

EDMONTON

ADMINISTRATIVE PROCEDURE



TITLE

RESPECTFUL WORKPLACE

NUMBER

A1127

DEPARTMENT

DEPUTY CITY MANAGER'S OFFICE

DELEGATED AUTHORITY

DEPUTY CITY MANAGER

CONTACT

**MANAGER, OFFICE OF DIVERSITY AND
INCLUSION**

DEFINITIONS

DATE

SEPTEMBER 4, 2008

Advisor - Human Resources or Office of Diversity and Inclusion staff who gives advice about the options and procedures for making a harassment complaint

Complainant - An individual who submits a Complaint of harassment or discrimination

Decision Maker - The Branch Manager in whose area a Complaint has arisen, or in specific conflict situations, the General Manager, who reviews an investigation report findings and decides on actions to be taken, if any

Harassment - An incident or series of incidents known, or that reasonably should be known, to be unwelcome or objectionable. Harassment takes two forms:

- 1. Personal Harassment** disrupts civility and co-operation in the workplace with repeated, hostile or unwelcome comments, actions or gestures. It affects an employee's dignity and psychological or physical well-being. Examples of personal harassment include:
 - bullying or shouting at an employee
 - using abusive language or intimidating behaviour
 - commenting or acting towards other people in ways that could be embarrassing or offensive to them
 - displaying demeaning posters, articles, cartoons, or drawings that could be embarrassing or offensive
 - spreading malicious rumours, gossiping, or intentionally spreading false information about another person
 - criticizing another person in such a way as to intimidate, belittle or undermine confidence
 - making decisions influenced by factors that have no work-related purpose
 - abusing authority to interfere with another's performance.
- 2. Discrimination** is a specific type of harassment that includes practices, policies, or systems, whether intentional or not, based on:
 - race
 - religious beliefs
 - colour
 - gender (including pregnancy issues)

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- physical or mental disabilities
- marital status
- family status
- source of income
- age
- ancestry or place of origin
- sexual orientation
- any other prohibited ground under provincial human rights legislation that has a negative effect on an individual or group.

External Complaint - A Complaint filed with the Alberta Human Rights Commission alleging a violation of provincial human rights legislation by the City of Edmonton

External Investigator - An individual or organization outside the City of Edmonton hired to conduct a Formal Investigation

Formal Complaint - A written complaint about harassment or discrimination submitted to the Director of Labour Relations or the Manager of the Office of Diversity and Inclusion

Formal Investigation - A process to establish whether a Formal Complaint is substantiated

Informal Complaint - A Complaint about harassment or discrimination brought to the attention of a Respondent, a supervisor, union or association representative, Human Resources representative, the City Chaplin, the Office of Diversity and Inclusion, or any General Manager, the Deputy City Manager or the City Manager. The Complaint involves a suspicion that the *Respectful Workplace Directive* isn't being followed.

Informal Complaints may begin because:

- a Complainant reports a problem and seeks advice from any of the above, or
- a supervisor, union or association representative, Human Resources representative, the City Chaplin, the Office of Diversity and Inclusion, or any General Manager or the City Manager become aware of or observe harassment or discrimination during the course of their work.

Internal Investigator - A City of Edmonton employee assigned to conduct a Formal Investigation

Malicious Allegation - Knowingly filing a groundless Complaint intended to make the accused person suffer

Respondent - The individual against whom a Complaint is submitted

Sexual Harassment - Sexual harassment is speech or behaviour that includes unwelcome sexual advances, requests, physical contact, or gestures. These words or behaviours may be accompanied by an implied or expressed:

- threat of punishment for refusing to comply, or
- inducement of reward for agreeing to comply.

The Alberta Human Rights Commission identifies sexual harassment as a form of gender discrimination

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Witness - Those interviewed during a Formal Investigation, after being identified by the Complainant, Respondent, or Investigator as a witness

PROCEDURES AND GUIDELINES

All employees and supervisors will contribute to respectful workplaces by behaving respectfully and appropriately at all times and by taking responsibility for their own actions and their effect on others.

Employees must inform their supervisor, union, or Human Resources representative promptly if something is troubling them. If the issues are too sensitive to discuss with these individuals, employees may discuss problems with their General Manager(s), the City Manager, the City Chaplin, or the Office of Diversity and Inclusion.

All staff must cooperate fully in all investigations. Any legal costs incurred by an employee who has decided to secure legal representation will not be reimbursed by the City.

Supervisors will support respectful workplaces by being role models of appropriate workplace behaviours.

Supervisors will inform employees about the *Respectful Workplace Directive* and compliance requirements.

Supervisors will act appropriately in a prompt, impartial and confidential manner when issues come to their attention. They may get help or advice from Human Resources or the Office of Diversity and Inclusion if necessary.

Supervisors will support all constructive efforts to resolve issues and take action.

Supervisors will ensure that no one suffers reprisal after making a legitimate Complaint or providing information about a Complaint.

Supervisors, Advisors and Investigators must refer to the resolution processes in the *Procedure* when dealing with problems that employees bring to their attention.

Supervisors, Advisors and Investigators must maintain confidentiality. They will only disclose information on a need-to-know basis. However, they can't guarantee full anonymity or confidentiality, as, for example, it may be necessary to selectively share information with a Witness.

Complaint Resolution Process

There are two types of Complaint resolution processes that employees can refer to for resolution.

Informal Resolution

Use informal resolution procedures if you think your Complaint may be resolved by talking to the Respondent, if necessary with an Advisor's help.

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An informal resolution procedure has one or more of these characteristics:

- The Complainant and Respondent are willing to work together to resolve problem.
- Supervisors, Human Resources staff, and union representatives help resolve problems between the Complainant and Respondent.
- Other staff may be brought in to help.

Your supervisor or Advisor will keep a written record of the initial Complaint.

Whether or not the problem is resolved through the informal resolution process, the final outcome may include disciplinary action against the Respondent.

How do I talk to the Respondent?

If you feel you have experienced workplace harassment, we encourage you to discuss it with the person responsible for the conduct. We recommend that you:

- describe the behaviour you feel is inappropriate
- express your feelings and how the behaviour has affected you
- indicate specifically what you would like changed
- keep informal notes as memory guides, and document steps taken to resolve issues.

What if a co-worker complains about you?

If a co-worker feels you have behaved inappropriately, we recommend that you:

- listen respectfully
- accept responsibility for your own actions and their potential effect on others
- indicate if there is anything you will do differently in the future.

What happens if the Complaint isn't resolved by talking with the Respondent, or it's awkward to deal with the Respondent directly?

In certain circumstances, we know it may be difficult to speak directly to the person you are making a Complaint against. For example, this may be the case if the Respondent is your supervisor or if the harassment has left you feeling unable to face the Respondent.

If you don't wish to bring the matter directly to the person responsible, or tried to speak to him or her but have been unable to resolve the problem, speak to your supervisor, Advisor from Labour Relations or the Office of Diversity and Inclusion, or your union representative.

What happens next?

You meet with your supervisor, Advisor, or union representative, who should listen objectively to your Complaint.

He or she will review the *Respectful Workplace Directive* with you and inform you of:

- the options for resolution of your Complaint
- counselling and other support services available
- your right to make a Formal Complaint
- your right to union or association representation at any stage.

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Formal Resolution

Formal resolution procedures include these features:

- A high level manager decides what action will result from the Investigation findings
- More people are involved and there is less privacy
- One or more parties are participating involuntarily.

If you are considering making a Formal Complaint, you are encouraged to consult with an Advisor. If you decide to make a Formal Complaint, the Advisor will help you prepare the Complainant Information Form (see Appendix I). The Complainant Information Form must include a detailed account of your allegations, and you must sign the Form. You may submit a Formal Complaint even if your Advisor feels that the conduct in question is not considered harassment.

Formal Complaints about *personal harassment* must be submitted to the Director of Labour Relations and Compensation.

Formal Complaints about *discrimination* must be submitted to the Manager of the Office of Diversity and Inclusion.

Formal Complaints should be submitted within 6 months of the incident. After 6 months, it is at the discretion of the Director or Manager whether to respond to the Complaint.

The Director or Manager gives the Complainant and Respondent a copy of the *Respectful Workplace Directive* and this *Procedure*, provides a copy of the Complainant Information Form to the Respondent and informs them that they have the right to union or association representation at any stage.

Investigation Process

After the Complainant submits their Formal Complaint, the Director of Labour Relations or Manager of the Office of Diversity and Inclusion reviews it to evaluate whether there are grounds for a Formal Investigation.

If the Director or Manager concludes an investigation should not take place, he or she will inform the Complainant and Respondent and outline the criteria for the decision. The Branch Manager and General Manager will also be advised of the Complaint and the decision whether or not to investigate.

If the Director or Manager concludes the Complaint requires investigation, he or she will decide on either an internal or external investigation, and on who will manage it. The Formal Investigation will proceed in accordance with Formal Investigation Guidelines that require the participation of the Respondent and, where applicable, Witnesses. These guidelines are available upon request from the Office of Diversity and Inclusion or from Labour Relations.

The investigation process includes the Investigator:

- meeting with Complainant to review details of the complaint, which will be shared with the Respondent
- meeting with the Respondent to review the complaint and request a written response (see Appendix II – Respondent Information Form) which is subsequently provided to the Complainant
- providing both Complainant and Respondent an additional opportunity to provide written responses to the other's added information
- meeting with identified Witnesses (see Appendix III – Witness Information Form) to obtain their information.

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The Investigator will provide their investigation report to the Director or Manager, who will then provide the report to the Decision Maker in the relevant Department(s).

The Decision Maker communicates the investigation findings and any actions to be taken to both the Complainant and Respondent.

Determinations made by the Director, Manager and/or Decision Maker are final and there is no appeal process.

FREQUENTLY ASKED QUESTIONS

What is appropriate workplace behaviour?

Comments, actions, or gestures that support a safe and respectful workplace. Examples include:

- being polite, courteous, and respectful of other people
- helping to set and maintain a positive and professional workplace
- listening to what other people have to say
- recognizing and valuing others' differences
- being open-minded to others' ideas, comments, and suggestions
- exercising appropriate confidentiality
- accepting responsibility for your actions and your effect on others
- engaging in honest differences of opinion about work-related issues in appropriate circumstances
- as a supervisor, dealing with employee performance or competence problems.

What is inappropriate workplace behaviour?

Harassment and discrimination are inappropriate behaviours (see pages 1 and 2 of this Procedure for more information).

How long do I have for reporting an incident?

You should make a Complaint within 6 months from the date of the incident. After that date, it is up to the Director of Labour Relations or the Manager of the Office of Diversity and Inclusion to decide whether to respond to your Complaint.

What are the consequences of discriminating against or harassing someone?

The City will take corrective action with respect to employees violating this policy, and sometimes disciplinary action up to and including dismissal.

What are the consequences for those who aren't City employees?

We expect members of the public, visitors to City facilities, and those conducting business with the City of Edmonton to behave respectfully to employees, elected officials, and anyone acting on behalf of the City. If inappropriate behaviour occurs, we will act to ensure a respectful workplace. This could include barring the person from City buildings or sites or discontinuing business with contractors or consultants (for example, see "Respect for People and Property" under "Attractions and Recreation" on the City website).

What if incidents might be considered criminal?

When behaviour may be criminal, the City will refer these matters to the Edmonton Police Service.

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What if someone makes a malicious, false, or frivolous Complaint?

If a Complaint is found to be malicious, false or frivolous, the employee is subject to appropriate disciplinary action — including dismissal or denial of services.

What if I'm worried the person harassing me will retaliate if I make a Complaint?

Every employee has the right to truthfully report harassment without fear of retaliation. The City will not tolerate retaliation against anyone involved in Informal or Formal Complaint processes. Anyone who retaliates will be subject to discipline — including dismissal or denial of services.

Will Complaints be tracked?

Human Resources, Law, and the Office of Diversity and Inclusion will track Formal Complaints as well as Complaints made to the Alberta Human Rights Commission. The Office of Diversity and Inclusion will collate this information semi-annually and report it to the City Manager.

Appendix I - Complainant Information Form

Appendix II - Respondent Information Form

Appendix III - Witness Information Form

