

Legal Obligations: Workplace Harassment and Violence Program

The Town of Blue Mountains
December 5, 2016

forward thinking at work™



overview

- statutory obligations
- definitions
- examples of harassment
- understanding harassment
- impact on victims



the law



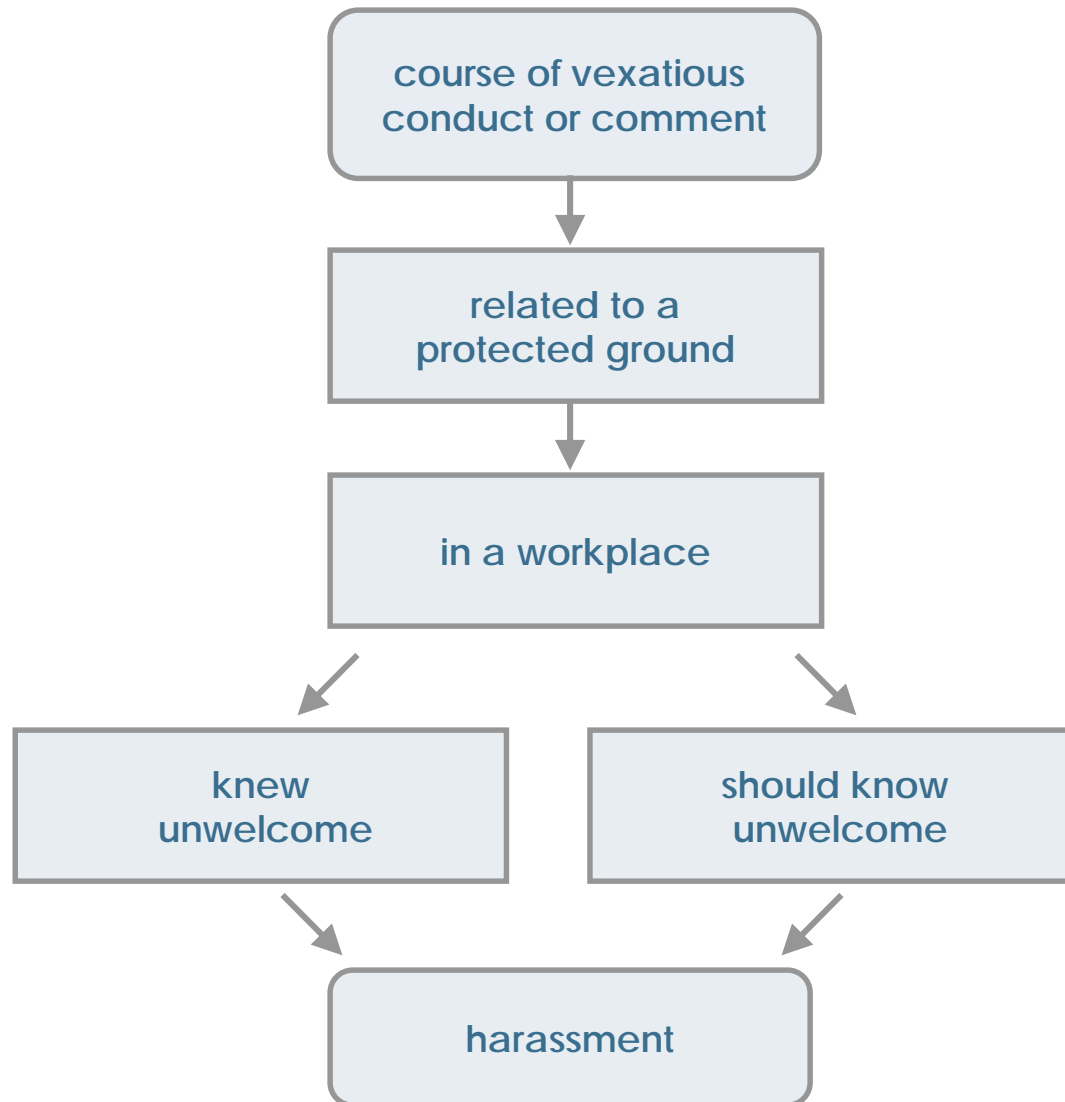
relevant statutes

The Town's legal obligations flow from two statutes:

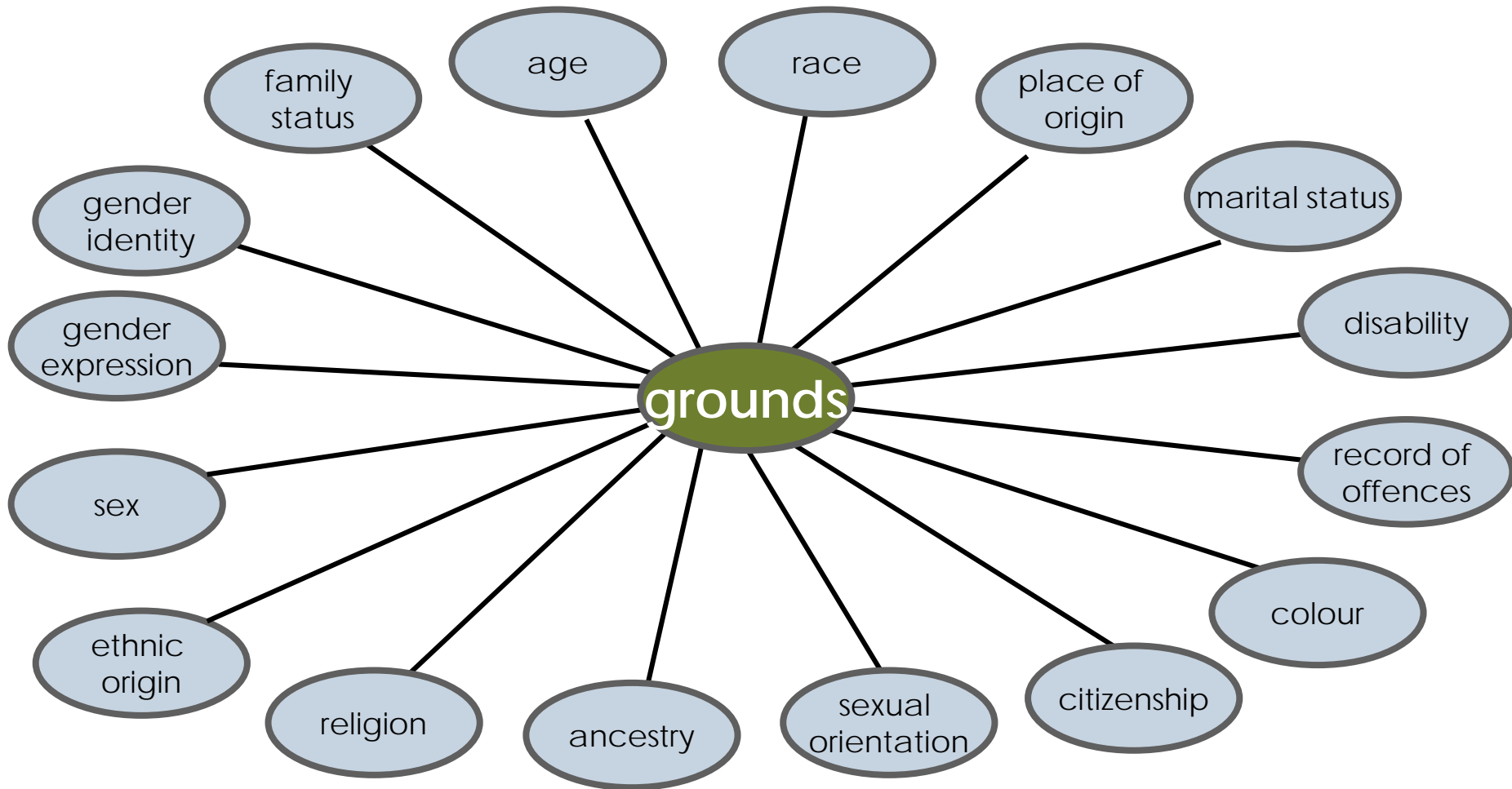
- the *Ontario Human Rights Code*; and
- the *Occupational Health and Safety Act*



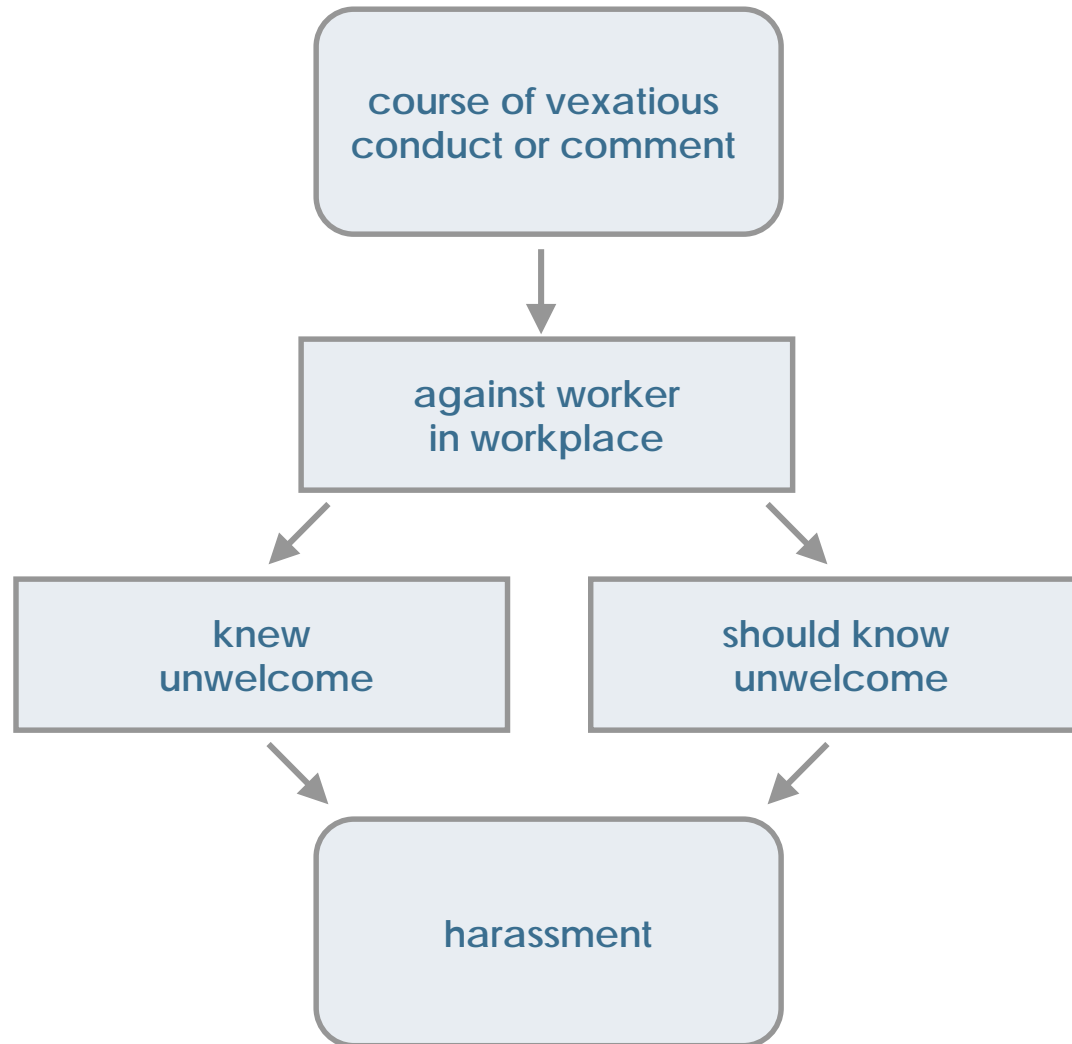
The Code: discriminatory harassment



grounds of discrimination



OHSA: workplace harassment



Bill 132: Occupational Health and Safety Act

- separately lists sexual harassment which includes harassment based on:
 - sex
 - sexual orientation
 - gender identity
 - gender expression



harassment and violence defined



a course of

- single incident may be significant enough to create a poisoned working environment
- assessed by nature of conduct not number of times



vexatious comment or conduct

actions or words that:

- provoke
- irritate
- threaten
- annoy
- insult
- demean; or
- result in discomfort



against a worker in a workplace

- definition of workplace has expanded:
 - work related events
 - social media
 - union meetings



unwelcome

- perpetrator knew unwelcome
- *reasonable person* would have known unwelcome
- taking into account perspective of the person being harassed
- consent vs. welcome



sources of harassment

Harassment can come from a variety of sources:

- authority figures
 - supervisors/managers
 - mayor and members of council
- co-workers
- members of the public



verbal bullying

- verbally abusive behaviour such as screaming or yelling
- insults and name calling
- swearing and using offensive language
- using a disrespectful tone of voice
- mocking or mimicking someone



cyberbullying

- hostile or defamatory comments on social media
 - blog posts
 - Facebook
 - LinkedIn
- emails/text messages/instant messaging



non-verbal bullying

- using disrespectful body language such as sneering, smirking or a cocky smile
- staring or glaring
- turning away from the target before he or she finishes speaking
- crossing arms aggressively
- finger pointing



non-verbal bullying

- slamming a hand down on a table
- making little or no eye contact with the target
- throwing temper tantrums



psychological behaviour

- humiliating someone
- gossip and spreading malicious rumours
- invading privacy
- the silent treatment
- Jekyll and Hyde behaviour



psychological behaviour

- dismissing someone's thoughts or experience
- gaslighting
- character assassination



group behaviour

- turning others against the target
- exclusion or ostracizing someone
- mobbing
- gossip and nitpicking about someone
- personality conflicts
- team dynamics and group complaints



poisoned work environment

- hostile or unwelcoming
- because of insulting and degrading comments or offensive actions
- related to a ground of discrimination
- not necessarily directly targeted



supervisory behaviour

- using otherwise legitimate management tools to target someone
- applying a different standard
- excessive favouritism



supervisory behaviour

- unwarranted and excessive criticism
- micro management
- constantly assigning the worst or lowest level jobs



continuum of disrespect



understanding harassment



why victims are reluctant to complain?

- afraid of losing job
- will be told they're overreacting
- negative impact on their career and reputation



why victims are reluctant to complain?

- fear of impact on family, co-workers
- being told weak or not a team player
- don't want to be a troublemaker
- someone complained before and nothing was done



contributors to workplace harassment



factors that contribute to harassment

- inappropriate behaviour is tolerated or even supported
- “innocent” bystanders



impact of harassment



impact on victims

- stress related illnesses
- self-worth/self-esteem
- seen as less competent
- poor productivity
- job consequences



impact on victims

- often longer-term effects than physical abuse
- internalized by the victim
- victims work harder to fix the problem



impact on workplace

- increased absenteeism and disability costs
- decreased productivity
- poor morale
- tension/conflict among staff
- more grievances
- high turnover
- legal liability and costs





**duty to
investigate**



OHSA

employer shall ensure:

- investigation into “incidents and complaints” of harassment
- appropriate in the circumstances





OHSA

If employer fails to investigate, MOL inspector may:

- order an impartial person to investigate
- at employer's expense





bottom line

The Town has a legal duty to prevent, address and respond to workplace harassment regardless of the source.



questions