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**ASSOCIATION OF COMMUNITY CENTRES  
HUMAN RIGHTS AND ANTI-HARASSMENT/  
DISCRIMINATION COMPLAINT  
PROCEDURES**

**A - COMPLAINT PROCEDURES  
B - COMPLAINTS INVOLVING  
EXECUTIVE DIRECTORS**

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October 2015

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## **Purpose**

The complaint procedures have been established so that complaints of discrimination and harassment can be resolved internally and are intended as an alternate dispute resolution process. These procedures should be read in conjunction with the City of Toronto/The 519 Human Rights and Anti-Harassment/Discrimination Policy (HRAP). The goal of the HRAP and the procedures is to prevent, correct and remedy situations of discrimination or harassment and not to be punitive, although discipline may result.

## **Jurisdiction**

This Complaint Procedure is available for employees, residents and service recipients of the following Community Centres:

1. The 519 Community Centre
2. Applegrove Community Complex
3. Cecil Community Centre
4. Central Eglinton Community Centre
5. Community Centre 55
6. Eastview Neighbourhood Community Centre
7. Harbourfront Community Centre
8. Ralph Thorton Community Centre
9. Scadding Court Community Centre
10. Swansea Town Hall Community Centre

The following are exceptions to the City's jurisdiction to handle complaints under the HRAP

**Other Avenues of Complaint:** Parties have a legal right to pursue a discrimination and harassment concern under a variety of complaint avenues; i.e., a complaint under the HRAP, an application to the Human Rights Tribunal of Ontario, an application to the Ontario Labour Relations Board, a civil suit, a criminal complaint and employees can grieve pursuant to the terms of their collective agreement. If another complaint avenue about the same or related events has been pursued, the Human Rights Office (HRO) cannot intervene.

**Community Centres' Board Members:** The HRO has no jurisdiction over Members of Community Centres' Boards. If you believe you have experienced harassment and/or discrimination by a Member of a Community Centre's Board, or you are a Member of a Community Centre's Board who is experiencing harassment and/or discrimination, you may consult and/or file a complaint with the City of Toronto's Integrity Commissioner. You may contact the Office at 416-392-3826 or <http://www.toronto.ca/integrity>

If your complaint is within the jurisdiction of the HRAP, you may use our [confidential online complaint form to file a complaint](#).

## **A. COMPLAINT PROCEDURES**

**1. Confidentiality:** All persons involved with a harassment/discrimination complaint, including complainants, respondents, support persons, witnesses, management and/or union/association representatives are expected to treat the matter as confidential. Parties to a complaint must not advise anyone in the workplace and/or service provision about the investigation, any involvement in the investigation and/or the contents of an investigation interview and/or report.

Parties are not to ask individuals if they have participated in an investigation process or discuss any details about any investigation interviews. Employees may be disciplined if confidentiality is breached by communicating with any person other than their union representative, health care practitioner or another legal authority at any time before, during or after an investigation or resolution of a harassment/discrimination complaint.

Persons involved with a harassment/discrimination complaint may be required to sign a confidentiality agreement. Managers and supervisors are required to keep information as confidential as possible when addressing human rights concerns and are also subject to discipline for breaches of confidentiality. Subject to the requirements of procedural fairness of the investigation/resolution process, the Human Rights Office (HRO) will preserve confidentiality as much as is possible, or as legally required or permitted - consult the Human Rights Office for details regarding confidentiality exceptions.

**2. Confidentiality Exceptions:** In cases where an individual/group who has consulted the HRO engages another legal proceeding which is related to the subject matter of the HRO consultation, upon receipt of the legal proceeding documentation, (e.g., grievance, WSIB report, etc.,) and request by the City's Legal Services Division and/or Human Resources Division, the HRO will determine whether it is appropriate to:

- confirm or deny whether it was consulted
- respond to specific questions regarding the consultation for the purpose of responding to the legal proceeding
- provide a brief summary of the nature of the consultation

Where the entire contents of a HRO file is required or where the HRO determines that it is appropriate, consent of the employee or a court/tribunal/arbitral order will be required prior to the release of the file or additional information. However, in cases where an HRTTO application is filed by an individual/group who has consulted the HRO on the same and/or a related matter, the HRO will upon receipt of the application and request, provide a copy of its file to Legal Services Division

3. **Complainant Source:** Complaints about a contravention of the HRAP will be accepted from any source that provides reasonable grounds to initiate an intervention. Complaint sources may include the individual who was the subject of the action complained about, an involved person or group, a witness or other third parties. All persons who believe that they have experienced or witnessed harassment and/or discrimination should keep detailed notes about the issue(s). Where the HRO deems necessary, complainants will be required to provide a written account of their concerns. Where necessary and appropriate, the HRO may assist in drafting the complaint. The HRO may also initiate a formal complaint if it has information which suggests the existence of an outstanding specific or systemic problem.

4. **Time Limits:** The time limit for the filing of complaints under the policy is one year from the time of the alleged discrimination or harassment.

5. **Notification of complaint:** In most cases, respondents will be informed of the complaint as soon as practicable. In certain circumstances, the respondent may not be advised of the complaint against him or her. Such circumstances include where the complaint does not warrant exploration, where the complaint is outside the policy mandate or where an issue can be resolved through a remedy such as training.

6. **Complaint Records:** Any record of a complaint will be handled confidentially and stored in a secure location separate from employee personnel files. Records of a complaint will only be placed on an employee's personnel file when they have been found to breach HRAP and disciplinary action is taken. This record of discipline is subject to the provisions of any applicable collective agreement.

7. **Informal Resolution:** Several options to resolve harassment and discrimination concerns are available for complainants. Informal approaches can foster prompt resolution and prevent escalation; particularly when concerns are raised promptly. These are opportunities for parties to resolve a dispute, ensure the workplace is free from harassment and discrimination and address broader issues that caused or contributed to the dispute.

7.1 **Consultation - Advice & Assistance:** Complainants may benefit from having expert information and advice before deciding how to proceed with a discrimination or harassment concern. Complainants can consult management staff or HRO staff. These staff all have a responsibility to take action to resolve and prevent harassment and discrimination – [refer to](#)

[section 3.0](#) of the HRAP, Roles and Responsibilities – and can provide advice, assistance, coaching, and referrals to assist Complainants in addressing harassment or discrimination themselves. Employees may also consult their union or staff association.

**7.2 Talking to the person about their conduct:** All complainants must make good faith efforts to attempt to resolve matters themselves before filing a complaint. If a complainant feels he or she is experiencing harassment or discrimination, he or she, should immediately make known to the person that his or her conduct is unwelcome or offensive and may be in breach of the HRAP. It is important that this message be clear and unambiguous. When presented with a legitimate breach of the HRAP, all employees, including management staff are expected to make reasonable adjustments to their behaviour to resolve the matter. If addressing the person responsible could lead to safety risks, or is similarly not appropriate, complainants may pursue other resolution options outlined in these procedures.

**7.3 Interventions by other staff:** If a complainant is unable to resolve the issue him/herself or the discrimination or harassment continues after asking the person to stop, the complainant may request management or the HRO to intervene to facilitate resolution. HRO staff will determine in consultation with a complainant whether the concern(s) can be referred to division management to allow an opportunity to resolve the matter. Most complaints are able to be resolved at this stage without a formal investigation.

This option may include:

- a more in-depth examination of the concerns and allegations; consulting, advising, meeting with and/or interviewing parties e.g., management, the respondent, witnesses, Human Resources staff etc.
- a review of documentary evidence, e.g., email messages
- communication of findings to the parties in dispute and recommendations to remedy concerns
- an option by parties to participate in mediation or to have a facilitated negotiation to resolve the issues

**8. Mediation:** Where appropriate, the HRO may offer to mediate the complaint at any point before, during or after an investigation. Participation in mediation is voluntary and either party to the mediation is entitled to have a “support person” (as defined in section 11 below) attend the mediation. Where the mediator is of the opinion that the presence of the support person selected is inappropriate or that it may or is hindering the mediation process, the mediator will advise the relevant party and he or she may be entitled to select another support person provided that doing so does not hinder or unduly delay the mediation. All mediation discussions will be held on a confidential, “without prejudice” basis. Any settlement would have to be satisfactory to both parties, be consistent with the HRAP and approved by senior management where appropriate. Parties will be required to sign a confidential Minutes of Settlement.

**9. Investigations:** Investigations, both informal and formal, conducted by staff of the HRO will

include a comprehensive and impartial review of all relevant information (e.g., the respondent's position/response, witness information, documentary evidence, etc.) The investigator has the authority to speak with anyone, examine and copy any documents, records, files, and enter any work locations which are relevant to the complaint.

**10. Formal Complaints and Investigations:** If the above approaches are not effective or appropriate to resolve a situation, or the complaint is of a serious or systemic nature, a formal complaint and investigation may be necessary.

- a. All formal complaints will be referred to the HRO for mediation and/or investigation.
- b. HRO staff will assess whether a formal complaint is the only appropriate way to address the concern
- c. Formal complaints must be in writing and signed by the complainant. Where necessary and appropriate, the HRO may assist in drafting the formal complaint. Where possible the following details should be included in the complaint:
  - what happened – a description of the events or situation particularly specific details of what the respondent said or did that the complainant believes could be considered harassment or discrimination.
  - The Human Rights Code (Code) ground if applicable,
  - When it happened – dates and times of the events of incidents
  - Where it happened
  - Who saw it happen – the names of witnesses, if any
- d. The Executive Director of the Community Centre will be notified of a formal complaint as soon as it is initiated by the HRO
- e. Respondents to a complaint will be notified as soon as practicable during the investigation process
- f. The HRO will determine in consultation with the Executive Director and others as necessary and on a case-by-case basis, whether the complainant or respondent should be relocated within the division, provided with an alternate reporting relationship or placed on a paid leave during an investigation
- g. HRO staff will conduct a thorough, fair investigation, including interviewing the complainant(s), respondent(s) and witnesses, gathering and reviewing documentary evidence and exploring whether broader issues contributed to the complaint
- h. At the conclusion of an investigation, the investigator will prepare a written report that includes the allegations, respondent's position, witness and documentary evidence, factual findings, conclusions and discussion about policy violation(s)
- i. The report will be shared with the Executive Director of the Community Centre, the complainant(s) and respondent(s). The parties will be given an opportunity to submit comments before a final decision is made to resolve the complaint.
- j. The HRO will make recommendations to correct any existing problems and/or to prevent similar problems from occurring in the future.
- k. Final decisions regarding the disposition of a complaint will be made by the Executive

Director as applicable and communicated in writing to the parties

**11. Support:** Complainants and respondents have the right to be accompanied by a support person of their choice during meetings regarding a complaint under HRAP. Where the HRO is of the opinion that the presence of the support person selected is inappropriate or that it may or is hindering the process, the HRO will advise the relevant party and he or she may be entitled to select another support person provided that doing so does not hinder or unduly delay the meeting/process. The purpose of the support person is simply to be present to support the complainant or respondent. They are not permitted to participate in any way. As this complaints procedure is a mechanism for alternative dispute resolution, parties are not entitled to select legal counsel to fulfill the role of support person. Witnesses are not entitled to bring a support person. However, if a witness offers details/evidence that may implicate them as a respondent or if others implicate the witness as a potential respondent prior to the meeting, they will be informed of their right to a support person and the meeting will be re-scheduled if a support person is requested but not available.

**12. Completion of Investigation/Mediation:** Proceedings under the HRAP will be completed within six months of initiation of a formal investigation. Exceptions may be made in extenuating circumstances.

**13. Reprisals:** The HRAP strictly prohibits any retaliation, either direct or indirect, against an individual for: exercising their rights under the HRAP, initiating a complaint in good faith, investigating a complaint, being a decision maker in a complaint, participating as a witness in an investigation, being a respondent to a complaint, having been associated with, or representing a complainant, witness or respondent. Appropriate discipline for a policy violation (or other workplace misconduct) is not considered a reprisal.

**14. Disciplinary Action:** Any employee who engages in discrimination or harassment, reprisals, or breaches confidentiality before, during, or after an investigation may be subject to appropriate disciplinary action up to and including termination of employment. Staff who are in a supervisory position and fail to take action when they become aware of or are advised of alleged discrimination and/or harassment may also be subject to disciplinary action. Disciplinary action may also be taken if a complaint is found to be vexatious, made in bad faith and/or an abuse of process. Consequences for policy violations may include but are not limited to: an apology, counselling, education and training, a verbal or written reprimand, suspension with or without pay, a transfer or termination of employment. In determining appropriate consequences, factors including, but not limited to, the following will be taken into account: the nature of the violation, the severity, whether the individual has previously violated the HRAP and/or whether there is relevant discipline on file.

**15. "Workplace Harassment" (Employees only):** Management are responsible for intervening and addressing concerns/complaints of workplace harassment and incivility. The HRO will only accept complaints of workplace harassment where there is evidence that management has failed

to meet policy obligations. Employees should raise their workplace harassment concerns to their superior. If the concern/complaint involves the employee's superior, the employee may raise the concern with that person's superior. HRO staff can advise parties where there are concerns about real or perceived conflict, fairness, etc., in exploring concerns. Consult the HRO for details.

**16. Refusal to Intervene:** The HRO has discretion to refuse to intervene or investigate or may discontinue an intervention or investigation where:

- a. A complaint is made anonymously;
- b. The complaint is outside the time limit;
- c. The complaint is trivial, frivolous, vexatious or made in bad faith/an abuse of process; or having regard to all the circumstances further investigation of the matter (or intervention) is unnecessary. Trivial complaints involve allegations that are of such a minor nature that proceeding with an intervention is not in the public interest. A frivolous complaint contains allegations that are not a breach of the HRAP. A complaint is vexatious when the complaint has been the subject of a decision by an alternate complaint process that considered the human rights allegations, a reasonable offer to remedy the complaint was rejected by the complainant and/or the complaint was filed to annoy, embarrass or harass the respondent. Complaints are an abuse of process/made in bad faith when an adequate remedy already exists or the complainant is engaging in improper action - fraud, deception, intentional misrepresentation - or is motivated to file out of malice or vindictiveness.
- d. As this complaints procedure is a mechanism for alternative dispute resolution, a mediation or investigation may be terminated if either party to the complaint retains legal counsel.
- e. Residents and service recipients may be required to exhaust any other avenues of appeal which are reasonably available prior to making a complaint under this policy.
- f. Complaints of harassment and/or discrimination related to contracted services may be made to the contractor and/or division responsible for the contracted service. All 519 contracted service providers are required to have internal harassment and/or discrimination dispute resolution processes, consistent with the 519'S process and mandated by provincial legislation. Consult the HRO for advice/assistance where necessary.

**17. Complaints Involving Staff in the Equity, Diversity and Human Rights Division (EDHR):**

The HRO has the authority where necessary to raise issues directly to the City Manager where EDHR staff are directly or indirectly implicated in a complaint of discrimination or harassment.

**18. Complaints with the Human Rights Tribunal of Ontario (HRTO):** Applications filed with the Human Rights Tribunal of Ontario will be referred to the City Solicitor and the HRO. Legal Services Division has responsibility for responding to HRTO applications. Contact Legal Services Division immediately upon receiving any correspondence from the HRTO.



**Qualified external consultants may be retained to resolve complaints of discrimination and/or harassment under the circumstances described below. External consultants will follow Part A (complaints procedures) in all cases except where exceptions are identified in this part.**

## **B. PROCEDURE FOR COMPLAINTS INVOLVING EXECUTIVE DIRECTORS OF AOCC COMMUNITY CENTRES - Retaining External Consultants:**

**1.Complaints Involving Executive Directors of AOCC Community Centres:** A complaint made to the HRO or the Community Center Board of Management about the "direct personal behaviour" of the Executive Director of a Community Centre listed above, must be in writing, signed by the complainant. Where necessary and appropriate, the HRO may assist in drafting the complaint.

- a. **Complaint Assessment:** The Community Centre Board of Management must forward any complaint/details involving an executive director to the HRO. The HRO will assess the merits of the complaint to determine whether to retain an external consultant. Where it is determined that the complaint warrants further investigation, the HRO in consultation with others as necessary, will retain a qualified external consultant and determine the scope of and manage the contract of the consultant.
- b. **Notification of Complaint:** The HRO will notify the Board Chair of the complaint investigation. In consultation with the HRO, the Board Chair may assign a designate person or body such as a human resources committee for the duration of the investigation. The external consultant shall notify the persons named in the complaint of the specific allegations against them as soon as possible thereafter.
- c. **Authority and Duties of the External Consultant:** The scope of the external consultant's authority to investigate and/or attempt to settle the complaint, to speak with anyone, examine any documents and enter any work location relevant to the complaint for the purposes of investigation or settlement will be set out in the terms of the contract.
- d. **Interim Reports and Discontinuance of Complaint:** The external consultant may make interim reports to the HRO as necessary, to address instances of interference, obstruction, retaliation, or breaches of confidentiality encountered by the external consultant while dealing with a complaint under the HRAP.  
Upon receipt of the complaint, or at any point during the investigation/mediation, the external consultant may submit a report to the HRO making a recommending to stop dealing with a complaint where: the complaint is frivolous, vexatious or made in bad faith; or, having regard to all the circumstances, further investigation of the matter is unnecessary.  
The HRO in consultation with the Board Chair or designate may approve or reject the recommendation after considering submissions from the parties to the complaint.

- e. **Other Avenues of Redress:** The HRO may decide to postpone, suspend or cancel any investigation into a complaint under the HRAP if it is believed that the investigation would duplicate or prejudice another avenue of complaint.
- f. **External Consultant's Final Report:** The HRO shall provide the Board Chair or designate with a final report outlining the findings, conclusions, recommended corrective action, or terms of settlement, within 90 days of the making of the complaint. The HRO may grant an extension of time upon the request of the external consultant.

The complainant and respondent will be given 30 days to review and comment on the final report. Comments are to be sent to the Board Chair or designate.

The Board Chair in consultation with the appropriate City officials, e.g., Legal Services Division will review the final report and any comments received from parties, in camera and may approve, change or reject any proposed terms of settlement or recommended corrective action before making any decision on the matter.

**1.7. Final Decision:** Final decisions about complaints involving the executive director will be made by the Board Chair in consultation with the appropriate City officials (e.g., the HRO, Legal Services Division, etc.)

**2. Systemic Concerns/Conflict with Staff of HRO:** An external consultant may be considered where there is a potential conflict between the HRO's staff and the parties involved in the complaint or where there are systemic or ongoing human rights issues that have not been appropriately remedied by internal interventions.

The decision on whether to refer a complaint to an external consultant will be within the sole discretion of the Director of EDHR in consultation with others as necessary. Where a complaint under this section is referred to an external consultant, the scope and authority of the external consultant will be determined by the Director of EDHR. Part B Paragraphs 1.4, 1.5 and 1.6 (above) will apply with necessary modifications. Final decisions will be made by the Board Chair in consultation with the Director of EDHR and others as appropriate. The affected AOCC Community Centre is responsible for paying all fees related to the external consultant's investigation or mediation.

**3. Complaints Involving Staff of the HRO:** Complaints of discrimination and/or harassment made by or regarding the direct personal behaviour of staff of the HRO may be handled by a qualified external consultant at the discretion of the City Manager. External consultant contracts for investigations or mediations under this section will be administered consistent with section B 2 above with the following exception: final decisions about the complaint will be made by the City Manager.

#### **4. Legal Representation and Costs (Employees Only):**

- a. Parties to a complaint under this section of HRAP have the right to receive advice/consult a representative of their choice, including legal counsel, unless they are subject to a collective agreement that provides for union/association representation.
- b. The related legal costs incurred by a respondent under this section will be reimbursed up to \$6,500.00 in all cases in which the external consultant concludes that there has been no violation of the HRAP.
- c. The related legal costs incurred by a complainant under this section will be reimbursed up to \$6,500.00, in all cases except where a complaint has been found to be trivial, frivolous, vexatious, or made in bad faith/an abuse of process.
- d. Where there is a settlement (including a mediated agreement), reimbursement, subject to the limit outlined above may be provided at the discretion of the Board Chair.

#### **Human Rights Office**

Enquiry Line: 416-392-8383

E-mail: [humanrights@toronto.ca](mailto:humanrights@toronto.ca)

Web: [http://insideto.toronto.ca/hrweb/human\\_rights/index.htm](http://insideto.toronto.ca/hrweb/human_rights/index.htm)