

June 7, 2009

ACTION REQUIRED

To: The Board of Governors of Exhibition Place

From: Dianne Young
Chief Executive Officer

Subject: **Human Rights & Anti-Harassment Policy – Guidelines & Procedures**

Summary:

As requested by City Council, Exhibition Place staff have undertaken an exercise to review its workplace policies related to the Ontario Human Rights Code. Following this review, staff are proposing that the Board's policy "Positive Workplace Environment" approved by the Board in November 2006 be substantially updated in keeping with the directions taken by the City of Toronto Human Resources Department and City Council.

Attached for consideration of the Board is an amended human rights policy ("Positive Workplace Environment") for Exhibition Place along with a Human Rights Procedures document.

Financial Implications:

There are no financial implications resulting from the adoption of this report.

Recommendation:

It is recommended that the Board approve of the Human Rights and Anti-Harassment Policy attached as Appendices "A" and "B" and direct staff to give notice of this amended policy and new procedures to all employees.

Decision History:

At its meeting of November 3, 2006, the Board adopted a report with respect to the Human Resources Policies which included a policy entitled "Positive Workplace Environment". At the meeting of December 2008, City Council adopted comprehensive human rights policies and complaint procedures along with a policy on the annual reporting of human rights complaints.

Issue Background:

As part of the December 2008 policy approval by Council, City Council requested that all agencies, boards and commissions review, implement or update their own human rights policies and report back to Council.

Comments:

Following receipt of the City directive, Exhibition Place staff undertook a review of the Board's existing "Positive Workplace Environment" policy with the policies adopted by the City and it was determined that it was appropriate to revise our policy to be more in-line with the direction

taken by the City. Accordingly, Exhibition Place staff are recommending that the attached policies provided as Appendices “A” and “B” to this report be approved by the Board and that these amended and new policies supersede the previous policy on Positive Workplace Environment.

As stated in the newly revised “Positive Workplace Environment” policy (Appendix “A”) the goal of the Human Rights and Anti-Harassment Policy is to create a climate of understanding and mutual respect where each person feels a part of the community and is able to contribute fully to the development and well-being of Exhibition Place. All employees are responsible for respecting the dignity and rights of their co-workers and the public they serve. Discrimination and harassment are serious forms of employee misconduct which may result in disciplinary action up to and including discharge. In addition, visitors to Exhibition Place grounds or facilities or individuals conducting business with Exhibition Place, are expected to adhere to this policy, including refraining from harassment of employees.

Appendix “B” sets out procedures to follow so that complaints of discrimination and harassment can be resolved internally and are intended as an alternate dispute resolution process. These procedures should be read in conjunction with the Exhibition Place Human Rights and Anti-Harassment Policy. The goal of the policy and the procedures is to prevent, correct and remedy situations of discrimination or harassment and not to be punitive, although discipline may result.

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Submitted by:

Dianne Young
Chief Executive Officer



FORMERLY CALLED:	Positive Workplace Environment
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July	10	2009

SUPERCEDES POLICY DATED		
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Policy Statement

Under the **Ontario Human Rights Code**, every person has a right to equal treatment by the Board of Governors of Exhibition Place with respect to services and facilities, accommodation, contracts and employment. The Board of Governors of Exhibition Place adopted this Human Rights and Anti-Harassment Policy to ensure ethical and respectful service and employment practices that incorporate equitable treatment for all employees, visitors and recipients of Exhibition Place services.

The goal of the Human Rights and Anti-Harassment Policy is to create a climate of understanding and mutual respect where each person feels a part of the community and is able to contribute fully to the development and well-being of Exhibition Place.

The Board of Governors of Exhibition Place will not tolerate, ignore, or condone any form of discrimination or harassment and is committed to promoting appropriate standards of conduct at all times. All employees are responsible for respecting the dignity and rights of their co-workers and the public they serve. Discrimination and harassment are serious forms of employee misconduct which may result in disciplinary action up to and including discharge.

Visitors to Exhibition Place grounds or facilities or individuals conducting business with the Board of Governors of Exhibition Place, are expected to adhere to this policy, including refraining from harassment of employees, members of the Board of Governors of Exhibition Place, and persons acting on behalf of Exhibition Place. If such harassment occurs, Exhibition Place will take any steps available to ensure a harassment-free workplace, including barring the harasser from its facilities, where appropriate, or discontinuing business with contractors or consultants.

2.0 Application

2.1 Services and Facilities: Every person has a right to equal treatment with respect to Exhibition Place services and facilities, without discrimination or harassment because of the following prohibited grounds and any combination of these grounds:

- race
- ancestry
- place of origin
- colour
- ethnic origin
- citizenship
- creed
- sex (including pregnancy, breast feeding and gender identity)
- sexual orientation
- age
- marital status
- family status
- disability
- political affiliation*
- level of literacy*

2.2 Occupation of Facilities: Every person has a right to equal access with respect to the occupancy of Exhibition Place-owned facilities, without discrimination because of the following prohibited grounds and any combination of these grounds:

- race
- ancestry
- place of origin
- colour
- ethnic origin
- citizenship
- creed
- sex (including pregnancy, breast feeding and gender identity)
- sexual orientation
- marital status
- family status
- disability
- receipt of public assistance
- level of literacy*
- political affiliation*

2.3 Contracts: Every person having legal capacity has a right to contract on equal terms without discrimination because of the following prohibited grounds and any combination of these grounds:

- race	-citizenship	- sexual orientation	- level of literacy*
- ancestry	- creed	- age	- political affiliation*
- place of origin	- sex (including pregnancy,	- marital status	
- colour	breast feeding and gender	- family status	
- ethnic origin	identity)	- disability	

2.4 Employment: Every person has a right to equal treatment with respect to employment with Exhibition Place without discrimination or harassment because of the following prohibited grounds and any combination of these grounds:

- race	-citizenship	- sexual orientation	- level of literacy*
- ancestry	- creed	- age	- political affiliation*
- place of origin	- sex (including pregnancy,	- record of offences	- personal
- colour	breast feeding and gender	- marital status	harassment*
- ethnic origin	identity)	- family status	- membership in a
		- disability	union or staff association*

* These grounds are included in the Exhibition Place policy, but are not explicitly covered by the Ontario Human Rights Code.

3.0 Roles and Responsibilities

This policy applies to all Board of Governors of Exhibition Place employees, members of the Board of Governors and to all aspects of the employment relationship. All staff are expected to abide by this policy and the Ontario Human Rights Code by refraining from any form of harassment and discrimination and by fully co-operating in any investigation of a harassment or discrimination complaint. Human rights is a shared responsibility.

Management staff including the CEO/CFO, department heads, directors, managers, coordinators, supervisors and human resources staff have obligations under the Human Rights and Anti-Harassment Policy. Under the Ontario Human Rights Code management can be held personally liable for failing to take appropriate action. All management staff have the following general responsibilities with respect to human rights:

- not engaging in behaviour that would constitute discrimination or harassment under the policy
- setting and enforcing standards of appropriate workplace conduct
- having thorough knowledge of the policy
- being able to clarify what constitutes harassment and discrimination
- being able to advise staff of their rights and responsibilities under the policy
- taking all reasonable steps to deal with alleged workplace discrimination and harassment that they are aware of or reasonably should have been aware of (even if a direct complaint has not been made), in a timely fashion while maintaining as much confidentiality as possible

Management staff are encouraged to consult the guideline Dealing with Complaints of Harassment and Discrimination and/or contact the Human Resources Department for guidance to address human rights complaints.

3.1 General Managers:

- providing leadership in creating and maintaining harassment-free, respectful workplaces
- receiving investigation reports and making final decisions (in consultation with Human Resources and City Legal Services (as appropriate) about disposition of a complaint
- communicating final decisions about the disposition of a formal complaint in writing to the parties
- ensuring resource availability and effective implementation of complaint settlements, remedies and corrective actions
- ensuring that staff who have responsibilities under the policy are held accountable and have the appropriate knowledge and skills to meet policy obligations

3.2 Directors, Managers, Coordinators and Supervisors:

- ensuring that their workplace is free from harassment and discrimination, being aware of what's happening in their workplace and taking appropriate action upon becoming aware of discriminatory and/or harassing conduct contrary to the policy
- educating employees to ensure that they know that harassment and discrimination will not be tolerated and that they know what their rights and responsibilities are under the policy including ways in which policy violations can be resolved
- documenting details of human rights concerns, actions taken, outcomes or remedies implemented
- where discrimination or harassment occurred, monitoring the situation after a complaint to ensure the harassment or discrimination has stopped and implementing appropriate measures to prevent reoccurrence
- consulting Human Resources where there may be a perceived or real conflict of interest in addressing an alleged policy violation or for assistance with a human rights issue
- where a complaint has been raised with, or referred to division management to explore, keeping Human Resources apprised of outcomes
- cooperating in investigations
- ensuring policy and program development and implementation are consistent with the Human Rights and Anti-Harassment Policy
- responding to and taking action to remedy complaints of personal (non-Code) harassment

3.3 Human Resources:

- taking a leadership role in providing advice on policy provisions, addressing and providing assistance to resolve human rights concerns and complaints
- removing barriers in employment policies and practices that may have the effect of discriminating against groups or individuals
- consulting Exhibition Place Corporate Counsel, City Legal where there may be a perceived or real conflict of interest in addressing an alleged policy violation
- integrating equity principles into all human resources activities
- cooperating in investigations
- supporting management in addressing Code and non-Code harassment and discrimination
- providing training for management and employees on the Human Rights and Anti-Harassment Policy
- monitoring selection processes to ensure that they are barrier-free

3.4 Employees:

- being familiar with their rights and responsibilities under the policy and the Ontario Human Rights Code
- not engaging in behaviour that would constitute discrimination or harassment under the policy
- raising concerns as soon as possible if you have been discriminated against or harassed - refer to the Human Rights Complaint Procedures for Employees - resolution options
- documenting details of harassment and, or discrimination that are experienced or witnessed
- co-operating in interventions and investigations to resolve human rights and harassment issues
- maintaining confidentiality related to human rights investigations
- employees are strongly encouraged to report incidents of harassment, discrimination or retaliation that they witness

4.0 Definitions

4.1 Allegation: An allegation is an unproven assertion or statement based on a person's perception.

4.2 Complainant: The person alleging that discrimination or harassment occurred. There can be more than one complainant in a human rights complaint.

4.3 Discrimination: Discrimination is any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group because of personal characteristics or circumstances unrelated to the person's abilities or the employment or service issue in question (e.g., disability, sex, race, sexual orientation). Discrimination may arise as a result of direct differential treatment or it may result from the unequal effect of treating individuals and groups in the same way. Either way, if the effect of the behaviour on the individual is to withhold or limit full, equal and meaningful access to goods, services,

facilities, employment, housing accommodation or contracts available to other members of society, it is discrimination.

4.4 Duty to Accommodate: The legal obligation of an employer to take steps to eliminate disadvantage caused by systemic, attitudinal or physical barriers that unfairly exclude individuals or groups protected under the Ontario Human Rights Code. It also includes an obligation to meet the special needs of individuals and groups protected by the Code unless meeting such needs would create undue hardship. Failure to accommodate a person short of undue hardship is a form of discrimination.

4.5 Employee: For the purpose of this policy, the term employee includes: full-time, part-time, temporary, probationary and casual employees, co-op students, volunteers, job applicants, contractors and consultants working for the Board of Governors of Exhibition Place.

4.6 Equal Treatment: Equal treatment is treatment that brings about an equality of results and that may, in some instances, require different treatment. For example, to give all employees equal treatment in entering a building, it may be necessary to provide a ramp for an employee who requires the use of a wheelchair.

4.7 Harassment: Harassment means improper comment or conduct that a person knows or ought to know would be unwelcome, offensive, embarrassing or hurtful. It is a form of discrimination. Harassment may result from one incident or a series of incidents. Harassment can occur between co-workers, between management and employees, between employees and Members of the Board of Governors of Exhibition Place, between employees and vendors, between employees and recipients of Exhibition Place services, between employees and members of the public, between Members of the Board of Governors of Exhibition Place and members of the public.

4.8 Code Harassment: Means improper comment or conduct based on one or more of the prohibited grounds listed in the Ontario Human Rights Code, that a person knows or ought to know would be unwelcome, offensive, embarrassing or hurtful - see section 4.14 for a list of the prohibited grounds.

Examples of Code harassment based on a prohibited ground include, but are not limited to: slurs or derogatory remarks; threats; inappropriate jokes, innuendos, name-calling, teasing; insulting gestures; practical jokes which result in embarrassment; displaying pin-ups, pornography, racist, homophobic or other offensive materials; use of electronic communications such as the internet and e-mail to harass; actions that invade privacy; spreading rumours that damage one's reputation; refusing to work with another; condescending or patronizing behaviour; abuse of authority which undermines performance or threatens careers; unwelcome touching, physical assault or sexual assault.

There is no legal obligation for an individual to tell a harasser to stop. The fact that a person does not explicitly object to harassing behaviour, or appears to be going along with it does not mean that the behaviour is not harassing or that it has been consented to.

This policy is not intended to interfere with constructive, feedback regarding performance or operational directives provided to employees by their supervisors or managers.

4.9 Personal (non-Code) Harassment: Personal (non-Code) harassment is harassment that is not related to a prohibited ground identified in the Ontario Human Rights Code. Personal harassment is improper comment and/or conduct, not related to a legitimate work purpose, directed at and offensive to another person or persons in the workplace and that the individual knows or ought to reasonably know would offend, harm or is derogatory, demeaning or causes humiliation or embarrassment.

Personal harassment often involves a course or grouping of behaviours. However a single serious incident of such behaviour that has a lasting harmful effect on an employee may also constitute personal harassment.

Examples of personal harassment include:

- frequent angry shouting/yelling or blow-ups
- regular use of profanity and abusive or violent language
- physical, verbal or e-mail threats, intimidation
- violent behaviours - slamming doors, throwing objects
- targeting individual(s) in humiliating practical jokes

- excluding, shunning, impeding work performance
- spreading gossip, rumours, negative blogging, cyberbullying
- retaliation, bullying, sabotaging
- unsubstantiated criticism, unreasonable demands
- insults, name calling
- public humiliation
- communication that is demeaning, insulting, humiliating, mocking

Personal harassment does not include:

- legitimate performance/probation management
- appropriate exercise and delegation of managerial authority
- operational directives
- a disagreement or misunderstanding
- conflict between co-workers
- work related change of location, co-workers, job assignment
- appropriate discipline
- less than optimal management
- a single comment or action unless it is serious and has a lasting harmful effect
- rudeness unless it is extreme and repetitive

4.10 Racial Harassment: Racial harassment is harassment on the ground of race. It may also be associated with the grounds of colour, ancestry, where a person was born, a person's religious belief, ethnic background, citizenship or even a person's language. Racial harassment/discrimination can include:

- racial slurs or jokes
- ridicule, insults or different treatment because of your racial identity
- posting/e-mailing cartoons or pictures that degrade persons of a particular racial group
- name-calling because of a person's race, colour, citizenship, place of origin, ancestry, ethnic background or creed

4.11 Sexual Harassment: Harassment on the ground of sex. This includes a sexual advance or solicitation from anyone if they know or ought to know the advance is unwelcome, especially if the advance is from a person in a position to give or deny a benefit or to engage in a reprisal or if a threat of reprisal is made if the advance is rejected. Other examples are sexually suggestive or obscene remarks or gestures, leering (suggestive staring) at a person's body, unwelcome physical contact, having to work in a sexualized environment (bragging about sexual prowess, or discussions about sexual activities), circulation or posting of sexist jokes or cartoons, display of pin-up calendars or other objectifying images, negative stereotypical comments based on gender, sex or sexual orientation and gender related comments about an individual's physical characteristics or mannerisms.

This policy is not intended to interfere with normal social interaction between employees.

4.12 Mediation: A voluntary process where parties in dispute consent to meet with a trained mediator to determine whether the dispute can be resolved in a mutually satisfactory manner. Mediation discussions between parties are treated as private and confidential to the full extent permitted by law.

4.13 Poisoned Work Environment: A poisoned work environment is a form of indirect harassment/discrimination. It occurs when comments or actions ridicule or demean a person or group creating real or perceived inequalities in the workplace. Pornography, pin-ups, offensive cartoons, insulting slurs or jokes, and malicious gossip (even when they are not directed towards a specific employee or group of employees) have been found to "poison the work environment" for employees.

4.14 Prohibited (Protected) Grounds: The list of grounds related to employment for which a person or group is protected under the Ontario Human Rights Code. The prohibited grounds include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (includes pregnancy, breast feeding, gender identity), sexual orientation, age, record of offences, marital status, family status, disability. Under the Code and this policy, there are protections where there is a perception that one of the above grounds applies or where you have been treated differently because of an association or relationship with a person identified by one of the above grounds.

4.15 Reasonable Person Test: This is an objective standard to measure whether a comment or conduct is discrimination or harassment. It considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. It considers the recipient's perspective and not stereotyped notions of acceptable behaviour. This standard is used to assess human rights complaints under this policy.

4.16 Respondent: The person who is alleged to be responsible for the discrimination or harassment. There can be more than one respondent in a human rights complaint.

4.17 Workplace: The workplace includes all locations where business or social activities of the Board of Governors of Exhibition Place are conducted. Workplace harassment can also include incidents that happen away from work (e.g., inappropriate phone calls, e-mails or visits to an employee's home, incidents at luncheons, after work socials) or harassment from clients and service recipients.

The Board of Governors of Exhibition Place is committed to providing training and education to ensure that all Exhibition Place staff have knowledge about their rights and responsibilities under the Human Rights and Anti-Harassment Policy. A variety of resources to educate employees about policy expectations are available. All staff are expected to be familiar with policy provisions. Resources include:

- human rights training is offered to employees and to supervisors/managers through the Toronto Public Service [course calendar](#) or call 392-9091
- customized training for specific issues/workplaces is available through Human Resources



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DATE OF ISSUANCE		
May	20	2009

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Purpose

The following procedures have been established so that complaints of discrimination and harassment can be resolved internally and are intended as an alternate dispute resolution process. These procedures should be read in conjunction with the Exhibition Place Human Rights and Anti-Harassment Policy. The goal of the policy and the procedures is to prevent, correct and remedy situations of discrimination or harassment and not to be punitive, although discipline may result.

These procedures do not prevent complainants from exercising their rights under other complaint avenues.

Accommodation of special needs (e.g., documents in alternate formats, interpreters, off-hour meetings) will be provided as required to ensure that parties can fully participate in the resolution process.

A - Procedure for Complaints Involving Employees

1. Confidentiality: Discrimination and harassment are very sensitive issues and all persons involved with a complaint are expected to treat the matter as confidential. Employees may be disciplined if confidentiality is breached. Managers and supervisors are required to keep information as confidential as possible when addressing human rights concerns. Human Resources will preserve confidentiality as much as is possible and will not share information without consultation with a party to a dispute, or as legally required or permitted, subject to the requirements of a fair investigation - consult Human Resources for details.

2. Informal Resolution Options: Under the policy, several options to resolve harassment and discrimination concerns are available for employees. An informal approach can foster prompt resolution, without a formal investigation. Quick resolution of a complaint can prevent escalation and further negative consequences and is best achieved if issues are raised as soon as possible. All persons who believe that they have experienced harassment and, or discrimination should keep detailed notes about the issue.

- a. **Consultation - Advice & Assistance:** Employees may benefit from having expert information and advice before deciding how to proceed with a discrimination or harassment concern. It is the employee's choice as to who they seek advice from to help resolve a human rights or harassment concern. Employees can consult their supervisor, manager, director, general manager or Human Resources staff. These staff all have a responsibility to take action to resolve and prevent harassment and discrimination and can provide advice, assistance, coaching, and referrals to assist employees in addressing harassment or discrimination themselves. Employees may also consult their union. Taking this step can prevent escalation of the problem and promote the timely restoration of a discrimination and harassment free workplace. All consultations to Human Resources will remain confidential as much as is possible, or as legally required. Consult Human Resources for details.
- b. **Talking to the person about their conduct:** All employees are encouraged to attempt to resolve matters themselves before filing a complaint. If an employee feels they have been harassed or discriminated against, they should immediately make known to the person that their conduct is unwelcome or offensive and against the Human Rights and Anti-Harassment Policy. It is important that this message be clear and unambiguous. When presented with such a concern, all employees, including management staff are expected to make reasonable adjustments to their behaviour to resolve the matter. If addressing the person responsible could lead to an escalation of the harassment or discrimination, to safety risks, or is not appropriate, employees may pursue other resolution options outlined in this policy.

- c. **Interventions by other staff:** If an employee is unable to resolve the issue themselves or the discrimination or harassment continues after asking the person to stop, the employee may request management or Human Resources to intervene or investigate to facilitate resolution. Most complaints are able to be resolved at this stage without a formal investigation.

This option may include:

- a more in-depth examination of the concerns and allegations; consulting, advising, meeting with and, or interviewing parties e.g., management, the respondent, witnesses, etc
- a review of documentary evidence, e.g., email messages
- communication of findings to the parties in dispute and recommendations to remedy concerns
- an option by parties to participate in mediation or to have a facilitated negotiation to resolve the issues

Where Human Resources is contacted, Human Resources staff will determine in consultation with a complainant whether the concern(s) can be referred to department management to allow an opportunity to resolve the matter.

This is an opportunity for parties to resolve a dispute, ensure the workplace is free from harassment and discrimination and address broader issues that caused or contributed to the dispute.

Depending on the nature of the complaint and the complainant's desired outcome, respondents may not be informed of a concern against them, i.e., where the complaint does not warrant exploration, where the complaint is outside the Policy mandate or where an issue can be resolved through a remedy such as training. However if a formal complaint is filed with Human Resources, respondents will be notified in writing as soon as is practicable. See Section 4.

3. Personal (Non-Code) Harassment: Where appropriate, department management are responsible for intervening as a first step and addressing concerns/complaints of personal (non-Code) harassment. Human Resources will only accept complaints of personal (non-Code) harassment once other resolution options have been exhausted or are not appropriate. Employees should raise their personal harassment concerns to their immediate supervisor. If the concern/complaint involves the employee's immediate supervisor, the employee may raise the concern with that person's supervisor/manager. Human Resources staff can advise parties where there are concerns about real or perceived conflict, fairness, etc., in exploring concerns. Consult Human Resources for details.

4. Formal Complaints and Investigations: If the above approaches are not effective or appropriate to resolve a situation, or the complaint is of a serious or systemic nature, a formal complaint and investigation may be necessary.

- a. all formal complaints will be referred to Human Resources for mediation and/or investigation
- b. Human Resources staff will assess whether a formal complaint is the only appropriate way to address the concern
- c. anonymous complaints will not be accepted
- d. formal complaints must be in writing and signed by the complainant. Human Resources staff can assist in drafting the formal complaint
- e. where possible the following details should be included in the complaint:
 - what happened – a description of the events or situation
 - the ground
 - when it happened – dates and times of the events of incidents
 - where it happened
 - who saw it happen – the names of witnesses, if any
- f. the responsible General Manager and CEO, as applicable will be notified of a formal complaint as soon as it is initiated by Human Resources
- g. respondents to a complaint will be notified as soon as practicable during the investigation process

- h. Human Resources will determine in consultation with others as necessary and on a case-by-case basis, whether the complainant or respondent should be placed on a paid leave, relocated within Exhibition Place, or provided with an alternate reporting relationship during an investigation
- i. Human Resources staff will conduct a thorough, fair investigation, including interviewing the complainant(s), respondent(s) and witnesses, gathering and reviewing documentary evidence and exploring whether broader issues contributed to the complaint
- j. at the conclusion of an investigation, the investigator will prepare a written report that includes the allegations, respondent's position, witness and documentary evidence, factual findings, conclusions and discussion about policy violation(s)
- k. the report will be shared with the CEO, as applicable, General Manager, the complainant(s) and respondent(s)
- l. these parties will be given an opportunity to submit comments before a final decision is made to resolve the complaint
- m. Human Resources may make recommendations to correct any existing problems and/or to prevent similar problems from occurring in the future
- n. final decisions regarding the disposition of a complaint will be made by the responsible Director of HR or CEO, as applicable and General Manager and communicated in writing to the parties

5. Investigations: Investigations, both informal and formal, conducted by Human Resources staff will include a comprehensive and impartial review of all relevant information, including the respondent's position/response, witness information, etc. The investigator has the authority to speak with anyone, examine and copy any documents, records, files and enter any work locations which are relevant to the complaint.

6. Refusal to Intervene or Investigate: Human Resources has discretion to refuse to intervene or investigate or may discontinue an intervention or investigation where: an adequate remedy already exists; the complaint is frivolous, vexatious or not made in good faith; another complaint avenue has been pursued (such as a grievance); or having regard to all the circumstances further investigation of the matter is unnecessary.

7. External Consultant: The Director of Human Resources has the discretion to retain a qualified external consultant to conduct the mediation or investigation where there is a potential conflict between the Human Resources staff and the parties involved in the complaint or where there are systemic or ongoing human rights issues that have not been appropriately remedied by internal interventions.

8. Other Avenues of Complaint: Employees have a legal right to pursue a human rights and harassment concern under a variety of complaint avenues: a complaint under this Policy, a grievance under a collective agreement (subject to the terms of the collective agreement), a complaint with the Human Rights Tribunal of Ontario*, an application to the Ontario Labour Relations Board, or a criminal complaint with the Toronto Police Service if appropriate. If another complaint avenue about the same events has been pursued, Human Resources cannot intervene. Complaints related to non-Code personal harassment will not be accepted by the Human Rights Tribunal of Ontario.

9. Complainant Source: Complaints about a contravention of the policy will be accepted from any source that provides reasonable grounds to initiate an investigation (i.e., involved person or group, witnesses, other third parties). These individuals are not considered Complainants for the purpose of the Policy and Procedures. Human Resources may also initiate a formal complaint if it has information which suggests the existence of an outstanding specific or systemic problem in the workplace.

10. Reprisals: The Human Rights and Anti-Harassment Policy strictly prohibits any retaliation, either direct or indirect, against an individual for: exercising their rights under the policy, initiating a complaint in good faith, investigating a complaint, being a decision maker in a complaint, participating as a witness in an investigation, being a respondent to a complaint, having been associated with, or representing a complainant, witness or respondent. Employees found to have engaged in reprisals may be subject to discipline. Appropriate discipline for a policy violation is not considered a reprisal.

11. Time Limits: The time limit for the filing of complaints under the policy is one year from the time of the alleged discrimination or harassment. Exceptions may be granted by Human Resources in extenuating circumstances.

12. Mediation: Where appropriate, Human Resources may offer to mediate the complaint at any point during an investigation. Participation in mediation is voluntary. All mediation discussions will be held on a confidential, "without prejudice" basis. Any settlement would have to be satisfactory to both parties and be consistent with this Policy. Parties will be required to sign a confidential Minutes of Settlement.

13. Support: Parties to a complaint have the right to be accompanied by a support person of their choice, including their union representative, during meetings regarding a complaint under the Policy. However, as this complaints procedure is a mechanism for alternative dispute resolution, a mediation or investigation may be terminated if either party to the complaint retains legal counsel during the mediation or investigation.

14. Complaint Records: Records of a complaint will only be placed on an employee's personal file when disciplinary action is taken. This record of discipline is subject to the provisions of any applicable collective agreement. All records pertaining to enquiries and complaints under this Policy will be kept in confidential secure storage – separate from personnel files. All records are subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and the Record Retention By-law.

15. Disciplinary Action: Any employee who engages in discrimination or harassment, reprisals, or breaches confidentiality may be subject to appropriate disciplinary action up to and including termination of employment. Staff who are in a supervisory position and fail to take action when advised of discrimination or harassment may also be subject to disciplinary action. Disciplinary action may also be taken if a complaint is found to have been made fraudulently and with malicious intent. Consequences for policy violations may include but are not limited to: an apology, counselling, education and training, a verbal or written reprimand, suspension with or without pay, a transfer or termination of employment. In determining appropriate consequences, factors including, but not limited to the nature of the violation, the severity, whether the individual has previously violated the Policy and, or whether there is relevant discipline on file, will be taken into account.

16. Completion of Investigation/Mediation: Proceedings under the policy will be completed within six months of initiation of a formal complaint. Exceptions may be made in extenuating circumstances.

18. Complaints Involving Human Resources Staff: Complaints of discrimination or harassment made by or regarding the direct personal behaviour of Human Resources staff may be handled by a qualified external consultant at the discretion of the CEO. Parties to a complaint under this provision of the policy have the right to a representative of their choice, including legal counsel and subject to the conditions set out in section B 8(a), each party may be reimbursed for some legal costs. Final decisions in such matters will be made by the CEO.

19. Complaints with the Human Rights Tribunal of Ontario: Complaints filed with the Human Rights Tribunal of Ontario will be referred to the City Solicitor and Human Resources for joint review, mediation or investigation. Contact Exhibition Place Corporate Counsel in the Legal Services Division immediately upon receiving any correspondence from the Human Rights Tribunal of Ontario.

B - Procedure for Complaints Involving Senior Management

A complaint made to the CEO, CFO by or about the "direct personal behaviour" of General Managers, the Director of Human Resources, and statutory officials must be in writing, signed by the complainant.

1. Complaint Assessment: Human Resources will assess the merits of the complaint in consultation with the CEO/Chair of the Board of Governors of Exhibition Place, to determine whether to retain an external consultant. Where it is determined that the complaint has merit, Human Resources in consultation with others as necessary, will retain a qualified external consultant and determine the scope of and manage the contract of the consultant.

2. Notification of Complaint: Human Resources will notify the CEO of the complaint. The external consultant shall notify the persons named in the complaint of the specific allegations against them as soon as possible thereafter.

3. Authority and Duties of the External Consultant: The scope of the external consultant's authority to investigate and/or attempt to settle the complaint, to speak with anyone, examine any documents and enter any work location relevant to the complaint for the purposes of investigation or settlement will be set out in the terms of the contract.

4. Interim Reports and Discontinuance of Complaint: The external consultant may make interim reports to the CEO/Chair of the Board of Governors of Exhibition Place as required, to address instances of interference, obstruction, retaliation, or breaches of confidentiality encountered by the external consultant while dealing with a complaint under the policy.

Upon receipt of the complaint, or at any point during the investigation/mediation, the external consultant may submit a report to the CEO or Chair of the Board of Governors of Exhibition Place making a recommendation to stop dealing with a complaint where: the complaint is outside the scope of this section, or the policy; an adequate remedy already exists; the complaint is frivolous, vexatious or not made in good faith; or, having regard to all the circumstances, further investigation of the matter is unnecessary.

The CEO or Chair of the Board of Governors of Exhibition Place may approve or reject the recommendation after considering submissions from the parties to the complaint.

5. Other Avenues of Redress: Nothing in this section should be interpreted as denying or limiting access to other avenues of redress available under the law (e.g., criminal complaint, grievance, civil suit, or a complaint with the Human Rights Tribunal of Ontario). The CEO or Chair of the Board of Governors of Exhibition Place however, may decide to postpone, suspend or cancel any investigation into a complaint under the policy if it is believed that the investigation would duplicate or prejudice such a proceeding.

6. External Consultant's Final Report: The CEO or Chair of the Board of Governors of Exhibition Place shall be presented a final report outlining the findings, conclusions, recommended corrective action, or terms of settlement, within 90 days of the making of the complaint. The CEO or Chair of the Board of Governors of Exhibition Place may grant an extension of time upon the request of the external consultant.

The complainant and respondent will be given 30 days to review and comment on the final report. Comments are to be sent to the CEO or Chair of the Board of Governors of Exhibition Place.

7. Final Decision: Final decisions about complaints involving senior management will be made by the CEO or Chair of the Board of Governors of Exhibition Place in consultation with others, e.g., the appropriate General Manager, CEO or Chair of the Board of Governors of Exhibition Places, Exhibition Place Corporate Counsel, City of Toronto Legal Services, Human Resources Department, etc., as necessary. The CEO or Chair of the Board of Governors of Exhibition Place will review the final report and any comments received before making any decision on the matter. The CEO or Chair of the Board of Governors of Exhibition Place, in consultation with Exhibition Place Corporate Counsel, City of Toronto Legal Services may approve, change or reject any proposed terms of settlement or recommended corrective action.

8. Legal Representation and Costs:

- a. Parties to a complaint under this section of the policy have the right to a representative of their choice, including legal counsel. Subject to the conditions set out below, each party to a complaint under this section will be reimbursed up to \$6,500.00 for legal costs.
- b. The legal costs for respondents under this section will be reimbursed up to \$6,500.00 in all cases where the external consultant concludes that there has been no violation of the policy. Where there is a settlement (including a mediated agreement), reimbursement, subject to the limit

outlined above may be provided at the discretion of the CEO/Chair of the Board of Governors of Exhibition Place.

- c. The legal costs for complainants under this section will be reimbursed up to \$6,500.00, in all cases except where a complaint has been found to be trivial, frivolous, vexatious, or not made in good faith.

9. Confidentiality: All persons involved with a complaint are expected to treat the matter as confidential. Breaches of confidentiality will be addressed by the CEO/Chair of the Board of Governors of Exhibition Place.

C - Complaints Procedure for Residents and Recipients of Exhibition Place Services

1. Jurisdiction: Under this section, complaints may be made to Exhibition Place Human Resources. Visitors and service recipients may complain under the policy about discrimination and harassment in the administration and delivery of Exhibition Place services, access to and use of Exhibition Place facilities, or discrimination in legal contracts. Human Resources has no jurisdiction over acts or procedures (i.e., policy decisions) of the Board of Governors of Exhibition Place or its Committee, the CNEA Board of Directors or its Committee, Toronto City Council or its Committees. In addition, visitors and service recipients may be required to exhaust any other avenues of appeal which are reasonably available prior to making a complaint under the policy. As this complaints procedure is a mechanism for alternative dispute resolution, a mediation or investigation may be terminated if either party to the complaint retains legal counsel during the mediation or investigation.

2. Departments: Where appropriate the complaint will be referred to the manager of the appropriate service delivery unit to allow that unit an opportunity to resolve the matter.

3. Early Resolution: If the visitor or service recipient is unable to resolve their problem directly with the Department, Human Resources may try to mediate a solution.

4. Formal Complaint and Investigation: If early resolution does not resolve the situation, Human Resources will assess the merits of the complaint and determine whether a formal investigation is appropriate to resolve the complaint. If a formal investigation is necessary, Human Resources will prepare a complaint form based on the visitor's information. Once the complaint form is signed by the complainant the General Manager and CEO or the Exhibition Place Corporate Counsel, as appropriate will be notified and required to respond.

5. Settlement: Human Resources will keep all parties advised of the progress of the investigation. With the consent of both parties, Human Resources may attempt to mediate a settlement of a complaint at any point during an investigation. If a settlement is reached, the matter is closed and no investigation report is written.

6. Investigation Report: The investigation report formally tells both parties what relevant information the investigation discovered, on which Human Resources will base recommendations.

7. Commenting on the Investigation Report: The investigation report is disclosed to the resident or service recipient and the involved division. Both parties will be given 15 working days to individually review the investigation report and submit written comments if they believe the report missed or misstated any information which would have a bearing on the outcome.

8. Recommendations: Human Resources may make recommendations to correct any existing problems and/or to prevent similar problems from occurring in the future.

9. Final Decision: The General Manager and CEO or Exhibition Place Corporate Counsel, as appropriate, or designate, will review the investigation report and any recommendations and provide the parties with a final written decision within 30 days.

