

	<b>Abbotsford Police Department Policy</b>	
	<b>Administration</b>	<b>Personnel Management</b>
	<b>I.B.060</b>	<b>Respectful Workplace</b>

## POLICY STATEMENT

- (1) The Abbotsford Police Department (AbbyPD) is committed to providing a work environment in which all individuals, including employees, volunteers, contractors and visitors to AbbyPD, are treated with respect and dignity. Bullying and Harassment in the Workplace is not acceptable and will not be tolerated.
- (2) Respectful Workplace conduct incorporates courtesy, civility, consideration and compassion. It is an approach which actively respects individuals by avoiding unnecessary behaviours which would have a negative impact on them. It involves taking responsibility for one's communication, behavior, or conduct in the Workplace.
- (3) All AbbyPD Staff, visitors and other individuals who attend an AbbyPD Workplace are required to abide by this policy.
- (4) AbbyPD reserves the right to deal with an allegation of Bullying and Harassment that is not alleged to have occurred in the Workplace.

## DEFINITIONS

- (5) **"Bullying and Harassment"** means any inappropriate behaviour (conduct or comment) by a person towards a Staff member, which the person knew or ought reasonably to have known would cause the Staff member to be humiliated or intimidated. Harassment may take different forms, including discriminatory harassment, sexual harassment, and personal harassment. Bullying and Harassment can include:
  - (a) verbal aggression, physical threats, physical assault or violence;
  - (b) outbursts of anger or yelling;
  - (c) humiliating or harmful initiation practices or hazing;
  - (d) spreading malicious or derogatory rumours or gossip;
  - (e) calling someone derogatory names;
  - (f) vandalizing personal belongings;

- (g) sabotaging someone's work;
  - (h) making personal attacks based on someone's private life or personal traits;
  - (i) profane, disrespectful, intimidating, insulting, or demeaning written or verbal communication or conduct;
  - (j) repeatedly unwelcome remarks, inappropriate humour, innuendoes, taunting, teasing or insulting conduct;
  - (k) application of negative stereotypes or generalizations;
  - (l) shunning, purposeful isolation and other repeatedly "exclusive" conduct, verbal or non-verbal in nature;
  - (m) critical comments made to or about Staff that are made outside the usual and confidential processes for review/feedback;
  - (n) arguments with or between Staff that take place in a "public", non-confidential area;
  - (o) engaging in unwanted practical jokes or ridicule;
  - (p) teasing, joking, taunting, insulting or criticizing a person, directly or indirectly, verbally or in writing, based on a protected ground as defined in the *BC Human Rights Code* (including commentary regarding a person's cultural practices, ability to communicate clearly, accent, physical appearance, work style, and level of intelligence); and
  - (q) unnecessary, unwelcome physical contact such as touching, patting, or pinching.
- (6) "**Bystanders**" are third parties who have witnessed behavior that, in their view, potentially constitutes a violation of this policy.
- (7) "**Complainant**" is the person making a complaint or seeking recourse in relation to this policy.
- (8) "**Parties**" are the Complainant(s) and Respondent(s).
- (9) "**Staff**" means, for the purposes of this policy, Workers, volunteers and contractors.
- (10) "**Respondent**" for the purposes of this policy, is the person alleged to have violated this policy.
- (11) "**Witnesses**" are individuals who have direct knowledge of, or involvement in, any matter or incident that potentially relates to a complaint brought forward under this policy.

- (12) “**Worker**” for the purposes of this policy, includes all AbbyPD employees, regardless of rank, position or responsibility.
- (13) “**Workplace**” for the purposes of this policy, includes but is not limited to:
- (a) any location (place or vehicle) where the Staff of AbbyPD carries out work-related duties;
  - (b) any event or gathering that is related to the performance of work-related duties, including conferences and other public events;
  - (c) any location to which Staff travel for a work-related purpose; and
  - (d) any location where an AbbyPD-sponsored event occurs (including off-duty AbbyPD social events).

## **POLICY**

- (14) Intent does not determine whether a behaviour is Bullying and Harassment. A person cannot excuse their behaviour by claiming they did not intend it to be Bullying and Harassment.
- (15) Bullying and Harassment in the Workplace can be directed towards a colleague, subordinate, manager or supervisor, between a Worker and a non-Worker (such as a contractor, volunteer or visitor), between Staff from different organizations, (such as those at a worksite where employees from multiple organizations are working together - e.g. IHIT, IRSU, CFSEU), or by a group of people towards another person or group, or by one individual towards another person or group.
- (16) This policy is not intended to limit or constrain the reasonable exercise of management functions in the Workplace. As such, Bullying and Harassment does not include any reasonable action taken by the employer, a supervisor or a peer (for example, mentor or field trainer) relating to the management and direction of Workers or the place of employment, such as managing a Worker’s performance or making decisions related to job duties, the work to be performed, deadlines, work instruction, supervision, feedback, work evaluation, or taking reasonable disciplinary actions..

## **METHODS OF COMMUNICATION**

- (17) Inappropriate communication that may violate this policy includes communication that may be transmitted directly in person or indirectly through another person, on the phone, or in writing through documents, email, texts, social media, or otherwise. Potential violations may consist of inappropriate communication made to a person and/or communication made about a person to others.

**RESPONSIBILITIES**

- (18) The employer has overall responsibility to ensure there is a safe and respectful Workplace in compliance with this policy.
- (19) Supervisors must ensure their members of Staff do not engage in the Bullying and Harassment of others.
- (20) Every member of Staff must take reasonable steps to maintain a respectful Workplace. These include:
  - (a) not engaging in the Bullying and Harassment of others;
  - (b) reporting any unresolved Bullying and Harassment they experience or observe in the Workplace; and
  - (c) applying and complying with this policy.

**FAIRNESS**

- (21) Parties, Bystanders and Witnesses have a right to fair treatment in the consideration and investigation of complaints and concerns under this policy. Fair treatment includes the right to:
  - (a) bring forward their concerns under this policy within a timely manner;
  - (b) be informed in a timely manner of complaints made against them;
  - (c) an impartial and objective consideration and evaluation of the circumstances, through informal or formal intervention;
  - (d) confidentiality to the extent possible in the circumstances, including the avoidance of gossip, rumors and speculation by any Party, Witness, Bystander or other individual;
  - (e) reasonable protection from retaliation for participation in processes under this policy;
  - (f) be informed of the outcome of any formal intervention to the extent possible, having regard for others' rights to privacy;
  - (g) union representation for unionized Workers; and
  - (h) other representation, if requested, for exempt Workers, such as a colleague or third party representative who is not in any way involved in the matter being investigated. Any costs related to third party representation will be borne by the exempt Worker.

**CONFIDENTIALITY**

- (22) All Parties, Witnesses and Bystanders involved in a complaint, or in the informal or formal resolution of a complaint, are expected to keep matters related to a

complaint confidential. This includes managers and supervisors who are privy to the complaint or complaint resolution process. The Director of HR will provide direction to the Parties regarding the sharing of information related to the complaint.

- (23) An established breach of confidentiality regarding a complaint or complaint resolution process will be considered an independent violation of this policy (regardless of the merits or conclusions regarding the complaint) and may result in discipline.
- (24) Any allegation or complaint under this policy will be considered personal information pursuant to the *Freedom of Information and Protection of Privacy Act*. The names of those involved in the complaint will not be disclosed to any person except where necessary for the purpose of fairly investigating and determining the outcome of the complaint.
- (25) The substance of investigative reports and the substance of meetings held by those in authority to make decisions in relation to a complaint, regardless of whether it is substantiated, will be protected from disclosure to third parties in accordance with the *Freedom of Information and Protection of Privacy Act*.
- (26) All files related to any complaints under this policy will be kept in Human Resources ("HR") in separate files. Any resulting discipline imposed on a municipal constable or special municipal constable will be recorded and maintained by the AbbyPD Professional Standards Section (PSS) on the Worker's Service Record of Discipline.

## RETALIATION

- (27) No Party, Witness, Bystander or other individual involved in matters under this policy should be subject to any retaliation or reprisal, indirect or direct. Retaliation includes but is not limited to any negative conduct/comment/decision/communication that reasonably appears to have been made:
  - (a) in response to a filed complaint; or
  - (b) in response to a Worker's participation in a complaint resolution process; or
  - (c) in an attempt to dissuade, influence or otherwise coerce individuals into taking specific action, or refraining from taking action, in relation to this policy.
- (28) Any established retaliation against any Party, Bystander, Witness or other individual involved in an informal or formal resolution process under this policy

will be considered an independent violation of this policy, regardless of the merits or outcome of the initial concern or complaint and will result in discipline.

## **PROCESS FOR RAISING CONCERNS OF BULLYING AND HARASSMENT IN THE WORKPLACE**

### **Informal Process**

- (29) Complainants are encouraged to resolve complaints/concerns of Bullying and Harassment as soon as they arise, using the informal process, unless circumstances dictate it is clearly inappropriate to do so. Without limiting its application, the informal resolution process is commonly used in circumstances where the alleged concern/conduct appears to be:
- (a) non-repetitive (a “one-off” discussion/interaction); or
  - (b) relatively minor in severity or seriousness, considering its content, potential impact on the individual and/or the safety/health/reputation of the overall organization.
- (30) Although a Complainant may indicate that they prefer the informal process, the AbbyPD may at any time exercise its discretion to initiate a formal process based upon its overall review and consideration of the circumstances.

### ***Step 1 – Resolution (Informal Conversation)***

- (31) Where reasonable, a Complainant is encouraged to address the person with whom they are having difficulty (Respondent) in a direct and discreet manner as soon as possible following the incident. This may be done in person (with or without another individual present for support) or in writing, provided the communication itself is respectful in tone and content. If the Complainant is not comfortable taking this step, or if the Complainant has done so without success, then the Complainant should proceed to the next step.

### ***Step 2 – Resolution (Supervisor/Designate Involvement)***

- (32) The Complainant or a Bystander should approach their supervisor with their concerns, including specific examples of inappropriate statements or verbal or non-verbal behaviors by the Respondent(s), dates, times, Witnesses, and provide as much detail as possible. This should be done as soon as reasonably possible following the incident(s)/behavior(s). The supervisor in receipt of a complaint/concern must contact the HR Director immediately.
- (33) If the Complainant or Bystander is uncomfortable approaching their supervisor, or if the supervisor is a Respondent or is perceived by the Complainant to be part of the “problem”, the Complainant or Bystander should speak directly to their

OIC/Branch Director. The OIC/Branch Director in receipt of a complaint/concern must contact the HR Director immediately. If the OIC/Branch Director is a Respondent or is perceived to be part of the “problem”, the Complainant or Bystander should speak directly to the HR Director.

- (34) The HR Director or their designate will review the concern, and where appropriate, directly or indirectly, facilitate a resolution of the concern in a manner that is considered most effective and reasonable considering all of the circumstances.
- (35) Interventions may include one or more of the following (or similar):
- (a) meeting separately with each Party to discuss and objectively review the situation;
  - (b) meeting together with the Parties to facilitate a discussion aimed at understanding and resolving the issue in a practical, non-punitive manner or mediating a solution that works for all Parties;
  - (c) coaching one or more of the Parties (verbally or in writing) on Workplace expectations and requirements regarding appropriate Workplace behavior or performance;
  - (d) recommending or applying progressive performance management as warranted (i.e. based on the findings and severity of the misconduct found following the review); and
  - (e) engaging an external third party facilitator or mediator to work with the Parties and others involved to achieve a confidential, practical and mutually agreeable resolution to outstanding concerns which do not result in findings against any person.
- (36) If, at the outset of or at any time during the Step 2 process, HR concludes that a formal investigation is warranted, given the Parties involved and/or severity of the behaviors alleged, including any potential physical or psychological impact on the Complainant or other Staff members, the matter will be immediately referred to Step 3 for formal investigation and resolution.
- (37) Step 2 processes are to be completed within 60 days of the initial concern being brought forward to either the supervisor, OIC/Branch Director or to the HR Director. This timeline may be reasonably extended in extenuating circumstances and will not apply if the Department decides to elevate the concern/complaint to a Step 3 process.

## Formal Process

### Step 3 - Investigation

- (38) The formal process involves a formal, objective investigation of a written complaint.
- (39) Once the complaint/concern has been provided to the Complainant's immediate supervisor, the OIC/Branch Director or the HR Director, the Complainant will be asked to submit the complaint in writing, on form [AbbyPD-305 Respectful Workplace – Confidential Report](#), (if that has not already been done) including full particulars ("Complaint"), and to send the Complaint to the HR Director by either an envelope marked "Confidential" or by scanning the completed form and sending it via email indicating "Confidential" in the subject line.
- (40) Once a Complaint has been submitted, the Complaint will be reviewed to ascertain whether a *prima facie* case of Bullying and Harassment in the Workplace has been established based on the allegations, if assumed to be true. If a *prima facie* case is not established, no investigation will be conducted.
- (41) Even if a *prima facie* case has been established, the filing of a Complaint does not mean that a formal investigation will be automatically conducted. The manner in which a Complaint is resolved will be determined by the AbbyPD and will depend on a number of factors, including the nature, extent and severity of allegations brought forward by the Complainant and the history of circumstances leading up to the filing of the Complaint.
- (42) Following this review, the Complaint may be:
- (a) referred back to Step 2 to resolve the matter through an informal process; or
  - (b) assigned to an internal or external investigator to conduct a formal investigation of the Complaint.
- (43) Any formal investigation initiated under this policy will be managed and coordinated by HR.
- (44) Where the Respondent is a municipal constable or a special municipal constable, the PSS must be advised as soon as practicable of the Complaint and then, following the investigation, PSS must be advised of the outcome of the investigation and provided with a copy of the investigation report. The PSS will be responsible for working with HR to ensure that where policy [I.C.100 Public Trust Complaints, Ordered Investigations and Internal Discipline Investigations: Municipal Constables and Special Municipal Constables](#) is engaged, that policy is also complied with.



**Appointing an Investigator**

- (45) Factors to consider in determining whether to retain an internal or external investigator may include:
- (a) the overall complexity of the Complaint;
  - (b) the Parties to the Complaint;
  - (c) the anticipated length of time necessary to conduct the investigation;
  - (d) the potential severity of the outcome(s) of the investigation in relation to the Respondent(s) should the Complaint be substantiated; and
  - (e) any other relevant circumstances.
- (46) Investigators will have sufficient prior experience and/or training in conducting workplace investigations and will have no previous involvement in the facts/circumstances giving rise to the Complaint.
- (47) Formal investigations in response to Complaints filed against the Chief Constable or a Deputy Chief Constable will be conducted by an external investigator.

***The Investigation Process***

- (48) The investigator will take a reasonable amount of time to conduct the investigation by interviewing the Parties and relevant Bystanders and Witnesses and obtaining and reviewing any potentially relevant documents.
- (49) The investigator will prepare an investigative report outlining findings and conclusions and will submit the report to HR.
- (50) The findings and conclusions may relate to both the conduct at issue and the impact of the conduct on those involved.
- (51) The investigator may include recommendations in the investigative report in relation to remedies and outcomes where applicable, and if requested by AbbyPD.
- (52) HR will advise both the Complainant and Respondent of the findings and conclusions of the investigation and any recommendations related to their conduct, through a written summary of the report. Other parties involved in the complaint (Witnesses and others) will be advised that the investigation has been concluded but will not be provided with any further information.

***Interim Measures***

- (53) It may be necessary to take interim measures, such as requiring transfers, leaves, or imposing restrictions regarding contact or communication between the Parties while a Complaint is being investigated. Such measures will be considered precautionary, not disciplinary.

***Mediation***

- (54) Where appropriate, mediation is available to the Parties to try to resolve the Complaint at any point during the process. Any ongoing investigation under this policy will be suspended during mediation and will resume if mediation is unsuccessful. Unless explicitly agreed to by the Parties in writing, the investigator will not act as the mediator and will have no communication with the mediator regarding the Complaint at any time.

***Withdrawal of a Formal Complaint***

- (55) At any time during the course of an investigation of a Complaint, the Complainant may choose to withdraw the Complaint. Such a withdrawal will be without penalty so long as the AbbyPD is able to determine that the Complaint was filed in good faith. HR may choose to continue the investigation despite the Complainant's wish to withdraw the Complaint. If the investigation is discontinued, there will be no indication of the Complaint in the personnel files of either the Complainant or Respondent.

***Time Limits***

- (56) Complaints should be filed as soon as possible after the incident, but in any event no later than one year from the incident (or in the case of a series of incidents, from the last incident in the series). However, the AbbyPD recognizes that some circumstances may, unfortunately, delay the reporting of a Complaint. In these cases, the time limit may be extended if the Deputy Chief Constable - Administration considers that the severity of the Complaint, and the basis for and the length of the delay are reasonable.

***Appeals***

- (57) Within 15 days of receiving a summary of the investigative report, either Party may file an appeal with the Chief Constable or designate. If the Chief Constable is the Respondent, then the appeal will be filed with the Chair of the Abbotsford Police Board.
- (58) The appeal will be restricted solely to allegations that the investigative process was unfair. The appellant will be required to articulate the way(s) in which the

investigative process is alleged to have been unfair. The appeal will not constitute an avenue in which to “re-investigate” the merits of the Complaint.

- (59) The Chief Constable or designate will review the investigative report to evaluate the fairness of the process.
- (60) If the Chief Constable or designate has any concerns with the investigative process, they may, at their sole discretion:
  - (a) remit the matter back to the investigator, with specific questions/areas requiring clarification; or
  - (b) refer the Complaint to a new investigator, depending on the nature and extent of procedural concerns as determined by the Chief Constable or designate.
- (61) The decision of the Chief Constable, designate or Chair of the Abbotsford Police Board is final.

### **Outcomes**

- (62) In conjunction with HR, Management will determine and implement specific outcomes, that are reflective of and relevant to the findings and conclusions set out in the investigative report (“Implementation Plan”) within a reasonable period of time after receipt of the investigative report.
- (63) Part of the Implementation Plan may include processes similar to those set out in Step 2 (including mediation) (see paragraph (35)), in order to help rebuild/repair the relationships.
- (64) Outcomes that may form part of the Implementation Plan include one or more of the following:
  - (a) oral and/or written apology from the Respondent(s);
  - (b) operational or physical adjustments to the Workplace environment;
  - (c) adjustment to leave entitlements (e.g. sick leave/vacation banks);
  - (d) Employee Assistance Plan referrals;
  - (e) coaching of expectations – verbal or in writing;
  - (f) medical assessment referrals;
  - (g) training;
  - (h) transfers to a different shift/section; and/or
  - (i) institution of formal discipline and disciplinary processes, up to and including suspension/termination for Workers and suspension/removal

from premises for contractors/volunteers. Significant discipline (including termination of employment and/or removal from premises) may arise even after one incident if such action is warranted based on the severity of the findings/conclusions of the investigation. Otherwise, progressive discipline will be implemented. Disciplinary processes will be implemented in accordance with any relevant collective agreements, employment contracts or *Police Act* provisions.

- (65) In the event that the Respondent is a contractor or employee of another police agency, the AbbyPD will consult with the appropriate personnel within the external agency to determine the appropriate remedy.
- (66) Once the appeal period has expired or the appeal has concluded, the AbbyPD will inform the Complainant and Respondent of the Implementation Plan.
- (67) The Complainant and Respondent will only receive information relevant to their role in the Implementation Plan; they will not be privy to recommendations related to the other Parties.
- (68) Any Party who disagrees with the nature/extent of action or disciplinary action imposed as a result of the investigation may:
  - (a) in the case of a member or unionized Worker, file a grievance pursuant to the relevant collective agreement; or
  - (b) in the case of an exempt Worker, appeal the action directly to the Chief Constable.

#### **MALICIOUS/VEXATIOUS/FRIVOLOUS COMPLAINTS OR COMPLAINTS FILED IN BAD FAITH**

- (69) In circumstances where a complaint or concern is found to have been made in bad faith or determined to be malicious, vexatious or frivolous, the Complainant may face discipline, or other similar outcomes as set out above under the section of this policy dealing with outcomes.
- (70) This section of the policy may apply to filed complaints (at the informal or formal stage) as well as any circumstances in which individuals repeatedly threaten to file complaints against others.
- (71) A complaint or threatened complaint will be deemed to have been made in bad faith when, considering all of the circumstances surrounding the complaint, including its timing and context, the filing of the complaint was determined to be a misuse of this policy, including , but not limited to, where the complaint was found to have been filed made primarily in an attempt to:

- (a) influence, resist or overturn decisions of AbbyPD related to the Complainant's employment;
  - (b) intimidate, threaten or purposefully cause problems for the Respondent;
  - (c) create a hostile or intimidating Workplace environment for others, including the Respondent; or
  - (d) create a potential personal benefit or entitlement to the Complainant unrelated to fulfillment of the purposes of this policy.
- (72) The unreasonable, repetitive filing of complaints or concerns that are consistently found to be unsubstantiated will likely lead to a finding the Complainant has filed complaints in bad faith, or maliciously, vexatiously or frivolously.

### UNSUBSTANTIATED COMPLAINTS

- (73) If the investigator finds insufficient evidence to support the Complainant's allegations, the Complaint will be dismissed as unsubstantiated. No action will be taken against the Complainant, unless the investigator has made a finding that the Complaint was malicious, vexatious, frivolous or filed in bad faith.
- (74) If a Complaint is dismissed, there will be no record of the Complaint on the Respondent's file.

### MULTIPLE PROCEEDINGS

- (75) This policy is in addition to, and not in substitution for, any rights an individual may have to pursue action, whether under a collective agreement, or pursuant to any applicable legislation, including the *Human Rights Code* and *Workers Compensation Act*.
- (76) If at any time a Worker elects to initiate other legal proceedings, or if the Worker takes any steps outside of those contemplated under this policy, the AbbyPD may consider discontinuing or suspending proceedings under this policy, depending on a consideration of all of the circumstances.
- (77) Potentially criminal behavior such as assault, sexual assault, criminal threats, criminal harassment or attempts at extortion will be dealt with through the criminal complaint and investigative process.

RELATED DOCUMENTS	
Form:	<a href="#">AbbyPD-305 Respectful Workplace – Confidential Report</a>
Legislation:	<a href="#">Policy for the <i>Workers Compensation Act</i>. Policy Item D3-115-2 Employer Duties – Workplace Bullying and Harassment</a>

Policy	<a href="#">I.C.100 Public Trust Complaints, Ordered Investigations and Internal Discipline Investigations: Municipal Constables and Special Municipal Constables</a>
WorkSafeBC	<a href="#">Bullying &amp; Harassment</a>

<b>POLICY HISTORY</b>	
Effective:	November 26, 1996 ("Workplace Harassment")
Revised:	October 18, 1999 (Rev 695)
Revised:	September 15, 2015
Revised:	February 19, 2020
Revised:	June 25, 2020