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<b>Title:</b>	<b>Council-Staff Relations Policy</b>
<b>Number:</b>	GOV-24-01
<b>Approved By:</b>	City Council
<b>Administered By:</b>	Legislative Services
<b>Effective:</b>	May 27, 2024
<b>Revised:</b>	N/A

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## **1.0 Purpose/ Background**

Subsection 270(1)2.1 of the Municipal Act, 2001, S.O. 2001, c. 25 (the “Act”) requires that all municipalities in Ontario adopt and maintain policies regarding the relationship between Members of Council, the Officers and the Employees of the municipality.

In addition, the Occupational Health and Safety Act, R.S.O. 1990, c. O.1 (“Occupational Health and Safety Act”) requires that all employers have a Policy with respect to workplace violence and harassment. The City’s Respect in the Workplace – Harassment, Discrimination and Violence Policy outlines the commitment to providing and maintaining a healthy and safe work environment that is based on respect for the dignity and rights of everyone in the organization. The Council-Staff Relations Policy promotes an efficient, effective, respectful and Harassment-free workplace and relationship between Members of Council and Staff.

## **2.0 Policy Statement**

Members of Council and Staff have a collective goal to serve the best interests of the City of Oshawa (the “City”) and to work collaboratively together to achieve this shared purpose while fulfilling their distinct roles.

This Policy is part of a broader framework of policies and legislation that support a collaborative, cooperative and mutually respectful relationship between Council Members and Staff. The documents include (but are not be limited to):

- Code of Conduct for Members of Council
- Council’s Procedure By-law
- Employee Code of Conduct
- Municipal Act, 2001
- Occupational Health and Safety Act
- Respect Check Policy
- Respect in the Workplace - Harassment, Discrimination and Violence Policy (“Respect in the Workplace Policy”)
- Use of Corporate Resources Policy
- The Human Rights Code, R.S.O. 1990, c.H.19
- The Municipal Elections Act, 1996, S.O. 1996 c.32

### 3.0 Scope/ Application

This Policy applies to all Members of Council as well as Officers and Employees of the City. This Policy is to be applied wherever and whenever interactions occur including communication (both verbal and written) and onsite at City facilities or external to City facilities, during or outside of hours of work.

Members of Council and Staff are to ensure they are in compliance with all City Policies and By-laws, including but not limited to:

- Access and Privacy Policy
- Records and Information Management Policy
- Enforcement By-law

### 4.0 Definitions

**Act** means the Municipal Act, 2001, S.O. 2001, c. 25, which for the purposes of this Policy, outlines the roles and responsibilities of Members of Council and Officers and Employees of the City, and describes the requirement for such a Policy.

**City** means the Corporation of the City of Oshawa.

**C.A.O.** means the Chief Administrative Officer appointed pursuant to Section 229 of the Act who is responsible for managing the City's staff and operations.

**C.L.T.** means the Corporate Leadership Team of the City, comprised of the Chief Administrative Officer (C.A.O.), and the four Commissioners.

**C.L.T.D.** means the Corporate Leadership Team and the Directors and/or Senior Managers of each branch of the City.

**Council** means the Council of the Corporation of the City of Oshawa as a whole.

**Employee or Staff** means all full-time, part-time, temporary and seasonal employees of the City of Oshawa including employees hired on a contract basis for a defined period of time and students.

**Integrity Commissioner** means the independent key advisor to Council on a range of important issues, as defined in the Municipal Act, 2001. The Integrity Commissioner is responsible for providing education and advice to Members of Council, and presiding over complaints investigations.

**Mayoral Decision** means the legislative instrument used to document decisions made by the Head of Council when exercising powers or performing duties under Part VI.1 of the Act and its Regulations which are required to be recorded in writing, provided to each Member of Council and the City Clerk and made available to the public (subject to the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56).

**Mayoral Direction** means the legislative instrument used to document direction given to municipal employees by the Head of Council when exercising powers or performing duties under Section 243.3 of the Act which are required to be recorded in writing, provided to the C.A.O. and the City Clerk and made available to Members of Council and the public (subject to the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56).

**Member of Council or Council Member** means the individuals elected or appointed to the Council for the City of Oshawa who have taken the declaration of office for the current term, including the Mayor as the Head of Council. For the purpose of this Policy and as applicable in the circumstances, Member of Council includes an individual who is supervised by a Member of Council and who purports to represent or undertake an activity covered by this Policy on behalf of the Member of Council.

**Member of the Public** means a person or entity residing and/or having a business, ceremonial or policy interest in the City of Oshawa.

**Non-Routine Matter** means a communication, request for information or service that is not typically undertaken in the ordinary course of business, and/or for which there is no routine process, procedure, guideline or convention to guide members of Staff.

**Officers** means the individuals appointed by Council as Statutory Officers with the Act which includes the City Clerk, the Treasurer, the Chief Building Official, and the Fire Chief, and their designates, of the municipality.

**Routine Matter** means a communication by a Member of Council with a Member of Staff, in person, in writing, by phone, by text, or by other electronic means, which:

- a) in the ordinary course of business constitutes a type of communication that would typically occur between a Member of the Public and Staff;
- b) constitutes a request for information that is routinely produced by Staff in the course of their duties;
- c) constitutes a request for a service that is routinely done by Staff in the course of their duties; and,
- d) requires no expenditure of unbudgeted resources.

**Workplace Harassment** is defined by the Occupational Health and Safety Act as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

## 5.0 Roles

### 5.1 Members of Council

The Act sets out the core roles of Members of Council in Section 224 of the Act.

It is the role of Council:

- (a) to represent the public and to consider the well-being and interests of the municipality;
- (b) to develop and evaluate the policies and programs of the municipality;
- (c) to determine which services the municipality provides;
- (d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- (d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- (e) to maintain the financial integrity of the municipality; and
- (f) to carry out the duties of council under this or any other Act.

## **5.2 Head of Council**

The role of the Mayor as head of council is set out in Sections 225, 226, and Part VI.1 of the Act.

It is the role of the head of council to:

- (a) to act as chief executive officer of the municipality;
- (b) to preside over council meetings so that its business can be carried out efficiently and effectively;
- (c) to provide leadership to the council;
- (c.1) without limiting clause (c), to provide information and recommendations to the council with respect to the role of council described in clauses [(d) and (d.1) above];
- (d) to represent the municipality at official functions; and
- (e) to carry out the duties of the head of council under this or any other Act.

As chief executive officer of a municipality, the head of council shall:

- (a) uphold and promote the purposes of the municipality;
- (b) promote public involvement in the municipality's activities;
- (c) act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and
- (d) participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.

## **5.3 Chief Administrative Officer**

The C.A.O.'s specific responsibilities are set out in Section 229 of the Act and for the City are outlined in the C.A.O.'s By-law 33-98, as amended.

Generally, the C.A.O. is responsible for the following (but not limited to):

- The overall management and administration of the City;
- Facilitate communications between the administration, Council and the public;
- Providing professional advice to Council and ensuring reports requested by Council are prepared and presented as requested; and,
- Leading and directing staff in the implementation of Council's direction and policies.

#### **5.4 Staff**

In accordance with Section 227 of the Act, it is the role of the Officers and Employees of the municipality:

- (a) to implement council's decisions and establish administrative practices and procedures to carry out council's decisions;
- (b) to undertake research and provide advice to council on the policies and programs of the municipality; and
- (c) to carry out other duties required under this or any Act and other duties assigned by the municipality.

### **6.0 Principles**

An effective relationship between Council as a whole and Staff is necessary to serve the best interests of the City and maintain a high level of public trust and confidence. To produce the best results and outcomes for the City, Members of Council and Staff shall work together, while performing their respective roles.

Council is the policy- and decision-making authority for the City, and subject to the proper issuance of a Mayoral Decision or Direction, only Council as a whole can direct Staff.

Individual Members of Council have a responsibility to support Council's role to represent the public and to consider the well-being and interests of the municipality, and in that regard, have a representative relationship with the residents and businesses they serve. Nothing in this Policy, however, is intended to impede a Member's ability to express an opinion agreeing or disagreeing with a Council decision, or to raise an operational concern with a member of C.L.T.D., so long as in doing so their communication is respectful, non-disparaging, and otherwise in keeping with Council's Procedure By-law and Council policy including this Council-Staff Relations Policy.

Members of Council require advice and information from Staff on a need-to-know basis to fulfill their constituent, decision-making and oversight responsibilities. Individual Members of Council have the same status as any member of the public when requesting information from City Staff and should either submit a formal request for access to information under the Municipal Freedom of Information and Protection of Privacy Act, or make a motion requesting that the information be provided to Council as a whole.

Council Members and Staff should feel comfortable communicating to one another about their work both formally and informally. However, formal communication channels exist to raise and manage operational and administrative issues and should be respected. Communications between Members of Council and Staff must be courteous and professional. All communications shall take into account:

- the author's and the recipient's roles and responsibilities under the respective policy, procedure or code of conduct
- the impact upon any Member of the Public involved
- the Council and/ or department priority of the matter
- the anticipated length of time it would take to properly comply with a request

Communications, especially communications shared with Members of the Public, shall not be disparaging of any person. Legitimately held criticisms shall be stated directly and professionally, clearly identified as the author's own opinion. However, this Policy does not condone the making of defamatory statements or statements based on conjecture.

Communications made in the course of a matter before a Standing Committee or Council shall be done in compliance with the Procedure By-law or respective City policies and by-laws. Members of Council and Staff shall preserve confidentiality where required by law or decided upon by Council pursuant to applicable law and Council's Code of Conduct.

Members of Council shall not involve themselves in matters of administration or department management. Members of Council shall not direct Staff; interfere with Staff's work; nor expect procedures to be waived in the course of their dealings with Staff. Council Members shall direct any concerns regarding Employees through the C.A.O.

## **6.1 All Members of Council are Equal**

Council Members acknowledge that only Council as a whole has the authority to direct Staff. Notwithstanding Section 284.3 of the Act, an individual Member of Council should refrain from requesting Staff to undertake work, to prepare reports, or seek preferred outcomes other than pursuant to a Council approved direction.

Section 284.3 of the Act provides the exception to the principle that only Council as a whole may direct staff. The section states that the Mayor, as the head of council, may direct Staff in writing to:

- a) undertake research and provide advice to the head of council and the municipality on policies and programs of the municipality or of the head of council as they relate to the powers and duties under this Part; and
- b) carry out duties related to the exercise of the power or performance of the duty, including implementing any decisions made by the head of council under this Part.

The Mayor may only direct employees in the specific instances cited above for the purposes of exercising powers or performing duties under Part VI.1 of the Act through a Mayoral Decision or Mayoral Direction. Otherwise, all direction to Staff related to any other matters must continue to be exercised by Council as a whole.

It is expected that the Mayor when making a Mayoral Decision or Mayoral Direction will have regard to the policies and decisions of Council, and the apolitical role of the Chief Administrative Officer and staff, and will weigh the application of those policies, decisions and roles when so doing.

Staff, under the direction of the Chief Administrative Officer, serves Council as a whole and the combined interests of all Members of Council as expressed through the resolutions of Council. Staff shall avoid favouritism and/or the appearance of favouritism as all Members of Council shall be treated equally.

## **6.2 Acknowledgement of Roles**

Council exercises fiduciary and representative responsibilities concerning the operations of the City in partnership with an administration that is neutral, objective, and professional. Council is the policy and decision-making authority for the municipality but only Council can direct Staff to carry out specific tasks or functions pursuant to a Council direction (notwithstanding Section 284.3 of the Act as described in Section 5.2 of this Policy).

Staff acknowledge the representative, direction-setting and policy-making role of Council and shall establish administrative practices and procedures to implement and carry out Council's decisions.

The role of the Chair is to chair either a Council or Committee meeting as the presiding officer. As outlined in Council's Procedure By-law Section 7.2, the Chair (or Vice-Chair/Deputy Mayor in the absence of the Chair) must ensure meetings are conducted in an orderly fashion in accordance with the Procedure By-law including but not limited to:

- enforcing rules and decorum during meetings;
- accepting and putting to a vote motions as presented by members;
- deciding and ruling on points of order and points of privilege;
- facilitating discussion among Members (and Visiting Councillors, as appropriate);
- recessing a meeting without a motion where there is a threat or imminent threat to the health and safety of persons present or possibility of public disorder.

The role of the Chair, Vice Chair or their designate does not extend to the preparation of reports, agendas or the administration of the meeting. In accordance with the Act and Council's Procedure By-law, the City Clerk is the statutory officer charged with managing the organization, notice, agenda preparation, records and all other administration of meetings.

Overstepping of these roles from either side is a violation of the Policy as well as the respective Codes of Conduct.

### **6.3 Open and Clear Communication**

All Members of Council shall attend and conduct City business at public meetings unless the matter is permitted to be discussed in closed session.

Members of Council require advice and information from Staff on a need-to-know basis in order to fulfil their constituent, decision-making and oversight responsibilities.

Council Members and Staff should feel comfortable speaking to one another about their work both formally and informally. However, formal communication channels exist to raise and manage operational and administrative issues and should be respected.

Council should seek input from and consult Staff as the technical experts prior to making policy decisions or public commitments.

Staff shall ensure that information pertaining to Council business is proactively and consistently provided to all Members of Council.

Council Members and Staff shall preserve confidentiality where required by law or decided upon by Council pursuant to applicable law and respective Codes of Conduct.

All email correspondence between members of Council and Staff shall be performed on City of Oshawa email only.

Members of Council should not make comments on social media about any Staff member. Members of Staff should not make comments about any Member of Council on social media. Members of Council and Staff are to follow the City's processes and policies related to City business.

### **6.4 Respectful Workplace**

All Council Members and Staff shall treat each other with mutual respect and courtesy in discharging their duties with honour, integrity, professionalism and impartiality. No Member of Council or Staff member shall make comments that disparage or harm the reputation of the City, Council or Staff.

Council-Staff relations shall reflect the City's commitment to a positive, healthy, and safe workplace in which every person is treated with respect and dignity. Workplace Harassment, incivility, bullying, intimidation and discrimination is not acceptable and will not be condoned.

## **7.0 Responsibilities**

### **7.1 Members of Council**

With the Act in mind, Members of Council shall:

- a) Comply with Council's Code of Conduct.



- b) Discuss issues with C.L.T. and advise them of questions in writing prior to Committee and Council meetings whenever possible, for better informed debate and evidence based decision making;
- c) Consult with the appropriate member of C.L.T.D. prior to responding to a Member of the Public concerns or requests to ensure accurate information regarding City policies, service levels, budgets and work plans, including Routine Matters;
- d) When communicating on behalf of a Member of the Public concerning a matter that should normally be addressed by front line staff (i.e. missed waste collection, property standards complaint, large item pickup scheduling, malfunctioning traffic signals, etc.) the Member of Council shall request the Member of the Public to contact Service Oshawa directly; and,
- e) Comply and adhere to Enforcement By-law 92-2014 to ensure a transparent, consistent, fair, unbiased, and effective process for the enforcement and prosecution of alleged contraventions of municipal standards.

Members of Council shall refrain from:

- a) Directing, instructing, or influencing Staff other than by giving appropriate direction by way of a Council resolution, except for the Head of Council only in relation to the Strong Mayor authority set out in Part VI.1 of the Municipal Act;
- b) Contacting Staff below the level of C.L.T.D. regarding Council and/or department related business;
- c) When a Routine Matter or Non-Routine Matter has been forwarded to Staff, the Member of Council shall refrain from interfering with Staff's carriage of the matter; and,
- d) Communicating with and issuing instructions to consultants, applicants, contractors, regulatory bodies or legal advisers unless directed by Council.

## **7.2 Staff**

With the Act in mind, Staff shall:

- a) Comply with the Employee Code of Conduct;
- b) Respond to Members of Council in accordance with the City's Customer Service Standards. If it is anticipated that the time to provide a fulsome response will be lengthy, C.L.T.D. will respond to Members of Council within two business days to confirm receipt of the request and advise of an approximate time for resolution based on what is requested and other operational priorities;

- c) Respond to all Members of Council concerning requests additional information related to a Staff report in order to ensure the information is shared fairly;
- d) Provide advice based on political neutrality and objectivity, utilizing their professional expertise, and without undue influence from any Member of Council;
- e) C.L.T.D. shall apprise Council of known issues in a timely manner that may impact their decision-making process;
- f) C.L.T.D. shall notify Council in a timely fashion of changes to relevant legislation and any unintended or unexpected impacts of policy decisions through written reports or presentations;
- g) C.L.T. shall provide Committee and/or Council with the implications of recommendations which may impact on services or corporate wide work plans and related capacity issues; and,
- h) Give effect to and uphold the lawful decisions, policies and procedures of Council, regardless of personal opinion or belief.

Staff shall refrain from:

- a) Interfering in political debate or discussion;
- b) Getting involved with an issue after a recommendation has been made to Council by Standing Committee;
- c) Seeking input in Staff Reports to Council or Committee from individual Members of Council unless directed by legislation; and,
- d) Refrain from providing information requested by individual Members of Council which may be subject to the provisions of the Municipal Freedom of Information Protection of Privacy Act, R.S.O. 1990, c. M.56.

### **7.3 Other Members of Staff will:**

Refer inquiries from Members of Council to the appropriate member of C.L.T.D. as required.

The exception to the above-responsibilities relates to City Staff working in the Mayor and/or Councillor's Office who are not limited from carrying out their responsibilities in providing administrative assistance to individual Members of Council or the Mayor, as required.

## 8.0 Monitoring

The City Clerk shall be responsible for receiving complaints and/or concerns related to this Policy from Members of Council and Staff. Upon receipt of a complaint and/or concern, the City Clerk shall notify the following who shall investigate and respond to the complaint and/or concern accordingly:

1. In the case of Staff, the Chief People Officer, the Commissioner responsible for the Employee and the C.A.O., however,
  - in the event that the complaint is regarding a Commissioner only the Chief People Officer and C.A.O. shall be notified;
  - in the event that the complaint is regarding the C.A.O., the Chief People Officer and Council shall be notified.
2. In the case of Council or a Member of Council, the Integrity Commissioner shall be notified.

Where there is a discrepancy between the Council-Staff Relations Policy and the Council Code of Conduct for Members of Council or the Employee Code of Conduct, the language of the applicable Code of Conduct prevails.

## 9.0 Review

This Policy shall be reviewed with Members of Council and C.L.T.D. at the beginning of each term of a new Council as part of the Council orientation process.

The Director, Legislative Services/City Clerk is delegated the authority to make administrative changes to this Policy that may be required from time to time due to legislative changes or if, in the opinion of the City Clerk, the amendments do not change the intent of this Policy.

## 10.0 References

Code of Conduct for Members of Council

Employee Code of Conduct

Municipal Act, 2001, S.O. 2001, c. 25

Occupational Health and Safety Act of Ontario (R.S.O. 1990, c. O.1)

Council's Procedure By-law

Respect Check Policy

Respect in the Workplace – Harassment, Discrimination and Violence Policy

Use of Corporate Resources Policy


Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56

The Human Rights Code, R.S.O. 1990, c.H.19

Municipal Elections Act, 1996 S.O. 1996 c.32

Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50

9.0 Approval

<b>Authority</b> City Council	<b>Date</b> May 27, 2024	<b>Signature</b> 
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