

## **APPENDIX 3 ANTI-HARASSMENT AND ANTI-BULLYING POLICY**

### **1. Statement of Principles**

#### **1.1 Commitment of the Society and the Union**

The Vancouver Symphony Society and the Musicians' Union are committed to providing a collegial working environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere which promotes equal opportunities and prohibits discriminatory practices.

Workplace harassment is offensive, degrading and threatening. The Vancouver Symphony Society and the Musicians' Union have adopted this policy to make clear that workplace harassment will not be tolerated in the organization. The Society and the Union encourage reporting of all incidents of workplace harassment, regardless of who the offender may be. Individuals, regardless of their position within the Society, found to have engaged in conduct constituting workplace harassment, may be severely disciplined.

The Society and the Union recognize that employees may also be subjected to workplace harassment by members of the public, by visiting artists, and by others who conduct business with the Society. In these circumstances the Society and the Union acknowledge their responsibility to do all in their power to support and assist the person subjected to such harassment.

#### **1.2 Application of the policy**

This policy applies to all those working for the Vancouver Symphony Society, including secretarial, support, professional, administrative and management staff, Board members, volunteers, members of the orchestra, and stage crew. For purposes of this Appendix, the term "employees" shall include all those persons covered in the categories listed in this paragraph. For purposes of this Appendix, conductors are considered professional staff, and not members of the Union.

#### **1.3 Other remedies**

This policy is in addition to and not in substitution for such rights as an individual may have under the B.C. *Human Rights Act* or any other applicable legislation.

#### **1.4 Purposes**

The purposes of this policy are:

- (a) To maintain a working environment that is free from harassment;
- (b) To alert all employees of the Society to the fact that most forms of workplace harassment are an offence under the law;
- (c) To set out examples of the types of behaviour that may be considered offensive;
- (d) To establish a mechanism for receiving complaints of workplace harassment and to provide a procedure by which the Society, and the Union, in cases of harassment involving members of the Union, will deal with these complaints; and
- (e) To provide an example of the steps a responsible employer and union can take towards maintaining a working environment in which employees treat each other with mutual respect.

This policy is not intended to constrain social interaction between people in the organization.

#### **1.5 Definitions**

##### **Workplace harassment**

"Workplace harassment" includes "bullying", "sexual harassment" as defined below and "retaliation" as defined below and is one or a series of incidents involving unwelcome comments or actions which may concern a person's race, colour, ancestry, place of origin, political belief, religion, marital status, physical or mental disability, age, sex, sexual orientation, or similar personal characteristic. Workplace harassment may also be unrelated to any such personal characteristic. Such unwelcome comments or actions, whether related to such personal characteristics or not, constitute workplace harassment:

- (a) When such conduct might reasonably be expected to cause embarrassment, insecurity, discomfort, offence or humiliation to another person or group;
- (b) When submission to such conduct is made either implicitly or explicitly a condition of employment;
- (c) When submission to or rejection of such conduct is used as a basis for any employment decision (including, but not limited to, matters of promotion, raise in salary, job security or benefits affecting the employee); or
- (d) When such conduct has the purpose or the effect of interfering with a person's work performance or creating an intimidating, hostile or offensive work environment.

Workplace harassment does not include actions occasioned through the exercise, in good faith, of the Society's managerial and supervisory rights and responsibilities related to:

- the proper direction of the work force;
- job or performance evaluation; or
- discipline or dismissal for just and reasonable cause.

#### **1.5.1 Bullying**

"Bullying" includes any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

#### **1.5.2 Sexual harassment**

For the purposes of this policy "sexual harassment" is defined as one or a series of incidents involving unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature:

- (a) When such conduct might reasonably be expected to cause embarrassment, insecurity, discomfort, offence or humiliation to another person or group;
- (b) When submission to such conduct is made either implicitly or explicitly a condition of employment;
- (c) When submission to or rejection of such conduct is used as a basis for any employment decision (including, but not limited to, matters of promotion, raise in salary, job security or benefits affecting the employee); or
- (d) When such conduct has the purpose or the effect of interfering with a person's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment can occur in the form of behaviour by men towards women; between men, between women, or as behaviour by women towards men.

Types of behaviour which constitute sexual harassment include, but are not limited to:

- (a) Sexist jokes causing embarrassment or offence, told or carried out after the joker has been advised that they are embarrassing or offensive or that are by their very nature embarrassing or offensive.
- (b) Leering;
- (c) The display of offensive material of a sexual nature;
- (d) Sexually degrading words used to describe a person;
- (e) Derogatory or degrading remarks directed towards members of one sex or one sexual orientation;
- (f) Sexually suggestive or obscene comments or gestures;
- (g) Unwelcome sexual flirtations, advances, or propositions;
- (h) Unwelcome inquiries or comments about a person's sex life;
- (i) Persistent unwanted contact or attention after the end of a consensual relationship;

- (j) Requests for sexual favours;
- (k) Unwanted touching;
- (l) Verbal abuse or threats; and
- (m) Sexual assault.

#### **1.5.4 Retaliation**

“Retaliation” is any action taken against an individual in retaliation for:

- (a) Having invoked this policy whether or behalf of oneself or another individual;
- (b) Having participated or co-operated in any investigation under this policy; or
- (c) Having been associated with a person who has invoked this policy or participated in these procedures.

#### **1.5.5 Included behaviour and locations**

For the purposes of this policy the types of behaviour which constitute workplace harassment include, but are not limited to, verbal abuse or threats, offensive comments and actions deliberately designed to demean, belittle or humiliate an individual or group, and non-consensual and physical contact, and can occur:

- (a) At the office;
- (b) At work-related social functions;
- (c) In the course of work assignments outside the office;
- (d) At the locations of dressing rooms, rehearsals or performances;
- (e) At work-related conferences or training sessions;
- (f) During work-related travel;
- (g) Over the telephone; or
- (h) Elsewhere, if the person harassed is there as a result of work-related responsibilities or a work-related relationship.

### **1.6 Responsibilities**

#### **1.6.1 Management of the Society**

The management of the Society is responsible for:

- (a) Discouraging and preventing workplace harassment, whether or not complaints of workplace harassment have been brought to the attention of the management of the Society;
- (b) Investigating every written complaint of workplace harassment;
- (c) Imposing strict disciplinary measures, when a complaint of workplace harassment is found to have been substantiated, regardless of the status or seniority of the offender;
- (d) Doing all in its power to support and assist any employee of the Society who complains of workplace harassment by a person who is not an employee of the Society (e.g. members of the public, messengers, visiting artists);
- (e) Providing advice and support to persons who are subjected to workplace harassment;
- (f) Formally acknowledging to a person who has been found to have been subjected to workplace harassment that workplace harassment has taken place;
- (g) Regularly reviewing with the Union the procedures of this policy to ensure that they adequately meet the policy objectives;
- (h) Maintaining records as required by this policy;
- (i) Making all employees of the Society aware of the problem of workplace harassment and the existence of the procedures available under this policy; and

- (j) Appointing advisors and harassment officers.

#### **1.6.2 The Union**

In cases of workplace harassment involving members of the Union, the Union is responsible for:

- (a) Discouraging and preventing workplace harassment, whether or not complaints of workplace harassment have been brought to the attention of the management of the Society;
- (b) Providing advice and support to members of the Union who are subjected to workplace harassment;
- (c) Doing all in its power to support and assist any member of the Union who complains of workplace harassment by a person who is not an employee of the Society (e.g. members of the public, messengers, visiting artists);
- (d) Formally acknowledging to a person who has been found to have been subjected to workplace harassment that workplace harassment has taken place;
- (e) Regularly reviewing with the Society the procedures of this policy to ensure that they adequately meet the policy objectives;
- (f) Making all members of the Union aware of the problem of workplace harassment and the existence of the procedures available under this policy.
- (g) Fairly representing the interests of any member of the Union who may be alleged to have committed workplace harassment; and
- (h) Appointing advisors.

#### **1.6.3 Employees**

Every employee of the Society has a responsibility to play a part in ensuring that the working environment is free from workplace harassment. This responsibility can only be discharged if every employee ensures that his or her conduct avoids even the suggestion that it might constitute workplace harassment. In addition, any employee of the Society who believes that another employee has experienced or is experiencing workplace harassment is encouraged to notify one of the advisors appointed under this policy.

## **2. Procedures**

### **2.1 Disciplinary action**

Employees of the Society against whom a complaint of workplace harassment is substantiated may be severely disciplined, up to and including dismissal. This policy will be applied without regard to status or seniority.

### **2.2 Confidentiality**

#### **2.2.1 General**

The Society and the Union recognize the difficulty of coming forward with a complaint of workplace harassment and a complainant's interest in keeping the matter confidential. To protect the interests of the complainant, the person complained against and others who may report incidents of workplace harassment, confidentiality will be maintained throughout the process and information relating to the complaint will only be disclosed to the extent necessary to carry out these procedures, or as otherwise required by law.

#### **2.2.2 Records**

All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material, will only be disclosed to the extent necessary to carry out these procedures, or as otherwise required by law.

## **2.3 Advisors**

### **2.3.1 Appointment**

The Society will appoint at least two persons, at least one of each gender, to serve as advisors under this policy. The Union will appoint at least two persons, at least one of each gender, to serve as advisors under this policy.

### **2.3.2 Training**

The Society and the Union will arrange for the advisors to receive appropriate initial and continuing training as well as other institutional support and assistance in carrying out their responsibilities under this policy.

### **2.3.3 Role**

The advisors will serve as initial contact and resource persons, and may serve as support persons for complainants under this policy. Persons who think they may have been subjected to workplace harassment or want to know more about workplace harassment or this policy may contact an advisor of their choice. All discussions will be confidential. Advisors will not initiate a formal complaint, take any action without the consent of the complainant, nor determine if workplace harassment has taken place. Advisors will refer complainants to the officers appointed under this policy if complainants wish to take further action.

## **2.4 Anti-Harassment Officers**

### **2.4.1 Appointment**

The Society will appoint at least two persons to serve as officers under this policy. There will be at least one officer of each gender. In carrying out their duties under this policy, officers will be directly responsible to the management of the Society and shall have access to notes and records kept by any other officer.

### **2.4.2 Training**

The Society will arrange for the officers to receive appropriate initial and continuing training as well as other institutional support and assistance in carrying out their responsibilities under this policy.

## **2.5 Initial action by Complainant**

A person who considers that she or he has been subjected to workplace harassment (the "complainant") is encouraged, in appropriate circumstances, to bring the matter to the attention of the person responsible for the conduct. Where the complainant does not wish to bring the matter directly to the attention of the person responsible, or where such an approach is attempted and does not produce a satisfactory result, the complainant may seek the advice of an advisor, or may speak directly with an officer.

## **2.6 Meeting with Officer**

The officer will advise the complainant of:

- (a) The right to make a written complaint under this policy when the alleged harasser is a member of the Society;
- (b) The availability of counselling and other support services provided by the Society;
- (c) The right, if the complainant so wishes, to be represented and/or accompanied by a support person at any stage of the process when the complainant is required or entitled to be present:
  - (i) if the complainant is a member of the Union - by a steward or Union representative;
  - (ii) if the complainant is not a member of the Union - by a representative of the complainant's choice, and/or by a support person of the complainant's choice (who may be an advisor); and
- (d) The right to withdraw from any further action in connection with the complaint at any stage (even though the Society may continue to deal with the complaint under paragraph 2.7.2 (c)); and

- (e) Other procedures, such as a complaint under the British Columbia Human Rights Act or, where appropriate, under the Criminal Code.

No matter what decision is made concerning further action, the officer will keep a confidential written record of the initial complaint.

Prior to any meeting with the alleged harasser, the officer will advise the alleged harasser of his or her right to be represented at any stage of the process when the alleged harasser is required or entitled to be present by:

- (i) a steward or Union representative if the alleged harasser is a member of the Union;
- (ii) any person of his or her choice if the alleged harasser is not a member of the Union.

## **2.7 Outcomes to meeting with officer**

### **2.7.1 Complainant and officer agree that the conduct is not workplace harassment**

If the complainant and the officer agree that the conduct in question is not workplace harassment as defined in this policy, no further action will be taken under this Policy.

### **2.7.2 Complainant does not wish to make a written complaint**

Where a complainant brings to the attention of the officer facts which the officer believes constitute *prima facie* evidence of workplace harassment, but the complainant does not wish to make a written complaint, the following steps may be taken:

- (a) The complainant may request the officer to meet with the person whose conduct has caused the complaint with a view to obtaining an apology and an assurance that the offensive conduct will not be repeated;
- (b) Where the complainant does not wish the officer to take any further action, the officer may nevertheless meet with the person whose conduct has caused the offence, if the officer is satisfied that this can be done without disclosing, directly or indirectly, the identity of the complainant; or
- (c) Where the complainant does not wish the officer to take any further action, the officer may nevertheless make a written complaint as provided in paragraph 2.8 if there have been previous complaints against the alleged harasser, or if the alleged harasser has given an assurance that he or she will not repeat previous workplace harassment, or if the alleged workplace harassment is particularly serious (e.g. if the officer fears the alleged harasser may pose a threat to the complainant or others).

If the officer has spoken to the alleged harasser in accordance with paragraph 2.7.2(a) or (b), the officer will prepare a confidential written record of that discussion, provide a copy to the alleged harasser (and to the Union office if the alleged harasser is a member of the Union), and a copy will be filed in the alleged harasser's personnel file. Everyone involved will take steps to ensure confidentiality.

### **2.7.3 Complainant decides to make written complaint**

Where the complainant, after meeting with the officer, decides to make a written complaint, including in a situation where the officer believes that the conduct in question is not workplace harassment as defined in this policy, the officer will:

- (a) Assist the complainant to draft a written complaint, which must be signed by the complainant; and
- (b) Provide copies of the complaint, without delay, to the person against whom the complaint is made, to the complainant, and, in the case of a complaint by or against a member of the Union, to the Union.

## **2.8 Written complaint by officer**

Where the officer decides that a written complaint should be made in accordance with paragraph 2.7.2 (c), the officer will:

- (a) Prepare and sign a written complaint;

- (b) Provide copies of the complaint, without delay, to the person against whom the complaint is made, to the complainant, and, in the case of a complaint by or against a member of the Union, the Union; and
- (c) Without delay, forward the complaint to the management of the Society.

## **2.9 Notice to alleged harasser**

Where the officer gives a copy of the complaint to the alleged harasser, the officer will include with the complaint a copy of this policy and a notice that the person has the right to be represented at any stage of the process when the alleged harasser is required or entitled to be present, by:

- (i) a steward or Union representative if the alleged harasser is a member of the Union;
- (ii) any person of his or her choice if the alleged harasser is not a member of the Union.

## **2.10 Opportunity for resolution before investigation**

Where the complainant decides to make a written complaint, the officer may, if the complainant consents, seek a meeting with the alleged harasser with a view to obtaining an apology or such other resolution as will satisfy the complainant.

## **2.11 Outcomes to resolution meeting**

### **2.11.1**

Where the complainant is satisfied with the resolution achieved at the meeting held pursuant to paragraph 2.10, the officer will, without delay, forward the written complaint and the officer's recommendations concerning resolution of the complaint to the management of the Society (and to the Union if a member of the Union is involved). Everyone involved will take steps to ensure confidentiality.

### **2.11.2**

Where the complainant is not satisfied with the resolution achieved at the meeting held pursuant to paragraph 2.10, the officer will, without delay, forward the written complaint, an account of the alleged harasser's view of the facts, and the officer's recommendations concerning resolution of the complaint to the management of the Society (and to the Union if a member of the Union is involved). Everyone involved will take steps to ensure confidentiality.

## **2.12 Filing of written complaint**

If the complainant does not consent to the process set out in paragraph 2.10, the officer will forward the complainant's written complaint to the management of the Society without delay (and to the Union if a member of the Union is involved).

When a written complaint, whether issued by an officer or by a complainant, is forwarded to the management of the Society, a copy will be filed in the Society's records relating to the alleged harasser.

Everyone involved will take steps to ensure confidentiality.

## **2.13 Investigation**

The management of the Society will appoint a person or persons to investigate every written complaint and where appropriate, will take disciplinary action. Officers and advisors will not undertake the investigation.

Where a resolution satisfactory to the complainant is recommended by the officer, the management of the Society may choose to limit the investigation to a review of the written complaint and the officer's recommendation.

The investigation shall be completed as quickly as possible and within 30 days from the date of the receipt of the written complaint. The investigator shall make a recommendation that either the complaint is substantiated, or the complaint is not substantiated. The Society shall then make a finding.

## **2.14 Complaint is substantiated**

Where the investigation results in a finding by the Society that the complaint of workplace harassment is substantiated, the outcome of the investigation, and any disciplinary action, will be recorded in the Society's records relating to the offender. These written records will be maintained for 10 years unless

new circumstances dictate that the file should be kept for a longer period of time. All other documents related to the complaint and the investigation will be destroyed.

**2.15 Complaint not substantiated**

Where the investigation results in a finding by the Society that the complaint of workplace harassment is not substantiated, all record of the complaint, and all other documents related to the complaint and the investigation, shall be removed from the Society's records and the Union's records and destroyed.

An employee who files a complaint which is not found to be substantiated will not be subject to any disciplinary or other action for having filed a complaint, except that an employee who files a written complaint which would be seen by a reasonable person to be frivolous, vindictive or vexatious, may be subject to disciplinary action.

**2.16 Informing complainant**

The complainant (and if the complainant is a member of the Union: the Union also) will be informed of the outcome of the investigation and any disciplinary action taken by the management of the Society. If the complainant is not satisfied with the outcome of the investigation or the disciplinary action, the complainant will be reminded of the continuing right to file a complaint with the British Columbia Human Rights Council. Everyone involved will take steps to ensure confidentiality.

**2.17 Report by colleague**

Where a person believes that a colleague has experienced or is experiencing workplace harassment and reports this belief to an officer, the officer will meet with the person who is said to have been subjected to workplace harassment and will then proceed in accordance with paragraph 2.6.

**2.18 Harassment by outsiders**

An employee of the Society who considers that she or he may have been subjected to workplace harassment by a person who is not an employee of the Society should seek the advice of an advisor. After speaking to an advisor, the complainant may speak to an officer who will take whatever action is necessary to ensure that the Society fulfils its responsibility to support and assist the person subjected to such harassment.

**2.19 Grievance and arbitration**

The regular grievance procedure and arbitration process in the Collective Agreement will be used for any grievances concerning this Policy and any such grievance will be initiated at Step 2 of Article 21.A.

**2.20 Interim measures**

Pending the resolution of the complaint, the Society may take appropriate and necessary interim measures. Such interim measures may include the temporary transfer of the alleged offender; the temporary transfer, with his or her consent, of the complainant; or the suspension, with or without pay, of the alleged offender. Any such actions shall be grievable in accordance with paragraph 2.19.

**FOR:**

MUSICIANS' ASSOCIATION LOCAL 145  
CANADIAN FEDERATION OF MUSICIANS

*David S. Thom*  
Date: Mar 3/2017

THE VANCOUVER SYMPHONY SOCIETY

*Kelly Treadale*  
Kelly Treadale, President  
Date: March 3, 2017