

DISCRIMINATION, BULLYING AND HARASSMENT POLICY

SUMMARY

Here are some key things you need to know about this Policy:

- Provence Marinaside (the “Employer”) is committed to maintaining a workplace that is free from Discrimination, Bullying and Harassment.
- Every staff member must support and enforce a Discrimination-free and Bullying and Harassment-free work environment.
- Any staff member who engages in Discrimination or Bullying and Harassment against another person may be subject to discipline.
- Confidentiality is required so those who may have experienced Discrimination or Bullying and Harassment will feel free to come forward, and the reputations and interests of those accused are protected.
- No staff member shall be subject to retaliation, threat of retaliation, discipline or threat of discipline, as the result of filing a Discrimination or Bullying and Harassment complaint made in good faith.
- Staff members who are found to have made frivolous or malicious complaints of Discrimination or Bullying and Harassment may be subject to discipline.
- This Policy establishes processes for reporting, informally resolving, and formally investigating complaints of Discrimination and Bullying and Harassment. These processes can be found in Section 3.

The spirit of this Policy is to ensure that we all feel comfortable coming to work and asks that we all be conscious of how our actions might affect others. The full legal explanation of our policy is provided below.

1. PURPOSE

- 1.1 The purpose of this Policy is to clearly set out the commitment of the Employer to maintaining a workplace which is free from Discrimination, Bullying and Harassment and supports the productivity, dignity and self-esteem of every staff member. This Policy is also intended to:
- (a) provide clear guidelines for appropriate conduct within the workplace and to ensure accountability;
 - (b) provide a clear process for staff members to deal with Discrimination, Bullying and Harassment; and
 - (c) ensure that the Employer complies with the requirements of the B.C. Human Rights Code and Workers Compensation Act.

2. DEFINITIONS

- 2.1 For the purposes of this Policy, the following definitions apply:

“Bullying and Harassment” means any inappropriate conduct or comment by a person towards a co-worker that the person knew or reasonably ought to have known would cause that co-worker to be humiliated or intimidated, but excludes any reasonable action taken by a Supervisor relating to the management and direction of staff members or the workplace.

Examples of Bullying and Harassment include:

- (a) words, gestures, actions or practical jokes, the natural consequence of which is to humiliate, ridicule, insult or degrade;
- (b) threats or intimidation;
- (c) cyber bullying;
- (d) physical assault; and
- (e) persistent rudeness, taunting, malicious gossip, patronizing behaviour, vandalizing belongings or other conduct which adversely affects working conditions or work performance.

“Complainant” means a staff member who alleges that he/she has been the subject of Workplace Discrimination or Bullying and Harassment.

“Discrimination” means discrimination in employment based on a person’s sex, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sexual orientation, age, or criminal conviction which is unrelated to the person’s employment. Discrimination includes Sexual Harassment, as defined below.

“Respondent” means a person who is alleged to have engaged in Discrimination or Bullying and Harassment against a staff member in violation of this Policy.

“Sexual Harassment” means conduct or comments of a sexual nature that is unwelcome and that detrimentally affects the work environment or leads to adverse job-related consequences. Sexual harassment includes:

- (a) unwanted touching;
- (b) unwelcome sexual flirtations, advances or propositions;
- (c) sexually suggestive, obscene or degrading comments or gestures;
- (d) offensive jokes of a sexual nature;
- (e) leering or staring;
- (f) displaying or circulating pictures or other material of a sexual nature; or
- (g) unwelcome questions or remarks about a person’s sex life, appearance, or clothing.

“Workplace” includes, but is not limited to, the restaurant and other sites where work takes place. It also includes the following:

- (a) any location where a staff member carries out his/her duties or performs his/her job;
- (b) work-related conferences and training sessions, wherever they are held;
- (c) any work-related social function or gathering; and
- (d) any location travelled to for work related reasons.

3. POLICY

Commitment and Expectations

3.1 Every staff member has the right to be treated fairly and respectfully in the Workplace. The Employer is committed to providing a positive working environment that is free of Discrimination, Bullying and

Harassment and supportive of the productivity, dignity, and self-esteem of all workers. Discrimination and Bullying and Harassment in the workplace violate this commitment and will not be tolerated.

- 3.2 The Employer complies with the B.C. Human Rights Code and Workers Compensation Act and will make every effort to provide a Discrimination-free and Bullying and Harassment-free workplace. Every staff member must support and enforce a Discrimination-free and Bullying and Harassment-free work environment. Supervisors are responsible to ensure that the areas under their direct control are safe and productive work environments, and are free of Discrimination, Bullying and Harassment.
- 3.3 Any staff member who engages in Discrimination or Bullying and Harassment against another person may be subject to discipline.

Confidentiality

- 3.4 Complaints and reports of Discrimination or Bullying and Harassment are confidential and sensitive matters. Confidentiality is required so those who may have experienced Discrimination or Bullying and Harassment will feel free to come forward, and the reputations and interests of those accused are protected.
- 3.5 All staff members involved in a Discrimination or Bullying and Harassment complaint or report must maintain the confidentiality of any information they receive during the investigation process. Any staff member who breaches this confidentiality may be subject to discipline.
- 3.6 The Employer will make every effort to keep confidential any information pertaining to a complaint or report, subject to disclosure which is required by law or is necessary to investigate or resolve the complaint or report.

Retaliation

- 3.7 No staff member shall be subject to retaliation, threat of retaliation, discipline or threat of discipline, as the result of filing a Discrimination or Bullying and Harassment complaint made in good faith. Any staff member who does anything in an effort to retaliate against a Complainant may be subject to discipline.

Frivolous Complaints

- 3.8 3.08 Complaints or reports of Discrimination or Bullying and Harassment are serious matters. Staff members who are found to have made frivolous or malicious complaints of Discrimination or Bullying and Harassment may be subject to discipline.

General Responsibilities

- 3.9 All staff members must:
 - (a) not engage in Discrimination or Bullying and Harassment in the course of their employment;
 - (b) report, using the procedures outlined below, if they experience Discrimination or Bullying and Harassment; and
 - (c) apply and comply with this Policy.
- 3.10 The Employer is responsible to ensure that this Policy and its intent and guidelines are communicated to all existing and new staff members.
- 3.11 The Employer is responsible to:
 - (a) support staff members by providing information and referral as required;

- (b) assist in investigating complaints or reports of Discrimination or Bullying and Harassment and determining appropriate responses;
- (c) advise a Complainant and Respondent of the final outcome of a complaint; and
- (d) due to the potentially sensitive nature of Discrimination or Bullying and Harassment complaints, maintain confidentiality.

3.12 Supervisors are responsible to:

- (a) prevent and discourage Workplace Discrimination and Bullying and Harassment;
- (b) model appropriate behaviour;
- (c) take appropriate action if they become aware of Workplace Discrimination or Bullying and Harassment;
- (d) encourage staff members to report Discrimination or Bullying and Harassment if it occurs, and immediately inform the Employer of any reports or complaints received;
- (e) make staff members aware of, and ensure that they follow, this Policy; and
- (f) due to the potentially sensitive nature of Discrimination or Bullying and Harassment complaints, maintain confidentiality.

4. COMPLAINT AND INVESTIGATION PROCEDURES

Options for Dealing with Complaints

4.1 In most circumstances early resolution of Discrimination or Bullying and Harassment complaints is the most desirable outcome. The following steps should be considered when trying to resolve a dispute.

Informal Resolution by the Complainant

- 4.2 A Complainant who feels that he or she has been subject to Discrimination or Bullying and Harassment in the Workplace is encouraged to make his or her discomfort and disapproval known to the Respondent and ask the Respondent to stop.
- 4.3 If the Complainant does not feel comfortable approaching the Respondent directly, the Complainant may ask a Supervisor, another staff member, or a member of the Employer to make the Complainant's discomfort and disapproval known to the Respondent and ask the Respondent to stop.
- 4.4 While this informal approach is often the simplest and most effective way to end the Discrimination or Bullying and Harassment, the Complainant is not obligated to confront the Respondent.
- 4.5 If the Discrimination or Bullying and Harassment persists, or if the Complainant is not comfortable approaching the Respondent directly, with or without assistance, the Complainant must file a formal complaint or report.

Formal Complaint or Report

- 4.6 A formal complaint or report of Discrimination or Bullying and Harassment may be made either orally or in writing and should describe the details of the incident(s), including:
 - (a) the date and time of the incident(s);
 - (b) any witnesses to the incident(s);

- (c) the nature of the Discrimination or Bullying and Harassment; and
 - (d) any response made at the time of the incident(s).
- 4.7 A formal complaint or report of Discrimination or Bullying and Harassment should be made to an appropriate member of the Employer unless it is not appropriate to do so in the circumstances (for example, where that Employer is the Respondent). If it is not appropriate, the complaint or report should be made to another Employer representative.
- 4.8 All complaints or reports will be taken seriously and will be dealt with fairly and promptly.

Informal Resolution

- 4.9 Purpose - Another option available for resolution is through informal resolution. In many instances, the Employer advising a Respondent of the impact and the potential consequences of his/her behaviour will be sufficient to stop the behaviour. For this reason, many complaints can be dealt with informally with the goal being simply to stop the behaviour. A Discrimination or Bullying and Harassment complaint that is informally resolved will not result in disciplinary action and documentation about the complaint will not be filed in the personnel files of either the Complainant or Respondent, except as provided in Section 3.13.
- 4.10 Assignment - When a Complainant makes a formal complaint or report of Discrimination or Bullying and Harassment to the Employer, the Employer representative shall determine whether the complaint is appropriate for informal resolution. If so, the Employer shall attempt to informally resolve the complaint or report. If the Employer becomes aware of a Discrimination or Bullying and Harassment complaint or report of a minor nature by another means, the Employer may deal with it through the informal complaint resolution process.
- 4.11 Informal Resolution Process - In the informal resolution process, the Employer may discuss the allegation(s) with the Complainant, the Respondent and appropriate witnesses, if any, to try to reach an informal solution.
- 4.12 If a resolution acceptable to both the Complainant and Respondent is agreed upon in the informal resolution process, the issue will proceed no further. If no mutually acceptable resolution is found, the complaint or report of Discrimination or Bullying and Harassment must be referred to the formal complaint investigation process outlined below.
- 4.13 Regardless of whether the informal resolution process is successful, the Employer shall prepare a report summarizing the allegation(s), the steps taken to resolve it and the agreed upon resolution, if any. An informal resolution cannot involve any disciplinary action against the Respondent; therefore, that report shall be filed in an Administrative File only. Documentation regarding an informally resolved Discrimination or Bullying and Harassment issue shall NOT be filed in the personnel files of either the Complainant or Respondent, except if the circumstances have resulted in:
- (a) any formal direction as to future conduct or letter of expectations being given to either party; or
 - (b) the Employer conducting a review of this Policy with either party; or
 - (c) either party being placed on notice regarding future conduct.

Formal Complaint Investigation Process

- 4.14 Subject to anything in this Policy, The Employer reserves the right to initiate or continue a formal investigation of a Discrimination or Bullying and Harassment allegation where the Employer believes that it is necessary to do.
- 4.15 Identification of the Investigator – It is important to have an investigator who is familiar with applicable workplace law and this Policy. The Employer will appoint a suitable investigator (the “Investigator”). The Investigator may be within or outside of the Employer.
- 4.16 Investigations will:
- (a) be undertaken promptly, diligently and be as thorough as necessary, given the circumstances;
 - (b) be conducted in a fair and impartial manner for both the Complainant and Respondent;
 - (c) be sensitive to the interests of all parties involved and maintain confidentiality; and
 - (d) be focussed on finding facts and evidence, and will include interviews of the Complainant, Respondent, and any other witnesses the Investigator believes may have information relevant to the complaint or report and a review of any documents or other evidence the Investigator considers relevant.
- 4.17 During the investigation the Complainant has the right to:
- (a) be informed of the progress of the complaint process;
 - (b) be accompanied by a person of his or her choice for support during any meetings relating to the complaint, provided no costs are incurred by the Employer;
 - (c) be represented by legal counsel paid for by the Complainant; and
 - (d) to the extent that it is considered reasonable, be provided with a written summary of the findings of the investigation at the conclusion of the process.
- 4.18 During the investigation, the Respondent has the right to:
- (a) be informed as soon as practicable that a complaint has been filed;
 - (b) be provided with a written statement of the allegations and given an opportunity to respond to them;
 - (c) be informed of the progress of the complaint process;
 - (d) be accompanied by a person of his or her choice for support during any meetings relating to the complaint, provided no costs are incurred by the Employer;
 - (e) be represented by legal counsel paid for by the Respondent; and
 - (f) to the extent that it is considered reasonable, be provided with a written summary of the findings of the investigation at the conclusion of the process.
- 4.19 During the investigation, if information is received from witnesses, the Complainant or the Respondent, that is substantial and conflicting, the investigator shall provide the Complainant and Respondent an opportunity to respond to the information.
- 4.20 Mediation – A formal complaint may be suitable for mediation with the consent of the Complainant and Respondent. If mediation is successful, the mediator or designate shall prepare a settlement agreement in writing describing the terms of the resolution. The Complainant and the Respondent shall sign the settlement agreement and a copy will be provided to each of them. A copy of the

settlement agreement may be placed in the personnel files of both the Complainant and the Respondent. The Investigator, or designate, shall monitor the implementation of the resolution, if necessary.

- 4.21 If mediation is not attempted or is not successful, the formal investigation will be completed. The Investigator will investigate the allegations and determine whether the conduct constitutes Discrimination or Bullying and Harassment as defined by this Policy.
- 4.22 At the conclusion of the investigation, the Investigator shall prepare a report detailing:
- (a) the evidence of the Complainant, the Respondent and any witnesses;
 - (b) the Investigator's assessment of credibility if appropriate;
 - (c) the Investigator's findings of fact;
 - (d) the Investigator's conclusion as to whether the findings of fact disclose a violation of this Policy; and
 - (e) if so, the Investigator's recommendations for an appropriate resolution to the matter.

The Investigator's report shall be forwarded to the chief executive of the Employer, or delegate, for final decision on behalf of the Employer. The chief executive may delegate decision making in this process.

- 4.23 Upon review of the investigation report, and being satisfied that the investigation was thorough and complete, the chief executive, or delegate, will reach a decision on the appropriate outcome for the complaint, including what remedial action, if any, will be taken. Such remedial action may include education, training, formal disciplinary action, or such other actions as may be deemed appropriate by the chief executive, or delegate.
- 4.24 The Employer will report back to the Complainant and the Respondent with the results of the investigation and, to the extent that is reasonable, will provide them with a written summary of the findings of the investigation.
- 4.25 If discipline is imposed, a copy of the discipline report will be filed in the offending person's personnel file and will be kept in a secure location.

External Processes

- 4.26 When a complaint is filed with an external body (i.e. Human Rights Tribunal, WorkSafeBC, civil court) internal procedures may be put on hold until the external complaint has been resolved. However, the parties are encouraged to pursue resolution. This Policy is intended to facilitate such resolution.

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Signed

Dated