

## **Respectful Workplace Policy and Procedure**

### **1.0 Policy Statement**

Every employee of the City of Mount Pearl (the “City”) is entitled to employment free from workplace harassment. The City is committed to eliminating, where possible, or otherwise, minimizing the hazard of workplace harassment in its workplace. The City seeks to provide a safe, healthy, and rewarding work environment for its employees. Harassment, discrimination, abuse of power, and bullying will not be tolerated.

The City requires all employees, members of Council, contractors, consultants, suppliers, visitors and other third parties dealing with employees of the City to ensure an inclusive and harassment-free work environment.

### **2.0 Scope**

This Respectful Workplace Policy (the “Policy”) applies to all employees of the City (including supervisors, managers, union and non-union employees), members of Council, contractors, consultants, couriers, repairers, suppliers, students, visitors, other third parties or members of the general public who deal with employees of the City.

The Policy applies to the workplace and work-related events. It also applies to incidents occurring outside the workplace, during or outside normal working hours, where such acts are committed within the course of employment. As such, this Policy applies to the following:

- conduct that is committed while an individual is acting on behalf of the City;
- behaviours of City employees that may have a negative impact on the workplace or the City’s reputation;
- conduct that could reasonably be associated with the workplace; and
- employment-related activities, including but not limited to social events, company functions, training sessions and seminars, provision of goods, services, facilities, accommodations and during work-related travel.

### **3.0 Background**

The City’s greatest resource is its people. It is essential to our organization that employees are provided with, and contribute towards, a respectful workplace where values of trust, fairness, integrity, consideration and dignity guide our interactions with one another.

Harassment and discrimination in the workplace will not be not tolerated by the City. The City recognizes and embraces diversity in the workforce and will endeavor to provide an environment which is supportive of productivity, personal goals, dignity, worth and self-esteem of every employee. The City is committed to creating an atmosphere of understanding and mutual respect

and will not tolerate behavior which conflicts with the spirit or intent of human rights law, or other applicable legislation.

## 4.0 Purpose

The Policy is intended to promote a working environment that is free from any form of harassment, bullying, discrimination or abuse of power. The Policy outlines the City's expectations for all employees and individuals who interact with the City's employees or on behalf of the City. It is intended to prevent any type of workplace harassment. It is crucial that everyone, regardless of their role or position, conduct themselves in a professional and respectful manner in accordance with this Policy.

## 5.0 Definitions

**Harassment** - is inappropriate vexatious conduct or comment by a person to an employee that the person knew or ought to have known would cause the employee to be humiliated, offended or intimidated.

Harassment may include unwelcome, unwanted, offensive, or objectionable conduct that may have the effect of creating an intimidating, hostile or offensive work environment, interfering with an individual's work performance, adversely affecting an individual's employment relationship, or denying an individual dignity and respect.

Harassment may result from one incident or a series of incidents. It may be directed at specific individuals or groups. The behavior need not be intentional to be considered harassment.

The Newfoundland and Labrador *Human Rights Act, 2010* prohibits discrimination and harassment based on a prohibited ground. Prohibited grounds under the *Human Rights Act, 2010* include race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income and political opinion. Harassment is a form of discrimination if it is based on any prohibited ground under the *Human Rights Act, 2010*.

Some examples of harassment as defined in this Policy include, but are not limited to:

- verbal or written threats, intimidation, or abuse;
- public ridicule or humiliation;
- spreading malicious rumours or gossip;
- insulting, derogatory, degrading or offensive comments, insults, jokes, slurs or gestures;
- unwelcome remarks or jokes based on a prohibited ground under the *Human Rights Act, 2010*;
- displaying sexist, racist or other offensive pictures or posters;
- physical assault, including sexual assault, impeding or blocking movement or any physical interference with normal work or movement;
- refusing to work with another employee because of that other person's sexual orientation, disability, racial, religious or ethnic background;
- derogatory comments, taunts, threats, jokes, teasing or jeers about race, color, nationality or ethnic origin or about the adornments and rituals associated with cultural or religious beliefs;
- referring to a person using terms or pronouns that do not align with the person's affirmed gender;

- creating a hostile or offensive work environment;
- using offensive, humiliating, foul or obscene language or directing profanity or offensive language at another employee;
- negative stereotyping;
- racial or ethnic slurs; and
- bullying, belittling, demeaning or aggressive behaviour including offensive, malicious, intimidating, ostracizing, insulting or humiliating behaviour;

Harassment does not include reasonable action taken by a supervisor relating to the management and direction of an individual or the work force. Such actions, including the assignment of work, instructions, performance reviews, coaching, and disciplinary action, when conducted by a supervisor or manager in a respectful manner and in good faith, are within an employer's right to manage performance expectations and to impose discipline.

**Sexual Harassment** – is also considered harassment pursuant to this Policy and includes the following:

- engaging in a course of vexatious comment or conduct against an employee in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
- making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the employee and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

The behavior need not be intentional to be considered sexual harassment.

Some examples of sexual harassment include, but are not limited to, the following:

- sexually suggestive remarks or gestures;
- unwelcome sexual advances or requests for sexual favors whether verbal, written, or physical;
- unwanted physical contact including touching, patting, pushing, pinching, physical assault or brushing against another employee's body;
- sexual, sexist, homophobic slurs or jokes, innuendoes or comments, unwanted invitations or insulting sounds causing embarrassment or offence;
- persistent unwanted contact or attention after the end of a consensual relationship;
- drawing attention to a person's sex, sexual orientation, gender identity or gender expression with the intent, or with what ought to reasonably be understood as having the effect of undermining the person's role in a professional and business environment;
- unwelcome remarks, jokes, taunts, or suggestions about a person's body, attire, any part of their appearance, or sex life;
- staring, leering, whistling or unnecessary familiarity or unwanted physical contact such as patting, touching, kissing, pinching or hitting;
- displaying or distributing degrading, offensive, pornographic, sexually suggestive, or derogatory materials such as graffiti, objects, posters, written materials, or pictures;
- impeding or blocking movement or physical interference with normal work or movement;
- unwelcome inquiries or comments about a person's sex life;
- conduct made to an individual by another individual where the other individual is in a position to confer a benefit on or deny a benefit to the individual to whom the solicitation

or advance is made, where the individual who makes the solicitation or advance knows or reasonably ought to know that it is unwelcome;

- a retaliation or threat of retaliation against an individual for rejecting a sexual solicitation or advance, including unfair evaluations or reprimands, reduced working hours, overtime, dismissals, discipline for a refusal to submit to sexual advances;
- comments, gestures, or contact of a sexual nature that might reasonably be perceived as placing a condition on an employee's employment or providing or denying an opportunity or benefit; and
- unsolicited and repeated use of inappropriate nicknames such as "dear", "darling" or "honey".

**Complainant** — an employee who believes that they have been subjected to conduct which constitutes harassment or discrimination under the Policy and files a verbal and/or written accusation or brings a formal complaint against a City employee or other individual to whom this Policy applies.

**Respondent** - a person who is the subject of a complaint of harassment or discrimination complaint and is alleged to have violated this Policy.

**Mediation** - a method of resolving a perceived violation of the Policy or a complaint under the Policy. This process involves the use of a neutral third-party person who attempts to reconcile the matter between the Claimant and Respondent in an informal and expeditious manner where both the Claimant and Respondent agree to the mediation process.

**Abuse of authority** - is a form of harassment which occurs when an individual improperly uses the power and authority inherent in their position to interfere with an employee or the employee's job, undermine the performance of that job, threaten the economic livelihood of the employee, or in any way interfere with or influence the career of the employee. It includes humiliation, intimidation, threats and coercion. It does not include normal managerial activities, such as counselling, performance issues and disciplinary matters provided these are being conducted in a non-discriminatory manner.

**Designate** — may refer to the City's Director designate or a contractor or someone with authority to act on behalf of the Respondent.

**Disciplinary Action** – is a consequence of a violation of the Policy and will take into consideration the nature and impact of the violation, and may include a verbal or written reprimand, suspension (with or without pay), or termination of employment (with or without notice) or other consequence for an employee's action.

**Discrimination** — includes any action, inaction or behaviour which intentionally or unintentionally denies a right, benefit or opportunity or status of an employee, or the unequal treatment of an employee or harassment on the basis of prohibitive grounds as defined under *Human Rights Act, 2010*, which includes race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income or political opinion. The Company does not tolerate any form of harassment, discrimination or differential treatment based on a prohibited ground. The behavior need not be intentional to be considered discrimination.

**Remedial Action** - will take into consideration the nature and impact of the violation, and may include training, coaching, counselling or awareness education, disciplinary action, or for contractors the termination of contract or removal of the contractor and/or their employees.

**Workplace** - means any place where business or work-related activities are conducted including over the telephone, email or electronic communication. It also includes, but is not limited to, the physical work premises, City vehicles, work-related social functions, travel, conferences, seminars, training sessions, or in the provision of goods, services, facilities or accommodation.

**Investigator** — is the person assigned by the City to investigate a complaint pursuant to this Policy and to prepare a report of the facts, together with a statement of the position of each of the Complainant and the Respondent. The investigator shall have no power to determine the complaint and will not offer an opinion on the issues raised by the Complainant.

## **6.0 Responsibilities**

All employees, members of Council, contractors, consultants, suppliers, visitors and other third parties dealing with employees of the City are responsible for complying with the Policy and for avoiding conduct that may constitute harassment and discrimination of any nature. Non-compliance of responsibilities will result in remedial action by the City.

### **Employees are responsible:**

- to comply with this Policy;
- to take reasonable care not to engage in bullying or workplace harassment;
- to refrain from behaving in a manner that could be construed as harassment;
- to take personal responsibility to develop and maintain respectful workplace relationships;
- to attempt to resolve differences or conflict in a respectful manner;
- to promote harassment free, discriminatory free and bully-free workplaces;
- to immediately report instances of harassment towards yourself or fellow co-workers;
- to offer support to victims of harassment;
- to report observations or experiences of bullying and workplace harassment;
- to offer to be a witness for an employee whom you witness being harassed;
- to be knowledgeable about the Policy and the types of behavior that constitute harassment;
- to seek out support and assistance if required from a supervisor, manager, Human Resources, union representative or other resource to effectively resolve workplace conflict; and
- cooperate with, and participate in, any investigation pursuant to this Policy

### **Supervisors, Managers and Directors are also responsible:**

- to ensure the health and safety of workers, as well as apply and comply with this Policy;
- to act immediately on observations or allegations of harassment or discrimination;
- to promote and foster a work environment that is free of harassment and discrimination;
- to coach employees to be respectful towards others;
- to address inappropriate behavior immediately and effectively;
- to monitor the workplace for incidents of workplace harassment;

- upon observing an individual being subject to behaviour which violates this Policy, to advise the individual of their rights under this Policy;
- to intervene promptly and appropriately when they know, or ought reasonably to have known, that workplace harassment is occurring;
- to encourage early and open dialogue and feedback before inappropriate behaviour escalates;
- to participate in learning opportunities, and encourage employee participation in learning opportunities, on the prevention, early intervention, and resolution of harassment, and discrimination in the workplace;
- to work cooperatively with Human Resources to resolve and remedy instances of workplace harassment; and
- to monitor situations where complaints have been made even after corrective measures have been taken and ensure that individuals are not subject to retaliation for their involvement in a complaint.

Supervisors and Managers are responsible for their own actions and are also responsible for dealing with the actions of employees under their supervision. Supervisor, Managers and Directors who fail to fulfill their obligations under the Policy may be subject to disciplinary action.

**Director of Corporate Services, Manager of Human Resources and/or the designate are also responsible to:**

- educate employees about harassment in the workplace and ensure that all employees are aware of the Policy and the procedure for dealing with harassment complaints;
- resolve complaints of harassment;
- give full consideration and attention to complaints received;
- ensure there is a climate of understanding, mutual respect and the recognition of the rights for the Complainant and the Respondent;
- uphold the spirit or intent of human rights law, other applicable legislation and City policies;
- manage the entire process and ensure the timelines are met or exceeded;
- inform the Respondent that a complaint has been made;
- ensure that all the details of the complaint are disclosed to the Respondent;
- advise the Respondent of the procedure that will be followed when a complaint is made;
- ensure that during an investigation the Complainant and the Respondent are treated in a fair, equitable and impartial manner;
- if agreed to, hold voluntary mediation sessions;
- assign an Investigator and provide written instructions as to the requirement to conduct the investigation within the required timeline;
- brief and provide support to the Directors of the Complainant and Respondent;
- brief and provide the Chief Administrative Officer with the Investigator's Report and Findings and the Director's recommendations on actions and/or discipline;
- maintain confidentiality throughout the process and ensure all material is secured;
- support and assist an employee who has been harassed; and
- review and audit the Policy for its effectiveness, in accordance with the review schedule.

The Director of Corporate Services failure to fulfill their obligations under the Policy may be subject to disciplinary action.

**Chief Administrative Officer and/or their designate are responsible to:**

- ensure a diverse workplace and discourage and prevent harassment in the workplace;
- ensure fair and unbiased investigations to determine, based upon findings, whether allegations of harassment or discrimination are or are not proven on the balance of probabilities;
- immediately investigate harassment and discrimination complaints if the Director of Corporate Services is the subject of the complaint;
- oversee the appeal process;
- render the City's final decision; and
- impose strict disciplinary measures, regardless of the harasser's position within the City.

The CAO's failure to fulfill their obligations under the Policy may be subject to disciplinary action.

## **7.0 Procedure**

An allegation of harassment or discrimination made against another person is a serious matter and will be treated seriously by the City. If an employee believes they have experienced harassment or discrimination in violation of this Policy, the employee is encouraged to address it through informal resolution or intervention:

### **1. Reporting Harassment**

#### **1.1. Informal Resolution**

Employees who believe that they have been subjected to harassment or discrimination are encouraged, whenever possible, to discuss complaints with the alleged offender when they occur, with the aim of finding a mutually agreeable resolution. Tell the offender that their behavior or comment(s) are unwelcome and ask them to stop. Guidelines to assist are outlined Appendix B.

#### **1.2. Support and Intervention**

Employees who are not comfortable with 1.1 above and who believe that they have been subjected to harassment or discrimination, or become aware of situations where such conduct may be occurring, are encouraged to report inappropriate behavior as soon as possible. Complaints of harassment should be reported using the form in Appendix A and in accordance with the process outlined in Appendix B.

### **2. Investigation**

Where a complaint of harassment is made pursuant to this Policy, and is not resolved informally, the City will investigate the complaint in accordance with the procedure outlined in Appendix B. Any allegation of harassment will be treated seriously and will be dealt with and investigated in a fair and timely manner.

### **3. Confidentiality**

Every effort will be made to maintain the confidentiality of all Complaints concerning harassment and discrimination. All parties involved in investigations of complaints of discrimination or harassment will be treated with the strictest of confidence, however formal resolution investigations often cannot be carried out anonymously.

Any information obtained relating to workplace harassment, or collected and retained during an investigation, including personal information, will not be disclosed and will be kept confidential unless disclosure is necessary for the purpose of an investigation, disciplinary action relating to the complaint or where required by law (including, but not limited to, court proceedings, arbitration, or other legal proceedings).

During the investigation process, Human Resources will limit disclosure of investigation related information to that which is necessary to resolve the complaint.

The identity of the Complainant and the allegations contained in the complaint will be made known to the Respondent who is alleged to have engaged in harassment or discrimination and they shall have an opportunity to respond to the allegations. Only those people involved in the investigation process will have access to the information collected including the Complainant, Respondent, witnesses and others involved in resolving the complaint. The names of the individuals involved and the circumstances will only be divulged as required to facilitate their participation in investigating and resolving the complaint, if required by law, or pursuant to this Policy.

All written statements, documents, or other materials pertaining to the complaint will be stored, released or disclosed in accordance with the requirements set forth by the *Access to Information and Protection of Privacy Act, 2015*.

### **4. Retaliation or Reprisals**

Any employee who feels they have experienced harassment or discrimination in the workplace has the right to make a complaint or enforce their rights under the Policy without threats, reprisal or retaliation. Submitting a complaint in good faith, even where the complaint cannot be proven, is not a violation of the Policy. The City shall protect its employees from retaliation and will provide support to employees when workplace harassment occurs.

Retaliation or reprisals against an employee who has filed a complaint in good faith under the Policy or who has, in good faith, provided information regarding a complaint are prohibited. Any retaliation or reprisal will be subject to immediate corrective action, up to and including termination of employment or contract. Alleged retaliation or reprisals are subject to the same investigative procedures and penalties as complaints of harassment and discrimination.

### **5. Malicious or Frivolous Complaints**

The following actions are prohibited by this Policy:

- Making a knowingly false complaint;
- Bringing a complaint for malicious purposes;
- Making a frivolous complaint;
- Making a complaint in bad faith; or

- Knowingly providing false information during a process established pursuant to this Policy

The above actions may result in disciplinary action up to and including termination.

A malicious or bad faith complaint means that a person has made a complaint under the Policy that they knew was untrue. Should an employee intentionally make a knowingly false or frivolous complaint of harassment or discrimination, or make a complaint in bad faith, the Complainant may be subject to disciplinary action up to and including termination of employment.

Unwarranted or frivolous complaints differ from any unsubstantiated complaints. Unsubstantiated complaints are made in good faith, however insufficient evidence exists to either prove or disprove the veracity of the complaint. There will be no reprisal or discipline for unsubstantiated complaints made in good faith.

## **6. Complaint Notification**

The Complainant should make their objections known to the Respondent and document the incidents of harassment and list any witnesses or any other person to whom they have complained. The complaint is to be made in writing to one of the following individuals: manager, supervisor, or Human Resources.

The Complainant also has the right to file the complaint with the Newfoundland and Labrador Human Rights Commission by visiting [www.thinkhumanrights.ca](http://www.thinkhumanrights.ca) or calling 709-729-2709. The Human Rights legislation protects a Complainant from retaliation for filing a complaint under the legislation.

## **7. If a harassment complaint is made against you**

Discuss the matter with your supervisor, Human Resources Manager, Assistant Human Resources Manager, Director and/or union representative. Cooperate fully with the person(s) conducting the investigation, so that the facts may be determined.

## **8. Dealing with the complaint**

Appendix B outlines the process to follow when filing a complaint. Complaints and alleged violations of the Policy that are not resolved through an informal process will be investigated and dealt regardless of whether a formal complaint has been made.

## **9. Notification of Results of Investigation**

The results of the investigation and/or complaint process will be communicated to the Complainant and Respondent.

## **10. Results of Investigation**

If the investigation reveals that the complaint is valid, prompt attention and any disciplinary action designed to stop the harassment and prevent its recurrence will be taken.

Engaging in conduct contrary to this Policy, including workplace harassment or discrimination, may result in disciplinary action up to and including termination of employment.

## **11. Other Remedies**

This Policy is not intended to discourage an employee of the City from exercising their rights under the *Human Rights Act, 2010*, the *Criminal Code* (Canada) or any other law of the province or of Canada. Participation in the complaint process in no way restricts an employee's right to file a complaint, within the prescribed time limits, under relevant provincial and Human Rights legislation. If an employee has questions with respect to the *Human Rights Act, 2010*, the employee is encouraged to contact the Newfoundland and Labrador Human Rights Commission ([www.thinkhumanrights.ca](http://www.thinkhumanrights.ca) or phone 709-729-2709).

## **12. Collective Agreements and Legislation**

In the event that any portion of this Policy is inconsistent with a binding City collective agreement (where applicable to an employee) or applicable federal or provincial legislation, or is otherwise void, invalid, illegal or unenforceable, that portion of the Policy, and only that portion of the Policy, shall have no application to the extent of the inconsistency. The remainder of the Policy or the application of such provision or portion thereof shall not be affected and shall continue in full force and effect.

## **13. Questions**

If a City employee has questions regarding their understanding or the application of this Policy, the employee should consult with Human Resources.

## **14. Education and Training**

The City of Mount Pearl commits to making sure all its employees and management are trained in harassment prevention and the company's harassment prevention plan.

**\*\*\*training is mandatory for all employees and management\*\*\***

## **15. Monitoring**

The City of Mount Pearl will monitor this plan, review annually and make adjustments whenever necessary. If you have concerns with this plan, please bring to the attention of the HR Manager



## **APPENDIX B**

### **Guidelines to Address Complaints of Harassment and/or Discrimination**

This document provides guidelines to address complaints of harassment and/or discrimination in a fair and equitable manner, respecting the rights, dignity and needs of Complainants and Respondents.

The following is a summary of the steps to follow once the employee believes they have been subjected to harassment, bullying, discrimination, or abuse of power:

- A. Complainant speaks/meets with the Respondent, if safe and possible to do so
- B. If no resolution after initial contact in "A" or Complainant is not comfortable with the approach in "A", then advise your supervisor, manager or Human Resources
- C. If no resolution after "B", notified personnel reports to Director of Corporate Services or Manager of Human Resources for resolution and/or mediation
- D. Formal investigation commences and conducted
- E. Complainant and Respondent informed of the Investigation's Findings
- F. Outcome of the Investigation
- G. Appeal
- H. Chief Administrative Officer renders a decision on Appeal
- I. If the Human Resources Manager is the Respondent
- J. If the Chief Administrative Officer is the Respondent
- K. If a Member of Council is the Respondent
- L. If the Respondent (Accused) is external to the City of Mount Pearl
- M. If the Complainant is external to the City of Mount Pearl

If the Director of Corporate Services is the subject of the complaint, the Chief Administrative Officer assumes the role assigned to the Director of Corporate Services in "C". If the Chief Administrative Officer is the subject of the complaint, the Mayor or designate assumes the role assigned to the Chief Administrative Officer.

#### **A. Complainant speaks/meets with the Respondent, if possible**

An employee who believes that they have been subject to conduct which constitutes harassment or discrimination under the Policy (the "Complainant") is encouraged, whenever safe and possible to do so, to discuss the complaint with the person responsible for the conduct (the "Respondent").

Some employees do not realize their behavior is offensive and may stop when they are informed that their conduct is offensive or may be in contravention of the Policy.

Some tips an employee may consider in discussing the issue with the Respondent:

- inform the Respondent in person or writing that the behavior is unwelcome, offensive, or unacceptable, and that it must stop;
- indicate that further similar conduct will not be tolerated;
- focus on the behavior, not the person, during the discussion;
- use discretion in determining where to have the discussion (quiet location);
- speak with each person individually, if the behavior involves a group of people;
- be respectful and open to feedback during your discussion.

Complainants and Respondents are encouraged to contact Human Resources, the Employee and Family Assistance Program, Union representatives, or a supervisor for generic advice on how to approach and respond to the situation.

If a Complainant is not comfortable or does not feel safe addressing the issue with the Respondent, the Complainant is not required to complete this step before reporting a complaint in accordance with Step “B” below.

#### **B. Reporting the Complaint to a supervisor, manager, or Human Resources**

If the Complainant is not comfortable approaching the Respondent, there has been no resolution, or the behavior continues after the discussion with the Respondent, then the Complainant should report the behavior to their supervisor, manager or Human Resources.

The Respondent to a complaint will not be involved in receiving the complaint, conducting the investigation, or the outcome of the investigation. If the Respondent is an individual designated to receive complaints pursuant to this Policy, such as supervisor, manager or Human Resources, the Complainant should report the complaint to another individual designated to receive complaints pursuant to this Policy, such as another supervisor, manager or Human Resources person.

The Complainant may present their concern verbally, but the preferred method is in writing using the Harassment Complaint Procedure form in Appendix A. The Complainant can, if they so desire, submit their complaint through a letter which outlines the event, date(s), time(s), location(s), names of witnesses and the resolution seeking.

Upon receiving the complaint, the supervisor, manager or Human Resources may attempt to resolve the concern through meeting with the parties in an informal manner.

#### **C. Report to Director of Corporate Services or Manager of Human Resources for resolution/mediation**

If the complaint is not resolved through the supervisor, manager or Human Resources in step “B”, above, the supervisor, manager or Human Resources shall bring the complaint to either the Director of Corporate Services or Manager of Human Resources or designate. If the Respondent is either the Director of Corporate Services or Manager of Human Resources, the Respondent will not be involved and the complaint will be referred to another individual designated to process complaints pursuant to this Policy.

The Director of Corporate Services or Manager of Human Resources or designate will listen to and/or review the Complaint and meet with the Complainant within five (5) working days of receiving the complaint. This time may be extended for a reasonable period depending on the circumstances of each case. The Complainant will be informed of any extension in the timeline and will be advised of a new projected date of completion. The Director of Corporate Services or Manager of Human Resources or designate may have an initial discussion with or between the Complainant and the Respondent to attempt to resolve the complaint, where appropriate.

If, after the initial discussion with or between the Complainant and the Respondent, the complaint is not resolved, the Complainant and the Respondent will be asked whether they are interested and willing to participate in voluntary mediation to resolve the complaint. Through this process, the objective is to obtain a mutually acceptable resolution with an education and prevention focus rather than sanctions or discipline; to ensure that the harassment or discrimination ceases; and that any recurrence is prevented so that the parties can return to a professional working relationship.

If the parties can successfully resolve the issues that gave rise to the complaint through the mediation process, the resolution will be documented and signed by all parties. All records of the complaint and resolution will be retained in a secure file within Corporate Services and access will be restricted to those individuals who require the records to perform the necessary and proper duties and responsibilities of the City, or if required by law.

If the Complainant or Respondent do not want to participate in voluntary mediation, the complaint will move to the formal investigation stage.

#### **D. Formal Investigation Commenced and Conducted**

If the Complainant or Respondent do not participate in voluntary mediation or mediation does not successfully resolve the complaint, the complaint will be formally investigated.

The purpose of the investigation will be to determine the facts surrounding the alleged incident of harassment or discrimination and to determine whether there has been a violation of this Policy. The outcome of investigation will allow the City to determine whether any remedial or corrective action is appropriate in the circumstances.

An investigation pursuant to this Policy will be carried out in accordance with the following:

- i. The Manager of Human Resources is responsible for the investigation. They will appoint an Investigator (either themselves, a designated employee trained in the investigation process, or an external resource) within five (5) working days of receipt of the formal complaint or failure of the mediation process (where the parties participate in the mediation process). This time may be extended for a reasonable period depending on the circumstances of each case. The Complainant will be informed of any extension in the timeline for appointing an investigator and will be advised of a new projected date for appointment.
- ii. The Manager of Human Resources advise the Complainant and Respondent, or their designate that an investigation will be conducted and identifies any accommodations required during the investigation.

- iii. The Investigator(s) will interview the Complainant, the Respondent, any witnesses or any other person deemed necessary as part of the investigation. The Investigator(s) has the power to interview witnesses, take written statements and review documentation.
- iv. The Investigator will meet with the Complainant to obtain a verbal and/or written statement of the incident(s).
- v. The Investigator will meet with the Respondent to officially inform the Respondent of the harassment complaint received; provide a copy of the complaint to the Respondent and ask the Respondent to review and provide a verbal or written response to the complaint. If a verbal statement is preferred, the Respondent will review and sign the typed version of the verbal statement.
- vi. The Complainant and the Respondent will have an opportunity to meet with the Investigator separately to provide details of the alleged incident(s). The Complainant and the Respondent will also have an opportunity to respond to the information raised through the various interviews with witnesses, etc. throughout the investigative process. The Complainant and the Respondent will be informed of the progress of the investigation.
- vii. Information collected during the investigation will include the names of the parties involved, the date of the incident, the details of the incident, names of witnesses and information gathered from them, notes from interviews and meetings, associated documents or evidence and actions taken as a result of the incident or complaint and investigation.
- viii. All information obtained from the interviews will remain as confidential as possible.
- ix. Individuals who were interviewed during the process of the investigation are entitled only to the documentation related to information they provided, or information provided by others that refers specifically to them. Participants must refrain from discussing the details of the investigation or their knowledge of the alleged incident(s) with anyone other than the Investigator.
- x. Once the Complainant, Respondent and witnesses have been interviewed, an investigation report will be prepared by the Investigator and forwarded to the Manager of Human Resources or the Director of Corporate Services if Human Resources conducts the investigation. The report shall summarize the information obtained in the investigation and make findings of fact. The report will contain the following:
  - i. An Executive Summary consisting of:
    - Complainant's allegation(s)
    - Respondent's defense(s)
    - Witnesses interviewed (if applicable)
    - Documents reviewed (if applicable)

- Physical evidence reviewed (if applicable)
- ii. An Overview of the Results consisting of:
    - Allegations
    - Evidence
    - Analysis
    - Actions including any redress identified by the Complainant and recommended remedial and/or disciplinary action
    - Conclusions
  - iii. Summary of Findings
- xi. The Investigator(s) has 14 calendar days from being notified of the complaint to complete an investigation and submit a report. The Director of Corporate Services may extend such time limits for a reasonable period depending on the circumstances of each case. The Complainant and the Respondent will be informed of any extension in the timeline of the investigation or the report or any delay in the investigation process and will be advised of a new projected date of completion.
  - xii. Once the report is complete, the Manager of Human Resources will review the report internally and will determine, in consultation with the Director of Corporate Services, if any remedial and/or disciplinary action will be taken.
  - xiii. The Complainant and Respondent will be advised whether there has been a finding of a violation of the Policy in accordance with Step “E” below.

The Complainant should file the formal complaint as soon as possible, but no longer than twelve (12) months after the alleged incident(s).

#### **E. Complainant and Respondent informed of the Investigation's Findings**

After receiving the Investigator’s report, the Manager of Human Resources will meet with the Director of Corporate Services to review the findings/recommendations of the Investigator's report and plan next steps including meeting with the Complainant and Respondent to advise of the findings.

The Complainant and the Respondent will be notified, separately, whether or not the Complainant’s allegations were confirmed through the investigation process. The Complainant and Respondent will also be advised if any disciplinary action will be taken or other steps that will be put in place to stop a repeat of the offensive conduct.

#### **F. Outcome of the Investigation**

If the results of the investigation support the allegations in the complaint, the Respondent may be subject to remedial or disciplinary action. The penalty will be determined based on the severity of the incident and the degree of the Policy violation and in accordance with the City’s Progressive

Discipline Policy. The range of potential penalties include, but are not limited to: an apology, education, training, counseling, transfer or demotion, verbal warning, written warning, unpaid suspension, or termination of employment.

If the results of the investigation do not support the allegations in the complaint, all records of the complaint investigation will be retained in a secure file with Corporate Services and access will be restricted to those individuals who require the record to perform the necessary and proper duties and responsibilities of the City or if required by law.

#### **G. Appeal**

Complainant(s) and/or Respondent(s) who are not satisfied with the outcome of the investigation process may address their concerns and request a review of the findings to the Chief Administrative Officer within ten (10) working days upon being notified of the report, its findings and/or the action/discipline being invoked.

#### **H. Chief Administrative Officer renders a decision on Appeal**

The Chief Administrative Officer will review the matter and make a final determination, which will be binding on all the parties. The Chief Administrative Officer shall have the power to consult with external subject matter experts, examine additional information and interview the Complainant, Respondent and any witnesses deemed necessary to review the complaint. The Chief Administrative Officer shall render a written decision within 21 calendar days of the matter being referred to the Chief Administrative Officer. The Chief Administrative Officer may extend such time limits for a reasonable period depending on the circumstances of each case. The Complainant and the Respondent will be informed of any extension in the timeline or any delay in the decision being rendered and will be advised of a new projected date of completion.

Copies of the Chief Administrative Officer's decision will be forwarded to the Complainant, the Respondent, Director of Corporate Services and any other parties affected by the matter.

#### **I. If the Human Resources Manager is the Respondent**

If the Human Resources Manager is accused of violating the Policy the matter will be referred to the Chief Administrative Officer who will initiate an investigation through either another internal employee who is trained to conduct investigations or through an outside source who specializes in workplace harassment investigations. The Chief Administrative Officer will evaluate each case and determine if the Human Resources Manager remains in the workplace during the investigation, with or without pay. The Chief Administrative Officer will review the report and recommendations from the investigator and will render a decision in a timely manner. The decision of the Chief Administrative Officer will be final.

#### **J. If the Chief Administrative Officer is the Respondent**

If the Chief Administrative Officer is accused of violating the Policy the matter will be referred to the Mayor. The Mayor and Council will immediately commence an investigation by contracting the investigation to an outside source who specializes in workplace harassment investigations. The Mayor and Council will evaluate each case and determine if the Chief Administrative Officer remains in the workplace during the investigation, with or without pay. The Mayor and Council will review the report and recommendations from the external investigator and will render a decision in a timely manner. The decision of the Mayor and Council will be final.

**K. If a Member of Council is the Respondent**

If a member of Council is accused of violating the Policy the matter will be referred to the Chief Administrative Officer, who will immediately commence an investigation by contracting the investigation to an outside source who specializes in workplace harassment investigations. Together with the remaining members of Council, the Chief Administrative Officer will evaluate each case and determine if the member of Council remains in their position during the investigation, with or without pay. They will review the report and recommendations from the investigator and will render a decision in a timely manner. The decision of the Chief Administrative Officer and Council is final.

**L. If Respondent is External**

There may be occasions where a City employee or member of Council files a harassment complaint against a person outside of the organization (ie. such as a contractor). The investigation will be handled by the City on a case-by-case basis in the best interest of the employee, member of Council and the City.

**M. If Complainant is External to the City of Mount Pearl**

In the event a City employee or member of Council has a complaint of harassment filed against them by a person external to the City while fulfilling employment or member of Council's duties and responsibilities, the City will immediately commence an investigation process under the Director of Corporate Services.

***I have read and been informed about the content, requirements, and expectations of the Harassment Prevention Plan for employees at The City of Mount Pearl. I have received a copy of the policy and agree to abide by the policy guidelines as a condition of my employment and my continuing employment at The City of Mount Pearl.***

Employee Signature: \_\_\_\_\_

Employee Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_