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## **Practices & Procedures**

**Subject:** Harassment and Bullying

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**Last updated:** 1 October 2018      **Created by:** Sarah Lusina, President

## **Summary**

This Policy sets out guidelines for the reporting, investigating and resolving of complaints of harassment or bullying in an effort to ensure a respectful workplace for everyone.



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## **Purpose**

The Trout Lake Vancouver Community Centre Association (TLVCCA) is committed to providing a work environment in which all individuals are treated with mutual respect and dignity.

The TLVCCA also recognizes that employees have the right to work in an environment that is free from harassment as prohibited by the BC Human Rights Code.

This Policy sets out guidelines for the reporting, investigating and resolving of Complaints of harassment in an effort to ensure a respectful workplace for everyone.

Harassment includes harassing behaviour and also bullying and is not accepted or tolerated in the workplace.

## **Scope**

This policy applies to all TLVCCA employees, contractors and volunteers.

This Policy applies to the workplace itself, and to work-related events. It includes harassment involving TLVCCA employees, contractors or volunteers that happens away from the workplace or after regular working hours, where the harassment has a negative impact on the workplace.

Harassment of employees by volunteers, members of the public, contractors, Council Officials, advisory body members, and those doing business with the TLVCCA is also prohibited, and is covered by related TLVCCA policies and procedures.

This guideline clarifies that harassing behaviour by volunteers, members of the public, contractors, advisory body members, and those doing business with the TLVCCA is also not tolerated.

Where such behaviour does NOT impact employees, it is covered and may be addressed by related TLVCCA policies as listed under the "Related Policies" section. Where such behaviour DOES impact employees, it falls under the scope of this Policy.

## **Definitions**

Harassment is a form of discrimination, and is prohibited by the BC Human Rights Code. It is defined as behaviour that a reasonable person would find unwelcome, has a negative impact on the workplace, and is related to any of the characteristics which are listed as prohibited grounds of discrimination in the BC Human Rights Code, namely:

- Race
- Colour

- Ancestry
- Place of Origin
- Political Belief
- Religion
- Marital Status
- Family Status
- Physical or Mental Disability
- Sex
- Sexual Orientation
- Gender identity or expression
- Age
- Criminal or summary conviction offence unrelated to employment or intended employment (the “Prohibited Grounds”).

Harassment can, depending on the seriousness of the behaviour, consist of a single incident or a number of incidents. It can be directed at one person, or it can involve a number of individuals.

Behaviour does not need to be intentional in order to be considered harassment, although intention may be relevant in assessing the severity of the behaviour. Some examples of harassment include, but are not limited to:

- Unwelcome, offensive remarks, jokes slurs, or innuendo related to any of the Prohibited Grounds;
- Unwelcome, offensive behaviour related to gender identity, gender expression or perceptions of sexual orientation or gender;
- Displaying or distributing derogatory or offensive pictures, graffiti or other materials related to any of the Prohibited Grounds, including but not limited to racist, sexist, or homophobic materials;
- Refusing to interact or communicate with persons because of any of the Prohibited Grounds;
- Unwelcome, offensive communications related to a Prohibited Ground sent by any means, including email or other electronic transmission;
- Unwelcome, offensive behaviour related to a Prohibited Ground, where tolerance of the behaviour is explicitly or implicitly made a term of employment or a consideration in job-related decisions;
- Unwelcome, offensive behaviour related to a Prohibited Ground that creates an intimidating, hostile, offensive or poisoned workplace environment;

- Unwelcome, offensive comments that are sexual in nature;
- Unwelcome, physical contact, such as touching, patting or pinching.
- According to WorkSafe BC, harassment is deemed to include bullying, and is defined as follows:

*“any inappropriate conduct or comment by a person\* towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment”.*

*\*A person includes any individual, whether or not they are a workplace party. This means that a ‘person’ could be a workplace party such as an employer, supervisor, or co-worker, or a non-workplace party such as a member of the public, a client, or anyone a worker comes into contact with at the workplace.*

Harassment under this Policy does not include conduct that a reasonable person would find welcome or neutral. This Policy is not intended to curtail welcome, appropriate workplace interaction. Some examples of conduct that is not harassment include, but are not limited to:

- Welcome, mutually consensual relationships or social invitations that do not involve inappropriate or offensive behaviours, intimidation, explicit or implicit threat of retaliation, or misuse of power;
- The exercise of the TLVCCA’s right to direct the workforce, including supervising, managing and giving appropriate and legitimate performance feedback, coaching, and discipline;
- Bona fide occupational requirements established by the TLVCCA as contemplated in section 13 subsections 3 and 4 of the BC Human Rights Code.

## **Policy Statements**

### **1.0 General**

TLVCCA employees shall not be subjected to, and shall not subject another individual to, harassment as it is defined in this policy.

### **2.0 Roles and Responsibilities**

#### **2.1 *The Trout Lake Vancouver Community Centre Association***

The TLVCCA has the primary responsibility to establish and maintain a work environment free of harassment as defined in this Policy.

The TLVCCA executive has the responsibility for overseeing this Policy, including:

- Implementing formal and informal processes to address concerns of harassment
- providing an impartial resource to persons covered by this policy
- educating and supporting staff to create a workplace free of harassment

### **2.3 Supervisory Staff and Managers**

Supervisors, Managers and Department Heads have an essential role in preventing and resolving harassment issues. Their primary responsibilities with respect to harassment are to:

- ensure staff has access to policies and procedures related to harassment;
- demonstrate appropriate behaviour;
- monitor the workplace for incidents of harassment; and
- intervene promptly and appropriately when they know, or ought reasonably to know, that harassment is occurring.

### **2.4 Employees**

All employees have a responsibility to refrain from harassment as defined in this Policy.

## **3.0 Harassment Complaint Procedures**

### **3.1 General**

The TLVCCA's procedures for addressing harassment Complaints are designed to be flexible, timely and accessible. The TLVCCA provides both an informal and formal process to resolve harassment Complaints.

A person who has experienced behaviour that is interpreted by that person as harassment ("Complainant") may consult any member of the executive to discuss their concern.

Concerns about harassment should be raised as soon as reasonably possible.

The executive receiving the concern shall refer the concern to the executive as a whole. The executive will consider the best option for moving forward with the complaint. Some of the options the executive may consider are as follows:

- if appropriate, advising the Complainant to discuss their concerns directly with those involved;
- identifying an appropriate party to assist the Complainant to discuss their concerns with those

involved. An appropriate party could include [CRS, member of the TLVCCA board, etc.],;

- initiating an “informal” or “formal” resolution process.

### **3.2 Informal Complaint Resolution**

The TLVCCA strives to provide a wide range of options to resolve Complaints. Informal Complaint resolution may include, but is not limited to: mediation, behavioural guidelines or agreements, apologies or other measures agreed to between the parties and the TLVCCA Manager or her/his delegate.

### **3.3 Formal Complaint Resolution**

If a Complaint is not resolved informally, or if an individual who believes they have experienced harassment chooses to do so, the Complainant may make a formal Complaint in writing to any member of the executive.

Formal Complaint investigations are overseen by the executive and may be carried out by the executive, or may be delegated at the discretion of the executive. A formal Complaint investigation is an impartial, fact-finding process. The investigators do not advocate on behalf of, or represent, any party involved in a Complaint.

The executive may engage an external party in the investigation process.

Formal Complaint investigations cannot be carried out anonymously. The identity of the Complainant and the allegations contained in the Complaint shall be made known to the individual(s) alleged to have engaged in harassment (the “Respondent”). The Respondent shall be provided a full and fair opportunity to respond to the allegations contained in the Complaint. Likewise, the Complainant shall be provided with the response and shall have an opportunity to reply.

At any time during the course of the investigation, the matter may be resolved, so long as the resolution is agreed to by each of the parties and the executive .

Once the formal Complaint investigation is complete, the executive shall notify the Complainant and Respondent of the findings of the investigation and any recommendations.

### **3.4 Other Remedies**

None of the procedures described in this Policy prevent a person from pursuing other remedies, such as pursuing a grievance, if applicable, or filing a Complaint with the BC Human Rights Tribunal.

The investigation procedures outlined under this Policy may be suspended, at the discretion of the executive, if an external dispute resolution process is sought by the Complainant.

### **3.5 False or Malicious Complaints**

If a Complaint is found to be false or brought for malicious purposes, the TLVCCA may take disciplinary measures against the Complainant, up to and including termination of employment. However, a Complaint that is found to be unsubstantiated or based on mistake may not be considered false or malicious.

## **4.0 Retaliation**

### **4.1 General**

Retaliation also constitutes a form of discrimination under this Policy, and may form the basis of a separate Complaint.

### **4.2 Forms of Retaliation**

Any form of retaliation or discrimination against an employee because that person initiated a Complaint of harassment, or because that person acted as a witness or otherwise participated in an investigation, may be considered a violation of this Policy. Such action may result in discipline up to and including termination of employment.

### **4.3 Reporting Retaliation**

If an employee believes that he or she has been subjected to retaliation as set out above, that person may report it as outlined under Section 3 of this Policy.

## **5.0 Consequences of Harassment**

Engaging in harassment or retaliation is serious misconduct and may result in disciplinary action up to and including termination of employment. It is understood that unionized employees may grieve any disciplinary action under the applicable collective agreement.

The Employer and all TLVCCA employees, including supervisory staff and managers:

- a) must apply and comply with the TLVCCA's policies and procedures related to expectations of workplace conduct, such as the Code of Conduct, the Respectful Workplace, and the Harassment and Bullying Policy.
- b) must not engage in bullying and harassing behaviour of other employees, supervisory staff and managers, the employer or persons acting on behalf of the employer.
- c) must without delay report incidents of bullying and harassing behaviour either observed or



experienced in the workplace. Incidents must be reported in writing to a member of the executive of the TLVCCA.

## **6.0 Confidentiality and Document Retention**

Information collected and retained by the executive during the course of an informal or formal harassment resolution process is treated as confidential. During the investigation process, the executive shall limit disclosure of Complaint-related information to that which is necessary to resolve the Complaint.

If, after investigation, a Complaint is not established, no documentation of the Complaint shall be placed on either of the parties' personnel files. However, documentation of the investigation shall be kept in a confidential file separate from the employee's personnel file and maintained by the executive in order to evidence the TLVCCA's proper investigation of formal Complaints of harassment.

Documentation which outlines disciplinary action arising from an investigation shall be placed on an employee, contractor or volunteer's personnel file.

Confidentiality extends to all records relating to Complaints, including but not limited to meetings, interviews and investigation results. Individuals making a Complaint, witnesses and individuals against whom a Complaint has been made are expected to maintain confidentiality. Personal information, including the identities of the Complainant(s) and Respondent(s), shall be protected in accordance with the BC Personal Information Protection Act.

Information collected and retained by the executive may be required to be released by law including release required in court proceedings, arbitration or other legal proceedings.

## **7.0 Collective Agreements and Legislation**

In the event that any portion of this Policy is inconsistent with a binding collective agreement or federal or provincial legislation, that portion and only that portion of the Policy shall have no application to the extent of that inconsistency. All other portions of the Policy shall continue in full force and effect.

## **8.0 Related Policies and Procedures**

List any related policies or procedures, if they exist.

1. Code of Conduct Policy
2. Respectful Workplace Policy

## 9.0 Roles and responsibilities

Document Owner is First/Second/Third Vice President.

Revision schedule and approvals are as per policy on creation and approval of TLVCCA policies.

**Table 1: Association policy amendment history**

Version	Date	Comments
1.0	October 1, 2018	New policy
1.0	30 January 2019	Approved by Board resolution