Relations, take remedial action with Employees who violate this policy, including disciplinary action, training, education or any other action deemed appropriate given the circumstances.	
<b>COMPLIANCE</b>	<p>Any Employee who is found to have violated this Hate Related Incident 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> <p>Any individual, including but not limited to, citizens, volunteers, and members of Advisory Committees/Agencies/Boards, found to have violated this Hate Related Incident Prevention Policy will face appropriate sanctions as determined by Legal Services including removal from said Advisory Committee/Agency/Board, legal sanctions including No Trespass issuance, court injunctions up to and including criminal prosecution. Such actions will be communicated to City Manager and Council.</p>	
<b>RELATED DOCUMENTS</b>	<p>The following related documents may be utilized in conjunction with this Policy:</p> <ul style="list-style-type: none"> <li>• <i>Violence in the Workplace Prevention Policy</i></li> <li>• <i>Harassment and Discrimination Prevention Policy</i></li> <li>• <i>Procedure for Resolving Harassment and Discrimination Issues</i></li> <li>• <i>Procedure for Resolving Hate Related Incidents</i></li> <li>• <i>Occupational Health and Safety Act (OHSA)</i></li> <li>• <i>Municipal Freedom of Information and Protection of Privacy Act</i></li> <li>• <i>Ontario Human Rights Code</i></li> <li>• <i>Criminal Code of Canada</i></li> <li>• <i>Protocol for Gender Identity and Gender Expression; Transgender and Gender Non-Conforming Persons</i></li> </ul> <p><b>Contact:</b> For more information on this Policy, contact the Diversity and Inclusion Office in Human Resources, City Manager's Office.</p>	
<b>HISTORY</b>	<p>The Corporate Policy Review Group, Corporate Security, Legal Services, and the Diversity and Inclusion Office were consulted in the development of this Policy.</p> <p>Approved by Council of the City of Hamilton 2019-XX-XX</p>	

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	Senior Management Team reviewed updated policy on 2019-XX-XX Corporate Policy Review Group reviewed the policy on 2019-XX-XX		

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