

LIDSTONE & COMPANY

BARRISTERS AND SOLICITORS

MEMORANDUM

TO: Clients
FROM: Lidstone & Company
DATE: June 9, 2020
RE: Anti-Racial Discrimination and Anti-Racism Policy
FILE: 99999-044

The purpose of this ANTI-RACIAL DISCRIMINATION AND ANTI-RACISM POLICY is to provide our clients with a solid foundation on which to tailor an organizational policy which:

- publicly acknowledges the existence of racism in all its forms;
- recognizes the racial diversity in the local government's community;
- commits to respecting the fundamental rights, personal worth and human dignity of People of Colour and Indigenous Peoples;
- commits to conducting the day to day operations and governance of local government in a manner free of racism and racial discrimination; and
- commits to breaking down barriers, deconstructing biases and fostering and promoting an inclusive, respectful and welcoming environment for all who work, volunteer, do business and interact with the local government.

This Policy is not intended to supersede or supplant a local government's Bullying and Harassment (Respectful Workplace) Policy and Complaints Process or other processes available to individuals or groups wishing to pursue avenues of formal complaint or redress under other local government policies.

If your local government already has a carefully elaborated policy with a rigorous complaints process, section 4.0 incorporates by reference the existing policy. If the existing respectful workplace policy is less rigorous than this Policy, we recommend you bring your policies up to standard and ensure the complaint processes complement one another.

ANTI-RACIAL DISCRIMINATION AND ANTI-RACISM POLICY

1.0 STATEMENT OF PRINCIPLES

- 1.1 The **LOCAL GOVERNMENT** (“●”) recognizes the diversity of our community and believes that all members of our community including, but not limited to, residents, elected officials, employees, volunteers and visitors of colour and Indigenous Peoples have the right to live, work, do business and play in an environment that asserts and supports their fundamental rights, personal worth and human dignity.
- 1.2 The **LOCAL GOVERNMENT** acknowledges and recognizes the existence in our community of racism in all its forms, including Cultural, Environmental, Institutional, Systemic and Individual.
- 1.3 The **LOCAL GOVERNMENT** is committed to breaking down barriers, deconstructing biases and fostering and promoting an inclusive, respectful and welcoming environment for all, one that is free from racial discrimination and racism.
- 1.4 The **LOCAL GOVERNMENT** acknowledges its role and responsibility in protecting every person’s right to be free from racial discrimination and racism.
- 1.5 The **LOCAL GOVERNMENT** is further committed to respecting and upholding the vision and principles of [*British Columbia’s Human Rights Code*][*Alberta’s Human Rights Act*][*Yukon’s Human Rights Act*] and the implementation of the Calls to Action of the Truth and Reconciliation Commission.
- 1.6 This Policy is intended to demonstrate the **LOCAL GOVERNMENT**’s commitment to conducting the day to day operations and governance in an anti-discriminatory and anti-racist manner and environment. The implementation of this Policy is a public commitment that the **LOCAL GOVERNMENT** will continue to make best efforts to ensure that all who work and interact with the **LOCAL GOVERNMENT** are able to do so in an environment and manner free of racism and racial discrimination.

2.0 SCOPE

- 2.1 This Policy applies to all employees, elected officials, contractors, volunteers, and students working or volunteering for the **LOCAL GOVERNMENT** or providing professional services to it.
- 2.2 This Policy applies to the interpretation and application of current and new bylaws, regulations, policies, procedures, contracts, procurements and activities carried out by the **LOCAL GOVERNMENT**, all of which will be required to be compliant with the principles and particular requirements specified within this Policy.

- 2.3** The scope of this Policy includes all aspects of the **LOCAL GOVERNMENT**'s activities, including its working environment, procurement, services, meetings and various public events. In addition, this scope will include ongoing relationships with individuals, businesses, community groups and contractors as well as with other local governments and public and private bodies.
- 2.4** This policy is intended to supplement and support **[British Columbia's Human Rights Code][Alberta's Human Rights Act][Yukon's Human Rights Act]** and related **LOCAL GOVERNMENT** policies such as the **[Insert name of respectful workplace policy]**.

3.0 Roles and Responsibilities

3.1 [Council] [Board] Members:

- 3.1.1 Take leadership to model inclusive behaviour and language and not participate in racist or racially discriminatory conduct;
- 3.1.2 Support, promote and foster the principles of this Policy in all their work and interactions;
- 3.1.3 Ensure that Management is trained on this Policy and is implementing it;
- 3.1.4 Report incidents of racial discrimination or racism experienced or witnessed, immediately to the CAO (or their designate) or the Mayor (or their delegate);
- 3.1.5 Cooperate and participate in good faith in any investigation under this Policy; and
- 3.1.6 Maintain the confidentiality of all involved in a complaint under this Policy.

3.2 Management:

- 3.2.1 Ensure that the workplace and the business of the local government is free from racial discrimination and racism and ensure the principles of this Policy are reflected in the execution of their duties, operational policies and practices within their area of responsibility;
- 3.2.2 Model inclusive behaviour and language and not participate in racist or racially discriminatory conduct;
- 3.2.3 Support, promote and foster the principles of this Policy in all their work and interactions;

- 3.2.4 Train [Council] [Board] members on this Policy at the beginning of each term of office and provide refresher training annually thereafter. Training should be meaningful, interactive and involve group work where participants can work through various case studies highlighting appropriate and inappropriate behaviour;
- 3.2.5 Train all new employees, volunteers and contractors on this Policy at the commencement of their employment or services and provide refresher training annually thereafter. Training should be meaningful, interactive and involve group work where participants can work through various case studies highlighting appropriate and inappropriate behaviour;
- 3.2.6 Report incidents of racial discrimination or racism experienced or witnessed, immediately to a supervisor, the CAO (or their Deputy or designate) or the Mayor (or their delegate);
- 3.2.7 Listen to any complaint, treating it sensitively, seriously and confidentially;
- 3.2.8 When appropriate and required, provide a timely, thorough, confidential and objective investigation of any allegation and answer any complaints in accordance with this Policy;
- 3.2.9 If necessary or appropriate, appoint an independent third-party investigator to investigate allegations or complaints when required under section 4.0;
- 3.2.10 Subject to procedures referred to in section 4.0, review the findings and recommendations and determine, in consultation with Human Resources, Management, legal counsel and/or [Council] [Board], as applicable, the outcome and the appropriate action to be taken, which may include education, training or disciplinary action, dependent upon the results;
- 3.2.11 Maintain the confidentiality of all involved in a complaint under this Policy;
- 3.2.12 Cooperate and participate in good faith in any investigation under this Policy; and
- 3.2.13 Ensure this Policy is reviewed at [least every 2 years] for effectiveness.
- 3.2.14 The Chief Administrative Officer (“CAO”) is responsible for the implementation and administration of this Policy.

3.3 Employees, Volunteers and Contractors:

- 3.3.1 Must not engage in racial discrimination or racism and conduct oneself and speak in an inclusive manner;
- 3.3.2 Report incidents of racial discrimination or racism experienced or witnessed, immediately to a supervisor, the CAO or the Mayor (or their delegate);
- 3.3.3 Maintain the confidentiality of all involved in a complaint under this Policy; and
- 3.3.4 Cooperate and participate in good faith in any investigation under this Policy.

3.4 Union [*Remove if not applicable*]

- 3.4.1 Take an active role as partners in supporting, promoting and fostering the principles of this Policy in all their work and interactions with their members, Management and [Council] [Board].

3.5 Complainants

- 3.5.1 Complainants have a right to:
 - 3.5.1.1 Make a complaint and receive a copy of the complaint;
 - 3.5.1.2 Be informed of the status and progress of the investigation;
 - 3.5.1.3 Be informed of a summary of the results of the investigation in writing including a summary of corrective action that has or will be taken as a result of the investigation;
 - 3.5.1.4 Not be subject to retaliation; and
 - 3.5.1.5 Withdraw a complaint at any time during the procedure; however, depending upon the nature and severity of the allegations, the CAO (or Deputy or designate), or Mayor may determine that an investigation is required and the process will continue despite the withdrawal.

3.6 Respondents

- 3.6.1 Respondents have a right to:
 - 3.6.1.1 Be informed that a complaint has been filed;

- 3.6.1.2 Be informed of the status and progress of the investigation;
- 3.6.1.3 Have the allegations provided to any independent investigator;
- 3.6.1.4 Be informed of the allegations against them and be provided an opportunity to respond; and
- 3.6.1.5 Be informed of a summary of the results of the investigation in writing.

3.7 Bystanders

- 3.7.1 Bystanders have the right to not be subject to retaliation because they have participated as a witness; and
- 3.7.2 Bystanders have a responsibility to meet with the investigator and to cooperate in good faith with all those responsible for the investigation of the complaint.

3.8 Investigator

- 3.8.1 The investigator, if engaged under the process referred to in section 4.0, shall:
 - 3.8.1.1 Have expertise regarding the matters covered under this Policy;
 - 3.8.1.2 Ensure the Respondent is informed of the allegations;
 - 3.8.1.3 Ensure all parties involved have been informed of their rights and responsibilities;
 - 3.8.1.4 Interview the parties concerned and any witnesses;
 - 3.8.1.5 Collect all pertinent information;
 - 3.8.1.6 Recommend a mediation process where appropriate;
 - 3.8.1.7 Prepare a written report;
 - 3.8.1.8 Ensure the investigation is completed in a timely fashion taking into account particular circumstances; and
 - 3.8.1.9 Maintain confidentiality.

4.0 Complaint Process: All members of the [Council] [Board of Directors], management, employees, volunteers and contractors of the LOCAL GOVERNMENT have a responsibility to treat all complaints under this Policy seriously and to investigate all complaints of racism and racial discrimination pursuant to the complaint procedure set out in the LOCAL GOVERNMENT's [Insert name of respectful workplace policy].

5.0 Remedies: Any individual covered by this Policy, who is found to have engaged in, or known about and took no action to report or stop racial discrimination or racist behaviour contrary to this Policy may be subject to appropriate action depending up on the severity of the misconduct. The range of appropriate remedy may include, but is not limited to, the following:

5.1 In the case of an officer or employee:

5.1.1 Oral and/or written apology from the Respondent and/or LOCAL GOVERNMENT;

5.1.2 Any administrative change that is appropriate (i.e.: job site or position transfer; no contact for a period of time, temporary or permanent changes to reporting structures or work assignments)

5.1.3 Coaching;

5.1.4 Counselling;

5.1.5 Training or education;

5.1.6 Re-orientation to this Policy and its purpose;

5.1.7 Discipline up to and including termination of employment for just cause;

5.1.8 Termination of contract for service or of a volunteer opportunity.

5.2 In the case of an elected official, sanction by [Council] [Board] (including but not limited to censure, removal from appointments, referral to police or legal action).

5.3 If the Respondent is not covered by this Policy, the LOCAL GOVERNMENT will take any and all steps reasonable and necessary to remedy the substantiated complaint to protect the Complainant from future harm.

6.0 Unsubstantiated Complaints: If an investigator finds insufficient evidence to support the Complainant's allegations, the investigator will submit that finding. There will be no record of the complaint on the Complainant's or Respondent's file and there will be no sanction to anyone concerning the incident. A finding of no evidence is a simple reflection of an absence of evidence to support the claim and nothing more.

7.0 No Reprisals or Retaliation: Any reprisal or retaliatory action that is related, in any way, to the circumstances noted above against a Complainant (or person closely related to or associated with the Complainant), Bystander, Respondent, elected official or employee responsible for implementing this Policy and procedure, who in good faith:

7.1 Makes a complaint alleging racial discrimination or racism;

7.2 Identifies or opposes a practice that they reasonably believe to constitute racial discrimination or racism;

7.3 Implements or participates in an investigation, proceeding or hearing under this Policy or pursuant to any applicable statutory complaint process;

violates this Policy and will not be tolerated.

7.4 Any officer, employee, volunteer, appointee or contractor covered by this Policy who is found to have engaged in any reprisal or retaliation in violation of this Policy will be subject to appropriate disciplinary action, which action may include the termination of employment for just cause, termination of a contract for service or of a volunteer opportunity or legal action.

7.5 Any elected official covered by this Policy who is found to have engaged in any reprisal or retaliation in violation of this Policy will be subject to [Council][Board] consideration of appropriate sanctions, which may include censure, removal from appointments, referral to police or legal action.

8.0 Vexatious Allegations and Complaints: Any individual covered by this Policy who makes an allegation or complaint under this Policy that is subsequently found to have been made in a deliberately vexatious or malicious manner, or otherwise to have been made in bad faith, will be subject to appropriate action set out in sections 7.4 or 7.5, as applicable.

9.0 Limitations

9.1 This Policy articulates the position of the LOCAL GOVERNMENT and demonstrates its support and commitment to an environment that is free of racial discrimination and racism. It is not intended to supersede or supplant the other processes

available to individuals or groups wishing to pursue avenues of formal complaint or redress under other **LOCAL GOVERNMENT** policies.

Appendix A

DEFINITIONS¹

Barrier – An overt or covert obstacle which must be overcome for equality and progress to be possible.

Bias – A subjective opinion, preference, prejudice, or inclination, often formed without reasonable justification, which influences the ability of an individual or group to evaluate a particular situation objectively or accurately.

Cultural Racism - The full adoption by an individual or group of the culture, values and patterns of a different social, religious, linguistic or national ethos, resulting in the diminution or elimination of attitudinal and behavioural characteristics of the original individual or group. Can be voluntary or forced.

Discrimination - Means the differential treatment of an individual or group, on the basis of prejudice, stereotypes or the Prohibited Grounds of Discrimination set out in provincial human rights legislation. Discrimination may be intentional or unintentional, conscious or unconscious. Discrimination can result in one individual or group having an advantage over another and can cause an individual or group to be excluded from activities which they ought to have the right to be included in.

Diversity - A term used to encompass the acceptance and respect of various dimensions including race, gender, sexual orientation, ethnicity, socio-economic status, religious beliefs, age, physical abilities, political beliefs, or other ideologies.

Environmental Racism - A systemic form of racism in which toxic wastes and dangerous and toxic facilities are located into or near marginalized communities, such as People of Colour, Indigenous Peoples, working class, and poor communities, often causing chronic illness and change in their lifestyle due to pollution of lands, air and waterways.

Inclusive Language / Inclusion - The deliberate selection of vocabulary that avoids explicit or implicit exclusion of particular groups and that avoids the use of false generic terms, usually with

¹ The Canadian Race Relations Foundation maintains a glossary with definitions of key concepts relevant to race relations, the promotion of Canadian identity, belonging and the mutuality of citizenship rights and responsibilities. <https://www.crrf-fcrr.ca/en/resources/glossary-a-terms-en-gb-1>

reference to gender. Making diverse members of society or an organization feel valued and respected.

Indigenous Peoples – Means the communities, peoples, and nations that have a historical continuity with pre-invasion, pre-settler, or pre-colonial societies that developed on their territories, as distinct from the other societies now prevailing on those territories (or parts of them). The original inhabitants of Canada who lived here for millennia before explorers arrived from Europe.

Individual Racism - Racist assumptions, beliefs and behaviours that stem from conscious and unconscious personal prejudice.

Institutional Racism (Systemic Discrimination) - The institutionalization of discrimination through policies and practices which may appear neutral on the surface but which have an exclusionary impact on particular groups. This occurs in institutions and organizations, including government, where the policies, practices and procedures (e.g. employment systems – job requirements, hiring practices, promotion procedures, etc.) exclude and/or act as barriers to racialized groups.

People of Colour - Non-White racial or ethnic groups; generally used by racialized peoples as an alternative to the term “visible minority.” The word is not used to refer to Indigenous peoples, as they are considered distinct societies under the Canadian Constitution. When including Indigenous peoples, it is correct to say “people of colour and Indigenous peoples.”

Prohibited Grounds of Discrimination [BC]- Race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity, gender expression, age of a person or class of persons.

Prohibited Grounds of Discrimination [AB] - Race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.

Prohibited Grounds of Discrimination [YUKON] – Ancestry, including colour and race, national origin, ethnic or linguistic background or origin, religion or creed, or religious belief, religious association, or religious activity, age, sex, including pregnancy and pregnancy related conditions, gender identity or gender expression, sexual orientation, physical or mental disability, criminal charges or criminal record, political belief, political association, or political activity, marital or family status, source of income, actual or presumed association with other individuals or groups whose identity or membership is determined by any of the grounds.

Racial Discrimination – Means any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin, which nullifies or impairs the recognition, enjoyment

or exercise of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Racism - A belief that one group is superior to others performed through any individual action, or institutional practice which treats people differently because of their colour or ethnicity. This distinction is often used to justify discrimination. There are many types of racism: Institutional, Systemic, and Individual.

Acknowledgement

I ACKNOWLEDGE that I have received a copy of the **LOCAL GOVERNMENT**'s Anti-Racial Discrimination and Anti-Racism Policy, that I have read and received training on it and fully understand the rights, duties and procedures contained in it.

I UNDERSTAND that the **LOCAL GOVERNMENT** may change, withdraw or add, rules, duties or practices described in the Anti-Racial Discrimination and Anti-Racism Policy from time to time in its sole discretion without prior notice to me, provided that the **LOCAL GOVERNMENT** advises me within a reasonable period of time.

I ACKNOWLEDGE that I have had an opportunity to discuss the content of the Anti-Racial Discrimination and Anti-Racism Policy with my immediate supervisor, Human Resources representative or the CAO.

I AGREE to abide by the **LOCAL GOVERNMENT**'s Anti-Racial Discrimination and Anti-Racism Policy and I understand that such compliance is a condition of my duties, responsibilities and obligations. I also understand that non-adherence to the **LOCAL GOVERNMENT**'s Anti-Racial Discrimination and Anti-Racism Policy or other rules may result in disciplinary action up to and including termination of employment or the consideration of appropriate sanctions, which may include censure, removal from appointments, referral to police or legal action.

X

SIGNATURE OF INDIVIDUAL

PRINTED NAME

DATE