

District of West Vancouver

POLICY

Title: Harassment and Respectful Workplace

Division: Human Resources

Policy Number: 0009

File Number: 0282-20-0009

1. Purpose

The purpose of this policy is to:

- **Affirm** the District of West Vancouver's commitment to a work environment that is free from harassment, and to support the productivity, dignity and self-esteem of all members of our organization.
- **Ensure** the responsibility for creating and maintaining a positive work environment rests with all people sharing our workplace including Council members, all employees, contractors and volunteers.
- **Ensure** Council members, employees, contractors and volunteers engage in civil, respectful and cooperative workplace conduct.
- **Establish** clear guidelines for dealing with complaints of harassment and disrespectful workplace conduct in an effective and timely manner; to establish procedures for review and resolution.

2. Policy Statement

The District of West Vancouver is committed to providing and maintaining a work environment that is free from all forms of harassment including the following:

- a) Discriminatory harassment (Workplace conduct that is discriminatory, as defined by the B.C. Human Rights Code)
- b) Sexual harassment
- c) Personal harassment (Disrespectful conduct)

Any form of workplace harassment is unacceptable and will not be tolerated. Harassment is considered a serious offence which may result in disciplinary action up to and including termination. Frivolous, vindictive or vexatious complaints may also be subject to discipline.

3. Scope

This policy applies to all persons who are employed by the District of West Vancouver (employees and contractors) and includes Council members as well as District volunteers.

The workplace, during or after work hours, shall include any location where District business is carried out, and work related functions including but not limited to conferences, training sessions, work travel, telephone conversations, voice mail and email.

4. Definitions

a) Discriminatory Harassment

Discriminatory harassment is any unwelcome conduct based on the prohibited grounds of discrimination under the B.C. Human Rights Code (the “Code”) that is known, or ought reasonably to be known, to detrimentally affect the work environment or involves threats or promises of job related consequences for the victim.

The prohibited grounds of discrimination based on the Code are:

- Sex
- Sexual orientation
- Age
- Race
- Colour
- Ancestry
- Place of origin
- Political belief
- Religion
- Family status
- Marital status
- Physical or mental disability
- Criminal/summary conviction for an offense unrelated to employment
- Gender identity or expression

Examples of discriminatory harassment may include, but are not limited to:

- Racial or ethnic slurs including racial “nicknames”
- Jokes based on one or more of the prohibited factors
- Unwelcome comments, jokes, innuendoes or taunts about a person’s body, age, sexual orientation or preferences, religion, political belief, gender, marital status or disabilities
- Practical jokes which cause awkwardness, embarrassment, or negatively affect work performance
- Verbal abuse and threats
- Intimidation, threats and physical assault
- Patronizing or condescending behaviour, language or terminology that reinforces stereotypes
- Vandalism

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b) Sexual Harassment

Sexual harassment is defined as unwanted, unwelcome, unsolicited, unreciprocated sexual attention such as sexual advances, requests for sexual favours or other verbal or physical behaviour of a sexual nature that:

- Has the purpose or effect of creating an intimidating, hostile or offensive work environment
- Has the purpose or effect of undermining work performance, work relationships or productivity
- Makes submission to or rejection of sexual harassment a consideration with respect to employment, promotion, work assignments, compensation, or is used as an implicit or explicit term or condition of continued employment

Examples of sexual harassment may include, but are not limited to:

- Unwelcome remarks, questions, jokes, innuendoes, taunts about a person's body, gender, and sexual orientation including sexist comments and invitations
- Unwelcome questions about or sharing of personal information regarding an individual's sexual life
- Displaying sexually graphic or offensive or derogatory pictures or other pictorial or written materials (including on a computer screen)
- Leering, staring, ogling or sexually oriented gestures
- Unwanted physical contact such as touching, patting, pinching, hugging, brushing against, or unwelcome physical proximity
- Sexual assault

c) Personal Harassment

Personal harassment is disrespectful conduct and behaviour that disrupts civility and cooperation in the workplace, and interferes with the efficient and effective flow of work. Disrespectful conduct and behaviour is hostile or unwanted conduct, verbal comments, actions or gestures that affect an employee's dignity and/or psychological or physical integrity that results in a harmful work environment.

Such behaviour may include, but is not limited to:

- Demeaning comments about a person's ability, appearance or personal situation
- Non-constructive criticism to intimidate, undermine confidence, or imply incompetence
- Gossiping or spreading malicious rumours or intentionally conveying false information about a person
- Bullying (offensive, abusive, intimidating or insulting behaviour which makes the recipient feel upset, threatened, humiliated, or vulnerable, and which undermines self-confidence – bullying is generally intentional in nature)
- Threatening or shouting at an employee
- Using abusive language and/or intimidating behaviour
- Threats of violence or physical abuse

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- Insulting comments or intentionally isolating an individual

Respectful workplace conduct is:

- Being courteous, polite and considerate towards others
- The inclusion of all people, including those with different strengths and opinions
- Encouraging and supporting individuals to learn and practice personal conflict resolution and respectful workplace skills

Bullying and harassment does not include:

- Expressing differences of opinion
- Offering constructive feedback, guidance, or advice about work-related behaviour
- Reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of the employment (e.g. managing a worker's performance, taking reasonable disciplinary actions, assigning work, counselling sessions, performance appraisals, work performance discussions)

The definitions of harassment are not meant to inhibit workplace social interactions based on mutual consent. Workplace banter is accepted as a natural part of a well functioning workplace but care needs to be taken to ensure that conduct does not contravene this policy.

As a general principle, where the affected individual(s) of such actions/comments consider such actions/comments offensive, and which a reasonable person would consider such actions/comments offensive, they should be regarded as such. Harassment can occur even though there is no intent to harass. It is as much the effect of the behaviour as it is the intent that determines whether harassment has occurred.*

Conduct need not always be repeated or persistent to constitute harassment; in some circumstances a single incident will suffice.

**Black's Law Dictionary, Ninth Edition defines a reasonable person as follows:*

"...a person who exercises the degree of attention, knowledge, intelligence, and judgment that society requires of its members for the protections of their own and of others' interests. The reasonable person acts sensibly, does things without serious delay, and takes proper but not excessive precautions..."

5. Responsibilities

Council members, CAO, Directors, Managers, Supervisors (union and non-union), employees, contractors and volunteers have a responsibility to clearly understand what constitutes harassment, to follow the District's policy and procedures, and to be proactive to ensure the workplace remains free from harassment. They must model respectful behaviour and ensure that harassment is not allowed, condoned or ignored. They must address alleged harassment promptly, appropriately and responsibly.

Those in positions of leadership and authority are often the first contact for those seeking assistance with harassment related concerns: they have an added responsibility for preventing recurrences and escalation of harassment. While they may not be party to

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harassment, there may be grounds for independent discipline should they fail to deal with complaints or take corrective action.

Training for all employees will be coordinated by the Human Resources department in conjunction with the individual Departments.

6. Procedures

Reporting, investigating and resolving harassment complaints:

Employees that consider themselves to be the subject of workplace harassment have the option to resolve the issue on their own, proceed with an informal complaint, a formal complaint and/or alternative dispute resolution.

Pursuing an informal course of action does not preclude an employee from filing a formal complaint (where applicable), or initiating a grievance process (where applicable) pursuant to the collective agreement. A person does not need to file an informal complaint before proceeding with a formal complaint, although this should be done first in all appropriate cases.

Complaint process

1) Informal Complaint Resolution

Issues in the workplace may arise unintentionally and can often be resolved in a constructive way, on an informal basis. The District encourages informal resolution first, in appropriate cases.

- a) A person that considers themselves to be the subject of harassment, or a person who witnesses harassment, is encouraged to tell the individual their behaviour is unwelcome, is a violation of District policy, and ask them to stop. If this is not done, then it is likely to be construed by the harasser to be acceptable behaviour.
- b) You may also request the assistance of your Supervisor, Manager, Division Director, HR representative, Union representative, or another person to help resolve the complaint informally.
- c) Regardless, you should keep a record of the incident(s) including date(s), time(s), location(s), witness(es), description of the occurrence(s) and your response(s).

2) Formal Complaint Resolution

In cases where an informal resolution is not possible, or not appropriate, there is a formal complaint resolution process.

- a) A formal complaint must be submitted in writing and signed within six months of the alleged incident. It should outline an accurate account of the incident(s) with all relevant details including:
 - i) Name(s) of individual(s) the complainant believes to have engaged in harassment
 - ii) Date(s) and action(s) the complainant believes are contrary to this policy
 - iii) Explanation as to why the complainant believes the actions are contrary to the policy

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- iv) Name(s) of witness(es), if any
 - v) Remedy the complainant feels is appropriate
 - vi) Description of what happened during the informal process OR an explanation as to why the complainant did not use the informal process
- b) The formal complaint shall be submitted to a Human Resources representative as outlined in 2)a) above.
 - c) The Director of Human Resources must be informed of the formal complaint and the Director of Human Resources will be responsible to ensure the complaint is investigated thoroughly in a confidential and expeditious manner.
 - d) Unionized complainants experiencing difficulties completing a formal written complaint may wish to request assistance from a Union representative or person of their choice. A clearly written complaint is necessary to reduce confusion, ensure clarity and allow all parties, including a potential Complainant, to turn their minds to the concerns and issues that will be subject to an investigation.

Investigation process

- 1) Upon receipt of a formal complaint, the Director of Human Resources or designate will initiate the investigation. Most investigations will be conducted by a qualified member of the District's Human Resources department. In rare cases, the Director of Human Resources may engage the services of an outside agency or consultant(s) if appropriate. All unionized parties shall have the right to be represented by a Union representative during the investigation.
- 2) Generally, interviews will be conducted with the complainant first and then the respondent (alleged harasser). At this time, details of the complaint and the identity of the complainant will be revealed to the alleged harasser. Subsequent interviews may also be scheduled, as appropriate.
- 3) Where the information revealed early in the investigation suggests a reasonable possibility of resolution, an early settlement may be proposed to resolve the matter upon agreement of all parties prior to completing an entire investigation.
- 4) If necessary, interviews will also be scheduled with witnesses or information sources relevant to the complaint.
- 5) At any time during the course of the investigation the Director of Human Resources, or designate, and/or the parties may reach a resolution or settlement of the matter, in which case the Director of Human Resources, or designate, may discontinue the investigation.

Results of Investigation

- 1) At the conclusion of the investigation the Investigator will provide the Director of Human Resources with a verbal or written summary of the investigation. The Investigator will then meet and review findings with the complainant, the respondent, applicable Department Head, Manager and/or Supervisor as necessary.
- 2) Where the results of the investigation support the complaint of harassment, appropriate action including discipline may be taken. Additional remedies may include, but are not limited to: training, education, review of policies and procedures

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- etc. Where changes in the workplace are made necessary by demonstrated harassment, the burden of those changes shall generally be borne by the harasser.
- 3) Where the results of the investigation do not support the harassment complaint and the complaint was filed in good faith, which may include a mistake, misunderstanding, or misinterpretation, the file will be closed.
 - 4) If the investigation determines that the complainant initiated a false, frivolous, vindictive or vexatious harassment allegation, or a complaint was filed in bad faith, then appropriate action including discipline may be taken against the individual, and any other individual who was knowingly involved.

Alternative resolution and avoiding duplication of process

It is acknowledged that an individual has the right to seek external means of dealing with harassment by making a complaint directly to the B.C. Human Rights Tribunal. Where a complaint is filed with an external body, internal procedures shall, at the discretion of the Director of Human Resources or designate, be held in abeyance pending the outcome of the external complaint. Duplicate processes are to be avoided wherever possible to ensure an appropriate and single resolution. Serious attempts should be made to pursue resolution amongst parties directly involved, by way of this policy; this policy is intended to facilitate such resolution.

7. Confidentiality

Allegations of harassment may involve sensitive disclosures. To protect the interests, privacy and reputation of all involved parties, and to improve the chances of a successful outcome, confidentiality must be maintained throughout the resolution process. Information will be disclosed on a need-to-know basis, for the purposes of conducting an investigation and/or reaching a resolution. Confidential information is subject to the privacy rules of the Freedom of Information and Protection of Privacy Act or any other course of action available through common law or statute. Confidentiality cannot be maintained for individuals who initiate proceedings or make comments and involve others outside the processes and procedures outlined in this policy. A breach of confidentiality may be considered a breach of this policy.

Confidentiality must be distinguished from anonymity. If a complainant wishes to file a formal complaint and proceed with the investigation the respondent must be made aware of the nature of the harassment complaint, including the identity of the complainant. In order to conduct a fair and objective investigation that is in the best interests of all parties, hearsay, innuendo or anonymous complaints cannot be addressed.


8. Frivolous, Vindictive, or Vexatious Complaints

Where it is determined that a person has made a complaint in bad faith or with the intent to harm another and/or has misrepresented what is going on in the workplace, then formal disciplinary action may be taken against the person, if appropriate.

9. No Retaliation

No Council member, employee, contractor or volunteer shall retaliate against any complainant, respondent or witness under this policy. Reprisals against any party are considered serious and may result in discipline.

10. Approval

Approved by	<input checked="" type="checkbox"/> CAO	<input type="checkbox"/> Mayor and Council
Approval date	2019/07/29	
Council minutes eDocs # (council policies only)	n/a	
Council minutes eDocs # (council policies only)	n/a	
Signature		

11. Additional Information

Category	<input checked="" type="checkbox"/> Council	<input type="checkbox"/> Administrative
Related procedure	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Date of last review	n/a	