



Policy	Respectful Workplace
Approved By:	Chief Administrative Officer
Approval Date:	December 7, 2020
Amendment Date:	

POLICY STATEMENT

The District of Oak Bay is committed to providing a work environment in which all individuals are treated with mutual dignity and respect. Accordingly, the District of Oak Bay is committed to ensuring that bullying and harassment of employees at or in connection with work is not tolerated. The District will take steps to prevent discrimination, bullying and harassment by providing education to employees to recognize the potential for bullying and harassment, to respond, and to follow the procedures for reporting. It is our mutual responsibility to ensure that we create and maintain a harassment-free workplace and address this from all possible sources including all employees, elected officials, appointed committee members, contractors and anyone doing business with the District. This Policy is intended to comply with all relevant legislation and regulations including the British Columbia *Human Rights Code and Workers Compensation Act*.

PURPOSE

To promote a consistent understanding of a respectful workplace which is free from discrimination, bullying and harassment and to outline procedures for addressing concerns that may arise.

SCOPE

This Policy applies to all District of Oak Bay employees. Harassment of employees by elected officials (Council), appointed committee members, contractors and anyone doing business with the District is also prohibited. This is addressed in Council's Code of Ethics, workplace signage and through contractual terms/conditions and legislation.

This Policy applies to the workplace itself, and to work-related events. (refer to definition of "workplace" in the next section) It includes harassment involving District employees that happens away from the workplace or after regular working hours, where the harassment has a negative impact on the workplace.

DEFINITIONS

Respectful Workplace

A work environment where individuals treat each other with respect at all times which includes:

- Inclusion of people with different backgrounds, strengths and opinions;
- Safety from disrespectful, bullying or intimidating behaviours;
- Individual accountability for effective workplace relationships involving the constructive resolution of differences.

Discrimination

Discrimination is any unfair differential treatment of an individual or group on any of the prohibited grounds outlined within the *BC Human Rights Code* which includes: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or unrelated criminal conviction. Discriminatory harassment is a form of discrimination where abusive, unfair, offensive, or demeaning treatment of a person or group has the effect of interfering with an employee's work.

Harassment / Personal Harassment

Harassment (or personal harassment) is one or a series of incidents of behaviour directed toward a group or individual that a reasonable person would know or ought to know would cause offence, humiliation or intimidation. Such behaviour includes but is not limited to making derogatory comments to or about another person, swearing, yelling, derogatory gestures, gossip, reckless disregard or denial of another's rights or improper use of power or authority.

Harassment is NOT: legitimate job-related action performed in good faith by managers and supervisors. Such action may include giving work direction or assignments, conducting performance appraisals, attendance monitoring and implementation of disciplinary or other corrective actions.

Sexual Harassment

Sexual Harassment is a specific form of harassment prohibited under this Policy. Sexual Harassment entails sexually oriented comments, conduct, gestures, visual displays or contact including sexual remarks, leering, touching or other sexually oriented behaviour that creates an uncomfortable or offensive work environment.

Bullying

Bullying is any repeated or systematic behaviour, including physical, verbal or psychological conduct which would be seen by a reasonable person as intending to belittle, intimidate, coerce or isolate another person.

Complainant

An employee who believes that he or she has a complaint of conduct contrary to this Policy and is bringing forward the complaint.

Respondent

The individual against whom an allegation(s) of conduct contrary to this Policy has been made and who is responding to the allegation(s) made in the complaint.

Workplace

The workplace includes:

- District offices, buildings, facilities, vehicles or worksites;
- locations visited by employees while traveling on District related business including conferences, meetings, vendor/supplier or customer sites;
- locations of work-related social gatherings;
- internet/electronic communications;
- any other locations where the prohibited conduct may have a subsequent impact on the work relationship.

ROLES AND RESPONSIBILITIES

All employees and elected officials of the District are expected to contribute constructively to a respectful workplace environment that is collaborative, inclusive and embraces diversity.

District of Oak Bay

- The District has the primary responsibility to establish and maintain a work environment free of discrimination, harassment and/or bullying as defined in this Policy.

Mayor and Council Members are expected to:

- fully comply with Council's related Code of Ethics;
- be familiar with the Respectful Workplace Policy and not participate in discriminatory, harassing or bullying behaviour; and
- exemplify respectful speech and behaviour.

Employees are expected to:

- not engage in harassment or bullying of other employees;
- report if harassment or bullying is observed or experienced in the workplace; and
- apply and comply with the Employer's policies and procedures on harassment and bullying.

Directors/Managers/Supervisors/Fire Chief are expected to:

- clearly communicate this Policy to all employees; including new employees on the commencement of their employment;
- promote, within their area of responsibility, a work environment which is free from harassment and bullying and is supportive of the dignity and respect of every employee;
- model inclusive and professional behaviour and not participate in discriminatory or harassing behaviour;
- immediately address any harassment or bullying that they may observe or of which they become aware; and
- ensure that harassment and bullying is not allowed, condoned or ignored and may be considered a party to the harassment if they fail to take corrective actions.

Human Resources will:

- champion respectful workplace behaviours and practices;
- ensure this Policy and related information is available and accessible;
- provide advice and/or guidance on the Policy and related processes;
- facilitate corporate training and development related to respectful workplaces;
- ensure a fair, prompt and equitable process is followed, and oversee the resolution/investigation process as may be required; and
- where appropriate, to facilitate joint involvement of management, union representatives and other staff to resolve issues.

COMPLAINT RESOLUTION PROCEDURES

Informal Process

Employees who believe they have been the subject of discrimination, harassment or bullying are encouraged to resolve the situation informally by making their concern known to the other party. This is an important step to ensure that the other party knows that his or her conduct is unwelcome. If after discussing a complaint with the other party, the complaint is dealt with to an individual's satisfaction, the issue is considered to be resolved. If the employee is uncomfortable informing the other party that their actions are unwelcome, they may seek assistance from a supervisor, manager, union representative or Human Resources Manager. The supervisor, manager, union representative or Human Resources Manager will meet with the parties (either separately or together) and attempt to mediate a resolution that is acceptable to both parties. If a solution is reached, the complaint will be deemed resolved.

All persons who believe that they have experienced discrimination, harassment or bullying should keep detailed notes about the issue.

Formal Process

In the event that the matter is not resolved to the Complainant's satisfaction, or if the employee chooses not to proceed informally, the employee may proceed with a formal complaint.

1. To file a formal complaint, the Complainant must complete a Respectful Workplace Complaint Form (Appendix A) and forward it to the individual(s) designated for the management of formal complaints as follows:
 - Human Resources Manager for all complaints except for those employees in the Human Resources Department
 - The Chief Administrative Officer (CAO) for complaints involving employees in the Human Resources Department or a member of Council

Depending on the circumstances, the Human Resources Manager or CAO may also consider first attempting an informal resolution if such has not already been taken.

For any complaints involving Council (including the Mayor), the CAO will appoint an external investigator.

2. Once a formal written complaint is received, the designated individual will begin a formal investigation if appropriate and will appoint an internal or external investigator to conduct a confidential investigation of the complaint.

The investigator will:

- notify the Respondent of the allegations of the complaint
- interview the Complainant (for unionized employees, a Union representative may be present at the Complainant's option)
- interview the Respondent (for unionized employees, a Union representative may be present at the Respondent's option)
- interview witnesses as determined by the investigator

Both the Complainant and Respondent will have an opportunity to identify possible witnesses or others to be interviewed. Every effort will be made to complete the investigation and document the findings within a reasonable timeframe.

3. At the conclusion of the investigation:
 - a confidential report including the complaint investigation findings will be presented to individual designated for the management of the complaints. (Human Resources Manager or CAO).
 - The Complainant and the Respondent will be advised of the outcome of the investigation having regard to the privacy interests of all parties.
 - The individual designated for the management of the complaint (Human Resources Manager or CAO) will determine any appropriate corrective or disciplinary action to be taken. (See Section below – Remedies)

APPEAL PROCEDURE

If a Complainant or Respondent is not satisfied with the final decision in respect to the complaint, the following avenues may be considered:

- Unionized employees may speak with their Union about filing a grievance under the Collective Agreement. The timelines for filing a grievance will be applied.
- Management and Exempt employees may appeal to the CAO or designate in writing within 20 working days outlining their reasons for disagreement with the outcome of the complaint. The CAO's review will be limited to reviewing the investigator's report and the outcome as determined by the individual designated to manage the formal complaint to determine whether this Policy was reasonably and appropriately applied. The CAO will then issue a decision in writing either confirming the decision of the individual designated to manage the formal complaint or outlining an alternative outcome which will then constitute the District's final decision.

REMEDIES

In keeping with the procedures as set out above, where a complaint is substantiated, an appropriate remedy will be implemented. The determination of an appropriate remedy will be assessed on a case by case basis. This may include corrective action such as education and training, mediation or other conciliatory approaches, temporary or permanent changes to reporting structures or work assignments, and/or discipline up to and including termination of employment where applicable.

TIME LIMITS

The District reserves the right to consider any matter that comes to its attention at any time; however, Complainants are encouraged to bring concerns forward in a timely manner. A formal complaint must be made to the individual designated to manage formal complaints within six (6) months of the date of the last alleged incident of harassment.

It should be noted that there is a limitation period of six (6) months for a complaint under the *British Columbia Human Rights Code* to the *British Columbia Human Rights Tribunal* in respect of discrimination on a prohibited ground (see the definition of Discrimination).

CONFIDENTIALITY

To protect the interests of the Complainant and Respondent, confidentiality will be maintained throughout the resolution processes to the extent appropriate under the circumstances. Parties to a complaint, including witnesses, are not to share information or discuss details of the complaint.

All employees are expected to respect and preserve the confidentiality of any complaint and process under this Policy and to assist management in the informal resolution process or the formal investigation of any complaint by providing information as requested. This includes refraining from discussions or releasing information in any form except for the purpose of resolving the complaint.

Management and any investigator appointed by the District, insofar as possible, will keep all information concerning the complaint confidential. Confidentiality will be maintained throughout the process and information will be disclosed only to the extent necessary to carry out these procedures, including the conduct of a fair investigation and the implementation of corrective/disciplinary measures, and where disclosure is required under lawful authority. In all circumstances, only the minimum amount of information necessary will be disclosed.

RETALIATION

Any retaliation against any party involved in a complaint or complaint resolution process will not be tolerated. Retaliation may form the basis of a separate complaint and could result in disciplinary action up to and including dismissal.

MALICIOUS ALLEGATIONS

An investigation may determine that a complaint is not supported and that there is no breach of this Policy. Such a finding does not necessarily mean that the complaint was malicious. Malicious complaints are those where the complainant or others know there is no foundation to the complaint and where the complaint is filed for the purpose of bringing an adverse consequence to the respondent or another employee of the District. Such complaints are a breach of this Policy and any employee engaged in presentation or filing of such a complaint may be subject to discipline, up to and including dismissal.

RECORD KEEPING

The District will maintain all documentation pertaining to complaints in a confidential manner. If the allegations are not proven and there is no disciplinary action, there shall be no records of the complaint placed in the personnel files of the Complainant, the witnesses or the Respondent. However, documentation of the investigation shall be kept in a confidential file separate from the personnel files and maintained by the Manager of Human Resources in order to evidence the District's proper investigation of the formal complaint. Where a complaint is substantiated, documentation which outlines disciplinary action arising from an investigation shall be placed in the Respondent's personnel file.

COLLECTIVE AGREEMENTS & LEGISLATION

In the event that any portion of this Policy is inconsistent with a binding District collective agreement or federal or provincial legislation, that portion and only that portion of the Policy shall have no application to the extent of that inconsistency. All other portions of the Policy shall continue in full force and effect.

RELATED POLICY, LEGISLATION & AGREEMENTS

District of Oak Bay Council Code of Ethics
British Columbia Human Rights Code
British Columbia Workers Compensation Act
Collective Agreement – District of Oak Bay and CUPE 374



Lou Varela, Chief Administrative Officer



Date