

## WHISTLEBLOWER POLICY

Adopted Nov 28, 2017

### Intent

The Shaw Festival is committed to integrity and ethical behaviour in the workplace, and will foster and maintain an environment where employees can work safely and appropriately, without fear of retaliation.

Maintaining the highest standards of conduct requires vigilance from everyone in identifying concerns, and consultation and collaboration in addressing concerns. This responsibility to identify and raise concerns applies to each of us, irrespective of our seniority and whether or not the concern arises in the particular area within which we work. Whatever our position, we are all part of a single team; it is not acceptable for us to remain silent in circumstances known to us that reasonably raise a concern, on the theory that the concern is someone else's responsibility to identify and raise.

This policy has been adopted to ensure that you understand that you may report any wrongdoing that may adversely impact the Shaw Festival, its employees, patrons, suppliers, volunteers, visitors, or the public at large, without fear of retaliation or a negative impact on your employment status at the Shaw Festival, when such instances fall outside the normal HR policy and procedural guidelines or where such instances might or should rise to involve the legal authorities.

**This policy is intended to supplement, not replace, Shaw Festival's Freedom from Harassment, Discrimination and Workplace Violence Policy.**

### Definitions

**Appropriate Authority** – Any delegated employee who has the authority to make final decisions regarding employees, wrongdoing, harassment claims, and resulting actions. At Shaw Festival, the Appropriate Authority is: the Human Resources Director and the Executive Director. The Chair of the Shaw Festival Board or the Chair of the Board's Nominating and Governance Committee may be contacted in place of the Executive Director should any aspect of the complaint involve either member of the Executive Team.

**Complainant** – Any person that submits a complaint or report of wrongdoing.

**Respondent** - Someone who's alleged conduct is the subject of a complaint.

**Wrongdoing** – Any illegal action or violation of Shaw Festival policy.

**Retaliatory Acts** – Retribution, or reprisal against any Complainant as a result of the Complainant reporting an incident of wrongdoing, or against any employee that participates in an investigation relating to the allegation of wrongdoing.

### Guidelines

Normally, concerns can and should be raised openly with team leaders or supervisors with responsibility for the matter in question, and be dealt with openly through consultation, including with Shaw Festival management. There will be no adverse consequences to the person raising a concern in good faith from the open reporting of the concern.

However, there may be circumstances where, despite this assurance, you are reluctant to raise a concern openly with the responsible person for the matter, or where, having raised it, you have a continuing concern about how the issue has been handled.

The purpose of this policy is to address these circumstances and thereby encourage the reporting of concerns where there is a desire for confidentiality or fear of retaliation, by providing you with an avenue for confidential reporting as an added protection against adverse consequences from reporting.

In these circumstances, you should report the incident(s) to an Appropriate Authority. If you raise a concern under this policy you should make this clear to the recipient of your disclosure. This will ensure that the concern is dealt with in accordance with this policy and that you receive the full protection provided for under the policy.

### **Anonymous Reporting**

It is open to you to raise a concern anonymously; i.e., without disclosure of your name. The procedure for anonymous reporting is:

- prepare a written explanation of the concern;
- put the explanation in an envelope addressed to an Appropriate Authority; and
- send the envelope to the addressee through internal or external mail.

### **Confidentiality**

It is assumed that all concerns raised under this policy are being raised on a confidential basis; i.e., on the understanding that neither the name of the whistleblower nor any identifying particulars will be revealed without the consent of the whistleblower.

Every effort will be made to protect the confidentiality of the whistleblower's identity to the extent reasonably possible. All records of workplace wrongdoing reports and subsequent investigations are considered confidential and will not be disclosed to anyone except to the extent required by law.

### **Report Obligations – Supervisors & Managers**

Supervisors and managers are directed to take all appropriate steps to prevent and stop wrongdoing in their areas of responsibility. Any supervisor or manager who is subjected to, witnesses, or is given written or oral complaints of wrongdoing or retaliation shall immediately report it to an Appropriate Authority.

Supervisory personnel who are contacted by an individual seeking to file a complaint about wrongdoing in their area shall assist the complainant in contacting an Appropriate Authority.

### **Investigation**

Shaw Festival seeks to resolve claims of wrongdoing in the workplace as expediently as possible. Investigations shall be conducted and the appropriate actions taken following the complaint.

The Appropriate Authority is responsible for determining and administering the methods and means for addressing complaints. At the conclusion of an investigation, the Appropriate Authority shall create a report including the findings that have been proven and whether or not the Policy has been violated.

### **Report Handling Procedures**

The Appropriate Authority shall advise the Complainant (unless anonymous) and the Respondent of the resolution of any investigation conducted under this Policy. The Executive Director will bring to the attention of the Shaw Festival Board of Trustees any matter raised under this policy that the Executive Director believes involves significant risk to the Shaw Festival.

**Disciplinary Actions**

Upon concluding that an instance of workplace wrongdoing has occurred, the Respondent will be subject to disciplinary action, which may result in disciplinary and/or corrective action up to and including termination of employment, and possible legal action depending on the severity of the action. Disciplinary actions imposed by the Appropriate Authority will be determined on the basis of the facts of each case and the extent of harm to the Shaw Festival Theatre’s interests and business goals.

**Restrictions**

There will be no adverse consequences for anyone who reports a concern in good faith under the protection of this policy. However, it is a violation of this policy for anyone to knowingly make a false complaint of wrongdoing or to provide false information about a complaint. Individuals who violate this policy are subject to disciplinary and/or corrective action up to and including termination of employment.

I, \_\_\_\_\_ acknowledge that I have read and understand the Whistleblower Policy of the Shaw Festival. I agree to adhere to this policy and will ensure that employees working under my direction adhere to this policy.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Freedom from Harassment, Discrimination and Workplace Violence Policy Maintaining a Respectful Workplace**

**Revised Nov 28, 2017**

**Date of Issue: December 20, 2017**

Shaw Festival values the diversity of its workforce, its patrons and visitors and is committed to providing a work environment supportive of human dignity and respect. It is the policy of the Shaw Festival to ensure that every employee is entitled to a workplace free of intimidation, discrimination, harassment and workplace violence. Such acts in any form will not be tolerated on our premises, or in the course of our business, functions and events, wherever that business, function or event occurs, including locations of business travel.

We acknowledge our responsibility to support and assist persons subject to harassment, discrimination or violence, and to take appropriate action to stop such conduct. This policy pertains to all employees and extends to all Shaw Festival activities. For purposes of this policy “employee” includes members of the Shaw Festival’s Board of Trustees and, if a Board of Governors is created by the Board of Trustees, of the Board of Governors. Shaw upholds, as a matter of normal business practice, the freedom from harassment and discrimination provisions of the Ontario Human Rights Code (the “Code”) and the freedom from harassment provisions of Ontario’s Occupational Health & Safety Act (the “OHSA”), and is committed to providing and maintaining a workplace that is safe and free of violence in compliance with the OHSA.

Every employee of Shaw has a responsibility to play a part in ensuring a workplace free from harassment, discrimination and violence. This means not engaging in, allowing, condoning, or ignoring behavior contrary to this policy.

### **WORKPLACE HARASSMENT AND DISCRIMINATION**

The Code defines harassment as meaning:

**“Engaging in a course of vexatious comment or conduct that is or ought to be reasonably known to be unwelcome”.**

Vexatious is defined as “distressing” or “annoying”.

The Code prohibits discrimination and harassment based on grounds that include age, sex (including pregnancy and breast feeding), sexual orientation, gender identity, gender expression, marital status, family status, race, colour, ancestry, citizenship, ethnic origin, place of origin, creed, religion, political affiliation, record of offences or disability. Personal harassment, not based on one of these prohibited grounds, can be equally demeaning, intimidating or humiliating and is also covered by this policy.

Harassment and discrimination can be distinguished from normal, mutually acceptable socializing in that it is offensive, insulting, intimidating, embarrassing, hurtful, malicious and creates an uncomfortable work environment.

Management will treat any complaint of harassment or discrimination with seriousness, sensitivity and discretion. Confidentiality will be maintained wherever possible. Exceptions will only be made where disclosure is necessary for the purposes of conducting a proper investigation, taking appropriate disciplinary/corrective measures, or where required by law.

**Points to remember about harassment.**

- Harassment and discrimination can be present in every job level and occupation
- Harassment and discrimination is defined by the perceptions of the recipients of the behavior, not by those of the harasser
- Harassment and discrimination is about power and control

Workplace harassment and discrimination range from subtle to blatant behaviour and can be expressed in a number of ways. The unwelcome comment or conduct does not have to be directed at a specific person for harassment or discrimination to occur. Any form of unsolicited behavior characterized by words, acts or gestures, such as hurtful remarks, insults, humiliating jokes, display of offensive or obscene material, inappropriate physical contact, intimidation, inappropriate demands or reprisals, may constitute harassment or discrimination.

Any person, regardless of the person's position of authority, may be responsible for committing an act of harassment or discrimination. While harassment and discrimination usually involves repeated acts or a course of conduct, a single incident could be serious enough to constitute a breach of this policy.

However, a reasonable action taken by a principal or manager relating to the management and direction of an employee or the workplace does not constitute harassment or discrimination.

**Harassment and discrimination includes, but is not limited to, the following examples:****Sexual Harassment:**

Sexual harassment may be broadly categorized into two main components:

1. Where a person in a position to confer, grant, or deny a benefit or advancement to a person:
  - makes employment or benefits from employment, such as promotions, good performance ratings, etc. conditional upon the employee's acceptance of sexual advances
  - threatens to or makes reprisals when an employee rejects a sexual advance
2. Where the work environment becomes "poisoned" when the conduct or comments of the supervisors or fellow employees create a hostile work environment.

Sexual harassment may include, but is not limited to:

1. Unwelcome remarks, jokes, innuendos, or taunting about sex, sexual orientation, gender identity, gender expression, or a person's body or attire.
2. Practical jokes of a sexual nature which cause awkwardness or embarrassment.
3. Sexual jokes or comments, including passing around written sexual jokes or comments (for example, by e-mail).
4. Making gender-related comments about someone's physical characteristics or mannerisms.
5. Making comments or treating someone badly because they don't conform with sex-role stereotypes.
6. Using language that puts someone down based on their sex, sexual orientation, gender identity or gender expression, including sex-specific derogatory names.
7. Refusing to work with people because of their sex, sexual orientation, gender identity or gender expression.
8. Showing or sending pornography, sexual pictures or cartoons, sexually explicit images, or other offensive images or material (including on-line).
9. Leering (suggestive staring) or other gestures.
10. Unnecessary physical contact such as touching, patting, pinching, etc.
11. Suggestive or offensive remarks or unwelcome questions or discussions about sexual activities or a person's personal life.
12. Spreading sexual rumours (including on-line).

13. Bragging about sexual prowess, or talking about sexual activities.
14. Sexual propositioning.
15. Demanding hugs, dates or sexual favours.
16. Asking someone to dress in a sexualized or gender specific way.
17. Sexual assault

#### **Examples of Harassment or Discrimination on Prohibited Grounds**

1. Mimicking, disparaging, ridiculing or insulting a person's accent, speech or mannerisms.
2. Comment or conduct which disparages, ridicules, or insults a person's;  
Insulting gestures, slurs or jokes which relate to;  
Displaying or distributing derogatory materials, cartoons or pictures which relate to;  
Using language (including using racial-specific derogatory names) that puts someone down based on their;  
Unfairly singling someone out for humiliating treatment because of their;  
**or**  
Refusing to work with people because of their:

**Age, sex (including pregnancy and breast feeding), sexual orientation, gender identity, gender expression, marital status, family status, race, colour, ancestry, citizenship, ethnic origin, place of origin, creed, religion, political affiliation, record of offences or disability.**

3. Violence or assault.

#### **WORKPLACE VIOLENCE**

Workplace violence is defined in the OHSA as the exercise, or the attempt to exercise, physical force by a person against a worker, in a workplace, that causes or could cause physical injury, or a statement or behaviour that it is reasonable to interpret as a threat to exercise physical force that could cause injury.

No forms of violence will be tolerated in the workplace on the part of employees, managers, patrons, suppliers, volunteers or visitors. Shaw will take such steps as it considers reasonable and appropriate to identify possible sources of violence and to implement procedures and precautions to eliminate or minimize the risks.

Any acts of violence or threats of violence in the workplace are unacceptable. It is up to each employee to report any threat or act of violence. Employees who initiate or are a party to acts of violence or aggression may be subject to discipline up to and including dismissal.

In accordance with the OHSA, Shaw has an obligation to provide employees with information, including personal information, related to an individual with a history of violent behaviour where there is a risk of workplace violence being perpetrated by that person. Such information will only be provided to those employees who could reasonably be expected to encounter that person at work, and where the risk of workplace violence is likely to expose those employees to injury. Only information that is reasonably necessary to protect employees from physical injury will be disclosed. Confidentiality will be maintained wherever possible.

Where Shaw is, or is made, aware of domestic violence that is likely to expose an employee to physical injury that may occur in the workplace, Shaw will take precautions to protect that employee. Any employee who feels that they are at risk of domestic violence should notify their supervisor or the Director, Human Resources. Supervisors who are aware of domestic violence that could enter into the workplace are required to report this information to the Director, Human Resources immediately.

Where there is an extremely urgent and/or life-threatening situation in the workplace, particularly with regard to serious violence, the most important concern is for the immediate safety and well-being of the affected employee. Depending upon the situation, the most immediate need may be to call the police, fire department or paramedics. Employee safety and security is of paramount importance and therefore, common sense must prevail.

**Examples of Violence in the Workplace:**

- Actual and attempted acts of physical violence such as hitting, punching, slapping or kicking
- Threats of physical violence or intimidation
- Intimidation causing fear or anxiety
- Other acts of physical aggression, such as the deliberate destruction of or damage to property, especially where such actions are meant to intimidate one or more individuals.

**NO RETALIATION FOR USING THIS POLICY**

All employees have a right to make a complaint or enforce their rights under this policy without retaliation or threat of retaliation.

Shaw prohibits reprisals or threats of reprisal against anyone who makes use of this policy or takes part in an investigation under this policy.

An act of retaliation or threat of retaliation against such a person will be treated in the same manner as harassment.

**MANAGEMENT RESPONSIBILITIES**

Shaw will ensure that complaints are handled with sensitivity and incidents of violence, discrimination, intimidation or harassment are discontinued as quickly as possible upon Shaw’s awareness of it and to ensure protection from retaliation for any employee who has made a complaint in good faith.

**EMPLOYEE RESPONSIBILITIES**

It is the responsibility of employees to show respect for others both in the workplace and in any capacity where they are representing the Shaw Festival. Employees are responsible for their actions and are expected to change their conduct when advised that their behaviour is not acceptable to others.

**What to Do if Harassment, Discrimination or Workplace Violence Occurs**

This policy outlines both informal and formal options available to any employee who believes that he or she or another person has been harassed, discriminated against or been subject to violence in the workplace.

While Shaw is committed to resolving harassment, discrimination and violence concerns internally, nothing in this policy precludes an employee from filing a complaint with the Human Rights Tribunal of Ontario or the Ministry of Labour, having criminal charges laid or instituting civil proceedings.

Employees who engage in harassment, discrimination or violence may expose themselves personally to damages in the event of a successful lawsuit or human rights case.

Keep a record. Write down dates, times, any witnesses, what was said or done, when and by whom. Documentation is extremely important, especially if the harasser does not stop or if the violence or harassment is serious and justifies a formal complaint.

### **Informal Resolution Options**

In many situations, simply informing the person that the person's comment or conduct is unwelcome will resolve the issue. Telling the person to "stop" may be difficult to do, but frequently it is the most effective means of eliminating the problem.

If you find it too difficult to speak to the person directly (or if you speak to the person but the unwelcome comment or conduct persists, or if you feel that as a result of speaking to the person you have been subjected to retaliatory behaviour), you are encouraged to discuss your concerns with your supervisor or department director, the Human Resources Director or the Executive Director, or, if any aspect of your concerns involves either member of the Executive Team, with the Chair of the Shaw Board or the Chair of the Shaw Board's Nominating and Governance Committee (any of the foregoing being a "Concern Recipient"). The Concern Recipient will assess whether the comment or conduct is related to the protected grounds outlined in the Code or whether it involves workplace harassment, discrimination or workplace violence as outlined in the OHSA.

In the event that the Concern Recipient determines that the comment or conduct complained of engages this policy, the resolution procedures below will apply.

After discussing your concerns with a Concern Recipient, you may wish to have the Concern Recipient (or someone nominated by you) address the matter informally with the person whose behaviour has troubled you, or accompany you in doing so.

The Concern Recipient may (after conferring with you) discuss the matter confidentially with other possible Concern Recipients. In particularly serious circumstances (for example, where there are previous complaints or incidents involving the person complained of or in cases involving allegations of inappropriate physical contact), the Concern Recipient may request that the Executive Director or the Chair of the Shaw Board initiate an investigation of the matter. The Concern Recipient will carefully consider your wishes before making such a request.

In every case where the Concern Recipient (or someone nominated by you) addresses the matter informally with the person whose behaviour is in question, the Concern Recipient will keep you apprised of how the matter is being addressed and of any proposed resolution initiatives. The Concern Recipient will confer with the Human Resources Director, the Executive Director or the Chair of the Shaw Board on a "no names" basis prior to attempting to resolve the matter.

The Concern Recipient will complete this informal procedure as soon as possible, normally within 15 days of your speaking to the Concern Recipient, unless a longer period is appropriate in the circumstances. In this case, the Concern Recipient will notify you of the proposed time frame.

### **Formal Complaint Options**

You may decide to make a formal written complaint under this policy to the Human Resources Director, the Executive Director, or, if any aspect of your concerns involves either member of the Executive Team, with the Chair of the Shaw Board or the Chair of the Shaw Board's Nominating and Governance Committee. Upon receipt of a written complaint, the Human Resources Director, the Executive Director, the Chair of the Shaw Board or the Chair of the Shaw Board's Nominating and Governance Committee will initiate a workplace investigation.

A formal written complaint may be made whether or not you have spoken to a Concern Recipient and whether or not the Concern Recipient agrees with you that there is evidence of harassment, discrimination or violence. You may also make a formal written complaint in the event that the informal process does not resolve the matter to your satisfaction.

### **Investigation of Formal Complaints**

The Human Resources Director, the Executive Director, the Chair of the Shaw Board or the Chair of the Shaw Board's Nominating and Governance Committee, as the case may be, will initiate an investigation whenever he or she receives a formal written complaint and in other circumstances where an investigation is required by law or would be appropriate in the interest of ensuring that the Shaw Festival is free from harassment, discrimination and violence.

An investigation might be appropriate where the Human Resources Director, the Executive Director, the Chair of the Shaw Board or the Chair of the Shaw Board's Nominating and Governance Committee becomes aware of a serious allegation or incident, or where a Concern Recipient has been approached by a person who does not wish to make a complaint (formal or informal), but who describes a very serious allegation or incident (for example, where there are previous complaints or incidents involving the person complained of or in cases involving allegations of inappropriate physical contact).

The investigation will be completed and the appropriate resolution decided upon within 30 days of the Human Resources Director, the Executive Director, the Chair of the Shaw Board or the Chair of the Shaw Board's Nominating and Governance Committee, as the case may be, receiving a formal written complaint or electing to initiate a complaint, unless a longer period is appropriate in the circumstances.

In that case, the Human Resources Director, the Executive Director, the Chair of the Shaw Board or the Chair of the Shaw Board's Nominating and Governance Committee, as the case may be, will notify the complainant of the proposed time frame.

In the course of its investigation, the investigator or investigative team will:

- Give a copy of the written complaint to the person whose conduct is complained of (the "Respondent").
- Provide the Respondent with an opportunity to respond to the complaint orally or in writing and give a copy of any written response or a written summary of the oral response to the complainant.
- Advise both the complainant and the Respondent of their right to have independent legal representation with respect to this investigation.
- Investigate the complaint.
- Where the complaint is substantiated, (i) recommend appropriate disciplinary or rehabilitative action; (ii) lodge a confidential record of the proceedings and the result with the Executive Director; and (iii) give a summary of the findings to both the complainant and the Respondent.
- Where the complaint is not substantiated, (i) take no further action against the Respondent, but (ii) lodge a confidential record of the proceedings and the result with the Executive Director; and (iii) give a summary of the findings to both the complainant and the Respondent.

At any stage during the informal or formal process, the complainant has the right to withdraw from any further action in connection with the complaint. The Human Resources Director, the Executive Director, the Chair of the Shaw Board or the Chair of the Shaw Board's Nominating and Governance Committee, as the case may be, however, remains obligated to pursue the matter if he or she believes the continued investigation is appropriate in the interest of ensuring that the Shaw Festival is free from harassment, discrimination and violence (for example, if there are concerns that the withdrawal of the complaint occurred as a result of possible retaliatory behaviour by the Respondent or in cases where there are previous complaints or incidents involving the Respondent or in cases involving allegations of inappropriate physical contact).

All procedural and administrative matters arising during the course of the investigation will be coordinated by the Human Resources Director, the Executive Director, the Chair of the Shaw Board or the Chair of the Shaw Board's Nominating and Governance Committee, as the case may be.

The Executive Director will bring to the attention of the Shaw Festival Board of Trustees any matter raised under this policy that the Executive Director believes involves significant risk to the Shaw Festival.

### **DISCIPLINARY AND REHABILITATIVE ACTIONS**

Disciplinary and rehabilitative action arising out of the informal resolution process or resulting from a formal complaint and subsequent investigation may include one or more of the following:

- A formal apology.
- Counseling and/or education on harassment, discrimination and violence.
- A written warning.
- A change of work assignment of the Respondent.
- A financial penalty.
- A record in the file of the Respondent.
- The suspension with or without pay of the Respondent.
- The termination of the Respondent.

### **CONFIDENTIALITY**

It is essential that the complainant, Respondent and all of those involved in the informal or formal investigation of a complaint maintain confidentiality throughout the formal or informal complaint procedure, the investigation and subsequent to the investigation. Information will only be provided to those who have a "need to know", or as required in the course of the investigation. It is the responsibility of all employees to cooperate with the investigation and to maintain strict confidentiality of all information related to the allegations and investigations.

It is a serious breach of this policy to break confidentiality unless disclosure of information relating to the complaint is required by law or is necessary in order for the proper investigation and resolution of the matter. Any such breach will be treated in the same manner as harassment.

### **CONDUCT BY NON-EMPLOYEES OF SHAW**

If you believe that you have experienced harassment, discrimination or violence in the workplace by a person not employed by Shaw (including a vendor, stranger, domestic/intimate partner, patron, volunteer or visitor), you may bring your concerns to the attention of a Concern Recipient. The Executive Director will have responsibility for any investigation relating to vendors, patrons or visitors.

### **RESTRICTIONS**

Harassment, discrimination and violence in the workplace is a serious issue. This policy must not be used maliciously or in bad faith. Bad faith or misconduct in the use of this policy will be treated in the same manner as harassment.

This policy will be reviewed annually. Revisions, when they occur, will be made available to all staff

If you have any questions regarding the above policy you may contact [REDACTED]  
[REDACTED]

I have read the above policy and I understand the reporting procedure:

\_\_\_\_\_  
Employee Name

\_\_\_\_\_  
Date