



Staff Report

Human Resources

Report To: Committee of the Whole
Meeting Date: January 8, 2018
Report Number: FAF.18.08
Subject: Workplace Violence and Harassment Policy
Prepared by: Jennifer Moreau, Human Resources Manager

A. Recommendations

THAT Council receives the Staff Report FAF.18.08 “Workplace Violence and Harassment Policy”;

AND THAT Council approve the new corporate Workplace Violence and Harassment Policy POL.COR.18.xx;

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

- a) Workplace Violence and Harassment Policy (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 Policy. This report recommends repealing three similar policies and combining under one succinct Policy that is a Corporate Policy.

C. Background

On November 14, 2016 at a Committee of the Whole meeting Staff Report FAF.16.99 Town’s Workplace Harassment and Violence Policy was presented for consideration of Council. The report provided a recommendation to Council to approve a revision to the Town’s Workplace Harassment and Violence Policy.

On November 28, 2016 at a Council meeting Councillor John McGee moved the following motion:

THAT Council receive correspondence from Patrick Delaney dated November 24, 2016 regarding the Town's proposed changes to the Workplace Harassment and Violence Policies;

AND THAT Council direct staff to compile the written concerns of residents regarding the proposed changes to the Workplace Harassment and Violence Policies and summarize the same in a staff report to Council before changes to the policy are made.

The motion was seconded by Councilor Gamble and approved by Council.

A subsequent Staff Report FAF.17.02 provided Council with a summary of themes from Public Comment received and asked Council to consider as a next step having the policy reviewed by our Integrity Commissioner.

On January 23, 2017 at a Council meeting Councillor Bob Gamble moved the following motion:

THAT Council receive Staff Report FAF.17.02 "Workplace Harassment and Violence Policy Public Comments";

AND THAT Council provide staff direction to engage our Integrity Commissioner, Janet Leiper, to provide recommended revisions to the Workplace Violence and Harassment Policy, Code of Conduct Policy for Members of Council, and Complaint Protocol.

The motion was seconded by Councillor McGee and approved by Council.

Staff have been working with the Integrity Commissioner to review and revise the Workplace Violence and Harassment Policy.

D. Analysis

The attached policy has been revised in consultation with our Integrity Commissioner. Harassment complaints related to members of Council and Local Boards are now dealt within the Code of Conduct for Members of Council and Local Boards. The process for completing a complaint related to a Council member or Local Board member is outlined in the recommended Complaint Protocol.

E. The Blue Mountains Strategic Plan

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

F. Environmental Impacts

N/A

G. Financial Impact

N/A

H. In consultation with

- Janet Leiper, Integrity Commissioner

I. Attached

1. Workplace Violence and Harassment Policy Draft

Respectfully Submitted,

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Workplace Violence and Harassment Policy

POL.COR.

Policy Type: Corporate Policy (Approved by Council)

Date Approved:

Department: Human Resources

Staff Report:

By-Law No.: 2017-

Policy Statement

The Town of The Blue Mountains (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 Town on a “purchase for service” agreement. 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 instructions 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 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)

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.

Application

This policy applies to all Town Workers including students on placement, individuals contracted by the Town on a "purchase for service" agreement, Volunteers and to the Members of Public.

The only exceptions are for Members of Council and local Boards who are subject to the Code of Conduct for Members of Council including the workplace harassment and discrimination provisions found in the Code of Conduct.

Definitions

"Act" is the Occupational Health and Safety Act, R.S.O. 1990, as amended.

"Advisor" is 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" is any person who submits a complaint under this program.

"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” 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” includes 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 under the definition of Workplace Harassment.

“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” the Act defines workplace sexual harassment as:

- engaging in a course of vexatious comment or conduct against a worker, in a workplace because of sex, sexual orientation, gender identity or gender expression where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- making a sexual solicitation or advance where the person making it is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know the solicitation or advance is unwelcome

Workplace sexual harassment can involve unwelcome words or actions associated with sex, sexual orientation or gender that are that are known or should be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers, in a workplace. It can also include behaviour that intimidates or isolates individual(s).

The comments or conduct typically happen more than once, although a single unwelcome solicitation or advance from a manager, supervisor, or another person who has the power to reward or punish the worker may constitute workplace sexual harassment.

Workplace sexual harassment may include:

- asking questions, talking, or writing about sexual activities;
- rough or vulgar humour or language related to sexuality, sexual orientation or gender;
- displaying or circulating pornography, sexual images, or offensive sexual jokes in print or electronic form including on social media;
- leering or inappropriate staring;
- invading personal space;
- unnecessary physical contact, including inappropriate touching;
- demanding hugs, dates, or sexual favours;
- making gender-related comments about someone's physical characteristics, mannerisms, or conformity to sex-role stereotypes;
- verbally abusing, threatening or taunting someone based on gender or sexual orientation; or,
- threatening to penalize or otherwise punish a worker if they refuse a sexual advance.

Where the conduct or behaviour includes inappropriate sexual touching, this may also constitute a criminal offence such as sexual assault. In such cases, the police should be notified.

What are gender identity and gender expression?

- Gender identity is each person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex. Gender identity is fundamentally different from a person's sexual orientation.
- Gender expression is how a person publicly presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common ways of expressing gender

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

"Workplace Harassment and Bullying" 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
- cyberbullying is 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.

What isn't harassment?

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

- Constructive, respectful disagreement among co-workers.
- Normal and appropriate exercise of supervisory responsibilities, including appropriate performance management, training, work assignment and discipline.
- Normal social interaction, good-natured joking and appropriate humour in the workplace.
- Requesting medical documents in support of an absence from work

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 matters.

“Workplace Violence and Domestic Violence” may occur in the workplace and are health and safety issues which are covered under the Act.

Workplace violence is defined under the 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 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" has the definition ascribed under the Act, and also includes any person recognized by the Town as a volunteer.

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, and 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, or the Advisor believes a criminal act has been committed
- 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
- refer staff and their loved ones to external counselling such as the Employee Assistance Plan

Advisors are impartial and may provide assistance in resolving issues of harassment and discrimination to any worker, contractor, volunteer or member of the public. 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/requested 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 you 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.

Complainant	Submit Formal Complaint to:	Advisor will report the formal complaint to:
<p>Council or Board Member</p>	<p>CAO or Manager of HR/Integrity Commissioner via Town Clerk</p> <p>Exclusions: If the formal complaint is due to treatment from anyone other than a fellow council member it should be submitted to the CAO or Manager of HR. All complaints related to a fellow council member are dealt with through the Code of Conduct for Members of Council.</p>	<p>Mayor/CAO/Manager of HR</p> <p>All Complaints with a Council Member/Board Member as a respondent are to be directed to the Integrity Commissioner via the Town Clerk.</p>
<p>Employee</p>	<p>CAO/Manager of HR or Health and Safety Coordinator.</p> <p>Exclusions: If the complaint is regarding the CAO it should be submitted to the Mayor or designate. If the complaint is regarding the Manager of HR it should be submitted to the CAO.</p> <p>All complaints related to a council member are dealt with through the Code of Conduct for Members of Council.</p>	<p>CAO/Manager of HR/Director of Dept.</p>

Volunteer	CAO/Manager of HR or Health and Safety Coordinator All complaints related to a council member are dealt with through the Code of Conduct for Members of Council.	CAO/Manager of HR/Director of Dept.
Students	CAO/Manager of HR or Health and Safety Coordinator All complaints related to a council member are dealt with through the Code of Conduct for Members of Council.	CAO/Manager of HR/Director of Dept.

Investigation Procedure for Workplace Harassment

One or more Advisors will commence an investigation process as quickly as possible. The Advisors will utilize an external investigator for each formal investigation.

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, the investigator shall have access to all relevant documents requested in the course of the investigation
- 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 or the Mayor/Deputy Mayor as applicable.

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. In some cases, an investigation may take longer. For example if there are more than five witnesses or one of the parties or a key witness is unavailable (such as on a leave).

Corrective Action

The Manager of Human Resources and the CAO in consultation with Council will determine what action should be taken as a result of the investigation, with the exception of complaints that involve the CAO as a respondent. In this case Council as a whole 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. The complainant will be advised as to what corrective measures have been taken to prevent further incidents of harassment but may not include specific details of any particular discipline that has been imposed.

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
- referral of the respondent and complainant to mediation if both parties agree to the process

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.

Investigation Procedure for Workplace Violence

As required by the Act a worker is required to report the existence of any workplace violence or threat of workplace violence to their supervisor or an Advisor. One or more Advisors will commence an investigation process as quickly as possible. The Advisors will utilize an external investigator for each formal investigation.

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, the investigator shall have access to all relevant documents requested in the course of the investigation
- 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 or the Mayor/Deputy Mayor as applicable.

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. In some cases, an investigation may take longer. For example if there are more than five witnesses or one of the parties or a key witness is unavailable (such as on a leave).

Corrective Action

The Manager of Human Resources and the CAO in consultation with Council will determine what action should be taken as a result of the investigation, with the exception of complaints that involve the CAO as a respondent. In this case Council as a whole 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 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, member of the public, 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. In cases of a contractor who is an employee of an organization, the employer should be notified as soon as practicable and should be invited to attend any meetings with the contractor.
- 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 Staff Report detailing the events for Council and recommend that Council assist in ending the harassment as per their role as Directors in the Act. Upon Council direction a letter will be drafted for the Mayor's/Deputy 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 members of the public...'" "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."

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, permanently blocking 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.

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.

Confidentiality of Complaints and Investigations

The Town recognizes its duty to protect confidentiality as legislated in the Act. 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.

Protection from Retaliation

The Town will not tolerate retaliations, taunts or threats against anyone who complains about harassment/workplace violence 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.

Consequences of Non-Compliance

Failure to abide by this policy may result in progressive discipline, up to and including termination, as per the Town of The Blue Mountains discipline policy, termination of purchase agreements and/or any means which the Town feels are appropriate to prevent further harassing, bullying and violent behavior from third party members of the workplace.

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
- POL.COR.13.24 Progressive Discipline Policy
- POL.COR.07.07 Code of Conduct for Members of Council
- POL.COR.18.xx Protocol Policy for Complaints Related to Members of Council and Local Boards

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 for the approval of Council.