



# **DISCRIMINATION, BULLYING and HARASSMENT in the Workplace POLICY**

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## **1. Purpose of policy**

TLC will not tolerate discrimination, bullying or harassment of its employees or volunteers by anyone within or outside the organization. The purpose of this policy is to ensure that all employees and volunteers are aware that harassment on any grounds listed in this policy is prohibited.

## **2. Definitions**

- In this document “TLC” refers both to TLC The Land Conservancy of British Columbia and TLC The Land Conservancy (Enterprises) Ltd.
- In this document the words “employee” and “staff” include “volunteer”, “contractor” and “consultant”.
- In this document “HR Committee” refers to all members of the Human Resources Committee.

## **3. Discrimination, Bullying and Harassment policy statement**

Policy Statement for TLC The Land Conservancy of British Columbia to all employees:

TLC is committed to providing a safe and respectful work environment for all staff and visitors. No one, whether an employee, a contractor, consultant or a member of the public, has to put up with discrimination, bullying or harassment of any kind, for any reason or at any time while at TLC. Likewise, no one has the right to harass, bully or discriminate against anyone else, at work or in any situation related to employment. This policy is one step toward ensuring that our workplace is a safe and comfortable place for all of us. The B.C. *Human Rights Code* protects us from harassment. The Criminal Code protects us from physical and sexual assault. You have a right to live and work without being harassed, and if you are harassed, you can do something about it. This policy tells you what to do if you experience harassment, bullying or discrimination at work, or if you, as an employee, become aware of a harassing, bullying or discrimination situation. TLC promises to treat all complaints seriously, whether they are made informally or formally. We undertake to act on all complaints to ensure that they are resolved quickly, confidentially, and fairly. We will discipline anyone who has violated this policy and or anyone who does not act properly to remedy a complaint. At TLC, we will not put up with discrimination, bullying, or harassment.

## **4. Definitions of discrimination, bullying and harassment**

Discrimination is unjust or prejudicial treatment towards people, which adversely treats or impacts them, on any of the prohibited grounds set out in the Human Rights Code. Indigenous identity, race, colour, ancestry, place of origin, religion, family status, marital status, physical disability, mental disability, sex, age, sexual orientation, gender identity or expression, political belief or conviction of a criminal or summary conviction offence unrelated to their employment.

Employees’ conduct must not discriminate against other employees because of these personal characteristics. Discriminatory behaviour, including harassment or disrespectful behaviour, as determined by a reasonable person, may be verbal, non-verbal, physical, deliberate or unintended.

Bullying and harassment is any behavior that demeans, humiliates, or embarrasses a person, and that a reasonable person should have known would be unwelcome. It includes actions (e.g. touching, pushing), comments (e.g. jokes, name-calling), or displays (e.g. posters, cartoons). It

may be a single incident so serious that it has a lasting, harmful effect or may continue over a period of time.

### **i. Examples of bullying and harassment**

Harassment and bullying are any action that makes a colleague, employee, or client feel degraded, humiliated, or embarrassed. It includes, but is not limited to, jokes, comments, insults, touching, pinching, leering, posters, cartoons, e-mail and telephone calls. It includes conditions of employment that are degrading, humiliating, or sexual, and requests, e.g. for sex, that the employee believes they must go along with to keep the job or get a promotion, raise, transfer, or some other benefit of employment, or to avoid being penalized. Some examples of harassment and bullying include but are not limited to behaviours such as:

- Verbal aggression or insults;
- Calling someone derogatory names;
- Vandalizing personal belongings;
- Spreading malicious rumours;
- Unwelcome remarks, questions, jokes, or innuendo of a sexual nature; Written or verbal abuse or threats;
- practical jokes that embarrass or insult someone.

Bullying and harassment can take place in the workplace itself, or outside of the workplace in a situation that is in some way connected to work. For example, during delivery trips, off-site meetings, business trips, and any other event or place related to employment, or when the employee is present in the course of employment. Bullying and harassment will not be tolerated in any work-related place or at any work-related event.

### **ii. Sexual harassment**

Sexual harassment includes offensive or humiliating behaviour that is related to a person's sex, as well as behaviour of a sexual nature that creates an intimidating, hostile, or "poisoned" work environment, or that could reasonably be thought to put sexual conditions on a person's job or employment opportunities. A few examples are: questions and discussions about a person's sexual life; touching a person in a sexual way; commenting on someone's sexual attractiveness or sexual unattractiveness; persisting in asking for a date after having been refused; telling a woman she belongs at home or is not suited for a particular job; eyeing someone in a suggestive way; displaying cartoons or posters of a sexual nature; writing sexually suggestive letters or notes.

Sexual harassment is frequently more about power than about sex. It often occurs in situations where there is unequal power between the people involved and is an attempt by one person to assert power over the other. The harassment can also occur when an individual is in a vulnerable position because they are in the minority - the only woman, member of a visible minority, aboriginal person or person with a disability - and is, for example, ostracized by colleagues. If the person who is accused of harassment should have known that the behaviour was unwelcome, they may be considered responsible, even for unintentional harassment. If an employer knew or should have known that an inappropriate situation existed, and did nothing about it, penalties may be imposed on that person. The courts may impose further penalties on that organization or person.

### **iii. What is not harassment?**

#### **a) Consensual Banter or Relationships**

Two or more employees bantering back and forth is not harassment if everyone involved is in agreement. But if any employee, including an employee not directly involved in the banter, feels

uncomfortable with this behaviour, and the behaviour continues even after that person has expressed their discomfort, or if the others involved should have known the person was uncomfortable, then it is harassment. This type of harassment can create what is known as a "poisoned work environment", where employees do not feel safe and feel consistently humiliated.

Employees flirting with each other, or becoming involved in a romantic or sexual relationship, are not harassing each other, as long as the relationship is consensual. If one of the employees changes their mind, and the other person persists in trying to continue the relationship, this is harassment.

#### **b) Legitimate Management Intervention**

Appropriate performance reviews, counselling, and discipline are not harassment.

### **5. Employees' Rights and Responsibilities**

This section will tell employees how they can expect to be treated at work, and what employees' responsibilities are in creating an environment that is free of harassment and bullying. Specific information about the complaint process is in the Procedures (see section 7).

#### **i. Respect others**

Each employee has the right to be treated fairly and respectfully in the workplace. Each employee also has the responsibility to treat coworkers and the public in a way that respects individual differences. No matter what your position, or that of the people with whom you interact at work, showing mutual respect and consideration will make work easier for all of us. If you have doubts about whether a joke, comment, or other behaviour will embarrass, humiliate, degrade, or otherwise bother someone, then don't say or do it.

#### **ii. Speak up when you are impacted**

If someone behaves in a way that offends, harms, humiliates or degrades you, do not put up with it. First, if you feel that you can speak to that person, do so. Let them know how you feel and the impact on you. Tell them the behaviour is inappropriate. If they continue the behaviour, or if you do not feel you can speak directly to the person, you have several options, from speaking to an anti-harassment counsellor to filing a formal complaint.

For more details, see the Procedures section of this policy.

#### **iii. Report bullying and harassment if you are a witness**

If you observe a co-worker or other person behaving in a way that seems to be embarrassing or harassing or bullying someone else, you can and should speak up. You can let them know in a respectful way that you think the behaviour is inappropriate. If you think someone is being bullied or harassed, you can let that person know you support them in ending the situation. Depending on the circumstances, you may want to say something as the behaviour is happening, or you may decide to speak privately with either of the people involved. You can speak to the Executive Director or someone on the HR Committee, although you may want to check first with the person whom you believe is being bullied or harassed. They may not want to report bullying or harassment or may want to deal with it themselves.

All staff have a responsibility to co-operate in the investigation of a bullying or harassment complaint. Anyone who gives evidence in an investigation, or who is otherwise involved in the process, must keep this information confidential, except as is necessary to deal effectively with the complaint. These are serious issues, and people's privacy must be respected. Even once a complaint is resolved, confidentiality and respect are important.

## **6. Taking Responsibility**

### **i. Put a stop to bullying and harassment;**

TLC has full responsibility for making sure our work environment is free from bullying and harassment. The Executive Director, members of the HR Committee and Board members have a responsibility to stop bullying and harassment. If you become aware of bullying or harassment in the workplace, or elsewhere in the organization, you must do everything you can to stop it, whether a complaint has been made. Not knowing is not an excuse. If a reasonable person should have known that bullying or harassment was going on, you will still be held responsible if you let the situation continue. When those responsible for ensuring a safe work environment ignore bullying or harassment they may not only face legal responsibility but will be disciplined by TLC.

### **ii. Be aware**

Being aware of the following things can help alert you to problem situations:

- an unexplained change in an employee's performance;
- someone suddenly taking more sick leave;
- an employee isolating themselves, seeming distracted,
- not participating in office socializing;
- rumours; or,
- awkwardness or discomfort between two or more employees.

### **iii. Listen to employees**

If something doesn't seem right, talk to the employee you are worried about. Often, having someone listen to them can help a person talk about a problem. Be sensitive to employees' rights and dignity, and to keep these discussions and any ensuing discussions confidential, except as is absolutely necessary to effectively deal with the complaint.

## **7. Bullying and Harassment Policy Procedures**

### **i. If you are being bullied or harassed**

The following steps will tell you what to do if you or someone else is being bullied or harassed. This section will also tell you exactly what you can expect from the complaint process, what the possible remedies and penalties for harassment are, how to appeal, and how to give feedback on the policy to TLC.

#### **a) Speak Up when you are impacted**

The first thing to do if you are being bullied or harassed is to tell the person to stop, if possible. Let them know that you are embarrassed, humiliated, demeaned, or otherwise bothered by what they are doing or saying. You could speak to the person directly or write a letter to them. If you write a letter, date it and keep a copy. If you speak to them, you may want to tell a trusted friend what you have done and why. Often, a person may not be aware that their behaviour is bothersome and will change their behaviour once they realize this.

#### **b) Make Notes**

You should also make a note of what the bothersome behavior was, the date it happened, how you felt, what you did about it, and who else was present, if there were witnesses. Ideally, bullying or harassment will stop. If it does not, continue to keep notes. These will be useful if there is an investigation later.

### **c) Informal Procedures**

Speak to a member of the HR Committee. It may be that communicating directly with the person will not be enough, or that you feel unable to deal with the person directly. In that case, you can speak to the Executive Director, or one of the members of the Board of Directors. The person you speak to will ask you for details of what happened, will make sure you understand the policy and any other options you have (such as a human rights commission complaint), and will ask how you want to proceed. You may ask them to help you write a letter or to speak to the harasser on your behalf. You may ask them to arrange for mediation between you and the person whose behaviour offends you. If these attempts to resolve the situation don't work, you can also ask them to help you file a formal complaint. The informal procedures are optional. You may also immediately file a formal complaint or, if you feel that would not be productive, you may go directly to the B.C. Human Rights Commission.

### **d) Mediation**

If the circumstances permit, mediation can come before a formal investigation. Mediation is a process by which a neutral third party helps the people involved in the complaint reach a solution that is acceptable to both parties. If you want to work toward a mediated settlement, the Executive Director (or Board Member, if the Executive Director is a party to the complaint) will appoint a mediator from within or outside the organization who is acceptable to both parties, is not otherwise involved in the complaint and who will not be asked to represent the organization at any stage of any proceedings related to the complaint.

However, either party has the right to refuse mediation. You are the only one who can decide if mediation is appropriate for you. Do not agree to it if you feel pressured into it or feel that you are at a disadvantage or vulnerable because of your age, sex, race, colour, religion, sexual orientation, economic position, level of authority, or for any other reason. If someone suggests mediation but you are uncomfortable with it, you can say so, and it will not be part of the complaint process. If mediation does occur, each person has the right to be accompanied and assisted during the sessions by someone with whom they feel comfortable.

### **e) Formal Complaints**

If the informal route for resolving a bullying or harassing situation does not succeed or is not appropriate, TLC supports its employees in filing a formal complaint. It will be investigated, either by a specially trained person from within the organization or by a consultant. This person will investigate the complaint thoroughly. They will interview the complainant, the alleged harasser, and any witnesses. All employees have a responsibility to co-operate in the investigation.

The investigator will need to know:

- your (the complainant's) name and position;
- the name and position of the alleged harasser;
- details of what happened;
- dates, times, and how often these things occurred;
- where they happened; and,
- the names of any witnesses.

You will need to be prepared to supply this information.

### **f) Rights if you are being harassed**

If you are the complainant, you have the right:

- to file a complaint and have it dealt with promptly, in confidence, and without fear of

embarrassment or reprisal, as long as the complaint is made in good faith;

- to have a person of your choice accompany you during the process;
- to make sure that no record of the complaint is placed on your personnel file, as long as it was made in good faith;
- to be informed about the progress of your complaint;
- to be informed of the type of corrective measures that will result from the complaint;
- to receive fair treatment.

## **ii. If you are accused of bullying or harassment**

### **a) Informal Procedures**

If someone complains to you informally about your behavior, take time to reflect on the complaint. It may be that without intending to you have spoken or acted in a way that has offended, humiliated, or degraded another person or group of people. It is your responsibility to change your behaviour if it is harassing or offensive to others. You may also want to consider apologizing. Keep written notes of any conversation you have where someone suggests you have bullied or harassed them or another person. Record the conversation and the date it happened, how you felt, and what you did, if anything. Also make notes of your version of the alleged bullying or harassment, the date it occurred, and who else was present, if there were any witnesses. If you and the person who has brought the complaint forward are unable to resolve the situation, you can turn to the HR Committee for advice.

### **b) Mediation**

If someone has accused you of harassment, and you have not been able to resolve the situation with that person informally, mediation is a possible next step. Mediation may make a formal complaint unnecessary. You can ask for mediation; or you may agree if it is suggested to you. You do not have to agree, however, if you think that you are being pressured into something that does not feel right for you. If you want to work toward a mediated settlement, the Executive Director (or Board Member, if the Executive Director is a party to the complaint) will appoint a mediator from within or outside the organization who is acceptable to both parties, is not otherwise involved in the complaint and who will not be asked to represent the organization at any stage of any proceedings related to the complaint. If mediation does become part of the informal process, each person has the right to be accompanied and assisted during the sessions by someone of their choosing.

### **c) Formal Complaints**

If someone files a formal complaint about your behaviour, you are required to participate in the investigation. You can approach the HR Committee for advice. You will be expected to cooperate and give your perspective on what happened, and, if the investigation shows that you did harass another person or group of people, you will be expected to change your behaviour. You will also be subject to disciplinary action (see Section 9).

### **d) Rights If You Are Accused of Bullying or Harassment**

If you are the individual accused of bullying or harassment, you have the right:

- to be informed of the complaint, and have it dealt with promptly and in confidence;
- to be given a written statement of the official allegations, if an official complaint has been laid, and to respond to them;
- to have a person of your choice accompany you during the process;
- to be informed about the progress of the complaint;
- to make sure that no record of the complaint is placed in your personnel file if the complaint was found to be unsubstantiated or not made in good faith;
- to receive fair treatment.

### **iii. Other employees**

All employees are expected to cooperate in the investigation of complaints and efforts to resolve them. Employees should be mindful of the sensitivities of the parties and should keep any information related to complaints confidential. Release of confidential information may result in disciplinary action.

### **iv. The Investigation and subsequent action**

#### **a) Written report**

The investigator will submit a written report to the Executive Director (or Board Member, if the Executive Director is a party to the complaint). The investigator will decide whether, on a balance of probabilities, there is enough evidence to conclude that bullying or harassment occurred. They will also identify all possibilities for resolving the situation and will recommend one or more courses of action. If bullying or harassment has occurred, the Executive Director will then decide (in consultation with the Board of Directors, if necessary) what remedies will be provided to the victim, the disciplinary action to be imposed on the harasser; and whether the people in question can continue in their current work areas.

#### **b) Decision**

The Executive Director will inform the person who filed the complaint and the person who violated the policy of any disciplinary action, remedies, and changes in work within a week or longer if extenuating circumstances cause a delay after the investigator has handed in the report. Corrective action, remedies, and changes in work will be instituted within one week of the people involved being informed of the decision (keeping in mind there may be extenuating circumstances that could result in a delay).

#### **c) Separation of the Complainant and Alleged Harasser**

If the complainant and the alleged harasser are in a subordinate relationship, the Executive Director may decide to assign one or both of them to a different work area during mediation or investigation. Co-workers may also be separated during an investigation, if necessary.

### **8. Remedies for the Victim(s)**

TLC will make every reasonable effort to remedy the effects of the discrimination. A person who has been harassed may receive one or more of the following remedies, depending on the severity of the harassment and what they have lost because of it:

- an oral or written apology from the harasser and TLC;
- lost wages;
- a job or promotion that was denied;
- compensation for any lost employment benefits, such as sick leave; and/or,
- a commitment that they will not be transferred, or will have a transfer reversed, unless they choose to move.

No record of the complaint, investigation or decision will go in the employees' personnel file, if the complaint was made in good faith. Any unfavourable work review or comments that were placed in the complainant's personnel file because of the harassment will be removed from the file.

### **9. Corrective Action**

Someone who has bullied or harassed another person will be subject to one or more of the following forms of discipline, depending on the severity of the bullying or harassment:

- a written reprimand;
- a suspension, with or without pay;
- a transfer, if it is not reasonable for the people involved to continue working together;
- a demotion; or,
- dismissal or terminate the relationship.

In most cases, the person will ideally be required to attend an anti-bullying and harassment training session. If the investigation does not find evidence to support the complaint, there will be no documentation concerning the complaint placed in the file of the alleged harasser. When the investigation reveals bullying or harassment has occurred, the personnel file of the person who violated the policy will include a record of the incident.

### **10. Unsubstantiated Complaints**

If a person, in good faith, files a bullying or harassment complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed, and no record of it will be put in the accused person's file. As long as the complaint was made in good faith, there will be no penalty to the person who complained, and no record in their file.

### **11. Complaints Made in Bad Faith**

In the rare event that the complaint was made in bad faith - in other words, the person making it had absolutely no basis and deliberately and maliciously filed the complaint - that person will be disciplined, and a record of the incident will be put in their file.

Penalties for someone who complains in bad faith will be the same as for a case of harassment (see Section 9) and will depend on the seriousness of the situation. Compensation for the person falsely accused may include steps to restore any lost reputation, and any of the remedies that would be available in a case of harassment (see Section 8).

### **12. Confidentiality**

TLC will not disclose personal details, or any circumstances related to a complaint, to anyone, except as necessary to investigate the complaint or take disciplinary action related to the complaint, or as required by law. Staff members involved in a complaint are reminded to keep all information confidential, except in the circumstances above. TLC will take all reasonable steps to protect confidential information. However, it must be understood that absolute confidentiality cannot be guaranteed.

### **13. Retaliation**

Retaliation is considered a serious disciplinary breach. Anyone who retaliates in any way against a person who has complained of bullying or harassment, given evidence in an investigation, or been found guilty of bullying or harassment, will themselves be considered guilty of bullying or harassment and penalized accordingly. The possible penalties are the same as those assessed against bullies or harassers.

### **14. Appeal**

If either the person laying the claim of bullying or harassment, or the person accused of bullying or harassment feels that the ruling of the investigator, the subsequent acceptance of that ruling or disciplinary action

resulting from that ruling is unjustified they may request that the HR Committee undertake a review and determine further actions to be taken, if warranted. Such a review will take place within two weeks (keeping in mind there may be extenuating circumstances that could result in a delay) from the request being received in writing.

### **15. Other Options**

A complainant may, within one year of the behaviour complained of, file a complaint with the B.C. Human Rights Tribunal if the harassment was because of race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age, and conviction for a criminal or summary conviction offence unrelated to employment. Information on filing a complaint can be obtained by phoning: 604 775 2000 or Toll Free 1 888 440 8844 and TTY 604 775 2021.

### **16. Monitoring**

TLC will monitor this policy and adjust where necessary. We will review the policy every year. If you have any concerns with the policy, please bring them to the attention of the Executive Director. Your comments are always welcome. There is no place for bullying or harassment in a workplace that strives for equality and respect for all its members. TLC has committed itself to that goal, and we will do our utmost to achieve it.