



POLICY ON HARASSMENT

Prevention and Investigation of Harassment in the Workplace

1. INTRODUCTION

Theatre by the Bay (“TBTB”) is committed to maintaining an environment which promotes the dignity and self-esteem of each employee and artist. However, occasions may arise when an employee or artist feels that he or she has been subject to harassment. The *Ontario Human Rights Code* protects TBTB employees and artists from harassment and other forms of discrimination on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (religion), sex, sexual orientation, age, record of offences (for which a pardon has been granted), marital status, family status (being in a parent-child relationship), or mental or physical handicap.

2. POLICY

Acts of harassment affect work performance and the climate of understanding and respect within TBTB. Every TBTB employee and artist is entitled to work in an environment free from harassment. All employees and artists are expected to conduct themselves so as to maintain a work environment free of harassment. Any conduct that might on reasonable grounds be perceived by an employee or artist to be harassment may result in a complaint and TBTB will react quickly and appropriately to harassment complaints. Harassment is a serious matter and will not be tolerated. TBTB can be held liable by a court or tribunal if it, or its directors and employees, do not act to put an end to discrimination or harassment if it arises in the workplace.

3. WHAT IS “HARASSMENT”?

In the Ontario Human Rights Code “harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. This includes any behaviour which is offensive, embarrassing and humiliating and which denies individuals their dignity and the respect to which they are entitled. Harassment includes engaging in a course of unwelcome verbal, visual or physical conduct where the person engaging in the conduct knows or ought reasonably to know that such conduct is offensive to or considered unwelcome by the person to whom it is made. Such conduct may include verbal or practical jokes, insults, threats, personal comments, innuendo, unwelcome sexual acts, comments or propositions. It may take the form of posters, pictures or graffiti. It may involve touching, stroking, pushing, pinching or any unwelcome physical contact.

Offensive attitudes, such as a condescending approach that undermines self-respect, leering or similar gestures can all constitute harassment. A person does not need to have been touched or threatened to have been harassed. Any behaviour that insults or

intimidates is harassment if a reasonable person should have known that the behaviour was unwelcome.

Harassment may be a single incident or a series of incidents that continues over a period of time.

4. EXAMPLES OF HARASSMENT

4.1 *Sexual Harassment*

Sexual harassment is any form of deliberate, unsolicited and unwelcome behaviour, which denies people their dignity and respect and is related to their sex. This form of harassment may be comprised of offensive sexual comments, persistent unwelcome flirtation, inquiries about another person's sex life, jokes, innuendoes, approaches, or physical acts; such physical acts may include leering, touching, patting, stroking, pinching, or any unwelcome physical contact. Sexual harassment may involve promises of advantages in return for submission, or threats or reprisal for refusing sexual advances.

4.2 *Racial Harassment*

Racial harassment is any form of behaviour, which denies people their dignity and respect and is related to their racial, ethnic, religious or national origins. It includes unwelcome remarks, jokes, innuendoes, taunting, verbal abuse or attacks. The displaying of racist or other offensive or derogatory pictures in the workplace, acts of condescension or paternalism and practical jokes which cause awkwardness or embarrassment, also constitute harassment.

4.3 *Poisoned Environment*

An employee or artist may feel that the workplace is hostile or unwelcoming because of insulting or degrading comments or actions that have been made about him or her and/or others based on a ground in the *Ontario Human Rights Code*. When comments or conduct of this kind have an influence on others and how they are treated, this is known as a "poisoned environment". A poisoned environment exists where there are objective facts to show that the comments or conduct result in unequal or unfair terms. A "poisoned environment" is a form of discrimination, prohibited by the *Ontario Human Rights Code*.

5. PROCEDURES FOR FILING A COMPLAINT

Employees and artists are encouraged to report any situation involving harassment and to seek assistance by following the steps outlined below. Every TBTB employee and artist has a role to play in maintaining a workplace where individual rights and dignity are respected.

When an employee or artist feels that he or she is the subject of harassment, the employee or artist should consider the following steps:

- Make it known to the harasser that the conduct is unwelcome or offensive.

- Ensure that the message is clear and unambiguous.
- Make notes regarding what happened, who was involved, the date, specific words and phrases and who may have witnessed the incident.
- Report the incident(s) directly to his/her immediate supervisor or report the incident(s) directly to the stage manager, director, artistic director, executive director or a board member.
- A complaint may also be filed directly with the Human Rights Commission. According to the *Ontario Human Rights Code*, complaints to the Commission must be filed within six months from the date the last alleged act of discrimination occurred.

When an employee or artist with a complaint of harassment approaches the stage manager, director, artistic director, executive director or member of the board of directors), individual should:

- Immediately consult with the board of directors of TBTB to determine what action is appropriate.

If employees or artists observe harassing behaviour, even if it is not directed at them, they are encouraged to report the behaviour to their director, stage manager, the artistic director, executive director or a member of the board of directors.

6. PROCEDURE FOR INVESTIGATING A COMPLAINT

An Investigator will conduct a prompt and confidential investigation after first obtaining advice from TBTB's legal counsel. The investigative process will include at least the following steps:

- The Investigator will meet with the complainant and review all aspects of the allegations. Any witnesses to the alleged harassment or persons who can add pertinent information to the investigation should be identified.
- The Investigator will advise and interview the individual(s) accused of harassment as well as any other relevant person(s) to obtain their description of the incident(s) and other relevant information. All will be interviewed separately and each will be instructed to keep confidential any information discussed.
- The Investigator may at his or her discretion use the services of legal counsel or such other external expertise as he considers necessary.
- When the investigation is complete, the Investigator will review the findings with TBTB's legal counsel.
- Any notes, reports, records and all information gathered during the investigation will be treated as confidential, with disclosure limited to those with a need to know.
- If it is determined that a criminal offence may have been committed, the appropriate public authorities will be advised.

- The Investigator will attempt to complete the investigation within two (2) weeks from the time a complaint is filed.

7. CONCLUSION OF INVESTIGATIVE PROCESS

If the investigation confirms that harassment has occurred, disciplinary action will be taken. Such disciplinary action may include: a formal apology; mandatory counseling; a formal reprimand; suspension; reassignment; withholding of promotion; or summary dismissal.

If the allegations of harassment cannot be verified, the person accused will be so advised.

In all circumstances, the Investigator will meet with the complainant, advising that the investigation has been completed, what conclusions were reached and whether any action has been taken. However, the complainant need not be told the specifics of any disciplinary action.

There will be no reprisals, threat of reprisals or other prejudicial consequences for any individual who, in good faith, complains of, reports or participates in the investigation of any incidence of alleged harassment. TBTB will not tolerate retaliation. However, an employee or artist who makes trivial, frivolous or bad faith allegations of harassment may face disciplinary action.

Where discipline is imposed on the harasser, it will be reflected in his or her personnel file. Files on harassment complaints which do not lead to disciplinary action will also be maintained by the TBTB but will not affect the accused's employment record.

8. CONFIDENTIALITY

Confidentiality is important, but cannot be guaranteed. In compelling circumstances, particularly where significant risk to other employees or artists may exist, TBTB may have to disclose information for the investigation to proceed, even if the complainant does not want to be identified (because of potential impact on the complainant, great care and sensitivity will be exercised before a decision to disclose is made and even then, disclosure will be limited to the greatest extent reasonably possible). The rights and privacy of employees or artists accused of harassment must be similarly protected to the extent possible, particularly until an investigation is complete. TBTB may also be required to disclose the findings of its investigation to the Ontario Human Rights Commission, at a Board of Inquiry or arbitration hearing, or in the course of civil proceedings pursuant to a summons or as evidence during trial.

9. CONCLUSION

The need for mutual respect and sensitivity in this matter is extremely important. TBTB's objective is to resolve all problems of this nature quickly and fairly.

Every employee and artist will be asked to certify that they have received a copy of this policy and understand they are required to comply with the provisions outlined in it.

I hereby certify that:

- I have received a copy of the TBTB “Policy on Harassment”.
- I have read and understood the contents of the “Policy on Harassment”.
- I agree to comply with the provisions contained in the “Policy on Harassment”.

Dated _____.

Signature

Witness Signature