



## TCM POLICIES AND PROCEDURES

### 15. Policy for a positive and respectful workplace

<b>Policy:</b>	Communications
<b>Effective date:</b>	October 2018
<b>Last review date:</b>	***
<b>Next review date:</b>	3 years from the last review
<b>Replaces:</b>	All previous policies or regulations
<b>Reviewed by:</b>	Personnel Committee, approved by Board of Directors

#### PURPOSE

Théâtre Cercle Molière (TCM) is committed to providing a safe and respectful workplace, free from all forms of harassment, violence and discrimination, where all employees, guest artists, cultural agents, trainers, participants, administrators, audience members and volunteers are treated with dignity and respect.

Harassment, discrimination, violence, sexual misconduct and abuse of authority must not be tolerated in any workplace, because they contribute to undermining team spirit and create a toxic, unhealthy working environment. All employees, artists, cultural agents, trainers, participants, administrators, volunteers and other persons involved in TCM activities must be able to work in a safe and respectful environment, and they must be aware of the procedures applicable should it be necessary to report a case of harassment, discrimination, violence, sexual misconduct, abuse of authority or any other behaviour that fosters a toxic workplace, without fear of reprisal.

At Théâtre Cercle Molière, we believe that each person deserves to be treated with dignity and in a spirit of mutual respect. Our objective is to provide a workplace that fosters equity in terms of opportunities and that prohibits harassment, violence and all discriminatory practices.

Théâtre Cercle Molière is bound by legal obligations that govern workplace standards, workplace health and safety and the respect of human rights. Thus, under the *Manitoba Human Rights Code*, neither the Théâtre Cercle Molière, nor any staff member, contract employee, administrator, volunteer, client or supplier may discriminate against or harass any staff member, contract employee, administrator, volunteer, client or supplier on the basis of race, ancestry, place of origin, colour, ethnicity, citizenship, creed, sexual orientation, sexual identity or its expression, age, criminal record, marital state, family situation, physical appearance, handicap or any other factor protected by a provincial law applicable to human rights.

Théâtre Cercle Molière, in its commitment to providing a workplace free from all forms of harassment, violence and discrimination, has identified the following objectives:

- To provide employees with a workplace free from all forms of harassment, violence and discrimination;
- To provide a workplace where employees are aware of this policy and apply it;
- To provide a workplace where employees can signal concerns about unacceptable behaviour or lodge a complaint about such behaviour without fear of reprisal;
- To provide employees, in the event of a complaint alleging a violation this policy, a professional, transparent and effective process for handling such complaints;



## TCM POLICIES AND PROCEDURES

- To provide employees, in the event of a complaint alleging a violation of this policy, a process for handling such complaints wherein the parties involved can apply the principals of natural justice, that is to say equitable and impartial treatment of all parties involved. Thus, all parties will be informed of any allegations made against them, and they shall have the opportunity to respond within the framework of this policy;
- To keep the parties involved informed as to the progress of the complaint, the conclusions of the investigation and, where possible, the decisions taken as a result of the complaint and the investigation;
- In cases where the complaint is substantiated, to implement, in a timely fashion, appropriate measures to respond to the allegations and stop all forms of harassment, violence and discrimination;
- To provide employees with an internal process for handling complaints and resolving the situation, without preventing the claimant from using other means if they deem it necessary; and
- To review this policy at regular intervals so that it may evolve and respond to the needs of employees in eliminating all forms of harassment, violence and discrimination.

### **APPLICATION**

This policy applies to employees of Théâtre Cercle Molière. It applies equally to members of the Board of Directors, audience members, participants, volunteers and suppliers offering their services to Théâtre Cercle Molière.

It applies to all behaviours that have any connection to the work done for, the functions performed for or with Théâtre Cercle Molière, whatever the role, position or function of the person involved in the company's activities, including meetings, rehearsals, workshops, performances, training and work-related travel, etc., whether they take place in TCM facilities or elsewhere.

This policy is not intended to limit or constrain Théâtre Cercle Molière's right to administer the company. Performance reviews, management of employee diligence and absenteeism, evaluations of work performed and disciplinary measures imposed for any valid reason do not in any way constitute a form of harassment or workplace discrimination. This right to administer may result in inconvenience or disappointment for some employees, but it does not constitute in itself a form of harassment, discrimination or abuse of authority.

### **CONFIDENTIALITY**

Within the process for handling complaints, Théâtre Cercle Molière will endeavour to set up the necessary parameters to ensure, wherever possible, that confidentiality is observed and private information is protected.

The plaintiff's name, the circumstances relating to the complaint, the reports of the investigation, the complaint, the testimony of witnesses and other documents or information generated in compliance with this policy will be held in the strictest confidentiality by Théâtre Cercle Molière, except where disclosure is necessary to meet the requirements of the investigation, or as stipulated in this policy, or unless this information is necessary to handle the complaint, to carry out the investigation or to impose administrative or disciplinary measures.

In particular, information may be disclosed:

- Where criminal behaviour may be involved;
- Where it is deemed necessary in order to protect other persons from harassment or acts of violence;
- Where it is necessary to ensure equity and the right to natural justice in the procedures related to this;
- As provided for under the applicable workplace health and safety laws;
- As required by a law or judicial order; and



# TCM POLICIES AND PROCEDURES

- In order to protect the interests of Théâtre Cercle Molière.

All parties involved in the complaint must abide by the confidentiality of any information relating to the other parties involved; they must share information only with those who need to be kept informed, and they must act with professionalism and discretion throughout the process of handling the complaint.

## 1. DEFINITIONS

### 1.1 EMPLOYEE:

An employee is any person working for Théâtre Cercle Molière, whether full-time, part-time, casually, on contract, permanently or temporarily, whatever their contractual relationship with Théâtre Cercle Molière.

### 1.2 WORKPLACE:

The workplace is any place where employees work or carry out tasks related to their functions. Spaces used for productions and meeting rooms at Théâtre Cercle Molière or away from TCM premises are included in the definition of workplace.

### 1.3 PLAINTIFF:

The plaintiff is the person who is allegedly the victim of an act of harassment, violence or discrimination.

### 1.4 RESPONDENT:

The respondent is the person who is the object of the plaintiff's allegations.

### 1.5 DISCRIMINATION:

Discrimination is the act of treating a group or an individual differently by virtue of being a member of that group, where this act is based on prejudice or negative attitudes.

Discrimination is prohibited on the basis of race, ancestry, place of origin, colour, ethnicity, citizenship, creed, sexual orientation, sexual identity or its expression, age, criminal record, marital status, family situation, political convictions, physical appearance, handicap or any other factor protected by a provincial law applicable to human rights.

### 1.6 WORKPLACE HARASSMENT:

Workplace harassment occurs when a person takes a course of action characterized by vexatious comments or gestures, intimidation or threats against another person in a work environment, when they know, or should reasonably be aware, that these remarks or gestures are perceived as objectionable.

Workplace harassment includes sexual harassment, whether based on gender, sexual orientation, sexual identity or the expression of sexual identity. Thus, everyone has the right to be free from:

- a) Repeated sexual advances which are unpleasant and inappropriate, as well as reprisals or the threat of reprisals against the person who rejected such advances;



## TCM POLICIES AND PROCEDURES

- b) Sexual proposals or advances from a person capable of conferring or refusing advancement or a promotion if the person making the proposals or advances knows, or should be reasonably aware, that they are perceived as objectionable;
- c) Reprisals or threats for having rejected proposals or sexual advances if these reprisals or threats come from a person capable of conferring or refusing advancement or a promotion.

### 1.7 WORKPLACE VIOLENCE:

Workplace violence is any person's use of, or the attempt to use, physical force that causes or may cause personal injury to an employee in the workplace.

This includes statements or behaviours on the part of any person which may be reasonably interpreted as a threat to use physical force that may cause personal injury in the workplace.

### 1.8 UNHEALTHY WORK ENVIRONMENT:

An unhealthy work environment is characterized by activity or behaviour that, although not necessarily directed against anyone in particular, creates a hostile or offensive atmosphere.

### 1.9 ABUSE OF POWER OR AUTHORITY:

Abuse of power or authority is the inappropriate use of the power or authority inherent to a position or a set of functions in order to compromise someone, hinder their performance, put their livelihood in danger or interfere in any way with their career or job. It is a use of authority having no legitimate purpose to the work at hand, and which should reasonably be recognized as objectionable. The abuse of power is included in a broad definition of harassment.

## 2. ROLE AND RESPONSIBILITIES

### 2.1 THE THÉÂTRE CERCLE MOLIÈRE SHALL:

- Provide a work environment free from all forms of harassment, discrimination or violence;
- Ensure that all employees are made aware of this policy;
- Display this policy and all the policies it makes reference to in every workplace;
- Assess the risks of violence in the workplace as often as necessary, so as to ensure that this policy and those associated with it continue to protect employees from workplace violence;
- Inform personnel of the risks of violence related to any employee who has a history of violent behaviour, if the other employees are called upon to work directly with that person, and if other employees are exposed to any risk of violence. Théâtre Cercle Molière will divulge only such information as is necessary to protect employees in these circumstances;
- Take all reasonable precautions to protect an employee who is aware of or conscious of the fact that domestic violence may occur in the workplace that exposes the employee to bodily harm. The TCM may call upon professional organizations for advice. This applies only where the risk exists in the workplace;
- Implement forms to be used in reporting an incident and initiate follow-up procedures for both plaintiff and respondent;



## TCM POLICIES AND PROCEDURES

- Designate a workplace representative for harassment, discrimination or violence in the workplace; and
- Review and amend this policy as needed.

### 2.2 THÉÂTRE CERCLE MOLIÈRE MANAGEMENT SHALL:

- Foster a working environment free from all forms of harassment, discrimination or violence and set an example by always demonstrating appropriate behaviour at work;
- Understand and implement this policy;
- Communicate this policy to all employees under their authority;
- Make sure that service providers and outside partners (volunteers, etc.) are aware that this policy is in place;
- Receive any complaints that are filed;
- Verify whether the allegations of harassment, discrimination or violence are justified or not;
- Determine what correctives or disciplinary measures should be imposed; and
- Act and exercise their power in such a way as to prevent any acts of harassment, discrimination or violence in the workplace.

### 2.3 SUPERVISORS (ARTISTIC DIRECTOR, GENERAL DIRECTOR, ADMINISTRATIVE DIRECTOR, TECHNICAL DIRECTOR) SHALL:

- Foster a working environment free from all forms of harassment, discrimination or violence and set an example by always demonstrating appropriate behaviour at work;
- Understand and implement this policy;
- Handle, and not ignore, cases of harassment, discrimination or violence as soon as they are made aware of them, whether a complaint has been filed or not; and
- Explain the processes for investigation and handling of complaints to employees and collaborate in the investigation, including approving any necessary absences of employees who are taking part in the investigation process.

### 2.4 INDIVIDUALS SHALL:

- Demonstrate respect for their colleagues by behaving appropriately at work at all times, without harassment, discrimination or violence;
- Report to their supervisor (or any person in a position of authority), and above all not ignore, any situations of harassment, discrimination or violence; and
- Collaborate in the investigation process as required.

### 2.5 INDIVIDUALS MAY EXPECT:

- To be treated with respect and dignity at work;
- That no occurrences of harassment, discrimination or violence will be tolerated;
- That any occurrences of harassment, discrimination or violence will be handled rapidly;
- To have the right to a fair process in the event of an investigation; and
- Not to be submitted to reprisals for having reported concerns about certain behaviour, a case of harassment, discrimination or violence, or for having collaborated in an investigation.

## 3. THE RIGHT TO FILE A COMPLAINT

Individuals have the right to file a complaint when possible situations of harassment, discrimination or violence occur.



## TCM POLICIES AND PROCEDURES

In the case of inappropriate comments, it is preferable to express one's feelings about the behaviour before informing one's immediate supervisor.

### 4. PROCEDURE TO BE FOLLOWED IN HANDLING A COMPLAINT

The following procedure serves as a guideline for Théâtre Cercle Molière when a complaint has been filed. Given the range of possible complaints, this procedure cannot dictate how each one will be handled, and Théâtre Cercle Molière remains free to determine the subsequent action required with respect to a complaint, depending on the circumstances of the events and incidents reported, the complexity of the issue, the seriousness of the allegations and the persons involved, etc.

#### 4.1 FILING A COMPLAINT

- Anyone who believes they are the victim of harassment, discrimination or violence may file a complaint with the General and Artistic Director;
- Should the General and Artistic Director be implicated in the case, the plaintiff will address the complaint to the Chair of the Board of Directors or of the Personnel Committee;
- The complaint may be made verbally or in writing. If it is made verbally, the person who receives it makes note of the detailed information given by the plaintiff;
- The plaintiff must, as much as possible, provide detailed information, such as a description of what happened; the date and time; the place; the frequency of such incidents, and the name of any other person who may have been present. The plaintiff can also mention the times they communicated to the respondent their discomfort with respect to the comments or incidents. The complaint must be true to the facts and may not be defamatory or false;
- The plaintiff must file the complaint as soon as possible. The TCM reserves the right to refuse to investigate allegations for which, because of the time elapsed, it would be unfair, impossible or too costly to retrieve the proof required to evaluate the complaint;
- The General and Artistic Director, the Chair of the Board of Directors or the Chair of the Personnel Committee, as the case may be, shall inform the respondent in writing that a complaint has been filed against them. This letter must include the details of the allegations made against the person. All effort will be made to settle complaints in a timely fashion. To ensure transparency, all parties will be informed by Théâtre Cercle Molière of the schedule for the process and of any delays that may be encountered;
- In the light of the complaint, the General and Artistic Director, or the Chair of the Board of Directors, or the Chair of the Personnel Committee, will determine whether temporary measures are necessary or required in the circumstances to limit the contact between the plaintiff and the respondent; and
- No one shall be punished for having reported an incident in good faith or having taken part in an investigation.

#### 4.2 MEDIATION

- If the situation permits, it will be proposed to the parties involved to use mediation to settle the complaint before launching an investigation;
- The mediation process is voluntary and confidential;
- The purpose of the process is to help the parties involved arrive at a possible solution to the issue reported in the complaint;
- The mediator shall be a neutral person, acceptable to both parties;
- The mediator does not take part in the investigation into the complaint; and



## TCM POLICIES AND PROCEDURES

- All parties involved have the right to be accompanied and helped by a person of their choice.

### 4.3 INVESTIGATION

- If the situation does not permit having recourse to mediation, or if mediation does not lead the parties to settle the complaint, an investigation can be launched by Théâtre Cercle Molière;
- All investigations will be led by a qualified person having the necessary training and experience. In some cases, Théâtre Cercle Molière may hand the investigation over to a third party consultant. The Investigator will meet the plaintiff, the respondent and each of the witnesses identified. All of these people have the right to review their statement, based on the Investigator's notes, to verify its accuracy before the conclusion of the investigation;
- The Investigator will prepare a report for Théâtre Cercle Molière which includes:
  - A description of the allegations;
  - A reply from the respondent;
  - A summary of the evidence from witnesses (if any);
  - The conclusions of the investigation, that is, whether the complaint is in all likelihood justified, and whether this policy has been breached.
- The report shall be delivered to the General and Artistic Director or the Chair of the Board of Directors (where appropriate);
- Théâtre Cercle Molière may also ask the Investigator to prepare a brief report that protects the identity of witnesses and maintains the confidential nature of the evidence obtained during the investigation;
- The Investigator may, if it is deemed necessary, draft recommendations for Théâtre Cercle Molière, while avoiding the expression of any personal opinion on the required disciplinary measures, if any; and
- The plaintiff and the respondent shall be informed of the conclusions the investigation has reached, and any corrective measures, if any.

### 4.4 REMEDIAL MEASURES AND FOLLOW-UP

- When a complaint is considered to be justified, Théâtre Cercle Molière will decide on the follow-up and on any measures to be taken. Disciplinary measures, from a simple warning to dismissal, may be imposed;
- If, however, the investigation reveals that the complaint is not justified, Théâtre Cercle Molière may also, at its discretion, impose such measures as:
  - Offer employee training or implement measures to improve communication among employees;
  - Review certain company practices or policies;
  - Conclude that no action is required; or
  - Any other measure that Théâtre Cercle Molière may consider appropriate under the circumstances.

### 4.5 REPORTS

- When a complaint leads to disciplinary measures imposed on the employee responsible for the incident, a written report outlining the measures agreed upon shall be entered in the employee's file. All other documents related to the incident (i.e. the original complaint, the report of the investigation, etc.) shall be filed separately from the employee's file, in a sealed envelope



## TCM POLICIES AND PROCEDURES

accessible only to the General and Artistic Director or the Board of Directors, within the limits outlined in this policy with respect to confidentiality.

### 5. DISCIPLINARY MEASURES

Any violation of this policy, including the filing of a false declaration of incident, may lead to the imposition of disciplinary measures or sanctions. The disciplinary measure or sanction can go from a simple warning to dismissal, or removal in the case of a member of the Board of Directors, depending on the seriousness, the scope and the recurrence of the infraction or infractions committed. All persons called upon in the investigation must cooperate with the process, in good faith, with candour and integrity. Anyone who provides false information or who refuses to cooperate fully during the investigation may be liable to disciplinary measures.

Obviously, no employee who in good faith brings up a concern about a case of harassment, discrimination, violence or abuse of authority, or who files a complaint about one of these, will be submitted to reprisals for having raised their concerns

Hence, it is strictly forbidden to all persons to threaten or to take action against any employee who invokes this policy or who takes part in an investigation process related to it. Any such violation of this policy is subject to disciplinary measures that can include dismissal.

### 6. REQUEST FOR INFORMATION

All requests for information on this policy and related procedures should be addressed to the General and Artistic Director or the Chair of the Board of Directors or the Chair of the Personnel Committee.



## Appendix A – Commitment Form

Théâtre Cercle Molière (TCM) is committed to providing a safe and respectful workplace, free from all forms of harassment, violence and discrimination. Harassment, discrimination, violence, sexual misconduct and abuse of authority must not be tolerated in any workplace, because they contribute to undermining team spirit and create a toxic, unhealthy working environment.

All employees, artists, cultural agents, trainers, participants, administrators, volunteers and other persons involved in TCM activities must be able to work in a safe and respectful environment, and be able to report cases of harassment, discrimination, violence, sexual misconduct, abuse of authority or any other behaviour that fosters a toxic workplace, without fear of reprisal.

The TCM subscribes to this principle and therefore recognizes the following objectives:

- Any complaint of this nature will trigger an immediate inquiry, and if the complaint is justified, the appropriate measures will be taken;
- Those responsible will make every effort to handle the complaint in a professional and confidential manner, while providing all reasonable information to the plaintiff and the person who is the subject of the complaint, on the nature of the allegations, the progress of the complaint process, and the resulting settlement or decision.

Théâtre Cercle Molière has a detailed policy for a healthy and respectful workplace free from discrimination, harassment and violence. A copy is given to every artist, cultural agent, employee, administrator and volunteer. It is also posted in the various work spaces. Please refer to it while working for the TCM.

\_\_\_\_\_ I confirm having read the statement of principle relating to a healthy and respectful workplace in this contract.

\_\_\_\_\_ I confirm that I have received a copy of the detailed policy for providing a healthy and respectful workplace free from harassment, discrimination or violence and that I have had the opportunity to ask any questions about it.

\_\_\_\_\_ I agree to behave in such a way as to foster a healthy and respectful working environment.

Signed this: \_\_\_\_\_

By: \_\_\_\_\_



# TCM POLICIES AND PROCEDURES

## Appendix B – Harassment complaint form

Name and address:

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Name and address of the person accused:

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**Reason for the complaint:**

Psychological harassment  Rudeness  Discrimination  Sexual harassment  Other

**Details of the complaint:**

Please describe in as full detail as possible the incident or incidents of harassment or unacceptable behaviour, including: a) the names of the persons involved; b) the names of any witnesses; c) the place, date and time of the incident; d) the particulars of the incident (behaviour, language used, etc.); e) any further details.

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## TCM POLICIES AND PROCEDURES

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### Documents and evidence:

Attach any supporting documents (e-mails, written notes, photos, damaged or vandalized items).

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### Steps taken prior to filing this complaint:

The TCM encourages employees to try to settle any conflicts among themselves wherever possible, so as to prevent the situation from deteriorating. Have you taken any of the following steps as a result of this situation of harassment?

- Indicated your discomfort to the person in question
- Spoken to other people around you
- Spoken to your immediate supervisor
- Met with a resource person
- Taken part in mediation

Please explain:

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## TCM POLICIES AND PROCEDURES

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I declare that the information given on this form is true, to the best of my knowledge. I am aware of the definitions of harassment outlined in Théâtre Cercle Molière’s policy of providing a healthy workplace.

I agree to inform TCM Management if I should decide to withdraw my complaint.

I am aware that a false declaration can result in action taken against me by the person or persons accused, and by the TCM.

I acknowledge that I have been officially advised not to discuss this complaint with the person accused.

I acknowledge that I have been officially advised that the person accused will receive a copy of my complaint.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_