



Exhibition Place

11

March 14, 2016

To: The Board of Governors of Exhibition Place

ACTION REQUIRED

From: Dianne Young
Chief Executive Officer

Subject: **Human Rights & Anti-Harassment
/ Discrimination Policy for Board Employees**

Summary:

As an agency of the City of Toronto, the Board is required to follow directions of City Council and in 2013 Council approved a Human Rights and Anti-Harassment / Discrimination Policy for Board Employees. Most recently, Exhibition Place undertook a review of the existing Policy to add detailed procedures for implementation which is now attached.

Recommendations:

It is recommended that the Board approve an updated Human Rights and Anti-Harassment / Discrimination Policy for Board Employees, as outlined in the attached Appendix "A".

Financial Implications:

There are no financial implications arising from the recommendation in this report.

Decision History:

The Exhibition Place 2014 – 2016 Strategic Plan had an Organizational and Staffing Goal to *Review and revise our corporate systems* and as a Strategy to support this Goal *we will complete an annual review of By-laws, Policies and Procedures of the Board of Governors.*

At its meeting of July 16, 2013, City Council approved a report from the City Manager entitled "Human Rights and Anti-Harassment/Discrimination Policy", and requested that City agencies and corporations review and amend their Human Rights and Anti-Harassment/Discrimination Policy to reflect the purpose and principles of the City's Policies as appropriate to their organization, and/or adopt such policies.

At its meeting of September 6, 2013, the Board approved a Human Rights & Anti-Harassment / Discrimination Policy.

[http://www.explace.on.ca/database/rte/files/Item%2011-Harassment\(1\).pdf](http://www.explace.on.ca/database/rte/files/Item%2011-Harassment(1).pdf)

Issue Background:

The existing Board Human Rights & Anti-Harassment / Discrimination Policy has been updated to include detailed implementation procedures which generally follow the direction adopted by the City of Toronto.

Comments:

The drafting of the revised policy was completed by Exhibition Place staff in consultation with City Labour Relations staff who often are involved in any complaint process involving unionized staff.

Following Board approval, this revised policy will be submitted to the City Manager for information. In addition, Exhibition Place will put in place an intensive professional development program for all supervisors, managers, directors, executives to be completed prior to the end of May 2016.

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APPENDIX A

POLICY STATEMENT

Under the [Ontario Human Rights Code](#), every person has a right to equal treatment in the provision of services and facilities, occupation of accommodation, contracts and in employment. Under the [Occupational Health and Safety Act](#), all employers are required to have a policy, program, information and instruction regarding workplace harassment.

The Board is committed to be respectful and to equitable service delivery and employment practices. The goal of this Policy is to recognize the dignity and worth of every person (service recipient or employee) and to create a climate of understanding and mutual respect

The Board condemns harassment, denigration, discriminatory actions and the promotion of hatred. The Board will not tolerate, ignore, or condone discrimination or harassment and is committed to promoting respectful conduct, tolerance and diversity at all times. All employees are responsible for respecting the dignity and rights of their co-workers and the public they serve. The Board's Human Rights and Anti-Harassment/Discrimination Complaint Policy & Procedures provides a range of dispute resolution options for employees who believe that they may have experienced discrimination and/or harassment.

APPLICATION

This policy applies to all Board employees, volunteers and to all aspects of the employment relationship, who must abide by this policy, the *Ontario Human Rights Code*, the *Occupational Health and Safety Act*, and any other relevant Board policy and legislation.

Members of the public, service recipients, visitors to and users of Board facilities/public space and individuals conducting business with, for or with support from the Board, are expected to adhere to this policy. This includes refraining from discriminating and/or harassing Board employees and persons acting on behalf of the Board. If such discrimination and/or harassment occur, the Board will take action to ensure a harassment/discrimination-free workplace, facility and service provision, including barring a harasser from its facilities, limiting services, discontinuing business and/or revoking contracts with consultants or contractors.

Members of the Board of Governors of Exhibition Place and their communications with employees and members of the public are addressed in Section 4.8 below and also within the Code of Conduct for Members of the Board.

2.0 Social Areas & Prohibited Grounds

2.1 Services and Facilities: Every person has a right to equal treatment with respect to Board services and facilities, without discrimination or harassment because of one or more of the following prohibited grounds:

- Age, Ancestry, Colour, Citizenship, Creed, Disability, Ethnic Origin, Family Status, Gender Expression, Gender Identity, Level of Literacy, Marital Status, Place of Origin, Political Affiliation, Pregnancy, Race, Sex (including pregnancy, breast feeding) and Sexual Orientation.

2.2 Occupation of Accommodation: Every person has a right to equal access with respect to the occupancy of Board-owned accommodation, without discrimination because of one or more of the following prohibited grounds:

- Age, Ancestry, Colour, Citizenship, Creed, Disability, Ethnic Origin, Family Status, Gender Expression, Gender Identity, Level of Literacy, Marital Status, Place of Origin, Political Affiliation, Race, Pregnancy, Receipt of Public Assistance, Sex (including pregnancy, breast

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feeding) and Sexual Orientation.

2.3 Contracts: Every person having legal capacity has a right to contract on equal terms without discrimination because of one or more of the following prohibited grounds:

- Age, Ancestry, Colour, Citizenship, Creed, Disability, Ethnic Origin, Family Status, Gender Expression, Gender Identity, Level of Literacy, Marital Status, Place of Origin, Political Affiliation Pregnancy, Race, Sex (including pregnancy, breast feeding) and Sexual Orientation.

All Board contracts and agreements or permits for programs and services delivered by a third party individual or organization that has been contracted under the Board's Purchasing By-law or using Board facilities, will be advised of the Board's *Declaration of Compliance with Anti-Discrimination Legislation & Board Policy* and be subject to consequences for non-compliance.

2.4 Employment: Every person has a right to equal treatment in employment without discrimination or harassment because of one or more of the following prohibited grounds:

- Age, Ancestry, Colour, Citizenship, Creed, Disability, Ethnic Origin, Family Status, Gender Expression, Gender Identity, Level of Literacy, Marital Status, Membership in a Union or Staff Association, Place of Origin, Race, Political Affiliation, Pregnancy, Record of Offences, Sex (including pregnancy, breast feeding), Sexual Orientation, and Workplace Harassment.

3.0 Roles & Responsibilities:

Upholding human rights principles and obligations is a shared responsibility. All management staff have the following general responsibilities with respect to human rights:

- modelling respectful behaviour; setting and enforcing standards of appropriate workplace conduct; and remaining alert to incidents of discrimination and harassment that may be occurring in the workplace;
- not engaging in behaviour that would constitute discrimination or harassment under the policy;
- knowing this policy and any complaint resolution options;
- posting in the workplace the Human Rights and Anti-Harassment/Discrimination Policy & Procedures;
- educating employees to ensure they know what constitutes harassment and discrimination; that neither will be tolerated; and what their rights and responsibilities are under the policy;
- taking all necessary steps to deal with allegations/incidents of discrimination and harassment in a timely fashion while maintaining as much confidentiality as possible (even if a direct complaint has not been made);
- implementing remedies where there are findings of discrimination or harassment; and
- reporting all complaints of harassment and/or discrimination to the Human Resources Division of the Office of the Chief Executive Officer.

3.1 Executive Management Team:

- providing leadership in creating and maintaining discrimination-free, harassment-free, and respectful workplaces;
- ensuring that the services we provide are free from barriers and that processes are in place to provide accommodation as required under the *Ontario Human Rights Code* and the *Accessibility for Ontarians with Disabilities Act*;
- receiving formal investigation reports and making final decisions (in consultation, as required, with the City's Human Rights Office, Employee & Labour Relations and Legal Services staff) about the 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; and
- ensuring that staff are held accountable for their responsibilities under the policy and have the appropriate knowledge and skills to meet their obligations.

3.2 Human Resources:

- removing barriers in employment policies and practices that may have the effect of discriminating against groups/individuals who are protected under the *Ontario Human Rights Code* and *Accessibility of Ontarians with Disabilities Act*;
- supporting management in addressing issues of discrimination and harassment and in processing accommodation requests;
- organizing training for management and employees on this policy and related legislative obligations and providing the Chief Executive Officer with information/data on annual participation by employees in human rights training;
- administering good faith, appropriate complaint exploration/resolution processes when allegations regarding the policy are raised; and,
- cooperating with investigations.

3.3 Directors, Managers and Supervisors:

- cooperating with Human Resources in the administration of good faith, appropriate complaint exploration/resolution processes when allegations regarding the policy are raised;
- documenting details of concern, actions taken, outcomes or remedies implemented;
- monitoring situations where discrimination or harassment occurred to ensure the harassment or discrimination has stopped and does not reoccur;
- responding to and taking appropriate action to resolve/remedy complaints of workplace harassment;
- addressing employee incivility;
- ensuring the signed copy of the Declaration of Compliance with Anti-Harassment/Discrimination Legislation and Board policy, and/or its stated intent is included in all Board contracts, service agreements, letters of understanding and permits;
- facilitating harassment and/or discrimination complaint dispute resolution related to contracted services where appropriate; and
- addressing service delivery contract breaches related to harassment and/or discrimination in consultation with the Office of the Chief Executive Officer or legal services, as required.

3.4 Employees:

- being familiar with their rights and responsibilities under this policy;
- ensuring behaviour is respectful related to all employment activities;
- not engaging in behaviour that would constitute discrimination or harassment towards members of the public, co-workers, and management;
- immediately reporting incidents of harassment, discrimination, reprisal experienced and/or witnessed in accordance with the complaint procedures developed;
- documenting details of harassment and discrimination that are experienced or witnessed;
- co-operating in good faith in interventions and investigations to resolve human rights harassment issues; and
- maintaining confidentiality related to human rights investigations.

4.0 Definitions

4.1 Allegation: An allegation is an unproven assertion or statement based on a person's perspective that the policy has been violated.

4.2. Boni Fide Occupational Requirement: Section 15 of the *Canadian Human Rights Act* provides that there are exceptions to the discriminatory practices. It is not a discriminatory practice if there is a good faith justification for the denial or differential treatment based on a bona fide occupational requirement.

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

4.4 Discrimination: Discrimination is any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group because of membership in a group protected in the *Ontario Human Rights Code* (e.g., disability, sex, race, sexual orientation, etc.) or circumstances unrelated to the person's abilities or the employment or service issue in question. 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 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.

4.5 Duty to Accommodate: The legal obligation 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 (for service provision accommodation obligations, refer to the Accessibility for Ontarians with Disabilities Act; in the area of employment, refer to the Employment Accommodation Policy).

4.6 Employee: For the purpose of this policy, the term employee includes: Board employees, job applicants and individuals performing services directly on the Board's behalf whether with or without compensation or benefit, excluding individuals providing services by way of service provision/third party contracts – see section 2.3

4.7 Equal Treatment: Equal treatment is treatment that brings about an equality of results and that may, in some instances, require different treatment.

4.8 Harassment: Provisions regarding harassment are included in both the *Ontario Human Rights Code*, referred to as "Code Harassment", (see section 4.8) and the *Occupational Health and Safety Act*, referred to as "Workplace (non-Code) Harassment", (see section 4.9). It is a form of discrimination if it is Code Harassment. Harassment may result from one incident or a series of incidents. Harassment can occur between co-workers, between management and employees, between employees and Board Members, between employees and vendors, between employees and recipients of Board services, between employees and members of the public, and between Board Members and members of the public.

4.9 Code Harassment: Defined in the *Ontario Human Rights Code* and means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome 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.

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.

4.9 Workplace Harassment: is harassment that is not related to a prohibited ground identified in the *Ontario Human Rights Code*. Workplace harassment, defined in the *Occupational Health and Safety Act* 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.

Workplace 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 workplace harassment.

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

Examples of workplace harassment include a pattern of:

- frequent angry shouting/yelling or blow-ups;
- regular use of profanity and abusive language;
- verbal or e-mail threats (not including threats to exercise physical force which are covered by the workplace violence policy), intimidation;
- targeting individual(s) in humiliating practical jokes;
- excluding, shunning, impeding work performance;
- spreading gossip, rumors, negative blogging, cyber-bullying;
- retaliation, bullying, sabotaging;
- unsubstantiated criticism, unreasonable demands;
- frequent insults and/or name calling;
- public humiliation;
- communication that is demeaning, insulting, humiliating, mocking;
- intent to harm; and
- a single, serious incident that has a lasting, harmful impact.

Workplace 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;
- conditions in the workplace that generate stress (technological change, impending layoff, a new boss, friction with other employees, workload, etc.) and;
- attendance management.

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; and
- name-calling because of a person's race, colour, citizenship, place of origin, ancestry, ethnic background or creed.

4.11 Sexual Harassment: Sexual harassment is harassment on the ground of sex.

This includes:

- a sexual advance or solicitation from anyone if the person knows 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, to engage in a reprisal, or if a threat of reprisal is made if the advance is rejected;
- 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 of 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;
- gender related comments about an individual's physical characteristics or mannerisms and/or behaviours that reinforce traditional heterosexual gender norms; and
- exercising power over another person, making them feel unwelcome or putting them 'in their place' – motivated by sexual interest.

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

4.12 Poisoned Work Environment: A poisoned work environment is a form of indirect Code based 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.

4.13 Prohibited (Protected) Grounds: The list of grounds for which a person or group is protected under the *Ontario Human Rights Code*. See Application section 2.0 for a list of prohibited grounds. Under the Code, case law and this policy, there are protections where there is a perception that one of the prohibited grounds applies or where someone is treated differently because of an association or relationship with a person identified by one of the above grounds.

4.14 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.

4.15 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.

4.16 Workplace: The workplace includes all locations where business or social activities of the Board are conducted. This Policy may apply to 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).

CONDITIONS

N/A

IMPLEMENTATION

This policy shall be implemented in accordance with the Procedures provided below.

PROCEDURES

The following procedures apply to complaints of harassment and/or discrimination brought under the Human Rights & Anti-Harassment / Discrimination Policy. Complaints under this policy may be brought by employees, users of the facilities and those who contract directly with the Board. These procedures have been established so that complaints of harassment and/or discrimination can be resolved internally and are intended as an alternate dispute resolution process.

Parties have a legal right to pursue harassment and/or discrimination concerns under a variety of complaint avenues; for example, one can pursue an informal or formal complaint process under the Board's policy; an application to the Human Rights Tribunal of Ontario; an application

to the Ontario Labour Relations Board, a civil suit or a criminal complaint, and, unionized employees can grieve pursuant to the terms of their collective agreement.

The following outlines the complaint procedures under the Board's policy:

1. **Confidentiality:** All persons involved with a harassment/discrimination complaint, including complainants, respondents, support persons, witnesses, management and/or union/association representatives are expected to treat the matter as confidential. Parties to a complaint must not advise anyone in the workplace or otherwise connected to the workplace and/or service provision about the investigation, any involvement in the investigation and/or the contents of an investigation interview and/or report. Parties are not to ask individuals if they have participated in an investigation process or discuss any details about any investigation interviews. Employees may be disciplined if confidentiality is breached by communicating with any person other than their union representative, health care practitioner or another legal authority at any time before, during or after an investigation or resolution of a harassment/discrimination complaint. Persons involved with a harassment / discrimination complaint may be required to sign a confidentiality agreement. Managers and supervisors are required to keep information as confidential as possible when addressing human rights concerns and are also subject to discipline for breaches of confidentiality. Subject to the requirements of procedural fairness of the investigation/resolution process, Human Resources will preserve confidentiality as much as possible, or as legally required or permitted. Human Resources will seek advice from City Legal if there is any question related to release of confidential information.
2. **Complaint Source:** Complaints about a contravention of the policy will be accepted from any source that provides reasonable grounds upon which to initiate an intervention. Complaint sources may include the individual who was the subject of the action complained about, an involved person or group, a witness or other third parties. All persons who believe that they have experienced or witnessed harassment and/or discrimination should keep detailed notes about the issue(s).
3. **Time Limits:** The time limit for the filing complaints under this policy is one year from the date of the last incident of alleged discrimination or harassment.
4. **Notification of Complaint:** In most cases, respondents will be informed of the complaint as soon as practicable. In certain circumstances, the respondent may not be advised of the complaint against him or her. Such circumstances include where the complaint does not warrant exploration, where the complaint is outside the policy mandate or where an issue can be resolved with a remedy such as training.
5. **Complaint Records:** Any record of a complaint will be handled confidentially and stored in a secure location separate from employee personnel files. Records of a complaint will only be placed on an employee's personnel file when they have been found to breach this Human Rights and Anti-Harassment/Discrimination Complaint Policy and disciplinary action is taken. This record of discipline is subject to the provisions of any applicable collective agreement.
6. **Informal Resolution:** Several options to resolve harassment and discrimination concerns are available for complainants. Informal approaches can foster prompt resolution and prevent escalation; particularly when concerns are raised promptly. These are opportunities 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.
 - 6.1. *Consultation - Advice & Assistance:* Employees may benefit from having expert information and advice before deciding how to proceed with a discrimination or harassment concern. Employees can consult their Director, Manager, Supervisor or Human Resources staff. These staff all have a responsibility to take action to resolve and prevent harassment and discrimination as referred to section 3.0 of the policy, Roles and Responsibilities can provide advice, assistance, coaching, and referrals to assist

employees in addressing harassment or discrimination themselves. Employees may also consult their union representative.

6.2. *Talking to the person about their conduct:* All employees must make good faith efforts to attempt to resolve matters themselves before filing a complaint. If an employee feels he or she is experiencing harassment or discrimination, he or she should immediately make known to the person that his or her conduct is unwelcome or offensive and may be in breach of this policy. It is important that this message be clear and unambiguous. When presented with a legitimate breach of this policy, 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 safety risks, or is similarly not appropriate, employees may pursue other resolution options outlined in these procedures.

6.3. *Interventions by other staff:* If an employee is unable to resolve the issue him/herself or the discrimination or harassment continues after asking the person to stop, the complainant may request management to intervene to facilitate resolution. Such requests may be made by an employee to his or her Director, Manager, Supervisor or Human Resources or their union representative, where applicable. Most complaints are able to be resolved at this stage without a formal investigation.

7. Formal Complaints and Investigations: If the informal 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.

7.1. All formal complaints will be referred to the Human Resources Division in the CEO Office.

7.2. Formal complaints must be in writing by completing the appropriate Form found on-line on the Board's Intranet. Once completed the form must be signed by the complainant. Where necessary and appropriate, the complainant may seek assistance from his or her Director, Manager, Supervisors or Human Resources staff to assist in drafting the formal complaint. Where possible, the following details should be included in the formal complaint:

- The Human Rights Code ground if applicable
- When it happened – dates and times of the events and incidents
- Where it happened
- What happened
- Who saw it happen, names of witnesses, if any.

7.3. The responsible department/ division head and Chief Executive Officer as applicable will be notified of a formal complaint as soon as it is initiated.

7.4. Respondents to a complaint will be notified as soon as practicable during the investigation process.

7.5. The Department Head will determine in consultation with Human Resources on a case-by-case basis, whether the complainant or respondent should be relocated within the division, provided with an alternate reporting relationship, or placed on a paid leave during an investigation.

7.6. The Department Head with 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.

7.7. At the conclusion of an investigation, Human Resources in consultation with the Department Head 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).

7.8. The report will be shared with the Chief Executive Officer.

7.9. The Department Head and Human Resources will make recommendations to correct any existing problems and/or to prevent similar problems from occurring in the future.

7.10. Final decisions regarding the disposition of a complaint will be made by the Chief Executive Officer and communicated in writing to the parties and the Department and Division heads.

8. Investigations: Investigations both formal and informal conducted by staff will include a comprehensive and impartial review of all relevant information and state if broader issues contributed to the complaint. 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.

9. Completion of Investigation: Proceedings under this Policy will be completed within six months of the initiation of a formal investigation. Exceptions may be made in extenuating circumstances.

10. Reprisals: This 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. Appropriate discipline for a policy violation (or other workplace misconduct) is not considered a reprisal.

11. Disciplinary Action: Any employee who engages in discrimination or harassment, reprisals, or breaches confidentiality before, during, or after an investigation or resolution 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 they become aware of or are advised of alleged discrimination and/or harassment may also be subject to disciplinary action. Disciplinary action may also be taken if a complaint is found to be vexatious, made in bad faith and/or an abuse of process. 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 following will be taken into account: the nature of the violation, the severity, whether the individual has previously violated the Human Rights and Anti-Harassment/Discrimination Complaint Policy and/or whether there is relevant discipline on file.

12. "Workplace Harassment" (Employees only): Directors, managers and supervisors are responsible for intervening and addressing concerns/complaints of workplace harassment and incivility. Employees should raise their workplace harassment concerns to their superior. If the concern/complaint involves the employee's superior, the employee may raise the concern with that person's superior. Human Resource staff can advise parties where there are concerns about real or perceived conflict, fairness, etc., in exploring concerns. Consult Human Resources for details.

13. Refusal to Intervene: Human Resources, in consultation with the Chief Executive Officer, has discretion to refuse to intervene or investigate or may discontinue an investigation where:

13.1. a complaint is made anonymously

13.2. the complaint is outside the time limit

13.3. the complaint is trivial, frivolous, vexatious or made in bad faith/an abuse of process; or having regard to all the circumstances further investigation of the matter (or intervention) is unnecessary. Trivial complaints involve allegations that are of such a minor nature that proceeding with an intervention is not in the public interest. A frivolous complaint contains allegations that are not a breach of this policy. A complaint is vexatious when the complaint has been the subject of a decision by an alternate complaint process that considered the human rights allegations, a reasonable offer to remedy the complaint was rejected by the complainant and/or the complaint was filed to annoy, embarrass or harass the respondent. Complaints are an abuse of process/made in bad faith when an adequate remedy already exists or the complainant is engaging in improper action - fraud, deception, intentional misrepresentation - or is motivated to file out of malice or vindictiveness

13.4. As this complaints procedure is a mechanism for alternative dispute resolution, an investigation may be terminated if either party to the complaint retains legal counsel

13.5. Residents and service recipients may be required to exhaust any other avenues of appeal which are reasonably available prior to making a complaint under this policy

14. Complaints Involving Senior Management: A complaint made to Human Resources by or about the direct personal behaviour of the General Managers and Directors must be in writing, signed by the complainant. Where necessary and appropriate, Human Resources may assist in drafting the complaint.

14.1. Human Resources will assess the merits of the complaint in consultation with the Chief Executive Officer to determine whether to retain an external consultant.

14.2. 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.

14.3. Final decisions about complaints involving senior management will be made by the Chief Executive Officer in consultation with others, (e.g., Human Resources, Legal Counsel), as necessary. The Chief Executive Officer will review the final report and any comments received before making any decision on the matter. The Chief Executive Officer, in consultation with Legal Services may approve, change or reject any proposed terms of settlement or recommended corrective action.

15. Complaints Involving Third Party Contractors: Complaints of harassment and/or discrimination related to third party contracted services may be made to management and/or to the department responsible for the contracted service. All Board contracted services are required to have internal harassment and/or discrimination dispute resolution processes, consistent with the Board's process and as mandated by provincial legislation.

16. Complaints Involving Staff of Human Resources: Complaints of discrimination and/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 Chief Executive Officer.