



Windsor Police Service

Directive

Directive Name: Accommodation	Directive Number: 310-02
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I. RATIONALE:

The Windsor Police Service is committed to the principle that every person has a right to receive police services without discrimination or harassment, as provided by law, including the Ontario Human Rights Code (the Code).

Further, the Windsor Police Service is committed to the principle that all members of the Service have a right to work in an environment without discrimination or harassment, as provided by law, including the Code.

The Code provides that every person has a right to equal treatment without discrimination or harassment on the basis of the following grounds, known as the "prohibited grounds".

- Race
- Sex (including pregnancy, breastfeeding)
- Gender identity and Expression
- Ancestry
- Sexual Orientation
- Place of Origin
- Marital Status
- Age
- Colour
- Ethnic Origin
- Family Status
- Citizenship
- Disability
- Creed (includes religion)
- Record of offences (applies only to employment)
- Receipt of public assistance (applies only to accommodation)

Flowing from this right to equal treatment is the Windsor Police Services duty to accommodate Code-protected groups and individuals who are adversely affected by our policies, practices, procedures, standards and directives.

II. POLICY STATEMENT:

- A. Definitions** - Applicable definitions can be referenced in Directive 310-01 Human Rights.
- B.** This directive shall consider provisions of the Ontario Human Rights Code to prevent and address human rights issues, and shall follow the Human Rights Policy directive.
- C.** The aim of accommodation is to remove barriers and ensure equality.
- D.** Accommodation with dignity is the principle that informs how the service structures and designs its policies, procedures or practices to ensure "the duty to provide appropriate accommodation" or "accommodation short of undue hardship," is achieved with inclusiveness and to allow for maximal participation and inclusion of Code protected groups in employment and services.
- E.** This principle also supports the Windsor Police Services commitment to developing accommodations on an individualized basis, where appropriate.
- F.** Accommodations requests are Code based and not based on convenience.
- G. Appropriate Accommodations - Public**
1. In considering accommodation for members of the public with disabilities, the Service will adhere to standards set out within the AODA.
 2. Types of accommodations available, where warranted, may include but are not limited to:
 - a) Information in alternative formats;
 - b) Access to language interpretation;
 - c) Service modifications;
 - d) Building or facility modifications, and;
 - e) Respecting/accommodating persons religious and creed beliefs and observances, including but not limited to dietary needs and dress requirements.

H. Appropriate Accommodations - Members

An accommodation is considered appropriate when it respects the employee's dignity, responds to their individualized needs, and allows for full integration and inclusion in the workplace. Appropriate accommodations for employees and other workers, where warranted, may include, but are not limited to:

- Work station adjustments;
- Job redesign;
- Modifications to organizational policies and practices;
- Technical aids;
- Human support;
- Provision of materials in alternative formats;
- Building modifications;

- Counseling and referral services;
- Temporary or permanent alternative work;
- Modification of performance standards, while retaining core job requirements;
- Leaves of absence;
- Changes to scheduling or hours of work.

I. Privacy and Confidentiality Related to Accommodation

The Service will maintain the confidentiality of information related to an accommodation request, and will only disclose as much information as is required to facilitate the accommodation to staff members responsible for handling accommodations.

J. Appeal Processes

Where an accommodation request is made either internally or externally provisions for an appeal of any decision will be provided for. These provisions for appeal can be found within the Procedures Section of this directive or related directives.

- K. Review:** The **Manager – Human Resources** is responsible for ensuring that this Directive remains current and a submission of a review report sent to Quality Assurance and Audits prior to the Next Review Date.

III. PROCEDURES:

A. All Members Shall:

1. Support the requests for accommodation by a member of the public or the employment accommodation and return to work of other employees, including accepting some change in duties when necessary to accommodate needs;
2. Treat with dignity and respect members of the public or members who require accommodation;
3. Be expected to work cooperatively to facilitate the accommodation process;
4. Take accommodation requests seriously and deal with all accommodation requests in a timely manner.

B. Requests for Accommodation by a Member of the Public:

1. Any member who receives a request for accommodation, by a member of the public, shall make every attempt to address the request at the initial stage, and follow the procedures listed within this directive under **III Procedures, Section 3**.
2. If the request falls outside of the members authority or ability the member shall bring this request to the attention of the Supervisor responsible for the specific area, for example:
 - a) A person requesting accommodation regarding Information in alternative formats could make the request to the Manager - Information Services, or;
 - b) Physical access to any police service facility may be directed to the Director - Planning and Physical Resources.

3. Upon receipt of a request for accommodation from a member of the public, the member, assessing the request must:
 - a) Accept the request for accommodation in good faith, unless evidence suggests that this is a bad faith request;
 - b) Follow the requirements set out within the AODA or within Service policies;
 - c) Obtain advice where needed;
 - d) Seek additional information where necessary in order to determine the most appropriate accommodation as well if the accommodation can be accomplished;
 - e) Accommodation requests should be immediate if at all possible to avoid any delay in the provision of services to the public;
 - f) Keep a record of the accommodation request and accommodation provided;
 - g) Forward **ALL** accommodation requests, action taken to the Manager – Human Resources for tracking and annual reporting;
 - h) Maintain confidentiality of the information to the extent possible;
 - i) Monitor the success of the Accommodation Plan, and promptly address any deficiencies or any relevant changes in the organization or the needs of the member of the public;
 - j) When accommodation requests are made and granted, the resolution or accommodation design should if possible become part of the services regular practices in order to prevent the need for members of the public to make future similar requests.

C. Appeal Process – Member of the Public:

1. Where accommodation is made in bad faith or cannot be granted or the level of accommodation provided by the service is not acceptable to the member of the public, the member of the public may formally complain regarding the “Policies or Services” provided;
2. The member or Supervisor may attempt to resolve the complaint locally, by:
 - a) Discussing the matter with the member of the public and informing the member of the public of the reasons as to why the accommodation cannot be made, and;
 - b) Attempt to uncover an alternative solution to the request.
3. If the accommodation cannot be granted the member of the public may appeal process internally to the Deputy Chief – Operational Support or designate in order to allow for the Service to respond and de-escalate the matter where appropriate;
4. Where an internal appeal is not appropriate or the response is not acceptable to the member of the public, the member of the public may formally complain regarding the “Policies or Services” provided to the Office of the Independent Police Review Director (OIPRD) regarding the policies of or services provided by the police service, procedures can be found within Directive 144-01 Complaints System;

5. Nothing prohibits the member of the public from filing a *Human Rights Code*, related complaint against the Service or its members. Guidelines and reporting procedures can be found on the Commissions website at www.ohrc.on.ca;
6. The member or Supervisor shall forward the accommodation requests, resolutions, action taken or recommendations given to the Manager – Human Resources for tracking and annual reporting.

D. Accommodation Request by a Member:

1. Members who require **disability-related** accommodation or who are absent from work due to injury or illness are responsible for:
 - a) Identifying to their supervisor or the Manager – HumanResources as soon as possible any accommodation needs that relate to their ability to perform job duties or participate fully in the workplace;
 - b) Accommodation requests should, whenever possible be made in writing. The accommodation request should indicate:
 - i) The *Code* ground with respect to which accommodation is being requested;
 - ii) The accommodation needed related to the *Code* ground;
 - iii) Sufficient information to confirm the existence of a need for accommodation, which may include information regarding the members capabilities, limitations and or needs;
 - iv) Sufficient information to facilitate the accommodation and return-to-work options from the member and if appropriate from medical professionals.
 - c) Maintaining ongoing communications with their supervisor or the Manager – HumanResources on the:
 - i) Recovery progress, anticipated return to work date, and;
 - ii) Potential employment accommodation needs, and work scheduling needs to accommodate treatment/rehabilitation.
 - d) Providing information as early as possible in order to give their supervisor or the Manager – Human Resources and employee time to prepare a return-to-work plan before the anticipated date of return;
 - e) Cooperating with requests for health information about capabilities, limitations and prognosis, and with independent medical evaluation, when required, to provide clear and sufficient information to support employment accommodation or return to work;
 - f) Collaborating with their supervisor or the Manager – HumanResources in developing an employment accommodation and/or return-to-work plan;
 - g) Accepting an accommodation/return-to-work solution that meets the members accommodation needs one which treats the member with dignity, even if the solution is not necessarily the one the member would have preferred;
 - h) Adhering to the accommodation or return-to-work plan, monitoring how well it is working, and advising their supervisor or the Manager – HumanResources promptly about any difficulties encountered;

- i) Advising their supervisor or the Manager – HumanResources promptly of any changes in health/disability status that may require changes in an existing accommodation/return-to-work plan; and
 - j) Completing required documentation where the member is being considered for a reassignment for health/disability reasons (e.g., identify skills and competencies).
2. Failure to provide information, cooperate, comply with any reporting deadlines as established by the Manager – HumanResources to facilitate the accommodation request or provide advance notice with their supervisor regarding a potential accommodation request may delay or suspend the provision of any accommodation for the member.

E. Requesting Additional Information to Determine Members Needs:

1. The Manager – HumanResources may require further information related to the accommodation request, in the following circumstances:
 - a) Where the accommodation request does not clearly indicate a need related to a *Code* ground;
 - b) Where further information related to the members limitations or restrictions is required in order to determine an appropriate accommodation;
 - c) Where there is a demonstrable objective reason to question the legitimacy of the person’s request for accommodation.
2. Where expert assistance is necessary to identify accommodation needs or potential solutions, the accommodation seeker is required to cooperate in obtaining that expert advice;
3. Any costs associated with obtaining such expert advice will be borne by the Service.

F. Supervisors Shall:

1. Notify the Manager – Human Resources of any request to be accommodated by members of the service, and work cooperatively with the Manager – HumanResources and the member and their representatives, where necessary, to develop accommodation and return-to-work plans;
2. Implement and adhere to accommodation/return-to-work plans, by:
 - a) Monitoring the success of the Accommodation Plan, and promptly addressing any deficiencies or any relevant changes in the organization or the needs of the member;
 - b) Advise the Manager – HumanResources promptly about any difficulties encountered or of any changes in health/disability status that may require changes in an existing accommodation/return-to-work plan;
 - c) Address co-worker cooperation issues throughout the employment accommodation process.
3. Cooperate fully regarding requests for accommodation/return-to-work solutions by members, unless evidence of bad faith exists by the member, and provide suitable work, which treats the member with dignity, even if the solution is not necessarily the one the member would have preferred;

4. Advise accommodated members as early as possible about upcoming operational changes that may cause the member to need new or different accommodations;
5. Maintain the confidentiality of information including medical information, related to an accommodation request.

G. The Manager – Human Resources Shall:

1. Work cooperatively with the supervisor, member and their representatives, where necessary, to develop accommodation and return-to-work plans;
2. Obtain information and assistance, as appropriate and with the employee's consent, regarding:
 - a) The *Code* ground with respect to which accommodation is being requested;
 - b) The accommodation needed related to the *Code* ground;
 - c) Sufficient information to confirm the existence of a need for accommodation, which may include, the members capabilities/limitations/needs;
 - d) Sufficient information to facilitate the accommodation and return-to-work options from the member and if appropriate, rehabilitation professionals and/or internal staff in areas such as human resources, information technology.
3. Document accommodation/return-to-work plans, including information regarding discussions held, options considered, reasons for acceptance or rejection of options, and actions taken;
4. Maintain contact with members who are absent from work because of injury or illness, to communicate concern for the members health, and;
 - a) Obtain information about expected return-to-work date;
 - b) Anticipated accommodation needs, and
 - c) Prepare for their timely and safe return.
5. Monitor and revise accommodation/return-to-work plans in cooperation with the member to respond to changing member and operational needs;
6. Assist supervisors in assessing members skills and competencies against the requirements of vacancies available;
7. Obtain information and assistance, as appropriate and with the employee's consent, regarding:
 - a) The *Code* ground with respect to which accommodation is being requested;
 - b) The accommodation needed related to the *Code* ground;
 - c) Sufficient information to confirm the existence of a need for accommodation, which may include, the members capabilities/limitations/needs-from the employee and if appropriate, medical practitioners, Workplace Safety and Insurance Board (WSIB), and/or other assessment specialists in health professions;

- d) Sufficient information to facilitate the accommodation and return-to-work options from the member and if appropriate, rehabilitation professionals, WSIB, external vendors and specialists, in employment accommodation, and/or internal staff in areas such as information technology.
8. Assist with referrals and requests for assistance from external specialists, in relation to assessment of employee capabilities and needs; rehabilitation planning, and employment accommodations solutions;
9. Consult with the Deputy Chief – Operational Support on any situation when a proposed accommodation solution would create undue hardship to the service or would be inconsistent with the collective agreement provisions and/or on the rights of other represented employees and report to the member;
10. Document accommodation/return-to-work plans, including information regarding discussions held, options considered, reasons for acceptance or rejection of options, and actions taken;
11. Implement and adhere to accommodation/return-to-work plans, by:
 - a) Monitoring the success of the Accommodation Plan, and promptly address any deficiencies or any relevant changes in the organization or the needs of the member;
 - b) Monitoring any changes in health/disability status that may require changes in an existing accommodation/return-to-work plans;
 - c) Address co-worker cooperation issues throughout the employment accommodation process.
12. Conduct timely searches for possible health reassignments within the Service, which are suitable and treats the member with dignity, even if the solution is not necessarily the one the member would have preferred;
13. Advise accommodated members as early as possible regarding upcoming operational changes that may cause the member to need new or different accommodations;
14. Maintain the confidentiality of information including medical information, related to an accommodation request;
15. Provide advice and coaching to supervisors including senior staff regarding this *Policy* and its implementation, relevant legislation and collective agreement, and related benefits and entitlements;
16. Provide or arrange other related services, such as education/information for supervisors and employees, resolution of disputes related to employment accommodation or return to work.

H. Accommodation Planning:

1. Accommodation plans should be dealt with promptly;
2. Shall include where necessary, interim accommodation measures while long-term solutions are developed;

3. The Supervisor, the Manager – Human Resources and the person requesting accommodation related to a *Code* ground and any necessary experts will work together cooperatively to develop an Accommodation Plan for the individual;
4. The Accommodation Plan will be put in writing and signed by the Supervisor, the Manager – Human Resources and the member requesting accommodation;
5. An Accommodation Plan may include the following:
 - a) A statement of the members relevant limitations and needs, including any necessary assessments and information from experts or specialists, bearing in mind the need to maintain the confidentiality of medical reports;
 - b) Arrangements for necessary assessments by experts or professionals;
 - c) Identification of the most appropriate accommodation short of undue hardship;
 - d) A statement of goals, and specific steps to be taken to meet them;
 - e) Clear timelines for the provision of identified accommodations including check in points for re-assessment, and;
 - f) A mechanism for review and re-assessment of the accommodation plan as necessary;
 - g) Criteria for determining the success of the accommodation plan;
 - h) An accountability mechanism for both the Service and member requesting the accommodation, which will be identified within the accommodation plan.

I. Internal Appeal Process:

1. Where accommodation cannot be granted or the terms and conditions of the accommodation are not suitable to the member or are not being met, the member may grieve the matter through the **Complaint and Grievance Procedure** listed within the **Unit A and B Collective Agreements**;
2. Nothing prohibits the member from filing a *Human Rights Code*-related complaint against the Service or staff. Guidelines and reporting procedures can be found on the Commissions website at www.ohrc.on.ca.

J. Accountability, Evaluation and Reporting

1. The Manager – Human Resources shall:
 - a) Maintain information related to:
 - i) The accommodation requested;
 - ii) Any documentation provided by the member or by experts;
 - iii) Status of the accommodation request;
 - iv) Any accommodation alternatives explored;
 - v) Any accommodations provided, and;
 - vi) Where the member requests it, the Manager – Human Resources will provide the above information within five working days.

- b) Submit an Annual Report to the Chief of Police. Reporting guidelines can be found within the Service's Directive 310-01 Human Rights.
- c) Review the impact and effectiveness of this policy and related practices, procedures and policies and provide recommendations to help inform training and policy/guideline development or changes in this policy.

L. Undue Hardship - Deputy Chief – OperationalSupport

1. A determination that an accommodation will create undue hardship may only be made by the Deputy Chief – OperationalSupport and will be based on:
 - a) An assessment of costs;
 - b) Outside sources of funding, and;
 - c) Health and safety.
2. It will be based on objective evidence. An analysis of what constitutes undue hardship is different from an analysis of appropriate accommodation;
3. Where a determination has been made that an accommodation would cause undue hardship, the Service will proceed to implement the next best accommodation short of undue hardship, or will consider phasing in the requested accommodation.
4. Where a determination is made that an accommodation would create undue hardship, the member requesting accommodation will be given written notice, including the reasons for the decision and the objective evidence relied upon within 90 days of determination being made;
5. A determination of undue hardship must be made on the basis of an assessment of current organizational realities and not anticipated or hypothetical future scenarios.
6. The member shall be informed of their recourse under **Section I. Internal Appeal Process**.

M. Discipline:

1. Members are entitled to claim and enforce their right to a workplace free of harassment and discrimination. It is a violation of this *policy* or any policy of the Service to discipline, criticize, ostracize, or otherwise negatively treat a person, or treat a person negatively by omission, because a member brought forward an accommodation request or complaint, provided information related to a complaint, or otherwise been involved in the complaint resolution process;
2. A complaint alleging reprisal may be made under Directive 361-04 Workplace Harassment and persons engaging in reprisal are subject to disciplinary measures, up to and including dismissal from the Service;
3. Frivolous or bad faith allegations, complaints, or accusations are also considered a *policy* violation and maybe dealt with under Directive 145-02 Civilian Discipline or Directive 145-01 Discipline.

N. Training

1. All members shall receive initial training on their rights, responsibilities and related legal liabilities, which may arise from Accommodation related requests;

2. All members acting in a Supervisory or Management capacity will receive training and education on;
 - a) Their responsibilities and related legal liabilities, which may arise from the Code amendments, Human Rights Tribunal Decisions and this Directive; and
 - b) Their responsibilities and related legal liabilities, under the *Ontarians with Disabilities Act, 2001* and the *Human Rights Code*.
3. All training programs will be evaluated regularly to assess their adequacy and effectiveness in meeting the objectives of this Directive or Directive 310-01 Human Rights.

O. Guidelines for Specific Grounds Based Accommodations

1. Specific guidelines shall be developed for the following specific grounds-based accommodations;
 - a) **Family Status (Appendix A);**
 - b) **Creed - Religion (Appendix B).**
2. In the interim requests for accommodation under these specific grounds-based accommodations will be addressed on a case by case basis, in conformity with the processes, procedures, and principles articulated in this policy;
3. All other Accommodation requests which fall outside this policy or its guidelines will be addressed on a case by case basis, giving the same principles of fairness, inclusiveness, respect and dignity.