

## **COMMITTEE OF THE WHOLE – JUNE 1, 2010**

### **UPDATES TO THE RESPECTFUL WORKPLACE AND WORKPLACE VIOLENCE POLICIES**

#### **Recommendation**

The Commissioner of Legal and Administrative Services and City Solicitor, and the Director of Human Resources, in conjunction with the Senior Management Team, recommend:

1. That the revised Respectful Workplace Policy (Workplace Discrimination and Harassment) and Workplace Violence Policy be adopted.

#### **Sustainability**

Regular reviews and where necessary, updates of the City's policies ensure that the City is in a position to be able to achieve its goals and objectives leading to a sustainable forward thinking organization.

#### **Economic Impact**

There is no cost associated with implementing the recommendations.

#### **Communications Plan**

The revised policies will be made available on the VIBE, in the Employee Handbook and will be provided in hard copy as appropriate to update policy manuals. In addition, in accordance with the *Occupational Health and Safety Act*, the policies will be posted on all bulletin boards.

In addition, during the training for the Code of Conduct the Human Resources Department will advise employees of the changes to the policies and provide refresher training as needed.

#### **Purpose**

This report provides Council with proposed revisions to the Respectful Workplace and Workplace Violence policies required as a result of changes to the *Occupational Health and Safety Act*.

#### **Background and Analysis**

Ontario Bill 168, "An Act to amend the Occupational Health and Safety Act (OHSA) with respect to violence and harassment in the workplace and other matters", received third and final reading in the Ontario Legislature on December 9, 2009, receiving Royal Assent on December 15, 2009 and takes effect on June 15, 2010.

Bill 168 represents a significant change in how, and to what extent, both workplace violence and harassment is regulated in Ontario. It broadens the definitions of workplace violence and places new requirements on Ontario employers.

The City has in place comprehensive policies and procedures on Respectful Workplace (Workplace Discrimination and Harassment) and Workplace Violence, which were last revised in 2007. Some minor amendments are required to comply with the amended legislation.

In addition, staff have continued to review the policies in accordance with the policy requirement and are proposing one minor modification which provides clarification given the recently implemented Council Code of Conduct.

**Respectful Workplace Policy:**

The policy is amended to include language related the *Occupational Health and Safety Act*, defining Workplace Harassment, and to clarify that complaints regarding elected officials are to be made to the Office of the Integrity Commissioner.

**Workplace Violence Policy:**

The policy is amended to include language related to the definition of Domestic Violence, Critical Injury, Joint Health and Safety Committees references to the Occupational Health and Safety Act, and to include the introduction of a Workplace Violence Assessment.

**Relationship to Vaughan Vision 2020**

The updating of policies relates to the Vaughan Vision 2020 goal of Staff Excellence and Management Excellence and provides clarity to employees and the organization with regard to acceptable behaviours in the workplace.

**Regional Implications**

There are no regional implications to the implementation of the revisions.

**Conclusion**

The updating of policies demonstrates to employees that we value them and therefore we provide a supportive and informed work environment.

**Attachments**

1. Respectful Workplace Policy
2. Workplace Violence Policy

**Report Prepared By**

Janet Ashfield, Director of Human Resources

Respectfully submitted,

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Janice Atwood-Petkovski  
Commissioner of Legal and Administrative Services  
and City Solicitor

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Janet Ashfield  
Director of Human Resources

**CITY OF VAUGHAN  
POLICY MANUAL**

<b>SECTION:</b> LEGAL AND ADMINISTRATIVE SERVICES	<b>POLICY NO:</b>
<b>DEPARTMENT:</b> HUMAN RESOURCES	<b>SUBJECT:</b> RESPECTFUL WORKPLACE POLICY (HARASSMENT AND DISCRIMINATION)

**THE RESPECTFUL WORKPLACE POLICY SHALL BE IMPLEMENTED IN ACCORDANCE WITH THE RESPECTFUL WORKPLACE PROCESS AND PROCEDURES WHICH CAN BE FOUND ON THE VIBE OR CAN BE ATTAINED FROM THE HUMAN RESOURCES DEPARTMENT.**

**PURPOSE** This policy ensures, to the best of our ability, a safe and respectful work environment and appropriate management of any occurrences of harassment and discrimination as defined below.

**APPLICATION**

*Who* This policy applies to all

- elected representatives
- employees
- appointees
- people under contract
- students
- patrons
- City Program volunteers

*Where:* This policy applies to

- discrimination or harassment that may occur at any worksite where the business of the municipality is being conducted or during the course of all Corporation business, activities and events; or
- harassment between individuals associated with the Corporation but outside Corporation business, activities and events when such harassment has an adverse affect on the work environment.

Elected representatives are governed by the Council Code of Conduct and any complaints about an elected representative must be raised with the Integrity Commissioner.

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<b>SECTION:</b> LEGAL AND ADMINISTRATIVE SERVICES	<b>POLICY NO:</b>
<b>DEPARTMENT:</b> HUMAN RESOURCES	<b>SUBJECT:</b> RESPECTFUL WORKPLACE POLICY (HARASSMENT AND DISCRIMINATION)

**DEFINITIONS**

*Official (Elected or Appointed):*

A person who holds a public office or membership on a Council Committee with the City of Vaughan whether obtained by election or by nomination of the City Council or the Corporation of the City of Vaughan.

*Patron:*

A person who is a customer, client, resident or guest of the City of Vaughan.

*Discrimination:* Discrimination is any distinction, whether intentional or not, based on prohibited grounds, which has the effect of imposing burdens, obligations or disadvantages on an individual that are not imposed on others, or which withholds or limits access to opportunities, benefits and advantages available to others.

*Harassment:*

A course of vexatious comment or conduct directed toward an individual or group of individuals that is known or ought reasonably to be known to be unwelcome or unwanted. Harassment consists of comments or conduct linked to one of the prohibited grounds, which are insulting, intimidating, humiliating, malicious, degrading or offensive. **Single acts of sufficient severity may constitute harassment.**

*Prohibited Grounds:*

The prohibited grounds refer to those personal attributes that are recognized as the most common targets of harassing and discriminatory actions. For offensive behaviour to be considered discrimination or harassment, the focus of the comment or conduct must be directed toward one of these aspects of your background:

- Age
- Citizenship
- Creed or Religion
- Ethnic or National Origin
- Marital/Family Status
- Ancestry
- Colour
- Disability
- Record of Offences (pardoned Federal or Provincial)
- Same Sex Partnership Status

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- Place of Origin
- Sex (Pregnancy)
- Race
- Sexual Orientation

*Sexual Harassment:*

One or a series of comments or conduct of a gender-related or sexual nature, that is known or ought reasonably to be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate. Sexual harassment includes unwelcome sexual advances and requests for sexual favours where:

- Submitting to or rejecting this conduct is used as the basis for decisions which affect the individual's employment
- Such conduct has the purpose or effect of interfering with an individual's job performance
- Such conduct creates an intimidating or offensive environment

*Personal Harassment*

Properly discharged management responsibilities are not considered to be acts of personal harassment. Personal Harassment involves patterns or repeated incidents of comment or conduct of an excessive nature that are known or ought reasonable to be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate, but are not related to one of the prohibited grounds as defined in the Ontario Human Rights Code. Examples include but are not limited to: repeated negative attacks on an individual's personal or professional performance, excessive criticism in the presence of others, withholding information with the impact of affecting an individual's ability to do their job or tasks, and spreading malicious rumours or making malicious allegations on a repeated basis.

*Malicious*

Resulting from a need to see others suffer.

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**POLICY**

- 1.1 The City of Vaughan recognizes that the most effective way to deal with harassment and discrimination is through preventative action, including informing, educating and good management and to ensure that this policy is fair and applied consistently.
- 1.2 It is the policy of the City to take all reasonable steps to provide its elected representatives, employees, appointees, people under contract, students and City Program volunteers with a work and service environment that is free of any form of discrimination, including harassment, personal harassment and bullying, and that respects the dignity, self-worth and human rights of every individual.
- 1.3 The City Manager, on behalf of the City of Vaughan, is committed to providing a workplace and service environment that is conducive to creating a climate of mutual respect that reinforces opportunity and allows for each person to contribute fully to the development and well being of the Corporation.
- 1.4 This policy provides for an internal complaint resolution process where every effort will be made to facilitate an early resolution.
- 1.5 Harassment and bullying will not be condoned under the guise of strong management when employees are not treated with dignity and respect.
- 1.6 Nothing in the policy or related procedures is intended to prevent a complainant from using alternate methods of resolution such as the Ontario Human Rights Code, a Collective Agreement, Workplace Violence and Harassment Policy or other legal action.
- 1.7 Retaliation against an individual for filing a complaint, participating in any procedure or being associated with a person who filed a complaint under this policy will not be tolerated.

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- 1.8 Complaints which are found to be vexatious or made in bad faith will result in a penalty against the complainant. The severity of the penalty will be determined based on the seriousness and impact of the complaint following an investigation.

**RESPONSIBILITY**

*Everyone is Responsible*

- Everyone associated with the Corporation has a responsibility to ensure that our environment is free from harassment. This means not engaging in, allowing, condoning or ignoring behaviour contrary to this policy. Anyone who believes that harassment is taking place is encouraged to notify his/her supervisor and/or the Respectful Workplace Policy Coordinator.

*Management/Supervisor/Responsibility*

- The *Ontario Human Rights Code* and *Ontario Occupational Health and Safety Act* provides that a person such as a manager or supervisor who has the authority to prevent or discourage harassment and discrimination **will be held responsible for failing to do so**. All managers and supervisors therefore have a particular duty to act and deal with such incidents when they ought reasonably to have known that there is an issue to address. This duty includes the obligation to be familiar with and uphold this policy and any associated procedures. Any failure to act that results in harassment or bullying will not be tolerated and will be subject to discipline up to and including discharge from employment.

*Policy Advisors*

All managers and supervisors are responsible to act as Policy Advisors.

*Respectful Workplace Policy Coordinator*

The Corporation shall designate a Human Resources representative to be the Corporate Respectful Workplace Policy Coordinator. This person will have overall responsibility for the administration of this policy.

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**SEMI ANNUAL REPORT**

A semi-annual report will be provided to the City Manager of the number of complaints received and processed, the nature of the complaints, the resolution of the complaints, and all recommendations made. The identity of the persons involved will not be disclosed in the report. This report shall be made available to Council.

**CITY OF VAUGHAN  
POLICY MANUAL**

ATTACHMENT #2

<b>SECTION:</b> LEGAL AND ADMINISTRATIVE SERVICES	<b>POLICY NO:</b>
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<b>DEPARTMENT:</b> HUMAN RESOURCES	<b>SUBJECT:</b> WORKPLACE VIOLENCE POLICY
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**THE WORKPLACE VIOLENCE POLICY SHALL BE IMPLEMENTED IN ACCORDANCE WITH THE WORKPLACE VIOLENCE PROCESS AND PROCEDURES WHICH CAN BE FOUND ON THE VIBE OR CAN BE ATTAINED FROM THE HUMAN RESOURCES DEPARTMENT.**

**PURPOSE** This policy, in addition to the Respectful Workplace Policy is established to further protect employees from Workplace Violence.

The City of Vaughan maintains a zero-tolerance approach to Workplace Violence whether between Employees, or involving an Employee, an Official (Elected or Appointed) or a Patron of the City in the exercise of workplace responsibilities. All reported incidents of Workplace Violence shall be considered serious, will be promptly investigated, and appropriate action shall be taken.

This policy does not deal with claims of discrimination or harassment dealt with under the Human Rights Code or personal harassment and bullying. Those claims of discrimination and harassment will be dealt with under the Respectful Workplace Policy.

**RIGHT TO REFUSE WORK**

Nothing in this policy shall be deemed to limit the rights of any worker in Part V of the Occupational Health and Safety Act to refuse unsafe work.

**RIGHT TO RESPOND TO ANY INCIDENT OF WORKPLACE VIOLENCE**

The Workplace Violence Policy is both a complaint and an incident driven policy meaning that nothing in this policy shall be deemed to limit the right of the Corporation to respond to an incident of Workplace Violence or Domestic Violence of which the Corporation is aware whether or not any Employee has made a complaint.

**RIGHT TO DISCIPLINE**

Nothing in this policy shall be deemed to limit or in any other way affect the right of the Corporation to discipline Employees for insubordination or other breaches of Employee Conduct whether or not the action was accompanied by an act of violence.

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POLICY MANUAL**

**SECTION:** LEGAL AND ADMINISTRATIVE  
SERVICES

**POLICY NO:**

**DEPARTMENT:**  
HUMAN RESOURCES

**SUBJECT:**  
WORKPLACE VIOLENCE POLICY

**APPLICATION**

*Who*

This policy applies to all

- elected representatives
- employees
- appointees
- people under contract
- students
- patrons
- City Program Volunteers

Where someone who is not a member of the Corporation perpetrates violence, every effort will be made by the Corporation to address the situation with the appropriate organization.

*Where:*

This policy applies to

- violence that may occur at any worksite where the business of the municipality is being conducted or during the course of all Corporation business, activities and events
- violence between individuals associated with the Corporation but outside Corporation business, activities and events when such harassment has an adverse affect on the work environment.
- Situations of domestic violence or persons with a history of violent behaviour that the employer becomes aware of that would likely expose a worker to physical injury in the workplace.

**DEFINITIONS**

*Critical Injury:*

An injury of a serious nature that: places life in jeopardy; produces unconsciousness; results in substantial loss of blood; involves the fracture of a leg or arm but not a finger or a toe; involves the amputation of a leg, arm, hand or foot but not a finger or a toe; consists of burns to a major portion of the body or causes the loss of sight in an eye

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*Domestic Violence:*

A pattern of abusive behaviors by one or both partners in an intimate relationship such as marriage, dating, family, friends or cohabitation.

*Official (Elected or Appointed):*

A person who holds a public office or membership on a Council Committee with the City of Vaughan whether obtained by election or by nomination of the City Council or the Corporation of the City of Vaughan.

*Patron:* A person who is a customer, client, resident or guest of the City of Vaughan,

*Personal Harassment:*

Properly discharged management responsibilities are not considered to be acts of harassment. Any unwanted or unwelcome acts of coercion and harassment (for example bullying) or misuse of power through repeated and hostile or unwanted conduct, verbal comments, emails, threats, actions or gestures that affect a person's dignity or integrity and that result in a harmful workplace environment. Personal Harassment is dealt with under the Respectful Workplace Policy which can be located on the VIBE or attained from the Human Resources Department.

*Discriminatory Harassment:*

Personal Harassment which is based on a prohibited ground of discrimination under the Ontario Human Rights Code and is dealt with under the Respectful Workplace Policy which can be located on the VIBE or attained from the Human Resources Department. The prohibited grounds of discrimination include: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status or disability.

*Joint Health and Safety Committee:*

A mandated committee under the *Occupational Health and Safety Act* that consists of labour and management representatives who meet on a regular basis to deal with workplace health and safety issues.

*Workplace Violence:*

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Any incident in which an Employee, Patron or Official (Elected or Appointed) is threatened, coerced, abused, bullied or sustains an injury in, at, or related to the workplace and includes threats, coercion or abuse that is transmitted in writing or electronically. Workplace Violence can include acts of violence that occur when an Employee or Official (Elected or Appointed) is off duty if the interaction was related to the workplace or has the potential to compromise the safety of the workplace.

*Workplace Violence Policy Co-ordinator:*

The Director of Human Resources or his or her designate.

**GUIDING PRINCIPLES:**

There are several guiding principles which govern the organization in dealing with workplace violence. These include:

1. Everyone has a duty to report Workplace Violence
2. All Employees, Patrons, and Officials (Elected or Appointed) in all City workplaces and City owned or operated facilities have a right to be safe
3. There must be mutual respect between all Employees, between Employees and Patrons of the City, and between Employees, Patrons and Officials (elected or Appointed)
4. The Policy must be in compliance with the Ontario *Occupational Health and Safety Act*, the Ontario Human Rights Code and the common law
5. The Policy will respect the collective agreements between the City unions and the Corporation
6. The Policy will be easy to use by both Employees and Management
7. The Procedures will provide for both formal and informal resolutions
8. The Policy and procedures will be enforceable and clear and provide protection against retaliation

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**POLICY:**

- 1.1 The City of Vaughan recognizes that the most effective way to deal with violence is through preventative action, including informing, educating and good management and to ensure that this policy is fair and applied consistently
- 1.2 It is the policy of the City to take all reasonable steps to provide it elected representatives, employees, appointees, people under contract, students and City Program volunteers with a work and service environment that is free from violence
- 1.3 Employees have a duty to report Workplace Violence in accordance with the procedures
- 1.4 The City Manager, on behalf of the City of Vaughan is committed to establishing measures to prevent violence in the workplace
- 1.5 The City of Vaughan will regularly perform Threat Risk Analyses for all worksites as required and Workplace Violence Assessment for all worksites as required. Results of the assessments will be provided to the Joint Health and Safety Committee representing the workplace.
- 1.6 Investigations relating to alleged incidents of violence or domestic violence will be undertaken in accordance with the Workplace Violence Procedures
- 1.7 Anyone found to be in contravention of the policy will be held accountable for their actions.
- 1.8 The City of Vaughan will provide assistance and support to any Employees who are involved in incidents of violence including domestic violence alleged perpetrators and victims.

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**RESPONSIBILITIES**

The Director of Human Resources is designated as the Coordinator of the Workplace Violence Policy and is responsible for the management and direction of the Workplace Violence Policy and Procedures. Where the Coordinator of the Workplace Violence Policy is a party to an incident of Workplace Violence the City Manager shall appoint a suitable alternate for that incident.

All Employees and Officials (Elected or Appointed) are responsible to abide by and uphold the Workplace Violence Policy and supporting Procedures.

**SEMI ANNUAL REPORT**

A semi-annual report will provided to the City Manager of the number of complaints received and processed, the nature of the complaints, the resolution of the complaints, and all recommendations made. The identity of the persons involved will not be disclosed in the report. This report shall be made available to Council.