

PRFM Conflict Transformation Protocol:

Reviewed and Updated May 14, 2018

The PRFM strives to provide all members of the market community with a market environment that is free from harassment and promotes a space that respects dignity, self-worth and the human rights of every individual. Members of the market community include vendors, community groups, buskers, volunteers, market staff, PRFM steering committee members, PRFN board members, and customers. This policy expects customers to behave in a respectful manner, recognizing however, that the organization's ability to compel customers' behaviour is limited.

Everyone is responsible for ensuring that the workplace is free from harassment. All members of the organization are responsible for ensuring that their comments and conduct are not offensive to other parties. If any market community member sees or hears any form of harassment from others they have an obligation to report it. That may include speaking to the person directly or discussing the matter with the Market Manager, a member of the PRFM steering committee, or a member of the PRFN.

Nothing in this policy prevents or discourages a member of the organization from filing an application with the Ontario Human Rights Tribunal on a matter related to Ontario's Human Rights Code. The PRFM declares the following:

- Violence toward any person or member of the community will not be tolerated.
- Individuals behaving in an aggressive verbal or physical manner will be requested to leave the Market area. Failure to do so will result in the police being notified.
- Any threats towards volunteers, staff, vendors or customers will result in immediate notification of the police.

Definitions:

Harassment may include statements (oral or written) or conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, national origin, color, religion, gender, sexual orientation, gender identity, age, disability, or marital status, and that a) has the purpose or effect of creating an intimidating, hostile or offensive work environment; b) has the purpose or effect of unreasonably interfering with an individual's work performance; or c) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes epithets, slurs, or stereotyping; threatening, intimidating, or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is circulated or posted in the workplace, on company time or using company equipment via e-mail, phone (including voice messages), text messages, tweets, blogs, social networking sites or other means.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. These behaviors may include unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.

PCFM Procedure for Handling Harassment Complaints:

1. **Direct Resolution:** The complainant communicates directly with the alleged harasser, either verbally or in writing, stating clearly that the offensive behaviour is neither welcome nor appropriate and that it must not reoccur, and the alleged harasser concurs with this request.
2. **Mediation:** If direct resolution is not possible or successful, or the complainant is uncomfortable confronting the alleged harasser, the complainant shall report the harassment allegation to the Market Manager. The Market Manager shall communicate with the alleged harasser as soon as possible to inform them that their actions were not welcome. If the complainant and alleged harasser are willing to meet to discuss the situation the Market Manager will act as mediator. Should both parties come to a mutually agreeable resolution the issue shall be deemed resolved. Should a mutually agreeable resolution not be attained via the Market Manager's intervention, an investigation shall be initiated. At this point the complainant will be asked to report the harassment allegation in written form, outlining the events, dates, times, behaviours, evidence (e.g., letters, memos, notes that have been received from the alleged harasser), and the names of any witnesses. The report shall be submitted to the Market Manager who will immediately pass it to a member of the Human Resources Committee (HRC) of the PRFM. In the event that the complaint involves the conduct of the Market Manager, the complainant will report to a member of the PRFM steering committee or a PRFN board member, who will then follow the above steps.
 - a. Upon receipt of the written allegation, the HRC will acknowledge, in writing, receipt of the complaint.
 - b. The HRC may request further information from the complainant to confirm details in preparation for a mediation meeting.

- c. The alleged harasser will be notified of the complaint by the HRC, through a meeting either in person or by telephone. The alleged harasser will be asked to put in writing the details his/her experience of the allegations under consideration and any associated issues, and make this available to the HRC.
 - d. In addition to considering the written material the HRC may also interview both parties separately as well as any witnesses. During such interviews the same questions will be asked of both the complainant and alleged harasser and both the questions and answers shall be written down.
 - e. The HRC will coordinate a mediation meeting between the complainant and the alleged harasser.
 - f. The HRC may perform the roles of facilitator/mediator and note taker in the mediation meeting. If requested by either the complainant or alleged harasser an independent third party mediator may be employed. The complainant and the alleged harasser are expected to participate actively in the mediation process, that is, they are expected to try to reach an agreed-upon understanding of the situation under investigation and to generate ideas about what would mitigate the harm that has been done and ensure that it will not recur.
 - g. If the complainant and the alleged harasser can come to a mutually satisfactory resolution that the HRC or third party mediator finds acceptable, the HRC or third party mediator will summarize in writing the conversation and conclusions of the mediation meeting and make it available to the complainant and the harasser.
 - h. All written material will be kept in a confidential file accessible only to members of the HRC, and destroyed when both the complainant and the harasser are no longer involved with the organization.
3. **Investigated resolution:** When mediation was not satisfactory or successful, or further information is required (e.g., some evidence that the behaviour is not limited to the incident under consideration), an investigation will be initiated.
- a. The HRC will report to the PRFN in a closed meeting of their inability to reach a mediated resolution (whether the failure is evident in the meeting itself, or in an unsatisfactory implementation of the agreed-upon resolution). The report is in summary form and will identify the complainant and alleged harasser, the timing and nature of the complaint, and the nature of the failure to reach or implement a mediated resolution. They will request that the PRFN engage someone external to the organization with an appropriate skill set to work with the HRC as an investigating body to investigate the situation and recommend a resolution.
 - b. In addition to considering the written material generated in the attempt to reach a mediated resolution, the investigating body may also interview other people who could be sources of relevant information, giving due diligence to respecting the privacy of the individuals directly involved (i.e., sharing information externally on a strictly need-to-know basis). The investigating body may again interview the complainant and the alleged harasser. This information will be summarized in written form.
 - c. The investigating body will ascertain whether or not harassment occurred, and, if so, the nature of the harassment. The standard of proof in assessing the

evidence will be the balance of probabilities (i.e., it needs to be established that it was more likely than not that the harassment did occur).

4. **Corrective action:** The investigating body will also make a recommendation for corrective action/s, the intent of which is to create a working environment that is and is perceived to be safe, in that harassing behaviour will not recur.
 - a. If it is determined that harassment or discrimination did occur, corrective action may include any or all but is not limited to the following:
 - i. An apology from the harasser to the complainant and to any other person;
 - ii. Additional education and or training for the harasser;
 - iii. Counselling for the harasser and/or complainant;
 - iv. Disciplinary action for the harasser in keeping with his/her role in the organization, the nature of the incident, the attitude of the harasser, and contextual elements.
 - b. The investigating body will also make recommendations for any corrective actions that would repair the damage that may have been done to the organization, such as
 - i. Broad-based training / education about the nature and cost of harassment;
 - ii. Identifying and addressing any policies or practices, or lack thereof, that systematically allow or even encourage harassment;
 - iii. On-going vigilance to identify and address harassment in early stages and reinforce with action the training / education about harassment.
 - c. If a person, in good faith, files a harassment or discrimination complaint that is not supported by evidence gathered during an investigation, the complaint will be dismissed.
 - i. As long as the complaint is seen as being in good faith, there will be no penalty to the person who complained.
 - ii. If the complaint is seen as not being in good faith, it should itself be treated as an incident of harassment or bullying.
 - d. The findings and recommendation of the investigating body are final.
 - e. If either the complainant or alleged harasser feel that the conclusions and recommendations of the investigating body are not appropriate they should be directed to the Ontario Human Rights Tribunal.
 - f. All written material of incidents, whether substantiated or not, will be kept in a confidential file accessible only to members of the HRC, and destroyed when both the complainant and the harasser are no longer involved with the organization.