

**Toronto Mendelssohn Choir (“TMC”)  
Policy on Harassment and Workplace Violence**

**Revision Effective Date: 2020-03-09**

**1. Purpose**

The purpose of this Policy is to:

- ensure the TMC meets its obligations under the Human Rights Code and the Ontario Health and Safety Act to prevent workplace harassment, including sexual harassment, and workplace violence;
- ensure all employees, Board directors and members are aware that harassment is unacceptable and incompatible with the standards of the organization, as well as being a violation of the law;
- set out the types of behaviour that may be considered offensive and that are prohibited by this Policy; and
- provide a procedure that will be followed to handle a Complaint regarding harassment or workplace violence (as defined below) made by any person covered by the Policy.

**2. Principles**

- TMC will not tolerate harassment, including sexual harassment, or workplace violence, from its employees, choristers or Board directors, or against them.
- TMC is a highly reputable organization that abides by the highest values and standards of the community in which we operate. We constantly strive to maintain artistic excellence and to demonstrate leadership in the choral arts community.
- TMC aims to provide a safe and healthy environment that ensures positive and respectful relationships, that is demonstrated by welcome, friendship and support among our members for everyone involved in our organization. We all share a responsibility to maintain a harassment-free environment and to set an example of appropriate behaviour.
- TMC will take action to prevent harassment, including sexual harassment, and workplace violence.
- TMC will respond in a timely and effective manner in dealing with all reports or allegations of harassment or workplace violence. We will treat all parties involved in complaints, investigations and resolutions objectively and fairly.
- TMC will not tolerate further victimization of anyone who has experienced or perceived harassment, including sexual harassment, or workplace violence.
- TMC will not tolerate retaliation for speaking up or raising complaints about actual or perceived harassment or workplace violence.
- The confidentiality of complainants, respondents and any other parties involved will be respected and protected throughout the handling and resolution of any complaint.

### 3. Application

- This Policy applies to staff, Board directors, choristers including alumni, contractors including guest artists, volunteers and all persons who participate in TMC's activities (each, an "Affiliate").
- This Policy applies to harassment, including sexual harassment, and workplace violence in all TMC places of work, rehearsal, performance and work-related gatherings ("TMC Activities"), regardless of location, and also in all communications including electronic communication and social media.

### 4. Definitions

#### **Harassment** is:

- offending or humiliating someone physically or verbally;
- threatening or intimidating someone; or
- making unwelcome jokes or comments about someone's race, ancestry, national or ethnic origin, colour, citizenship, religion, sex, sexual orientation, age, marital status, family status, disability or pardoned conviction.

#### **Sexual Harassment** is:

- offensive or humiliating behaviour that is related to a person's sex, sexual orientation, gender identity or gender expression;
- behaviour of a sexual nature that is intimidating or unwelcome, or creates a hostile or offensive work environment; or
- behaviour of a sexual nature that could reasonably be thought to put sexual conditions on a person's participation, job or employment opportunities.

#### **Workplace Violence** is:

- the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- an attempt to exercise physical force against a worker in a workplace, that could cause physical injury to the worker; or
- a statement or behaviour that a worker could reasonably interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

### 5. Responsibilities and Expectations

#### **Chair of the Board of Directors** is responsible to:

- ensure that this Policy is applied in a timely, consistent and confidential manner;
- handle investigation and remediation procedures for Complaints of Harassment and Workplace Violence reported directly to the Chair;
- when requested by other Recipients, consult on the investigation and remediation of Complaints;
- ensure the Independent Third Party (as described in Procedures below) is appropriately contracted and prepared to receive and refer Complaints to the appropriate designated Recipient (as defined below);

- as appropriate, coordinate the Independent Third Party's role in receiving and recording Complaints reported directly to them;
- after Investigations and consultations are complete, determine whether or not Complaints are substantiated;
- determine what remediative action is appropriate where a Complaint has been substantiated; and
- report on the number and handling of all Complaints to the Board of Directors.

**Vice-Chair of the Board of Directors** is responsible to:

- handle investigation and remediation procedures for Complaints of Harassment and Workplace Violence reported directly to the Vice-Chair; and
- when requested by other Recipients, consult on the investigation and remediation of Complaints.

**Chair of the Governance Committee** is responsible to:

- manage the administration of this Policy;
- review this Policy annually, or more frequently as required; and
- make necessary adjustments to ensure that this Policy meets the needs of the organization, subject to the approval of the Board.

**Executive Director** is responsible to:

- foster a harassment-free work environment and set an example of appropriate workplace behaviour;
- communicate the process and procedures for filing and handling Complaints of Harassment and Workplace Violence;
- deal with situations of Harassment and Workplace Violence immediately upon becoming aware of them, whether or not a Complaint has been filed;
- promptly notify the Chair of the Board of Directors on the receipt and handling of every Complaint;
- take appropriate action during an Investigation, including separating the parties to the Complaint when appropriate;
- handle investigation and remediation procedures for Complaints of Harassment and Workplace Violence reported directly to the Executive Director;
- when requested by other Recipients, consult on the investigation and remediation of Complaints; and
- ensure situations of Harassment and Workplace Violence are dealt with in a sensitive and confidential manner.

**Artistic Director** is responsible to:

- foster a harassment-free work environment and set an example of appropriate workplace behaviour.

**All Affiliates** are responsible to:

- treat others with respect wherever and whenever TMC Activities are conducted;
- report Harassment, including Sexual Harassment, or Workplace Violence experienced by themselves or as witnessed against others to one of four designated Recipients: the Executive Director, Chair of the Board of Directors, Vice-Chair of the Board of Directors, or the Independent Third Party, as defined in the Procedure below; and
- cooperate with an Investigation of Harassment or Workplace Violence, and respect the confidentiality related to the investigation process.

**All Affiliates** can expect:

- to be treated with respect wherever and whenever TMC Activities are conducted;
- that reported Harassment, including Sexual Harassment, and Workplace Violence will be dealt with in a timely, confidential and effective manner;
- to have their right to a fair and objective process and to have their confidentiality respected during the handling of a Complaint; and
- to be protected against retaliation for reporting Harassment or cooperating with a Harassment investigation.

## 6. Procedures

### Dealing with Unwelcome Behaviour

- Any person may experience attention, comments or actions that are unwelcome and cause them distress. These behaviours may be considered Harassment, but may be dealt with and stopped, either through collaborative conversation or with the assistance of a mediator.
- Affiliates are encouraged to approach any of the designated Complaint Recipients below to ask for support, advice or assistance in dealing with unwelcome behaviours.
- If not comfortable with this approach or satisfied with the outcome, the person may proceed to file a Complaint.

### Filing a Complaint

- Any person may file a Complaint of Harassment, including Sexual Harassment, or Workplace Violence against an Affiliate, to one of four designated Complaint Recipients:
  - Executive Director of the TMC
  - Chair of the TMC Board of Directors
  - Vice-Chair of the TMC Board of Directors
  - Independent Third Party as identified on the TMC Policy on Harassment and Workplace Violence webpage.
- The Complaint may be verbal or in writing. If the Complaint is filed verbally, the Recipient will record the details provided by the Complainant. The Complainant should be prepared to provide details such as what happened, when it happened, where it happened, how often and who else was present (if applicable).

- If the Complaint is received by the Independent Third Party, whether anonymously or otherwise, the Complaint will be referred to the Executive Director. If the Executive Director is implicated in the allegations of the Complaint, the Independent Third Party will refer the Complaint to the Chair of the TMC Board of Directors.
- An anonymous Complaint may be filed and will be investigated in accordance with this Policy, but it will be more difficult to investigate and assess whether it is substantiated. The Recipient will proceed to handle the Complaint with whatever information has been provided.
- Complaints should be made as soon as possible unless there are circumstances that prevented the Complainant from doing so.
- The Recipient will notify one of the other designated Recipients (excluding the Independent Third Party), who is not involved or implicated in the allegations of the Complaint, of its receipt, and will consult with them through all subsequent steps of the Complaint handling procedure.
- The Recipient (excluding the Independent Third Party) will inform the person against whom the Complaint has been made (the “Respondent”), in writing, that a Complaint has been filed. The letter will also provide details of the allegations that have been made against them.
- The Recipient will ensure that the confidentiality of all parties and the Complaint allegations will be maintained throughout the process, and information will be shared with only those who need to know as part of the procedures for handling a Complaint (as described below).
- If either party to a Complaint believes that the Complaint is not being handled in accordance with this Policy, they may contact any other of the designated Complaint Recipients.

### **Mediation**

- Wherever appropriate and possible, the parties to a Complaint will be offered mediation prior to proceeding with an Investigation.
- Mediation is voluntary and confidential. It is intended to assist the parties to arrive at a mutually acceptable resolution to the Complaint.
- The mediator will be a neutral person, agreed upon by both parties. The mediator will not be involved in investigating the Complaint.
- Each party to the Complaint has the right to be accompanied and assisted during mediation sessions by a person of their choosing.

### **Investigation**

- If mediation is not applicable or does not resolve the Complaint, an Investigation will be conducted. All Investigations will be handled by an individual who has the necessary training and experience (“Investigator”). An external consultant may be engaged for this purpose.
- Each party to the Complaint has the right to be accompanied and assisted during investigation sessions by a person of their choosing.

- The Investigator will interview the Complainant, the Respondent and any witnesses that have been identified. All people who are interviewed will have the opportunity to review their statement, as recorded by the Investigator, to ensure its accuracy.
- The Investigator will prepare a report that will include:
  - a description of the allegations;
  - the response of the Respondent;
  - a summary of information learned from witnesses (if applicable); and
  - a decision about whether, on a balance of probabilities, harassment did occur.
- The Investigator's report will be submitted to the Recipient of the Complaint. The Complainant and Respondent will be informed in writing about the results of the Investigation. A copy of the report will be provided to the Chair of the Board of Directors and the Chair of the Governance Committee, and may be provided to the entire Board of Directors, if determined to be appropriate by the Recipient.

### **Complaint Determination and Resolution**

- If a Complaint of Harassment or Workplace Violence is substantiated, the Recipient of the Complaint will decide what action is appropriate.
- The Recipient will notify the Chair of the Board of Directors and the Chair of the Governance Committee on the decision of what action is appropriate.
- Remedies for the person who was harassed may include: a verbal or written apology; where appropriate for staff, compensation for lost wages and any lost employment benefits such as sick leave; and redress for hurt feelings.
- Corrective action for the person found to have engaged in Harassment or Workplace Violence may include: a reprimand; counselling, education or training; a suspension; and/or dismissal.
- Complainant and Respondent will be advised, in writing, of the decision and any corrective action.
- Where a Complaint is found to be clearly vexatious or frivolous, corrective action may be taken with respect to the Complainant, possibly including reprimand, suspension and/or dismissal.
- Where the substantiated Complaint was founded on the action of a patron or the public, TMC may refuse or modify service, depending on circumstances. In every case the TMC Executive Director will ensure the incident is recorded.
- The Recipient will inform the Chair of the Board of Directors and the Chair of the Governance Committee on corrective actions taken related to the substantiated Complaint.
- The Independent Third Party will provide to the Chair of the Board of Directors and the Chair of the Governance Committee, a summary of all Complaints received through its service. The Independent Third Party will ensure anonymity and appropriate confidentiality is maintained.
- TMC will take action to prevent future related incidents of Harassment or Violence.

## **Appeal**

- If the Complainant or Respondent is unsatisfied with the outcome of the Complaint under this process, they may submit a written Appeal to the Chair of the Board of Directors, providing evidence that the Investigation was improperly conducted, or that there have since arisen significant new facts that could change the outcome of the original Investigation.
- The Chair of the Board of Directors will use their discretion in determining a subsequent course of action.

## **7. Commitment to Non-Retaliation**

- Any person who believes they have experienced retaliation as a result of raising a complaint or participating in an investigation, should contact one of the designated Complaint Recipients to address their concern through the procedures for filing a Complaint.

## **8. Publication, Awareness and Training**

- This TMC Policy on Harassment and Workplace Violence will be posted on the TMC Website in a clearly visible location. It will be accompanied by clear instructions on how to file a Complaint under this Policy.
- TMC staff, Board directors and choristers will receive training on this Policy annually.
- The TMC Executive Director will arrange for additional training and familiarization as needed and when requested.
- Affiliates of the TMC (as described above) will be informed:
  - of the TMC Policy on Harassment and Workplace Violence,
  - where it is published on the TMC Website, and
  - their rights under it and their responsibility to comply with it.

## **9. Relationship to Other Policies and Codes**

- This Policy on Harassment and Workplace Violence is an essential requirement to ensure compliance with applicable laws. This Policy will apply in complement with the TMC Chorister Guidelines, TMC Director Code of Conduct and Conflict of Interest Policy, and all employment and engagement contracts.

## **10. Governance over Policy**

- The Chair of the Board of Directors is accountable for this TMC Policy on Harassment and Workplace Violence.
- The Chair of the Governance Committee will ensure this Policy is reviewed annually or more frequently if required, and reapproved by the Board of Directors.
- TMC Executive Director will track Complaints filed under this Policy and report a confidential summary to the Board of Directors.
- TMC Executive Director will identify any emerging issues related to this Policy and bring to the attention of the Chair of the Board of Directors and the Chair of the Governance Committee, for consideration and possible amendment of the Policy.