



## **ADMINISTRATIVE PROCEDURE 6004.01:**

### **1. Preamble:**

- 1.1 The City of Richmond believes that all employees have a right to work in an environment, which is free from any form of discrimination based upon any of the prohibited grounds of discrimination under the *B.C. Human Rights Code*. Discrimination is a serious offence that could result in disciplinary sanctions including dismissal if warranted.
- 1.2 The City is committed to creating a professional, respectful and supportive work environment that is inclusive of all our employees and the customers we serve.
- 1.3 This procedure reflects the City's responsibility under the *BC Human Rights Code* to prevent discrimination in the workplace.
- 1.4 The City will communicate this procedure to all employees, provide employee education, train supervisors and managers, and establish procedures for complaint investigation and dispute resolution.

### **2. Principles:**

- 2.1 All employees of the City of Richmond have the responsibility to respect the rights of others.
- 2.2 Efforts at informal resolution should normally be made first in dealing with a complaint.
- 2.3 At any time, either party or appointed person under this procedure may request an Alternate Dispute Resolution process to resolve the issue(s).
- 2.4 This procedure will be interpreted and administered in conformity with the principles of fairness and natural justice. In particular:
  - 2.4.1 All parties will be advised of the provisions of this procedure and of the process and resources available to them.
  - 2.4.2 Any Complainant, who wishes the City to assist in the resolution of a complaint through an investigation, must be prepared to be identified to the Respondent.
  - 2.4.3 All parties must be given the opportunity to present evidence in support of their positions and to defend themselves against allegations of discrimination.
  - 2.4.4 All parties may be accompanied by a support person and/or a union representative throughout the time frame of the process.



2.4.5 All submissions, responses, comments and decisions pursuant to this procedure will be made in writing in the formal complaint process.

2.5 Those responsible for interpreting, administering and applying this procedure will use the reasonable person standard.

2.6 This procedure is **not** to be interpreted, administered or applied in such a way as to detract from the rights and obligations of those in supervisory roles to manage and discipline employees.

- Harassment does **not** include critical/constructive comments concerning the assignment of work, evaluation of performance, or maintenance of appropriate workplace standards of behaviour or debate.

2.7 Employees have an obligation to participate in the process under this procedure. It is a ground for discipline for either party or witness to refuse to participate in an investigation without reasonable justification.

2.8 If it is determined that a Complainant has made a vexatious or frivolous complaint, the Complainant may be subject to disciplinary action. In such case, the Investigating Officer(s) shall make a determination on actions to be taken and shall advise the General Manager of Human Resources in consultation with the appropriate line manager, who shall then be responsible for implementing and monitoring the appropriate action.

2.9 Either party to a complaint may object to the participation of a person in the administration of this procedure on grounds of a clear conflict of interest or reasonable bias. The General Manager of Human Resources will determine if the person being objected, will participate.

2.10 This procedure is not intended to interfere with the ordinary social or personal relationships among employees of the City of Richmond.

### **3. Definitions:**

3.1 **Harassment** includes derogatory written or spoken comments, gestures or actions, which have the intent or could reasonably be expected to have the effect of demeaning or intimidating individuals or groups.

- Harassment includes unwarranted physical or verbal threats or abuse and unwarranted use of authority.
- Harassment may also include actions not directed at an individual, but which nonetheless have a degrading effect on individuals or groups, e.g. the display of material or graffiti which has the same intent and effect as the comments, gestures and actions described above.



- 3.2. **Sexual Harassment** includes written or spoken comments, gestures or actions or actions of a sexual nature, which have the intent or could reasonably be expected to have the effect of demeaning or intimidating individuals or groups.
- 3.3. **Workplace** includes any location where the business of the City is being carried out and where the City can reasonably be expected to have jurisdiction or influence over the participants in an incident.
- 3.4. **Complainant** is any individual (as defined in section 4.1) who seeks recourse pursuant to this procedure as someone who believes he/she has experienced discrimination, including harassment. The City of Richmond may also be a Complainant.
- 3.5. **Formal Complaint** is a written statement by a Complainant setting out the grounds of complaint and seeking recourse pursuant to this procedure.
- 3.6. **Discrimination** is any behaviour whether intended or not, which when viewed by a *reasonable person* has the affect of discrimination of another individual on the basis of one of the grounds of discrimination set out under the B.C. Human Rights Code. The prohibited grounds of discrimination include; race, religion, physical or mental disability, criminal or summary conviction that is unrelated to the employment of an individual, colour, political belief, marital status, sexual orientation, ancestry, family status, age, place of origin and gender.
- 3.7. **Reasonable Person Standard** - Whether or not a reasonable person in roughly the same position as the Complainant would judge discrimination to have occurred as a result of a behaviour or pattern of behaviour.
- 3.8. **Respondent** is a person or group of persons, against whom allegation(s) of discrimination has been made pursuant of the terms of this procedure.
- 3.9. **Investigating Officer** – An internal or external individual(s) designated by the General Manager of Human Resources who will investigate formal complaint and make recommendations to the General Manager of Human Resources.
- 3.10. **General Manager of Human Resources** – Means the individual appointed to the position of General Manager of Human Resources of the City of Richmond, or designate.
- 3.11. **Witness** is any individual(s) determined to have pertinent information with relation to a complaint filed under this procedure.
- 3.12. **Alternate Dispute Resolution** is a process where an individual either internal or external, who will facilitate, mediate, or negotiate a resolution between the Respondent and Complainant, appointed by the General Manager of Human Resources. All parties must be in agreement of the person appointed to this role.



#### **4. Jurisdiction**

- 4.1 Under this procedure, a City of Richmond employee may file a complaint of discrimination and/or harassment against another employee. The City of Richmond may also be a complainant.
- 4.2 A complainant may bring a complaint to the City of Richmond within **one (1) year** of the last alleged incident of discrimination unless the delay incurred in good faith and no prejudice to the Respondent. A Complainant who decides to pursue redress or resolution under other internal procedures (i.e. grievance procedures under a collective agreement) may not use this procedure concurrently.

#### **5. Confidentiality and Access to Information**

- 5.1 The *Freedom of Information and Protection of Privacy Act* govern rights to privacy and access to information with respect to any complaint.
- 5.2 The investigation of harassment/discrimination complaints will be conducted with discretion and avoid unnecessary dissemination of sensitive information.
- 5.3 The Investigating Officer(s) appointed under this procedure might interview such persons, as they deem necessary to effectively investigate or resolve a complaint. Information concerning a complaint shall be released to other persons on a need to know basis only at the discretion of the Investigating Officer or General Manager of Human Resources.

#### **6. Informal Complaints Procedure**

- 6.1 Where a person (hereinafter referred to as the 'Complainant') believes they have been harassed in the workplace, they should first attempt to make this known to the individual/s responsible and request that it stop.  
  
A Complainant is under no obligation to take this step if it would create an unreasonable level of stress and discomfort for them.
- 6.2 Where the action in 6.1 has not been pursued or has not resulted in a successful resolution, an employee may discuss the concern with a supervisor or another appropriate member of management in order to explore opportunities to resolve the situation informally.
- 6.3 Where the procedures set out in 6.2 have not resulted in a successful resolution, a Complainant may lay a formal complaint, as set out in the "Formal Complaints Procedure" below.



## **7. Formal Complaints Procedure**

- 7.1 A formal complaint must be made, in writing, to the General Manager of Human Resources. The Complainant shall describe the incident(s) and name(s) of the respondent(s), within one year of the last alleged incident.
- 7.2 On receipt of a formal written complaint, the General Manager of Human Resources shall take such steps as deemed necessary to form an opinion as to whether there exists a *prima facie* case that harassment has occurred and, if so, attempt to resolve the matter without undue delay. The General Manager of Human Resources may assign an Investigating Officer(s) to investigate and make recommendations. When the investigation is begun, the Complainant's identity will be made known to the Respondent(s).
- 7.3 The Respondent(s) will be provided a copy of the Complainant's written complaint and will be given two (2) weeks to formally respond in writing to the allegations. The General Manager of Human Resources or Investigating Officer(s) may conduct follow up interviews with the Complainant, Respondent(s) or related witnesses. The Complainant will be provided a copy of the Respondent's written submission for comments.
- 7.4 The Investigating Officer(s) will interview the Complainant, Respondent(s), witnesses and such other persons and review any documents that he/she considers may have relevant information pertaining to the complaint.
- 7.5 The Investigating Officer(s) will prepare a draft report and send it to the General Manager of Human in order to determine possible actions to be taken. The Investigating Officer(s) will then prepare the final report that includes an opinion of the facts of the case and whether there has been discrimination or a violation of the procedure. A copy of this final report will be provided to the Complainant and Respondent(s).
- 7.6 The decision on whether there has been discrimination will be communicated to both parties. Resolution of a complaint may include a number of options including, but not limited to individual or group education, job site or position transfer, no contact for a period of time, mediation, counselling, or discipline up to and including dismissal.
- 7.7 The final decision and the report of the Investigating Officer(s) will be placed in a file in the Human Resources Department.
- 7.8 The General Manager of Human Resources, when making the final decision on an harassment complaint, shall apprise the Complainant, and Respondent(s), of the nature and basis of that decision. However, this does not create an obligation to provide access to documents to persons who would not otherwise be entitled to such access.



7.9 The Complainant may in writing withdraw the formal complaint at any time. However, the General Manager of Human Resources may choose to continue with the investigation if it is determined or there is a strong probability that a violation of the procedure may have occurred.

## **8. Appeals**

8.1 The decision under this process of the General Manager of Human Resources is final. However a decision made under this process does not affect the rights of an individual to seek recourse through the collective agreement, if applicable, or through *the BC Human Rights Commission*.

## **9. Prevention and Education**

9.1 The General Manager of Human Resources shall make recommendations on the nature and extent of training to be undertaken to achieve a broader understanding of harassment and harassment policies and procedures in the City workforce.

9.2 The General Manager of Human Resources is responsible for ensuring that general and specific education programs are carried out.

9.3 For the purposes of promoting greater understanding of the implementation of the harassment policy, the General Manager of Human Resources may review specific cases with management personnel, or Union officials, or both. Every reasonable precaution shall be taken to prevent unnecessary identification of individuals involved.

### **Attachments:**

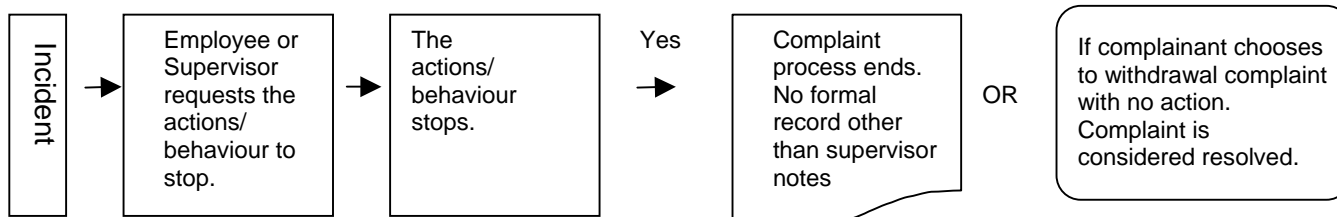
### **Appendix A – Complaint Process**

### **Cross References:**

BC Human Rights Code  
Freedom of Information and Protection of Privacy Act  
Harassment-Free Workplace – Policy 6004



### Informal Complaint Process



### Formal Complaint Process

