

# WINDSOR POLICE SERVICE DIRECTIVE

## HUMAN RIGHTS

### **I. RATIONALE:**

This policy uses the Human Rights Code as its foundation to ensure that every person has the right to be free from discrimination and harassment, to the highest standards of human equality. The Windsor Police Service will not tolerate, condone or ignore harassment and or discrimination, whether in its role as an employer or as a service provider to the general public.

This Policy is designed to support a fair and inclusive workplace in which all members have an opportunity to fulfill their potential and in which barriers to achievement and access to employment and services are identified, removed and prevented.

The Service has a vital role to play in promoting, protecting and advancing human rights in the workplace as well within our community. In its goal of being a leader in human rights promotion and compliance, the Service is committed to address harassment and discrimination, throughout all of its policies, practices and procedures.

### **II. POLICY STATEMENT:**

#### **A. Definitions:**

1. **Directing Mind Employees** - This refers to any supervisor or decision-maker within an organization who functions, or is seen to function, as representatives of an organization. Even non-supervisors may be considered to be part of the “directing mind” if they have supervisory authority or have significant responsibility for guiding employees and other workers.

2. **Discrimination** - Means any form of unequal treatment based on a Code ground that results in disadvantage, whether imposing extra burdens or denying benefits. It may be intentional or unintentional. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but have the effect of disadvantaging certain groups of people. It may be obvious, or it may occur in very subtle ways. Discrimination needs only to be one factor among many factors in a decision or action for a finding of discrimination to be made
3. **Discrimination by Association** - Discrimination or harassment because of a person's association, relationship or dealings with a person protected by the Code. It includes actions taken against a person who has objected to discriminatory comments aimed at another group.
4. **Employee** - Any employee of the Windsor Police Service, including full-time, part-time, temporary, probationary, contract staff, as well as those who work to gain experience or benefits such as volunteers and co-op students.
5. **Harassment** - Means a course of comments or actions that are known, or ought reasonably to be known, to be unwelcome. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning or unwelcome, based on a ground of discrimination identified by this Policy. Harassment during employment can happen based on any of the grounds of discrimination.

Examples of Harassment include:

- Epithets, remarks, jokes or innuendos related to an individual's race, sex, disability, sexual orientation, creed, age, or any other ground;
- Showing or circulating offensive pictures, graffiti or materials, whether in print form or using e-mail or other electronic means;
- Singling out an individual for humiliating or demeaning "teasing" or jokes because they are a member of a protected group;
- Comments ridiculing an individual because of characteristics, dress, etc. that are related to a ground of discrimination.

Even if a person does not clearly object to harassing behaviour, or if they appear to go along with it, it cannot be assumed they have agreed to this behaviour. Victims of harassment may feel vulnerable to reprisals and not speak up, especially in contexts of power inequities. It could still be considered harassment.

6. **Hate Activity** - Comments or actions against a person or group motivated by bias, prejudice or hate based on Code defined prohibited grounds or any other similar factor. It includes, but is not limited to, hate crime, hate propaganda, advocating genocide, telephone/electronic communications promoting hate, and the display of hate through any notice, sign, symbol or emblem.
7. **Inclusive Design** - Taking into account differences among individuals and groups when designing something, e.g. policies, programs, curriculums, building infrastructure in order to proactively avoid creating barriers.

8. **Organizational Responsibility and Vicarious Liability** -A corporation, association or employer can be held responsible for discrimination, including acts or omissions, committed by employees or agents during their employment, whether or not it had any direct knowledge of, participation in, or control over these actions. Vicarious liability increases further in situations where the organization does have knowledge and yet fails to take appropriate action.
9. **Prohibited Grounds** - The prohibited grounds refer to those personal attributes that are recognized as the most common targets of harassing and discriminatory actions, which are protected under the Code. For adverse treatment to be considered discrimination or harassment based on prohibited grounds, the adverse treatment or effect must be in part connected to one of these aspects of a person's background, or perceived background or association:
  - Age
  - Creed (religion)
  - Sex (including pregnancy and breastfeeding needs)
  - Sexual orientation
  - Gender Identity / Gender expression (transsexual, transgender, and intersex persons, cross-dressers, and others whose gender identity or expression is, or is seen to be, different from their birth-identified sex)
  - Family status (being in a parent-child or equivalent relationship and identity of family member)
  - Marital status (including being married, single, widowed, divorced, separated, or living in a conjugal relationship outside of marriage, whether in a same-sex or opposite-sex relationship and identity of spouse)
  - Disability (including mental, physical, developmental, learning disabilities and addictions that lead to significant impairment or distress)
  - Race
  - Ancestry
  - Place of origin
  - Ethnic origin
  - Citizenship
  - Colour
  - Record of offences (conviction for a provincial offence, or for a criminal offence for which a pardon has been received, applicable only in employment contexts)
  - Association or relationship with a person identified by one of the above grounds.
10. **Poisoned Environment** - Negative, hostile or unpleasant workplace or an unequal work environment due to comments or conduct that demeans a group identified by one or more prohibited grounds under the Human Rights Code, even if not directed at a specific individual. A poisoned work environment may result from a single serious event, remark or action.
11. **Sexual Harassment** - A course of comment or conduct based on an individual's sex or gender that is known or ought reasonably to be known to be unwelcome.

12. **Gender-Based Harassment** - is a subset of sexual harassment. It refers to behaviour and policies that reinforces traditional heterosexual gender norms.

Forms of sexual and gender-based harassment could include:

- Gender-related comments about a person's physical characteristics or mannerisms
- Paternalistic comment or conduct based on gender, which undermines a person's self-respect or position of responsibility
- Unwelcome physical contact
- Suggestive or offensive remarks or innuendoes about members of a specific gender
- Propositions of physical intimacy
- Gender-related verbal abuse, threats or taunting
- Leering or inappropriate staring
- Bragging about sexual prowess or questions or discussions about sexual activities
- Offensive jokes or comments of a sexual nature about an employee or citizen
- Rough and vulgar humour or language related to gender
- Display of sexually offensive pictures, graffiti or other materials, including through electronic means
- Demands for dates or sexual favours

13. **Sexual Solicitation and Reprisal** - Sexually related solicitations or advances by any person who is in a position to grant or deny a benefit to the recipient, where this is known or ought reasonably to be known to be unwelcome. This includes managers and supervisors, as well as co-workers where one person is in a position to grant or deny a benefit to the other. Reprisals for rejecting such advances or solicitations are also prohibited.

14. **Systemic or Institutional Discrimination** -Consists of patterns of behaviour, policies or practices that are part of the social or administrative structures of an organization, which create or perpetuate a position of relative disadvantage for persons protected by the Code. They appear neutral on the surface, but have an exclusionary impact on persons identified by a Code ground. They can also overlap with types of discrimination that are not neutral, such as prejudice and stereotypes. Systemic discrimination may be identified by looking at:

- Discrepancies in numerical data;
- Policies, practices and decision-making processes;
- Organizational culture.

15. **Undue Hardship** - Under the Code a high standard is set in order for an employer or service to claim undue hardship and it must be based on three factors, cost, outside sources of funding, if any and the health and safety requirements, if any.

16. **Workplace Restoration** - Promoting and/or restoring positive and respectful workplace relationships following a complaint of discrimination or harassment.

**B.** This directive shall consider provisions of the Ontario Human Rights Code to prevent and address human rights issues, and shall follow the Human Rights Policy directive.

**C. The Windsor Police Service is Committed to:**

1. Maintaining the human dignity of all persons and groups of persons. It is dedicated to being free of discrimination and harassment, to the highest standards of human equality.
2. Prohibiting discrimination and harassment on the basis of the prohibited Human Rights Code grounds.
3. Promoting and protecting these rights and actively endorsing these standards at every level and in all of its employment and service activities. ALL members are expected to promote these values, and work to address and resolve human rights issues, whenever possible, through informal discussion and informed by procedures detailed within specific related Policies.
4. Working within our diverse community and integrating as many different voices and experiences as possible into activities, both as an employer and in the services it provides.
5. Resolving human rights concerns in a fair and timely manner. Where harassment or discrimination are found to have occurred, steps will be taken to make sure that the person whose rights have been violated is, to the best extent possible, "made whole" and the effects of discrimination remedied.
6. Promoting, protecting and advancing human rights as an employer as well in the services provided by:
  - a) Inclusively designing programs and services;
  - b) Providing accommodation to the point of undue hardship;
  - c) Ensuring that its members, supervisors and the community are aware that discrimination and harassment are unacceptable and are incompatible with the Services standards, as well as being against the law;
  - d) Providing training to ensure members are aware of their rights and responsibilities in this and related human rights policies and procedures;
  - e) Monitoring its systems and culture for barriers based on Code grounds;
  - f) Providing an effective and fair complaints and grievance procedure that allows for the tracking of human rights complaints and their outcomes;
  - g) Promoting appropriate standards of conduct at all times;
  - h) Identifying, developing and implementing processes to address the behaviours, approaches and practices that may be offensive to the human rights of employees and people dealing with the Service.

- D.** This policy is an overarching policy to ensure that all current and future WPS support and operational policies, procedures, protocols and practices consider provisions of the Ontario Human Rights Code to prevent and address human rights issues both internally as well externally.

- E.** This policy is not intended to be a single reference point, for dealing with all Human Rights matters. Specific practices and procedures regarding appropriate standards and processes, including complaints can be found within the following specific policies, programs or legislation:
- Directive 352-01 Promotional Policy
  - Directive 320-01 Recruitment & Selection Process (Under Development)
  - Directive 320-02 Accommodation
  - Directive 361-03 Workplace Violence
  - Directive 361-04 Workplace Harassment
  - Accessibility for Ontarians with Disabilities Act (AODA) regulations
  - Chaplaincy Program
- F.** All types of discrimination related to protected grounds are prohibited, whether direct or indirect, intentional or unintentional. This Policy is contravened if discrimination is authorized, condoned, ignored, adopted or ratified and is proven on a balance of probabilities after investigation and bearing in mind all relevant factors identified in this Policy. The Service will take all needed steps to investigate and address any claims that do happen.
- G.** The right to freedom from discrimination and harassment extends to all members, to all people who receive services and to all who do business with the Service.
- H.** This policy applies at every level of the organization and to every aspect of the workplace environment and employment relationship. This includes recruitment, selection, promotion, transfers, training, salaries, benefits, discipline, termination, granting leaves of absence and performance evaluations.
- I.** This policy also applies to events that occur outside of the physical workplace that have implications or repercussions in the workplace. Examples are business trips, Service social events or other Service-related functions.
- J.** Personal harassment which falls outside of the Code defined grounds such as workplace bullying or hate activity is prohibited and typically falls under Directive 361-04 Workplace Harassment.
- K.** All members and members of the public interacting with the Service or its members are expected to uphold and abide by this policy, by refraining from any form of discrimination and harassment.

**L. Recognition of Intersecting Code grounds**

The intersection of Code grounds is a possible and significant factor in the experience of discrimination. Intersectional discrimination occurs when persons identified by multiple Code grounds experience discrimination that reflects a combination of grounds, instead of one ground alone or multiple but not intersecting grounds. Recognition of intersecting grounds is essential to develop the necessary understanding of the unique types of discrimination a person may experience.

**M. When Human Rights Conflict with other Organizational Directives, Legislative requirements or Collective Agreements**

Human rights have quasi-constitutional/constitutional status, and take precedence in cases of conflicts with other directives and requirements. If this policy conflicts with any other policy or directive, including the collective agreement, the Service will consider what changes or actions to these may be needed in order to bring these in line with human rights law (whilst respecting the bargaining process).

**N. Dealing with Competing Human Rights Claims**

Human rights claims may sometimes conflict with other human rights claims. In such situations, efforts will be made to recognize legitimate competing claims and reconcile them in a way that does not undermine or disrespect the legitimacy of any of the claims and of the integrity of persons involved.

Examples of competing human rights claims may emerge related to any of the Code grounds, but have most commonly emerged under the grounds of disability, creed, sexual orientation, sex and family status.

These competing human rights claims will be carefully addressed and resolutions will be sought that best reconcile the competing claims. Tools for reconciling may include careful scrutiny of the rights claims in the context to determine whether a collision of human rights claims actually exists and where it specifically exists, seeking win/win resolutions that transcend the collision of claims, highlighting or prioritizing some claims based on pressing factors, and seeking acceptable compromises and concessions.

These claims will be resolved according to procedures outlined within specific policies identified in Section II. Policy Statement Section C.

**O. To Effectively Apply this Policy the Service Recognizes**

Societal discrimination related to Code grounds, which are often termed as “isms.” Examples of such “isms” include racism, ageism, sexism and heterosexism.

These forms of societal discrimination give rise to or contribute to direct and systemic discrimination and harassment within organizations.

Consistent with the Human Rights Strategy in Section II, Policy Statement - Section U. Human Rights Strategies - General, the Service will seek to identify and address the prevalence of these forms of discrimination in the policies, practices, procedures and culture operating in its organization.

**P.** Members are entitled to claim and enforce their right to a workplace free of harassment and discrimination. It is a violation of this policy or any policy of the Service to discipline, criticise, ostracise, or otherwise negatively treat a person, or treat a person negatively by omission, because he or she has brought forward a complaint, provided information related to a complaint, or otherwise been involved in the complaint resolution process.

**Q.** A complaint alleging reprisal may be made under Directive 361-04 Workplace Harassment and persons engaging in reprisal are subject to disciplinary measures, up to and including dismissal from the Service.

- R. The provisions of this policy in no way affect the right of any person to exercise his or her rights under the applicable collective agreement or under the Ontario Human Rights Code.
- S. Legitimate performance management is not a violation of this policy or any other policies of the service.
- T. Allegations, complaints, or accusations that are proven to be frivolous, vexatious, and/or in bad faith are also considered a policy violation. These may be met by disciplinary consequences found within Directive 145-01 Discipline, for sworn members, and Directive 145-02 Civilian Discipline.

#### **U. Human Rights Strategy - General**

The Windsor Police Service will develop an annual Human Rights Strategy that aims to prevent discrimination and harassment, and to promote fairness in service provision in the workplace, in accordance with the Code.

The Strategy will set clear targets and objectives and include initiatives related to public education and outreach, continuous training and education of members, and related future plans.

The Strategy will include a provision for identification of emerging Human Rights themes, in areas such as Accountability, Accommodation, Recruitment, Training and Communications, and the development of appropriate procedures.

The Human Rights Strategy will be reviewed annually and updated as required. The Strategy must include:

1. Steps taken to advance inclusive design, and to identify, prevent and remove barriers related to Code grounds. These steps should be taken regularly, with the requirement that all Code grounds be covered within a five-year cycle;
2. Efforts to make this Policy known to all members, prospective employees, and members of the public served;
3. Ongoing training on Human Rights and related policies to all members, including new members;
4. Additional training for all staff on human rights themes that are timely and relevant;
5. Employment equity measures that enhance efforts to recruit, promote and retain staff. These measures must reflect the diversity of our community, with special regard to retaining a workforce that reflects vulnerable Code ground protected groups to enhance human rights work;
6. A process to annually review this Policy in consultation with staff representatives of all sections of the Service.

- V. **Review:** The **Manager – Human Resources** is responsible for ensuring that this Directive remains current and a submission of a review report sent to Quality Assurance and Audits prior to the anniversary of the Date Last Reviewed.

### **III. PROCEDURES:**

#### **A. Annual Report:**

1. Every Senior Officer/Director/Manager in charge of a Branch will be responsible for providing information concerning human rights initiatives in areas such as, Recruitment, Training, Selection, Promotion, Retention, Accommodation, Accountability and Communications, to the Manager - Human Resources for inclusion in the Annual Report.

#### **B. The Manager - Human Resources shall:**

1. Submit an Annual Report on behalf of the Service, which will include:
  - a) Information on any procedures developed to support this Directive, and an assessment of their effectiveness and impact on the Service;
  - b) Information concerning the implementation of the Human Rights Strategy, including details of initiatives undertaken, intended objectives and outcomes;
  - c) Reporting and mechanisms relied upon to ensure accountability by all Service members acting in a Supervisory or Management capacity;
  - d) Concerns regarding all internal and external complaints made against the service or any member of the Service, alleging a breach of this or related Directives or the Code, relating to discrimination or harassment, the report shall include:
    - i) The number of Internal and External complaints received each year, as compared to previous years;
    - ii) The area of discrimination or harassment complained about (service provision or employment);
    - iii) The grounds of discrimination or harassment upon which the complaints are based;
    - iv) The number of internal complaints that went to grievance or the Human Rights Tribunal;
    - v) The number of external complaints that went to the OIPRD or Human Rights Tribunal;
    - vi) The status and/or resolution of the requests;
    - vii) The number of changes, alterations, deficiencies relevant to internal or external accommodation plans;
    - viii) An overview of all remedies awarded arising from all complaints.
2. An annual report shall be submitted to the Police Services Board and will include information regarding the complaints which involve discrimination and harassment contrary to the Code and performance measures with respect to the relevant procedures to be used to assess the effectiveness and impact of the implementation of this Directive.

**C. Training:**

1. All on-going training initiatives will emphasize that human rights policies and programs are in harmony with the Windsor Police Service's objectives. Training and education to Service members will include programs which address Human Rights issues and assist members to understand and implement:
  - a) Their responsibilities to provide services to the public without discrimination;
  - b) Their rights to employment without discrimination; and
  - c) Applicable Service policies and procedures.
2. All members acting in a Supervisory or Management capacity will receive regular training and education on their responsibilities and related legal liabilities, which may arise from Code amendments, Human Rights Tribunal Decisions and this Directive;
3. All training programs will be evaluated regularly to assess their adequacy and effectiveness in meeting the objectives of this Directive.