




CITY OF HAMILTON
CITY MANAGER'S OFFICE
Human Resources Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	September 7, 2023
SUBJECT/REPORT NO:	Harassment and Discrimination Prevention Policy (HUR23011) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Jodi Koch (905) 546-2424 Ext. 3003
SUBMITTED BY:	Lora Fontana Executive Director Human Resources
SIGNATURE:	

RECOMMENDATION

That the following, be approved:

- (a) The revisions to Policy HR-61-13 Harassment and Discrimination Prevention Policy set out in Appendix "A" to Report HUR23011; and,
- (b) The Procedure for Resolving Harassment and Discrimination Issues under Policy HR-61 Harassment and Discrimination Prevention Policy, as set out in Appendix "B" to Report HUR23011.

EXECUTIVE SUMMARY

The revised Policy is a consolidation of two previous policies, HR-61-13 Harassment and Discrimination Prevention Policy and HR-62-13 Personal (Workplace) Harassment Prevention Policy. The content is virtually unchanged with the exception of the inclusion of citizens being able to utilize the City of Hamilton's internal policy and procedure for resolving Harassment and Discrimination allegations. For reference, new content has been highlighted in Appendix "A" to Report HUR23011. Consolidation of these two policies provides for a comprehensive and streamlined approach for accessing

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Harassment and Discrimination Prevention Policy (HUR23011) (City Wide) - Page 2 of 5

information and guidance respecting harassment and discrimination prevention in the workplace.

Alternatives for Consideration

Not applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None unless increased volume requires outsourcing of investigations.

Staffing: None

Legal: None

HISTORICAL BACKGROUND

Under the Occupational Health and Safety Act, the City of Hamilton is required to have a policy for dealing with harassment and discrimination related complaints and a process to handle and investigate such complaints. This policy and its associated procedure are consistent with the City's obligations under the Occupational Health and Safety Act.

The Human Rights Workplace and Harassment Investigators have the primary responsibility for investigating any allegations of harassment and discrimination and personal harassment at the City of Hamilton. The team consists of three investigators who have all received specialized Human Rights Investigation training from leading Canadian law firms. The policy and procedure are reflective of best practices for investigations in this field.

Since 2016, the Human Rights & Workplace Harassment Investigators have conducted investigations stemming from complaints from citizens alleging harassment and/or discrimination while accessing a City Service or Facility. The current Policies are silent on citizen complaints with respect to their ability to submit a complaint for appropriate follow up. While the policy consolidation work has been underway for some time, the presentation of the consolidated policy was delayed until the new 22-019 By-Law to Establish a Code of Conduct for Local Boards came into effect as of May 1, 2023. The revised policy explicitly states that citizen complaints that meet specific criteria would fall within the scope of the consolidated Policy and that complaints relating to Volunteer Advisory Committees, Agencies and Boards would be investigated by the Integrity Commissioner. The revised policy and accompanying procedure provide greater clarity on expectations and roles and responsibilities for all involved.

Additionally, in the past two years, there has been an increase in requests from staff to address inappropriate behaviours of citizens and clients as they interact with our employees. Harassing behaviour from citizens and clients has been identified as an ongoing opportunity in the 2017 and 2021 Our People Survey results. More specifically,

SUBJECT: Harassment and Discrimination Prevention Policy (HUR23011) (City Wide) - Page 3 of 5

City staff servicing the public have continually and increasingly identified being subjected to negative behaviours from the public, thereby affecting their psychological safety and well-being.

In an attempt to manage these behaviours, Human Rights has developed a template “Letter of Expectation” for management to provide to a citizen which clearly outlines the expected behaviours and consequences for not abiding by those expectations. Additionally, Human Rights will send out “Cease and Desist” letters to citizens who have engaged in an ongoing pattern of harassing behaviours towards staff. While these measures have provided additional tools, we continue to strive to make improvements to provide a safe and respectful work environment for all staff.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The relevant legislation and City of Hamilton policies include:

- Ontario Human Rights Code
- Ontario Occupational Health and Safety Act
- Accessibility for Ontarians with Disabilities Act, 2005
- Harassment and Discrimination Prevention Policy
- Personal Harassment Prevention Policy
- Protocol for Gender Identity and Gender Expression; Transgender and Gender Non-Conforming Persons
- Use of Indigenous Medicines Policy

RELEVANT CONSULTATION

Consultations have taken place with Labour Relations, Health and Safety, Legal Services, Policy Review Group, and Senior Leadership Team. Input from these groups have been incorporated into the final versions.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Managing inappropriate behaviours within the workplace, as well as those inappropriate behaviours with City clients and customers continues to be a concern. Providing the proper supports and training to staff is crucial in our ability to ensure a respectful workplace, that is free from harassment and discrimination.

The Human Resources’ Human Rights team continues to manage through several challenging circumstances and behaviours and continue to experience a significant number of consultations and complaints.

The Human Rights team also provides consultation to stakeholders including people leaders, employees, and citizens on how best to manage and respond to such issues as

SUBJECT: Harassment and Discrimination Prevention Policy (HUR23011) (City Wide) - Page 4 of 5

accommodations related to creed, disability, family status and medical restrictions and limitations, Accessibility for Ontarians with Disabilities Act compliance, and various Ontario Human Rights Code issues as well as sexual and personal harassment. The team also takes carriage of all Ontario Human Rights Tribunal (HRTO) Applications on behalf of the organization.

The Human Rights Office intake data (see Appendix “C” to Report HUR23011) is as follows:

Year	Consultations	Investigations	HRTO Applications
2017	110	25	3
2018	176	26	8
2019	115	38	8
2020	118	31	7
2021	154	31	8
2022	118	30	4
2023 YTD	124	21	4

Of the investigations conducted in 2022 a total of 30 investigations were conducted (see Appendix “D” to Report HUR23011). Of those, 12 had substantiated policy violations and 18 were unsubstantiated. The nature of allegations is most often related to Personal Harassment, which has been consistent over the data collection period. The breakdown of complaints included 17 related to Personal Harassment, 6 related to Sexual Harassment, 5 Code Related (1 related to Race and 4 related to Disability), 1 was related to Breach of Confidentiality/Code of Conduct and 1 related to Anti-Nepotism. A total of 6 investigations and 3 consultations were related to citizen issues.

In the first six months of 2023, the team has conducted 21 investigations (see Appendix “E” to Report HUR23011). Of those, 8 had substantiated policy violation findings, 4 were unsubstantiated, and 9 remain open as active files. A total of 12 investigations are related to Personal Harassment, 7 related to Sexual Harassment, 2 Code Related to Race. Six of these investigations were initiated by citizens. Interestingly, there have been a total of seven situations where citizens have been named as Respondents. In total 28 issues relate to citizens of the 145 consults/investigations in 2023.

The majority of complaints and consultations are not related to Code protected grounds but rather continue to reflect an increase in Workplace or Personal Harassment which includes behaviours such as bullying, condescending comments, false accusations, etc.

Complaints from citizens about staff are often alleged to be discrimination simply because staff are following established procedures and policies, but the citizen is desiring a different outcome. The Human Rights team will continue to strive to achieve

SUBJECT: Harassment and Discrimination Prevention Policy (HUR23011) (City Wide) - Page 5 of 5

a work environment that is free from any form of discrimination and harassment while balancing the needs and perceptions of citizens.

For reference, the previous policies and accompanying procedure are attached as Appendix “F”, “G” and “H” to Report HUR23011.

ALTERNATIVES FOR CONSIDERATION

Not applicable

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report HUR23011 - Revised Harassment and Discrimination Prevention Policy
Appendix “B” to Report HUR23011 - Revised Procedure for Resolving Harassment and Discrimination Issues
Appendix “C” to Report HUR23011 - Human Rights Data 2017 – 2023 YTD June 30
Appendix “D” to Report HUR23011 - Detailed Report 2022
Appendix “E” to Report HUR23011 - Detailed Report 2023
Appendix “F” to Report HUR23011 – Harassment and Discrimination Prevention Policy – 2022
Appendix “G” to Report HUR23011 – Personal Harassment Prevention Policy – 2022
Appendix “H” to Report HUR23011 – Procedure for Resolving Harassment and Discrimination Issues - 2020