

Respect in the Workplace (Harassment and Violence)

Purpose:

The Municipality of Middlesex Centre is committed to providing and maintaining a working environment that is based on respect for the dignity and the rights of everyone in the organization and the public they serve. It is the Municipality's goal to provide a healthy and safe work environment that is free of any form of harassment or violence.

Scope:

The Municipality will not tolerate ignore or condone any form of discrimination, harassment or violence. This policy applies to all employees, elected officials, volunteers, students, contractors and consultants. It applies in any location in which they are engaged in work-related activities. This includes but is not limited to,:

- the workplace (office, facilities, works yard etc.)
- during work-related travel
- at restaurants, hotels or meeting facilities that are being used for business purposes
- in municipally-owned or leased facilities
- during telephone, email or other communications; and
- at any work-related social event, whether or not it is municipally sponsored.

This policy also applies to situations in which an employee is harassed or subjected to violence in the workplace from individuals who are not employees of the municipality, such as ratepayers and suppliers, although the available remedies may be constrained by the situation. Discrimination, harassment and violence are serious forms of employee misconduct which may result in disciplinary action up to and including discharge.

Definitions:

1. Discrimination

Workplace discrimination includes any distinction, exclusion or preference based on the protected grounds in the *Ontario Human Rights Code*, which nullifies or impairs equality of opportunity in employment or equality in the terms and conditions of employment.

The protected grounds of discrimination are:

- race, colour, ancestry, citizenship, ethnic origin, or place of origin,
- creed, religion
- age
- sex (including pregnancy and gender identity)
- sexual orientation
- family, marital (including same-sex partnership) status
- disability or perceived disability
- a record of offences for which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked, or an offence in respect of any provincial enactment.

2. Sexual Harassment

Sexual harassment includes conduct or comments of a sexual nature that the recipient does not welcome or that offends him or her. It also includes negative or inappropriate conduct or comments that are not necessarily sexual in nature, but which are directed at an individual because of his or her gender.

Both men and women can be victims of sexual harassment, and someone of the same or opposite sex can harass someone.

Some examples of sexual harassment are:

- sexual advances or demands that the recipient does not welcome or want
- threats, punishment or denial of a benefit for refusing a sexual advance
- offering a benefit in exchange for a sexual favour
- leering (persistent sexual staring)
- displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic web sites or other electronic material
- distributing sexually explicit e-mail messages or attachments such as pictures or video files
- sexually suggestive or obscene comments or gestures
- unwelcome remarks, jokes, innuendoes, propositions or taunting about a person's body, clothing or sex
- persistent, unwanted attention after a consensual relationship ends
- physical contact of a sexual nature, such as touching or caressing; and
- sexual assault

3. Discriminatory Harassment

Discriminatory harassment includes comments or conduct based on the protected grounds in the *Ontario Human Rights Code*, which the recipient does not welcome or that offends him or her.

Some examples of discriminatory harassment include:

- offensive comments, jokes or behaviour that disparage or ridicule a person's membership in one of the protected grounds, such as race, religion or sexual orientation
- imitating a person's accent, speech or mannerisms
- persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children; or
- inappropriate comments or jokes about an individual's age, sexual orientation, personal appearance or weight.

Harassing comments or conduct can poison someone's working environment, making it a hostile or uncomfortable place to work, even if the person is not being directly targeted. This is commonly referred to as a *poisoned working environment* and it is also a form of harassment.

Some examples of actions that can create a poisoned work environment include:

- displaying offensive or sexual materials such as posters, pictures, calendars, web sites or screen savers
- distributing offensive e-mail messages, or attachments such as pictures or video files
- practical jokes that embarrass or insult someone; or
- jokes or insults that are offensive, racist or discriminatory in nature.

4. Workplace Harassment and Bullying

Workplace harassment is a health and safety issue that is covered under the *Occupational Health and Safety Act*.

The *Occupational Health and Safety Act* defines workplace harassment as:

Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

Workplace harassment may have some or all of the following components

- it is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient's psychological or physical integrity and has a lasting harmful effect
- it is hostile, abusive or inappropriate
- it affects the person's dignity or psychological integrity; and
- it results in a poisoned work environment

In addition, behaviour that intimidates isolates or discriminates against the recipient may also be included.

Some examples of workplace harassment are:

- verbally abusive behaviour such as yelling, insults, ridicule and name calling including remarks, jokes or innuendos that demean, ridicule, intimidate or offend
- workplace pranks, vandalism, bullying and hazing
- gossiping or spreading malicious rumors
- excluding or ignoring someone, including persistent exclusion of a particular person from workplace-related social gatherings
- undermining someone else's efforts by setting impossible goals, with short deadlines and deliberately withholding information that would enable a person to do their job
- providing only demeaning or trivial tasks in place of normal job duties
- humiliating someone
- sabotaging someone else's work
- displaying or circulating offensive pictures or materials
- offensive or intimidating phone calls or emails
- impeding an individual's efforts at promotions or transfers for reasons that are not legitimate; and
- making false allegations about someone in memos or other work related documents.

What isn't harassment

Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including:

- measures to correct performance deficiencies, such as placing someone on a performance improvement plan
- imposing discipline for workplace infractions; or
- requesting medical documents in support of an absence from work.

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

The Test of Harassment

It does not matter whether you intended to offend someone. The test of harassment is whether you knew or *should have known* that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case you must immediately stop that behaviour.

Although it is commonly the case, the harasser does not necessarily have to have power or authority over the victim. Harassment can occur from co-worker to co-worker, supervisor to employee and employee to supervisor.

5. Workplace and Domestic Violence

Workplace and domestic violence that may occur in the workplace are health and safety issues, which are covered under the *Occupational Health and Safety Act*.

Workplace Violence

Workplace violence is defined under the *Occupational Health and Safety Act* as:

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

It is defined broadly enough to include acts that may be considered criminal. Workplace violence includes:

- physically threatening behaviour such as shaking a fist at someone, finger pointing, destroying property, throwing objects
- intimidating behaviour that causes the recipient to have a fear of physical violence
- obscene or harassing telephone calls
- verbal or written threats to physically attack a worker
- leaving threatening notes or sending threatening emails
- wielding a weapon at work
- stalking someone
- physically aggressive behaviours including hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing an object at someone, physically restraining someone or any other form of physical or sexual assault; and
- destruction of workplace or co-worker property.

Violence that occurs outside the normal workplace but which has an impact on the working environment, including working relationships, may also be considered violence in the workplace.

Domestic Violence

If you are experiencing domestic violence that may likely expose you, or other workers, to physical injury that may occur in the workplace, we will take every precaution reasonable to protect you and your co-workers in the circumstances. This may include some or all of the following:

- creating a safety plan
- contacting the police

- establishing enhanced security measures such as a panic button, code words, and door and access security measures
- screening calls and blocking certain email addresses
- setting up priority parking or providing escorts to your vehicle or to public transportation, and
- Facilitating your access to counseling through the Employee Assistance Program or other community support programs.

Preventing Harassment and Violence

It is our mutual responsibility to ensure that we create and maintain a harassment and violence free workplace and address violence and/or the threat of violence from all possible sources (including ratepayers, clients, employers, supervisors, workers, strangers, and domestic/intimate partners).

The Municipality will do its part by not tolerating or condoning discrimination, harassment or violence in the workplace. This includes making everyone in its organization aware of what behaviour is and is not appropriate, assessing the risk of workplace violence, investigating complaints, and imposing suitable corrective measures.

Procedure:

Duties of Supervisors

Supervisors are expected to assist in creating a harassment-free workplace and to immediately contact the Chief Administrative Officer if they receive a complaint of workplace harassment or violence, or witness, or are aware of harassing or violent behaviour. Supervisors must also take every reasonable precaution to protect employees from workplace violence, including evaluating a person's history of violent behaviour to determine whether and to whom this employee poses a risk. In making this evaluation Supervisors should consider:

- whether the person's history of violence was associated with the workplace or work;
- whether the history of violence was directed at a particular employee or employees in general; and
- how long ago the incidence of violence occurred.

In certain circumstances, Supervisors may have a duty to provide information about a risk of workplace violence from a person with a history of violent behaviour if an employee can be expected to encounter that person during the course of his or her work, and the risk of workplace violence is likely to expose them to physical injury. Supervisors will only release as much personal information about the person with a history of violent behaviour as is reasonably necessary to protect an employee from physical injury.

Duties of All Employees

You must do your part by ensuring that your behaviour does not violate this policy and by fostering a work environment that is based on respect and is free of harassment.

You are also required to report to your Supervisor, the existence of any workplace violence or threat of workplace violence.

Procedure for Resolving and Investigating Harassment Complaints

Informal Procedure

If you believe that you are being harassed, the first thing to do is to tell the person to stop. Do so as soon as you receive any unwelcome comments or conduct. Although this may be difficult to do, telling the person you don't like their actions is often enough to stop the behaviour.

Some of the things you can say that might stop the behaviour include:

- I don't want you to do that.
- Please stop doing or saying . . .
- It makes me uncomfortable when you . . .
- I don't find it funny when you . . .

If the harassment continues after you have confronted the individual, you may want to provide him or her with a written statement of the situation. Include specific details of the behaviours you consider to be harassing, your request to the harasser to stop and your expectations that he or she will stop. Provide details of the next steps you plan to take if the harassment does not stop e.g. filing a formal complaint. Make sure you keep a copy of this statement for yourself.

It helps to keep a record of any incident(s) that you experience. This includes when the harassment started, what happened, whether there were any witnesses and what was your response.

If you believe that someone who is not a member of our organization e.g. a ratepayer, supplier, etc., has harassed or discriminated against you, please report the harassment to your Supervisor. Although the Municipality has limited control over third parties, we will do our best to address the issue and prevent further problems from arising.

Formal Procedure

If the complaint cannot be resolved informally or if it is too serious to handle on an informal basis, you may bring a formal complaint to the Chief Administrative Officer.

If you bring a formal complaint we will need as much written information as possible, including the name of the person you believe is harassing you, the place, date and time

of the incidents and the name of any possible witnesses. A copy of the Workplace Respect Complaint form is available from the Chief Administrative Officer.

It is important that the Municipality receive your complaint as soon as possible so that the problem doesn't escalate or happen again. Once your complaint is received, we will initiate a formal investigation, if it is necessary and appropriate to do so.

Discrimination and harassment are serious matters. Therefore, if you decide not to make a formal complaint, the Municipality may still need to investigate the matter and take steps to prevent further harassment. For example, the Municipality may need to continue with an investigation if the allegations are serious or if there have been previous complaints or incidents involving the respondent.

Please note that it is the Municipality's policy not to investigate anonymous complaints unless there are extenuating circumstances.

Investigation Procedure

The Chief Administrative Officer will commence an investigation as quickly as possible. They may choose to use either an internal or external investigator, depending on the nature of the complaint.

The investigation will include:

- interviewing the complainant and respondent to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations.
- interviewing witnesses, if any
- reviewing any related documentation; and
- making detailed notes of the investigation and maintaining them in a confidential file.

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings to Chief Administrative Officer. A summary of the findings will also be provided to the complainant and respondent.

It is the Municipality's goal to complete any investigation and communicate the results to the complainant and the respondent within thirty days after a complaint is received, where possible.

Corrective Action

The Chief Administrative Officer will determine what action should be taken as a result of the investigation.

The Chief Administrative Officer will inform the complainant and respondent of the results of the investigation and whether (but not necessarily what) corrective measures were taken, if any were necessary.

If a finding of harassment is made, the Municipality will take appropriate corrective measures, regardless of the respondent's seniority or position in the Corporation.

Corrective measures may include one or more of the following:

- discipline, such as a verbal warning, written warning or suspension without pay
- termination with or without cause
- referral for counseling (sensitivity training), anger management training, supervisory skills training, or attendance at educational programs on workplace respect
- a demotion or denial of a promotion
- reassignment or transfer
- financial penalties such as the denial of a bonus or performance related salary increase, and
- any other disciplinary action deemed appropriate under the circumstances.

If there is not enough evidence to substantiate the complaint, corrective measures will not be taken.

If you make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline. The Municipality will, however, discipline or terminate anyone who brings a false and malicious complaint.

Procedure for Resolving and Investigating Workplace Violence

Workplace Violence

You have the right to refuse work if workplace violence is likely to endanger you. In that instance, please immediately contact your Supervisor at which point appropriate measures will be taken to protect you and investigate the situation. You will be moved to a safe place as near as reasonably possible to your normal work station and will need to be available for the purposes of investigating the incident.

In appropriate circumstances, the Municipality may contact the police, or other emergency responders as appropriate, to assist, intervene or investigate workplace violence. Details of measures and procedures for summoning immediate assistance will be provided and may include:

- equipment to summon assistance such as personal alarms, phones, cell phones, etc.
- emergency telephone numbers and/or email addresses;
- emergency procedures

Provided the situation is dealt with quickly and the danger to workers is removed, the necessity of work refusal may be alleviated.

Investigation Procedure

You are required to report the existence of any workplace violence or threat of workplace violence to your Supervisor. The Supervisor will commence an investigation as quickly as possible. They may choose to use either an internal or external investigator, depending on the nature of the incident.

The investigation will include:

- conducting interviews of relevant individuals to ascertain all of the facts and circumstances relevant to the complaint, including dates and locations
- reviewing any related documentation; and
- making detailed notes of the investigation and maintaining them in a confidential file.

Once the investigation is complete, the investigator(s) will prepare a detailed report of the findings. A copy of the report will be provided to the Joint Health and Safety Committee and Chief Administrative Officer.

Corrective Action

The Chief Administrative Officer will determine what action should be taken as a result of the investigation.

If a finding of workplace violence is made, the Municipality will take appropriate corrective measures, regardless of the respondent's seniority or position in the Municipality.

Corrective measures may include one or more of the following:

- discipline, such as a verbal warning, written warning of suspension without pay
- termination with or without cause
- referral for counseling (sensitivity training), anger management training, supervisory skills training, or attendance at educational programs on workplace respect
- a demotion or denial of a promotion
- reassignment or transfer
- financial penalties such as the denial of a bonus or performance related salary increase; and
- any other disciplinary action deemed appropriate under the circumstances.

If you make a complaint in good faith and without malice, regardless of the outcome of the investigation, you will not be subject to any form of discipline. The Municipality will, however, discipline or terminate anyone who brings a false and malicious complaint.

Procedures for Addressing Domestic Violence

If you are experiencing domestic violence or believe domestic violence may occur that would expose you to physical injury in the workplace, you must advise your Supervisor. Your Supervisor will assist in preventing and responding to the situation, which may include seeking the assistance of the local police.

Confidentiality of Complaints and Investigations

The Municipality recognizes the sensitivity of harassment and violence complaints and will keep all complaints confidential, to the extent that the Municipality are able to do so. The Municipality will only release as much information as is necessary to investigate and respond to the complaint or situation or if required to do so by law.

Out of respect for the relevant individuals, it is essential that the complainant, respondent, witnesses and anyone else involved in the formal investigation of a complaint, maintain confidentiality throughout the investigation and afterwards.

Protection from Retaliation

The Municipality will not tolerate retaliations, taunts or threats against anyone who complains about harassment or takes part in an investigation. Any person who taunts, retaliates against, or threatens anyone in relation to a harassment or violence complaint may be disciplined or terminated.