



Staff Report

B.2.1

Human Resources

Report To: Committee of the Whole
Meeting Date: November 14, 2016
Report Number: FAF.16.99
Subject: Town's Workplace Harassment and Violence Program
Prepared by: Jennifer Moreau, Manager Human Resources

A. Recommendations

THAT Council receive report FAF.16.99 entitled "Town's Workplace Harassment Program";

THAT Council approve the revised Workplace Violence and Harassment Program as appended;

THAT upon the aforementioned revised Workplace Violence and Harassment Program being enacted, Council does immediately repeal the following:

- a) Workplace Violence and Harassment Program (POL.10.12);
- b) Discrimination and Harassment Free Workplace policy (HR.06.01); and
- c) Respectful Workplace policy (HR.06.01)

B. Overview

This report provides a recommendation to Council to approve a revision to the Town's Workplace Harassment and Violence Program. This report recommends repelling three similar policies and combining under one succinct program that is a Corporate Policy.

C. Background

On September 8, 2016, significant amendments to Ontario's *Occupational Health and Safety Act* (OHSA) outlined in the *Sexual Violence and Harassment Action Plan Act* came into force. The legislation includes several amendments to the Occupational Health and Safety Act. These amendments enhance employer responsibilities with respect to harassment that occurs in the workplace, including sexual harassment.

Among other things, the amendments:

- change the definition of "workplace harassment" to include "sexual harassment"

- require an employer to develop and maintain a workplace harassment program in consultation with its joint health and safety committee or health and safety representative, if any
- require an employer to establish a complaint mechanism for reporting complaints or incidents of workplace harassment and an investigation procedure to deal with such complaints or incidents
- require that an employer notify a complainant and respondent in writing of the results of an investigation and any corrective action taken
- provide a health and safety inspector with the power to order an employer, at its own expense, to have an investigation done into a complaint or incident of workplace harassment by an impartial third person.

Updates to our policy/program are legislative requirements with the above changes to Ontario law.

D. Analysis

The attached program meets the legislated requirements under *the Occupational Health and Safety Act, R.S.O 1990*. It combines three previous Human Resource and Health and Safety policies that all dealt with either workplace violence or harassment under a succinct Program. This will aid in assisting workers and supervisors in understanding their roles and obligations with only one Program to review rather than three separate policies. The revised program will be a corporate policy requiring Council approval. Annual review of this Program is a legislated requirement under the Act. Changes to the original Workplace Violence Program are highlighted in red.

E. The Blue Mountains Strategic Plan

Goal # 4: Promote a Culture of Organizational and Operational Excellence

Objective # 1: To be an Employer of Choice

2016 Strategic Plan Action Item: Ensure that Council and staff recognize their respective roles in setting policies and operating the municipal corporation as a collaborative working environment.

F. Environmental Impacts

N/A

G. Financial Impact

N/A

H. In consultation with

Bernardi Human Resource Law LLP

Senior Management Team, Town of The Blue Mountains

Joint Health and Safety Committee (Corporate and Fire Department), Town of The Blue Mountains

I. Attached

Appendix A – Revised Workplace Harassment and Violence Program

Respectfully Submitted,

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TOWN OF THE BLUE MOUNTAINS

POLICY & PROCEDURES

Subject Title: Workplace Violence and Harassment Program

Corporate Policy (Approved by Council)



Policy Ref. No.: POL.HS.10.12

Administrative Policy (Approved by CAO)

Department Policy: (Approved by Mgr.)

Name of Dept.: Health and Safety

Date Approved: June 15, 2010

Revision Date: October 25, 2010

*Review Date: October 26, 2011

Purpose

The Town of The Blue Mountains (the Town) is committed to providing and maintaining a work environment that is based on respect for the dignity and rights of everyone in the organization.

It is the Town's goal to provide a healthy and safe work environment that is free of any form of harassment or violence.

Policy Statement

The Town is committed to providing a safe work environment for all **workers, members of council, volunteers (including members of Advisory Committees, Boards and Special Committees), students on placements and individuals contracted by the Corporation on a "purchase for service" agreement, customers** and Members of the Public. Acts of harassment, abusive behaviour, bullying, **cyberbullying**, assaults, serious threats or acts of violence, will not be tolerated within the Town's workplace. Any such act committed by or against any worker will be subject to the Town's discipline policy and/or legal action.

The Town has established a workplace violence and harassment program that implements this policy. It includes measures and procedures to protect workers from workplace violence and/or harassment. The program further implements a means of summoning immediate assistance and a process for workers to report incidents, or raise concerns.

The Town will ensure this policy and the supporting program are implemented and maintained and that all workers and supervisors have the appropriate information and instruction to protect them from violence and/or harassment in the workplace.

Supervisors will adhere to this policy and the supporting program. Supervisors are responsible for ensuring that measures and procedures are followed by workers and that workers have the information they need to protect themselves.

Every worker must work in compliance with this policy and the supporting program. All workers are encouraged to raise any concerns about workplace violence and/or harassment and to report any violent incidents or threats.

Management pledges to investigate and deal with all incidents and complaints of workplace violence and/or harassment in a fair and timely manner, respecting the privacy of all concerned as much as possible.

(See **Appendix A** for the policy format for posting)

Application

This policy applies to all **workers, members of council, volunteers (including members of Advisory Committees, Boards and Special Committees), students on placements and individuals contracted by the Corporation on a “purchase for service” agreement, clients and customers.** It applies in any location in which a worker is engaged in work-related activities. This includes, but is not limited to:

- the workplace
- during work-related travel
- at restaurants, hotels or meeting facilities that are being used for business purposes
- in **Town**-owned or leased facilities
- during telephone, e-mail or other communications
- at any work-related social event, if it is sponsored **by the Town**

This policy also applies to situations in which a worker is harassed or subjected to violence in the workplace from individuals who are not workers of the **Town**, such as customers, suppliers **or citizens**, although the available remedies may be constrained by the situation.

Definitions

Act

“Act” is the *Occupational Health and Safety Act, R.S.O. 1990, as amended.*

Advisor

A Town-appointed advocate for a respectful workplace. An advisor assists workers in understanding ones rights and obligations under the Town's Workplace Violence and Harassment Program.

Complainant

A "Complainant" is any person who is a Worker (including any worker whether covered by a collective agreement with the Town or employed under an individual contract of employment), and any person who is a volunteer, all of whom are entitled to submit a complaint under this program.

Cyberbullying

Deliberate repeated bullying or harassing behavior that uses the internet, social media, or other web related technology, such as email and text messages, experienced by a Worker in the course of their duties.

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)
- sexual orientation
- gender identity, gender expression
- family, marital (including same-sex partnership) status
- disability or perceived disability
- a record of offences for which a pardon has been granted under the federal *Criminal Records Act* and has not been revoked, or an offence in respect of any provincial enactment

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 them.

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
- inappropriate comments or jokes about an individual's age, sexual orientation, personal appearance or weight

Harassing comments or conduct can poison someone's work 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
- jokes or insults that are offensive, racist or discriminatory in nature

Indirect Communication

May include communication that is electronic (e.g. text message, e-mail, social-network site), written (cards, letters), via third person (relay message, delivery), via telephone or fax, or any other means. See also cyberbullying.

Respondent

A "Respondent" is any person who is a Worker (including any worker whether covered by a collective agreement or employed under an individual contract of employment), and any person who is a volunteer, and any other person who is alleged to have engaged in workplace violence, bullying or harassment as defined in this program.

Sexual Harassment

Sexual harassment includes conduct or comments of a sexual nature that the recipient does not welcome or that offend **them**. 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 their gender.

Anyone can be a victim of harassment, and someone of the same or opposite sex can harass someone else.

Some examples of sexual harassment include:

- 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
- sexual assault

Supervisor

A supervisor is the person to whom a worker directly reports concerning matters related to their employment. Examples include, Foreman, Supervisor, Manager, Director, CAO, CEO, Board and Council.

Third Party

A third party is a person who is not a worker or a supervisor. This includes individuals contracted by the Corporation on a "purchase for service" agreement, citizens, customers and members of the general public.

Workplace Harassment and Bullying

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

The **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 **and can be delivered via direct or indirect communication**
- it affects the person's dignity or psychological integrity
- 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 include:

- verbally abusive behaviour, such as yelling, insults, ridicule and name calling, including remarks, jokes or innuendoes that demean, ridicule, intimidate or offend
- workplace pranks, vandalism, bullying and hazing
- gossiping or spreading malicious rumours
- 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 his or her 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 e-mails
- impeding an individual's efforts at promotions or transfers for reasons that are not legitimate
- 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
- 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 a person intended to offend someone. The test of harassment is whether that person knew or *should have known* that the comments or

conduct were unwelcome to the other person. For example, someone may make it clear through his or her conduct or body language that the behaviour is unwelcome, in which case the person 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 worker and worker to supervisor.

Harassment can be subtle or overt. It may be a single event or may involve a continuing series of incidents. Harassing behaviour may be unintended or deliberately directed at another individual. In any case, the impact on that individual is what must be addressed.

Workplace Violence and Domestic Violence

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

Workplace violence

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

- (a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
- (b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
- (c) a statement or behaviour that it 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
- verbal or written threats to physically attack a worker
- leaving threatening notes or sending threatening e-mails
- 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

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 a worker is experiencing domestic violence that would likely expose **them** or other workers, to physical injury that may occur in the workplace, the Town will take every precaution reasonable to protect that worker and **their** 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 e-mail addresses
- setting up priority parking or providing escorts to the worker's vehicle or to public transportation
- adjusting working hours and location so that they are not predictable
- facilitating access to counselling through the Worker Assistance Program or other community programs

The Town appreciates the sensitivity of these issues and will do its best to assist a worker as discreetly as possible while maintaining their privacy.

Worker

A "Worker" has the definition ascribed under the Act, and also includes any person recognized by the Town as a volunteer.

Program Procedures

A. Preventing Harassment and Violence

It is a mutual responsibility of all workers to ensure that the Town creates and maintains a harassment-free and violence-free workplace, and addresses violence and/or the threat of violence from all possible sources (including customers, **individuals contracted by the Town on a "purchase for service" agreement**, supervisors, workers, members of the general public and domestic/intimate partners).

1. The Town's Commitment

The Town will do its part by not tolerating or condoning discrimination, harassment or violence in the workplace. This includes making everyone in the organization aware of what behaviour is and is not appropriate, assessing the

risk of workplace violence, investigating complaints and imposing suitable corrective measures.

2. Duties of Supervisors

Supervisors are expected to assist in creating a harassment-free workplace and to immediately contact an Advisor if they receive a complaint of workplace harassment or violence, or witness or are aware of harassing or violent behaviour. **Specific expectations of supervisors include:**

- **Approach workers if something is suspected.** Symptoms of harassment or discrimination may include: reduced productivity, changes in behaviour, rumours, increased sick leave, increased resignations, or sudden changes in performance.
- **Discuss the situation with the alleged harasser.** They may be unaware that their behaviour is offensive. Even if the allegations are denied, the discussion should be treated as a warning that inappropriate workplace behaviour will not be tolerated.
- **Keep a record.** Supervisors should keep a personal record of all discussions with the alleged victim and alleged harasser.
- **Seek advice and assistance** from an Advisor about the Town's procedures for handling harassment or discrimination complaints.

Supervisors must also take every reasonable precaution to protect workers from workplace violence, including evaluating a **worker's** history of violent behaviour to determine whether and to whom this worker 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 worker or workers in general
- 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 a worker can be expected to encounter that person during the course of **their** work and the risk of workplace violence is likely to expose the worker 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 the worker from physical injury.

3. Duties of All Workers

Each worker must ensure that **their** behaviour does not violate this policy and must foster a work environment that is based on respect and is free of harassment.

All workers are also required to report to **their** supervisor or an Advisor the existence of any workplace violence or threat of workplace violence.

Workers must set a positive example for one another and for individuals contracted by the Town on a “purchase for service” agreement, volunteers, members of the public and others who may be present in the workplace. This means not participating in harassment, violence or discrimination, but also includes not ignoring or turning a blind eye to these issues. If you are aware of harassment, violence or discrimination, contact your supervisor or an Advisor.

4. Duties of Advisors

To assist in understanding one’s rights and obligations under this policy, the Town has appointed certain individuals to act as Advisors.

The role of an Advisor is to:

- act as a resource and answer inquiries with respect to this policy
- discuss complaints on a confidential basis, unless the Advisors are required to release information by law, or where there is a risk of harm to a worker or another individual
- assist individuals who may be experiencing domestic violence that may expose them to a risk of physical injury in the workplace
- assist in the informal resolution of complaints through counselling
- engage in discussions with the respondent to see if the matter can be resolved informally

Advisors are impartial and may provide assistance in resolving issues of harassment and discrimination to any worker, contractor or consultant. That can include facilitating a solution between two or more affected parties or assisting a complainant, respondent or witness during an investigation.

Advisors are advocates for a respectful workplace --- they are not advocates for a particular individual. Advisors maintain confidentiality to the extent practicable and appropriate under the circumstances.

In the case there is a complaint against the CAO, the Mayor and/or Deputy Mayor will act as the Advisor.

The Town’s Advisors are:

- Chief Administrative Officer
- Manager of Human Resources
- Health and Safety Coordinator
- Mayor and/or Deputy Mayor (if deemed necessary and/or if a complaint is made against the CAO)

B. Procedure for Resolving and Investigating Harassment Complaints

1. Informal Procedure

If a worker believes that **they are** being harassed, **the worker is strongly encouraged** to tell the person to stop, **as long as the worker feels comfortable doing so**. A worker **should** do so as soon as **they** receive any unwelcome comments or conduct. Although this may be difficult to do, telling the person that **they do not like their** actions is often enough to stop the behaviour.

Some of the things a worker 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 the worker has confronted the individual, the worker may want to provide **them** with a written statement of the situation. The worker should include specific details of the behaviours considered to be harassing, a request to the harasser to stop and expectations that **they** will stop. The worker should provide details of the next steps **they** plan to take if the harassment does not stop, e.g., filing a formal complaint. The worker should make sure **they** keep a copy of this statement for **their records**.

2. Formal Procedure

If the complaint cannot be resolved informally or if it is too serious to handle on an informal basis, a worker may bring a formal complaint to an Advisor. The Advisors act as workplace coordinators with respect to harassment and violence in the workplace.

If a worker brings forward a formal complaint, as much written information as possible will be required, including the name of the person **they** believe is harassing **them**, the place, date and time of the incident(s), and the names of any possible witnesses. This information should be provided on a copy of the Workplace Violence/**Harassment** Reporting Form (*appendix B*).

It is important that complaints are received as soon as possible so that the problem does not escalate or happen again. Once the complaint is received a formal investigation will be initiated if deemed necessary and appropriate to do so.

Discrimination and harassment are serious matters. Therefore, if a worker decides not to make a formal complaint, an Advisor may still need to investigate the matter and take steps to prevent further harassment. For example, there may

be a 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 Town's policy not to investigate anonymous complaints unless there are extenuating circumstances.

Investigation procedure

One or more Advisors will commence an investigation as quickly as possible. The Advisors may choose to use either an internal or external investigator, depending on the nature of the complaint. **All complaints involving supervisors will be conducted using an external investigator.**

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
- making detailed notes of the investigation and maintaining them in a confidential file

Once the investigation is complete, **the investigator** will prepare and submit a detailed report of the findings to the Manager of Human Resources and/or the CAO. A summary of the findings will also be provided to the complainant and respondent.

It is the Town's goal to complete any investigation and communicate the results to the complainant and respondent within **90** days after the receipt of a complaint, where possible.

Corrective action

The Manager of Human Resources and/or the CAO will determine what action should be taken as a result of the investigation, **with the exception of complaints that involve the CAO or a member of Council as a respondent. In this case Council as a whole excluding the respondent will determine the sanctions.**

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

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

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 counselling (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
- 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 a worker makes a complaint in good faith and without malice, regardless of the outcome of the investigation, the worker will not be subject to any form of discipline. The Town will, however, discipline or terminate any worker who brings a deliberately false and malicious complaint.

C. Procedure for Resolving and Investigating Workplace Violence

A worker has the right to refuse work if workplace violence is likely to endanger **them**. In that instance, the worker must immediately contact **their** supervisor, at which point appropriate measures will be taken to protect **them** and investigate the situation. The worker will be moved to a safe place as near as reasonably possible to **their** normal workstation and will need to be available for the purposes of investigating the incident. In some circumstances, the worker may be provided with reasonable alternative work during normal working hours.

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

- equipment to summon assistance, such as fixed or personal alarms, locator or tracking systems, phones, cellphones, etc.
- emergency telephone numbers and/or e-mail addresses
- emergency procedures

Provided the situation is dealt with quickly and the danger to workers is removed, the necessity of a worker refusing to work may be alleviated. Regardless of the actions taken to deal with the threat of violence, it is a worker's right to refuse work **if the worker genuinely believes the work to be unsafe**.

1. Investigation Procedure

A worker is required to report the existence of any workplace violence or threat of workplace violence to **their** supervisor or an Advisor. The Advisor will commence an investigation as quickly as possible. The Advisor may choose to use either an internal or an external investigator, depending on the nature of the complaint. **All complaints involving supervisors will be conducted using an external investigator.**

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
- making detailed notes of the investigation and maintaining them in a confidential file

Once the investigation is complete, the **investigator(s)** will prepare and submit a detailed report of the findings to the Manager of Human Resources and/or the CAO. A summary of the findings will also be provided to the complainant and respondent.

It is the Town's goal to complete any investigation and communicate the results to the complainant and respondent within **90** days after the receipt of a complaint, where possible.

2. Corrective Action

The Manager of Human Resources and/or the CAO will determine what action should be taken as a result of the investigation, **with the exception of complaints that involve the CAO or a member of Council as a respondent. In this case Council as a whole excluding the respondent will determine the sanctions.**

An Advisor will inform the complainant and respondent of the results of the investigation **in writing** and whether (but not necessarily what) corrective measures were taken, if any were necessary.

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

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 counselling (sensitivity training), anger management training, supervisory skills training or attendance at educational programs on work place 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
- 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 a worker makes a complaint in good faith and without malice, regardless of the outcome of the investigation, they will not be subject to any form of discipline. The Town will, however, discipline or terminate anyone who brings a **deliberately** false and malicious complaint.

D. Procedure for Addressing Harassment or Discrimination by Third Parties

If a worker believes that someone who is not a member of the Town, e.g., a customer, citizen, supplier, etc., has harassed or discriminated against them, the worker must report the harassment to their supervisor or an Advisor. Although the Town has limited control over third parties, it will do its best to address the issue and prevent further problems from arising. To further this goal, the Town will take the following steps:

Supervisors: Supervisors will be the first point of contact for workers who believe that they have been harassed or discriminated against by a third party. Supervisors will:

- Discuss the situation with the worker.
- If possible, discuss the situation with the alleged harasser. For example, if the alleged harasser is a customer or a contractor and is present in a workplace, the supervisor can speak to that person, politely advise them of this Workplace Violence and Harassment Program, and ask that they cease their behaviour.
- Keep records of all discussions.
- If necessary, seek advice and assistance from an Advisor about the Town's procedures for handling harassment or discrimination complaints.

Advisors: Advisors will support and give advice to workers and supervisors in addressing harassment or discrimination by third parties.

If an Advisor is satisfied that harassment or discrimination has occurred, and that other measures (e.g., the worker asking the harasser to stop, or a

supervisor speaking to the harasser) have not been effective to stop the problem, the Advisor will prepare a letter for the Mayor's signature informing the harasser of this Workplace Violence and Harassment Program and insisting that they cease their behaviour. The letter may include language such as:

"I wish to advise you that the Town of The Blue Mountains has in place a Workplace Violence and Harassment program which explicitly applies to 'individuals who are not workers of the Town, such as customers, suppliers or citizens...'" "The policy, and the *Occupational Health and Safety Act*, define 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.'"

"I wish to advise and make clear to you that the comments which you made toward our staff on [date] are considered vexatious comments against our workers, and such comments are unwelcome."

"Please refrain from making any such comments/conduct toward or about our staff in the future."

Mayor/Designate: Upon request from an Advisor, the Mayor/Designate of the Town will sign a letter addressed to the harasser as described above. If the harassment continues following the letter from the Mayor, the Town will consider further measures including but not limited to issuing a trespass to property notice, blocking permanently electronic communication and other means which the Town feels are appropriate to prevent further harassing, bullying and violent behavior from third party members of the workplace.

E. Procedure for Addressing Domestic Violence

If a worker is experiencing domestic violence that **could** expose **them** to physical injury in the workplace, or if **they are** experiencing workplace violence or believe that workplace violence is likely to occur, **they** may seek immediate assistance by contacting any Advisor. An Advisor will assist in preventing and responding to the situation.

F. Confidentiality of Complaints and Investigations

The Town recognizes **its duty to protect confidentiality as legislated in the Act [section 36.0.6(2)(d)]**. The Town also recognizes the sensitive nature of harassment and violence complaints and will keep all complaints confidential, to the extent that it is able to do so. The Town 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.

G. Protection from Retaliation

The Town 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 any worker in relation to a harassment or violence complaint may be disciplined or terminated, including but not limited to the respondent of the complaint. Breaches of confidentiality during the investigation are considered reprisals. Any reprisal, or expressed or implied threat of reprisal, for making and pursuing a complaint under this Program is itself considered a breach of this policy.

DRAFT

Exclusions

As this policy applies to all Town Workers including Members of Council, Contractors, and Volunteers and to the Members of Public, there are no exclusions to this policy.

References and Related Policies

- [Workplace Violence Prevention Program: The Education Safety Association of Ontario; 2007](#)
- [Workplace Violence and Harassment: Understanding the Law: The Ministry of Labour; Amended September 2016](#)
- [OH&S Act: Amendments Related to Violence](#)
- [Developing Workplace Violence and Harassment Policies and Programs- A toolbox: Occupational Health and Safety Council of Ontario \(OHSCO\)](#)
- [Lauren Bernardi "Powerful Employment Policies" \(published by Canada Law Book\)](#)
- [OH&S-7 Refusal to Work](#)

Consequences of Non-Compliance

Failure to abide by this policy may result in progressive discipline, up to and including termination, as per The Blue Mountains discipline policy.

Review Cycle

This policy will be reviewed annually or **as required due to legislative changes** by the Joint Health and Safety Committee and the Senior Management Team.



The Corporation of The Town of The Blue Mountains Workplace Violence and Harassment Program

The Town is committed to providing a safe work environment for all workers, members of council, volunteers (including members of Advisory Committees, Boards and Special Committees), students on placements and individuals contracted by the Corporation on a “purchase for service” agreement, customers and Members of the Public. Acts of harassment, abusive behaviour, bullying, cyberbullying, assaults, serious threats or acts of violence, will not be tolerated within the Town’s workplace. Any such act committed by or against any worker will be subject to the Town’s discipline policy and/or legal action.

The Town has established a workplace violence and harassment program that implements this policy. It includes measures and procedures to protect workers from workplace violence and/or harassment. The program further implements a means of summoning immediate assistance and a process for workers to report incidents, or raise concerns.

The Town will ensure this policy and the supporting program are implemented and maintained and that all workers and supervisors have the appropriate information and instruction to protect them from violence and/or harassment in the workplace.

Supervisors will adhere to this policy and the supporting program. Supervisors are responsible for ensuring that measures and procedures are followed by workers and that workers have the information they need to protect themselves.

Every worker must work in compliance with this policy and the supporting program. All workers are encouraged to raise any concerns about workplace violence and/or harassment and to report any violent incidents or threats.

Management pledges to investigate and deal with all incidents and complaints of workplace violence and/or harassment in a fair and timely manner, respecting the privacy of all concerned as much as possible.

Chief Administrative Officer

Dated

Workplace Harassment/Violence Reporting Form

CONFIDENTIAL

Worker Name: _____ **Position:** _____

Manager: _____ **Date:** _____

Name(s) of individual(s) you are complaining about:

Description of Complaint

Include as much information as possible. This includes:

- Dates and times of the harassment/violence
- Where it occurred
- What happened
- Whether the individual threatened to punish you or deny you a benefit
- Whether you are aware of anyone else who has been subjected to the same actions by this individual

Potential Witnesses

List any individuals who may have information about the conduct in question or who may have observed it:

Your Response

Outline what you have done in response to this problem to date, if anything:

Worker's Signature: _____

Date: _____