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own by-law

# Workplace discrimination and harassment by-law #34

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## Model By-Law about Workplace Discrimination and Harassment

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A by-law dealing with preventing  
and responding to discrimination  
and harassment in the workplace

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Passed Sept 27/07

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# Model Workplace Discrimination and Harassment By-Law

## 1 Statement of Intent

- 1.1  
**Statement of Intent** All co-op staff should enjoy a workplace that is free from discrimination and harassment as defined in this by-law.

## 2 Purpose of By-law

- 2.1  
**Purpose of By-law** The purpose of this by-law is to
- define discrimination and harassment;
  - set out how the co-op will respond to reports of discrimination or harassment in the workplace;
  - identify roles and duties when discrimination or harassment take place in the workplace.

## **3 Policy**

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### **3.1 Discrimination**

It is the policy of the co-op to recognize the worth of each member of its workforce and to provide for equal rights and opportunities without discrimination. The co-op will not practice discrimination in its employment practices by reason of

- race
- creed
- colour
- religion
- nationality
- ancestry
- place of origin
- native language (subject to ability to perform the core duties of the job)
- age
- sex
- sexual orientation
- marital status
- family status
- being HIV positive or having AIDS (subject to ability to perform the core duties of the job)
- disability (subject to being able to perform the core duties of the job)
- record of offenses (subject to exceptions available at law)
- political affiliation
- or any other ground prohibited by law.

### 3.2 Harassment

Employees of the co-op have the right to freedom of harassment by other employees, members of the Board of Directors and members of the co-op generally.

Harassment means

- (a) pattern of comment or conduct based on one or more of the following grounds that is known or ought reasonably to be known to be unwelcome:
  - race
  - creed
  - colour
  - religion
  - nationality
  - ancestry
  - place of origin
  - native language
  - age
  - sex
  - sexual orientation
  - marital status
  - family status
  - being HIV positive or having AIDS
  - disability
  - record of offenses
  - or political affiliation.
- (b) sexual harassment as defined in 3.3;
- (c) any of the following behaviour, whether or not related to the grounds listed in (a) above:
  - verbal abuse or threats, unwelcome remarks, jokes, innuendo or taunting;
  - displaying pornographic or other offensive or derogatory images;

- practical jokes causing awkwardness or embarrassment;
- unwelcome invitations or requests, whether indirect or explicit;
- intimidation;
- condescending or patronizing behaviour undermining a person's self-respect;
- unnecessary physical contact such as patting or pinching;
- physical assault.

### 3.3 Sexual Harassment

Sexual harassment includes:

- (a) unwelcome comment or conduct with sexual overtones;
- (b) leering or unwelcome gestures;
- (c) a sexual advance or solicitation made by a person who is in a position to grant or deny a benefit to another;
- (d) threat of or actual reprisal for rejecting his or her advance by a person in a position to grant or deny a benefit to another person.

Sexual harassment is coercive or one-sided. Relationships existing with the express consent of both parties will not constitute sexual harassment.

## **4 Rights and Duties**

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### **4.1 Staff Rights**

Staff members have a right

- (a) to file a complaint without fear of retaliation;
- (b) to choose a person to be with them during meetings about their complaint. This can be a lawyer or other person;
- (c) to be told about the process for looking into the complaint;
- (d) to get information about the review of their complaint;
- (e) to get information about the action taken by the co-op because of the complaint;
- (f) to be treated fairly while the co-op is looking into the complaint.

### **4.2 Staff Duties**

Staff members who believe they have been discriminated against or harassed have a duty to communicate clearly to any person who they believe has discriminated against or harassed them and to say that the behaviour was unwelcome, unless it is unreasonable to expect them to do so.

Staff members have a duty to report any incidents of harassment or discrimination they become aware of, even if they are not personally involved.

Staff members who file a complaint have a duty:

- to report to their supervisor, staff liaison officer or board member;
- to co-operate with the people who are looking into the complaint.



**4.3  
Rights of the  
Person Accused of  
Discrimination or  
Harassment**

A person who has a complaint filed against him/her has the right:

- (a) to be told that a complaint has been filed;
- (b) to be told about the process for looking into the complaint;
- (c) to get a copy of the statement setting out the complaint and to have the chance to respond;
- (d) to choose a person to be with them during meetings about the complaint. This can be a lawyer or other person;
- (e) to be treated fairly during the process of looking into the complaint.

**4.4  
Duties of the  
Person Accused of  
Discrimination or  
Harassment**

Anyone accused of discrimination or harassment has a duty to co-operate with the person who is looking into the complaint and to co-operate with the co-op in dealing with the complaint.

## **5 Making a Complaint**

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**5.1  
Making a Complaint**

Staff must outline their complaint in writing and give it to their supervisor or staff liaison officer. If the complaint is about discrimination or harassment by the supervisor, the staff member should give the written complaint to the co-op president or another board member.

## **6 Time Limits**

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### **6.1 Time Limits**

Staff must file a complaint within six months from the time when they claim the discrimination or harassment took place.

## **7 Complaint Review Process**

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### **7.1 Complaint Review Process**

- (a) The co-op must respond to every complaint without delay.
- (b) The co-op must appoint a neutral person from outside the co-op to look into the complaint.
- (c) This person will look into the complaint and report to the board.
- (d) The board will consider the report. If there is evidence of discrimination or harassment the board will take appropriate action. In determining the action to take, the board will consider the seriousness of the acts of discrimination or harassment. Possible actions include:
  - a letter of apology or a performance agreement, if the parties will agree to these;
  - behaviour modification techniques such as mediation between the staff member and the discriminator or harasser,
  - if the discriminator or harasser is a director or officer of the co-op, terminating their directorship or office;
  - reprimand, suspension or dismissal if the discriminator or harasser is an employee;
  - if the discriminator or harasser is a member of the co-op, evicting them. However in determining what to do, the board will be guided by the eviction process.

## **8 Privacy**

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### **8.1 Privacy**

As far as possible, the co-op board will keep all information relating to the complaint confidential. This will protect both the person making the complaint and the person they are complaining about.

However, in order to investigate the complaint, the person conducting the investigation may have to interview people in order to get at the facts. As far as possible in doing these interviews, that person will try to protect the identity of those involved, but this will not always be possible.

It also has to be recognized that information may become generally available as a result of the investigation. For instance, if the co-op dismisses someone because the co-op considers them guilty of harassment and that person takes the co-op to court, the details would become part of the public record. If the co-op board evicts someone and that person appeals to the membership, then the membership will have the background information. The co-op will only disclose information on a need to know basis.

## **9 Action by Co-operative**

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### **9.1 Action by Co-operative**

While the complaint is being looked into, the co-op will

- (a) limit contact between the staff member who made the complaint and the person accused of discrimination or harassment
- (b) make sure the staff member gets whatever help they need to deal with any stress they may be feeling (refer to the Employee Assistance Program for counselling).

## 10 Other Legal Rights

### 10.1 Other Legal Rights

This by-law does not in any way limit the right of staff to take any other legal action resulting from discrimination or harassment including filing a complaint with the provincial Human Rights Commission.

CERTIFIED to be a true copy of By-law No. 34 of *Cardiff Housing Co-op* passed by the Board of Directors at a meeting held on the *5<sup>th</sup>* day of *July* 2007, and confirmed by a two-thirds vote at a meeting of members held on the *27<sup>th</sup>* day of *September* of *September*, 2007

*Laurie Vaisis* c/s  
Secretary